

Canal Winchester

*Town Hall
10 North High Street
Canal Winchester, OH 43110*



Meeting Agenda

December 4, 2017

7:00 PM

City Council

*Steve Donahue- President
Will Bennett-Vice President
Bob Clark
Bruce Jarvis
Bobbie Mershon
Mike Walker*

A. Call To OrderB. Pledge of Allegiance - **Clark**C. Roll CallD. Approval of Minutes

[MIN-17-057](#) 11-20-17 Council Work Session Meeting Minutes

Attachments: [11-20-17 Council Work Session Meeting Minutes](#)

[MIN-17-058](#) 11-20-17 Council Public Hearing Minutes

Attachments: [11-20-17 Council Public Hearing Minutes](#)

[MIN-17-059](#) 11-20-17 Council Meeting Minutes

Attachments: [11-20-17 Council Meeting Minutes](#)

E. Communications & Petitions

[17-266](#) Treasurer of State – Ohiocheckbook.com Presentation

F. Public Comments - Five Minute Limit Per PersonG. RESOLUTIONS

[RES-17-022](#) A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER LEASE AGREEMENT AND FINANCING SCHEDULE THEREON IN CONNECTION WITH THE ACQUISITION OF CERTAIN PROPERTY IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$300,000

H. ORDINANCESThird Reading

[ORD-17-049](#) AN ORDINANCE TO MAKE FINAL APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF CANAL WINCHESTER, STATE OF OHIO, DURING FISCAL YEAR ENDING DECEMBER 31, 2018

Sponsor: *Jarvis*

[ORD-17-050](#) AN ORDINANCE TO AUTHORIZE THE MAYOR TO AMEND A CONTRACT WITH EMH&T, INC. FOR MUNICIPAL

ENGINEERING SERVICES FOR THE PERIOD FROM JANUARY 1, 2018 THROUGH DECEMBER 31, 2020

Attachments: [2018-2020 EMH&T Contract](#)

Sponsor: *Clark*

[ORD-17-051](#) AN ORDINANCE TO AUTHORIZE THE MAYOR TO AMEND A CONTRACT WITH BIRD & BULL, INC. FOR PROFESSIONAL ENGINEERING SERVICES FOR THE PERIOD FROM JANUARY 1, 2018 THROUGH DECEMBER 31, 2020

Attachments: [2018-2020 Bird&Bull Contract](#)

Sponsor: *Mershon*

[ORD-17-052](#) AN ORDINANCE TO AUTHORIZE THE MAYOR TO AMEND A CONTRACT WITH AMERICAN STRUCTUREPOINT, INC. FOR CONSULTING SERVICES RELATING TO CONSTRUCTION INSPECTION FOR THE PERIOD FROM JANUARY 13, 2018 THROUGH JANUARY 13, 2019

Attachments: [American Stucturepoint Contract Amendment](#)

Sponsor: *Bennett*

[ORD-17-053](#) AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO AN AGREEMENT FOR LEGAL SERVICES WITH FROST BROWN TODD LLC FOR THE PERIOD JANUARY 1, 2018 THROUGH DECEMBER 31, 2019

Attachments: [FrostBrownTodd Contract](#)

Sponsor: *Walker*

[ORD-17-054](#) AN ORDINANCE TO AMEND THE CODE OF PERSONNEL PRACTICES

Attachments: [Personnel Handbook Updated 10.17](#)

Sponsor: *Jarvis*

[ORD-17-055](#) AN ORDINANCE TO AMEND CHAPTER 1317 OF THE CODIFIED ORDINANCES OF THE CITY OF CANAL WINCHESTER TO ADOPT

THE 2017 OHIO BUILDING CODE, OHIO MECHANICAL CODE, AND OHIO PLUMBING CODE INCLUDING ALL REFERENCED STANDARDS THEREIN

Sponsor: Walker

[ORD-17-056](#)

AN ORDINANCE TO REPEAL ORDINANCE NO. 44-13 AND AMEND THE ADOPTED COMBINED DEVELOPMENT FEE SCHEDULE

Attachments: [Development Fees Memo](#)

Sponsor: Mershon

[ORD-17-057](#)

AN ORDINANCE TO AUTHORIZE THE MAYOR TO ACCEPT ONE PARCEL OF LAND FROM WINCHESTER RIDGE THREE LLC

Attachments: [Winchester Ridge Limited Warranty Deed](#)

[Winchester Ridge ROW Description](#)

[Winchester Ridge ROW Exhibit](#)

Sponsor: Walker

Second Reading

[ORD-17-040](#)

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A TAX INCREMENT FINANCING AGREEMENT WITH PROPERO CANAL WINCHESTER, LLC

Attachments: [Propero Canal Winchester TIF Agreement](#)

Sponsor: Mershon

[ORD-17-059](#)

AN ORDINANCE TO AMEND ORDINANCE NO. 13-13, WHICH ESTABLISHED A TAX INCREMENT FINANCING AREA, TO SUBJECT SUCH TAX INCREMENT FINANCING AREA TO AN EXISTING CRA EXEMPTION AND TO DECLARE AN EMERGENCY

Sponsor: Walker

[ORD-17-060](#)

AN ORDINANCE TO AMEND PART 11 OF THE CODIFIED ORDINANCES AND THE ZONING MAP OF THE CITY OF CANAL

WINCHESTER, REZONING APPROXIMATELY TRACT OF LAND FROM MULTI-FAMILY RESIDENTIAL (AR-1) TO GENERAL COMMERCIAL (GC), OWNED BY CROSSROADS CHRISTIAN LIFE CENTER, INC., LOCATED ON THE EAST SIDE OF GENDER ROAD NORTH OF THE RAILROAD TRACKS (PART OF PID 184-000865)

Attachments: [Crossroad Rezoning Legal Description](#)

Sponsor: *Bennett*

First Reading

[ORD-17-061](#) AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A DEVELOPMENT AGREEMENT WITH SHRIMANGESHI, LLC.

Attachments: [Shrimangeshi, LLC Development Agreement MOU](#)

[ORD-17-062](#) AN ORDINANCE TO AUTHORIZE THE MAYOR CONVEY A TRACT OF LAND CONSISTING OF 15.588 ACRES ON ROBINETT WAY TO THE CANAL WINCHESTER INDUSTRY AND COMMERCE CORPORATION TO PROVIDE FOR ITS SUBSEQUENT CONVEYANCE TO OPUS DEVELOPMENT COMPANY, L.L.C., PURSUANT TO A PURCHASE AND SALE AGREEMENT, AND TO DECLARE AN EMERGENCY

Attachments: [OPUS Purchase Agreement](#)

I. REPORTS

Mayor's Report

[17-267](#) Mayor's Report

Attachments: [Mayor's Report 12-4-17](#)

Fairfield County Sheriff

Law Director

Finance Director

[17-268](#) Finance Director's Report

Attachments: [Finance Director's Project Update 12-4-17](#)

[2017 Merit Raises Memo](#)

Public Service Director

[17-269](#)

Director of Public Service Project Update

Attachments: **[Director of Public Service Project Update-PW](#)**

[17-270](#)

Construction Services Administrator Report

Attachments: **[Construction Services Admin Project Update–Dec 1](#)**

Development Director

[17-271](#)

Development Director’s Report

Attachments: **[Development Director Council Update 11-29-17](#)**

J. COUNCIL REPORTS

Work Session/Council

Monday, December 18, 2017 at 6:00 p.m.

CW Human Services Representation – Clark

Destination: Canal Winchester Representative – Mershon

Canal Winchester Industry and Commerce Corporation Representative – Clark

CWJRD - Bennett

Old/New Business

Adjourn to Executive Session

Adjournment

Canal Winchester

*Town Hall
10 North High Street
Canal Winchester, OH 43110*



Meeting Minutes - DRAFT

November 20, 2017

6:00 PM

Council Work Session

*Will Bennett-Chair
Bob Clark
Steve Donahue
Bruce Jarvis
Bobbie Mershon
Mike Walker*

Call To Order

Bennett called the meeting to order at 6:00 pm

Roll Call

Yes: 6 – Bennett, Clark, Donahue, Jarvis, Mershon, Walker

Not Present: 0

Also In Attendance

Mayor Ebert, Matt Peoples, Lucas Haire, Amanda Jackson, Bill Sims, Shawn Starcher, Rick Brown, Joe Taylor, Sargent Cassel

Reports

Bill Sims – Mr. Spencer is not here; there is a physical copy of his report on your agenda; EMH&T working on Gender Rd phase IV design; they will be submitting stage III plans for review that are at ninety percent; intentions of having final plans complete in January; we are on track to get that bid right after the first of the year; the utility company survey crews have been out in the roadways to locate any potential conflicts; that information has been sent to EMH&T; EMH&T was working on Greengate Drive doing some preliminary line and grade so we would have some information to work with the Winchester Ridge Phase III development; it is important to know where that road will be so they can extend their water lines; 2018 street program design is being put together; primary focus 1st phase of Ashbrook Village; Work wise, Canal Cove section V, wrapping up utility work; working on water line testing; given the weather conditions and time of year I don't expect to see any road work for the remainder of this year; There is work being done on towing path parking lot; concrete work; sidewalks are in; they should be finished up by tomorrow; soft subgrade dirt issues primarily in the region of the canal; all fill material that we're working on; we will do a cement stabilization of the subgrade the earl part of next week; base asphalt will go down the following week; moving along as expected; the final top will go on next year; We have been spending a lot of time on Columbia gas B1-11 pipeline replacement project; We have done about 35 right-of-way permits in the last few weeks; developing a road use maintenance agreement with hem in case there is any

damage to the roads they are using for hauling there will be some mechanism in place for evaluating them and having them repaired; this can be utilized in future applications;

[17-261](#)

EMH&T Project Updates 11-20-17

Received and filed.

Shawn Starcher – We have been extremely busy with leaf pick up; street sweeper and leaf crews are out 5 days a week 7 hours a day; snow plow equipment and trucks are ready to go; brine tank is filled up; more snow expected this winter; crews are decorating for the holidays; done by Wednesday; Christmas in the Village is next Friday and Saturday; crews have been clearing on Groveport Road (the old Detty property, just west of Gender Road) for the bike path; we will get the chipper in there and do some cutting; the ground is wet right now so we will wait until it freezes up to get back in there; working on 2 insurance claims; 2 accidents in the last two weeks; one on Diley and Busey Road where a signal was hit on the southeast corner of that intersection; the other was an accident on Friday afternoon on front of Town Hall; the mast arm and street bollard were hit by a semi-tractor trailer; it was inspected and structurally it is fine but we're working with a contractor now to get a price on a replacement; Jarvis: does driver have insurance; discussion on accident in front of town hall; Jarvis: was it an uninsured driver; Starcher: He is insured; Mershon: Was the tractor trailer driving through town or did he have a destination in town; Starcher: I think his destination was Family Dollar; he was possibly lost; this happens quite often when these guys use their GPS and go wherever it tells them to go and they take the quickest route; this individual wasn't the best of drivers; luckily the guys were actually decorating Town Hall when it happened and they were able to chase him down and have him stop by Hartman's; this is not going to be as cheap fix;

Rick Brown – Next generation server infrastructure has been designed and components have been ordered for delivery this year; We will order the remainder next year; this will take care of the new server infrastructure we have been talking about for a couple years; the 1st objective is to build a contingency sight to test new technology to make it work for the next four to five years; we want to make our hardware last at least four to five years; Jarvis: will that be a hot site for backup;

Brown: it will be a hot site and we will be able to know in a matter of minutes; we've never had a backup site before; Jarvis: how far out of date could the data be; Brown: it should only be minutes; we will be doing a lot of virtualization with our data too as far as moving things in a matter of minutes; especially with the water and waste water servers; this will be a matter of seconds; it automatically swaps over if one fails; I will conduct one more technology class before the years end; no major upgrades this year; thanks to council members;

Joe Taylor – At the water plant last month well number 6 was cleaned and inspected; repairs to the column pipe and pump; It is back in service; We clean one well a year; We are getting ready to do some work out at the Lieberman well field; there are issues with the drain pipe in the well; design and electrical work and valves; repainted the platforms at the Lieberman well field; last month we did our 3 year EPA inspection; it is a 10 hour process over two days; 500 points of conversation or inspection; we had no violations; 3 areas of recommendation that are minor and have been repaired; Jarvis: is this the Ohio State EPA; explanation of EPA requirements; surveyors were impressed; getting ready to do some work on the east brine tank; 3 brackets broke off; a gentleman will come in to show us how to do the fiberglass repairs correctly instead of paying for it like we have in the past; We are still out doing the AMI meter installations; 650 units installed out of the 3,000 in town; next year we should get 12-1500; 2019 we will be wrapped up; We do 5-6 a day and have been busy with that; Walker: very few to no complaints on the water; Taylor: mainly issues in the past; nothing major or new; Walker: Still using about the same amount of phosphate with no problems; Taylor: yes;

Sargent Cassel – Preliminary conversation with Matt Peoples about the speed data; mainly Waterloo Street area that the deputies will concentrate on patrolling; stats for deputies for October: Calls for service-528, Multiple unit calls-265, Reports taken-115, Traffic stops-121 with 112 tickets written, total arrests-160; next month I will be doing evaluations for 2017 for all my deputies; Bennett: the calls for service and multi-unit calls is there any overlap between those; Cassel: just one category;

Request for Council Action

[RES-17-021](#)

A RESOLUTION TO APPROVE THE TRADE IN OF A 2008 CHEVY EQUINOX

Peoples: We had the Equinox planned for replacement in 2018, to be a lease; We have 5 vehicles that can be replaced next year; as we get toward the end of the year we find that some of our capital items have a contingency; We are working with Jeff Wyler to find a vehicle to replace that and still be on the same cycle of ten year replacement; Jarvis: Will this have any bearing on the other contingency we were talking about (special duty police hours); peoples: This will be out of the 2017 budget; discussion ensued on budget and payment;

Sponsors: Jarvis

A motion was made by Jarvis seconded by Mershon that this Resolution be forwarded to full council. The motion carried by the following vote:

Yes: 6 – Jarvis, Mershon, Bennett, Clark, Donahue, Walker

[ORD-17-040](#)

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A TAX INCREMENT FINANCING AGREEMENT WITH PROPERO CANAL WINCHESTER, LLC

Attachments: [Propero Canal Winchester TIF Agreement](#)

Haire: This is an agreement with Popero Canal Winchester LLC which is for the Macintosh nursing home that is still being constructed on Gender Rd; In 2013 we adopted a Gender Road Tif which includes a number of properties and includes future construction along Gender Rd; In 2016 we recommended that Tif to include two additional properties for Brew Dog and Propero/Macintosh; This agreement will reimburse Macintosh for some public infrastructure projects that they are doing; One of the projects is extending a waterline south from Foxhill Drive to the south end of the property which will allow a third property to connect to water but also potentially other larger lot properties along Gender Rd; In total it is \$100,000 including \$75,000 for the water line; there is also a pedestrian trail they are constructing ion front of their property with the Tif we will hopefully continue that trail down the east side of Gender Rd; from Foxhill down to Dietz is the goal; This is a reimbursement project;

Sponsors: *Mershon*

A motion was made by Mershon seconded by Clark that this Ordinance be forwarded to full council. The motion carried by the following vote:

Yes: 6 –Mershon, Clark, Bennett, Donahue, Jarvis, Walker

ORD-17-058

AN ORDINANCE TO CREATE A TIF AREA PURSUANT TO SECTION 5709.40(B) OF THE OHIO REVISED CODE, DECLARE IMPROVEMENTS TO CERTAIN PARCELS OF REAL PROPERTY LOCATED IN THE TIF AREA TO BE A PUBLIC PURPOSE, EXEMPT FROM REAL PROPERTY TAXATION 100% OF THOSE IMPROVEMENTS, REQUIRE THE OWNERS OF THOSE PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, PROVIDE FOR THE DISTRIBUTION OF THE APPLICABLE PORTION OF THOSE SERVICE PAYMENTS TO THE CANAL WINCHESTER LOCAL SCHOOL DISTRICT, ESTABLISH A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF THE REMAINDER OF THOSE SERVICE PAYMENTS, SPECIFY THE PUBLIC INFRASTRUCTURE IMPROVEMENTS TO BE MADE WITHIN THE TIF AREA THAT DIRECTLY BENEFIT THOSE PARCELS, TO APPROVE AND AUTHORIZE THE EXECUTION OF A TAX INCREMENT FINANCING AGREEMENT WITH RESPECT TO THE TIF AREA AND TO DECLARE AN EMERGENCY

Attachments: **Greengate TIF Exhibit**

Haire: This is a new Tif district that we are proposing; located along Diley Rd just south of Busey Rd; there is a new apartment project that is proposed there and we would like to capture some of that value to assist in constructing a new roadway called a Greengate; We have been talking for a couple months about this including cost and part of that cost would come from this Tif in the future; this property would include two phases of apartments known as Winchester Ridge that are already constructed and phases three and four that are yet to be constructed; this

would also include 35 acres of commercial property located along Diley Rd; back in 2001 these parcels were all rezoned at one time including the Meijer's parcel that was all owned by one family farm; at that time it was envisioned that Greengate Blvd would be constructed from Hill Rd to Diley Rd so it has always been a planned roadway; this Tif will help with funding for developers to build that roadway in the future; part of the reason for that is it is almost necessary to have public private partnerships in any type of roadway construction like this because the cost associated with it; my hope would be that it would spur some commercial development along that 35 acre parcel; the apartments are contributing their share of the roadway on both sides so they are paying that cost and the Tif would not be paying that; this is a 30 year 100 percent non-school Tif; paying the same amount in real estate taxes it is just being reallocated; Clark: This land is zoned commercial, you can't put apartments or anything; Haire: three of those four parcels are zoned residential district Clark: Those are the ones that are already there; Haire: correct, the 35 acres in the front is zoned commercial;

Sponsors: Mershon

A motion was made by Mershon seconded by Jarvis that this Ordinance be forwarded to full council. The motion carried by the following vote:

Yes: 6 –Mershon, Jarvis, Clark, Bennett, Donahue, Walker

[ORD-17-059](#)

AN ORDINANCE TO AMEND ORDINANCE NO. 13-13, WHICH ESTABLISHED A TAX INCREMENT FINANCING AREA, TO SUBJECT SUCH TAX INCREMENT FINANCING AREA TO AN EXISTING CRA EXEMPTION AND TO DECLARE AN EMERGENCY

Haire: This refers to the Gender Road Tif adopted in 2013 amended in 2016; amended to include the two additional properties of Brewdog and Macintosh; the Brewdog property is in a CRA so that allows for a real property tax abatement; this will allow Brewdog to have a property tax exemption for fifteen years in exemption and in the last thirteen years would convert over to Tif; this would amend that ordinance to include that language;

Sponsors: Walker

A motion was made by Walker seconded by Clark that this Ordinance be forwarded to full council. The motion carried by the following vote:

Yes: 6 –Walker, Clark, Bennett, Donahue, Jarvis, Mershon

Items for Discussion

No additional items for discussion

Old/New Business

No old/new business

Adjournment

Meeting adjourned at 6:30 pm

A motion was made by Clark, seconded by Donahue, that this meeting be adjourned. The motion carried by the following vote:

Yes: 6 – Clark, Donahue, Bennett, Jarvis, Mershon, Walker

Canal Winchester

*Town Hall
10 North High Street
Canal Winchester, OH 43110*



Meeting Minutes - DRAFT

November 20, 2017

6:30 p.m.

PUBLIC HEARING

City Council

*Steve Donahue - President
Will Bennett – Vice-President
Bob Clark
Bruce Jarvis
Bobbie Mershon
Mike Walker
Jim Wynkoop*

Call To Order

Bennett called the meeting to order at 6:30 pm

Roll Call

Yes: 6 – Bennett, Clark, Donahue, Jarvis, Mershon, Walker

Not present: 0

Purpose of Public Hearing[ORD-17-060](#)

AN ORDINANCE TO AMEND PART 11 OF THE CODIFIED ORDINANCES AND THE ZONING MAP OF THE CITY OF CANAL WINCHESTER, REZONING APPROXIMATELY 4.730 TRACT OF LAND FROM MULTI-FAMILY RESIDENTIAL (AR-1) TO GENERAL COMMERCIAL (GC), OWNED BY CROSSROADS CHRISTIAN LIFE CENTER, INC., LOCATED ON THE EAST SIDE OF GENDER ROAD NORTH OF THE RAILROAD TRACKS (PART OF PID 184-000865)

Attachments: [Crossroad Rezoning Legal Description](#)

[ZM-17-005 Recommendation from P&Z](#)

Staff Report

Haire: Request for rezoning a commercial outparcel; from the 27.8 owned by Crossroads Church along Gender Road; this project has been in the works for nearly five years now; they had conditional use approval and site development plan approvals procured; they came back earlier this year and inquired about rezoning a portion of the property to commercial; they helped pay for the some of the infrastructure to develop the roadway for a bridge they are proposing that crosses Tussing Ditch; they ask us to rezone the 4.7 acres out of the 27.8 acres from AR1 to GC; the property was zoned AR1 in 2001 as part of a larger plan to redevelop or rezone parcels to GC north of the Tussing Ditch that allowed the construction of Wal-Mart an Waterloo Crossing shopping center; then this was a piece south of Tussing Ditch that was designated for apartment at 8 units to the acre; this would rezone that parcel of 8 units to the acre of AR1 to GC; The GC standards would also subject the property to our commercial development standards; as it sits now, a church is not required to meet those standards in terms of materials, design,

parking lot layout and all of those items; AR1 is not subject to our design standards; it was approved as conditional use to allow the church as an AR1 district; this request is for general commercial for the out parcel; private drive access from a right in, right out with public access along Gender Road and access from the extension from Canal Street; planning and zoning reviewed the application October 9th; they have recommended approval of the rezoning;

Public Comments – Five Minute Limit Per Person

Karen Collins, 6802 Bigerton Bend in Cherry Landing: I am just wondering how changing that to commercial is going to affect our home values right next to the property; You are changing things on us after the development has been finished; when we bought there it was not going to be commercial back there so we have some concerns I believe in the neighborhood; Brewdog has not been a good neighbor this year; with the fireworks and the music blaring so loud on a Saturday night that our homes were vibrating over in Cherry Landing; that's a pretty far distance; the fireworks sounded like gun shots over my house; I am not next to Brewdog, so if we're going to have another commercial development back there, and they are going to be like Brewdog we need to rethink what we're doing in this community; to our core people who live here; if you want to make this all commercial that is fine; I know commercial pays big taxes even despite a lot of the tax breaks you're giving them; this community has been a bedroom community and now you are suddenly changing a lot of that concept to commercial everywhere we look; I think council needs to search deep; do we really need to change that just for further development; you have a lot of land on Diley and you have got other land over by Kroger; but you're changing the dynamics;

Robert Sikes, 6732 Bigerton Bend: I guess my concern here when we talk about rezoning is the possible extension of Bigerton Bend into that development and what that would do to the lifestyle of the residents in our development; we've got a great lifestyle, safe environment for the children that live there; they are able to play in the streets and parks provided by the neighborhood; my concern is with the push for development on past us that the City Council and Planning Commission may ultimately decide that they need to extend Bigerton Bend into that area; Myself and most of the residents of Bigerton Bend, Cherry Landing would be vehemently opposed to that consideration;

Kylene Stanley, 6924 Bigerton Bend: I would agree with this gentleman; extending that street is going to increase the traffic tenfold because they are going to want to go in and out around there; it's going to be dangerous for our children, our animals and everything; I just really think we need to reconsider doing that; and the quietness of our neighborhood would be gone; Jarvis: I need to ask a clarifying question to staff; Is the extension of Bigerton bend on the table; Haire: It is not specifically related to this request but Bigerton Bend has been approved for the extension; Site development plans have been approved since 2000 when council passed the rezoning ordinance it was conditioned that the roadway network follow a specific plan that included a connection between Gender Road and Waterloo Street which would relieve traffic at the intersection of Winchester Blvd, Waterloo and Gender Road;

Jarvis: If I am hearing right, that decision was already made; Haire: Correct; Mershon: So, that's not up for discussion; Bigerton Bend is going to go through; Haire: Correct; Clark: that's five years before the first house was ever built there that this was first decided; Haire: yes, the site development plans, there have been three development plans approved for that site, the church; the most recent one was an amendment earlier this year; this is just for rezoning a small portion of the of the 27.8 acres of the development; it's just the frontage along Gender Road;

Dwayne Allred, 6709 Cherry Bend in Cherry Landing: I guess if the Bigerton Bend extension is off the table because of it being previously resolved it's kind of disheartening; I moved from Gender Road and the Chelsea Glen subdivision to get away from the mess on Gender Road, to be closer to my home town that I have lived in since 1968; I love the community I live in; I think there are some legitimate safety concerns too; I don't know if they can be retroactively addressed but maybe they should; However, since that is off the table I would bring up some property tax issues; as a church it is my understanding that churches pay no property tax and yet this 4.733 acre parcel is one of the last remaining parcels in the city that definitely needs the support our schools and law enforcement; so perhaps we should reconsider on a monetary basis as a smart fiduciary responsibility to our community to think about that; and since the other things are off the table I have no other things to say;

Dawn Natalie, 415 W Waterloo: I bout the model home on Waterloo and Bigerton Bend; since I have lived there, for four years the crime rate has increased tremendously; I personally have had my car broken; I went on Next-door, that's an app if you don't know about it, and found out three cars were hit just that night; I have had vandalism; I have read all kinds of people getting their cars broken into, homes broken into; If we put in more businesses at the end of our street will create a huge problem; can't imagine putting in more businesses at the end of our street it's going to become a huge problem; we already have enough crime that has been going up and up and up; when I first moved in people started using the alley way behind my house as a place to hide after they shoplifted from Wal-Mart; that's been an issue; now they realize they can't get out that way; so, the word is out they can't get through there; but now they try to go through the subdivision and hide to get away from the police; I can't imagine putting in more businesses at the end of that street; I wish we were told all of this before; there's a lot of children that live in our subdivision; we have dogs, people have dogs, they walk their dogs; it's a nice community but you guys keep growing, growing, growing and all this commercial coming in; the Aldi's, the Goodwill, all of that; we're losing that small feel community and that's really sad; I feel bad; and I think that all needs to be taken into consideration; I hope you guys think about that;

Corey Eller, 6538 Cherry Bend: I purchased my house a year ago there; none of this information was disclosed to me; that is going to be a very, I live right on the corner of Bigerton and Cherry Bend, that traffic when it comes through is going to be right there; believe me I would not have purchased my house there as a choice knowing that; those things should be disclosed to people purchasing; to find that out today, after getting that email today about this information today, it was very upsetting; as it is just to think of having that amount of traffic traveling through there and being right at the corner there; there are a lot of children in this area; this was a very nice community; it is a very nice community; you know what's going on in there, everyone know, you can see; having cars come from Gender through there will be a nightmare; the volume of people coming through there will be high; talk about having break ins now, it will just increase; I don't know what it's going to do to property tax; I don't know what it's going to do to my home value; I just can't imagine anyone wanting to purchase my home if I was to choose to sell it being right there on the corner and going through Bigerton there; it's just very

upsetting but unfortunately like you said it's kind of a moot point that has already been decided; these things should be disclosed when you are purchasing a home;

Mark Hill, 67387 Bigerton Bend: An understanding from the discussion here that the extension isn't that topic here tonight, that's a forgone issue; when it comes to how we're going to zone that land I think most of us are here to go with whatever option would delay or stall the extending of Bigerton Bend onto Gender Road; so whichever option keeps that from happening the longest is what most of us are here to support;

John Collins, 6802 Bigerton Bend: My biggest question to you folks is traffic and speed; we have a large amount of speeders going through the subdivision now and if we put this street through to Gender it's going to increase the amount of speeders; are we going to get more law enforcement and things of this nature to support this; secondly, going out to Waterloo there is still a number of speeders that go through there; I applaud the police for stepping up patrols up there but I go through there daily and I constantly see people speeding; having said that, more importantly, my subdivision they need to slow down and take care of these children in the subdivision;

Pam Allred, 6709 Cherry Bend; One of the reasons I wanted to come here tonight was because of the Bigerton Bend extension; when we purchased our home 2 years ago this was not disclosed; we moved like my husband mentioned earlier, we moved from the other side of 33 to get away from the noise and the traffic and the crime over there; I do have concerns about the children playing on Bigerton Bend; we have two beautiful parks there that we pay for on either side of the street; I've noticed that the traffic, even with the Aldi's opening is just horrendous when I'm coming home at night; sometimes when I see the traffic backing up on the ramp to Gender Road I go down to 33 beseech or I go down to High Street to get home so I don't have to sit in traffic; I understand at some point that's (High Street) going to be pretty busy too with the development at the end of this street; whatever can be done I just really beseech every one of you to keep this community the way it has been; I'm not against progress but I am against crime and noise and traffic;

Robert Sikes 6732 Bigerton Bend: I've lived here off and on since about 2002 and as a recent letter from the good Mayor said, this town has changed a lot since 2002; I

think decision made in 2000 maybe should be reassessed and we need to take another look at the change and the lifestyle and the people that live in this city and what's important to them; and maybe if the things that happened and the decisions made in 2000 should be readdressed according to 2017

Matt Floyd, 6754 Bigerton Bend: I have to agree with everyone here so far; I do have a question, where is the funding for the section of Bigerton Bend extension coming from; Haire: this is a comments section not a question and answer section; Floyd: well it kind of pertains to this because if this is being rezoned from residential and it is being owned by Crossroads Church and they are going to sell off the commercial and that's going to be used to fund the Bigerton Bend extension by not having this allowed more than likely Crossroads does not have the money to put that extension in; that's the reason why I asked what the difference is on the zoning; Donahue: from my understanding I think Crossroads Church is wanting this rezoned so they have funds to put the bridge across the creek there to make the connection where the traffic light is already in off Gender; Haire: that would be speculating; Floyd: so I'm also with the rest of the folks, when I bought my house too I was aware that it was all residential back there with Crossroads going in so I signed because I figured that's a nice large neighborhood that's going to go in; if I knew that it was going to be commercial I would not have bought my house very much like a lot of the folks around here; I'd rather keep it a nice small community where we know where everyone is at; the school board also changed the bus route one time; it use to be out on the corner of Waterloo and Bigerton but they actually moved it in for the grade school because there was too much traffic on Waterloo and there was a safety concern that they brought in so it now goes down by the park; if we open up that road we're still going to have that same issue; I'm very concerned with the children;

Thanchanok Hill, 6738 Bigerton Bend: Mr. Ebert, Mr. Lucas and everyone, I just want you to reconsider the Bigerton Bend extension or the safety of everyone; everyone here at Bigerton Bend has to know that we are going to pay to HOA for those parks; if you open that to Gender who is going to take care of that; we have to pay for that; with all respect I just want you to reconsider for everyone that lives in Cherry Landing and for our kids and animals;

Council Discussion and Recommendation

Bennett: Lucas we had a public hearing a while back with Certified Oil and staff recommendation against Certified Oil was because they had a right in right out; I see looking at this it has right in right out across the bike path that runs down Gender; what is the staff's opinion on supporting this one as opposed to support for the last; I think we discussed it wasn't in the long term plan to have additional ins and outs off Gender Road; Haire: extensive traffic study done; it showed the need for multiple access points; this is not peak time for the church on Sunday morning; but this church seats 1,200 people; to get that volume of people in and out at one time; it is recommended that there are two access points; Bennett: will this create three though; Haire: it will with the connection to Bigerton Bend; it is anticipate that 10 percent of the volume of traffic will travel east toward Waterloo street down Bigerton Bend;

Mershon: but that is not the issue; It is just the rezoning of the commercial property; Haire: correct; Donahue: prior to the rezoning what was going to be up in that area next to Gender;

Haire: prior to asking for the rezoning it was intended to be close to 40 apartments on that parcel as of the current zoning;

Mershon: do we know how much traffic 40 apartments would generate because that would be an issue as well; Haire: the entire site, nearly 28 acres but I don't know what the generation would be based in the number of units; Jarvis: one of the concerns expressed this evening was about the noise and the potential disruption of business in general, commercial, I don't imagine anyone who be quite like Brewdog; could you characterize general commercial; is it office buildings as well;

Haire: retail, restaurants, offices, any of those; Jarvis: consistent with what is already on Gender Road; Haire: correct; Mershon: who pays for the extension; Haire: the church is paying for all of the infrastructure; Mershon: it will be a public street so no one has to worry about us besides us; Haire: they are dedicating the property north of the roadway to the city; we will own a portion of the park they referenced earlier and we'll own the property north of the roadway as well; basically the whole flood plain; Mershon; which is not developable; Haire: correct;

Walker: as far as the duplexes, there has been an engineering trip study; in Canal Winchester it is rated for about 12 cars an hour; 20 at peek; that is not a lot of

traffic; if you look at any of the condos you're not seeing people pile in and out of those condos; no more than what you see at the duplexes at 33 and High; that is a study that is done nationwide; Bennett; you referenced that the traffic study showed you need two points of entry and exit from the church; with us having currently three ; Haire: I misspoke; if I said two it was three; there will also be a right D cell lane constructed so the bike path will be relocated; no final plans at this time;

Clark: How will it affect the bike path; are you going to run the bike path down and into the complex and then over across the crosswalk and then over; is there going to be a clean break for the bike path in the right in right out area; Haire: it will be the same as it is at Walnut and Canal Street currently; it will be done with striping and signage; Bennett: are there other instances in other communities that have similar right in and outs that connect with bike paths; could we see examples of how that is done; Haire: if you drive many of the streets of downtown Columbus; Mound, Fourth, Indianola, Morse Road are a few examples I can think of; Jarvis: when Planning and Zoning deliberated this application did they address any of these concerns or were any of these concerns brought up;

Haire: Many of the people that spoke this evening also spoke at the Planning and Zoning; notice was sent to HOA and also to the adjacent property owners;

Sponsors: Bennett

A motion was made by Bennett seconded by Jarvis that this Ordinance be forwarded to full council. The motion carried by the following vote:

Yes: 6 –Bennett, Jarvis, Clark, Donahue, Mershon, Walker

Adjournment

Meeting adjourned at 7:03 pm

A motion was made by Bennett, seconded by Clark, that this meeting be adjourned. The motion carried by the following vote:

Yes: 6 – Bennett, Clark, Donahue, Jarvis, Mershon, Walker

Canal Winchester

*Town Hall
10 North High Street
Canal Winchester, OH 43110*



Meeting Minutes - DRAFT

November 20, 2017

7:00 PM

City Council

*Steve Donahue- President
Will Bennett-Vice President
Bob Clark
Bruce Jarvis
Bobbie Mershon
Mike Walker*

A. Call To Order

Donahue called the meeting to order at 7:05 pm

B. Pledge of Allegiance - **Bennett**C. Roll Call

Yes: 6 – Bennett, Clark, Donahue, Jarvis, Mershon, Walker
Not Present: 0

D. Approval of Minutes

[MIN-17-055](#) 11-6-17 Council Work Session Meeting Minutes

Attachments: [11-6-17 Council Work Session Meeting Minutes](#)

[MIN-17-056](#) 11-6-17 Council Meeting Minutes

Attachments: [11-6-17 Council Meeting Minutes](#)

A motion was made by Mershon, seconded by Walker that these Minutes be approved. The motion carried by the following vote:

Yes: 6 – Mershon, Walker, Clark, Bennett, Donahue, Jarvis

E. Communications & PetitionsF. Public Comments - Five Minute Limit Per Person

Amy Pucket, 6377 Rossi Drive: I want to thank you for the opportunity to speak to you this evening about the Columbus Crew and our widespread community effort in support of keeping the Crew in Columbus; The Columbus Crew is an important and significant community asset; not just to the City of Columbus but to all of the surrounding communities; as the first team in MLS the Crew presents an important legacy in a fast growing league and many individuals, families and businesses point to the presence of a deeply rooted MLS team with a rich history as a positive factor in looking to locate or relocate to central Ohio; I know this, as my husband and I felt this way when considering our options for moving back home to Ohio three years ago; I also know that Brewdog has often mentioned the proximity of a professional soccer team as an attractive asset when considering Canal Winchester for the base of their U.S. operations; another important asset that the Crew provides to the community is the Crew Academy; the top MLS youth program which represents an opportunity for

young players to train and be among the best of their sport; since 2008 Crew Academy has sent more than 85 players to top collegiate programs; with 13 continuing to play professionally; it is the only program of its kind in central Ohio; this is an opportunity for our local community youth that will be lost if the Crew moves to Austin; as the world games, soccer is one of the sports that can be found in virtually every corner of the planet; the roster for the crew is incredibly diverse; ranging from home grown players, like Wil Trapp, our captain, and Alex Crognale from Gahanna, to players from countries like Ghana, Brazil, Argentina, Norway and more; many of whom play for their international teams and bring a little bit of central Ohio back home with them; the crew players are consistent positive role models in our communities; both on and off the field which is difficult to say about many other professional and collegiate sport programs in the country today; the team frequently speaks highly of Columbus and surrounding communities in person and in traditional and social media and can often be found participating in philanthropic outreach programs here in our own towns; for all of these reasons this is an important time as community members in Canal Winchester to show support for the Columbus Crew and urge them to remain here in central Ohio with us where they belong; and I hope that you will join the effort by adding our voices to the surrounding cities that have already pledged support by passing a resolution supporting the efforts of fellow community members to keep the Crew in Columbus where they belong; thank you;

Robert Gardner, 7037 Greenview Village Drive: thank you for letting me speak tonight; on October 17th 2017 we heard the announcement of the intention to move our Columbus Crew to Austin; some people, myself included went to a local establishment just to be with fellow supporters that night; we hugged; we reminisced; and I'm sure some tears flowed that evening; we talked about memories of our beloved Columbus Crew; we asked what would happen with the first soccer specific stadium, our legacy in U.S. soccer, and also what will happen to youth soccer in the Columbus area; but something truly special happened that evening; the question was asked, are we going to sit here while someone takes our team away; out of that question a movement started; the Save the Crew Movement was born; we decided to fight instead of mourn; Crew supporters went on social media to ask for support from other teams, supporter groups, businesses and government; we were surprised by the outcome; every supporter group in major league soccer has showed its support and we started to see save the Crew banners all over the world; social media showed its support by writing articles about how moving the crew was a bad business idea for Major League Soccer;

by now I'm sure you have seen the articles written in support of the Crew; I'm sure you've seen the pictures of our rally at City Hall in Columbus; and those frozen wet fans at college game day; businesses showed their support by allowing us to use their facilities so we could meet and make signs to send to supporters all over the world; the Save the Crew Movement is growing every day; more and more businesses and supporters sign up every day to pledge support; we thank Brewdog USA in their pledge and support to save the Crew; Brewdog USA recently came out as a key supporter in the Save the Crew Movement; Brewdog USA is a Scottish company which chose Canal Winchester as the location of their U.S. headquarters; as a new and thriving business in our community it should be apparent to our local government that supporting a cause that they find worthy is in everyone's best interest; we ask tonight that Canal Winchester pledges support to Save the Crew Movement and I'll tell you why; I watch a lot of the crew games over the years from home and observing the supporter culture; one day I kind of showed up at one of the games and before I knew the supporter group was taking me in; I had a scarf around my neck and a plate of food in my hand and after a while these people that I came to see at every game, they weren't just supporters anymore, they became extended family; because of that we ask you to support our movement and please do a pledge of support for our cause; thank you;

Edward Morgan, 6623 Eagle Ridge Ln: I'm here representing the people of Eagle Ridge Condominiums; back in September we took a vote on adding a storage facility in our community; the next day I went down to the zoning board and the gentleman told me the only problem they had was it had to be put ten foot away from an existing building; that's all I was told; I went back at our next meeting in October and we decided to get the storage unit and get it ready to go; I received a letter from Andrew Moore saying it has to be ten feet away from the building and behind our club house; the main thing I'm wondering is, is Canal Winchester allowed to tell us since it is private property area where the shed or storage unit should be placed; Hollins: you're saying the storage unit is on private property; Morgan: yes: Hollins: the zoning code applies to any private property in the city; Morgan: they can tell us it has to be behind our clubhouse; Hollins: if the zoning code provides that and it's on private property the answer is yes; I haven't looked at the zoning code on that issue but it does say it's legal; Morgan: we have pictures from different houses in the city that their utility sheds are placed where ever they want to be placed; I went down the first time and they said the only thing we have to have is a ten foot easement around it in case we are going to keep flammables in there; there is not going to be any flammables; it is going to be holding shingles,

downspouts and things like that we use to repair our homes; so you're saying no matter what is has to be ten foot and behind out clubhouse; Hollins: no, I'm not saying; if you're saying can we regulate that then the answer is yes; Morgan: this letter was written from Andrew on the 6th of this month; now we have two weeks and today is two weeks; so will Andrew come out tomorrow; I've talked to him since then; so is it a constant two weeks after that until we get it moved; because I don't think really we can take it any way ten feet from our club house in either direction or it will infringe on something else; that's why we put it where we put it; Hollins: as long as you're working with us; Morgan: okay, that's all we ask; we were put down under a two week rule; I've talked to Andrew twice; we thought we would come down here and get the specifics; and we'll just go from there; Hollins: we just want to want to work through issues; Morgan: thank you very much I appreciate it; Jarvis: just a follow up statement for this gentleman because I felt like you were feeling that some of this was arbitrary and being made up as it was going along and it's not; what Mr. Hollins was saying was there's kind of a black and white chapter in verse ordinance that spells that out; hopefully that was referred to you or a copy of it was given to you do you could read that yourself; Morgan: I was given nothing; Jarvis: we're sort of flat footed right now too because we don't have it in front of us; Morgan: when I went down I was told the only thing we have is a ten foot easement for an 8x10 foot shed; I said that's it and he said that's it; so when I went back after I received this letter (inaudible); Jarvis: you should be able to read this for yourself and see if there is any other criteria involved because we're kind of guessing here right now; Morgan: I just wanted to get this out there; I didn't want to come home tomorrow and have pour shed laying in pieces; I just want to make sure that we are all working on this and hopefully we'll come to an agreement soon; I trust you because you definitely stood up for us when Rockford tried to pull their nonsense; so I'm not here to criticize; I was told ten feet now I have a letter saying there's a lot more to it; I will go in tomorrow if not in between the holidays and get this figured out;

Jim Hummell representing Joyce Hummell, 6401 Winchester Blvd Inn at Winchester Trail: What I'm here to do tonight is just to ask your help with something; a topic that has come up a number of times from my mother as well as some other people that live there; as you know, many of the people that live there are able to walk and travel some short distances for things; right now there is kind of a barrier between the Inn at Winchester Trail and the Kroger which I think is Winchester Square, officially; we are close but we are not close enough to where they can travel safely; there is a crosswalk

in between the west entrance to Kroger and the traffic light that is farther east; the problem is it is a good bit of distance for them to have to travel up there, cross and then come back down; the other issue is that the sidewalks along the north side of that street don't attach to anything; so on both ends it just goes to grass; there is no safe way for anybody to make that transition from the end of one of those walks in to Kroger; I'm only here asking for your help to maybe navigate this thing; I realize that maybe Casto is going to be a big piece of this if he is still the owner or developer of that; there may be a need because I keep thinking about people of my mother's age trying to cross in between that area that is pretty heavily traveled; sometimes kind of clipping along, it may not be the safest place; Maybe there's a safer way to put a crossing to the west of that west entrance into Kroger which would be more like right in front of the little school house that's there; I just want to plant the seed to see if you get a chance to look at that; see if there is anything that we can do; and maybe you can facilitate a meeting or discussion with the owner of the development as well to help us do that; I think there's some money that might be had from some of the people that live there to help; I'm sure it's not huge amounts of money but there's some money there to help offset some of the cost; that's really my only reason to be here; kind of let you know what the problem; mull it over; see if there is anything we can do to help; there is probably 50-75 residents that live there that would be really nice for them to get to Kroger and other stores for their needs;

Caroline Sittler, 48 W Mound Street: I am here representing the Canal Winchester Art Guild; I would like to take this opportunity to thank the City of Canal and the people of the community for supporting our club; I'm here to update you on the mural project; I took over the mural project on November 8th; We're having some difficulties with getting the murals up right now; we're under the constraints of weather; it has to be above 50 degrees and dry; I don't know if we are going to be able to get them up by December 31st; I have been in contact with Ashley Graphics several times in the last week; they were going to try to get the murals printed today but things came up; as soon as they get them printed they are going to call me and email me with pictures of the printed murals; they had given me an invoice for them; the project is going to be \$3,361.00; I plan on giving them a deposit for cost of the materials; and then paying them as they install the murals; with that said, we have a new project; I'm very proud of this project; it's called give a bird a home; this is community driven, we are asking members of the community to build, decorate and donate bird houses; they will be placed in the parks and along the bike way paths in Canal Winchester; this is one of the

bird houses that one of our local artists did; this started out as a simple small project; the schools got in touch with me wanting to know how they could get involved with the Art Guild and the community; I told them about this project; they want to include that in their STEM program which is science, technology, English and math; they want to build 250 bird houses and decorate them; this is also going to involve the Boy Scouts, Fairfield Vocational, and businesses; the police officers have a bird house downstairs and hopefully they will do a good job; my reason to be here is to drop off my grant request; my final report for the stroll; unfortunately I don't have a final report for the mural project; I'm asking you guys to give us a little leeway and fund our grants for 2018 with the understanding that it will be my full energy and full support to make sure they get implemented in a timely basis; Donahue: Carol, are you selling those to private individuals who have no artistic ability; Sittler: at Christmas in the Village we will be donating 18 bird houses and all you have to do is give a 20 dollar deposit and when you return the decorated bird house to me you get your money back; or you can go to Birds Unlimited; they are a working partner with us; they are selling kits; and you can get kits from Home Depot; Home Depot donated the wood for 30 kits and one of their employees constructed them at a seminar at the Art Guild; Jarvis: I know certain bird houses are made for certain species, since your using a common design is it creating a disadvantage; part of the school program will be researching different bird habitats, dimensions for the bird houses, what birds eat, so it's going to be more than just decorating a bird house; it's going to be educational; I emailed Dick Miller about the chances of him working with us on deciding what and how many bird houses of each type would be appropriate for Canal Winchester; they will not all be the same; I also have the grant application;

G. RESOLUTIONS

[RES-17-021](#)

A RESOLUTION TO APPROVE THE TRADE IN OF A 2008 CHEVY EQUINOX

Sponsor: Jarvis

A motion was made by Jarvis, seconded by Walker, that this Resolution be adopted. The motion carried by the following vote:

Yes: 6- Jarvis, Walker, Bennett, Clark, Donahue, Mershon

H. ORDINANCES

Third Reading

[ORD-17-047](#) AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO A CONTRACT WITH COLUMBUS POOL MANAGEMENT, INC. FOR THE OPERATION OF THE SWIMMING POOL

Attachments: [Columbus Pool Management Proposal](#)

Sponsor: *Mershon*

Bennett: Mr. Peoples, at one time we discussed if they were able to do a breakdown of man power in this contract; did we ever get that information back; Peoples: I know you and I had discussed the \$8,000 difference between this year and last year and I explained that we did not get charged for about \$4,500; the staff got a quarter raise; we did have an extended season;

A motion was made by Mershon, seconded by Walker, that this Ordinance be adopted. The motion carried by the following vote:

Yes: 5- Mershon, Walker, Bennett, Donahue, Jarvis

Abstain: 1- Clark

[ORD-17-048](#) AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO CONTRACTS WITH THE DIRECTOR OF TRANSPORTATION NECESSARY TO REPLACE GUARDRAIL END TREATMENTS

Sponsor: *Clark*

A motion was made by Clark, seconded by Bennett, that this Ordinance be adopted. The motion carried by the following vote:

Yes: 6- Clark, Bennett, Donahue, Jarvis, Mershon, Walker

Second Reading

[ORD-17-049](#) AN ORDINANCE TO MAKE FINAL APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF CANAL WINCHESTER, STATE OF OHIO, DURING FISCAL YEAR ENDING DECEMBER 31, 2018

Sponsor: *Jarvis*

Read for second reading.

[ORD-17-050](#) AN ORDINANCE TO AUTHORIZE THE MAYOR TO AMEND A CONTRACT WITH EMH&T, INC. FOR MUNICIPAL ENGINEERING SERVICES FOR THE PERIOD FROM JANUARY 1, 2018 THROUGH DECEMBER 31, 2020

Attachments: [2018-2020 EMH&T Contract](#)

Sponsor: *Clark*

Read for second reading.

[ORD-17-051](#) AN ORDINANCE TO AUTHORIZE THE MAYOR TO AMEND A CONTRACT WITH BIRD & BULL, INC. FOR PROFESSIONAL ENGINEERING SERVICES FOR THE PERIOD FROM JANUARY 1, 2018 THROUGH DECEMBER 31, 2020

Attachments: [2018-2020 Bird&Bull Contract](#)

Sponsor: *Mershon*

Read for second reading.

[ORD-17-052](#) AN ORDINANCE TO AUTHORIZE THE MAYOR TO AMEND A CONTRACT WITH AMERICAN STRUCTUREPOINT, INC. FOR CONSULTING SERVICES RELATING TO CONSTRUCTION INSPECTION FOR THE PERIOD FROM JANUARY 13, 2018 THROUGH JANUARY 13, 2019

Attachments: [American Structurepoint Contract Amendment](#)

Sponsor: *Bennett*

Read for second reading.

[ORD-17-053](#) AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO AN AGREEMENT FOR LEGAL SERVICES WITH FROST BROWN TODD LLC FOR THE PERIOD JANUARY 1, 2018 THROUGH DECEMBER 31, 2019

Attachments: [FrostBrownTodd Contract](#)

Sponsor: Walker

Read for second reading.

[ORD-17-054](#) AN ORDINANCE TO AMEND THE CODE OF PERSONNEL PRACTICES

Attachments: [Personnel Handbook Updated 10.17](#)

Sponsor: Jarvis

Read for second reading.

[ORD-17-055](#) AN ORDINANCE TO AMEND CHAPTER 1317 OF THE CODIFIED ORDINANCES OF THE CITY OF CANAL WINCHESTER TO ADOPT THE 2017 OHIO BUILDING CODE, OHIO MECHANICAL CODE, AND OHIO PLUMBING CODE INCLUDING ALL REFERENCED STANDARDS THEREIN

Sponsor: Walker

Read for second reading.

[ORD-17-056](#) AN ORDINANCE TO REPEAL ORDINANCE NO. 44-13 AND AMEND THE ADOPTED COMBINED DEVELOPMENT FEE SCHEDULE

Attachments: [Development Fees Memo](#)

Sponsor: Mershon

Read for second reading.

[ORD-17-057](#) AN ORDINANCE TO AUTHORIZE THE MAYOR TO ACCEPT ONE PARCEL OF LAND FROM WINCHESTER RIDGE THREE LLC

Attachments: [Winchester Ridge Limited Warranty Deed](#)

[Winchester Ridge ROW Description](#)

[Winchester Ridge ROW Exhibit](#)

Sponsor: Walker

Read for second reading.

First Reading

[ORD-17-040](#)

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A TAX INCREMENT FINANCING AGREEMENT WITH PROPERO CANAL WINCHESTER, LLC

Attachments: [Propero Canal Winchester TIF Agreement](#)

Sponsor: Mershon

Read for first reading.

[ORD-17-058](#)

AN ORDINANCE TO CREATE A TIF AREA PURSUANT TO SECTION 5709.40(B) OF THE OHIO REVISED CODE, DECLARE IMPROVEMENTS TO CERTAIN PARCELS OF REAL PROPERTY LOCATED IN THE TIF AREA TO BE A PUBLIC PURPOSE, EXEMPT FROM REAL PROPERTY TAXATION 100% OF THOSE IMPROVEMENTS, REQUIRE THE OWNERS OF THOSE PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, PROVIDE FOR THE DISTRIBUTION OF THE APPLICABLE PORTION OF THOSE SERVICE PAYMENTS TO THE CANAL WINCHESTER LOCAL SCHOOL DISTRICT, ESTABLISH A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF THE REMAINDER OF THOSE SERVICE PAYMENTS, SPECIFY THE PUBLIC INFRASTRUCTURE IMPROVEMENTS TO BE MADE WITHIN THE TIF AREA THAT DIRECTLY BENEFIT THOSE PARCELS, TO APPROVE AND AUTHORIZE THE EXECUTION OF A TAX INCREMENT FINANCING AGREEMENT WITH RESPECT TO THE TIF AREA AND TO DECLARE AN EMERGENCY

Attachments: [Greengate TIF Exhibit](#)

Sponsor: *Mershon*

A motion was made by Mershon, seconded by Jarvis, to suspend the rules and waive second and third reading.

The motion carried by the following vote:

Yes: *6- Mershon, Jarvis, Bennett, Clark, Donahue, Walker*

A motion was made by Mershon, seconded by Clark, that this Ordinance be adopted. The motion carried by the following vote:

Yes: *6- Mershon, Clark, Bennett, Donahue, Jarvis, Walker*

[ORD-17-059](#)

AN ORDINANCE TO AMEND ORDINANCE NO. 13-13, WHICH ESTABLISHED A TAX INCREMENT FINANCING AREA, TO SUBJECT SUCH TAX INCREMENT FINANCING AREA TO AN EXISTING CRA EXEMPTION AND TO DECLARE AN EMERGENCY

Sponsor: *Walker*

Read for first reading.

[ORD-17-060](#)

AN ORDINANCE TO AMEND PART 11 OF THE CODIFIED ORDINANCES AND THE ZONING MAP OF THE CITY OF CANAL WINCHESTER, REZONING APPROXIMATELY TRACT OF LAND FROM MULTI-FAMILY RESIDENTIAL (AR-1) TO GENERAL COMMERCIAL (GC), OWNED BY CROSSROADS CHRISTIAN LIFE CENTER, INC., LOCATED ON THE EAST SIDE OF GENDER ROAD NORTH OF THE RAILROAD TRACKS (PART OF PID 184-000865)

Attachments: **[Crossroad Rezoning Legal Description](#)**

Sponsor: *Bennett*

Read for first reading.

*Mershon: requests that zoning decisions be sent to council so they can review them;
Jarvis: opinion or staff recommendation on what are the negatives of leaving it as it is; I understand that it would take some of the financial viability of that parcel for the*

property owner; not overly compelling to me; Haire: it is currently 4.7 acres, AR1 which is a multi-family district zoned in 1991; consisting of 8 units to the acre; potentially 38 units in the front parcel with the church ; with this commercial development which would be subject to commercial development standards; it would mimic the rest of the corridor; Bennett: if we left it as it is there are no design restraints on an AR1 as long as they met the 1991 code; Haire: yes; Jarvis: this has no bearing on the need to extend Bigerton Bend; Donahue: we shouldn't have any right in right out on Gender Road and now we're having one; Clark: I have an issue with the right in and right out; Gender Road is a mess as it is; creating more non-stop traffic may increase wrecks and more back up then if you would flow everyone to the light; Haire: that is not part of the rezoning application; Mershon: so the extension of Bigerton Bend is going to happen whether or not this is zoned commercial; Haire: we are considering the use of the land; AR1 with apartments or commercial; Walker: one allows us to use the materials that we wish to flow with the rest of the city; the other one could be whatever; it's going to happen either way; Haire: there will be certain restraints and design standards; working on getting FEMA approval for altering the flood plain; this has been in the works five years; Bennett: are they going to own the retail; Haire: they own the sight but it will be taxable if it is business not church; discussion ensued;

I. REPORTS

Mayor's Report

[17-262](#)

Mayor's Report

Attachments: [Mayor's Report 11-6-17](#)

Mayor: nothing to report; any questions;

Donahue: we talked about speeding the other night; moving mile per hours out different places; where are we at with that; Peoples: we're doing a study on w waterloo right about the bridge. The Washington street one concerns me; waterloo study now; moving the sign out 25mph will make it worse; we are inviting more people to complain about the speeding; where does 25 start on Washington. It starts on the south side of the bridge at the Ashbrook subdivision side of the bridge; Mershon: kids are expected to walk to school; no berm to the covered bridge; sloped ground; no place for them to walk except on the pavement; put in sidewalks and put in new bridge; slow traffic and give more reaction time to drivers and pedestrians; forget the character of

the roadway and look at the safety of the kids; Peoples: the roadway is not for pedestrians, it is private property over there; discussion ensued;

Jarvis: is it physically impossible Peoples: not physically impossible; long term we would love to have a bridge across there when we do McGill park; Jarvis: in the meantime the school has a policy; Walker: counterproductive if we put sidewalks in; Bennet: sidewalk on the bridge; Peoples: it is up to Franklin County engineers; Donahue: slow people down; for safety move it out to 25; it would be a good thing to move it to 25 out on Washington and Cemetery. Walker: 25 or sidewalks;

Fairfield County Sheriff

Cassel: speeders on Waterloo will be addressed; extra patrol in Cherry Landing due to public comments of vandalism;

Law Director

Hollins: thank you council for quick action the Tif that will allow us to submit department of tax stuff; the other Tif amendment can wait; no need for executive session;

Finance Director

[17-263](#)

Finance Director's Report

Attachments: [Finance Director's Project Update 11-20-17](#)

Jackson: Update council on a debt refunding that we completed at the end of October; that was legislation passed by council last December; we waited it out and got what we feel to be the best deal; we will end up saving around \$120,000 for the remaining life of that debt; bed tax grants due November 30th; I have only received three; earlier today the mayor and I sat through an informational webinar for an electronic solution for agendas and minutes; looking at preliminary pricing and requested additional details; Bennet: when is the selection due on the bed tax grants; Jackson: we will hold a meeting before the second full week of December and get it passed by the end of the year; the committee for that is Bennett and Jarvis;

Jarvis: questions from two weeks ago about special duty contingency police hours; discussion regarding 80-100 thousand dollars. Max of 80; discussion with Madison township may not bear fruit, we need this contingency plan. Set the ceiling at 80; Jackson: what makes the least amount of impact; do an appropriation amendment

instead of making cuts; there will be a discussion with Madison Township tomorrow; for suggestions let's speak to Sargent Cassel then we can come back to you; Jarvis: we have already decided as a group; we need a recommendation of where that money can come from if we have to go there; it doesn't need to be in the budget at the start of 2018; Mayor: impossible to do right now; Jackson: we will know where it comes from throughout the year; Jarvis: we need an assurance that if needed we know where it can come from; Jackson: our carryover fund is growing; Bennett: find as much middle ground as possible; Walker: where does money come from if we have pay as you go; how many times have we used a deputy from outside; Jackson: we don't hire special duty; if Cassel; do a pilot program; 80,000 seems like a lot of money; work with the Mayor for a week or a month; start modest and see what results we get; discussion ensued;

Public Service Director

[17-264](#)

Director of Public Service Project Update

Attachments: [Director of Public Service Project Update](#)

Peoples: Nothing to add

Development Director

Haire: Brewdog had a unique ground breaking on 11/08 pyrotechnics; Autozone has submitted building plans

J. COUNCIL REPORTS

Work Session/Council

Monday, December 4, 2017 at 6:00 p.m.

Work Session/Council

Monday, December 18, 2017 at 6:00 p.m.

CW Human Services Representation – Clark – Working on putting holiday packages together

Destination: Canal Winchester Representative – Mershon – Meeting next week

Canal Winchester Industry and Commerce Corporation Representative – Clark – Have a meeting on November 29th at 11:30 a.m. at the Interurban.

CWJRD – Bennett – Final meeting of the year on December 20th

Old/New Business

Donahue: follow up on Mr. Hummel; Haire: we'll talk to Casto about extending the sidewalk; Columbus crew: Mayor: we will speak with the Columbus city contact to see how the Columbus Crew support would be viewed;

Adjourn to Executive SessionAdjournment

A motion was made by Bennett, seconded by Jarvis, that this meeting be adjourned. The motion carried by the following vote:

Yes: 6- Bennett, Jarvis, Clark, Donahue, Mershon, Walker

Meeting Adjourned at 8:39 pm

RES-17-022

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER LEASE AGREEMENT AND FINANCING SCHEDULE THERETO IN CONNECTION WITH THE ACQUISITION OF CERTAIN PROPERTY IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$300,000

WHEREAS, the City of Canal Winchester (the "Lessee") is a political subdivision of the State of Ohio (the "State") and is duly organized and existing pursuant to the constitution and laws of the State.

WHEREAS, pursuant to applicable law, the City Council of the Lessee ("Governing Body") is authorized to purchase, lease, acquire, and to encumber, real and personal property, including, without limitation, rights and interests in property, leases and easements necessary to the functions or operations of the Lessee.

WHEREAS, the Governing Body hereby finds and determines that the execution and delivery of a Master Lease Agreement and Financing Schedule (collectively, the "Property Lease") with Huntington Public Capital Corporation (the "Lessor") in the aggregate principal amount not to exceed Three Hundred Thousand and no/100 Dollars (\$300,000.00) (the "Principal Amount") for the purpose of acquiring vehicles ("Property") and to be described more specifically in the Property Lease is appropriate and necessary to the functions and operations of the Lessee.

WHEREAS, the Lessor is expected to act as the lessor under the Property Lease.

WHEREAS, the Lessee may pay certain capital expenditures in connection with the Property prior to its receipt of proceeds of the Property Lease ("Lease Purchase Proceeds") for such expenditures and such expenditures are not expected to exceed the Principal Amount.

WHEREAS, the U.S. Treasury Department regulations do not allow the proceeds of a tax-exempt borrowing to be spent on working capital and the Lessee shall hereby declare its official intent to be reimbursed for any capital expenditures for Property from the Lease Purchase Proceeds.

NOW, THEREFORE, BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, STATE OF OHIO:

Section 1. That any one of the Mayor, the President of Council or the Finance Director, acting alone or in conjunction with one another (each an "Authorized Representative") acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver the Property Lease in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Lessee, so long as the principal amount set forth in the Property Lease does not exceed the Principal Amount, the term of the Property Lease does not exceed five (5) years and the interest rate associated with the Property Lease does not exceed three percent (3.0%) per annum (collectively, the "Property Lease Parameters"). Each Authorized Representative acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Property Lease (including, but not limited to, escrow agreements) as the Authorized Representative deems necessary and appropriate, so long as such terms comply with the Property Lease Parameters. All other related contracts and agreements necessary and incidental to the Property Lease are hereby authorized.

Section 2. That the terms of the Property Lease shall not exceed the Property Lease Parameters shall contain such options to purchase or prepay by the Lessee as set forth in the Property Lease.

Section 3. That the Lessee's obligations under the Property Lease shall be subject to annual appropriation or renewal by the Governing Body as set forth in the Property Lease and the Lessee's obligations under the Property Lease shall not constitute general obligations of the Lessee or indebtedness under the Constitution or laws of the State.

Section 4. That the Governing Body of Lessee anticipates that the Lessee may pay certain capital expenditures in connection with the Property prior to the receipt of the Lease Purchase Proceeds for the Property. The Governing Body of Lessee hereby declares the Lessee's official intent to use the Lease Purchase Proceeds to reimburse itself for Property expenditures. This section of the Resolution is adopted by the Governing Body of Lessee for the purpose

of establishing compliance with the requirements of Section 1.150-2 of Treasury Regulations. This section of the Resolution does not bind the Lessee to make any expenditure, incur any indebtedness, or proceed with the purchase of the Property.

Section 5. That with respect to the Property Lease, the Lessee reasonably anticipates that it and entities controlled by it will not issue more than \$10,000,000 of tax-exempt obligations (other than "private activity bonds" which are not "qualified 501(c)(3) bonds") during the calendar year 2018 and hereby designates the Property Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 6. That this resolution shall take effect and be in force from and after the earliest period allowed by law.

DATE PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

MAYOR

DATE APPROVED: _____

APPROVED AS TO FORM:

LEGAL COUNSEL

I hereby certify that the legislation as set forth above was published for a period of not less than fifteen (15) days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

Clerk of Council

ORDINANCE No. 17-049

2018 APPROPRIATIONS ORDINANCE

City of Canal Winchester

(Revised Code Sec. 5705.38)

An ORDINANCE to make final appropriations for Current Expenses and other Expenditures of the City of Canal Winchester State of Ohio, during the fiscal year ending December 31, 2018.

SECTION 1. BE IT RESOLVED by the Council of the City of Canal Winchester, State of Ohio, that, to provide for the current expenses and other expenditures of the said City of Canal Winchester, during the fiscal year ending December 31, 2018, the following sums be and they are hereby set aside and appropriated as follows, viz:

SECTION 2. That there be appropriated from the GENERAL FUND:

Sheriff	100-100		
Operating Expenses		\$ 1,108,000.00	
Capital Outlay		\$ 24,000.00	
Total Sheriff			\$ 1,132,000.00
County Health Department	100-200		
Operating Expenses		\$ 72,600.00	
Total County Health Department			\$ 72,600.00
Human Services	100-201		
Operating Expenses		\$ 63,100.00	
Total Human Services			\$ 63,100.00
Cemetery:	100-202		
Operating Expenses		\$ 1,000.00	
Total Cemetery			\$ 1,000.00
Community Center	100-300		
Personal Services		\$ 77,790.00	
Operating Expenses		\$ 18,250.00	
Capital Outlay		\$ 3,000.00	
Total Community Center			\$ 99,040.00
Parks	100-301		
Personal Services		\$ 229,800.00	
Operating Expenses		\$ 43,400.00	
Capital Outlay		\$ 60,000.00	
Total Parks			\$ 333,200.00
Swimming Pool	100-302		
Operating Expenses		\$ 153,000.00	
Capital Outlay		\$ 10,000.00	
Total Swimming Pool			\$ 163,000.00
Development	100-400		
Personal Services		\$ 305,080.00	
Operating Expenses		\$ 244,200.00	
Capital Outlay		\$ 3,500.00	
Total Development			\$ 552,780.00
Urban Forester	100-410		
Personal Services		\$ 176,500.00	
Operating Expenses		\$ 38,250.00	
Capital Outlay		\$ 41,000.00	
Total Urban Forester			\$ 255,750.00
Mayor	100-500		
Personal Services		\$ 209,125.00	
Operating Expenses		\$ 125,500.00	

Capital Outlay		\$	1,000.00		
Total Mayor				\$	335,625.00
Council	100-501				
Personal Services		\$	142,660.00		
Operating Expenses		\$	29,000.00		
Capital Outlay		\$	1,500.00		
Total Council				\$	173,160.00
Mayor's Court	100-510				
Personal Services		\$	83,770.00		
Operating Expenses		\$	18,250.00		
Capital Outlay		\$	1,000.00		
Total Mayor's Court				\$	103,020.00
Finance	100-520				
Personal Services		\$	225,690.00		
Operating Expenses		\$	53,750.00		
Capital Outlay		\$	4,500.00		
Total Finance				\$	283,940.00
Human Resources	100-521				
Personal Services		\$	56,500.00		
Operating Expenses		\$	7,550.00		
Capital Outlay		\$	1,000.00		
Total Human Resources				\$	65,050.00
Public Service	100-530				
Personal Services		\$	90,870.00		
Operating Expenses		\$	22,000.00		
Capital Outlay		\$	20,000.00		
Total Public Service				\$	132,870.00
Public Service - Fleet	100-531				
Operating Expenses		\$	28,000.00		
Capital Outlay		\$	5,000.00		
Total Public Service - Fleet				\$	33,000.00
Lands and Buildings	100-540				
Personal Services		\$	142,800.00		
Operating Expenses		\$	146,900.00		
Utilities		\$	255,000.00		
Capital Outlay		\$	100,000.00		
Total Lands and Building				\$	644,700.00
Community Affairs	100-550				
Personal Services		\$	79,370.00		
Operating Expenses		\$	9,700.00		
Capital Outlay		\$	1,000.00		
Total Community Affairs				\$	90,070.00
Community Affairs - Events	100-551				
Operating Expenses		\$	21,250.00		
Capital Outlay		\$	1,300.00		
Total Community Affairs - Events				\$	22,550.00
Information Technology	100-560				
Personal Services		\$	133,630.00		
Operating Expenses		\$	29,000.00		
Capital Outlay		\$	3,000.00		
Total Information Technolgy				\$	165,630.00
Administration	100-570				
Operating Expenses		\$	1,107,400.00		
Transfers/Advances		\$	1,240,000.00		
Total Administration				\$	2,347,400.00

Construction Services	100-600		
Personal Services		\$	177,140.00
Operating Expenses		\$	318,200.00
Capital Outlay		\$	732,000.00
Total Construction Services			\$ 1,227,340.00

Streets - Maintenance	100-603		
Operating Expenses		\$	25,000.00
Capital Outlay		\$	35,000.00
Total Streets - Maintenance			\$ 60,000.00

GRAND TOTAL GENERAL FUND APPROPRIATION: \$ 8,356,825.00

SECTION 3. That there be appropriated from the following SPECIAL REVENUE FUNDS:

STREET CONSTRUCTION, MAINTENANCE AND REPAIR FUND			
Office	200-601		
Personal Services		\$	238,350.00
Operating Expenses		\$	4,250.00
Capital Outlay		\$	4,000.00
Total Office			\$ 246,600.00
Fleet	200-602		
Operating Expenses		\$	48,650.00
Capital Outlay		\$	7,000.00
Total Fleet			\$ 55,650.00
Streets - Maintenance	200-603		
Operating Expenses		\$	39,500.00
Capital Outlay		\$	10,000.00
Total Streets - Maintenance			\$ 49,500.00
Snow and Ice Removal	200-604		
Operating Expenses		\$	35,000.00
Total Snow and Ice Removal			\$ 35,000.00
Total for Street Construction, Maintenance and Repair Fund			\$ 386,750.00

STATE HIGHWAY IMPROVEMENT FUND			
Streets - Maintenance	201-603		
Operating Expenses		\$	22,350.00
Capital Outlay		\$	5,000.00
Total for State Highway Improvement Fund			\$ 27,350.00

MAYOR'S COURT TECHNOLOGICAL FUND A			
Mayor's Court	202-510		
Operating Expenses		\$	2,300.00
Total Mayor's Court Technological Fund A			\$ 2,300.00

MAYOR'S COURT TECHNOLOGICAL FUND B			
Mayor's Court	203-510		
Operating Expenses		\$	3,000.00
Total Mayor's Court Technological Fund B			\$ 3,000.00

PERMISSIVE TAX FUND			
Streets - Maintenance	204-603		
Operating Expenses		\$	64,000.00
Capital Outlay		\$	-
Total Permissive Tax Fund			\$ 64,000.00

BED TAX GRANT FUND			
Council	205-501		
Operating Expenses		\$ 22,000.00	
Total Council			\$ 22,000.00
Administration	205-570		
Operating Expenses		\$ 30,000.00	
Total Administration			\$ 30,000.00
Total Bed Tax Grant Fund			\$ 52,000.00
BWC GRANT FUND			
Human Resources	207-521		
Operating Expenses		\$ 2,500.00	
Total BWC Grant Fund			\$ 2,500.00
DILEY RD PITIE FUND			
Administration	209-570		
Operating Expenses		\$ 4,500.00	
Total Diley Rd PITIE Fund			\$ 4,500.00
GENDER RD TIF FUND			
Administration	210-570		
Operating Expenses		\$ 84,000.00	
Total Gender Rd TIF Fund			\$ 84,000.00
CEMETERY FUND			
Public Health	211-200		
Operating Expenses		\$ -	
Total Cemetery Fund			\$ -
<u>GRAND TOTAL SPECIAL REVENUE FUND APPROPRIATION</u>			<u>\$ 626,400.00</u>

SECTION 4. That there be appropriated from the following DEBT SERVICE FUNDS:

General Obligation Bond Fund	300-571		
Principal		\$ 1,100,000.00	
Interest		\$ 175,000.00	
Total General Obligation Bond Fund			\$ 1,275,000.00
<u>GRAND TOTAL DEBT SERVICE FUND APPROPRIATIONS</u>			<u>\$ 1,275,000.00</u>

SECTION 5. That there be appropriated from the following CAPITAL PROJECT FUNDS:

CAPITAL IMPROVEMENTS FUND			
Capital Improvements	400-700		
Capital Outlay		\$ 178,506.00	
Total Capital Improvements Fund			\$ 178,506.00
ISSUE 2/CDBG GRANTS FUND			
Construction Services	401-600		
Capital Outlay		\$ 2,496,628.00	
Total Capital Project Fund			\$ 2,496,628.00
<u>GRAND TOTAL CAPITAL PROJECT FUND APPROPRIATIONS</u>			<u>\$ 2,675,134.00</u>

SECTION 6. That there be appropriated from the following ENTERPRISE FUNDS:

		WATER FUND	
Administration	500-800		
Personal Services		\$ 488,100.00	
Operating Expenses		\$ 282,900.00	
Capital Outlay		\$ 7,000.00	
Total Administration			\$ 778,000.00
Plant	500-801		
Operating Expenses		\$ 267,500.00	
Capital Outlay		\$ 35,000.00	
Total Plant			\$ 302,500.00
Distribution	500-802		
Operating Expenses		\$ 403,500.00	
Capital Outlay		\$ 110,000.00	
Total Distribution			\$ 513,500.00
Total Water Fund			\$ 1,594,000.00

		WATER CONNECTION FUND	
Administration	501-800		
Operating Expenses		\$ 85,000.00	
Total Administration			\$ 85,000.00
Connections	501-803		
Operating Expenses		\$ 170,000.00	
Capital Outlay		\$ 250,000.00	
Total Connections			\$ 420,000.00
Total Water Connection Fund			\$ 505,000.00

		SANITARY SEWER FUND	
Administration	510-810		
Personal Services		\$ 503,075.00	
Operating Expenses		\$ 567,750.00	
Capital Outlay		\$ 7,000.00	
Total Administration			\$ 1,077,825.00
Plant	510-811		
Operating Expenses		\$ 378,800.00	
Capital Outlay		\$ 51,000.00	
Total Plant			\$ 429,800.00
Collection	510-812		
Operating Expenses		\$ 164,000.00	
Capital Outlay		\$ 100,000.00	
Total Collection			\$ 264,000.00
Total Sanitary Sewer Fund			\$ 1,771,625.00

		SEWER CONNECTION FUND	
Administration	511-810		
Operating Expenses		\$ 174,500.00	
Total Administration			\$ 174,500.00
Connections	511-813		
Operating Expenses		\$ 400,000.00	
Capital Outlay		\$ 150,000.00	

Total Connections \$ 550,000.00

Total Sewer Connection Fund \$ 724,500.00

STORMWATER FUND

Administration	520-820		
Personal Services		\$ 110,475.00	
Operating Expenses		\$ 289,800.00	
Capital Outlay		\$ 1,300.00	
Total Administration			\$ 401,575.00

Operation	520-821		
Operating Expenses		\$ 73,625.00	
Capital Outlay		\$ 25,000.00	
Total Operation			\$ 98,625.00

Total Stormwater Fund \$ 500,200.00

GRAND TOTAL ENTERPRISE FUNDS APPROPRIATIONS \$ 5,095,325.00

SECTION 7. That there be appropriated from the TRUST AND AGENCY FUNDS:

MAYOR'S COURT AGENCY

Mayor's Court	900-510	
Operating Expenses		\$ 100,000.00

Total Mayor's Court Agency \$ 100,000.00

GRAND TOTAL TRUST AND AGENCY FUNDS APPROPRIATIONS \$ 100,000.00

TOTAL ALL APPROPRIATIONS \$ 18,128,684.00

And the Finance Director is hereby authorized to draw warrants of the City for payment from any of the forgoing appropriations upon receiving proper certification and vouchers therefore, approved by the board of officers authorized by law to approve the same, or an ordinance or resolution of Council to make expenditures; provided that no warrants shall be drawn or paid for salaries or wages except to persons employed by authority of and in accordance with law or ordinance. Provided further that the appropriations for contingencies can only be expended upon appeal of two-thirds vote of Council for items of expense constituting a legal obligation against the City, and for the purposes other than those covered by other specific appropriations herein made.

SECTION 9. This ordinance shall take effect at the earliest period allowed by law.

Passed _____

President of Council

Attest _____
Clerk of Council/Finance Director

Mayor

CERTIFICATE

Section 5705.39 R.C. - "No appropriation measure shall become effective until the county auditor files with the appropriate authority...a certificate that the total appropriations from each fund, taken together with all other outstanding appropriations, do not exceed such official estimate or amended official estimate. When the appropriation does not exceed such official estimate, the county auditor shall give such certificate forthwith upon receiving from the appropriating authority of certified copy of the appropriation measure...."

I, Amanda Jackson, Clerk of the City of Canal Winchester in said County, and in whose custody the Files, Journals and Records are required by the Laws of the State of Ohio to be kept, do hereby certify that the foregoing Final Appropriation Ordinance is taken and copied from the original Ordinance now on file with said City, that the forgoing Ordinance has be compared by me with the said original and that the same is true and correct copy thereof

Witness my signature, this _____ day of _____, _____

Clerk of the City of Canal Winchester

Franklin County, Ohio

ORDINANCE NO. 17-050

AN ORDINANCE TO AUTHORIZE THE MAYOR TO AMEND A CONTRACT WITH EMH&T, INC. FOR MUNICIPAL ENGINEERING SERVICES FOR THE PERIOD FROM JANUARY 1, 2018 THROUGH DECEMBER 31, 2020

WHEREAS, Council hereby finds and determines that it is in the best interest of the City of Canal Winchester to contract with EMH&T, Inc. to provide municipal professional engineering services for the City for the period from January 1, 2018 to December 31, 2020.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, STATE OF OHIO:

Section 1. That the Mayor be, and hereby is, authorized to enter into and execute an agreement with EMH&T, Inc. for municipal engineering services for the City of Canal Winchester for the period from January 1, 2018 to December 31, 2020 as detailed in Exhibit A and included herein by reference;

Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

DATE PASSED _____

PRESIDENT OF COUNCIL

ATTEST _____
CLERK OF COUNCIL

MAYOR

DATE APPROVED

APPROVED AS TO FORM:

LEGAL COUNSEL

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

Clerk of Council/Finance Director

PROFESSIONAL SERVICES AGREEMENT

Between

The CITY OF CANAL WINCHESTER

and

EMH&T, Inc.

THIS IS AN AGREEMENT made as of _____, 2018, between the CITY OF CANAL WINCHESTER, a municipal corporation, with its main office located at 36 S. High Street, Canal Winchester, OH 43110(CITY) and EMH&T, Inc., an Ohio for-profit Corporation, with its main office located at 5500 New Albany Road, Columbus, Ohio 43054 (CONSULTANT). This agreement shall be in effect until December 31, 2020.

Witnesseth, that in consideration of the mutual covenants and agreement herein contained, the parties hereto do mutually agree as follows:

PART 1 - SERVICES OF THE CONSULTANT

1.01. General Consultation / City Engineer Services

- A. CONSULTANT shall serve as "Consulting City Engineer" and assist and advise the Mayor, Service Director, Construction Administrator, Planning Director, and Council on planning, engineering, and construction matters. CONSULTANT will provide plan reviews and technical assistance to City Staff, Council, Boards and Commissions, etc. as requested by CITY.
- B. The CONSULTANT shall assign and provide details of a qualified individual to act as the "Consulting City Engineer" whom has direct supervisory charge of general consultation tasks and will serve as the CONSULTANT's main point of contact with CITY. The Person(s) assigned by the CONSULTANT are subject to approval by the CITY.
- C. CONSULTANT will review and address engineering and project planning questions from staff, residents, developers, project partners, etc.
- D. CONSULTANT will attend meetings at the request of CITY to present and discuss engineering topics. Anticipated meeting attendance is:
 1. City Council / Committee Meetings (1 per month)
 2. Staff Meeting (1 per month)
 3. Other Departmental Meetings (1 per month)
- E. CONSULTANT will meet with staff to establish capital improvement needs and develop updates to the City's Capital Improvement Plan. This effort includes:
 1. Preparation of concept exhibits for projects and the evaluation of alternative project approaches.
 2. Preparation of preliminary cost estimates.

3. Assist CITY with prioritization of the needed improvements and identification of alternative funding sources.
- F. Enforcement and maintenance of standards to include updates to standard construction drawings and review of engineering practices and design manuals.
- G. CONSULTANT will assist CITY in the identification of outside funding sources for City projects.
- H. Coordination with outside agencies and project partners to include MORPC, Franklin County, City of Columbus, Fairfield County, Township(s), Etc.
- I. Develop studies of existing engineering data, reports, etc., which have been made previously by City, County or other agencies and give full consideration to same.
- J. CONSULTANT shall be an independent contractor and not an agent of the CITY and shall direct and supervise the professional services as required by this contract with the CITY. The CONSULTANT shall be responsible for means, methods, techniques and sequences and proceedings associated with CONSULTANT's work and shall be responsible for the acts and omissions of its employees, agents and any other persons/sub-consultants providing services under this contract with the CITY.

1.02. Capital Improvement Plan (CIP) - Design and Construction Phase Services

- A. The Services to be provided by the CONSULTANT for specific projects will be detailed in a duly executed individual Project Proposal. Each Project Proposal will indicate the specific tasks and functions to be performed and deliverables to be provided.
- B. This agreement is not a commitment by the CITY to CONSULTANT to authorize Project Proposals for CIP work.
- C. The general format of the Project Proposal is shown in Exhibit A.
- D. CONSULTANT is to provide the CITY anticipated hours needed to complete CONSULTANT's tasks as identified by the CITY. Hours shall be broken down by specific tasks and individual classifications.
- E. In the event the CITY allows the CONSULTANT to develop the scope of services, the CONSULTANT shall provide anticipated hours needed to achieve the CITY's objectives.
- F. The CONSULTANT shall not be obligated to perform any CIP design and/or construction phase services unless and until the CITY and CONSULTANT agree as to the particulars of the specific project, CONSULTANT's services, compensation, and other appropriate matters, and such agreement is put in writing.
- G. The CONSULTANT shall assign and provide details of a qualified individual to act as the "Project Manager" whom has direct supervisory charge of CITY projects. The CONSULTANT shall also provide details and assign a qualified "Project Engineer", if different than "Project Manager", whom is responsible for primary production activities. Persons assigned by the CONSULTANT are subject to approval by the CITY.

- H. Upon authorization by CITY of CIP Project Proposal's, CONSULTANT shall furnish all personnel, equipment, and material necessary to perform engineering, surveying, construction administration, and other project-specific consultation services as follows:
1. Provide complete and detailed plans, including necessary field work, specifications, and estimates of cost. Provide, assemble, and advertise bid packages using CITY's bidding and contract document template.
 2. Furnish to CITY at cost the necessary copies of detailed plans, specifications, estimates, and contract documents required for the prosecution of work. Plans, field books, and field records shall become property of CITY, but shall remain in the files of CONSULTANT for future reference.
 3. Assist at all lettings, tabulate proposals and bids, and report same to CITY.
 4. Present plans to and assist in obtaining approval of such plans from any City, County State or Federal Department of other political subdivision which may have jurisdiction in the development of the project.
 5. Provide land surveying field parties to perform topographic survey, boundary survey and construction layout staking.
 6. Provide project representation during construction to be an interpreter and arbitrator of the plans and specifications and make every reasonable effort to protect CITY against deficiencies in Contractor's work.
 7. CONSULTANT shall maintain a complete record of the progress of work and all incidents relative to the design or construction process.
 8. Review completed work and submit a final report for the acceptance of construction project. The issuance of final report does not make CONSULTANT responsible for any deficiencies in the work that were not discovered or apparent at time of report.

PART 2 – CITY'S RESPONSIBILITIES

2.01. CITY's Responsibilities

- A. The CITY shall provide full information, which shall set forth the CITY's objectives, schedule, constraints, and budget within reasonable contingencies and criteria.
- B. CITY shall make decisions and carry out its other responsibilities in a timely manner and shall bear costs incident thereto so as not to delay the services of the CONSULTANT.
- C. CITY shall provide requirements, programs, instruction, reports, data, and other information to CONSULTANT pursuant to this Agreement. CONSULTANT may use such information in performing or furnishing services under this Agreement.

PART 3 – GENERAL CONSIDERATIONS

3.01. Standards and Parameters of Performance

- A. CONSULTANT shall be responsible for the technical accuracy of its services and documents. This CITY shall not be responsible for discovering deficiencies. CONSULTANT shall correct deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in CITY furnished information.
- B. CONSULTANT shall serve as CITY's prime professional under each individual CIP Project Proposal. CONSULTANT may employ such subconsultants as CONSULTANT deems necessary to assist in the performance or furnishing of the services with approval of CITY.
- C. CONSULTANT shall comply with applicable laws or regulations and CITY mandated standards. This Agreement is based on these requirements as of the effective date of each individual CIP Project Proposal. Changes to these requirements after the effective date of each individual Project Proposal may be the basis of modification to CITY's responsibilities or to CONSULTANT's scope of services, times or performance, or compensation if the law so requires.
- D. If CONSULTANT provides services during the construction phase of any Project, CONSULTANT shall not supervise, direct, or have control over a Contractor's work, nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by a Contractor, for safety precautions and programs incident to a Contractor's work in progress, nor for any failure of a Contractor to comply with laws and regulations applicable to a Contractor's furnishing and performing the work.
- E. CONSULTANT shall not be responsible for the acts or omissions of any Contractor(s), subcontractor(s) or supplier(s), or of any of a Contractor's agents or employees or any other persons (except CONSULTANT's own employees) at a site or otherwise furnishing or performing any of a Contractor's work; or for any decision made on interpretations or clarifications of the contract documents given by CITY without consultation and advice of CONSULTANT.

3.02. Subcontracting/Assignments/Liability

- A. No assignment of the contract or any portion thereof shall be made without prior written approval of the CITY.
- B. CONSULTANT shall be and remain solely responsible to the CITY for the acts CONSULTANT performs or faults of any sub-CONSULTANT and of any sub-CONSULTANT's officers, agents or employees.
- C. CONSULTANT shall indicate the percentage of contract to be subcontracted in contemplation of contract performance. Following the award of the contract, no additional subcontracting will be allowed without the express prior written consent of the City.

3.03. Unresolved Findings for Recovery

CONSULTANT affirmatively represents and warrants that it is not subject to any unresolved finding for recovery issued by the Auditor of State under Ohio Revised Code Section 9.24, or that it has taken the appropriate remedial steps required under Section 9.24, or that it otherwise qualifies under that section.

3.04. Ethics and Drug Free Workplace

CONSULTANT agrees that its performance under this Agreement would not be contrary to the terms of R.C. § 102.03 and § 102.04, as applicable (ethics and conflict of interest). CONSULTANT agrees to comply with all applicable state and federal laws regarding drug-free workplace, and while working on city property or a construction site, will not purchase, transfer, use, possess, or be under the influence of illegal drugs or alcohol or abuse prescription drugs in any way.

3.05. Ohio Elections Law

CONSULTANT affirms that, as applicable, no party listed in Division (I) or (J) of Section 3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1000.00 to any elected official of the CITY OF CANAL WINCHESTER.

3.06. Taxes

The City is a tax exempt entity and shall provide a tax exempt certificate to the CONSULTANT. The CONSULTANT agrees to withhold all City Income Taxes due or payable under the provisions of Chapter 181 of the Codified Ordinance of the City of Canal Winchester for wages, salaries, and commissions paid to employees and further agrees that any subcontractors shall be required to agree to withhold any such City Income Taxes due under said Chapter 181 of the Codified Ordinances of the City of Canal Winchester for services performed under this Contract.

3.07. Use of Documents

- A. Upon completion or termination of the Agreement, all documents prepared by the CONSULTANT, including tracings, drawings, estimates, specifications, field notes, investigations, copies of computer/electronic files (original application files in .TIF format for drawings), studies and reports shall become the property of and shall be delivered to the CITY upon full payment of monies owed to the CONSULTANT. Copies of CITY-furnished data that may be relied upon by CONSULTANT are limited to the printed copies (also known as hard copies) that are delivered to CONSULTANT pursuant to Part 2 above. Files in electronic media format of text, data, graphics, or of other types that are furnished by CITY to CONSULTANT are only for convenience of CONSULTANT. CONSULTANT shall also be entitled to maintain copies on behalf of the CITY.
- B. Copies of Documents that may be relied upon by CITY are limited to the printed copies (also known as hard copies) that are signed or sealed by CONSULTANT. Files in electronic media format of text, data, graphics, or of other types that are furnished by CONSULTANT to CITY are only for convenience of CITY.
- C. When transferring documents in electronic media format, CONSULTANT makes no representations as to compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by CONSULTANT at the beginning of a Specific Project unless indicated differently in the Project Proposal.
- D. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

3.08. Authorized Project Representatives

Contemporaneous with the execution of each individual Project Proposal, CONSULTANT and CITY shall designate specific individuals to act as CONSULTANT's and CITY's representatives with respect to the service to be performed or furnished by CONSULTANT and responsibilities of CITY under the individual

Specific Project. Such individuals may have authority to transmit instruction, receive information, and render decisions relative to a specific project on behalf of each respective party.

3.09. Insurance

- A. Prior to the commencement of any work under this agreement, CONSULTANT shall furnish to CITY certificates of insurance showing that CONSULTANT has obtained the following insurance policies with insurance companies licensed and authorized to do business in the State of Ohio. A new certificate of insurance shall be provided to the CITY each year at the time of policy renewal.
 - 1. Worker's Compensation Insurance: CONSULTANT shall procure and maintain during the life of this contract, Worker's Compensation Insurance, including employers Liability Coverage, in accordance with all applicable statutes of the State of Ohio.
 - 2. Commercial General Liability Insurance: CONSULTANT shall procure and maintain during the life of this agreement, Commercial General Liability Insurance on an Occurrence Basis with limits of Liability not less than \$1,000,000.00 per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury, Bodily Injury and Property Damage.
 - 3. Motor Vehicle Liability: CONSULTANT shall procure and maintain during the life of this contract Motor Vehicle Liability Insurance, including Ohio Coverages, with limits of liability of not less than \$1,000,000.00 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
 - 4. Professional Liability: Professional Liability Insurance on a Claims Made Basis with Limits of liability of not less than \$1,000,000.00 per claim/aggregate;
- B. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance, Motor Vehicle, and Professional Liability Insurance, as described above, shall include an endorsement stating the following: It is understood and agreed that thirty (30) days advance written notice of cancellation, non-renewal, reduction and/or material change shall be sent to CITY OF REYNOLDSBURG.
- C. At any time, CITY may request that CONSULTANT, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified. If so requested by CITY, with the concurrence of CONSULTANT, CONSULTANT shall require CONSULTANT's subconsultants to obtain such additional insurance coverage, different limits, or revised deductibles for such period of time as requested by the CITY, and this agreement will be amended to incorporate these requirements.

3.10. Nondiscrimination

The CONSULTANT shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, handicap, or national origin. CONSULTANT will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, age, handicap, or national origin. Such action shall include, but not be limited to employment upgrading, promotion, demotion, termination, rates of pay, or other forms of compensation, and selection for training. CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices summarizing the provisions of this equal opportunity clause. CONSULTANT shall, in all solicitations or advertisements for employees placed by, or on behalf of the CONSULTANT, state that they are an equal opportunity employer.

3.11. Termination

- A. The CITY, may in writing, suspend all or any part of work for such a period the CITY deems appropriate.
- B. This Agreement may be terminated by either party upon not less than seven days written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.
- C. This Agreement may be terminated by the CITY upon not less than seven days written notice to the CONSULTANT in the event that the Project is permanently abandoned. If the Project is abandoned by the CITY for more than 90 consecutive days, the CONSULTANT may terminate this Agreement upon not less than seven days written notice to the CITY.
- D. In the event of termination, the CONSULTANT shall be compensated for the reasonable value of services performed prior to termination, together with reimbursable expenses then due.

3.12. Allocation of Risk

- A. The CONSULTANT agrees to indemnify and hold the CITY harmless from and against any loss or damage resulting solely from the failure of the CONSULTANT to perform any duty or obligation expressly undertaken by the CONSULTANT pursuant to the terms of this Agreement or the negligent performance or failure to perform by the CONSULTANT of any such express duty or obligation.
- B. CONSULTANT will conduct the research that in their professional opinion is necessary to determine the viability of re-using existing equipment and materials in the design of the project. The CITY recognizes that CONSULTANT's research may not identify all defects and that the information and inspection upon which CONSULTANT relies may contain errors or may not be complete. Given the inherent limitations of such inspections, CONSULTANT's recommendations shall not be relied upon by any party as a warranty of the condition of the existing equipment or materials. The extent of the risk the CITY wishes to accept in reusing existing equipment or materials is something the CITY must determine.
- C. The CONSULTANT shall indemnify and hold harmless the CITY and its officers, agents and employees from and against all claims or suits asserted or prosecuted by third parties to the extent arising directly out of error, omission, or negligent act of the CONSULTANT or its sub-CONSULTANTS; and the CONSULTANT at its own expense, shall defend the CITY in all such litigation, pay all attorney's fees, damages, court costs and other expenses arising out of such litigation; and at its own expense, shall satisfy and cause to be discharged judgments as may be obtained against the CITY or any of its officers, agents or employees pursuant to such litigation.
- D. The CONSULTANT shall be given written notice of the assertion of such claims or suits promptly after such matters are brought to the attention of the CITY and subject to the assent of the City Law Director, which assent shall not be unreasonably withheld or delayed, and shall be permitted to participate in the defense and settlement of any such suits or claims. Nothing contained herein, however, is intended to confer on any third party any rights or benefits hereunder; nor is the foregoing indemnification obligation intended to alter or extend the CONSULTANT's liability for failure to comply with the terms of the contract or for professional or personal negligence or misconduct.

- E. In no event will either party be liable for punitive, multiple, enhanced, incidental, indirect or consequential damages, including loss of profits, even if any of the parties should have been aware of the possibility of such damages.

3.13. Entire Agreement; Waiver

This contract contains the entire agreement between the parties hereto and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto. This contract supersedes any and all previous agreements, whether written or oral, between the parties. A waiver by any party of any breach or default by the other party under this contract shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default here under.

3.14. Headings

The headings in this contract have been inserted for convenient reference and shall not be considered in any questions of interpretation or construction of the contract.

3.15. Severability

The provisions of the contract are severable and independent, and if any such provision shall be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision, to the extent enforceable in any jurisdiction, shall, nevertheless, be binding and enforceable.

3.16. Controlling Law

This Agreement and the rights of the parties hereunder shall be governed by the laws of the State of Ohio, and any action with respect to this engagement shall be filed in the Franklin County, Ohio in a court of competent jurisdiction. The CONSULTANT further shall obey or satisfy all lawful rules, regulations and requirements issued or promulgated under said respective laws by any duly authorized City, State or Federal officials.

PART 4 – PAYMENTS TO CONSULTANT

4.01 Fee for General Consultation Services

CITY agrees to compensate CONSULTANT an annual amount not to exceed Fourteen Thousand Dollars and no cents (\$14,000) for the general engineering services outlined in Scope of Services, Section 1.01 General Consultation / City Engineer Services. Payment for services provided under Section 1.01 of the Scope of Services shall be hourly not to exceed without prior authorization of the CITY. Labor fees will be computed per the time rates established in Exhibit B. Invoices will be submitted monthly.

4.02 Fee for Individual Project Proposals

Each individual Project Proposal shall include the fee to be paid by CITY to CONSULTANT as negotiated between the parties for the project as well as the Anticipated hours that are to be required for the Project. The agreed upon fee shall reflect that services will be provided on an hourly, or lump sum, basis as determined by the CITY and CONSULTANT and as described in section 1.02(D) of this contract.

4.03 Direct Personnel Expense

Direct Personnel Expense is defined as the direct salaries of the CONSULTANT's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

4.04. Reimbursable Expenses

- A. Reimbursable Expenses include expenses incurred by the CONSULTANT in the interest of the Project for:
 - 1. Expense of transportation in connection with travel required to carry out the scope of services;
 - 2. Long-distance communications;
 - 3. Fees paid by the CONSULTANT for securing approval of authorities having jurisdiction over the Project; in general, all approval fees shall be paid up front by the CONSULTANT and reimbursed by the CITY and as such are not within the not-to-exceed fee limit established by the CONSULTANT;
 - 4. Reproductions; and
 - 5. Postage and handling of Drawings and Specifications.
- B. Reimbursable expenses must be anticipated and quantified by the CONSULTANT and included in the Project Proposal. In the event that expenses exceed original estimates, the CONSULTANT may request from the CITY additional compensation.

4.05. Payment of Invoices

- A. Invoices are due and payable within 30 days of receipt.
- B. In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

4.06. Independent Consultant/Employment Taxes

- A. The CONSULTANT shall be and remain an independent contractor with respect to all services performed hereunder and shall accept full exclusive liability for the payments of any and all contributions or taxes for Social Security, unemployment benefits, pensions, and annuities now or hereafter imposed under any State or Federal laws which are measured by the wages, salaries, or other remuneration paid to persons employed by the CONSULTANT on work performed under the terms of this agreement. The CONSULTANT shall indemnify and save harmless the CITY from any contributions, taxes or liability referred to in this article. CONSULTANT is not an employee of the CITY.
- B. While the CONSULTANT shall be required to render services described hereunder during the term of the contract, nothing herein shall be construed to imply that the City shall have or may exercise any right of control over CONSULTANT with regard to the manner or method of its performance of services hereunder. Except as expressly provided herein, none of the parties shall have the right to bind or obligate the others in any manner without the prior written consent of the other parties.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement, the effective date of which is indicated on Page 1.

City Of Canal Winchester(CITY)

EMH&T, Inc. (CONSULTANT)

By: _____
Mayor

By: _____
Authorizing Agent

Name: Michael Ebert

Name: Sandra C. Doyle-Ahern

Date: _____

Date: _____

By: _____
Clerk of Council

Name: _____

Date: _____

Ordinance: _____

APPROVED AS TO FORM

By: _____
City Law Director

Date: _____

EXHIBIT A
General Project Proposal Format

[Date]

[Name of Recipient]

[Title]

[Address]

Subject: [Professional Services for.....]

Dear [Name of Recipient],

Provide scope of service(s) for project and its phase(s). Phase(s) to be as directed by CITY.

STUDY AND REPORT PHASE

Prepare studies and analysis and reports as directed by CITY's project representative.

DESIGN PHASE

In consultation with CITY, determine general scope, extent, and character of individual project. Provide technical design, technical criteria, topographic or other survey as needed, preparation of easement descriptions as needed, prepare bid documents, plans, and specifications, prepare and pursue necessary permits, furnish drawings, prepare opinions of probable costs, assist in bidding and preparation of construction documents. In essence, provide CITY with complete level of design services from original scope detail through the bidding and selection of contractor.

CONSTRUCTION PHASE

Offer to CITY construction engineering services as authorized by CITY project representative. Such services may include general administration of construction contracts, site observation of construction, interpretation of contract documents, assisting City obtain needed materials testing services, dispute resolution, review and approval of change orders, review and approval of contractor pay requests, preparation of final inspection reporting and review and/or preparation of as-built drawings.

ADDITIONAL SERVICES

There may be special services needed to meet the goal and objectives of the City. They include but are not limited to the following:

- Attend community meetings or represent CITY at County, State, or Regional meetings.
- Assist CITY in preparation applications for grant funding.
- Right of Way/ Easement Acquisition.
- Preparation of master utility plans, including technical modeling, reliability and capacity analysis.
- Perform wetland or other environmental engineering analysis.
- Preparation of management plans.
- Geographic information services
- Traffic/Signal engineering or traffic calming studies.
- Other related services as may be requested and directed by the CITY's Project Representative.

ANTICIPATED HOURS/COMPENSATION

Services shall be provided on an hourly, or lump sum as determined by the CITY and CONSULTANT and as described in section I.02.D of this contract.

Fees are to be negotiated for each individual project. Anticipated hours are to be provided with each Project Proposal. Detail effort by providing the anticipated hours by the client manager, project manager, and support staff to satisfy the scope requirements of each project.

SCHEDULE

Provide schedule of services.

EXHIBIT B
Rate Schedule

Exhibit B – Rate Schedule

The CITY agrees to pay CONSULTANT as compensation for services performed as required by Part 4 of the Agreement a fee in accordance with the following hourly rates:

Labor Classification	CY 2017-2018 Rates
Principal.....	\$140.00-\$180.00 per hour
Senior Engineer.....	\$110.00-\$160.00 per hour
Engineer II.....	\$105.00 per hour
Engineer I.....	\$90.00 per hour
Engineer Aide.....	\$80.00 per hour
Senior Surveyor.....	\$110.00-\$140.00 per hour
Surveyor II.....	\$95.00 per hour
Surveyor I.....	\$85.00 per hour
Senior Technician.....	\$75.00 per hour
Technician.....	\$65.00 per hour
Senior L/A Planner.....	\$100.00-\$140.00 per hour
L/A Planner II.....	\$90.00 per hour
L/A Planner I.....	\$80.00 per hour
Senior Environmental Scientist.....	\$100.00-\$140.00 per hour
Environmental Scientist.....	\$90.00 per hour
Senior Construction Representative.....	\$110.00-\$120.00 per hour
Sr. Resident Project Representative.....	\$70.00-\$90.00 per hour
Resident Project Representative.....	\$65.00 per hour
Field Survey Crew.....	\$125.00-\$175.00 per hour
Transportation.....	Current IRS Rates

Stakes, prints, postal, special delivery and other miscellaneous items At cost

Filing Fees, Special Consulting (Such as Soils Investigation, etc.)..... Actual Fee + 10%

Whenever it is deemed necessary by the CITY, acting through the Mayor or the Mayor's designated representative, for employees of the CONSULTANT to work more than forty (40) hours per week, overtime compensation of one and one-half times the regular rate shall be paid for all hours worked over forty (40) per week in accordance with the Fair Labor Standards Act of the United States.

The labor classifications listed above include a variety of specialized skills and disciplines including structural, highway, bridge, traffic, environmental, survey, etc. As a result, it is not possible to provide a single rate for every classification.

ORDINANCE NO. 17-051

**AN ORDINANCE TO AUTHORIZE THE MAYOR TO AMEND A CONTRACT WITH BIRD & BULL, INC.
FOR PROFESSIONAL ENGINEERING SERVICES FOR THE PERIOD FROM JANUARY 1, 2018
THROUGH DECEMBER 31, 2020**

WHEREAS, Council hereby finds and determines that it is in the best interest of the City of Canal Winchester to contract with Bird & Bull, Inc. to provide professional engineering services for plan review, support of utility treatment and process facilities and for general engineering services as needed for the City for the period from January 1, 2018 to December 31, 2020.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, STATE OF OHIO:

Section 1: That the Mayor be, and hereby is, authorized to enter into and execute an agreement with Bird & Bull, Inc. for professional engineering services for the City of Canal Winchester for the period from January 1, 2018 to December 31, 2020 as detailed in Exhibit A and included herein by reference;

Section 2: That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

DATE PASSED _____

PRESIDENT OF COUNCIL

ATTEST _____
CLERK OF COUNCIL

MAYOR

DATE APPROVED _____

APPROVED AS TO FORM:

LEGAL COUNSEL

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

Clerk of Council/Finance Director

PROFESSIONAL SERVICES AGREEMENT

Between

The CITY OF CANAL WINCHESTER

and

BIRD & BULL, Inc.

THIS IS AN AGREEMENT made as of _____, 2018, between the CITY OF CANAL WINCHESTER, with its main office located at 36 S. High St. Canal Winchester, OH 43110 (CITY) and BIRD & BULL, Inc., an Ohio Corporation with its main office located at 3500 Snouffer Rd. Suite 225, Columbus, OH 43235 (CONSULTANT). This agreement shall be in effect until December 31, 2020.

Witnesseth, that in consideration of the mutual covenants and agreement herein contained, the parties hereto do mutually agree as follows:

PART 1 - SERVICES OF THE CONSULTANT

1.01. General Consultation / City Engineer Services

- A. CONSULTANT shall serve as a "Consulting City Engineer" and assist and advise the Mayor, Public Service Director, Construction Services Administrator, Development Department and Council on planning, engineering, and construction matters. CONSULTANT will provide plan reviews and technical assistance to City Staff, Council, Boards and Commissions, etc. as requested by CITY.
- B. The CONSULTANT shall assign and provide details of a qualified individual to act as the "Consulting City Engineer" whom has direct supervisory charge of general consultation tasks and will serve as the CONSULTANT's main point of contact with CITY. The Person(s) assigned by the CONSULTANT are subject to approval by the CITY.
- C. CONSULTANT will review and address engineering and project planning questions from staff, residents, developers, project partners, etc.
- D. CONSULTANT will attend meetings at the request of CITY to present and discuss engineering topics. Anticipated meeting attendance is:
 1. City Council / Committee Meetings (As Requested)
 2. Staff Meeting (1 per month)
 3. Other Departmental Meetings (1 per month)
- E. Maintenance of standards to include updates to standard construction drawings and review of engineering practices and design manuals.
- F. CONSULTANT will provide CITY with the following services associated with private development projects:

1. Private site improvement plan reviews.
 2. Plan reviews of public improvements that are constructed in conjunction with private site developments (utility extensions, public roadway extensions, etc.).
 3. Storm water design reviews.
 4. Sanitary Sewer Design Reviews.
 5. Reviews of studies, applications, exhibits and cost estimates associated with Development.
- G. Coordination with outside agencies and project partners to include MORPC, Franklin County, Fairfield County, City of Columbus, Township(s), Etc.
- H. CONSULTANT shall be an independent contractor and not an agent of the CITY and shall direct and supervise the professional services as required by this contract with the CITY. The CONSULTANT shall be responsible for means, methods, techniques and sequences and proceedings associated with CONSULTANT's work and shall be responsible for the acts and omissions of its employees, agents and any other persons/sub-consultants providing services under this contract with the CITY.

1.02. Capital Improvement Plan (CIP) - Design and Construction Phase Services

- A. The Services to be provided by the CONSULTANT for specific projects will be detailed in a duly executed individual Project Proposal. Each Project Proposal will indicate the specific tasks and functions to be performed and deliverables to be provided.
- B. This agreement is not a commitment by the CITY to CONSULTANT to authorize Project Proposals for CIP work.
- C. The general format of the Project Proposal is shown in Exhibit A.
- D. CONSULTANT is to provide the CITY anticipated hours needed to complete CONSULTANT's tasks as identified by the CITY. Hours shall be broken down by specific tasks and individual classifications.
- E. In the event the CITY allows the CONSULTANT to develop the scope of services, the CONSULTANT shall provide anticipated hours needed to achieve the CITY's objectives.
- F. The CONSULTANT shall not be obligated to perform any CIP design and/or construction phase services unless and until the CITY and CONSULTANT agree as to the particulars of the specific project, CONSULTANT's services, compensation, and other appropriate matters and such agreement is put in writing.
- G. The CONSULTANT shall assign and provide details of a qualified individual to act as the "Project Manager" whom has direct supervisory charge of CITY projects. The CONSULTANT shall also provide details and assign a qualified "Project Engineer", if different than "Project Manager", whom is responsible for primary production activities. Persons assigned by the CONSULTANT are subject to approval by the CITY.

- H. Upon authorization by CITY of CIP Project Proposal's, CONSULTANT shall furnish all personnel, equipment, and material necessary to perform engineering, surveying, construction administration, and other project-specific consultation services as follows:
1. Provide complete and detailed plans, including necessary field work, specifications, and estimates of cost. Provide, assemble, and advertise bid packages using CITY's bidding and contract document template.
 2. Furnish to CITY at cost the necessary copies of detailed plans, specifications, estimates, and contract documents required for the prosecution of work. Plans, field books, and field records shall become property of CITY, but shall remain in the files of CONSULTANT for future reference.
 3. Assist at all lettings, tabulate proposals and bids, and report same to CITY.
 4. Present plans to and assist in obtaining approval of such plans from any City, County State or Federal Department of other political subdivision, which may have jurisdiction in the development of the project.
 5. Provide land surveying field parties to perform topographic survey, boundary survey and construction layout staking.
 6. Provide project representation during construction to be an interpreter and arbitrator of the plans and specifications and make every reasonable effort to protect CITY against deficiencies in Contractor's work.
 7. Consult and advise with the CITY on matters that arise during the construction phase of the project.
 8. Review and recommend pay estimates and change orders.
 9. Review completed work and submit a final report for the acceptance of construction project. The issuance of final report does not make CONSULTANT responsible for any deficiencies in the work that were not discovered or apparent at time of report.

PART 2 – CITY'S RESPONSIBILITIES

2.01. CITY's Responsibilities

- A. The CITY shall provide full information, which shall set forth the CITY's objectives, schedule, constraints, and budget within reasonable contingencies and criteria.
- B. The CITY shall provide full information, observation reports, testing reports & quantity information during the Construction Phase to the CONSULTANT. The CONSULTANT may use this information in performing or furnishing services under this agreement.
- C. CITY shall make decisions and carry out its other responsibilities in a timely manner and shall bear costs incident thereto so as not to delay the services of the CONSULTANT.
- D. CITY shall provide requirements, programs, instruction, reports, data, and other information to CONSULTANT pursuant to this Agreement. CONSULTANT may use such information in performing or furnishing services under this Agreement.

PART 3 – GENERAL CONSIDERATIONS

3.01. Standards and Parameters of Performance

- A. CONSULTANT shall be responsible for the technical accuracy of its services and documents. This CITY shall not be responsible for discovering deficiencies. CONSULTANT shall correct deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in CITY furnished information.
- B. CONSULTANT shall serve as CITY's prime professional under each individual CIP Project Proposal. CONSULTANT may employ such subconsultants as CONSULTANT deems necessary to assist in the performance or furnishing of the services with approval of CITY.
- C. CONSULTANT shall comply with applicable laws or regulations and CITY mandated standards. This Agreement is based on these requirements as of the effective date of each individual CIP Project Proposal. Changes to these requirements after the effective date of each individual Project Proposal may be the basis of modification to CITY's responsibilities or to CONSULTANT's scope of services, times or performance, or compensation if the law so requires.
- D. If CONSULTANT provides services during the construction phase of any Project, CONSULTANT shall not supervise, direct, or have control over a Contractor's work, nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by a Contractor, for safety precautions and programs incident to a Contractor's work in progress, nor for any failure of a Contractor to comply with laws and regulations applicable to a Contractor's furnishing and performing the work.
- E. CONSULTANT shall not be responsible for the acts or omissions of any Contractor(s), subcontractor(s) or supplier(s), or of any of a Contractor's agents or employees or any other persons (except CONSULTANT's own employees) at a site or otherwise furnishing or performing any of a Contractor's work; or for any decision made on interpretations or clarifications of the contract documents given by CITY without consultation and advice of CONSULTANT.

3.02. Subcontracting/Assignments/Liability

- A. No assignment of the contract or any portion thereof shall be made without prior written approval of the CITY.
- B. CONSULTANT shall be and remain solely responsible to the CITY for the acts CONSULTANT performs or faults of any sub-CONSULTANT and of any sub-CONSULTANT's officers, agents or employees.
- C. CONSULTANT shall indicate the percentage of contract to be subcontracted in contemplation of contract performance. Following the award of the contract, no additional subcontracting will be allowed without the express prior written consent of the City.

3.03. Unresolved Findings for Recovery

CONSULTANT affirmatively represents and warrants that it is not subject to any unresolved finding for recovery issued by the Auditor of State under Ohio Revised Code Section 9.24, or that it has taken the appropriate remedial steps required under Section 9.24, or that it otherwise qualifies under that section.

3.04. Ethics and Drug Free Workplace

CONSULTANT agrees that its performance under this Agreement would not be contrary to the terms of R.C. § 102.03 and § 102.04, as applicable (ethics and conflict of interest). CONSULTANT agrees to comply with all applicable state and federal laws regarding drug-free workplace, and while working on city property or construction site, will not purchase, transfer, use, possess or be under the influence of illegal drugs or alcohol or abuse prescription drugs in any way.

3.05. Ohio Elections Law

CONSULTANT affirms that, as applicable, no party listed in Division (I), or (J) of Section 3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1,000.00 to any elected official of the CITY OF CANAL WINCHESTER.

3.06. Taxes

The City is a tax exempt entity and shall provide a tax exempt certificate to the CONSULTANT. The CONSULTANT agrees to withhold all City Income Taxes due or payable under the provisions of Chapter 181 of the Codified Ordinance of the City of Canal Winchester for wages, salaries, and commissions paid to employees and further agrees that any subcontractors shall be required to agree to withhold any such City Income Taxes due under said Chapter 181 of the Codified Ordinances of the City of Canal Winchester for services performed under this Contract.

3.07. Use of Documents

- A. Upon completion or termination of the Agreement, all documents prepared by the CONSULTANT, including tracings, drawings, estimates, specifications, field notes, investigations, copies of computer/electronic files (original application files in .TIF format for drawings), studies and reports shall become the property of and shall be delivered to the CITY upon full payment of monies owed to the CONSULTANT. Copies of CITY-furnished data that may be relied upon by CONSULTANT are limited to the printed copies (also known as hard copies) that are delivered to CONSULTANT pursuant to Part 2 above. Files in electronic media format of text, data, graphics, or of other types that are furnished by CITY to CONSULTANT are only for convenience of CONSULTANT. CONSULTANT shall also be entitled to maintain copies on behalf of the CITY.
- B. Copies of Documents that may be relied upon by CITY are limited to the printed copies (also known as hard copies) that are signed or sealed by CONSULTANT. Files in electronic media format of text, data, graphics, or of other types that are furnished by CONSULTANT to CITY are only for convenience of CITY.
- C. When transferring documents in electronic media format, CONSULTANT makes no representations as to compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by CONSULTANT at the beginning of a Specific Project unless indicated differently in the Project Proposal.
- D. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

3.08. Authorized Project Representatives

Contemporaneous with the execution of each individual Project Proposal, CONSULTANT and CITY shall designate specific individuals to act as CONSULTANT's and CITY's representatives with respect to the service to be performed or furnished by CONSULTANT and responsibilities of CITY under the individual

Specific Project. Such individuals may have authority to transmit instruction, receive information, and render decisions relative to a specific project on behalf of each respective party.

3.09. Insurance

- A. Prior to the commencement of any work under this agreement, CONSULTANT shall furnish to CITY certificates of insurance showing that CONSULTANT has obtained the following insurance policies with insurance companies licensed and authorized to do business in the State of Ohio. A new certificate of insurance shall be provided to the CITY each year at the time of policy renewal.
1. Worker's Compensation Insurance: CONSULTANT shall procure and maintain during the life of this contract, Worker's Compensation Insurance, including employers Liability Coverage, in accordance with all applicable statutes of the State of Ohio.
 2. Commercial General Liability Insurance: CONSULTANT shall procure and maintain during the life of this agreement, Commercial General Liability Insurance on an Occurrence Basis with limits of Liability not less than \$1,000,000.00 per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury, Bodily Injury and Property Damage.
 3. Motor Vehicle Liability: CONSULTANT shall procure and maintain during the life of this contract Motor Vehicle Liability Insurance, including Ohio Coverages, with limits of liability of not less than \$1,000,000.00 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
 4. Professional Liability: Professional Liability Insurance on a Claims Made Basis with Limits of liability of not less than \$1,000,000.00 per claim/aggregate;
- B. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance, Motor Vehicle, and Professional Liability Insurance, as described above, shall include an endorsement stating the following: It is understood and agreed that thirty (30) days advance written notice of cancellation, non-renewal, reduction and/or material change shall be sent to CITY OF CANAL WINCHESTER.
- C. At any time, CITY may request that CONSULTANT, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified. If so requested by CITY, with the concurrence of CONSULTANT, CONSULTANT shall require CONSULTANT's subconsultants to obtain such additional insurance coverage, different limits, or revised deductibles for such period of time as requested by the CITY, and this agreement will be amended to incorporate these requirements.

3.10. Nondiscrimination

The CONSULTANT shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, handicap, or national origin. CONSULTANT will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, age, handicap, or national origin. Such action shall include, but not be limited to employment upgrading, promotion, demotion, termination, rates of pay, or other forms of compensation, and selection for training. CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices summarizing the provisions of this equal opportunity clause. CONSULTANT shall, in all solicitations or advertisements for employees placed by, or on behalf of the CONSULTANT, state that they are an equal opportunity employer.

3.11. Termination

- A. The CITY, may in writing, suspend all or any part of work for such a period the CITY deems appropriate.
- B. This Agreement may be terminated by either party upon not less than seven days written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.
- C. This Agreement may be terminated by the CITY upon not less than seven days written notice to the CONSULTANT in the event that the Project is permanently abandoned. If the Project is abandoned by the CITY for more than 90 consecutive days, the CONSULTANT may terminate this Agreement upon not less than seven days written notice to the CITY.
- D. In the event of termination, the CONSULTANT shall be compensated for the reasonable value of services performed prior to termination, together with reimbursable expenses then due.

3.12. Allocation of Risk

- A. The CONSULTANT agrees to indemnify and hold the CITY harmless from and against any loss or damage resulting solely from the failure of the CONSULTANT to perform any duty or obligation expressly undertaken by the CONSULTANT pursuant to the terms of this Agreement or the negligent performance or failure to perform by the CONSULTANT of any such express duty or obligation.
- B. CONSULTANT will conduct the research that in their professional opinion is necessary to determine the viability of re-using existing equipment and materials in the design of the project. The CITY recognizes that CONSULTANT's research may not identify all defects and that the information and inspection upon which CONSULTANT relies may contain errors or may not be complete. Given the inherent limitations of such inspections, CONSULTANT's recommendations shall not be relied upon by any party as a warranty of the condition of the existing equipment or materials. The extent of the risk the CITY wishes to accept in reusing existing equipment or materials is something the CITY must determine.
- C. The CONSULTANT shall indemnify and hold harmless the CITY and its officers, agents and employees from and against all claims or suits asserted or prosecuted by third parties to the extent arising directly out of error, omission, or negligent act of the CONSULTANT or its sub-CONSULTANTS; and the CONSULTANT at its own expense, shall defend the CITY in all such litigation, pay all attorney's fees, damages, court costs and other expenses arising out of such litigation; and at its own expense, shall satisfy and cause to be discharged judgments as may be obtained against the CITY or any of its officers, agents or employees pursuant to such litigation.
- D. The CONSULTANT shall be given written notice of the assertion of such claims or suits promptly after such matters are brought to the attention of the CITY and subject to the assent of the City Law Director, which assent shall not be unreasonably withheld or delayed, and shall be permitted to participate in the defense and settlement of any such suits or claims. Nothing contained herein, however, is intended to confer on any third party any rights or benefits hereunder; nor is the foregoing indemnification obligation intended to alter or extend the CONSULTANT's liability for failure to comply with the terms of the contract or for professional or personal negligence or misconduct.

- E. In no event will either party be liable for punitive, multiple, enhanced, incidental, indirect or consequential damages, including loss of profits, even if any of the parties should have been aware of the possibility of such damages.

3.13. Entire Agreement; Waiver

This contract contains the entire agreement between the parties hereto and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto. This contract supersedes any and all previous agreements, whether written or oral, between the parties. A waiver by any party of any breach or default by the other party under this contract shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default here under.

3.14. Headings

The headings in this contract have been inserted for convenient reference and shall not be considered in any questions of interpretation or construction of the contract.

3.15. Severability

The provisions of the contract are severable and independent, and if any such provision shall be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision, to the extent enforceable in any jurisdiction, shall, nevertheless, be binding and enforceable.

3.16. Controlling Law

This Agreement and the rights of the parties hereunder shall be governed by the laws of the State of Ohio, and any action with respect to this engagement shall be filed in the Franklin County, Ohio in a court of competent jurisdiction. The CONSULTANT further shall obey or satisfy all lawful rules, regulations and requirements issued or promulgated under said respective laws by any duly authorized City, State or Federal officials.

PART 4 – PAYMENTS TO CONSULTANT

4.01 Fee for General Consultation Services

CITY agrees to compensate CONSULTANT an annual amount not to exceed **Sixteen Thousand Dollars and no cents (\$16,000.00)** for the general engineering services outlined in Scope of Services, Section 1.01 General Consultation / City Engineer Services. Payment for services provided under Section 1.01 of the Scope of Services shall be hourly not to exceed without prior authorization of the CITY. Labor fees will be computed per the time rates established in Exhibit B. Invoices will be submitted monthly.

4.02 Fee for Individual Project Proposals

Each individual Project Proposal shall include the fee to be paid by CITY to CONSULTANT as negotiated between the parties for the project as well as the Anticipated hours that are to be required for the Project. The agreed upon fee shall reflect that services will be provided on an hourly, or lump sum, basis as determined by the CITY and CONSULTANT and as described in section 1.02(D) of this contract. Hourly fees will be computed per the time rates established in Exhibit B.

4.03. Direct Personnel Expense

Direct Personnel Expense is defined as the direct salaries of the CONSULTANT's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

4.04. Reimbursable Expenses

- A. Reimbursable Expenses include expenses incurred by the CONSULTANT in the interest of the Project for:
 - 1. Expense of transportation in connection with travel required to carry out the scope of services;
 - 2. Long-distance communications;
 - 3. Fees paid by the CONSULTANT for securing approval of authorities having jurisdiction over the Project; in general, all approval fees shall be paid up front by the CONSULTANT and reimbursed by the CITY and as such are not within the not-to-exceed fee limit established by the CONSULTANT;
 - 4. Reproductions; and
 - 5. Postage and handling of Drawings and Specifications.
- B. Reimbursable expenses must be anticipated and quantified by the CONSULTANT and included in the Project Proposal. In the event that expenses exceed original estimates, the CONSULTANT may request from the CITY additional compensation.

4.05. Payment of Invoices

- A. Invoices are due and payable within 30 days of receipt.
- B. In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

4.06. Independent Consultant/Employment Taxes

- A. The CONSULTANT shall be and remain an independent contractor with respect to all services performed hereunder and shall accept full exclusive liability for the payments of any and all contributions or taxes for Social Security, unemployment benefits, pensions, and annuities now or hereafter imposed under any State or Federal laws which are measured by the wages, salaries, or other remuneration paid to persons employed by the CONSULTANT on work performed under the terms of this agreement. The CONSULTANT shall indemnify and save harmless the CITY from any contributions, taxes or liability referred to in this article. CONSULTANT is not an employee of the CITY.
- B. While the CONSULTANT shall be required to render services described hereunder during the term of the contract, nothing herein shall be construed to imply that the City shall have or may exercise any right of control over CONSULTANT with regard to the manner or method of its performance of services hereunder. Except as expressly provided herein, none of the parties shall have the right to bind or obligate the others in any manner without the prior written consent of the other parties.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement, the effective date of which is indicated on Page 1.

City Of Canal Winchester (CITY)

By: _____
Mayor

Name: Michael Ebert

Date: _____

Bird & Bull, Inc. (CONSULTANT)

By: _____
Authorizing Agent

Name: _____

Date: _____

APPROVED AS TO FORM

By: _____
Law Director

Date: _____

EXHIBIT A

General Project Proposal Format

[Date]

[Name of Recipient]

[Title]

[Address]

Subject: [Professional Services for.....]

Dear [Name of Recipient],

Provide scope of service(s) for project and its phase(s). Phase(s) to be as directed by CITY.

STUDY AND REPORT PHASE

Prepare studies and analysis and reports as directed by CITY's project representative.

DESIGN PHASE

In consultation with CITY, determine general scope, extent, and character of individual project. Provide technical design, technical criteria, topographic or other survey as needed, preparation of easement descriptions as needed, prepare bid documents, plans, and specifications, prepare and pursue necessary permits, furnish drawings, prepare opinions of probable costs, assist in bidding and preparation of construction documents. In essence, provide CITY with complete level of design services from original scope detail through the bidding and selection of contractor.

CONSTRUCTION PHASE

Offer to CITY construction engineering services as authorized by CITY project representative. Such services may include general administration of construction contracts, site observation of construction, interpretation of contract documents, assisting City obtain needed materials testing services, dispute resolution, review and approval of change orders, review and approval of contractor pay requests, preparation of final inspection reporting and review and/or preparation of as-built drawings.

ADDITIONAL SERVICES

There may be special services needed to meet the goal and objectives of the City. They include but are not limited to the following:

- Attend community meetings or represent CITY at County, State, or Regional meetings.
- Assist CITY in preparation applications for grant funding.
- Right of Way/ Easement Acquisition.
- Preparation of master utility plans, including technical modeling, reliability and capacity analysis.
- Perform wetland or other environmental engineering analysis.
- Preparation of management plans.
- Geographic information services
- Traffic/Signal engineering or traffic calming studies.
- Other related services as may be requested and directed by the CITY's Project Representative.

ANTICIPATED HOURS/COMPENSATION

Services shall be provided on an hourly, or lump sum as determined by the CITY and CONSULTANT and as described in section I.02.D of this contract. Hourly fees will be computed per the time rates established in Exhibit B.

Hourly rates shall be per Exhibit B – Rate Schedule. Anticipated hours are to be provided with each Project Proposal. Detail effort by providing the anticipated hours by the client manager, project manager, and support staff to satisfy the scope requirements of each project.

SCHEDULE

Provide schedule of services.

EXHIBIT B
Rate Schedule

Exhibit B – Rate Schedule

The CITY agrees to pay CONSULTANT as compensation for services performed as required by Part 4 of the Agreement a fee in accordance with the following hourly rates:

Labor Classification **CY 2018-2019 Rates**

Principals	
Principal, General Supervision	\$129.00
Professionals	
Professional Engineer	\$102.00
Professional Surveyor	\$99.00
Subordinate Professionals	
Reg. Engineer	\$99.00
Reg. Surveyor	\$91.00
Sr. Engineer Intern	\$91.00
Engineer Intern	\$87.00
Surveyor Intern	\$82.00
Engineer Technician	\$87.00
Jr. Engineer Technician	\$54.00
CAD Technician	\$75.00
FIELD SERVICES	
Survey Crew w/GPS – 1 person	\$106.00
Survey Crew – 2 person – Party Chief	\$126.00
Assistant	\$0.00
Survey Crew w/GPS – 2 person – Party Chief	\$136.00
Assistant	\$0.00
Additional Assistant	\$48.00
Resident Project Representative	\$70.00
Surveyor Technician	\$71.00
ADMINISTRATION SERVICES	
Clerical	\$59.00
Courier	\$36.00

Stakes, prints, postal, special delivery and other miscellaneous items At cost

Filing Fees, Special Consulting (Such as Soils Investigation, etc.) Actual Fee + 10%

Whenever it is deemed necessary by the CITY, acting through the Mayor or the Mayor's designated representative, for employees of the CONSULTANT to work more than forty (40) hours per week, overtime compensation of one and one-half times the regular rate shall be paid for all hours worked over forty (40) per week in accordance with the Fair Labor Standards Act of the United States.

The labor classifications listed above include a variety of specialized skills and disciplines including structural, highway, bridge, traffic, environmental, survey, etc. As a result, it is not possible to provide a single rate for every classification.

ORDINANCE NO. 17-052

AN ORDINANCE TO AUTHORIZE THE MAYOR TO AMEND A CONTRACT WITH AMERICAN STRUCTUREPOINT, INC. FOR CONSULTING SERVICES RELATING TO CONSTRUCTION INSPECTION FOR THE PERIOD FROM JANUARY 13, 2018 THROUGH JANUARY 13, 2019

WHEREAS, Council hereby finds and determines that it is in the best interest of the City of Canal Winchester to provide for consulting services relating to construction inspection for private and public capital projects in the City; and

WHEREAS, it is necessary to enter into such agreement immediately to provide for construction inspection;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, STATE OF OHIO:

Section 1: That the Mayor be, and hereby is, authorized to enter into and execute an amendment to the agreement dated January 13, 2015 with American Structurepoint, Inc., a copy of which is attached as Exhibit A, to provide construction inspection for private and public capital projects in the City for the Period from January 13, 2018 through January 13, 2019.

Section 2: That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

DATE PASSED _____

PRESIDENT OF COUNCIL

ATTEST _____
CLERK OF COUNCIL

MAYOR

DATE APPROVED _____

APPROVED AS TO FORM:

LEGAL COUNSEL

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

Clerk of Council/Finance Director

AMENDMENT #2 TO OWNER-ENGINEER AGREEMENT

1. Background Data:

- a. Effective Date of Owner-Engineer Agreement: January 13, 2015
- b. Owner: City of Canal Winchester
- c. Engineer: American Structurepoint, Inc.
- d. Project: Resident Project Representative Services

2. Nature of Amendment

Modifications to Time(s) for rendering Services

3. Description of Modifications

- a. The duration of services established in 9.01.B of the Agreement is extended for an additional 12 months, with a new expiration date of January 13, 2019.
- b. Rates from Appendix 1 of the Agreement are modified as follows. (All other rates remain unchanged.)

Inspector	\$65/hour	\$68/hour
-----------	----------------------	------------------

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is January 1, 2018

OWNER:

ENGINEER:

City of Canal Winchester

American Structurepoint, Inc.

By: _____

By: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____

ORDINANCE NO. 17-053

**AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO AN AGREEMENT FOR
LEGAL SERVICES WITH FROST BROWN TODD LLC FOR THE PERIOD JANUARY 1, 2018
THROUGH DECEMBER 31, 2019**

WHEREAS, Council hereby finds and determines that it is in the best interest of the City of Canal Winchester to enter into a contract with the law firm Frost Brown Todd LLC to provide legal counsel services to the city;

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER,
STATE OF OHIO:

SECTION 1. That the Mayor be authorized to enter into a contract on behalf of the City of Canal Winchester with Frost Brown Todd LLC in the amount \$15,000.00 per month for the period January 1, 2018 through December 31, 2019, as detailed in Exhibit "A" attached and incorporated herein by reference.

SECTION 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

DATE PASSED _____

PRESIDENT OF COUNCIL

ATTEST _____
CLERK OF COUNCIL

MAYOR

APPROVED AS TO FORM:

DATE APPROVED _____

LAW DIRECTOR

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

FINANCE DIRECTOR/CLERK OF COUNCIL

**AGREEMENT BETWEEN THE CITY OF CANAL WINCHESTER
AND FROST BROWN TODD LLC
FOR LEGAL SERVICES**

This contract for the services between the City of Canal Winchester, an Ohio Municipal Corporation, ("Canal Winchester") and Frost Brown Todd LLC, ("FBT") effective this the ____ day of January, 2018.

WITNESSETH:

WHEREAS, Canal Winchester wishes to engage FBT to perform general legal services for a two (2) year term (calendar years 2018 and 2019).

NOW, THEREFORE, intending to be bound by this Agreement, the parties agree as follows:

- 1. Routine Services.** Except as otherwise provided herein, Canal Winchester agrees to pay Fifteen Thousand Dollars (\$15,000.00) per month for calendar years 2018 and 2019 and FBT agrees to provide the following Routine Services:
 - a. Attending all regular and special Council meetings.
 - b. Attend other board and commission meetings upon the request of the Mayor.
 - c. Draft and/or revise ordinances and resolutions upon request of the Clerk of Council or Mayor.
 - d. Draft routine legal memoranda as requested by the Mayor, staff and/or Council.
 - e. Provide legal advice to City officials as necessary.
 - f. Respond to Mayor and staff inquiries.
 - g. Attend meetings and discussions with City, County, State and Federal officials and other governmental officials.
 - h. Attend meetings with the development community and staff.
 - i. Review and approve all contracts, ordinances, resolutions and any other written documents.
 - j. Coordinate with special legal counsel for human resource issues and bond counsel.
 - k. Prosecution of traffic and criminal matters in Canal Winchester Mayor's Court.

1. Attend weekly staff meetings.

Canal Winchester hereby designates Eugene L. Hollins, an attorney with FBT the Law Director, who shall be the primarily responsible attorney and contact person for Canal Winchester.

Canal Winchester shall reimburse FBT for any and all reasonable costs and expenses incurred by FBT on behalf of Canal Winchester.

2. **Complex Litigation.** Complex litigation is defined as major litigation that involves, for example purposes only, significant written or oral discovery, significant motion practice, and attendance at evidentiary hearings before a judge and/or a jury. Complex litigation shall also include Ohio Revised Code Chapter 2506 appeals. The Mayor shall pre-approve rates for complex litigation prior to FBT commencing work on any individual matter. The fee arrangement set for the below in "Additional Projects" shall also apply to "Complex Litigation."

3. **Term.** This Agreement shall take effect and be in force from January 1, 2018 through December 31, 2019. However, either Party may terminate this Agreement upon providing thirty (30) days' prior notice of its intent to terminate to the other Party. Subject to the appropriation of funds by City Council, this Agreement shall be automatically renewed for a one (1) year period, unless thirty (30) days' prior notice is provided prior to the date of expiration. If the Agreement is automatically renewed, all rates set forth in this Agreement shall be increased by five percent (5%).

4. **Miscellaneous Provisions.**

- a. **Additional Projects.** Subject to agreement of both Parties, FBT may undertake Additional Projects which are outside of the scope of Routine Services on a flat fee or hourly basis as agreed upon by the Law Director and the Mayor. For projects that are billed hourly, FBT will offer a discounted hourly rate as negotiated and agreed upon between the Mayor. Fee arrangements for Additional Projects will be negotiated and agreed upon by FBT and the Mayor.

- b. **Applicable Laws.** FBT shall comply with all applicable foreign, federal, state, and local laws, rules, regulations, orders, ordinances and government requirements in the performance of this Agreement.

- c. **Notices.** All notices and other communications hereunder must be in writing and will be deemed to have been duly given if delivered by hand, or on the next business day if delivered by a recognized overnight courier, or on the third business day if mailed (by certified mail, return receipt requested, first class postage prepaid), to the Parties with written confirmation of receipt at the following address:

If to Canal Winchester:
Ms. Amanda Jackson

Finance Director
City of Canal Winchester
36 South High Street
Canal Winchester, Ohio 43110-1213

If to FBT:
Eugene L. Hollins, Esq.
Frost Brown Todd, LLC
One Columbus, Suite 2300
10 West Broad
Columbus, OH 43215

- d. **Waiver.** No delay or failure on the part of any Party hereto in exercising any right, power, or privilege under this Agreement or under any other instruments given in connection with or pursuant to this Agreement shall impair any such right, power, or privilege or be construed as a waiver of any default or any acquiescence therein. No single or partial exercise of any such right, power, or privilege shall preclude the further exercise of such right, power, or privilege, or the exercise of any other right, power or privilege.
- e. **Severability.** If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable to any extent, such provision shall be enforced to the greatest extent permitted by law and the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
- f. **Parties in Interest.** This Agreement is enforceable only by FBT and Canal Winchester. The terms of this Agreement are not a contract or assurance regarding compensation, continued employment, or benefit of any kind to any of FBT's personnel assigned to Canal Winchester's work, or any beneficiary of any such personnel, and no such personnel, or any beneficiary thereof, shall be a third-party beneficiary under or pursuant to the terms of this Agreement.
- g. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Ohio without regard to its conflict of law principles.
- h. **Entire Agreement.** This Agreement constitutes the entire understanding of the Parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, discussions, undertakings and agreements between the Parties. This Agreement may be amended or modified only by a writing executed by the duly authorized officers of the Parties hereto.

- i. **Assignment.** This Agreement may not be assigned or transferred in whole or in part by either Party without the written consent of the other. Any purported assignment without the express written consent of the other is void.

- j. **Independent Contractor Status.** The Parties agree that services hereunder are provided by an independent contractor, and that no contributions will be made to the public employees retirement system for the services, as addressed in Section 145.038, Ohio Revised Code. This Agreement is, and is intended to be, a formal bilateral written contract between the parties as required by Section 145-1-42 (B).

IN WITNESS WHEREOF, the Parties have executed this Agreement.

FROST BROWN TODD LLC

CITY OF CANAL WINCHESTER

Eugene L. Hollins, Partner

Michael Ebert, Mayor

0128850.0615530 4819-0021-8449v1

ORDINANCE NO. 17-054

AN ORDINANCE TO AMEND THE CODE OF PERSONNEL PRACTICES

WHEREAS, Council previously passed Ordinance 32-11 adopting the Code of Personnel Practices, which was amended by Ordinance 52-14; and

WHEREAS, it is necessary and appropriate that the Code of Personnel Practices be updated to reflect changes in city practices and policies and labor laws;

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, STATE OF OHIO:

SECTION 1. That the Code of Personnel Practices be amended to reflect changes in city practices and policies and labor laws as detailed in Exhibit A and incorporated herein by reference.

SECTION 2. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

DATE PASSED _____

ATTEST _____
CLERK OF COUNCIL

PRESIDENT OF COUNCIL

MAYOR

APPROVED AS TO FORM:

DATE APPROVED _____

LAW DIRECTOR

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

FINANCE DIRECTOR/CLERK OF COUNCIL

CANAL WINCHESTER

CODE OF PERSONNEL PRACTICES HANDBOOK

Adopted:

12/1/14

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The policies set forth and adopted within this Manual supersede all previous written and unwritten personnel policies of Canal Winchester, Ohio (hereinafter "CW"). Questions regarding the interpretation and application of these policies shall be directed to the Mayor, supervisor, or designee. The policies and procedures set forth herein are to provide employees the appropriate guidelines for the efficient, effective and equitable management of CW. This Manual and these policies do not constitute an employment contract or agreement between CW and any of its employees, nor a guarantee of minimum benefits between CW and any of its employees.

SEVERABILITY CLAUSE

If any article or section of this policy manual or any amendments thereto shall be held invalid by operation of law or by a tribunal of competent jurisdiction, or compliance with or enforcement of any article or section of this policy manual shall be restrained by such tribunal, the remainder of this policy manual and amendments thereto shall not be affected and shall remain in force and effect.

SECTION 1.0: INTRODUCTION

This manual contains the policies for CW. All personnel charged with the responsibility of administering any policy must be thoroughly knowledgeable of its contents. The policies in this manual may be changed periodically. As a result, CW reserves the right to revise, modify, amend or delete any policy, procedure, benefit or regulation as deemed necessary. Updated policies will be issued to all manual holders and communicated to all affected employees. Prior to implementation, employees will be required to review any updated policies and shall sign an acknowledgement indicating that they have received and had an opportunity to review them.

Any references to males contained herein shall apply equally to females.

SECTION 1.1: DEFINITIONS

ABSENT WITHOUT LEAVE - Absence from duty without approval. Any employee absent from duty habitually or for two (2) or more successive duty days, without leave and without notice to the employee's supervisor of the reasons shall be deemed to have voluntarily resigned.

APPOINTING AUTHORITY—The Mayor of Canal Winchester, Ohio.

APPOINTMENT - Designation of a person by the Employer to any position within CW.

CLASSIFICATION - A group of positions that involve similar duties, responsibilities, authority and require similar qualifications so that the same title may be used for each, the same pay range assigned, and the same examination conducted, if required. A class may include only one position in some circumstances.

CLASSIFIED SERVICE – The classified service shall comprise all persons in the employ of CW who are not specifically included in the unclassified service.

CW—The municipality of Canal Winchester, Ohio.

DAY – A calendar day unless specified otherwise.

DUTY—The express tasks required by one's position and those tasks implied by the nature of one's position, including, but not limited to the essential functions listed in the job description for the position.

EMPLOYEE - Any person holding a position by appointment or employment in a classification established by the CW Council.

PROBATIONARY PERIOD – Either the period of time at the beginning of an original appointment or the period of time immediately following a promotion, which constitutes a trial or testing period for the employee. The initial probationary period shall be three hundred and sixty–five days, one year. Promotional probationary period shall be one hundred and eighty days.

PROBATIONARY REMOVAL – The termination of an employee’s employment for unsatisfactory performance during the employee’s initial probationary period.

PROMOTION - The movement from one position to a vacant position which is assigned to a different classification and a higher pay range, or higher salary where pay ranges do not exist. For the purposes of this definition, a higher pay range is determined by comparing the step one rates of the relevant pay ranges.

SEASONAL APPOINTMENT - An appointment where an employee works a certain regular season or period of each year performing some work or activity limited to that season or period of the year.

SUPERVISOR - Any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees; to responsibly direct them, or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

TEMPORARY APPOINTMENT – An appointment for a limited period of time, fixed by the Employer, for a period not to exceed one hundred twenty (120) days, unless for reason of illness, sickness or disability.

UNCLASSIFIED SERVICE – All offices and positions which are exempt from all examinations and which provide no tenure under the law are unclassified. Appointment to a position in the unclassified service may be made at the discretion of CW and the incumbent may be removed, suspended or reduced from the position at the pleasure of the appointing authority.

SECTION 1.2: POLICY AMENDMENTS

These policies may be amended, revised or deleted by act of the Legislative Authority. Each employee will receive a copy of the amended, revised or deleted policy prior to its effective date. Such amendments, revisions or deletions shall be made after three readings and shall not be passed as emergency legislation.

SECTION 1.3: CLASSIFIED AND UNCLASSIFIED EMPLOYMENT

- A. All original appointments within the classified service shall be for a probationary period of one year. Promotional probationary period shall be one hundred and eighty days. If the service of the probationary employee is unsatisfactory, the employee may be removed or reduced at any time during the probationary period. A probationary employee duly removed or reduced in position for unsatisfactory service does not have the right to appeal the removal or reduction. Following completion of the probationary period, no classified employees shall be reduced in pay or position, fined, suspended, or removed, or have the employee’s longevity reduced or eliminated, except and for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy or work rule of CW, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony.
- B. Employees in the unclassified service are exempt from the competitive examination process and serve at the pleasure of CW. The unclassified positions are: Community Affairs Director; Construction Services Administrator; Development Director; Finance Director; and Public Service Director; Technology Coordinator; Clerk of Council; Planning and Zoning Administrator; Clerk of Court; Streets, Lands and Buildings Superintendent; Water Reclamation Superintendent; Water Superintendent; Urban Forester; Community Center Coordinator; Utilities Billing Clerk; Events and Communications Coordinator; Finance Specialist; Administrative Assistant (Finance Department); and Chief Building Official.

- C. Employees authorized to act for and on behalf of CW, or holding a fiduciary or administrative relationship to the CW council or mayor and employees whose fitness would be impractical to determine by competitive examination shall be in the unclassified service of CW.

SECTION 1.4: VACANCIES: IDENTIFICATION, ANNOUNCEMENT AND APPLICATION

- A. CW shall post, internally for a minimum of seven (7) calendar days, classified position openings it intends to fill on a permanent basis, except in those cases where an employee is eligible for reinstatement from layoff to the vacant position.
- B. During the posting period, any employee wishing to apply for the vacant position shall submit a written notice of interest to the Employer or designee. The Employer or designee shall not be obligated to consider any applications submitted after the close of the posting period. However, CW may consider the applications of employees who were on a previously scheduled vacation during the posting period.
- C. The Employer may consider applicants from internal or external sources at the Employer's discretion. If the Employer elects to consider applications from both current employees and outside applicants, the Employer or designee shall publicly announce by appropriate means all promotional vacancies to be filled and shall maintain a list of announced vacancies for public inspection.

SECTION 1.5: BASIS FOR SELECTION

- A. All appointments to positions in the classified service shall be made according to merit and fitness, which shall be determined, as far as practicable, by competitive examination. As noted in the Rules of the Personnel Board of Review, an examination may include an evaluation of such factors as education, training, capacity, knowledge, manual dexterity, and physical or psychological fitness. An examination shall consist of one or more tests in any combination. The Employer shall determine the method of competitive examination, whether written, oral, physical, demonstration of skill, or an evaluation of training and experiences and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the position for which appointment is sought.
- B. All qualified employees applying for the position may be interviewed by the Employer or designee, or the Employer may limit the number to be interviewed based on applicant responses to the job posting and the qualifications listed in the application.
- C. No immediate family member (parents, grandparents, grandchildren, children, spouse, siblings and any person related by blood or marriage and residing in the same household) shall be the direct or indirect supervisor of another immediate family member. Council rules do not permit an elected official of CW to use the authority or influence of his or her position to secure employment of any immediate family member. In addition, Department Heads are prohibited from the same. CW will not hire as full-time, part-time, intermittent or seasonal employee any immediate family member of an elected official of CW. Additionally, family members will not be hired if it creates a conflict of interest between the employee and the relative or CW. Similarly, no family member will be hired if it could result in a conflict of interest. Temporary employees are excluded from this restriction.

Additionally, an employee is not permitted to work in a position where a supervisor, or any person in the chain of organizational command, is a relative. If such a situation is created through promotion, transfer or marriage, one of the affected employees must be transferred or separated. If

two employees marry, they will be subject to the same rules above, unless Ohio law or judicial decisions dictate otherwise.

Ohio Rev. Code 102.03 and 2921.42 render it unlawful for a public official to use her influence to obtain a benefit, including a job for a family member. All employees are reminded that a violation of either of these statutes could result in criminal prosecution and/or disciplinary action.

SECTION 1.6: PROMOTION AND TRANSFER

- A. Promotion and transfer opportunities may be offered to eligible CW employees. CW may limit a selection process to eligible employees, or may allow such employees preference in application and/or consideration, to the extent such is permitted by CW's merit system practice.
- B. To be considered for promotion and/or transfer opportunities, employees must meet the minimum qualifications of the position as set forth in the Classification Plan established by CW, must have completed one year of employment with CW, and must not be under disciplinary action. Factors to be considered for promotions include an employee's completion of required training courses, annual performance evaluation ratings, overall performance, the employee's attendance record, and any job-related testing prescribed by the Employer.
- C. Employees of any division who are promoted within the division shall be entitled to have their years of service within the division taken into account as a positive factor in determining placement in the pay scale established by CW.

Employees who transfer to another division or are promoted to a division other than the one in which they currently work shall be placed in the pay scale at the salary which most closely corresponds, but is not less than, the employee's current salary.

- D. No employee shall be required to take a cut in pay to secure a promotion or transfer opportunity, unless the employee's salary is higher than the highest salary in the pay scale established for the job by CW. In that case, the employee shall be placed at the highest salary established by CW in the pay scale for that job.
- E. Promoted employees will be required to serve a probationary period in their new position. Employees failing their probationary period following appointment may be demoted to their prior position, if possible, or removed.
- F. An employee who is promoted within a classification series will receive an appropriate salary adjustment in the salary range as determined by the appointing authority.
- G. When an occasion arises that creates an absence of a senior class employee for an extended period of time, a temporary appointment may be made. The temporary appointment may not continue longer than one hundred twenty days, and in no case shall successive temporary appointments be made. A temporary appointment longer than one hundred twenty days may be made if necessary by reason of sickness, disability, or other approved leave of absence of regular officers or employees, in which case it may continue during the period of sickness, disability, or other approved leave of absence, subject to the rules of the employer. While serving in a temporary appointment, employees will be at the bottom of the pay range of the temporary appointment, or receive their current rate. However, CW may make an appropriate salary adjustment in the salary range as determined by the appointing authority.

SECTION 1.7: EMPLOYEE STATUS

- A. All employees of CW shall be categorized as full-time, part-time, temporary, seasonal or intermittent.
1. Full-time employee - an employee who is regularly scheduled to work 40 hours per week or on the standard full-time workweek as designated by the Employer.
 2. Part-time employee - an employee who is regularly scheduled to work less than 40 hours per week, or less than full-time as designated by the Employer.
 3. Temporary employee - an employee who works in a position which is of a non-permanent nature (full-time, regular part-time), which has a specified duration of time. (In most situations, the time frame will not exceed one hundred twenty days.)
 4. Intermittent employee - an employee who works on an irregular schedule which is determined by the fluctuating demands of the work and is generally not predictable. Such employees are in the unclassified service and serve at the pleasure of CW. (In most situations the time frame will not exceed one thousand hours per year.)
 5. Seasonal employee - an employee who works a regular season or period of each year performing some work or activity limited to that season or period of year.
- B. Full-time permanent employees shall be entitled to all benefits as provided by CW. Part-time, temporary, seasonal and intermittent employees shall be entitled to only those benefits which are specified in this manual.

SECTION 1.8: MEDICAL EXAMINATIONS/DRUG AND ALCOHOL POLICY

A. MEDICAL EXAMINATIONS

A physical and mental examination by a qualified physician may be required by the Employer upon the conditional offer of appointment or promotion, to ensure that selected job applicants are physically and mentally able to perform the essential job functions of the position for which they are applying. Such examination will include drug/alcohol testing and any job related examinations. Existing employees may also be required to submit to a physical and/or mental examination if needed to verify fitness to perform the essential job functions of the position. No medical examination, except screening for use of illegal drugs, will be conducted until after CW has made the applicant a conditional offer of employment.

The Employer shall select the physician to administer the examination and shall pay the cost. Applicants may obtain a waiver of the medical examination requirement for religious opinion or affiliation.

Any applicant requesting a waiver of the examination requirement shall submit a written affidavit from a qualified physician describing his or her state of health at the time of employment.

Current CW employees may be required to submit to a regularly scheduled medical examination during their period of employment with CW. Such an examination is intended to ensure that the incumbent continues to be physically and mentally able to perform the essential duties of his or her position. In such instances, the Employer shall inform the incumbent in writing of the examination

requirement, the physician who will conduct the examination, and the time and date of the examination. The Employer shall assume the cost of such required examinations. The employee shall be responsible for attending the examination, and shall cooperate with the physician in order that the report of examination may be delivered to the Employer. In the event the employee elects to choose a physician other than the Employer's physician to complete the physical examination, cost incurred for conducting the physical examination will be at the employee's expense. Employees who refuse examination or fail to cooperate may be subject to disciplinary action, including termination for refusal to attend required examinations.

An employee may be disqualified from holding a position with CW if it is determined that the individual is unable to perform the essential duties of the position sought or held. Prior to disqualification or termination, the Employer will consider whether a reasonable accommodation can be made which would enable the individual to perform the essential duties of the position. If it is determined that an employee must be separated due to a disability, such employee may request a hearing before the Personnel Board of Review.

CW will provide or pay for regular medical examinations for employees who may be exposed to contagious diseases while performing duties for CW. Upon written request, CW shall reimburse insurance costs incurred by an employee for contagious disease testing.

B. DRUG AND ALCOHOL POLICY

Alcoholism and drug addiction are treatable diseases. Therefore, employees who believe that they may have an alcohol or drug addiction problem are encouraged to seek professional treatment and assistance. No employee who seeks such treatment or assistance prior to detection will have his job security, promotional opportunities, or other job conditions jeopardized by a request for treatment. The individual's right to confidentiality and privacy will be recognized in such cases. The CW will reasonably accommodate a recovering employee's alcohol or drug addiction in accordance with federal and state law.

Treatment pursuant to this accommodation policy will not result in any special regulations, privileges, or exemptions from standard administrative procedures, practices, or policies including disciplinary action. The CW may take disciplinary action for any violations of work rules, regardless of the effect of alcohol or drug abuse. Nothing in this policy shall be construed to condone or exonerate employees from their misconduct or poor performance resulting from a drug or alcohol problem.

The CW maintains a drug and alcohol free workplace¹ in order to eliminate the inherent risks and liability to the CW, the affected employee, co-workers and the public. Employees are hereby notified that the manufacture, distribution, dispensing, possession, use or being under the influence of alcohol, drugs or other controlled substance is strictly prohibited during working hours at any location where employees are conducting CW business. Also prohibited is the illegal use of legal substances.

¹ As set forth in detail in paragraph B5 (Zero Tolerance) below, medical marijuana use as authorized by state law is not exempted from the CW's drug and alcohol free workplace policy, constitutes a violation of this policy, and employees are subject to discipline up to and including discharge for any violation of this policy, including use of medical marijuana.

In order to further the CW's objective of maintaining a safe, healthful, and drug-free workplace, the CW may require an employee to submit to a urine and/or blood test if there is reasonable suspicion to believe that an employee is under the influence of a controlled substance or alcohol. Refusal to submit to a drug or alcohol test and/or to release the results of the same shall be considered insubordination and will be construed as a positive test result.

Employees are put on notice that an employee who is under the influence of drugs or alcohol may forfeit their right to obtain workers compensation benefits. The law establishes a rebuttable presumption that if an injured worker tests positive for the use of drugs or alcohol, the worker will have to prove the use of drugs or alcohol did not cause the accident. A refusal to test for the use of drugs or alcohol will also establish the presumption. Employees who are involved with a workplace accident may be required to undergo drug and/or alcohol testing in accordance with this policy.

1. Definitions:

- (a) Controlled Substance - means any controlled substance contained in Schedules 1 through V of Section 202 of the Controlled Substance Act (21 USC 812; or as defined in 3719.01 O.R.C.).
- (b) Conviction - means any finding of guilt, including a plea of *nolo contendere* (no contest) or the imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
- (c) Criminal drug statute – when an employee is convicted of or pleads guilty to a drug statute conviction as defined by 3719.01 et seq. O.R.C.
- (d) The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance by any employee which takes place in whole or in part in the employer's work place is strictly prohibited and will result in criminal prosecution and employee discipline which may include termination from employment.
- (e) Any employee convicted of any Federal or State criminal drug statute must notify the employer of that fact within five (5) calendar days of the conviction.
- (f) Any employee who reports for duty in an altered or impaired condition which is the result of the illegal use of controlled substances and/or alcohol will be subject to disciplinary action. Any decision to take disciplinary action may be held in abeyance pending the completion by the employee of a drug rehabilitation program.
- (g) Any employee convicted of a drug or alcohol offense, who fails to report the conviction as required by the above, will be:
 - (i) Terminated from employment;

- (ii) held civilly liable for any loss of federal funds resulting from the failure to report the conviction.

2. The Drug/Alcohol Testing Policy

- (a) In order to maintain a safe and healthful work environment, CW reserves the right to set standards for employment and to require employees to submit to physical examinations including blood or urine tests for alcohol, illegal drugs, or the misuse of legal drugs where there is reasonable suspicion that an employee's work performance is, or could be, affected by the condition.
- (b) Where CW has a reasonable suspicion to believe that the employee is in violation of this policy, it may require the employee to go to a medical clinic, at CW's expense, to provide blood and/or urine specimens. For purposes of the above, "reasonable suspicion" shall generally mean suspicion based on personal observation by a CW representative, including descriptions of appearance, behavior, speech, breath, or inexplicable behavior.
- (c) If requested, the employee shall sign a consent form authorizing the clinic to withdraw a specimen of blood or urine and release the test results to CW. Refusal to sign a consent form or to provide a specimen will constitute insubordination and a presumption of impairment and may result in discharge.
- (e) Any employee who tests positive, may request retesting of the original specimen at their own expense.
- (g) Employees who test positive for illegal substance abuse or misuse of legal drugs and/or alcohol may be offered rehabilitation through CW Employee Assistance Program. Any costs related to the rehabilitation shall be paid by the employee. Employees must take any available accumulated, paid, or unpaid leave during their absence. Failure to fully participate in or successfully complete such a rehabilitation program may result in disciplinary action.
- (h) Employees who return to work after the successful rehabilitation will be subject to random drug tests for a period of two years from the date of their return.
- (i) Employees subject to random drug tests who refuse to participate in the drug/alcohol testing and/or rehabilitation program or who continue to test positive for substance abuse will face additional disciplinary actions, up to and including removal.
- (j) Any employee involved in an accident may be subject to post accident alcohol and drug/alcohol testing.
- (k) Employees who are required to hold a commercial driver's license (CDL) will be required to participate in CW's drug and alcohol testing program as required by federal law which includes pre-employment testing, post-accident testing, random testing, reasonable suspicion testing, and return-to-work testing. Policies and

procedures for these programs will be consistent with federal law and will be made available to employees required to hold CDLs and their supervisors.

3. Discipline

The CW may discipline an employee, for any violation of this policy. Nothing herein shall be construed as a guarantee that the CW will offer an opportunity for rehabilitation. Failure to successfully complete or participate in a prescribed rehabilitation program, if offered, shall result in the employee's discharge [including a refusal to test or a positive test result on a return to duty or follow-up test]. No employee shall be provided more than one opportunity at rehabilitation. The CW's decision whether to discharge an employee shall be made on the basis of the circumstances surrounding the employee's positive drug or alcohol test and considerations such as any other misconduct resulting from the employee's substance abuse (e.g. injury, property damage, etc) the employee's work record, and other factors traditionally considered when determining whether to retain an employee.

4. Refusal to Test

Employees who refuse to submit to the required testing shall be subject to disciplinary action up to and including discharge. A refusal to test for purposes of this policy shall include:

1. Failure to provide a sufficient sample provided there does not exist a valid medical explanation as to why the employee was unable to do so;
2. Any conduct that attempts to obstruct the testing process such as unavailability, leaving the scene of an accident without proper authorization, delay in providing a sample, adulterating, substituting or attempting to adulterate or substitute a specimen during the testing process, regardless of whether such attempt results in a negative or positive diluted sample;
3. Failure to execute or release forms required as part of the testing process.

5. Zero Tolerance

CW has a zero-tolerance policy for employees who are under the influence of illegal drugs or alcohol while at work. Employees who are using marijuana with a valid doctor's recommendation or authorized by Ohio law are not exempt from this policy in any way. The use of marijuana with or without a valid recommendation or as authorized by law will be treated the same as the use of all other illegal drugs or the abuse of legal drugs and may result in the employee's termination.

Employees are advised of the following:

1. CW does not permit or accommodate an employee's use, possession, or distribution of medical marijuana;
2. CW may refuse to hire or may discharge, discipline or take other action against an individual because of that person's use, possession, or distribution of medical marijuana;

3. An employee who tests positive for or refuses to submit to a drug test may be disqualified for compensation and benefits under the Ohio Workers' Compensation Act;
4. Because use, possession or distribution of marijuana is a violation of the Drug-Free Workplace Policy, employees who are discharged for those reasons will be considered to have been discharged for just cause for purpose of unemployment compensation or other post-termination pay or benefits.

SECTION 1.9: SENIORITY

Seniority is defined, for the purposes of this manual, as the full-time, uninterrupted length of continuous service with CW. Part-time service with CW shall not be calculated into a full-time service equivalent, unless required by law. An authorized leave of absence does not constitute a break in service and seniority time continues to accumulate during the term of the leave, provided that the employee complies with rules and regulations governing his or her leave of absence, and that the employee is reinstated from the leave.

SECTION 1.10: DISCIPLINE

Employee discipline shall be consistent with the Personnel Board of Review of CW. Specifically, the Board of Review states: Every officer or employee in the classified service of the City shall hold their position during good behavior and efficient service. No employee may be reduced in pay or position, suspended (paid or unpaid) or removed, except for incompetency, inefficiency, immoral conduct, dishonesty, conviction of a felony, drunkenness, insubordination, discourteous treatment of the public, neglect of duty, failure of good behavior, violation of a policy or work rule of the City, abuse of authority, repeated failure to meet personal financial obligation, acts of misfeasance, malfeasance or nonfeasance, the conviction of a felony or for any other just and reasonable cause as determined by the Board.

Employees still serving their probationary period are considered unclassified employees and serve at the pleasure of their Appointing Authorities. As such, persons in their probationary period who are reduced, removed, or suspended have no right to appeal to the Board.

Prior to the imposition of discipline which may result in a loss of pay or working suspension, the employee shall be afforded a pre-disciplinary conference, except that an employee may be suspended without pay pending a hearing where the charges are theft, embezzlement of public funds, being under the influence of, or the use of alcoholic beverages or abusive drugs during work hours, or physical violence.

When an employee in the classified service is to be disciplined, the Appointing Authority or designee shall have the charges against the employee reduced to writing and served on the employee. A pre-disciplinary conference with the City, or designee, shall be held within forty-eight (48) hours of the service of charges upon the employee, unless a mutually agreeable extension is made.

The employee shall have the right to be represented at the pre-disciplinary conference by a designated representative who shall have the right to attend any hearing held. The employee shall have the right to respond to the allegations of misconduct either verbally or in writing; have another respond to the allegations either verbally or in writing; provide no response; or waive the pre-disciplinary conference.

In case of a removal, reduction in pay or position, or suspension of 24 hours or more for employees exempt from overtime pursuant to the Fair Labor Standards Act (FLSA) or of 40 hours or more for employees non-exempt from overtime pursuant to the FLSA, the City shall serve on the employee, personally or by certified

mail, at the last known address of such employee, a written statement concisely setting forth the reasons for which the employee is removed, reduced, or suspended and the duration of any such suspension. The employee may appeal to the Board in writing within (10) calendar days from the date such written statement is served upon them.

When notified of an employee's appeal, the City shall transmit to the Board a copy of the written statement sent to such employee, together with a statement of the time and manner of service thereof. The Board shall hear the employee's appeal within thirty (30) days from the filing of the appeal with the Board and may affirm, disaffirm, or modify the judgment of the City issuing such order and the Board's judgment in the matter shall be final except as otherwise provided by law.

In an appeal of a removal based upon a "last chance agreement" between the City and the employee, the only issue in which the Board may render a decision is whether the employee violated the last chance agreement. The Board may only affirm or disaffirm the judgment of the City. If it is determined that the last chance agreement was violated, the Board may not modify the discipline issued pursuant to the last chance agreement.

An employee wishing to leave City service in good standing shall file a written resignation with their department and /or division head at least two (2) weeks in advance. Failure to comply with this requirement may result in denial of future employment with the City.

The acceptance by the City of the resignation of a person discharged, before the final action by the Board, will be considered a withdrawal of the charges. Notice of the employee's resignation shall be submitted immediately to the Board which shall be entered in the Board's records.

Principles of Progressive Discipline:

The City practices progressive discipline beginning with informal counseling. Formal discipline with notation in the employee's personnel file includes:

- a) One or more oral reprimand (s)
- b) One or more written reprimand (s)
- c) One or more suspension (s)
- d) Termination

All records relating to oral and/or written reprimands will cease to have any force and effect and will be removed from an employee's personnel file twelve (12) months after the date of the oral and/or written reprimand if there has been no other discipline imposed during the past twelve (12) months. Records of other disciplinary action will be removed from an employee's file under the same conditions as oral/written reprimands after twenty-four (24) months if there has been no other discipline imposed during the past twenty-four months.

SECTION 2.0: ETHICS

The proper operation of a democratic government requires that actions of public officials and employees be impartial, that government decisions and policies be made through the proper channels of governmental structure, that public office not be used for personal gain, and that the public have confidence in the integrity of its government. Ohio Revised Code Sections 102.03 and 2921.42 prohibit public employees from using their influence to benefit themselves or their family members. In recognition of the above-listed requirements, the following Code of Ethics is established for all CW officials and employees:

- 1) No employee shall use his official position for personal gain, or shall engage in any business or shall have a financial or other interest, direct or indirect, which is in conflict with the proper discharge of his official duties.
- 2) No employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of CW, nor shall s/he use such information to advance the financial or other private interest of him or herself or others.
- 3) No employee shall accept any valuable gift, whether in the form of service, loan, item or promise from any person, firm or corporation that is interested directly or indirectly in any manner whatsoever in business dealings with the City; nor shall an employee accept any gift, favor or item of value that may tend to influence the employee in the discharge of his duties or grant, in the discharge of the employee's duties any improper favor, service or item of value.
- 4) No employee shall represent private interests in any action or proceeding against the interest of the City in any matter wherein the City is a party.
- 5) No employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independent judgment or action in the performance of his official duties. Neither shall other employment, private or public, interfere in any way with the employee's regular, punctual attendance and faithful performance of his assigned job duties.

Any employee having doubt as to the applicability of these provisions should consult his supervisor or Department Head. Any employee offered a gift or favor, who is not sure if its acceptance is a violation of the Code of Ethics, should inform his supervisor of the gift offer. The supervisor will make a decision or will refer the individual to the Prosecutor's Office. No employee will accept from any contractor or supplier doing business with CW, any material or service for the employee's private use.

State law prohibits CW employees and officials from having a financial interest in companies that do business with public agencies, with minor exceptions. Employees who have any doubt concerning a possible violation of these statutes are advised to consult an attorney.

SECTION 2.1: PERFORMANCE EVALUATION

- A. Each CW employee normally will receive an annual performance evaluation from the Employer or his designee for the period January 1 through December 31. Special evaluations may be made if authorized by the Employer or designee. New or newly promoted employees will be evaluated following six months (mid-probation evaluation) of service and one year of service (final probation evaluation).
 1. The mid-probation evaluation will be used for the annual evaluation if the employees' hire or promotion date was after April 1.

2. The final probation evaluation will be used for the annual evaluation if the employees' hire or promotion date was prior to April 1.
- B. Salary raises will be given in accordance with a merit pay system. Percentage of increase for the ensuing year will be recommended by the Council Committee prior to the beginning of each fiscal year. Council shall have the authority to differ from these practices. Both the evaluation and the percentage of salary increase for each employee will have the approval of the Employer. Salary raises for new employees will be pro-rated based on their hire date. If the date of hire is October 1 or after, the employee will not be eligible for an annual salary raise until the next annual evaluation period.
 - C. Each employee shall be provided a copy of his or her performance evaluation. The supervisor shall discuss the report with the employee and shall counsel the employee regarding any improvement in performance which appears desirable or necessary. Employees will be required to sign the performance evaluation indicating that they have received the evaluation and are aware of its comments. The employee at the time of his evaluation may request to discuss the findings of his performance evaluation with his supervisor first, then the Department Director and the Appointing Authority, or both.
 - D. It may be necessary to administer employee performance evaluations periodically throughout the year. These instances will be handled in the same manner as the annual performance evaluation.

SECTION 2.2: TRAINING

Employees may be required to attend job-related training programs, courses, workshops, and seminars. If such training is required by the Employer or designee, the reasonable expenses for training costs and expenses actually incurred by the employee may be paid by CW upon presentation of receipts and other related documentation. A satisfactory certificate of completion for training shall be required before reimbursement can take place.

SECTION 2.3: PAY PERIOD

- A. All employees will be paid every two (2) weeks. Adjustments in pay periods may be made for leap years.
- B. The pay period is two (2) weeks long. The pay period starts at 12:01 a.m. on Monday and ends at 12:00 midnight on the second Sunday following. Records of hours worked and/or edits to such records must be turned in to the Employer during regular business hours on the designated day so that payroll can be prepared by the Finance Director.

SECTION 2.4: OVERTIME

- A. Non-exempt employees shall be entitled to overtime compensation at one and one-half (1½) times their regular rate of pay for all hours actually worked in excess of 40 hours during any work week. Employee overtime must be authorized by the Mayor or Department Head in advance of the overtime being worked, unless emergency circumstances require an employee to be called in without prior approval of the Mayor or Department Head. Scheduled overtime will be guaranteed a minimum of thirty (30) minutes work time. Scheduled overtime, which is subsequently canceled for any reason, shall not entitle the employee to overtime compensation.

- B. For purposes of this section, paid sick leave, vacation, holiday and other approved paid leave time shall be considered hours actually worked. Time spent traveling where overnight stay is not required during the workday shall be considered hours actually worked for the purposes of calculating overtime; time spent overnight on official CW business shall not be considered hours actually worked for the purposes of calculating overtime.
- C. Upon the written request of the employee and with the approval and agreement of the employees' department manager, and in lieu of overtime pay, non-exempt employees may request in writing to be granted compensatory time for the hours worked in excess of forty (40) hours per week. For every one (1) hour of time worked on overtime, a non-exempt employee shall be granted one and one-half (1 ½) hours of compensatory time. Newly accrued compensatory time is not available for use until it appears on the employee's earnings statement and on the date the funds are made available.
- D. The following positions within CW shall be exempt from the overtime provisions of the Fair Labor Standards Act ("FLSA"): Community Affairs Director, Construction Services Administrator, Development Director, Finance Director, Public Service Director, Planning and Zoning Administrator, Technology Coordinator, Streets, Lands and Buildings Superintendent, Urban Forester, Water Reclamation Superintendent Water Superintendent, , Finance Specialist, and Chief Building Official. Additional positions may also be exempt from the overtime provisions of the FLSA due to the job duties of the position.
- E. Exempt employees are exempt from the payment of overtime. While these employees are not eligible for overtime, they are eligible for schedule adjustments as authorized by the Department Head. Scheduled committee and/or council meetings are paid hour for hour for exempt employees with a guaranteed minimum of thirty (30) minutes.
- F. At the discretion of the Employer, in lieu of overtime pay, exempt employees may request in writing to be granted compensatory time for the hours worked in excess of forty (40) hours per week. For every one (1) hour of time worked on overtime, an exempt employee shall be granted one hour of compensatory time. The compensatory time account for exempt employees will have a maximum capacity of eighty (80) hours which must be used by the end of the calendar year. Newly accrued compensatory time is not available for use until it appears on the employee's earnings statement and on the date the funds are made available.
- G. When an employee is required to work on one of the observed holidays, such employee shall receive his or her usual rate of compensation plus additional compensation for each hour actually worked at the rate of one and one-half (1½) times his or her usual rate of pay. The additional compensation shall not be considered in determining any employee's regular rate of pay for purposes of calculating overtime compensation which may accrue in such workweek (i.e. pyramiding of overtime is not permitted)

By way of illustration, the appropriate calculation for an employee with a usual rate of pay of \$10.00 per hour is as follows:

<u>Worked 5 hours on a holiday</u>			
Holiday pay	8 hours @	\$10.00/hour	\$ 80.00
Overtime	5 hours @	\$15.00/hour	<u>\$ 75.00</u>
			\$155.00

- H. Compensatory time for nonexempt employees will be paid at separation.

SECTION 2.5: ON-CALL DUTIES

- A. Certain positions as designated by the Employer will be on an on-call status through use of cell phones and home phone numbers. An employee who is on an on-call is required to have his/her cell phone on at all times, even when at home, in order to be reached in case of an emergency. If an employee on an on-call status is directed to perform his or her duties, then such employee shall report to work promptly, but in no event later than within one (1) hour of being called.
- B. Employees assigned to an on-call status are free to pursue their own activities and the only stipulation is that they be available for on-call duties, as required. They will not be compensated for any time not spent until actually responding to a call during the on-call status period. If an employee on an on-call status is directed to perform his duties, then he will be compensated for all time spent performing his duties from the time he leaves his home or other location to the directed area assigned until he returns to his home. The employee is expected to leave his home or previous location and proceed directly to the area assigned and return to his home immediately and without stopping.
- C. Non-exempt employees who are called in and required to work hours outside of their regularly scheduled hours of work shall be paid a minimum of two (2) hours pay at one and one-half (1½) times their hourly rate of pay or actual hours worked, whichever is greater, unless such call-in occurs on a holiday. All additional hours worked beyond the above two (2) hour call-in minimum will be compensated for at the usual overtime rate of pay. There shall be no pyramiding of on-call pay or on-call time. Additionally, employees called-in to work outside their regularly scheduled work hours may be required to work on behalf of the Employer for the duration of their call-out pay.
- D. Prescheduled work and meetings are not considered as part of the on-call hours.

SECTION 2.6: LONGEVITY PAY

Longevity pay applies to full-time and part-time employees. Longevity pay is to be paid in an employee's paycheck for the pay period which includes December 1st. Employees shall be entitled to longevity pay as of each December 1st following their fifth anniversary date with CW according to the following schedule:

5-9 full years of continuous service with CW.....	\$200.00
10-14 full years of continuous service with CW.....	\$400.00
15-19 full years of continuous service with CW.....	\$600.00
20-24 full years of continuous service with CW.....	\$800.00
25 or more full years of continuous service with CW	\$1,000.00

Special Provisions: If an employee quits or is terminated prior to December 1, he is not eligible to receive longevity for that calendar year. That is to say that the employee must be working with CW during the pay period that includes December 1.

SECTION 2.7: RETIREMENT PLAN

All employees of CW are required by law to participate in the Ohio Public Employees Retirement System. This plan is entirely independent of the Federal Social Security System. Information on this retirement plan may be obtained by contacting the Finance Director or designee. If employees should have any further questions regarding the benefits available under this plan, they may contact the following:

Public Employees Retirement System
277 East Town Street
Columbus, OH 43215
(614) 466-2085

SECTION 2.8: P.E.R.S. PICK-UP

- A. The total amount of the employees' statutorily-required pension contribution shall be withheld from the gross pay of each full-time employee and shall be assumed and paid by CW. This payment is paid in lieu of contributions by each employee within CW. No employee subject to this contribution shall have the option of choosing to receive the statutorily required contribution directly instead of having it "picked-up" by CW or of being excluded from the "pick-up".
- B. The "pick-up" provided herein applies to all full-time employees who are contributing members. For the purposes of this section, a full-time employee is a person who performs work for CW in accordance with an established working time, but not less than twenty (20) hours per seven (7) consecutive calendar days for fifty-two (52) consecutive seven (7) day periods annually.
- C. The Finance Director or designee will implement all procedures necessary in the administration of the pay of all full-time employees to effectuate the withholding of the statutorily-required contributions, so as to enable them to obtain the resulting federal and state tax deferments.

SECTION 2.9: WORKERS COMPENSATION

State law provides that every CW employee is eligible for Workers Compensation for injuries arising out of or in the course of his or her employment. Guidelines for administering Workers Compensation are set forth below.

- A. Should an employee be injured during the course of employment with CW, his or her supervisor shall notify the HR Coordinator and shall complete an Incident Report Injury Form and an accident report. Both forms shall be completed, regardless of the apparent seriousness of the injury, and regardless whether medical attention is required. Such report shall be forwarded to the Employer or designee no later than forty-eight (48) hours after the accident.
- B. Should an employee's injury require medical attention, the employee will be provided with the First Report of Injury (FROI) which shall be completed by the employee, employer and the attending physician. This completed report should be forwarded to the HR Coordinator at the earliest possible date. CW reserves the right to provide a physician for all work-related injuries.
- C. In the event of serious injury, the injured employee's supervisor shall notify the Employer or designee immediately so that, if necessary, an investigation may be initiated.
- D. Workers Compensation forms shall be completed by the HR Coordinator for the purpose of initiating compensation claims for injured employees. If possible, the injured employee shall meet with HR Coordinator at a mutually agreeable time, to assist in completing the form. When

necessary, HR Coordinator shall visit the employee in his home or in the hospital to initiate the claim.

- E. The Employer or designee must be advised and continually updated if an employee continues to be absent due to a work-related injury. Employees are responsible for keeping the Employer or designee updated as to their medical status and their expected date of return.
- F. Any documents received from the injured employee, his or her physician, hospital, or the State, regarding Workers Compensation claims must be immediately forwarded to the Human Resources Coordinator.
- G. Employees who are injured in the line of duty and must leave work before completing their work period shall be paid at their regular rate of pay for the balance of time left in their scheduled workday.
- H. An injured employee may elect to use accrued sick leave and vacation leave prior to receiving payments from Workers Compensation. Employees are prohibited, however, from receiving payment for injury leave, vacation leave, or sick leave while simultaneously receiving payment from Workers Compensation.

SECTION 3.0: EXPENSE REIMBURSEMENT

Employees of CW are to receive reimbursement for expenses incurred if required to travel on official CW business. Employees are eligible for expense reimbursement only when travel has been authorized in writing by the Employer. Expenses shall be reimbursed in the following manner:

A. Mileage, Parking and Tolls

1. Employees shall attempt to secure a CW vehicle to attend authorized training or to conduct CW business. If a CW vehicle is not available, employees shall be reimbursed for actual miles, while on official CW business, at the standard rate of allowance permitted by the Internal Revenue Service when using a personal vehicle. Such payment is considered to be total reimbursement for all vehicle-related expenses (e.g., gas, oil, depreciation, etc.). Mileage reimbursement is payable to only the individual whose personal vehicle is used when two or more employees travel on the same trip, in the same vehicle.
2. Charges incurred for parking at the destination, and any highway tolls are reimbursable at the actual amount. Receipts for parking costs and highway tolls are required.
3. No expense reimbursements are paid for travel between home and office, unless travel between home and the official destination is less than between the office and official destination. In that case, expense reimbursements are paid between the home and the official destination.

B. Overnight Travel

When able, employees shall attempt to put travel expenses (lodging, transportation, meals, etc.) on a City credit card. In instances where this is not possible, the following policy shall apply:

1. Meals

- a. An employee shall be entitled to receive reimbursement for meals when travelling overnight on CW business. The amount will be paid for meals that are not already included in the registration and/or lodging accommodations regardless if the employee chooses to attend the meal.
- b. Employees can be reimbursed for actual expenses incurred or using per diem amounts in accordance with the Federal Continental United States (CONUS) which identify per diem rates by geographic location. If the employee's destination is not specifically listed, the standard CONUS rate applies. Employees who chose to request reimbursement for actual expenses incurred must submit itemized receipts to receive reimbursement. Under no circumstances will reimbursement be given for alcohol purchases. No receipts are required when receiving reimbursement under the per diem method.

2. Lodging

- a. Expenses covering the actual cost of overnight lodging will be reimbursed in full when an employee travels out of CW on official CW business and such travel requires an overnight stay (75 miles or greater from CW offices). Employees shall ensure a government rate is secured when available and state sales tax is not included.
- b. Lodging expenses will be reimbursed only with the prior written authorization of the Employer or designee. In obtaining prior authorization, employees shall provide the name of the hotel and expected cost.

3. Transportation

- a. Employees traveling within a drivable distance on official CW business shall follow Section 3.0(A) for reimbursement requests.
- b. When travel by air or other carrier is necessary, employees shall secure the best available rate. Employees shall not use personal reward programs, frequent flyer memberships, etc. to earn rewards when traveling on official CW business.
- c. In instances where a rental car is necessary, reimbursement will be granted for a car type that is reasonable for the location, number of travelers, etc. Reimbursement will not be granted for luxury vehicles or rentals deemed unnecessary at the discretion of the Employer.

4. Incidental Expenses

- a. Employees will be reimbursed for reasonable incidental expenses defined as fees and tips given to porters, baggage carriers, hotel staff and staff on ships.

C. Daily Travel

For travel that does not require an overnight stay, reasonable expenses incurred for meals while on official CW business will be reimbursed at actual cost with the approval of the Employer.

D. The Employer may provide, in advance, at its discretion, for the cost of training, meals and travel expenses.

E. The Employer shall establish regulations and monthly reimbursement rates for certain exempt employees who are regularly required to use private automobiles on CW business.

SECTION 3.1: HEALTH CARE PLAN

Each eligible employee is granted the opportunity to join the CW health care plan, as provided as a fringe benefit by CW from time to time upon such terms and conditions as set forth by the appointing authority. Healthcare plan may include health, prescription, dental, vision, and life insurance coverage as well as an employee wellness program. Details of CW current health care plan are available from the Public Service Director or the Human Resources Coordinator.

SECTION 3.2: HOLIDAYS AND PERSONAL LEAVE

A. All full-time employees are entitled to the following holidays:

- New Year’s Day.....First day of January
- Martin Luther King, Jr. Birthday Third Monday of January
- President’s Day Third Monday of February
- Good FridayFriday before Easter
- Memorial DayLast Monday in May
- Independence Day.....Fourth day of July
- Labor DayFirst Monday in September
- Veterans Day..... 11th day of November
- Thanksgiving DayFourth Thursday in November
- Day after Thanksgiving DayFriday after Thanksgiving Day
- Christmas Day.....25th day of December
- Any other day proclaimed as a holiday by the Mayor, Governor of Ohio, or the President of the United States.

B. If the holiday falls on Sunday, it will be observed on the following Monday; if it falls on a Saturday, it will be observed on the preceding Friday.

C. In observance of each authorized holiday, full-time employees will normally be granted the day off from work with pay. Employees assigned to a twenty-four (24) hour or seven (7) day per week operation will be expected to work holidays when so scheduled. Part-time employees will be granted a half day off from work with pay if the holiday falls on their regularly scheduled work day.

D. If a holiday occurs while an employee is on vacation, such vacation day will not be charged against his or her vacation leave.

E. Personal Leave - In addition, each full-time employee is entitled to two (2) personal days off with pay per year. Personal days are scheduled in accordance with workload requirements of the

individual department or office and departmental seniority. The use of personal days is subject to the prior approval of the Department Head, or designee. Personal day requests must be made in writing and submitted at least one (1) day in advance of the proposed starting date for requests of 16 hours or less. Employees hired on or after July 1 shall be entitled to one (1) personal day during their first year of service with CW. Personal days may not be carried forward and are forfeited if not used in the year in which they were earned. Personal leave shall be taken in one-half (1/2) hour increments.

SECTION 3.3: VACATION

- A. Full-time, twelve (12) month employees of CW are eligible for paid vacation leave according to the following eligibility guidelines:

<u>Years of Service</u>	<u>Vacation Days (max per year)</u>	<u>Accumulation per pay period</u>
1-6 years	12 days	3.69 hours
7-14 years	18 days	5.54 hours
15-24 years	22 days	6.77 hours
25+ years	27 days	8.31 hours

- B. Upon written request and for good cause shown, employees may be permitted to use accrued, but unused vacation after six (6) months service. Such requests will be considered on a case-by-case basis and subject to the discretion of CW.
- C. Vacations are scheduled in accordance with workload requirements of the individual department or office and departmental seniority. For this reason, it is essential that vacation requests be made in writing and submitted (a) at least one (1) week in advance of the proposed starting date for vacation requests of more than 16 hours, or (b) at least one (1) day in advance of the proposed starting date for vacation requests of 16 hours or less.
- D. Vacation leave is earned while in paid status to the maximum amounts outlined above, but additional vacation leave is not accrued through the accumulation of paid overtime. Vacation leave is not earned while an employee is in a no-pay status (leave of absence, disciplinary suspension, etc.)
- E. At the end of the last pay period of the year, an employee can carry over a maximum total of one and one-half (1½) times the number of regular vacation days to which he is entitled, as outlined above.
- F. At the end of the last pay period of the year, an employee can convert up to forty (40) hours of vacation to be paid on or around March 1. In order to be eligible to convert up to one week of vacation leave to compensation, the employee must have taken at least one (1) week of vacation to be used. Additionally, the employee must have reduced their vacation carry-over to the maximum amount of vacation time that can be accrued. Once vacation hours are converted to pay, the accrual bank is reduced by the number of hours converted.
- G. CW shall not accept any transfer of vacation time accumulated by another agency or political subdivision.
- H. Vacation time shall be taken in minimum units of one-half (1/2) hour.

- I. Prior service vacation credit will be granted consistent with Ohio law. Employee shall obtain service time on the former employer's letterhead specifying the dates of employment and whether the employee was full-time or part-time.
- J. Vacation days are based on forty (40) hour workweek accumulation to the maximum amounts outlined above.
- K. Newly accrued vacation time is not available for use until it becomes available on the employee's earning statement and on the date the funds are available.
- L. Vacation leave accrual will be pro-rated upon resignation.

SECTION 3.4: SICK LEAVE

- A. Sick leave is a full-time employee benefit that is to be used solely for the purposes outlined below. An employee may request sick leave for absences resulting from illness as described below, provided they follow "F" which is outlined below. Sick leave may be requested for the following reasons:
 - 1. Illness or injury of the employee or a member of his or her immediate family.
 - 2. Exposure of employee or member of his or her immediate family to a contagious disease which would have a potential of jeopardizing the health of the employee or the health of others.
 - 3. Bereavement Leave as defined below.
 - 4. Medical, dental, or optical examinations or treatment of employee or a member of his or her immediate family.
 - 5. Pregnancy, childbirth and/or related medical conditions of the employee or the employee's immediate family.

For the purposes of this sick leave policy, the "immediate family" is defined as only: mother, father, brother, sister, child, step-child, spouse, grandparent, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, legal guardian or other person who stands in the place of a parent.

- B. The Employer, or designee, maintains the right to investigate any employee's absence. Employees may be required to furnish satisfactory, signed written statement from a physician verifying the proper use of sick leave. The employee will submit to a medical examination, nursing visit or other inquiry which the Employer or designee requires.
- C. For each completed eighty (80) hours in active pay status, an employee earns 4.6 hours of sick leave. Active pay status may be defined as hours worked, hours on vacation, hours on holiday leave, and hours of paid sick leave but additional sick leave is not accrued through the accumulation of paid overtime. Sick leave shall not be advanced. However, employees that have exhausted all their accrued sick leave may request to use other forms of paid leave or an unpaid leave of absence at the sole discretion of CW.
- D. There is no limit on the amount of sick leave accrued. However, employees transferring to CW from other jurisdictions shall not be permitted to transfer sick leave.
- E. Sick leave shall be taken in minimum units of one-half (1/2) hour increments.

- F. Employees absent on sick leave shall be paid at the same basic hourly, daily or biweekly rate as when they are working.
- G. An employee requesting sick leave shall personally notify his or her supervisor at least ½ hour prior to the start of their scheduled shift. Notification by voice mail, email or text or a third party is not acceptable except in cases of emergency or at the discretion of the supervisor. The employee must indicate a qualifying reason for his or her absence. Failure to do so may result in denial of sick leave for the period of the absence. In cases where the employee's supervisor is not available, the employee shall notify their supervisor's immediate supervisor of the absence.
- H. Other leave may be used for sick leave purposes, at the employee's request and the approval of the Employer, after sick leave is exhausted. Other leave will be utilized in the following sequence: Compensatory time, personal leave and vacation leave, Employees who have exhausted all sick, compensatory, personal, and vacation leave may, at the discretion of the Employer, be granted a personal leave of absence without pay for a period not to exceed six (6) months.
- I. An employee fraudulently obtaining sick leave, or found falsifying sick leave records, altering a physician's certificate or falsification of a written, signed statement shall be subject to disciplinary action, up to and including termination.
- J. Regarding an employee's evaluation, CW will accept up to five (5) incidences of sick leave in a calendar year. An incident is defined as the uninterrupted number of scheduled work days or hours absent as a result of an illness.

Example: An employee has the flu and is off sick for two successive workdays. The employee has incurred one incident of sick leave, amounting to sixteen (16) hours of sick time used.

Example: An employee has an operation, and must be in the hospital for one week. The employee has incurred one incident of sick leave amounting to forty (40) hours of sick time used.

Example: An employee is sick for one day. A week later, the employee is sick again. The employee has incurred two (2) incidences of sick leave amounting to sixteen (16) hours of sick time used.

Example: An employee is in the hospital for two days. Because of the illness, the doctor has recommended physical therapy twice a week for the next three weeks. Each physical therapy visit is related to the initial hospital stay and the entire period will count as one incident.

- K. A return to work slip from a physician will be required to return to work after each sick leave incident that lasts for more than two (2) working days. For extended illnesses, a doctor's excuse is required every two (2) weeks, unless a specific release date is provided by the physician at the onset of the illness or injury.
- L. Regarding disciplinary action, employees that incur more than five (5) incidences of sick leave in a rolling twelve (12) month period may continue to use accrued sick time; however, more than five incidences of sick leave annually will be deemed unacceptable by CW. Employees will be disciplined in accordance with this Manual for unacceptable use of sick leave and will receive zero (0) points for attendance on their Performance Evaluation.
- M. Employees will be permitted four (4) non-concurrent up to two (2) hour allotments of sick time per

year to be used for pre-approved medical, dental or optical examinations. The use of these four (4) occurrences shall not be counted as a sick leave incident.

- N. Sick Leave Conversion – At the end of the pay period that includes December 31, an employee may convert to cash any part of their sick leave accrued not to exceed eighty (80) hours provided they maintain a minimum of six hundred (600) hours of sick leave after conversion. Payout will be 2 for 1 (e.g. ½ of their hourly rate) and will be paid on or around March 1.
- O. Newly accrued sick time is not available for use until it appears on the employee’s earnings statement and on the date the funds are available.
- P. Sick leave accrual will be pro-rated upon resignation.
- Q. Sick Leave Transfer - An employee, who transfers from any political subdivision to CW and who is eligible to earn sick leave with CW shall be credited with the unused balance of the previously accumulated sick leave bank up to a maximum of 600 hours. The employee must be hired by CW within ten years of resignation/separation from the prior employer to be eligible under this section. New employees whose sick leave is transferred must first use sick leave earned while employed with CW prior to using his/her transferred balance. Transferred sick leave cannot be applied to Section N – Sick Leave Conversion. Any transferred sick leave shall not be eligible for conversion to a cash payment at resignation or retirement.

SECTION 3.5: SICK LEAVE DONATION

CW shall maintain an equitable sick leave donation policy which allows employees to voluntarily provide assistance to any full-time employee of CW who needs leave due to injury or illness to the employee or the employee’s immediate family. For purposes of this sick leave donation policy, employees may only receive a sick leave donation if all other forms of their paid leave have been exhausted. Employees cannot use transferred sick leave under this policy. For purposes of this sick leave donation policy, immediate family shall include the employee’s spouse or children.

Employees’ may donate/receive sick leave up to the amount hours regularly worked by the employee during pay period. For example, if the employee is regularly scheduled to work eighty (80) hours, the employee may receive up to 80 hours in a pay period. Employees receiving a sick leave donation shall be deemed to be in active pay status eligible to accrue any other benefits to which they would otherwise be entitled.

An employee requesting to donate leave to an employee may do so by submitting a Sick Leave Donation Form to the Human Resources Coordinator. In order to donate sick leave, the employee must satisfy the following which is captured on the Sick Leave Donation form:

1. Indicate to whom the leave is donated.
2. Submit a written request/statement that the donation is voluntary;
3. Understand that the leave will not be returned once donated;
4. No less than four (4) and no more than forty (40) hours may be donated to any employee.
5. The employee must have a remaining sick leave balance of four hundred eighty (480) hours after a donation.

The Human Resources Coordinator will determine whether the donation is voluntary and if the necessary terms of the donation are satisfied. If the leave donation is approved, the employees will be notified in writing of the leave donation, as well as, the terms of the donation.

If multiple employees offer to donate leave, the leave will be distributed in an equitable manner. For example, if an employee needs ten (10) days and five (5) employees volunteer, then each employee would have two days deducted from their sick leave.

SECTION 3.6: BEREAVEMENT LEAVE

Any eligible employee may be granted use of accumulated sick leave, upon approval of the Employer or designee, for a maximum of three (3) consecutive working days in the event of a death of an immediate family member. For the purposes of this policy, the “immediate family” is defined as only: mother, father, brother, sister, child, step-child, spouse, grandparent, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, legal guardian or other person who stands in the place of a parent.

The use of sick time for bereavement leave shall not be counted as a sick leave incident.

SECTION 3.7: MILITARY LEAVE

CW will comply with all applicable State and Federal law concerning military leave.

SECTION 3.8: JURY DUTY (CIVIC DUTY LEAVE)

- A. If a full-time employee of CW is called for jury duty, he will be paid his regular salary or wage in full for the period of time that the employee serves in jury duty.
- B. All monies received as compensation for jury duty shall be turned over to the CW Clerk, unless jury duty was served outside of regular working hours.
- C. The employee will be expected to report for work following jury duty, if a reasonable amount of time remains during his scheduled workday. For example, if more than half the employee’s shift remains, the employee is to return to work. If otherwise required, an employee must serve on-call duties during hours that attendance at the courthouse is not required, unless the employee is sequestered.
- D. Employees shall also be entitled to leave without loss of pay to appear in court in matters related to their employment. However, employees shall not be entitled to paid court leave when appearing in court for criminal or civil cases, when the case is being heard in connection with the employee’s personal matters, or other non-work related matters. If employees are required to appear in court for a personal or non-work matter, employees may request a leave without pay, the use of vacation leave or other form of paid leave. Paid leave may be used upon the prior request to and approval of the Department Head.
- E. Time served by an employee for court leave or jury duty shall not be considered hours worked for purposes of calculating overtime, unless such court service is directly related or is an integral part of the employee’s work duties.

SECTION 3.9: LEAVE WITHOUT PAY

- A. At the sole discretion of CW, the Employer may grant a leave of absence to any employee for a maximum duration of six months upon the written request of the employee. Leave without pay may be granted for personal reasons, educational opportunities of the employee or due to an illness, injury or temporary disability. Such a leave may not be renewed or extended beyond six months.

A failure of the employee to return at the conclusion of a leave of absence without pay will result in the employee being deemed to have voluntarily resigned their position.

- B. The authorization of a leave of absence without pay is a matter of administrative discretion. The Employer will decide in each individual case if a leave of absence is to be granted.
- C. Except for emergencies, employees will advise the Employer sixty days prior to commencement of the desired leave so that the various functions may proceed properly.
- D. Upon completion of a leave of absence, the employee shall be returned to the position formerly occupied, or to a similar position if the employee's former position no longer exists, unless the employee would otherwise have been separated from service.
- E. An employee may return to work before the scheduled expiration of leave if requested by the employee and agreed to by the Employer.

SECTION 3.10: SEPARATION PAY

- A. Upon separation from employment for any reason, an eligible employee shall be paid any credited unused vacation as of the date of such separation. Compensatory time will be paid out to nonexempt employees only. Personal leave will not be paid out at separation.
- B. Upon separation from employment due to retirement of the employee and/or death of the employee, an eligible employee or beneficiary shall be paid for one-fourth ($\frac{1}{4}$) of their accumulated sick leave to a maximum of sixty (60) days or 480 hours. However, to be eligible for sick leave pay-off, the employee must have ten (10) years of public service, be eligible to retire and actually retire. In the event the employee converts any unused sick leave at retirement, such conversion will empty the employee's sick leave bank.
- C. Such payments will be made within thirty (30) days of the separation.

SECTION 3.11: FAMILY MEDICAL LEAVE

The Family Medical Leave Act (FMLA) allows eligible employees to take up to 12 weeks of leave time in a rolling 12 month period for family and/or medical leave of absence or for childbirth, adoption and foster care. An employee who has been employed by CW for at least twelve months and has been in "active pay status" at least 1250 hours during the past 12 months is eligible for FMLA leave. CW will comply with all applicable State and Federal laws concerning FMLA. For employees not eligible for FMLA, CW will review business considerations and the individual circumstances involved. CW requires reasonable documentation. For further information, please contact Human Resources.

SECTION 3.12: BREASTFEEDING MOTHERS

All employees that have recently given birth shall be allowed reasonable break time in order to express milk for her feeding child each time the employee has a need to express milk, up to one year after the child's birth. The employee will be provided an appropriate space, other than a bathroom, that is shielded from view and free from intrusion from co-workers and members of the public, for the purpose of expressing milk. Breaks for the purpose of expressing milk in accordance with this policy shall be unpaid.

SECTION 4.0: INCLEMENT WEATHER (NON-PUBLIC SERVICE DEPARTMENTS)

- A. Weather conditions normally should not prevent employees from reporting for work. When weather conditions are extremely severe, and when all other options have been exhausted, the Employer or designee shall be contacted.
- B. CW recognizes that on certain days it may be difficult for a scheduled employee to come into work, due to excessive snow, ice or other inclement weather. Caution and care should be exercised upon attempting to report to work under such conditions.
- C. Scheduled employees who are able to come into work on such inclement days shall be paid their regular wage for actual time worked. Those employees who are not able to come into work due to inclement weather shall have the option of receiving an excused day off without pay or using time from vacation hours.
- D. Exceptions to A, B and C will occur when a state of emergency is properly declared. The only authorities allowed to make such a declaration are the President of the United States, the Governor of the State of Ohio, the Franklin or Fairfield County Sheriff or Mayor. Employees will receive full pay in the event that a state of emergency is properly declared.
- E. In extreme weather conditions the Employer may institute a closing or change in arrival and closing times without approval or institution of (D) of this section.

SECTION 4.1: INCLEMENT WEATHER (PUBLIC SERVICE DEPARTMENTS)

Public Service department personnel are required to come into work regardless of the weather conditions. When weather conditions are extremely severe, and when all other options have been exhausted, the Employer or designee shall be contacted. Arrangements may be made to pick up the employee at home. Employees shall exercise caution and care upon attempting to report to work in severe weather conditions.

SECTION 4.2: CONTINUING EDUCATION AND TUITION REIMBURSEMENT

A. Continuing Education

A full-time employee of CW may be permitted to attend a continuing education event when directly related to the employee's field of work. For purposes of this section, continuing education is defined as a single or multi-day professional seminar, conference, workshop, meeting or class. All requests to attend such an event must have prior approval from the appropriate supervisor and/or Department Head. The employee may be permitted to attend the event with full pay and without the use of paid time off. In certain instances, an employee may be required to use paid time off. Such instances shall be discussed prior to the event.

B. Tuition Reimbursement

Contingent on budget allocations, City employees may be eligible to receive financial assistance to attend educational courses at fully-accredited educational institutions in order to foster personal development in job-related areas as well as career development. The city will require the employee to sign an agreement which will outline the specific criteria prior to receiving reimbursement.

SECTION 4.3: HOURS OF WORK

The typical workweek for CW employees is forty (40) hours per week. Due to the nature of their operations, many departments have different schedules, shifts or special arrangements. Work schedules for these operations are determined by the respective department heads and approved by the Employer; provided, however, that an employee shall work no more than a maximum of sixteen continuous hours. In the event an employee works sixteen hours, an eight-hour break shall be required before such employee may return to work.

SECTION 4.4: ATTENDANCE

The Employer or designee shall establish daily work schedules and maintain daily employee attendance records. Attendance is an essential function of all positions. Good attendance is expected and tardiness is not tolerated. Employees are required to be at work during regularly scheduled hours unless otherwise excused. Absences without proper authorization and approval will result in disciplinary action, up to and including termination.

SECTION 4.5: STARTING/QUITTING

- A. Employees will report to work no earlier than fifteen (15) minutes prior to their scheduled starting time, and conclude their workday no later than fifteen (15) minutes after their scheduled quitting time unless authorized by the Employer or designee.
- B. Employees are required to record their hours worked in the manner provide by the Employer. At the conclusion of the pay period, employees are required to verify the accuracy of the hours worked.
- C. Employees are expected to promptly report to work at their scheduled starting time and perform the functions of their position. Employees who fail to comply with this work requirement will be subject to disciplinary action.

SECTION 4.6: TARDINESS

Tardiness on a regular basis is inexcusable and will subject an employee to disciplinary action. Tardiness is defined as any situation where an employee reports to work after his scheduled starting time. Whenever an employee is tardy, that employee may be subject to a reduction in pay corresponding to the amount of time he was late, unless the employee's tardiness is excused by the employee's supervisor.

SECTION 4.7: LUNCH PERIOD/BREAKS

- A. Breaks may be provided by the Department Head so long as the breaks do not interfere with the employee's work. Employees may be provided one-half (½) hour unpaid time off for lunch, generally to be taken in the middle of the workday unless unusual or emergency conditions exist.
- B. Breaks shall be considered a privilege and not a right and shall not interfere with the proper performance of the employee's work responsibilities.

SECTION 4.8: SAFETY AND HEALTH

Work safety and health is a primary concern. The safe and healthful performance of all work assignments is the responsibility of both supervisory and non-supervisory personnel. It is the responsibility of each employee to ensure that all equipment is used safely and all safety procedure/practices are observed.

- A. Any employee found to be negligent in equipment operation, resulting either in damage to the equipment or an accident, shall be disciplined according to these policies.
- B. Any employee found to be willfully or deliberately negligent in equipment operation, resulting in either damage to the equipment or an accident, shall be subject to discipline, up to and including termination.
- C. All employees, particularly supervisors, are charged with the responsibility of reporting the existence of any hazardous condition or practice in the workplace. In the event an employee believes they are subject to an unsafe working condition, the employee shall immediately notify the supervisor who shall investigate and make a determination.
- D. Employees are required to wear the prescribed safety equipment. A failure to wear safety equipment as required will result in discipline, up to and including termination.
- E. Supervisors found to be negligent in requiring and/or controlling the use of prescribed safety equipment are subject to disciplinary action, including termination.

SECTION 4.9: TOOLS, SUPPLIES, EQUIPMENT, VEHICLES, PHONES AND OFF-DUTY COMMUNICATION

- A. Tools, supplies, vehicles and equipment needed to perform job duties are provided by the Employer or designee. It is the responsibility of employees to see that they are properly used, maintained, and returned to the proper department in good working order.
- B. Misuse, neglect, theft and abuse of tools, supplies, vehicles, equipment or telephones is prohibited. Excessive use of telephones and/or long distance telephone calls for purposes other than business without prior supervisory approval shall result in disciplinary action.
- C. The personal use of any tools, supplies, vehicles or equipment is strictly forbidden and such use may subject the employee to discipline up to and including termination, any provision of this Manual regarding progressive discipline to the contrary notwithstanding.
- D. Non-employee passengers shall not be permitted in CW vehicles without the approval of the Employer or designee.
- E. Employees who are granted cell phones and have cell phone privileges are required to adhere to the provisions set forth below:

Cell phones are not only capable of making and receiving phone calls, they may also be capable of email, text messaging, internet browsing, running third party applications, GPS, and entertainment (e.g. games, music, videos). Features other than phone use must not be used or activated without direct authorization from your department head.

Employees should have no reasonable expectation of privacy in the use of City-issued cell phones.

Personal cell-phones may be permitted upon the prior approval of your direct-supervisor. Any permitted usage of personal cell-phones, however, must be kept to a minimum and in no way shall their usage negatively impact the performance of your job duties.

Employees involved in motor vehicle accidents attributed to cell phone usage while operating said

vehicle will be subject to appropriate disciplinary action, up to and including termination.

- F. Employee Off-Duty Electronic Communication - The City supports the free exchange of information and camaraderie among employees on the internet off-duty. However, when internet blogging, chat room discussions, email, text messages or other forms of electronic communication extend to employees revealing confidential information about the City, or engaging in posting inappropriate material about the City or its employees, the employee who posts such information or assists in posting such material may be subject to disciplinary action, up to and including termination. Confidential information includes any information that would otherwise not be available pursuant to a public records request. Inappropriate material includes but is not limited to false or defamatory material, evidence of an employee's violation of the law, or evidence of the misuse of the City authority, insignia or equipment. Employees may also be subject to discipline, up to and including termination, for engaging in conduct which reflects negatively on the City or impacts the employees' ability to perform their job duties. Employees communicating on personal sites shall not claim or imply that they are communicating on behalf of the City. Employees with questions about this policy should contact their supervisor for guidance.
- G. Employees who improperly use CW computers, internet and other equipment will be subject to discipline including termination.

SECTION 5.0: TECHNOLOGY USAGE AND SOCIAL MEDIA POLICY

The use of the City of Canal Winchester automation systems, including computers, fax machines, and all forms of Internet/intranet access, is for City of Canal Winchester business and for authorized purposes only. Brief and occasional personal use of the electronic mail system or the Internet is acceptable as long as it is not excessive or inappropriate, occurs during personal time (lunch or other breaks), and does not result in expense or harm to the City of Canal Winchester or otherwise violate this policy.

Use is defined as "excessive" if it interferes with normal job functions, responsiveness, or the ability to perform daily job activities. Electronic communication should not be used to solicit or sell products or services that are unrelated to the City of Canal Winchester's business; distract, intimidate, or harass coworkers or third parties; or disrupt the workplace.

Use of City of Canal Winchester computers, networks, and Internet access is a privilege granted by management and may be revoked at any time for inappropriate conduct carried out on such systems, including, but not limited to:

- Sending chain letters or participating in any way in the creation or transmission of unsolicited commercial e-mail ("spam") that is unrelated to legitimate City of Canal Winchester purposes;
- Engaging in private or personal business activities, including excessive use of instant messaging and chat rooms (see below);
- Accessing networks, servers, drives, folders, or files to which the employee has not been granted access or authorization from someone with the right to make such a grant;
- Making unauthorized copies of City of Canal Winchester files or other City of Canal Winchester data;
- Destroying, deleting, erasing, or concealing City of Canal Winchester files or other City of Canal Winchester data, or otherwise making such files or data unavailable or inaccessible to the City of Canal Winchester or to other authorized users of City of Canal Winchester systems;
- Misrepresenting oneself or the City of Canal Winchester;

- Violating the laws and regulations of the United States or any other nation or any state, city, province, or other local jurisdiction in any way;
- Engaging in unlawful or malicious activities;
- Deliberately propagating any virus, worm, Trojan horse, trap-door program code, or other code or file designed to disrupt, disable, impair, or otherwise harm either the City of Canal Winchester's networks or systems or those of any other individual or entity;
- Using abusive, profane, threatening, racist, sexist, or otherwise objectionable language in either public or private messages;
- Sending, receiving, or accessing pornographic materials;
- Becoming involved in partisan politics;
- Causing congestion, disruption, disablement, alteration, or impairment of City of Canal Winchester networks or systems;
- Maintaining, organizing, or participating in non-work-related Web logs ("blogs"), Web journals, "chat rooms", or private/personal/instant messaging;
- Failing to log off any secure, controlled-access computer or other form of electronic data system to which you are assigned, if you leave such computer or system unattended;
- Using recreational games; and/or
- Defeating or attempting to defeat security restrictions on City of Canal Winchester systems and applications.

Using City of Canal Winchester automation systems to access, create, view, transmit, or receive racist, sexist, threatening, or otherwise objectionable or illegal material, defined as any visual, textual, or auditory entity, file, or data, is strictly prohibited. Such material violates the City of Canal Winchester anti-harassment policies and subjects the responsible employee to disciplinary action. The City of Canal Winchester's electronic mail system, Internet access, and computer systems must not be used to harm others or to violate the laws and regulations of the United States or any other nation or any state, city, province, or other local jurisdiction in any way. Use of City of Canal Winchester resources for illegal activity can lead to disciplinary action, up to and including dismissal and criminal prosecution. The City of Canal Winchester will comply with reasonable requests from law enforcement and regulatory agencies for logs, diaries, archives, or files on individual Internet activities, e-mail use, and/or computer use.

Unless specifically granted in this policy, any non-business use of the City of Canal Winchester's automation systems is expressly forbidden.

If you violate these policies, you could be subject to disciplinary action, up to and including dismissal.

Ownership and Access of Electronic Mail, Internet Access, and Computer Files; No Expectation of Privacy

The City of Canal Winchester owns the rights to all data and files in any computer, network, or other information system used in the City of Canal Winchester and to all data and files sent or received using any City of Canal Winchester system or using the City of Canal Winchester's access to any computer network, to the extent that such rights are not superseded by applicable laws relating to intellectual property. The City of Canal Winchester also reserves the right to monitor electronic mail messages (including personal/private/instant messaging systems) and their content, as well as any and all use by employees of the Internet and of computer equipment used to create, view, or access e-mail and Internet content. Employees must be aware that the electronic mail messages sent and received using City of Canal Winchester equipment or City of Canal Winchester-provided Internet access, including web-based messaging systems used with such systems or access, are not private and are subject to viewing, downloading, inspection, release, and archiving by City of Canal Winchester officials at all times. The City of Canal Winchester has the right to inspect any and all files stored in private areas of the network or

on individual computers or storage media in order to assure compliance with City of Canal Winchester policies and state and federal laws. No employee may access another employee's computer, computer files, or electronic mail messages without prior authorization from either the employee or an appropriate City of Canal Winchester official.

The City of Canal Winchester uses software in its electronic information systems that allows monitoring by authorized personnel and that creates and stores copies of any messages, files, or other information that is entered into, received by, sent, or viewed on such systems. There is no expectation of privacy in any information or activity conducted, sent, performed, or viewed on or with City of Canal Winchester equipment or Internet access. Accordingly, employees should assume that whatever they do, type, enter, send, receive, and view on City of Canal Winchester electronic information systems is electronically stored and subject to inspection, monitoring, evaluation, and City of Canal Winchester use at any time. Further, employees who use City of Canal Winchester systems and Internet access to send or receive files or other data that would otherwise be subject to any kind of confidentiality or disclosure privilege thereby waive whatever right they may have to assert such confidentiality or privilege from disclosure. Employees who wish to maintain their right to confidentiality or a disclosure privilege must send or receive such information using some means other than City of Canal Winchester systems or the City of Canal Winchester-provided Internet access.

The City of Canal Winchester has licensed the use of certain commercial software application programs for business purposes. Third parties retain the ownership and distribution rights to such software. No employee may create, use, or distribute copies of such software that are not in compliance with the license agreements for the software. Violation of this policy can lead to disciplinary action, up to and including dismissal.

Confidentiality of Electronic Mail

As noted above, electronic mail is subject at all times to monitoring, and the release of specific information is subject to applicable state and federal laws and City of Canal Winchester rules, policies, and procedures on confidentiality. Existing rules, policies, and procedures governing the sharing of confidential information also apply to the sharing of information via commercial software. Since there is the possibility that any message could be shared with or without your permission or knowledge, the best rule to follow in the use of electronic mail for non-work-related information is to decide if you would post the information on the office bulletin board with your signature.

It is a violation of City of Canal Winchester policy for any employee, including system administrators and supervisors, to access electronic mail and computer systems files to satisfy curiosity about the affairs of others, unless such access is directly related to that employee's job duties. Employees found to have engaged in such activities will be subject to disciplinary action.

Electronic Mail Tampering

Electronic mail messages received should not be altered without the sender's permission; nor should electronic mail be altered and forwarded to another user and/or unauthorized attachments be placed on another's electronic mail message.

Policy Statement for Internet/Intranet Browser(s)

The Internet is to be used to further the City of Canal Winchester's mission, to provide effective service of the highest quality to the City of Canal Winchester's customers and staff, and to support other direct job-related purposes. Supervisors should work with employees to determine the appropriateness of using

the Internet for professional activities and career development. The various modes of Internet/Intranet access are City of Canal Winchester resources and are provided as business tools to employees who may use them for research, professional development, and work-related communications. Limited personal use of Internet resources is a special exception to the general prohibition against the personal use of computer equipment and software.

Employees are individually liable for any and all damages incurred as a result of violating City of Canal Winchester security policy, copyright, and licensing agreements.

All City of Canal Winchester policies and procedures apply to employees' conduct on the Internet, especially, but not exclusively, relating to: intellectual property, confidentiality, City of Canal Winchester information dissemination, standards of conduct, misuse of City of Canal Winchester resources, anti-harassment, and information and data security.

Personal Electronic Equipment

The City of Canal Winchester prohibits the use or possession in the workplace of any type of camera phone, cell phone camera, digital camera, video camera, or other form of image- or voice-recording device without the express permission of the City of Canal Winchester and of each person whose image and/or voice is/are recorded. Employees with such devices should leave them at home unless expressly permitted by the City of Canal Winchester to do otherwise. This provision does not apply to designated City of Canal Winchester personnel who must use such devices in connection with their positions of employment.

Employees should not bring personal computers or data storage devices (such as floppy disks, CDs/DVDs, external hard drives, flash drives, "smart" phones, iPods/iPads/iTouch or similar devices, mobile computing devices, or other data storage media) to the workplace or connect them to City of Canal Winchester electronic systems unless expressly permitted to do so by the City of Canal Winchester. Any employee bringing a personal computing device, data storage device, or image-recording device onto City of Canal Winchester premises thereby gives permission to the City of Canal Winchester to inspect the personal computer, data storage device, or image-recording device at any time with personnel of the City of Canal Winchester's choosing and to analyze any files, other data, or data storage devices or media that may be within or connectable to the personal computer or image-recording device in question. Employees who do not wish such inspections to be done on their personal computers, data storage devices, or imaging devices should not bring such items to work at all.

Violation of this policy, or failure to permit an inspection of any device covered by this policy, shall result in disciplinary action, up to and possibly including immediate termination of employment, depending upon the severity and repeat nature of the offense. In addition, the employee may face both civil and criminal liability from the City of Canal Winchester, from law enforcement officials, or from individuals whose rights are harmed by the violation.

As the use of social media such as Facebook becomes more popular, it is important that employees understand their responsibilities and limitations on the use of social media both during and off work. While on duty, employees shall not access or use social networking sites such as MySpace, Facebook, Linked-in, Twitter and blogs or chat rooms unless their position requires the updating of the City social media site. Employees shall not divulge any confidential information on any social media site under any circumstances. Employees accessing these or similar sites are responsible for the information that comes up on these sites. Employees who are accessing pages on these sites displaying information of a discriminatory, sexual or other inappropriate content shall be subject to disciplinary action.

While off duty, employees are reminded to be careful of the information they disclose on the internet, including social media sites. Employees may not disclose any confidential information they become aware of through their employment even while off duty. Employees shall not claim or imply that they are speaking on behalf of their employer. Employees may not engage in conduct that reflects negatively on their employer or impacts their ability to perform their job duties.

If the appointing authority has a Facebook page or other social media site, employees may only post information on the site with permission from the appointing authority.

Employees may be subject to disciplinary action for inappropriate use of the internet, including social media sites while on or off duty.

Social Media – Employee’s Comments

The City hosts social media sites which allow members of the public to post comments and questions. The purpose of this site is for the City to disseminate relevant information to the public, as well as to receive relevant feedback from the public.

As a member of the public, you have the opportunity to post on our Facebook site. Your posts are subject to the same restrictions imposed on other members of the public. The City routinely monitors its social media pages. We reserve the right to delete posts which contain any of the following:

1. Profane or obscene material;
2. Any vulgar or abusive language, personal attacks of any kind, or offensive terms targeting individuals or groups;
3. Spam or posts which include links to other non-city sites;
4. Posts which are clearly off-topic;
5. An encouragement to engage in illegal activity;
6. Infringement on copyright or trademarks;
7. Confidential or non-public information;
8. Solicitation of services or products;
9. Any illegal or inappropriate material;
10. Endorsements of political parties, candidates or groups;
11. Any other information or language which is deemed inappropriate.

In addition, as an employee, you may have confidential information or knowledge as a result of your employment. This information or knowledge may not be proper for disclosure. Employees shall not disseminate confidential information or other information that is not of public concern, which includes but is not limited to information related to personnel decisions. Employees with questions about whether information is of public concern shall contact their supervisor for guidance.

Remember that, as with most forms of social media, comments posted on Facebook and other social media sites are not private. All posts may constitute a public record and may be disclosed pursuant to a public records request.

Employees who violate this policy by posting inappropriate material or assisting others in posting inappropriate material may be subject to discipline, up to and including termination.

SECTION 5.1: USE OF VEHICLES

- A. Use of CW motor vehicles shall be strictly controlled by the Employer or designee and shall be restricted to CW purposes only. Only government employees and persons with whom the operator is actually transacting city business are to be transported.
- B. Employees operating a motor vehicle are required to have the proper, valid motor vehicle operator's license or CDL's or other appropriate license where required by law and job description. New employees shall have the appropriate license at the time they commence employment, however, the Employer may authorize an extension of the time period up to 120 days from employment with CW to obtain an appropriate licensure if warranted by the circumstances.
- C. Employees are required to use their own vehicles to get to and from work. CW vehicles are not to be used for this purpose unless explicitly authorized by the Employer, who shall maintain the authority to refuse such permission.
- D. Any employee who operates a CW vehicle shall exercise caution and responsibility and shall adhere to all safety regulations. All violations and accidents shall be reported in accordance with these policies and the Ohio Revised Code and are subject to disciplinary action.
- E. Any equipment or vehicular accident, even those involving any property, must be reported to the immediate supervisor immediately; the Supervisor shall notify the Employer or designee. An incident report must be completed.
- F. Employees are required to notify their Department Head, or designee, of any incidents or infractions that may render the employee uninsurable pursuant to CW's policy. Similarly, it is the employee's responsibility to notify/inform their Department Head of any restriction or prohibition placed upon their driving privileges if driving is required.
- G. All employees that are required to drive shall remain insurable under CW's insurance policy. A failure to remain insurable will render the employee unqualified for the position.

SECTION 5.2: EMPLOYEE TRAFFIC ACCIDENTS

- A. If any CW employee is involved in a traffic accident driving CW equipment, whether the employee is full-time, part-time, volunteer, on duty or off duty, the accident shall be reported to the proper jurisdiction to perform the proper accident reporting procedure. An "accident" shall be defined as physical contact with another moving or stationary motor vehicle or with a fixed object.
- B. If an employee of any department is involved in a traffic accident, they will notify the dispatcher to contact the proper agency and a supervisor. Each vehicle has instructions in the glove compartment concerning the proper actions to take after an accident. All employees who are operating city vehicles should become familiar with these procedures prior to operating the city vehicles.
- C. Under no circumstances will an employee fail to report any damage to a CW vehicle to the supervisor at the time the accident occurs. Failure to do so will result in disciplinary action.

- D. Employees who are involved in traffic accidents must comply with any requirement regarding submission of the Department of Transportation (DOT) post-accident drug and alcohol testing.

SECTION 5.3: OUTSIDE EMPLOYMENT/VOLUNTEER SERVICE

- A. Prior to engaging in any outside employment or volunteer service, CW employees shall obtain the approval of the Department Head. Under no circumstances shall an employee have other employment or volunteer service which conflicts with the policies, objectives and operations of the several departments of CW. In addition, an employee shall not become indebted to a second Employer whose interests might be in conflict with those of CW. Due to potential conflicts, employees maintaining outside employment or volunteer service are required to review CW's Ethics Policy and Ohio's Ethics Law before undertaking such outside employment.
- B. Employment "conflicts" as set forth in this policy, are when a second job impairs the employee's ability to perform the duties of his position. In the event an employee's outside employment conflicts with their primary employment with CW, the employee will be disciplined, up to and including termination.
- C. Full-time employment with CW shall be considered the employee's primary occupation, taking precedence over all other occupations.
- D. "Outside" employment, volunteer service, or "moonlighting" shall be a concern to the Employer or designee only if it adversely affects the employee's job performance. Two common employment conflicts which may arise are:
 - 1. *Time Conflict* - Defined as when the working hours required of a "secondary job" directly conflict with the scheduled working hours of an employee's job with CW, or when demands of a "secondary job" prohibit adequate rest, thereby adversely affecting the quality standard of the employee's job performance with CW. A conflict also exists if a second job causes the employee to regularly refuse overtime.
 - 2. *Interest Conflict* - Defined as when an employee engages in "outside employment" which tends to compromise his judgment, actions and/or job performance with CW.

SECTION 5.4: NO SOLICITATION/NO DISTRIBUTION

Solicitation, distribution of materials, selling and/or collections of any nature on CW property or during employee working hours by an employee or any other individual shall be prohibited without prior approval of the Employer and/or Department Head. CW limits solicitation and distribution on its premises as those activities can interfere with the CW's operations, reduce employee efficiency, annoy customers, and pose a threat to security.

Individuals not employed by the CW are prohibited from soliciting funds or signatures, conducting membership drives, distributing literature or gifts, offering to sell merchandise or services (except by representatives of suppliers or vendors given prior authority), or engaging in any other solicitation, distribution, or similar activity on the premises or at a worksite.

CW may authorize a limited number of fund drives by employees on behalf of charitable organizations or for employee gifts. Employees are encouraged to volunteer to assist these drives; however, participation is entirely voluntary.

The following restrictions apply when employees engage in permitted solicitation or distribution of literature for any group or organization, including charitable organizations:

1. The distribution of literature, solicitation and the sale of merchandise or services is prohibited in public areas.
2. Soliciting and distributing literature during the working time of either the employee making the solicitation or distribution, or the targeted employee, is prohibited. The term “working time” does not include an employee’s authorized lunch or breaks or other times when the employee is not required to be working.
3. Distributing literature in a way that causes litter on CW property is prohibited.

CW maintains various communications systems to communicate CW-related information to employees and to disseminate or post notices required by law. The unauthorized use of the communications systems or the distribution or posting of notices, photographs, or other materials on any CW property is prohibited.

Employees who violate this provision are subject to discipline. All violations of this policy will be addressed on a case-by-case basis. Disciplinary measures will be determined by the severity of the violation, not the content of the solicitation or literature involved.

SECTION 5.5: DRESS CODE

CW reserves the right to prescribe appropriate dress or uniform for each department. CW requires that an employee’s clothing, grooming and overall appearance be appropriate, in good taste and present a favorable public image. Clothing should be conducive to the safe and effective performance of required job duties. Employees who are issued uniforms are required to wear uniforms that are provided.

SECTION 5.6: MEDICATION

Any employee on medication that may impair his mental or physical functions must notify his supervisor before starting work.

SECTION 5.7: CONTACT WITH NEWS MEDIA/RESIDENTS

- A. Any employee contacted by the news media (radio, television, newspaper) or resident on a story related to CW operations should request the caller to contact the Employer or designee.
- B. This policy is designed to avoid duplication, assure accuracy and to protect employees who might be accused of violation of confidentiality mandates. The intent of this policy is to be helpful to both employees and the media.

SECTION 5.8: ACCESS TO EMPLOYEES BY TELEPHONE

As a condition of continued Employment, each CW employee must provide his supervisor with a telephone number where said employee may be reached directly. It shall be the employee’s responsibility to update the Employer with any new or changed contact information. All communications with employees will be through the most recent contact information provided. A failure to update the Employer with the most

recent contact information may not only result in the employee not receiving up-to-date information, but also may result in disciplinary action.

SECTION 5.9: UNAUTHORIZED PERSONS ENTERING CW PROPERTY OR USING FACILITIES

- A. No unauthorized employee shall be permitted to enter or remain on CW property or in CW facilities that are restricted, i.e. that are not accessible by the general public.
- B. All CW employees shall report to the designated supervisor to obtain permission to remain on CW property or use CW facilities after working hours.
- C. Any CW employee who violates this policy will be subject to disciplinary action.

SECTION 6.0: RETURNING OF CW PROPERTY

An employee leaving CW service through resignation, lay off or dismissal is responsible for return of reusable CW property in his possession.

SECTION 6.1: HARASSMENT AND DISCRIMINATION

CW's policy is to provide its employees an environment free of employee discrimination, including harassment based on an employee's race, color, religion, sex, national origin, age, ancestry, disability or military status. Sexual harassment, as well as, other forms of unlawful harassment, is inappropriate, illegal and will not be tolerated. Unlawful harassment interferes with the well-being and productivity of employees and the efficiency of the organization, negatively affecting morale, motivation and job performance.

Sexual harassment is generally defined as unwelcome sexual advances, comments or requests. Sexual harassment is a form of sex discrimination that is an "unlawful employment practice" prohibited by state and federal law. Sexual harassment exists when employment decisions are based on sexual conduct or when the work place is so permeated with conduct of a sexual nature that the conduct alters the terms and conditions of employment and creates an abusive and hostile working environment. Harassment based on race, national origin, religion, disability, pregnancy, age, or military status exists when employment decisions are based on those characteristics or when the workplace is so permeated with conduct relating to that characteristic that it alters the terms and conditions of employment and creates a hostile work environment. This policy refers to "sexual" harassment solely for ease of reference. When this policy references "sexual" harassment, all other forms of prohibited harassment as set forth herein are equally applicable.

Sexual or other unlawful harassment does not generally encompass conduct of a socially acceptable nature; however, some conduct which is appropriate in a social setting may be inappropriate in the work place. Sexual harassment occurs either when behavior of a sexual nature is directed toward an employee who finds the behavior unwelcome and offensive or when behavior of a sexual nature fails to respect rights of others, is demeaning or lowers morale. Acquiescence in the behavior does not negate the existence of sexual harassment. "Unwelcome" does not mean involuntary.

Prohibited conduct includes, but is not limited to, sexual comments, suggestions, jokes, leering, pats, squeezes or other similar contact, posting of sexual pictures, cartoons, photos or other graphics. In addition, comments, suggestions, jokes, and other similar activities relating to race, national origin, religion, disability, pregnancy, age, and military status are prohibited. This type of conduct constitutes unlawful

harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of employment;
2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting the individual; or
3. Such conduct has the purpose or effect of substantially interfering with work performance or creating an intimidating, hostile or offensive working environment.

Sexual and other unlawful harassment may also extend beyond the confines of this organization. Conduct that occurs off duty and off premises, including online, against a CW employee may also be subject to this policy.

Employees who feel they have been subject to sexual or other unlawful harassment by a fellow employee, supervisor, or other individual otherwise affiliated with CW shall immediately submit a written report of harassment to their Department Head. Employees who feel that they have witnessed discrimination or harassment, or who have questions or concerns regarding possible harassment, should immediately contact their Department Head. Employees may also use the Complaint Procedure outlined in this Manual. Late reporting of complaints will not, in and of itself, preclude the Employer from taking remedial action. However, so that a thorough and accurate investigation may be conducted, employees are encouraged to report complaints in an expedient manner following the harassing or offensive incident.

Although employees are encouraged to confront the alleged harasser, they are also required to submit a written report of any incident to their Department Head. When the Department Head is notified of the alleged harassment, he shall immediately investigate the complaint. The investigation may include private interviews of the employee allegedly harassed, the employee committing the alleged harassment and any and all witnesses. Information will be kept as confidential as practicable, although confidentiality cannot be guaranteed. All employees are required to cooperate in any investigation of a harassment complaint. Determinations of harassment shall be made on a case-by-case basis. If the investigation reveals the complaint is valid, prompt attention and disciplinary action designed to stop the harassment and prevent its recurrence will be taken.

Neither CW nor any of its supervisors and employees shall in any way retaliate against an individual for filing a complaint, reporting harassment or participating in an investigation. Any employee who feels that he is subjected to retaliatory conduct as a result of actions taken under this policy shall report such conduct to the department head or Appointing Authority immediately. Any person found to have retaliated against an individual for engaging in activity protected by this policy will be subject to the same disciplinary action provided for offenders of the sexual harassment policy. Disciplinary action for the filing of a false complaint shall not be considered a retaliatory act.

Although legitimate complaints made in good faith are strongly encouraged, false complaints or complaints made in bad faith will not be tolerated. Failure to prove sexual harassment will not constitute a false complaint without further evidence of bad faith. False complaints are considered a violation of this policy and an employee who makes a false complaint may be subject to discipline.

Sexual harassment is considered to be a failure of good behavior and will not be tolerated. Disciplinary

action will follow a violation of this policy and will reflect the seriousness of the violation. If the investigation establishes that the accused employee engaged in sexual harassment, discipline, up to and including removal, will be administered. Offenders will be disciplined without regard to their position or job performance. Any individual exhibiting retaliatory or harassing behavior towards an employee exercising a right under this policy will also be subject to discipline. Any employee who has knowledge of sexually harassing conduct and who allows that conduct to go unaddressed may also be subject to discipline.

SECTION 6.2: AMERICANS WITH DISABILITIES

CW prohibits discrimination in hiring, promotions, transfers or any other benefits or privileges of employment, of any qualified individual with a disability. To be considered a qualified individual, the employee must be otherwise qualified to perform the essential functions of the position with or without reasonable accommodation.

CW will provide reasonable accommodation(s) to an otherwise qualified employee with a disability, unless the accommodation would pose an undue hardship to CW or create a direct threat of harm to the employee or others. Accommodations will be made on a case-by-case basis. Any employee who wishes to request a reasonable accommodation should submit a written request to the Department Head, or Human Resources Coordinator. Following the request, CW and the employee will discuss whether an accommodation is appropriate, as well as, the type of accommodation to be given.

Any employee who feels that their rights have been violated should submit a written complaint consistent with the Harassment Policy.

SECTION 6.3: COMPLAINT POLICY

Employees may have questions and complaints that develop in the day to day activities of employment, of which may be caused by misunderstandings and the application of policies, procedures and work rules. It is the policy of CW that these should be heard promptly, and action taken to resolve or clarify the particular situation.

All employees, including probationary, shall have the right to file a complaint without fear of retaliation. No employee shall be disciplined, harassed or treated unfairly in any manner as a result of filing a complaint or testifying in a grievance hearing.

A. Complaint:

A complaint is defined as a disagreement between an employee and CW as to the interpretation or application of official policies, departmental rules and regulations, or other disagreements perceived to be unfair or inequitable relating to treatment or other conditions of employment.

B. Health and Safety Grievances:

Complaints relating to issues of health and/or safety shall be expedited through the steps of the procedure.

SECTION 6.4: COMPLAINT PROCEDURE

Step 1 - Immediate Supervisor:

An employee having a complaint shall file it in writing with his Immediate Supervisor, as outlined in the procedure for his work unit. The employee's Immediate Supervisor will review the

complaint and attempt to resolve the complaint within seven (7) calendar days. Step 1 may be bypassed by either the employee or Immediate Supervisor if the Immediate Supervisor lacks the authority to make a change.

Step 2 –Department Head:

Where the employee is not satisfied with Step 1 Response of the Immediate Supervisor, the employee may submit the original complaint to the Department Head within seven (7) calendar days. The Department Head will review all material provided and submit to the employee a response in a timely manner.

Step 3-Employer (Mayor):

Where the employee is not satisfied with the Step 2 response, the employee may submit the original complaint to the Mayor within seven (7) calendar days. The Mayor will review all material provided and submit to the employee a response in a timely manner. The Mayor's response shall be final, unless both parties mutually agree to submit the matter to the Personnel Board of Review for resolution.

SECTION 6.5: EMPLOYEE COMPLAINT-MISCONDUCT HEARING PROCEDURE

A. It is the policy of the CW to fairly and impartially investigate all complaints of any employee's alleged misconduct and when necessary, take disciplinary measures.

1. Complaints from any citizen or from any employee cannot be refused to be taken.
2. The supervisor will brief the Department Head and Employer in writing that a complaint was received, that it is being investigated and of an estimated time period to complete the investigation.
3. If the complainant is an identified citizen or employee, the complaint will be directed to the proper Department Head. The supervisor will document the name, address, and phone number of the complainant, the date and time the complaint was received and the exact specifics of the allegation(s). If the complaining person is an employee, he will write the information required by this section and provide a written and signed report to their immediate supervisor.

B. The Department Head will thoroughly investigate each complaint, including but not limited to the following:

1. Interview the accused employee. The accused employee is required to answer all questions truthfully, including writing a signed statement if ordered by the Department Head.
2. Interview any witnesses or other persons involved and write a supplement concerning their statements or observations.
3. Gather all documents and evidence pertaining to the investigation.
4. After completion of the investigation, the Department Head will:
 - (a) Write a report to the Employer clearing the employee of any misconduct and include copies of all documents and evidence gathered; OR

- (b) Read applicable Ohio Revised Codes, CW policies and procedures and internal standard operating procedures and recommend what charge(s) should be filed against the employee. Include copies of all documents and evidence gathered to date.

C. The Employer will:

1. Notify any employee that he is cleared of any wrongdoing and advise him that nothing will be placed in their personnel file; OR
2. File a written charge(s) against the employee specifying the violation(s) and specifics of each violation(s);
3. If the violation(s) does not appear to be serious enough to ultimately warrant a suspension or more serious punishment, the Employer will meet with the employee and the employee's Department Head and provides written notification to the employee of what discipline will be administered.

SECTION 6.6: RESIGNATION/RETIREMENT

- A. Employees who plan to voluntarily resign shall notify their Department Head in writing at least two (2) weeks in advance of the effective date of resignation.
- B. Any employee who resigns is encouraged to give his reasons for resigning and to discuss with his Department Head any working conditions which he feels are unsatisfactory.
- C. A formal letter of resignation/retirement shall be required by the Employer. The letter of resignation/retirement will be deemed accepted upon receipt by the appointing authority and must state the employee's last day of employment. The employee may not use leave time to extend the date of resignation/retirement. The appointing authority shall sign and date the resignation letter evidencing the receipt and acceptance of the resignation.
- D. Failure to give proper notification shall result in ineligibility for reinstatement.
- E. A person who resigned in good standing may be reinstated, at the discretion of the Employer, in his former type of position within one (1) year following resignation, provided the person remains qualified to perform the duties of the position, if the old position or a similar position is vacant.
- F. Employees resigning from their positions are required to conduct an inventory of all CW property for which they are responsible. Such inventory shall be conducted in the presence of the Employer or designee. The completed inventory documentation shall be certified and signed. The certified document shall be given to the Employer certifying that all property has been accounted for. This certification shall be required before final salary payment and benefits will be given to the resigning employee.

SECTION 6.7: PERSONNEL FILES

- A. The Finance Director shall maintain official personnel files on all employees of CW. Such files with appropriate redaction shall be subject to release under the Ohio Public Records Act: Payroll Records, Timesheets, Salary Information, Employment Application, Resumes, Training Course Certificates, Forms documenting receipt of office policies and procedures, Forms documenting

hiring and personnel action changes, position descriptions, background checks, leave conversions forms, letters of support or complaint and disciplinary action records, unless exempt from disclosure by law. Personnel files and information shall be available in accordance with the law.

- B. An employee shall have a right of reasonable inspection of his official personnel file consistent with CW's public records policy or at a mutually agreeable time.
- C. Employees must advise the Finance Director of any change in: name, address, marital status, telephone number, number of exemptions claimed for tax purposes, citizenship, selective service classification, or association with any government military service organization. Employees are still responsible for maintaining appropriate and accurate notices of life changing events for insurance purposes and for the appropriate pension plans. CW will use the most recent information provided to it.

SECTION 6.8: SMOKE-FREE, TOBACCO- FREE WORKPLACE POLICY

- A. The City of Canal Winchester strives to maintain a safe and healthy work environment in conjunction with the City's wellness initiative. The purpose of Ohio's Smoke-free Workplace Act and the City's Smoke-free, Tobacco-free policy is to comply with Ohio's Smoking Ban (ORC 3794). Although the use of smokeless tobacco in the workplace is not unlawful, it is inconsistent with the City's philosophy to build and reinforce our wellness initiative. CW can be fined for an employee's failure to adhere to the Smoke-free Workplace Act. Employees are expected to comply with the policy.
- B. In the interest of maintaining a healthy and professional environment, the use of all types of tobacco products and non-tobacco substitutes will be prohibited in all City-owned or leased facilities, vehicles, or equipment and on all City-owned or leased property and grounds.

Definition: Tobacco is defined as all tobacco-derived or containing products, including and not limited to cigarettes, electronic cigarettes, cigars and cigarillos, hookah smoked products, pipes and oral tobacco (e.g. spit and spitless tobacco, smokeless, chew, snuff) and nasal tobacco. It also includes any product intended to mimic tobacco products, contain tobacco flavoring or deliver nicotine other than for the purpose of cessation.) The definition is adapted from the Ohio State University Tobacco Free policy.

No employee shall smoke in any of these protected areas at any time. The success of this policy will depend on the consideration and cooperation of all employees. Consistent enforcement of this policy is expected at all times by all Department Heads, Managers and Supervisors in order to maintain a smoke-free, tobacco-free workplace.

SECTION 6.9: POLITICAL ACTIVITY

Although CW encourages all employees to exercise their constitutional rights to vote, certain political activities are legally prohibited for classified employees of CW whether in active pay status or on Leave of Absence. Violation of these prohibitions may result in possible disciplinary action up to and including removal. The following activities are examples of conduct permitted by classified Employees:

- A. Registration and voting.
- B. Expressing opinions, either orally or in writing.

- C. Voluntary financial contributions to political candidates or organizations.
- D. Circulating non-partisan petitions or petitions stating on legislation.
- E. Attendance at political rallies.
- F. Nominating petitions. Employees may sign nominating petitions in support of individuals.
- G. Displaying political materials in the employee's home or on the employee's property.
- H. Wearing political badges or buttons, or the display of political stickers on private vehicles.

The following activities are examples of conduct prohibited by classified Employees:

- A. Participating in a partisan election as a candidate for office.
- B. Declaring candidacy for an elected office that is filled by partisan election if the nomination to candidacy was obtained in a primary partisan election or through the circulation of a nominating petition identified with a political party.
- C. Circulating official nominating petitions for any candidate.
- D. Holding an elected or appointed office in any political organization.
- E. Accepting appointment to any office normally filled by partisan election.
- F. Filing of petitions meeting statutory requirements for partisan candidacy for elected office.
- G. Campaigning by writing in publications, by distributing political material, or by writing or making speeches on behalf of a candidate for partisan elective office, when such activities are directed toward party success;
- H. Solicitation, either directly or indirectly, of any assessment, contribution or subscription, either monetary or in-kind, for any political party or political candidate;
- I. Solicitation for the sale, or actual sale, of political party tickets;
- J. Partisan activities at the election polls, such as solicitation of votes for other than nonpartisan candidates and nonpartisan issues;
- K. Service as a witness or challenger for any party or partisan committee;
- L. Participation in political caucuses of a partisan nature; and
- M. Participation in a political action committee that supports partisan activity.

SECTION 6.10: WORKPLACE VIOLENCE – Zero Tolerance

CW is committed to providing a work environment that is safe, secure and free of harassment, threats, intimidation and violence. In furtherance of this commitment, CW enforces a zero tolerance policy for workplace violence. Consistent with this policy, threats or acts of physical violence, including intimidation, harassment, and/or coercion which involve or affect employees, or which occur on CW property or at a worksite, will not be tolerated. Employees who are found to have committed acts of workplace violence will receive discipline and possible criminal prosecution, depending on the nature of the offense.

Prohibited Acts of Violence

Prohibited acts of workplace violence include, but are not limited to, the following:

1. Hitting or shoving an individual.
2. Threatening to harm an individual or her family, friends, associates, or property.
3. The intentional destruction or threat of destruction of property.
4. Making harassing or threatening telephone calls, or sending harassing or threatening letters or other forms of written or electronic communications, including e-mail and website postings.
5. Intimidating or attempting to coerce an employee to do wrongful acts, as defined by applicable law, administrative rule, policy, or work rule.

6. The willful, malicious and repeated following of another person, also known as “stalking” and/or making threats with the intent to place another person in reasonable fear for her/his own safety.
7. Suggesting or otherwise intimating that an act to injure persons or property is “appropriate”, without regard to the location where the suggestion or intimation occurs.
8. Unauthorized possession or inappropriate use of firearms, weapons, or any other dangerous devices on CW property.

Warning Signs and Risk Factors The following are examples of warning signs, symptoms and risk factors that may indicate an employee’s potential for violence. Employees should be aware of these indicators. In all situations, if violence appears imminent, employees should take the precautions necessary to assure their own safety and the safety of others. An employee should immediately notify his/ her supervisor if she/he witnesses any of the following behaviors:

1. Dropping hints about a knowledge of firearms.
2. Making intimidating statements such as: “I’ll get even,” or “You haven’t heard the last from me.”
3. Keeping records of other employees the individual believes to have violated departmental policy.
4. Physical signs of anger, such as, hard breathing, reddening of complexion, menacing stares, loudness, and profane speech.
5. Acting out violently either verbally or physically.
6. Excessive bitterness by a disgruntled employee or an ex-employee.
7. Being a loner, avoiding all social contact with co-workers.
8. Having a romantic obsession with a co-worker who does not share that interest.
9. History of interpersonal conflict.
10. Domestic problems, unstable/dysfunctional family.
11. Brooding, depressed, strange behavior, a “time bomb ready to go off.”

SECTION 6.11: CONCEALED CARRY

Consistent with the Ohio Revised Code, no employee, contractor, client or other individual may carry, possess, convey or attempt to convey a deadly weapon or ordinance onto the property of CW. A valid concealed carry license does not authorize an individual to carry such a weapon onto these premises. Law enforcement officers specifically authorized to carry a firearm are exempted from this provision and may be permitted to carry a concealed weapon.

CW employees are prohibited from carrying firearms any time they are working for CW or acting within the course and scope of employment. These situations include, but are not limited to attending training sessions or seminars, wearing CW identification/uniform, and working in resident’s homes or other sites off CW premises. No employee or member of the public may carry, transport, or store a concealed weapon, firearm, or ammunition in a CW owned vehicle.

This policy does not prohibit employees possessing a valid license to carry a concealed handgun from transporting and/or storing a firearm or ammunition in their personal vehicle at work locations where their personal vehicle is otherwise permitted (e.g. CW parking lots). However, the employee must leave the firearm and ammunition in their personal vehicle stored in accordance with the storage provisions of the Concealed Carry statute. Employees are neither permitted to remove their firearm and ammunition in

their personal vehicle while at work locations nor are they permitted to bring a concealed firearm or ammunition into a CW owned building.

Employees shall immediately contact a supervisor if they suspect an employee, member of the public is carrying a concealed weapon, firearm, or ammunition on CW premises, or at any time an employee is working for CW, acting within in the course and scope of employment, or acting as a representative of CW. Any violation of this policy may result in disciplinary action.

ORDINANCE NO. 17-055

**AN ORDINANCE TO AMEND CHAPTER 1317 OF THE CODIFIED
ORDINANCES OF THE CITY OF CANAL WINCHESTER TO ADOPT THE 2017
OHIO BUILDING CODE, OHIO MECHANICAL CODE, AND OHIO PLUMBING
CODE INCLUDING ALL REFERENCED STANDARDS THEREIN**

WHEREAS, PURSUANT TO Section 4.12 of the Charter of the City of Canal Winchester, Council may by ordinance or resolution adopt standard ordinances and codes, including codes pertaining to building standards; and

WHEREAS, Council desires to adopt the 2017 Ohio Building Code, Ohio Plumbing Code, and Ohio Mechanical Code, including all referenced standards contained therein;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, STATE OF OHIO:

SECTION 1. That Section 1317 of the Codified Ordinance of the City of Canal Winchester is hereby amended to read as follows:

1317.01 ADOPTION

That Chapters 4101:1-1 through 4101:1-35 of the Ohio Administrative Code, designated as the "2017 Ohio Building Code", Chapters 4101:2-1 through 4101:2-15 of the Ohio Administrative Code designated as the "2017 Ohio Mechanical Code", Chapters 4101:3-1 to 4101:3-15 OF THE Ohio Administrative Code designated as the "2017 Ohio Plumbing Code", and all referenced standards contained therein, shall apply and be enforced within the Municipality of Canal Winchester, Ohio.

SECTION 2: That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

DATE PASSED _____

PRESIDENT OF COUNCIL

ATTEST _____
CLERK OF COUNCIL

MAYOR

DATE APPROVED _____

APPROVED AS TO FORM:

LEGAL COUNSEL

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

Clerk of Council/Finance Director

ORDINANCE NO. 17-056

AN ORDINANCE TO REPEAL ORDINANCE NO. 44-13 AND AMEND THE ADOPTED COMBINED DEVELOPMENT FEE SCHEDULE

WHEREAS, the adoption of Ordinance No. 44-08 combined the various development fees of the municipality under one ordinance. Ordinance No. 44-08 was amended by Ordinances 28-11, 44-12 and Ordinance 44-13; and

WHEREAS, Ordinance 44-13 shall be repealed;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, STATE OF OHIO:

SECTION 1.

This Combined Development Fee Schedule includes the following: Zoning, Building, Engineering Review, Construction Inspection and Bonding Requirements, and Right of Way.

SECTION 2. ZONING FEES

2.1	Conditional Use	\$250.00
2.2	Copy of Subdivision Regulations	\$35.00
2.3	Copy of Zoning Code	\$35.00
2.4	Demolition Permit	\$25.00
2.5	Floodplain Permit	\$75.00 plus municipal engineer fees
2.6	Moving a structure greater than 200 sq. ft. \$300,000.00	\$60.00; plus proof of liability insurance
2.7	Park Fee (residential development only)	\$1,000.00 per lot or dwelling unit
2.8	Planned District, Preliminary Plan:	
2.8.1	Less than 100 acres	\$750.00
2.8.2	100-500 acres	\$1,000.00
2.8.3	Greater than 500 acres	\$1,500.00
2.9	Planned District, Development Plan	\$0.10 per sq. ft. (maximum \$2,500.00)
2.10	Satellite Ground Station	\$25.00
2.11	School Facilities Fee - Land Dedication, or fair market value of the land per the following formulas:	
2.11.1	Single Family	0.03 acres per unit
2.11.2	Multi-Family (1 Bed)	0.01 acres per unit

2.11.3	Multi-Family (2 Bed)	0.015 acres per unit
2.11.4	Multi-Family (3 Bed)	0.03 acres per unit
2.12	Signs:	
2.12.1	Monument Sign	\$50.00 for first 25 sq. ft., plus \$1.00 for each additional sq. ft.; maximum \$250.00
2.12.2	Wall Sign	\$25.00 for first 25 sq. ft., plus \$1.00 for each additional sq. ft.; maximum \$250.00
2.12.3	Temporary Sign	\$25.00
2.13	Site Development Plan:	
2.13.1	Major	\$0.10 per sq. ft.; maximum fee of \$2,500.00 and minimum fee of \$500.00
2.13.2	Minor	\$100.00
2.14	Street Tree Fund:	
2.14.1	Downtown Area only (see Attachment 1)	\$3.00 per linear foot of public street frontage
2.14.2	All Other Areas	\$9.00 per lineal foot of public street frontage
2.15	Subdivision:	
2.15.1	Minor (Lot Split)	\$100.00
2.15.2	Preliminary Plan	\$250 plus \$10.00 per lot
2.15.3	Final Plat	\$200 plus \$10.00 per lot
2.16	Temporary Use/Special Event Permit	\$25.00 (Public entities shall be exempt from this fee)
2.17	Tree Removal	\$25.00
2.18	Variance:	
2.18.1	Administrative Variance	\$50.00
2.18.2	Residential Variance	\$200.00
2.18.3	Non-residential Variance	\$250.00
2.19	Zoning Amendment:	

2.19.1	Zoning Code (Text) Amendment	\$250.00
2.19.2	Zoning Map Amendment	\$250.00 for first acre Plus \$25.00 for each additional acre; maximum \$500.00
2.20	Zoning Permit (Certificate of Zoning Compliance)	\$25.00
2.21	Photocopying	\$0.05 per 8½ “ by 11” size page after the first 20 pages
2.22	Transcript of meeting minutes of any Council, Commission, Board, Committee etc.	\$10.00 per page

SECTION 3. BUILDING FEES.

3.1 Residential Plan Review

3.1.1 New Construction

A.	Single Family With or Without Attached Garage	\$300.00
B.	Single Family Addition, More Than 1 Room	\$200.00
C.	Twin Single With or Without Attached Garage (per unit)	\$300.00
D.	Multi-family & Townhouses (per unit)	\$300.00
F.	Resubmittal of plans for review	\$65.00

3.1.2 Accessory Structures – Permit & Inspection Fees

A.	201 sq. ft. to 400 sq. ft.	\$100.00
B.	Greater Than 400 sq. ft.	\$125.00
C.	Decks Greater Than 200 Sq. Ft. or Attached to the House	\$125.00

3.1.3 Remodeling

A.	One Family to Two Family Conversion	\$200.00
B.	Remodel – No Structural Change	\$50.00
C.	Remodel – Structural Change	\$100.00
D.	Resubmittal of plans for review	\$65.00

3.1.4 Residential Inspection Fees

A.	Footer	\$60.00
B.	Foundation	\$60.00
C.	House Slab	\$60.00
D.	Basement Slab	\$60.00
E.	Garage Slab	\$60.00
F.	Lower Level Slab	\$60.00
G.	Crawl Cap	\$60.00
H.	Framing	\$60.00
I.	Temporary Electric	\$60.00
J.	Underground Electric	\$60.00
K.	Rough Electric	\$60.00

L.	Electric Service	\$60.00
M.	Final Electric	\$60.00
N.	Rough HVAC	\$60.00
O.	Rough Insulation	\$60.00
P.	Final HVAC	\$60.00
Q.	Final Insulation	\$60.00
R.	Gas Pressure Test	\$60.00
S.	Radon	\$60.00
T.	Re-Inspection	\$60.00
U.	Thermal Ply Inspection	\$60.00
V.	Drywall Nail Pattern Inspection	\$60.00
W.	ADA Sidewalk Inspection	\$60.00
X.	Rough Roofing	\$60.00
Y.	Final Roofing	\$60.00

3.2 Non-Residential Plan Review

3.2.1	<u>Plan Review</u>	
	A. Structural	\$250.00
	B. Mechanical	\$250.00
	C. Electrical	\$250.00
	D. Fire Suppression	\$250.00
	E. Fire Detection	\$250.00
	F. Minor Alteration	\$0 - \$250.00
3.2.2	<u>Non-Residential Inspection Fees</u>	
	A. Structural	\$.1050 per sq. ft.
	B. Mechanical	\$0.065 per sq. ft.
	C. Electrical	\$0.065 per sq. ft.
	D. Fire Suppression	\$0.065 per sq. ft.
	E. Fire Detection	\$0.065 per sq. ft.
	F. Re-Inspection	\$60.00
	G. Special Inspection	\$60.00
	H. Minor Alteration – Based on Residential Inspection Fees (3.1.4)	
3.2.3	Old Town Area Under 5,000 sq. ft.	\$300.00 flat fee Plus Administrative Fee
3.2.4	Change of Use/Occupancy	\$75.00
3.3	Other Building Fees	
3.3.1	Certificates of Occupancy	
	A. Temporary Occupancy (Residential)	\$100.00
	B. Temporary Occupancy (Non-Residential)	\$350.00 plus a bond equal to twice the cost of the remaining improvements

C.	Final Occupancy	\$50.00
3.3.2	Administrative Fee	10.00% of Total
3.3.3	Replacement of Inspection Card	\$25.00
3.3.4	Recertification of Lost Plans	\$100.00
3.4	Penalty Violation of Section 105.1 of the Residential Code of Ohio or the Ohio Building Code (building permit required)	Double Fees

**For After Hours Inspection Rates See Section 7

SECTION 4. CIVIL ENGINEERING PLAN REVIEW.

4.1	Technical Review Group Plan Review Fees (excluding Municipal Engineer fees)	
4.1.1	Civil Engineering Plan Review (includes 2 rounds of review)	\$1,000
4.1.2	Each additional round of plan review:	\$500
4.2	Municipal Engineer Plan Review Fees	
4.2.1	<u>Traffic Study Review</u> (if applicable)	
A.	Traffic Access Study	\$750.00
B.	Traffic Impact Study	\$3,500.00
C.	Regional Traffic Study	TBD
D.	Additional Meetings (Note: 1 meeting included in base fee)	\$250.00 per meeting
4.2.2	<u>Civil Engineering Plan Review</u>	
A.	Storm Water Management Report: Area less than 5 acres Area 5 acres or more	\$750.00 \$1,000.00
B.	Utility Studies (water and sewer)	TBD
C.	Residential Development	\$150.00 per sheet
D.	Non-Residential Development	\$100.00 per sheet
E.	GIS Update	\$150.00

SECTION 5. BONDS, INSURANCE, AND INSPECTION FEES.

- 5.1 Performance Bond: 100% of the subdivider's/developer's engineer's detailed cost estimate reviewed by the municipal engineer.
- 5.2 Maintenance Bond: Prior to the release of a performance bond, the subdivider/developer shall present a maintenance bond equal to 5% of the value of the public and private improvements required by the approved improvement plans and the subdivision regulations.

- 5.3 Indemnity Insurance: A policy of indemnity insurance for personal liability and property damage, in the amount of \$1,000,000/\$2,000,000, protecting the Municipality against claims for damage to person or property resulting from or by reason of the construction of the required improvements, shall be furnished to the Municipality and maintained in force by the subdivider/developer.
- 5.4 Inspection Fees: Payment for inspection, monitoring and the testing of materials in the amount of 7½ % of the construction cost of the required improvements based on the subdivider's/developer's engineer's detailed estimate of said improvements.
 - 5.4.1 Any retainage of the inspection fee remaining at the completion of the construction will be returned to the subdivider/developer. If the inspection, monitoring and testing fees are anticipated to exceed the original retainage amount, the subdivider/developer shall be required to deposit additional fees to the Municipality.
- 5.5 NPDES Inspection Fees: Payment of \$300 per month multiplied by the number of months of land disturbing activities set forth in the OEPA NPDES Phase II Permit.
- 5.5.1 Re-Inspection Fee: A reinspection fee of \$65.00 when notification is made to the subdivider/developer for land disturbing activities found to be non-compliant.

SECTION 6. RIGHT-OF-WAY FEES.

To ensure adequate public compensation for monitoring compliance with municipal requirements and protection of public property, the following right-of-way permit fees are hereby adopted. The fees in Section 6 may be adjusted for inflation by the Mayor, however, not more than once per calendar year.

6.1	Right-Of-Way Curb Cut	\$35.00
6.2	Right-Of-Way Cut for Private Utility Work Single New Service line / tap:	
6.2.1	Soft surface	\$50.00
6.2.2	Hard surface	\$250.00
6.3	Right-Of-Way Cut for Private Utility Work Single Isolated Repair:	
6.3.1	Soft surface	\$50.00
6.3.2	Hard surface	\$250.00
6.4	Relocation of utility main schedule, location and impact to public infrastructure	TBD based on project
6.5	New construction of utility main	TBD based on project schedule, location and impact to public infrastructure

SECTION 7. AFTER HOURS INSPECTION.

Inspection fee for after normal workday hours or on the weekend for an inspection performed by or for any municipal department shall be \$150.00 for the first two (2) hours and \$50.00 for each hour thereafter.

SECTION 8. FEE WAIVERS

At the discretion of the Mayor any fee in the combined development fee schedule can be reduced or waived as an incentive to attract business or to reuse vacant structures. To be considered for this incentive the value of the proposed improvements will need to be in excess of \$100,000 or the building or portion of the building proposed for improvements will need to have been vacant for a period of at least one year immediately preceding the proposed improvements.

SECTION 10. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

DATE PASSED _____

PRESIDENT OF COUNCIL

ATTEST _____
CLERK OF COUNCIL

MAYOR

DATE APPROVED _____

APPROVED AS TO FORM:

LEGAL COUNCIL

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

FINANCE DIRECTOR/CLERK OF COUNCIL

Attachment 1

Downtown Area Exempt from Off-Street Parking Requirements and Charged 1/3 of the Street Tree Fund



0 100 200 300 400 Feet



Memorandum



To: City Council, Mayor Ebert
From: Lucas Haire, Development Director
Date: October 30, 2017
Re: Combined Development Fee Schedule

The Canal Winchester combined development fee schedule has remained unchanged since 2013. We have been continuing to monitor fees in connection with the costs to provide services for building, zoning, and development services. The City of Canal Winchester has traditionally followed the State of Ohio Building Department fees for commercial inspections services. The attached proposal includes a fee increase in line with the State of Ohio increase that went into effect on November 1. The remaining building fees have stayed the same for the most part with the exception to a proposed increase in fees for decks, garages, and remodeling or additions. Since we have privatized plan review there is an increased cost for these services. This proposed fee increase will help cover the full cost of providing plan review for these projects.

There are a number of fee increases proposed for zoning submittals. The costs of legal advertising continue to increase for these projects so that the current costs of some applications do not cover the advertising and mailing fees required. The increase will help cover the costs of these requirements and to assist with cover some of the costs associated with staff review.

There is also a proposed increase in the park fee that is assessed on a per unit basis for residential property. This fee has been \$750 since 2009. With the current parks planning process underway it has been determined there are a number of capital improvement needs for our parks that will be exacerbated by additional residents moving to the community. To meet those capital improvement needs and to assist with providing the park improvements desired by residents we have proposed to increase the park fee from \$750 to \$1,000.

ORDINANCE NO. 17-057

AN ORDINANCE TO AUTHORIZE THE MAYOR TO ACCEPT ONE PARCEL OF LAND FROM WINCHESTER RIDGE THREE LLC

WHEREAS, Council approved the Winchester Ridge Phase III final development plan with Ordinance 17-019; and

WHEREAS, a condition of zoning approval of the plan was dedication of a parcel fronting Busey Road to allow for its incorporation as road right-of-way.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, STATE OF OHIO:

SECTION 1. That the Mayor be and hereby is authorized to execute and accept the deed from Winchester Ridge Three LLC for 0.775 acres fronting Busey Road as described in Exhibit A attached.

SECTION 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

DATE PASSED _____

PRESIDENT OF COUNCIL

ATTEST _____
CLERK OF COUNCIL

MAYOR

DATE APPROVED _____

APPROVED AS TO FORM:

LEGAL COUNCIL

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

FINANCE DIRECTOR/CLERK OF COUNCIL

LIMITED WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that **WINCHESTER RIDGE THREE LLC**, an Ohio limited liability company (“Grantor”), for valuable consideration paid, hereby grants with limited warranty covenants to **THE CITY OF CANAL WINCHESTER**, an Ohio political subdivision (“Grantee”), whose tax mailing address is 36 S. High Street, Canal Winchester, Ohio 43110, all such right, title and interest of Grantor in and to the real property, with appurtenances thereunto belonging, situated in the City of Canal Winchester, County of Fairfield, and State of Ohio, as more particularly described on Exhibit A attached hereto and made a part hereof (the “Property”).

Permanent Parcel No.: _____

Property Address: Vacant Land, Busey Road, Canal Winchester, Fairfield County, Ohio

Prior Deed Reference: Book _____, Page _____ of the Official Records of Fairfield County, Ohio

Subject to conditions, covenants, easements, limitations, reservations and restrictions of record, if any, zoning ordinances, if any, and real estate taxes and assessments, both general and special, which are a lien but not yet due and payable.

(signature appears on following page)

Grantor caused this Deed to be executed as of the ____ day of _____, 2017.

GRANTOR:

WINCHESTER RIDGE THREE LLC,
an Ohio limited liability company

By: _____
David Conwill, Manager

STATE OF OHIO)
) SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2017 by David Conwill, the Manager of Winchester Ridge Three LLC, an Ohio limited liability company, on behalf of said limited liability company.

Notary Public

Name: _____

My commission expires: _____

This Instrument Prepared By:

Lauren May, Esq.
Hurtuk & Daroff Co., LLP
Parkland Terrace
6120 Parkland Boulevard, Suite 100
Cleveland, Ohio 44124

EXHIBIT A

Property

DESCRIPTION OF A 0.775 ACRE RIGHT-OF-WAY PARCEL

Situated in the State of Ohio, County of Fairfield, City of Canal Winchester, Violet Township, located in the Southwest Quarter of Section 21, Township 15, Range 20, Congress Lands East of the Scioto River, and being part of that 21.270 acre tract of land described in a deed to C3 Church Assembly of God, of record in Official Record 1660, Page 3836, all records referenced herein are on file at the Office of the Recorder for Fairfield County, Ohio, and being more particularly bounded and described as follows:

Commencing for reference at the northwest corner of said Southwest Quarter, being at the intersection of the centerline of right-of-way for Busey Road and the centerline of right-of-way for Diley Road, (reference a disc in a monument box found North 22 degrees 26 minutes 42 seconds East at a distance of 0.42 feet);

Thence **South 85 degrees 35 minutes 41 seconds East**, along the centerline of right-of-way for Busey Road and along the north line of said Southwest Quarter, a distance of **828.36 feet** to the northwest corner of said 21.270 acre tract, being the northeast corner of that 3.478 acre right-of-way parcel described in a deed to The Village of Canal Winchester, Ohio, of record in Official Record 1490, Page 1410, said point being the **TRUE POINT OF BEGINNING** for this description;

Thence **South 85 degrees 35 minutes 41 seconds East**, continuing along the centerline of right-of-way for Busey Road, continuing along the north line of said Southwest Quarter, along the north line of said 21.270 acre tract, a distance of **844.26 feet** to the northeast corner of said 21.270 acre tract, being the northwest corner of that 6.015 acre tract of land described in a deed to Board of Trustees of Violet Township, Ohio, of record in Official Record 1486, Page 2466;

Thence **South 04 degrees 31 minutes 32 seconds West**, along the east line of said 21.270 acre tract and along the west line of said 6.015 acre tract, a distance of **40.00 feet** (passing a 1 inch iron pin found at a distance of 17.46 feet offline 0.10 feet to the right) to an iron pin set;

Thence **North 85 degrees 35 minutes 41 seconds West**, across said 21.270 acre tract, a distance of **844.25 feet** to a point on the west line of said 21.270 acre tract, being at the southeast corner of said 3.478 acre right-of-way parcel, and being on the east line of that original 39.028 acre tract of land described in a deed to Shrimangeshi, LLC, of record in Official Record 1447, Page 1914, (reference a 1" iron pin found bearing North 55 degrees 16 minutes 37 seconds West at a distance of 0.14 feet);

Thence **North 04 degrees 30 minutes 30 seconds East**, along the west line of said 21.270 acre tract, along the east line of said 3.478 acre right-of-way parcel and along the east line of said original 39.028 acre tract, a distance of **40.00 feet** (passing a ¾" iron pipe found at a distance of 22.50 feet offline 0.09 feet to the left) to the **TRUE POINT OF BEGINNING** for this description.

The above described right-of-way parcel contains a total area of **0.775 acres** (including 0.339 acres with the present road occupied of Busey Road) within Fairfield County Auditor's parcel number 0420388700.

The bearings described herein are based on the bearing of South 85 degrees 35 minutes 41 seconds East for the centerline of right-of-way for Busey Road, as measured from Grid North, referenced to the Ohio State Plane Coordinate System (South Zone) and the North American Datum of 1983 (2011 Adjustment), as established utilizing a GPS survey and an NGS OPUS solution.

Iron pins set are 30" long by 5/8" diameter rebar with caps stamped "ASI PS-8438".

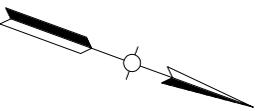
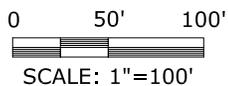
The above description was prepared under the direct supervision of Brian P. Bingham, Registered Professional Surveyor No. 8438 on September 27, 2017, is based on an actual survey performed by American Structurepoint, Inc., and is true and correct to the best of my knowledge and belief.

American Structurepoint, Inc.

Brian P. Bingham, PS
Registered Professional Surveyor No. 8438

Date

STATE OF OHIO, COUNTY OF FAIRFIELD
CITY OF CANAL WINCHESTER, VIOLET TOWNSHIP
SECTION 21, TOWNSHIP 15, RANGE 20
CONGRESS LANDS EAST OF THE SCIOTO RIVER



PID: 0420388810
SHRIMANGESHI, LLC
OR 1447, PG 1914
39.028 AC.

PID: 0420388811
THE VILLAGE OF CANAL WINCHESTER, OHIO
OR 1490, PG 1410
3.478 AC.

- I.P.F. Iron Pin Found
- I.P.S. Iron Pin Set
- ⊙ Disc in Monument Box

BASIS OF BEARINGS

The bearings described herein are based on the bearing of South 85 degrees 35 minutes 41 seconds East for the centerline of right-of-way for Busey Road, as measured from Grid North, referenced to the Ohio State Plane Coordinate System (South Zone) and the North American Datum of 1983 (2011 Adjustment), as established utilizing a GPS survey and an NGS OPUS solution.

RECORD DOCUMENTS USED

Surveys:
11406, 12576, 16689, 17370, 17701,
17702, 17708, 17720, 17853, 17943,
18599, 18764, 18810, 19016
Plats:
P.C. 1-Slot 84, P.C. 2-Slot 65
Deeds:
OR 1447-Pg 1914, OR 1486-Pg 2462,
OR 1486-Pg 2466, OR 1490-Pg 1410,
OR 1522-Pg 753, OR 1527-Pg 1673,
OR 1527-Pg 1675, OR 1660-Pg 3836,
OR 1697-Pg 1581, OR 1705-Pg 3917,
OR 1731, Pg 2057, OR 1731-Pg 2079

0.775 AC.
(including 0.339 Ac.
in P.R.O.)

S04°31'32"W
40.00'

1" IRON PIPE FND

THIS EXHIBIT WAS PREPARED BY BRIAN P. BINGHAM, REGISTERED PROFESSIONAL SURVEYOR NO. 8438, BASED ON AN ACTUAL SURVEY OF THE PREMISES, AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

BRIAN P. BINGHAM
REGISTERED PROFESSIONAL SURVEYOR NO. 8438

DATE

AMERICAN
STRUCTUREPOINT
INC.

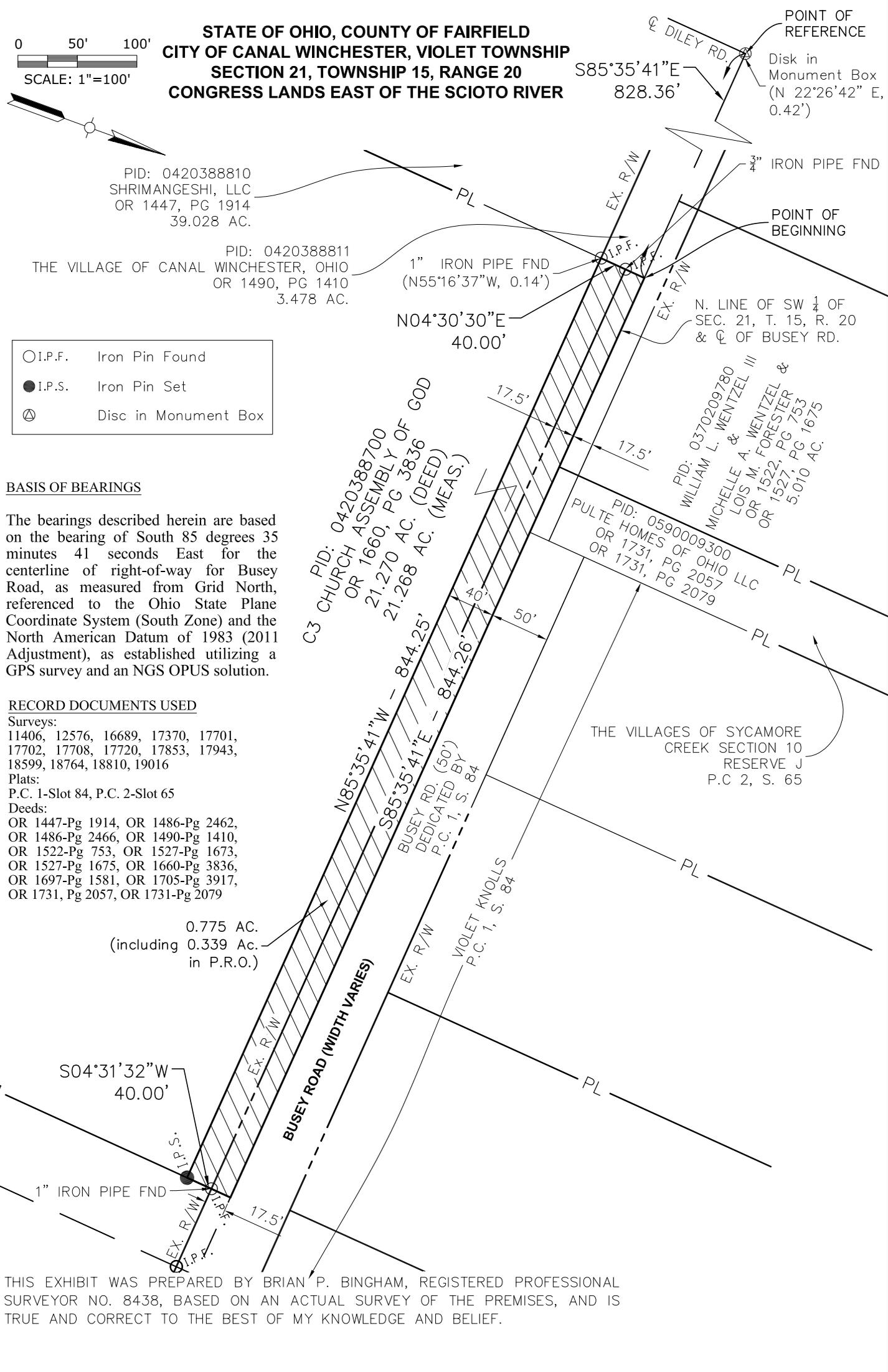
2550 Corporate Exchange Drive | Suite 300
Columbus, Ohio 43231
TEL 614.901.2235 | FAX 614.901.2236
www.structurepoint.com

EXHIBIT "B"
FOR
0.775 ACRE R/W DROP
FAIRFIELD COUNTY, OHIO

DATE:	10/24/2017
DRAWN BY:	MJW
CHECKED BY:	BPB
JOB NUMBER:	2016.02769

1 of 1

PLOT DATE: 10/24/2017 10:16 AM
PLOT SCALE: 1:1
EDIT DATE: 10/24/2017
EDITED BY: BBINGHAM
DRAWING FILE: C:\2016\02769\Drawings\Survey\201602769.SV\2017-01-12_FINAL_PLAT.dwg



ORDINANCE NO. 17-040

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A TAX INCREMENT FINANCING AGREEMENT WITH PROPERO CANAL WINCHESTER, LLC

WHEREAS, this Council previously passed Ordinance 13-33 on November 5, 2013 (the “Gender Road Public Improvement TIF Ordinance”), declaring improvements to certain parcels of real property to be a public purpose and requiring the owners of such parcels to make service payments in lieu of taxes on the improvements to parcels to fund those public improvements described in the Gender Road Public Improvement TIF Ordinance, all as provided in Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code; and

WHEREAS, this Council previously amended Ordinance 13-33 on with the Ordinance 16-037 passed on December 19, 2016 adding certain acreage to the TIF area, defined by the TIF Ordinance, including property owned by Propero Canal Winchester, LLC; and

WHEREAS, this Council desires to enter into an agreement with the owners of certain parcels in the Gender Road Public Improvement TIF area who, conditioned upon reimbursement by the City of Canal Winchester through the Gender Road Public Improvement TIF, are willing to construct public water improvements, and public pedestrian facilities that substantially benefit the TIF area;

NOW THEREFORE BE IT ORDAINED BY THE CITY OF CANAL WINCHESTER, FRANKLIN COUNTY, OHIO AS FOLLOWS:

Section 1: That Council hereby authorizes and directs the Mayor to enter into a Tax Incentive Financing Agreement with Propero Canal Winchester, LLC, in a form substantially similar to the agreement attached hereto as Exhibit “A” and incorporated herein by reference.

Section 2: 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 any of its committees which resulted in such formal actions were in meetings so open to the public in compliance with all legal requirements of the City of Canal Winchester, Franklin County, Ohio.

Section 3: That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

DATE PASSED _____

PRESIDENT OF COUNCIL

ATTEST _____
CLERK OF COUNCIL

MAYOR

DATE APPROVED _____

APPROVED AS TO FORM:

LEGAL COUNSEL

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

Finance Director/Clerk of Council

TAX INCREMENT FINANCING AGREEMENT

THIS TAX INCREMENT FINANCING AGREEMENT (the "*Agreement*") is made and entered into this ____ day of August, 2016 (the "*Effective Date*"), by and between the CITY OF CANAL WINCHESTER, OHIO ("*City*"), a municipal corporation duly organized and validly existing under the Constitution and the laws of the State of Ohio (the "*State*") and its Charter, and PROPERO CANAL WINCHESTER, LLC, an Ohio limited liability company (the "*Developer*" and together with the City, the "*Parties*"), under the circumstances summarized in the following recitals (the capitalized terms not defined in the recitals are being used therein as defined in Article I hereof).

RECITALS:

WHEREAS, the Developer owns or will own certain real property located at Gender Road, and Developer plans to construct and/or has constructed the Private Improvements (as herein defined) on that real property; and

WHEREAS, the Parties have determined that certain Public Infrastructure Improvements will need to be constructed to facilitate the development of the Private Improvements; and

WHEREAS, in accordance with the TIF Statutes and pursuant to the TIF Ordinance, the Parties have entered into the TIF Agreement to provide generally for the development and financing of the Public Infrastructure Improvements;

Whereas, the Developer has contracted with The Daimler Group, Inc. ("*Contractor*") for the construction and installation of the Public Improvements; and

WHEREAS, the City has determined pursuant to the TIF Ordinance that it would be in the best interests of the City to contract with the Developer to provide for the construction and installation of the Public Infrastructure Improvements in the manner described herein;

NOW, THEREFORE, in consideration of the premises and covenants contained herein, the Parties hereto agree and obligate themselves as follows:

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, the words and terms set forth in Section 1.2 shall have the meanings set forth in Section 1.2 unless the context or use clearly indicates another meaning or intent.

Section 1.2. Definitions. As used herein:

“Agreement” means this Tax Increment Financing Agreement by and between the City and the Developer and dated as of the Effective Date.

“Authorized City Representative” means the Mayor of the City. The City may from time to time provide a written certificate to the Developer signed on behalf of the City by the Mayor designating an alternate or alternates who shall have the same authority, duties and powers as the Authorized City Representative.

“Authorized Developer Representative” means Mark Chandler. The Developer may from time to time provide a written certificate to the City signed on behalf of the Developer designating an alternate or alternates or a substitute who shall have the same authority, duties and powers as the Authorized Developer Representative.

“City” means the City of Canal Winchester, Ohio, an Ohio municipality.

“City Council” means the City Council of City.

“Code” means the Internal Revenue Code of 1986, as amended, applicable Treasury Regulations (whether temporary or final) under the Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding the foregoing, all as and to the extent applicable.

“Construction Documents” means this Agreement and the Drawings and Specifications as such documents may be revised or supplemented from time to time with the approval of the Authorized City Representative and the Authorized Developer Representative, which Drawings and Specifications contain the detailed construction plans and specifications for the Public Infrastructure Improvements and when completed, will be placed on file with the Authorized City Representative on behalf of the City.

“Cost of the Work” means the estimated costs of the construction and installation of the Public Infrastructure Improvements that are reflected in **EXHIBIT B**.

“Contractor” means the Daimler Group.

“County” means the County of Franklin, Ohio.

“Developer” means Propero Canal Winchester, an Ohio limited liability company organized and existing under the laws of the State, including any successors or assigns thereof permitted under this Agreement.

“Developer’s Completion Certificate” shall have the meaning set forth in Section 4.3(a) hereof.

“Developer TIF Reimbursement Amount” means the amount of the cost to construct the Public Infrastructure Improvements, which shall not exceed One Hundred Thousand Dollars (\$100,000.00).

“Drawings and Specifications” shall have the meaning set forth in Section 5.1 hereof.

“Effective Date” means the date as defined in the preambles of this Agreement.

“Engineer” means Andrews Architects, or any other architectural or engineering firm licensed to perform architectural and engineering services within the State of Ohio and appointed by the City with the consent of the Authorized Developer Representative, which consent shall not be unreasonably withheld or delayed.

“Engineer’s Completion Certificate” shall have the meaning set forth in Section 4.3(b) hereof.

“Event of Default” means an Event of Default under Section 7.1 hereof.

“Force Majeure” means acts of God; fires; epidemics; landslides; floods; strikes; lockouts or other industrial disturbances; acts of public enemies; acts or orders of any kind of any governmental authority; insurrections; riots; civil disturbances; arrests; explosions; breakage or malfunctions of or accidents to machinery, transmission pipes or canals; partial or entire failures of utilities; shortages of labor, materials, supplies or transportation; lightning, earthquakes, hurricanes, tornadoes, storms or droughts; periods of unusually inclement weather or excessive precipitation; or any other cause or event not reasonably within the control of the Developer or the City, as the case may be, excluding, however, the inability of the Developer to obtain financing for its obligations hereunder.

“Notice Address” means:

as to City: City of Canal Winchester
36 S. High St.
Canal Winchester, Ohio 43110
Attention: City Manager

as to Developer: Propero Canal Winchester, LLC
c/o Lancaster Pollard
65 E. State St., 16th Floor
Columbus, OH 43215
Attention: Christian R. Mauger, Sr. V.P.

“Person” shall mean an individual, a corporation, a partnership, an association, a limited liability company, a joint stock company, a joint venture, a trust, an unincorporated organization, or a government or any agency or political subdivision thereof.

“Private Improvements” means the project proposed to be constructed by the Developer consisting of up to 87,000 ± square foot senior living facility and related improvements.

“Public Infrastructure Improvements” means the public infrastructure improvements as generally described on EXHIBIT A and depicted on EXHIBIT C, each attached hereto and incorporated herein by reference and which will be more specifically described in the Construction Documents.

“Public Infrastructure Improvements Site” means the real property depicted on EXHIBIT C attached hereto and incorporated herein by reference.

“State” means the State of Ohio.

“TIF Fund” mean the Gender Road Public Improvement Tax Increment Equivalent Fund created in Section 3 of the TIF Ordinance.

“TIF Ordinance” means Ordinance No. 13-33 passed on November 4, 2013 by the City Council.

“TIF Statutes” means collectively, Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code, as those sections may be amended from time to time.

“Work” means the construction of the Public Infrastructure Improvements in accordance with this Agreement.

Section 1.3. Interpretation. Any reference in this Agreement to City or to any officers of City includes those entities or officials succeeding to their 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 to a section, provision or chapter of the Ohio Revised Code shall include such section, provision or chapter as modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this paragraph if it constitutes in any way an impairment of the rights or obligations of the Parties under this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms *“hereof”*, *“hereby”*, *“herein”*, *“hereto”*, *“hereunder”* and similar terms refer to this Agreement; and the term *“hereafter”* means after, and the term *“heretofore”* means before, the date of this Agreement. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise. References to articles, sections, subsections, clauses, exhibits or appendices in this Agreement, unless otherwise indicated, are references to articles, sections, subsections, clauses, exhibits or appendices of this Agreement.

Section 1.4. 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 of the intent of any article, section, subsection, clause, exhibit or appendix of this Agreement.

Section 1.5. Conflicts among the TIF Ordinance, TIF Agreement and Construction Documents. Where there is a conflict between the TIF Ordinance, this Agreement and the Construction Documents, the conflict shall be resolved by providing the better quality or greater quantity and compliance with the more stringent requirement.

If an item is shown on the Drawings but not specified, the Developer shall provide the item of the same quality as similar items specified, as determined by the Engineer. If an item is specified but not shown on the Drawings, it shall be located as directed by the Engineer.

ARTICLE II

GENERAL AGREEMENT AND TERM

Section 2.1. General Agreement Among Parties. For the reasons set forth in the Recitals hereto, which Recitals are incorporated herein by reference as a statement of the public purposes of this Agreement and the intended arrangements among the Parties, the Parties shall cooperate in the manner described herein to facilitate the construction of the Public Infrastructure Improvements.

Section 2.2. Term of Agreement. This Agreement shall become effective as of the Effective Date and shall continue until the Parties have satisfied their respective obligations as set forth in this Agreement, unless sooner terminated in accordance with the provisions set forth herein.

ARTICLE III

REPRESENTATIONS AND COVENANTS OF THE PARTIES

Section 3.1. Representations and Covenants of City. City represents and covenants that:

(a) It is a municipal corporation duly organized and validly existing under the Constitution and applicable laws of the State and its Charter.

(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 City which 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 knowledge of City, that execution, delivery and performance do not and will not violate or conflict with any provision of law applicable to City, including its Charter, and do not and will not conflict with or

result in a default under any agreement or instrument to which City is a party or by which it is bound.

(d) This Agreement to which it is a Party has, by proper action, been duly authorized, executed and delivered by City and all steps necessary to be taken by City have been taken to constitute this Agreement, and the covenants and agreements of City contemplated herein are valid and binding obligations of City, enforceable in accordance with their terms.

(e) There is no litigation pending or to its knowledge threatened against or by City wherein an unfavorable ruling or decision would materially and adversely affect City's ability, to carry out its obligations under this Agreement.

(f) It will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement by any successor public body.

(g) The TIF Ordinance has been duly passed and shall be in full force and effect on the earliest date permitted by law.

Section 3.2. Representations and Covenants of the Developer. The Developer represents and covenants that:

(a) It is a limited liability company duly organized and validly existing under the 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 Developer which 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 knowledge of the Developer, that execution, delivery and performance do not and will not violate or conflict with any provision of law applicable to the Developer, and do not and will not conflict with or result in a default under any agreement or instrument to which the Developer is a party or by which it is bound.

(d) This Agreement to which it is a Party has, by proper action, been duly authorized, executed and delivered by the Developer and all steps necessary to be taken by the Developer have been taken to constitute this Agreement, and the covenants and agreements of the Developer contemplated herein are valid and binding obligations of the Developer, enforceable in accordance with their terms.

(e) There is no litigation pending or to its knowledge threatened against or by the Developer wherein an unfavorable ruling or decision would materially and adversely affect the Developer's ability to carry out its obligations under this Agreement.

(f) It will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement by any successor entity.

ARTICLE IV

CONSTRUCTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS

Section 4.1. General Considerations. In consideration of the Developer's promise to construct or cause to be constructed the Public Infrastructure Improvements, the City agrees, subject to Section 4.4 hereof, to reimburse and/or otherwise pay the Developer the Developer TIF Reimbursement Amount in accordance with Section 6.2 and/or any other applicable provisions of this Agreement.

Section 4.2. Construction of the Public Infrastructure Improvements. The Developer covenants and agrees that it will cause to be constructed and installed by the Contractor all of the Public Infrastructure Improvements in accordance with this Agreement and the Construction Documents.

The Developer shall cause the Contractor to supervise, perform and direct the Work utilizing qualified personnel, and in accordance with the standards of care normally exercised by construction organizations performing similar work. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures for coordinating all portions of the Work.

The Developer shall cause the Contractor to submit the names of the subcontractors it proposes to use. Under no circumstances will the Developer permit Contractor to use any subcontractor who is not specified. The City will promptly reply to the Developer in writing stating whether or not the City has reasonable objection to any such proposed person or entity.

The Developer agrees that the Public Infrastructure Improvements, including all rights-of-way and easements associated therewith, including those identified on EXHIBIT C (which is attached hereto and incorporated herein by reference), shall be dedicated for public use upon completion and acceptance as provided in Sections 4.3 and 4.4 hereof.

Section 4.3. Completion of the Public Infrastructure Improvements. The Public Infrastructure Improvements shall be deemed completed upon fulfillment of the following conditions:

(a) Receipt of written notice (the "*Developer's Completion Certificate*") from the Authorized Developer Representative that the Public Infrastructure Improvements have been completed and are ready for final acceptance by the City, which notice shall (i) generally describe all property acquired or installed as part of the Public Infrastructure Improvements; (ii) state the Cost of the Work, and (iii) state and shall constitute the Developer's representation that the construction, improvement and equipping of the Public Infrastructure Improvements have been completed substantially in accordance with the Construction Documents, all costs then due and payable in connection therewith have been

paid, there are no mechanics' liens or to its knowledge, after reasonable inquiry, any basis for such liens, and all obligations, costs and expenses in connection with the Public Infrastructure Improvements have been paid or discharged.

(b) Receipt from the Engineer of a final Certificate of Completion (the "*Engineer's Completion Certificate*") stating that to the best of the Engineer's knowledge, information and belief, and on the basis of the Engineer's on-site visits and inspections, that the Public Infrastructure Improvements have been satisfactorily completed in accordance with the terms and conditions of the Construction Documents, including all punch list items, that the construction, improvement and equipping of the Public Infrastructure Improvements have been accomplished in a manner that conforms to all then applicable governmental laws, rules and regulations; and that the Public Infrastructure Improvements have been approved by the relevant public authorities.

Section 4.4. Acceptance of the Public Infrastructure Improvements. The City shall have no obligation to accept the Public Infrastructure Improvements until (a) the Public Infrastructure Improvements have been satisfactorily completed in accordance with the Construction Documents, as evidenced by the Engineer's Completion Certificate and properly dedicated as public rights-of-way and easements to the City; (b) the City has received the Developer's Completion Certificate, the Engineer's Completion Certificate, copies of the approval letters issued by the public authorities as referenced in Section 4.3 herein, and all documents and instruments to be delivered to the City pursuant to the Construction Documents; and (c) the City has received evidence reasonably satisfactory to it that all liens on the Public Infrastructure Improvements, including, but not limited to, tax liens, the lien of any mortgage, and any mechanic's liens, have been or shall be released, or, with respect to mechanic's liens, security therefor has been provided pursuant to Section 5.8 hereof. The City agrees to accept the Public Infrastructure Improvements and the rights-of-way allocable thereto upon satisfaction of the conditions listed in (a) through (c) of the immediately preceding sentence. The acceptance by the City of the Public Infrastructure Improvements shall not relieve the Developer of its responsibility for defects in material or workmanship as set forth in Section 5.10. hereof.

Section 4.5. Extensions of Time. If the Developer or the City is delayed in the commencement or progress of its obligations hereunder by a breach by the other Party of its obligations hereunder, or by failure of the Engineer to act as provided in this Agreement, or by Force Majeure, then the time for performance under this Agreement by the Party so delayed shall be extended for such time as is commercially reasonable under the circumstances.

Section 4.6. Changes in the Work. After the execution of this Agreement, and without invalidating this Agreement, the Developer, the City and the Engineer by written agreement (a "*Change Order*") may agree to changes in the Work. Changes in the Work shall be performed under applicable provisions of this Agreement and the Construction Documents, unless otherwise provided in the Change Order.

A Change Order shall be in the form of a written instrument prepared by the Engineer and signed by the Authorized City Representative, the Authorized Developer Representative and the

Engineer, stating their agreement upon (a) the change in the Work, (b) any adjustment of the Cost of the Work, and (c) any extension of the time for performance under this Agreement.

ARTICLE V

FURTHER PROVISIONS RELATING TO THE CONSTRUCTION OF THE PUBLIC INFRASTRUCTURE IMPROVEMENTS

Section 5.1. Construction Documents. The Developer is causing to be prepared the Construction Documents, which shall be in a form satisfactory to the Authorized City Representative and the Developer. Any working drawings, plans and specifications prepared in connection with the Work (collectively, the "*Drawings and Specifications*") and that comprise the Construction Documents are instruments of service through which the Work to be executed is described. The Developer may retain one record set. The City shall own the copyrights on the Drawings and Specifications and will retain all common law, statutory and other reserved rights, in addition to the copyrights. All copies of the Drawings and Specifications, except the record set of the Developer, shall be returned or suitably accounted for to the City, on request, upon final completion of the Public Infrastructure Improvements, and the copy thereof furnished to the Developer is for use solely with respect to the Public Infrastructure Improvements. They are not to be used by the Developer on other projects without the specific written consent of the City. The Developer is authorized to use and reproduce applicable portions of the Drawings and Specifications appropriate to the execution of obligations with respect to the Public Infrastructure Improvements; provided, however, that any reproduction and distribution of copies of the Drawings and Specifications by the Developer to the extent necessary to comply with official regulatory requirements or obligations of law shall not be construed as an infringement of the copyrights or other reserved rights of the City with respect to the Drawings and Specifications. All copies made under this authorization shall bear the statutory copyright notice, if any, shown on the Drawings and Specifications.

Section 5.2. Prevailing Wage. The City designates its Finance Director as the prevailing wage coordinator for the Public Infrastructure Improvements (the "*Prevailing Wage Coordinator*"). The Developer acknowledges and agrees that the Public Infrastructure Improvements are subject to the prevailing wage requirements of Chapter 4115 of the Ohio Revised Code and all wages paid to laborers and mechanics employed on the Public Infrastructure Improvements shall be paid at not less than the prevailing rates of wages of laborers and mechanics for the classes of work called for by the Public Infrastructure Improvements, which wages shall be determined in accordance with the requirements of that Chapter 4115. The Developer shall comply, and the Developer shall require compliance by Contractor and shall require Contractor to require compliance by all subcontractors working on the Public Infrastructure Improvements, with all applicable requirements of that Chapter 4115, including any necessary posting requirements. The Developer (and all contractors and subcontractors thereof) shall cooperate with the Prevailing Wage Coordinator and respond to all reasonable requests by the Prevailing Wage Coordinator when the Prevailing Wage Coordinator is determining compliance by the Developer (and all contractors and subcontractors thereof) with the applicable requirements of that Chapter 4115.

The Prevailing Wage Coordinator shall notify the Developer of the prevailing wage rates for the Public Infrastructure Improvements. The Prevailing Wage Coordinator shall notify the Developer of any change in prevailing wage rates within seven working days of receiving notice of such change from the Director of the Ohio Department of Commerce. The Developer shall immediately upon such notification: (a) insure that Contractor and subcontractors receive notification of any change in prevailing wage rates as required by that Chapter 4115; (b) make the necessary adjustment in the prevailing wage rates and pay any wage increase as required by that Chapter 4115; and (c) insure that all contractors and subcontractors make the same necessary adjustments.

The Developer shall cause its Contractor, upon beginning performance of this Agreement, notify the Prevailing Wage Coordinator of the commencement of Work, supply to the Prevailing Wage Coordinator the schedule of the dates during the life of this Agreement on which the Contractor is required to pay wages to employees. The Developer shall cause Contractor and Contractor shall cause each of its Subcontractors to deliver to the Prevailing Wage Coordinator a certified copy of its payroll within two weeks after the initial pay date, and supplemental reports for each month thereafter and in connection with any Written Requisition which shall exhibit for each employee paid any wages, the employee's name, current address, social security number, number of hours worked during each day of the pay periods covered and the total for each week, the employee's hourly rate of pay, the employee's job classification, fringe payments and deductions from the employee's wages. The certification of each payroll shall be executed by the Contractor, subcontractor, or duly appointed agent thereof, if applicable) and shall recite that the payroll is correct and complete and that the wage rates shown are not less than those required by this Agreement and Chapter 4115 of the Ohio Revised Code.

The Developer shall provide to the Prevailing Wage Coordinator a list of names, addresses and telephone numbers of the Contractor and shall cause Contractor to provide the same information for subcontractors performing any Work on the Public Infrastructure Improvements as soon as they are available, and the name and address of the bonding/surety company and the statutory agent (if applicable) for those contractors or subcontractors. The Developer shall not contract with any contractor or subcontractor listed with the Ohio Secretary of State for violations of Chapter 4115 of the Ohio Revised Code pursuant to Section 4115.133 of the Ohio Revised Code.

Prior to final payment under this Agreement, the Developer (and any contractor or subcontractor thereof) shall submit to the Prevailing Wage Coordinator the affidavit required by Section 4115.07 of the Ohio Revised Code.

Section 5.3. Traffic Control Requirements. The Developer shall be responsible for ensuring the provision, through contractors or otherwise, of all traffic control devices, flaggers and police officers required to properly and safely maintain traffic during the construction of the Public Infrastructure Improvements. All traffic control devices shall be furnished, erected, maintained and removed in accordance with the Ohio Department of Transportation's "Ohio Manual of Uniform Traffic Control Devices" related to construction operations.

Section 5.4. Equal Opportunity Clause. The Developer will, in all solicitations or advertisements for employees placed by or on behalf of the Developer in connection with the performance of the Public Infrastructure Improvements, state that the Developer is an equal opportunity employer. The Developer shall require all contractors and shall require all contractor's subcontractors to include in each contract a summary of this equal opportunity clause.

Section 5.5. Insurance Requirements. The Developer shall furnish proof to the City at the time of commencing construction of the Work that Contractor possesses comprehensive general liability insurance naming the City and its authorized agents as an additional insured. The minimum limits of liability for the required insurance policies shall not be less than the following unless a greater amount is required by law:

(a) Commercial General Liability ("CGL"): Bodily injury (including death) and property damage with a combined single limit of \$1,000,000 each occurrence, with a \$2,000,000 aggregate; \$100,000 for damage to rented premises (each occurrence); \$5,000 for medical expenses (person); and \$1,000,000 for personal and advertising injury. CGL shall include (i) premises-operations, (ii) explosion and collapse hazard, (iii) underground hazard, (iv) independent contractors' protective, (v) broad form property damage, including completed operations, (vi) contractual liability, (vii) products and completed operations, with \$2,000,000 aggregate and to be maintained for a minimum period of one (1) year after acceptance of the Public Infrastructure Improvements pursuant to Section 2.4, (viii) personal injury with employment exclusion deleted, (ix) owned, non-owned, and hired motor vehicles, and (x) stopgap liability for \$100,000 limit. The general aggregate shall be endorsed to provide that it applies to the Work only.

(b) Automobile liability, covering all owned, non-owned, and hired vehicles used in connection with the Work: Bodily injury (including death) and property damage with a combined single limit of \$1,000,000 per person and \$1,000,000 each occurrence.

(c) Such policies shall be supplemented by an umbrella policy, also written on an occurrence basis, to provide additional protection to provide coverage in the total amount of \$5,000,000 for each occurrence and \$5,000,000 aggregate. The Developer's insurance shall be primary to any insurance maintained by the City.

(d) The Developer shall cause Contractor to obtain an additional named insurance endorsement for the CGL and automobile liability coverage with the following additional insured for covered claims arising out of the performance of the Work under the Construction Documents:

- (i) the City of Canal Winchester; and
- (ii) Canal Winchester City Council members, executive officers, and employees;

Each policy of insurance and respective certificate of insurance shall expressly provide that no less than 30 days prior written notice shall be given to City in the event of

cancellation, non-renewal, expiration or material alteration of the coverage contained in such policy.

(e) Insurance policies shall be written on an occurrence basis only.

(f) Products and completed operations coverage shall commence with the certification of the acceptance of the Public Infrastructure Improvements pursuant to Section 4.4 and shall extend for not less than two years beyond that date.

(g) The Developer shall require all contractors and subcontractors to provide workers' compensation, CGL, and automobile liability insurance with the same minimum limits specified herein, unless the City agrees to a lesser amount.

Section 5.6. City Income Tax Withholdings. The Developer shall require Contractor to withhold and pay, and shall require all subcontractors to withhold and pay, all City income taxes due or payable with respect to wages, salaries, commissions and any other income subject to the provisions of Chapter 181 of the Canal Winchester Codified Ordinances.

Section 5.7. Compliance with Occupational Health and Safety Act of 1970. The Contractor and subcontractors shall be solely responsible for their respective compliance with the Occupational Safety and Health Act of 1970 under this Agreement.

Section 5.8. Provision of Security for Mechanic's Liens. To the extent any materialman, contractor, or subcontractor files and records a mechanic's lien against the Public Infrastructure Improvements, the Developer shall, or shall require the appropriate contractor to, provide any security required by Section 1311.11 of the Ohio Revised Code to cause that mechanic's lien to be released of record with respect to the Public Infrastructure Improvements.

Section 5.9. Security for Performance. The Developer require Contractor to furnish prior to commencement of construction of the Public Infrastructure Improvements a performance and payment bond that shall name the Developer and the City as obligees in the form provided by Section 153.57 of the Ohio Revised Code. The bond shall cover all Costs of the Work, including a guarantee period of one (1) year set forth in Section 5.10 hereof.

Any bond shall be executed by sureties that are licensed to conduct business in the State as evidenced by a Certificate of Compliance issued by the Ohio Department of Insurance. All bonds signed by an agent must be accompanied by a power of attorney of the agent signing for the surety. If the surety of any bond so furnished by a contractor declares bankruptcy, become insolvent or its right to do business is terminated in Ohio, the Developer, within five (5) days thereafter, shall substitute another bond and surety or cause the contractor to substitute another bond and surety, both of which shall be acceptable to the City and the Developer. The Developer shall provide to the City prior to commencement of any Work by any contractor a copy the security for performance provided by the Developer or contractor pursuant to this Section.

Section 5.10. Further Developer Guaranties Relating to the Public Infrastructure Improvements. The Developer guarantees that it will cause to be exercised in the performance of

the Work the standard of care normally exercised by well-qualified engineering and construction organizations engaged in performing comparable services in Central Ohio. The Developer further warrants that the Work and any materials and equipment incorporated into the Work will be free from defects, including defects in the workmanship or materials (without regard to the standard of care exercised in its performance) for a period of one (1) year after final written acceptance of the Work by City. The performance and payment bond of the contractor(s) shall remain in effect until the expiration of the guarantee period. The guarantee provided in this Section shall be in addition to, and not in limitation of, any other guarantee, warranty or remedy provided by law, a manufacturer or the Construction Documents.

If defective Work becomes apparent within the warranty or guarantee period, the City shall promptly notify the Developer in writing and provide a copy of said notice to the Engineer. Within ten (10) days of receipt of said notice, the Developer shall visit the project in the company of one or more representatives of the City to determine the extent of the defective work. The Developer shall, within a reasonable time frame, repair or replace (or cause to be repaired or replaced) the defective Work, including all adjacent Work damaged as a result of such defective Work or as a result of remedying the defective Work. If the defective Work is considered by the City to be an emergency, the City may require the Developer to visit the project within one (1) day of receipt of said notice. The Developer shall be fully responsible for the cost of temporary materials, facilities, utilities or equipment required during the repair or replacement of the defective Work.

If the Developer does not repair or replace defective Work within a reasonable time frame, the City shall repair or replace such defective Work and charge the cost thereof to the Developer or the Developer's surety. Work which is repaired or replaced by the Developer shall be inspected and accepted by the Engineer and City and shall be guaranteed by the Developer for one (1) year from the date of acceptance of the corrective work by the City.

ARTICLE VI

PAYMENT OF COST OF THE WORK

Section 6.1. Deposit of Monies in the TIF Fund. Pursuant to the TIF Ordinance, the City has established the TIF Fund for, inter alia, the payment of the Cost of the Work. Upon the execution of this Agreement, the City covenants and agrees to deposit monies into the TIF Fund as such funds are received from the Franklin County Auditor from service payments paid by the owners of the parcels in the TIF district on which the Private Improvements have or shall be constructed, and thereafter to deposit into the TIF Fund all monies required to be deposited therein pursuant to the TIF Ordinance.

Section 6.2. Disbursements from the TIF Fund. The City agrees to pay the Developer TIF Reimbursement Amount upon final completion of the Work and acceptance by the City.

Section 6.3. Lien Waivers. Upon final completion of the Work and acceptance by the City, Developer shall deliver to City copies of unconditional final lien waivers executed by all subcontractors, suppliers or lien claimants.

Section 6.4. Tax Covenants. The obligation of the City to make payments to the Developer pursuant to this Agreement is not an obligation or pledge of any moneys raised by taxation and does not represent or constitute a debt or pledge of the faith and credit of the City. Except for the payments from the TIF Fund and in the aggregate amount described in this Agreement, the Developer shall receive no other monies from the City in connection with the construction of the Public Infrastructure Improvements.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.1. General. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions, by either Party hereto, such Party shall, upon written notice from the other, proceed promptly to cure or remedy such default or breach, and, in any event, within thirty (30) days after receipt of such notice. In the event such default or breach is of such nature that it cannot be cured or remedied within said thirty (30) day period, then in such event the Party shall upon written notice from the other commence its actions to cure or remedy said breach within said thirty (30) day period, and proceed diligently thereafter to cure or remedy said 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 following remedies may be pursued: (i) 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; and (ii) in addition, if the default or breach is a failure of the Developer to achieve completion of the Work by the date set forth in Section 4.2 herein, as adjusted by Change Order, then City may proceed to perform the Developer's obligations under this Agreement, and pay the costs thereof from the TIF Fund up to the amount designated for the Cost of the Work. The Developer and its surety shall be responsible for any deficiency in paying for curing the breach that cannot be covered out of the TIF Fund.

Section 7.2. Other Rights and Remedies; No Waiver by Delay. The Parties shall each have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of, and its remedies under, this Agreement; provided, that any delay by either party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Agreement shall not operate as a waiver of such rights or to deprive it of or limit such right in any way (it being the intent of this provision that neither party should be constrained, so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Agreement because of concepts of waiver, laches, or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor shall any waiver in fact made by either party with respect to any specific default by the other party under this Agreement be considered or treated as a waiver of the rights of such party with respect to any other defaults by the other party to this Agreement or with respect to the particular default except to the extent specifically waived in writing.

Section 7.3. Force Majeure. Notwithstanding anything contained in Sections 7.1 and 7.2 to the contrary and except as otherwise provided herein, no Party shall be considered in default in its obligations to be performed hereunder, if delay in the performance of such obligations is due to unforeseeable causes beyond its control and without its fault or negligence, including but not limited to, acts of God or of the public enemy, acts or delays of the other party, fires, floods, unusually severe weather, epidemics, freight embargoes, unavailability of materials, strikes or delays of contractors, subcontractors or materialmen but not including lack of financing capacity; it being the purpose and intent of this paragraph that in the event of the occurrence of any such enforced delay, the time or times for performance of such obligations shall be extended for the period of the enforced delay; provided, however, that the Party seeking the benefit of the provisions of this Section 7.3 shall within fourteen (14) days after the beginning of such enforced delay, notify the other Party in writing thereof and of the cause thereof and of the duration thereof or, if a continuing delay and cause, the estimated duration thereof, and if the delay is continuing on the date of notification, within thirty (30) days after the end of the delay, notify the other Party in writing of the duration of the delay.

ARTICLE VIII

DISPUTE RESOLUTION PROVISIONS AS TO AMENDMENTS AND CLAIMS

Section 8.1. Notice and Filing of Requests. Any request by the City or the Developer for amendment of the terms of this Agreement, including without limitation, for additional funds or time for performance shall be made in writing and given prior to completion of the Public Infrastructure Improvements.

Section 8.2. Request Information. In every written request given pursuant to Section 8.1 hereof, the party giving notice shall provide the nature and amount of the request; identification of persons, entities and events responsible for or related to the request; and identification of the activities on the applicable schedule affected by the request.

Section 8.3. Meeting. Within ten (10) days of receipt of the request given pursuant to Section 8.1 hereof, the parties shall schedule a meeting in an effort to resolve the request and shall reach a decision on the request promptly thereafter or reach a decision on the request without a meeting, unless a mutual agreement is made to extend such time limit. The meeting shall be attended by persons expressly and fully authorized to resolve the request on behalf of the City and the Developer. Any decision on the request shall be made to the mutual reasonable satisfaction of the parties.

Section 8.4. Mediation. If no decision is reached within 30 days of the date of the meeting held pursuant to Section 8.3 hereof, the parties may submit the matter to mediation, upon written agreement between them, or exercise any other remedy permitted to them at law or in equity.

Section 8.5. Performance. The City and the Developer shall proceed with their respective performance of this Agreement during any dispute resolution process, unless otherwise agreed by them in writing.

ARTICLE IX

MISCELLANEOUS

Section 9.1. Notice. Except as otherwise specifically set forth in this Agreement, all notices, 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 any addendum to or counterpart of 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. Any process, pleadings, notice of other papers served upon the Parties shall be sent by registered or certified mail at their respective Notice Address, or to such other address or addresses as may be furnished by one party to the other.

Section 9.2. Extent of Covenants; No Personal Liability. All covenants, obligations and agreements of the Parties 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, officer, agent or employee of any Party other than his or her official capacity, and neither the members of the legislative body of City nor any official executing this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution thereof or by reason of the covenants, obligations or agreements of the Parties contained in this Agreement.

Section 9.3. Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein 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 herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, 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 9.4. Binding Effect Against Successors and Assigns. The provisions of this Agreement shall be binding upon the successors or assigns of the Parties.

Section 9.5. Recitals. The Parties acknowledge and agree that the facts and circumstances as described in the Recitals hereto are an integral part of this Agreement and as such are incorporated herein by reference.

Section 9.6. Entire Agreement. This Agreement embodies the entire agreement and understanding of the Parties relating to the subject matter herein and therein and may not be amended, waived or discharged except in an instrument in writing executed by the Parties.

Section 9.7. Executed Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to constitute an original, but all of which together shall constitute but one and the same instrument. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

Section 9.8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio or applicable federal law. All claims, counterclaims, disputes and other matters in question between any of the Parties and their respective agents and employees, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Delaware County, Ohio.

Section 9.9. Assignment. This Agreement may not be assigned without the prior written consent of all non-assigning Parties.

Section 9.10. Survival of Representations and Warranties. All representations and warranties of the Parties in this Agreement shall survive the execution and delivery of this Agreement.

Section 9.11 Declaration Regarding Material Assistance/Nonassistance To a Terrorist Organization. Developer hereby warrants and represents that neither it nor any person, company, affiliated group or organization that holds, owns or otherwise has a controlling interest in Developer has provided material assistance to an organization listed on the U.S. Department of State Terrorist Exclusion List. Developer acknowledges receipt of a current version of the Terrorist Exclusion List, and Developer shall provide to Client a fully completed and executed Declaration Regarding Material Assistance/Nonassistance to a Terrorist Organization.

[SIGNATURE PAGES TO FOLLOW.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their respective names by their duly authorized representatives, all as of the date first written above.

CITY OF CANAL WINCHESTER, OHIO

By: _____

Printed: _____

Title: _____

Approved as to Form:

By: _____

Printed: Eugene L. Hollins

Title: Director of Law

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their respective names by their duly authorized representatives, all as of the date first written above.

DEVELOPER:
PROPERO WINCHESTER, LLC

By: 

Printed: Christian R. Mauger

Title: Authorized Signer

FISCAL OFFICER'S CERTIFICATE

The undersigned, Director of Finance of the City of Canal Winchester, Ohio under the foregoing Agreement, certifies hereby that the moneys required to meet the obligations of the City during the year 2015 under the foregoing Agreement have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2016

Printed: _____

Title: _____
City of Canal Winchester, Ohio

EXHIBIT A

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements include:

- Installation of waterline along Gender Road, sidewalk improvements, and . The components of the improvements are identified in the Preliminary Cost Estimate (Exhibit B) and depicted on the Site Plan (Exhibit C).

The City will reimburse the developer based on the actual cost of the Public Infrastructure Improvements.

EXHIBIT B

PRELIMINARY COST ESTIMATES



MACINTOSH
NEW SKILLED NURSING AND ASSISTED LIVING FACILITY
GENDER ROAD
CANAL WINCHESTER, OHIO 43110

COST ASSOCIATED WITH TIFF IMPROVEMENTS ALONG GENDER ROAD

July 26, 2016

<u>Description:</u>	<u>Cost:</u>
1. Waterline along Gender Road	\$75,000
2. Sidewalk / Miscellaneous Concrete	17,000
3. Recondition of Area along Roadway	<u>8,000</u>
Total Cost	<u>\$100,000</u>

EXHIBIT D

[INTENTIONALLY OMITTED]

EXHIBIT E

WRITTEN REQUISITION

No. _____

City of Canal Winchester, Ohio
36 S. High St.
Canal Winchester, Ohio 43110
Attention: Finance Director

Subject: Certificate and Request for Disbursement of Funds

You are hereby requested to disburse from the TIF Fund, which was created by Ordinance No. 13-33, and in accordance with the provisions of Section 6.2 of the Tax Increment Financing Agreement, dated _____, 2016 (the "Agreement") by and between the City and Propero Canal Winchester, LLC (the "Developer"), the amount of \$_____ as more fully set forth on Schedule A attached hereto to be paid pursuant to this Written Requisition No. _____ to the Developer at 65 E. State St., 16th Floor, Columbus, Ohio. All capitalized terms not otherwise defined in this Written Requisition have the meanings assigned to them in the Agreement.

The undersigned Authorized Developer Representative does hereby certify in compliance with Section 6.2 of the Agreement that:

(i) I have read the Agreement and definitions relating thereto and have reviewed appropriate records and documents of Developer relating to the matters covered by this Written Requisition;

(ii) The amount and nature of the portion of the Cost of the Work requested to be paid are shown on Schedule A attached hereto;

(iii) The disbursement herein requested is for an obligation properly incurred, is a proper charge against the TIF Fund as a Cost of the Work, has not been the basis of any previous withdrawal from the TIF Fund and was made in accordance with the Construction Documents;

(iv) The Public Infrastructure Improvements have not been materially injured or damaged by fire or other casualty in a manner which, if not repaired or replaced, would materially impair the ability of the Developer to meet its obligations under the Agreement;

(v) The Developer is in material compliance with all provisions and requirements of the Agreement, including, but not limited to, all prevailing wage requirements;

(vi) No Event of Default set forth in Article VII of the Agreement, and no event which but for the lapse of time or the giving of notice or both would be such an Event of Default, has occurred and is continuing;

(vii) Attached hereto as Schedule B are conditional lien waivers from any materialmen, contractors and subcontractors who have provided services or materials to the Public Infrastructure Improvements as required by Section 6.2 of the Agreement, and the Developer further acknowledges its obligation to require, or require provision of, certain security pursuant to Section 5.8 of the Agreement in the event any mechanic's liens are filed in connection with the Public Infrastructure Improvements;

(viii) The Public Infrastructure Improvements are being and have been installed substantially in accordance with the Construction Documents for the Public Infrastructure Improvements and all materials for which payment is requested have been delivered to and remain on the Public Infrastructure Improvements Site;

(ix) The payment requested hereby does not include any amount which is not entitled to be retained under any holdbacks or retainages provided for in any agreement;

(x) The Developer has asserted its entitlement to all available manufacturer's warranties to date upon acquisition of possession of or title to such improvements or any part thereof which warranties have vested in Developer and shall be wholly transferable to the City; and

(xi) All proceeds of the TIF Fund heretofore disbursed have been spent in accordance with the Written Requisition applicable thereto.

EXECUTED this ____ day of _____, 20__.

By: _____
Authorized Developer Representative

4829-9985-4377, v. 1
COLUMBUS 52254-17 54367v1

ORDINANCE NO. 17-059

AN ORDINANCE TO AMEND ORDINANCE NO. 13-13, WHICH ESTABLISHED A TAX INCREMENT FINANCING AREA, TO SUBJECT SUCH TAX INCREMENT FINANCING AREA TO AN EXISTING CRA EXEMPTION AND TO DECLARE AN EMERGENCY

WHEREAS, this Council previously passed Ordinance No. 13-33 on November 5, 2013 (the “*Original TIF Ordinance*”), declaring improvements to certain parcels of real property within the City of Canal Winchester, Ohio (the “*City*”) to be a public purpose and requiring the owners of such parcels to make service payments in lieu of taxes on the improvements to parcels to fund those public improvements described in the TIF Ordinance, all as provided in Chapter 5709 of the Ohio Revised Code (the “*Act*”); and

WHEREAS, this Council previously passed Ordinance No. 16-037 on December 19, 2016 (together with the Original TIF Ordinance, the “*TIF Ordinance*”), amending the Original TIF Ordinance to add certain parcels to the real property subject to the TIF Ordinance (the “*TIF Area*”); and

WHEREAS, this Council previously passed Resolution No. 2-87 on March 2, 1987 (the “*Original CRA Resolution*”), designating a Community Reinvestment Area within the City (the “*CRA Number One*”) in accordance with Sections 3735.65 to 3735.70 of the Revised Code; and

WHEREAS, this Council passed Resolution No. 15-94 and Resolution No. 02-01 (together with the Original CRA Resolution, the “*CRA Resolution*”), amending the terms of the CRA Resolution and the boundaries of CRA Number One; and

WHEREAS, CRA Number One provides for terms regarding real property tax exemptions of the value of residential, commercial and industrial structures and related site improvements to be developed within CRA Number One (the “*CRA Exemption*”); and

WHEREAS, the TIF Area lies within the boundary of CRA Number One; and

WHEREAS, this Council desires to amend the TIF Ordinance for the purposes of subjecting the structures, potential structures and site improvements within the TIF Area to the CRA Exemption and to subordinate the TIF Exemption and the obligation to make Service Payments to the CRA Exemption.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, OHIO:

Section 1. That Section of the TIF Ordinance be and hereby is revoked and the following provision inserted as its replacement:

Section 1. Authorization of Tax Exemption. Pursuant to and in accordance with the provisions of Section 5709.40(B) of the Ohio Revised Code, this Council hereby finds and determines that one hundred percent

(100%) of the increase in assessed value of the Property subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "Improvement," as defined in Section 5709.40(A) of the Ohio Revised Code) is hereby declared to be a public purpose and shall be exempt from taxation for a period commencing with the first tax year that begins after the effective date of this Ordinance and in which an Improvement attributable to a new structure first appears on the tax list and duplicate of real and public utility property and ending on the earlier of (a) thirty (30) years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Statutes. Notwithstanding any other provision of this Ordinance, the TIF Exemption granted pursuant to this Section 1 and the payment obligations established pursuant to Section 3 of this Ordinance are subject and subordinate to the CRA Exemption.

Section 2. That each Section 2, Section 3, Section 4, Section 5, Section 6, Section 7, Section 8 and Section 9 of the TIF Ordinance are hereby redesignated Section 3, Section 4, Section 5, Section 6, Section 7, Section 8, Section 9 and Section 10 respectively, and Section 2 is hereby added to provide in its entirety as follows:

Section 2. Tax Exemption Priority. This Council finds and determines that the TIF Exemption and the obligation to make Service Payments are subject and subordinate to any tax exemption applicable to the Improvement pursuant to Sections 3735.65 through 3735.70 of the Ohio Revised Code, including the CRA Exemption.

Section 3. Pursuant to Section 5709.40 of the Ohio Revised Code, the Clerk of this Council is hereby directed to deliver a copy of this Ordinance to the Director of the Ohio Development Service Agency of the State of Ohio within fifteen days after its passage.

Section 4. 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 that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 5. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety or welfare of the City and for the further reason that this Ordinance is required in order that the City can timely and properly incentive economic development within the City; wherefore this Ordinance shall take effect and be in force immediately upon its passage.

DATE PASSED _____

PRESIDENT OF COUNCIL

ATTEST _____
CLERK OF COUNCIL

MAYOR

DATE APPROVED _____

APPROVED AS TO FORM:

LEGAL COUNSEL

I hereby certify that the Ordinance as set forth above was published for a period of not less than fifteen (15) days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by this Council and as set forth in the Canal Winchester Charter.

FINANCE DIRECTOR/CLERK OF COUNCIL

ORDINANCE NO. 17-060

AN ORDINANCE TO AMEND PART 11 OF THE CODIFIED ORDINANCES AND THE ZONING MAP OF THE CITY OF CANAL WINCHESTER, REZONING APPROXIMATELY 4.730 TRACT OF LAND FROM MULTI-FAMILY RESIDENTIAL (AR-1) TO GENERAL COMMERCIAL (GC), OWNED BY CROSSROADS CHRISTIAN LIFE CENTER, INC., LOCATED ON THE EAST SIDE OF GENDER ROAD NORTH OF THE RAILROAD TRACKS (PART OF PID 184-000865)

WHEREAS, the rezoning of the area hereinafter described has been proposed to the Council of the City of Canal Winchester; and

WHEREAS, notice of a public hearing has been duly advertised and the public hearing has been held before the Council of the City of Canal Winchester; and

WHEREAS, a public hearing has been held by the Planning and Zoning Commission of the City of Canal Winchester with a recommendation for approval of the rezoning;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, STATE OF OHIO:

SECTION 1. That Part 11 of the Codified Ordinances and the Zoning Map of the City of Canal Winchester, Ohio, which is par thereof, be and hereby is amended as follows:

That approximately 4.730 acres, located on the east side of Gender Road, north of the railroad tracks, and being part of PID 184-000865, owned by Crossroads Christian Life Center, Inc., as fully set forth in the description attached hereto as Exhibit A and incorporated herein by reference, is rezoned from Multi-Family Residential (AR-1) to General Commercial (GC).

SECTION 2. That all other provisions of Part 11 of the Codified Ordinances and accompanying zoning map shall remain in full force and effect.

SECTION 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

DATE PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____

MAYOR

DATE APPROVED

APPROVED AS TO FORM:

LEGAL COUNSEL

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

Clerk of Council/Finance Director



SMART
SERVICES, INC.

Surveying • Environmental • Traffic • CA/CM

An Ohio EDGE Certified Firm



88 W. Church Street
Newark, Ohio 43055
740.345.4700

1900 Crown Park Court
Columbus, Ohio 43235
614.914.5543

LEGAL DESCRIPTION
4.730 ACRES
FOR CROSSROADS CHRISTIAN LIFE CENTER

September 15, 2017

Page 1 of 2

Situated in the State of Ohio, County of Franklin, City of Canal Winchester, being part of the Northeast Quarter of Section 25, Township 11, Range 21, of the Buckingham Survey of the Congress Lands East of the Scioto River, and being part of the 27.834 Acre (record) property conveyed to Crossroads Christian Life Center, Inc. by Instrument Number 201409150121642, of the Franklin County Recorder's Office, (part of Auditor's Parcel No. 184-000865-00), and being more particularly described as follows:

Beginning for Reference at "Franklin County Geodetic Survey Monument 2270 Reset", an Aluminum Disk in Concrete Monument Found at the north quarter corner of Section 25, said point being in the centerline of Gender Road; thence along the north-south mid-section line of Section 25, and the centerline of Gender Road, South 04 degrees 44 minutes 40 seconds West, 1755.45 feet to a point, said point being on the northerly line of the property conveyed to CSX Transportation, Inc. by Official Record 13276 A14, and being referenced by "Franklin County Geodetic Survey Monument 4452 Reset", an Aluminum Disk in Concrete Monument Found at the center of Section 25;

Thence along the northerly line of said CSX Transportation, Inc. property, and crossing the right-of-way of Gender Road, South 78 degrees 28 minutes 26 seconds East, 85.61 feet to a Pipe w/Cap "EMHIT, Inc." Found in the easterly right-of-way line of Gender Road (O.R. 34797 E20), said point being the southwest corner of said Crossroads Christian Life Center, Inc. property, and being the True Point of Beginning of the parcel herein described;

Thence along the easterly right-of-way line of Gender Road, and along the westerly line of said Crossroads Christian Life Center, Inc. property, **North 04 degrees 44 minutes 36 seconds East, 224.93 feet** to an Iron Pin Set;

Thence crossing said Crossroads Christian Life Center, Inc. property, the following Eight (8) Courses:

- 1) **South 85 degrees 15 minutes 24 seconds East, 101.78 feet** to an Iron Pin Set at a point of curvature;

LEGAL DESCRIPTION
4.730 ACRES
FOR CROSSROADS CHRISTIAN LIFE CENTER

September 15, 2017

Page 2 of 2

- 2) Along a curve to the left having a radius of 100.00 feet, an arc length of 46.62 feet, a delta angle of 026 degrees 42 minutes 30 seconds, and a chord which bears North 81 degrees 23 minutes 21 seconds East, 46.19 feet to an Iron Pin Set;
- 3) North 68 degrees 02 minutes 06 seconds East, 264.80 feet to an Iron Pin Set at a point of curvature;
- 4) Along a curve to the left having a radius of 200.00 feet, an arc length of 151.78 feet, a delta angle of 043 degrees 28 minutes 56 seconds, and a chord which bears North 46 degrees 17 minutes 38 seconds East, 148.17 feet to an Iron Pin Set;
- 5) South 65 degrees 26 minutes 50 seconds East, 65.60 feet to an Iron Pin Set at a point of curvature;
- 6) Along a curve to the left having a radius of 175.00 feet, an arc length of 60.77 feet, a delta angle of 019 degrees 53 minutes 48 seconds, and a chord which bears South 75 degrees 23 minutes 44 seconds East, 60.47 feet to an Iron Pin Set;
- 7) South 85 degrees 20 minutes 38 seconds East, 7.01 feet to an Iron Pin Set;
- 8) South 11 degrees 31 minutes 34 seconds West, 501.92 feet to an Iron Pin Set in the southerly line of said Crossroads Christian Life Center, Inc. property, said point being in the northerly line of said CSX Transportation, Inc. property;

Thence along the southerly line of said Crossroads Christian Life Center, Inc. property, and the northerly line of said CSX Transportation, Inc. property, **North 78 degrees 28 minutes 26 seconds West, 554.44 feet** to the True Point of Beginning, **containing 4.730 acres** more or less. Subject to any and all easements, right-of-ways, conditions and restrictions of record. BEARINGS SHOWN HEREON ARE BASED UPON THE CENTERLINE OF GENDER ROAD BETWEEN FCGS 2270 RESET AND FCGS 4452 RESET AS BEING SOUTH 04 DEGREES 44 MINUTES 40 SECONDS WEST, REFERENCED TO NAD83 (NSRS 2007). This description was prepared by Smart Services, Inc. in September 2017 and is based upon actual field measurements.



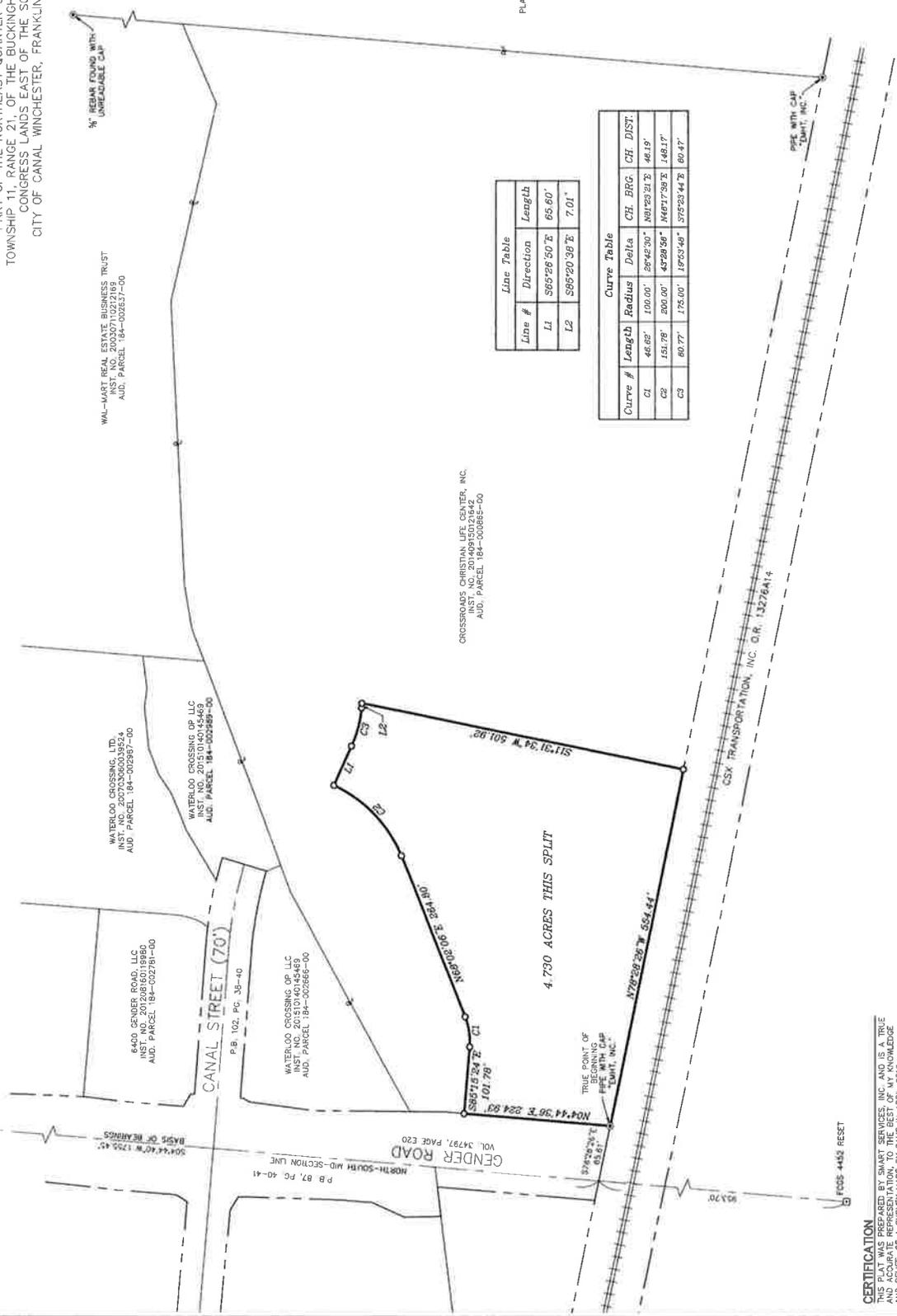
BRIAN D. SMART

REG. SURVEYOR NO. 7611



LOT SPLIT SURVEY FOR CROSSROADS CHRISTIAN LIFE CENTER

PART OF THE NORTHEAST QUARTER OF SECTION 25
TOWNSHIP 11, RANGE 21, OF THE BUCKINGHAM SURVEY OF THE
CONGRESS LANDS EAST OF THE SCOTO RIVER
CITY OF CANAL WINCHESTER, FRANKLIN COUNTY, OHIO



Line #	Direction	Length
L1	585°26'50" E	65.60'
L2	595°20'38" E	7.01'

Curve #	Length	Radius	Delta	CH. BRG.	CH. DIST.
C1	46.65'	100.00'	28°42'30"	N81°23'21" E	46.19'
C2	151.78'	200.00'	45°28'58"	N49°17'38" E	148.12'
C3	60.77'	175.00'	19°53'48"	S75°23'44" E	60.47'



PREPARED BY:
SMART SERVICES, INC.
1600 W. MAIN STREET, SUITE 100
CANTON, OHIO 44705
PHONE: (740) 342-1100 FAX: (740) 322-1188

DATE: AUG. 11, 2017
JOB NO.: 670201.DWG
SHEET: 1 OF 1

- LEGEND**
- ⊙ 1" PIPE FOUND - UNLESS OTHERWISE NOTED
 - ⊙ 5/8" x 30" REBAR W/YELLOW ID
 - ⊙ CAP LABELED "SMART SERVICES"
 - ⊙ RAILROAD "PPE FOUND"
 - ⊙ MAG NAIL
 - ⊙ MONUMENT ASSEMBLY

PROPERTY ADDRESS
GENDER ROAD, CANAL WINCHESTER, OHIO

PERTINENT DOCUMENTS
DEEDS TO SUBJECT PROPERTY AND ADJACENT PROPERTIES
SUBDIVISION PLATS AS SHOWN
ROADWAY DEDICATION PLATS AS SHOWN

BASIS OF BEARINGS
BEARINGS SHOWN HEREON ARE BASED UPON THE CENTERLINE OF CANAL STREET AS BEING SOUTH 04 DEGREES 44 MINUTES 40 SECONDS WEST, REFERENCED TO NAD83 (NRS 2007).



CERTIFICATION
THIS PLAT WAS PREPARED BY SMART SERVICES, INC. AND IS A TRUE AND CORRECT REPRESENTATION OF THE SURVEY KNOWLEDGE AND BELIEF OF A SURVEY MADE BY SAME IN APRIL 2015.
THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE POLICY; ALL OWNERSHIP SHOWN IS BASED UPON RECORD DATA ACQUIRED AT THE TIME OF SURVEY, NO GUARANTEE IS PLACED UPON ACTUAL OWNERSHIP OF ANY PROPERTY.
EASEMENTS MAY EXIST ON SUBJECT PROPERTY THAT WOULD BE REVEALED IN A TITLE EXAMINATION.

Brian D. Smart
REC. SURVEYOR NO. 7611

REFERENCE P.O.B.
FOSS 2270 RESET

WAL-MART REG. EXIST. BUSINESS TRUST
INST. NO. 20020700222658
INST. NO. 20020710222658
AUD. PARCEL 184-002657-00

WATERLOO CROSSING, LTD.
INST. NO. 20070306039524
INST. NO. 20070306039524
AUD. PARCEL 184-002697-00

6400 GENDER ROAD, LLC
INST. NO. 20051800000000
AUD. PARCEL 184-002781-00

WATERLOO CROSSING, OP, LLC
INST. NO. 20051800000000
AUD. PARCEL 184-002666-00

CROSSROADS CHRISTIAN LIFE CENTER, INC.
INST. NO. 20051800000000
AUD. PARCEL 184-002666-00

CHERRY LANDING
PLAT BOOK 105, PAGE 31

CSX TRANSPORTATION, INC. O.R. 13276A14

FOSS 4455 RESET

ORDINANCE 17-061

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A DEVELOPMENT AGREEMENT WITH SHRIMANGESHI, LLC.

WHEREAS, the City desires to induce development of commercial property along the Diley Road corridor; and

WHEREAS, this Council previously adopted Ordinance 17-058 creating the Greengate TIF which includes property owned by Shrimangeshi, LLC; and

WHEREAS, this Council desires to enter into a development agreement with the owners of certain parcels in the Greengate TIF area that will substantially benefit the TIF area and the welfare of the community;

NOW THEREFORE BE IT ORDAINED BY THE CITY OF CANAL WINCHESTER, FRANKLIN COUNTY, OHIO AS FOLLOWS:

Section 1: That Council hereby authorizes and directs the Mayor to enter into a Development Agreement with Shrimangeshi, LLC, in a form acceptable to the Director of Law and with terms and conditions substantially similar to the Memorandum of Understanding attached hereto as Exhibit "A" and incorporated herein by reference.

Section 2: 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 any of its committees which resulted in such formal actions were in meetings so open to the public in compliance with all legal requirements of the City of Canal Winchester, Franklin County, Ohio.

Section 3: That this ordinance hereby is declared to be an emergency measure, necessary for the preservation of the public health, safety and welfare and specifically for the reasons set forth in the preamble hereto; wherefore, this ordinance shall take effect and be in force from and after its passage.

DATE PASSED _____

PRESIDENT OF COUNCIL

ATTEST _____
CLERK OF COUNCIL

MAYOR

DATE APPROVED _____

APPROVED AS TO FORM:

LEGAL COUNSEL

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

Finance Director/Clerk of Council

PUBLIC INFRASTRUCTURE MEMORANDUM OF UNDERSTANDING (MOU)

The City of Canal Winchester (hereinafter “City”) and Shrimangeshi, LLC (hereinafter “Shrimangeshi”), enter into this memorandum of understanding with regard to establishment of a Tax Increment Financing district and future construction of a roadway (hereinafter “Greengate Blvd.”) and utilities across a 35.55 acre parcel (PID: 042-0388810) owned by Shrimangeshi (the “MOU”):

- The City and Shrimangeshi mutually desire to have a public roadway constructed across Shrimangeshi’s parcel in a location substantially similar to that shown on plans attached and made part hereof as Exhibit A.
- Shrimangeshi will immediately grant a waterline easement to the City for construction of a waterline with an alignment fully described in Exhibit B.
- The city will construct or will cause to be constructed a public waterline within the waterline easement consistent with the waterline alignment set forth in the City’s engineering plans for Greengate Drive and attached as Exhibit A.
- Water service for Shrimangeshi will be provided by the new waterline in the waterline easement, which water service shall be available to Shrimangeshi upon completion of the waterline. The only applicable costs to Shrimangeshi for accessing the water line will be the standard water capacity fees at the time of connection.
- Upon request of the City at or before the commencement of construction of Greengate Blvd., Shrimangeshi will promptly grant any necessary right of way for the construction of a public road to be known as Greengate Blvd. as generally depicted in the plans attached as Exhibit A at no cost to the City.
- Shrimangeshi will cooperate with the City in creating a commercial TIF with regard to its 35.55 acre parcel and surrounding parcels (as such area is more fully described in Exhibit C, the “**Greengate TIF**”). The funds generated by the Greengate TIF (the “**Greengate TIF Funds**”) will be utilized to reimburse the City for the cost of extending Greengate Drive from Diley Road to the eastern boundary of Shrimangeshi’s parcel and for other projects which will benefit the Greengate TIF area (including but not limited to the extension of utilities into the Greengate TIF area). Shrimangeshi’s cooperation does not include any fiscal responsibility for the creation of the Greengate TIF. Furthermore, it is understood that the Greengate TIF will not impose any supplemental or minimum service payment obligations on real property within the Greengate TIF.
- The City will construct or will cause to be constructed at its cost Greengate Blvd. according to the plans attached hereto as Exhibit A. The obligation of the City to construct the portion of Greengate Blvd. on the Shrimangeshi parcel will be triggered by approval of a final development plan for facilities with at least \$5,000,000 in construction value on the Shrimangeshi parcel and delivery of steel to the site; provided, however, that commencement of construction of this portion of Greengate Blvd. will in no event be commenced later than January 1, 2025.
- The City agrees that the funds in the Greengate TIF will be used for no other purpose prior to fully completing the improvements depicted on Exhibit A attached hereto.
- Notwithstanding the foregoing or Exhibit A, the parties agree that the stormwater remediation plan set forth in Exhibit A is not final. The parties agree to cooperate in good faith to arrive at a mutually acceptable stormwater remediation plan which will, for all purposes of this MOU, be deemed to become a part of Exhibit A once it has been prepared and agreed upon. It is

understood that any stormwater remediation facilities will be part of the cost of the Greengate Blvd. construction and not an obligation of Shrimangeshi.

CITY OF CANAL WINCHESTER

SHRIMANGESHI, LLC

By: _____

By: _____

Its: _____

Its: _____

DRAFT

ORDINANCE NO. 17-062

AN ORDINANCE TO AUTHORIZE THE MAYOR CONVEY A TRACT OF LAND CONSISTING OF 15.588 ACRES ON ROBINETT WAY TO THE CANAL WINCHESTER INDUSTRY AND COMMERCE CORPORATION TO PROVIDE FOR ITS SUBSEQUENT CONVEYANCE TO OPUS DEVELOPMENT COMPANY, L.L.C., PURSUANT TO A PURCHASE AND SALE AGREEMENT, AND TO DECLARE AN EMERGENCY

WHEREAS, Opus Development Company, L.L.C. desires to acquire 15.588 acres of land owned by the City of Canal Winchester for construction of new facilities; and

WHEREAS, the City hereby finds and determines that the 15.588 acres of land on Robinett Way is not required by the City for its purposes, and the conveyance of such land to the Canal Winchester Industry and Commerce Corporation will promote the welfare of the residents of the City, stabilize the economy, provide additional opportunities for their gainful employment, and assist in the development of industrial, commercial, distribution and research activities to the benefit of the residents of the City; and

WHEREAS, such transfer is authorized and permitted by the Charter and Ordinances of the City of Canal Winchester and pursuant to Chapters 1724 and 1761 of the Ohio Revised Code; and

WHEREAS, this conveyance is hereby authorized without advertisement and receipt of bids;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, OHIO:

Section 1. That the Mayor be and hereby is authorized and directed enter into a Real Estate Purchase Contract, in a form substantially similar to the contract attached hereto as Exhibit A and incorporated by reference, and to by suitable deed of conveyance to convey to the Canal Winchester Industry and Commerce Corporation the 15.588 acres of land, so as to provide for the performance of the Real Estate Purchase and Sale Agreement.

Section 2. That this Ordinance is hereby declared to be an emergency measure necessary for the public health, safety and welfare, such emergency arising from the exigencies of the real estate purchase agreement and the need to immediately begin preparations for the transfer of the land WHEREFORE, this Ordinance shall take effect and be in force from and after its passage.

DATE PASSED _____

PRESIDENT OF COUNCIL

ATTEST _____
CLERK OF COUNCIL

MAYOR

DATE APPROVED _____

APPROVED AS TO FORM:

LEGAL COUNSEL

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

FINANCE DIRECTOR/CLERK OF COUNCIL

OHFD Draft – November 29, 2017

Real Estate Purchase and Sale Agreement

This Real Estate Purchase and Sale Agreement (“**Agreement**”) is made and entered into as of this ____ day of December, 2017 (“**Effective Date**”), by and among Opus Development Company, L.L.C., a Delaware limited liability company, or its assignee or nominee (“**Purchaser**”), Canal Winchester Industry and Commerce Corporation, an Ohio community improvement corporation (“**Seller**”), and City of Canal Winchester, Ohio, an Ohio municipal corporation (“**City**”).

Recitals

A. City is currently the owner (subject to its conveyance to Seller, which will then become the owner) in fee simple of approximately 15.588 gross acres of vacant real estate (“**Land**”), located on Robinett Way, Canal Winchester, Ohio. The Land is legally described on Exhibit A attached hereto and made a part hereof, and is generally depicted on the copy of the survey set forth on Exhibit B attached hereto and made a part hereof. Upon the completion of the subdivision described in Section 10(a) hereof, the final legal description of the Land resulting from such subdivision will be substituted in Exhibit A for the initial legal description set forth therein.

B. City, through Seller, its agent for economic development purposes, desires to sell all of the Land, together with all easements and appurtenances and all estates and rights of City or Seller, in, to and with respect to the Land (and each portion thereof) and any and all improvements thereon (collectively, “**Property**”), to Purchaser, and Purchaser desires to purchase the Property from Seller, upon and subject to all of the terms and conditions of this Agreement.

Agreements

Now, therefore, for and in consideration of the foregoing Recitals, the mutual covenants and conditions set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser, Seller and City agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated into and made a part of this Agreement, as if fully set forth herein.

2. Agreement to Sell and Purchase Property; Purchase Price and Payment of Purchase Price; Earnest Money.

(a) Agreement to Sell and Purchase Property. On or before the Closing Date (as such term is defined in Section 4 hereof), City will convey the Property to Seller in a manner that will allow Seller to fulfill timely all of its obligations under this Agreement (including, without limitation, the obligation to sell and convey the Property to Purchaser in accordance with this Agreement). Seller will sell the Property to Purchaser, and Purchaser will purchase the Property from Seller, at the price and on and subject to the terms, provisions and conditions herein set forth.

(b) Purchase Price and Payment of Purchase Price. Subject to prorations and adjustments, Purchaser will pay to Seller a purchase price for the Property (“**Purchase Price**”) equal to \$50,000.00 per Net Acre (as such term is defined below in this Section 2(b)) of the Land, as determined by the Survey (as such term is defined in Section 5(c) hereof). The term “**Net Acre**” means each acre, less the area of any rights-of-way existing on the Land as of the Effective Date and on the Closing Date, which the public has a right to use (other than driveways or other access ways that only provide access into, rather than through, the Land, and also other than any roads or other access ways to be constructed by Purchaser), less the area of any wetlands. The Purchase Price will be payable, by wire transfer or otherwise in immediately available funds, as follows:

(i) Within five business days after the Effective Date, Purchaser will deposit \$30,000.00 as earnest money (“**Earnest Money**”) into an escrow at the downtown Minneapolis,

Minnesota office of First American Title Insurance Company (“**Title Company**”), as escrow agent, in accordance with Sections 2(c) and 8(a) hereof.

- (ii) At the Closing (as such term is defined in Section 4 hereof), (A) the Earnest Money will be paid to Seller; (B) all interest earned on the Earnest Money, if any, will be credited against the Purchase Price for the benefit of Purchaser; and (C) Purchaser will pay to Seller the balance of the Purchase Price (*i.e.*, the Purchase Price, less the Earnest Money and all interest thereon), plus or minus adjustments and proration hereunder.

(c) Earnest Money. The Earnest Money will be deposited in escrow with the Title Company in accordance with the provisions of Section 8(a) hereof. At Purchaser’s option, Seller and Purchaser will direct the Title Company to invest such funds in an interest bearing account. All interest earned on the Earnest Money will be credited or paid to Purchaser at the same time as the Earnest Money itself is credited or paid to or for the benefit of Purchaser hereunder.

3. Inspections; Due Diligence; Purchaser Termination Rights.

(a) Delivery of Due Diligence Materials. Within five business days after the Effective Date, Seller will deliver to Purchaser copies of any and all documents, reports, studies, tests, engineering drawings, title commitments, title policies, surveys and other pertinent materials that Seller or City has in its possession or control that relate to the Property, including, without limitation, all materials pertaining to Governmental Approvals (as such term is defined in Section 3(b) hereof), if any, that Seller or City has heretofore obtained (collectively, “**Due Diligence Materials**”). In addition, Seller will promptly deliver to Purchaser all Due Diligence Materials, if any, that come into the possession or control of Seller or City hereafter.

(b) Intended Uses. Purchaser contemplates acquiring the Property for the purpose of developing it for commercial and related uses (collectively, “**Intended Uses**”). Through the Closing Date, and subject to this Section 3, Seller and City hereby grant to Purchaser, and its consultants, contractors, agents, employees and representatives, access to all of the Property for the purpose of, and will cooperate fully in all reasonable respects in connection with, Purchaser’s conducting (either itself or through its consultants, contractors, agents, employees and representatives) such tests, inspections and investigations with respect to the Property as Purchaser deems appropriate in its sole and absolute discretion (collectively, “**Investigations**”). Among other things, the Investigations may include, without limitation, (i) “Phase I,” “Phase II” or other environmental studies to determine the extent to which any Hazardous Materials (as such term is defined in Section 6(k) hereof) are located on any portion of the Property, (ii) soil, boring, percolation and other similar tests, (iii) topographic, engineering, storm water, traffic, parking and other feasibility and physical studies, (iv) investigating and obtaining all approvals in order to satisfy and comply with all requirements for all zoning and other entitlements, all governmental approvals and permits, including without limitation, all wetlands-related approvals and all other approvals from the U.S. Army Corps of Engineers and from other federal, state and local authorities and agencies, all zoning, and other land use approvals, all tax abatement and other incentive benefits, and other similar items in connection with the development of the Property for the Intended Uses, in all cases as Purchaser deems to be necessary, appropriate or advisable in its sole and absolute discretion (collectively, “**Governmental Approvals**”), (v) testing and investigations to determine that no alteration of any flood plain, floodway, stream or wetlands area will be required in connection with the Intended Uses, (vi) finalizing arrangements for economic incentives such as real estate tax abatements, and (vii) finalizing arrangements for financing; provided, however, that Purchaser will not be obligated to conduct any particular Investigations (or any Investigations at all). Purchaser will indemnify and hold harmless Seller and City from and against any damages or claims for injuries to any persons or to the Property that arise as a direct result of the Investigations, except to the extent such damages or claims are due to Seller’s or City’s gross negligence or intentional misconduct. In the event that Purchaser does not purchase the Property, Purchaser will promptly repair any material physical damage to the Land resulting from the conduct of the Investigations and restore the Land as much as practicable to the condition that existed prior to any such damage. Purchaser’s repair, indemnification and hold harmless obligations under this Section 3(b) will survive the expiration or termination of this Agreement or the Closing for a period of 12 months.

(c) Due Diligence Date. The “**Initial Due Diligence Date**” will be the date that is 180 days after the Effective Date; provided, however, that Purchaser, in its sole and absolute discretion, may extend such date for up to two consecutive periods of 30 days each (each such extended date is herein called an “**Extended Due Diligence**”).

Date”) by delivering written notice thereof to Seller on or before the Initial Due Diligence Date or the then-applicable Extended Due Diligence Date, as the case may be. The later of the Initial Due Diligence Date and the latest applicable Extended Due Diligence Date is herein called the **“Due Diligence Date.”** If the Due Diligence Date does not fall on a business day, then such Due Diligence Date will be the next business day thereafter. The time period from and after the Effective Date through the Due Diligence Date is herein called the **“Due Diligence Period.”**

(d) Purchaser Termination Rights. Anything in this Agreement to the contrary notwithstanding, Purchaser may, in its sole and absolute discretion, and for any reason or reasons or for no reason whatsoever, terminate this Agreement by delivering written notice of such termination to Seller at any time on or before the Due Diligence Date, or at any time thereafter because Purchaser has not obtained all of the Governmental Approvals. In the event of any such termination, all of the Earnest Money will be refunded to Purchaser, unless such termination (i) occurs after the expiration of the Initial Due Diligence Period, and (ii) Purchaser has then obtained all Governmental Approvals. Subject to Sections 3(e) and 12(b) hereof, if such termination occurs after the expiration of the Initial Due Diligence Period and on or before the last Extended Due Diligence Date, and Purchaser has then obtained all Governmental Approvals, then the Earnest Money will be refunded to Purchaser or paid to Seller in accordance with the following table:

Timing of Termination during Due Diligence Period	Amount of Earnest Money to be Refunded to Purchaser	Amount of Earnest Money to be Paid to Seller
First Day After Initial Due Diligence Date through First Extended Due Diligence Date	All Earnest Money, plus any interest earned thereon, less payment to Seller	\$2,500.00
First Day After First Due Diligence Date through Second Extended Due Diligence Date	All Earnest Money, plus any interest earned thereon, less payment to Seller	\$5,000.00

The escrow agreement with the Title Company will specifically provide that the foregoing payment (and the payment made pursuant to Section 3(e) hereof) of the Earnest Money will be immediately made to Purchaser or Seller, as applicable, in the event of Purchaser’s termination hereunder, without requiring the consent or joint direction of Seller. If Purchaser does not terminate this Agreement during the Due Diligence Period, then Purchaser shall be deemed to have waived its right to terminate this Agreement under this Section 3(d), and the Earnest Money shall be non-refundable to Purchaser (except as otherwise expressly provided in this Agreement, including, without limitation, Section 12(b) hereof) but applicable to the Purchase Price at Closing.

(e) Third Party’s Right of First Refusal. Seller and City have heretofore informed Purchaser that a third party (**“ROFR Holder”**), which is not affiliated with Seller or City, and which owns a parcel of real estate that adjoins the Land, holds a right of first refusal to purchase the Property (**“ROFR”**). Within two business days after the Effective Date, Seller or City will deliver proper written notice to the ROFR Holder of the existence of this Agreement and will take all other necessary steps in order for the commencement of the time period within which the ROFR Holder must exercise or affirmatively waive the ROFR (failing which exercise or affirmative waiver, the ROFR will automatically be deemed to have been waived and released, and the ROFR Holder will have no further right, title, interest or claim in or to the Property or any portion thereof). Seller will notify Purchaser, in writing, within three business days after the earlier of (i) the ROFR Holder’s exercise or affirmative waiver of the ROFR, or (ii) the automatic release and waiver of the ROFR. Purchaser may terminate this Agreement at any time after its receipt of Seller’s written notice that the ROFR Holder has exercised the ROFR, or at any time before its receipt of Seller’s written notice of the ROFR Holder’s affirmative waiver of the ROFR or of the automatic release and waiver of the ROFR. In the event of any such termination by Purchaser (even if after the expiration of the Initial Due Diligence Period), and anything in this Agreement to the contrary notwithstanding (including, without limitation, anything in Section 3(d) hereof), all of the Earnest Money will be refunded to Purchaser.

(f) Access Easement. Prior to the Due Diligence Date, Purchaser, City and Seller, each acting reasonably and in good faith, will attempt to agree to the terms of an access easement agreement (**“Access**

Easement Agreement”) providing City with an access easement across that portion of the Land that is not more than 20 feet in width and is immediately contiguous to the eastern boundary line of the Land (or such other location as may be acceptable to the parties), for purposes of commercially reasonable ingress and egress to and from the portion of the Parent Parcel (as such term is defined in Section 10(a) hereof) that is immediately to the south of the Land and that remains after the subdivision or lot split of the Land from the Parent Parcel as described in Section 10(a) hereof (“**Southern Parcel**”). Purchaser, City and Seller hereby acknowledge and agree that the Southern Parcel will not be developed, but will instead remain as open land (including, without limitation, possible wetlands). If Purchaser, City and Seller have not reached agreement on the terms of the Access Easement Agreement in accordance with this Section 3(f), then any one or more of them may terminate this Agreement by delivering written notice thereof on or before the Due Diligence Date either to Purchaser (in the case of a termination by City or Seller), or to City and Seller (in the case of a termination by Purchaser), as the case may be, in which event all Earnest Money, plus any interest earned thereon, will be refunded to Purchaser (anything in Section 4(d) hereof to the contrary notwithstanding), and the parties will have no further rights or obligations under this Agreement except as expressly provided herein.

4. Closing; Closing Date. Except as expressly set forth in this Agreement, the consummation of the purchase and sale (“**Closing**”) of the Property will occur on the date (“**Closing Date**”) that is 30 days after the Due Diligence Date.

5. Title Insurance; Title Endorsements; Survey.

(a) Title Insurance. Purchaser will order, at Seller’s sole cost and expense, a title insurance commitment (“**Title Commitment**”) for a 2006 ALTA owners title insurance policy (“**Title Policy**”) for the Property, which Title Commitment may be an update of any commitment or policy delivered by Seller as part of the Due Diligence Materials, issued by the Title Company, showing fee simple absolute title in Seller, together with legible copies of all documents referenced in the Title Commitment. The Title Commitment will contain the commitment of the Title Company to delete the general exceptions that can be deleted by delivery of the Survey, a standard owner’s affidavit at Closing, or such other documents required by the Title Company as may be reasonably acceptable to Seller and City (but at no additional cost to Seller or City), and to insure as separate parcels any easements included as part of the Property. The Title Commitment may initially be in a nominal amount, which will be increased upon the issuance of the Title Policy to an amount equal to the Purchase Price. At the Closing, Seller will pay all title premiums for the base Title Policy, for an extended coverage endorsement, and for the title endorsements described in Sections 5(b)(i) through 5(b)(v) hereof, and will also pay all title premiums required in connection with Seller’s Mandatory Cure Obligation (as such term is defined in Section 5(d) hereof); provided, however, that Purchaser will pay all title premiums for the title endorsements described in Sections 5(b)(vi) and 5(b)(vii) hereof, and for its lender’s policy of title insurance.

(b) Additional Title Endorsements. Prior to the Closing Date, the Title Commitment will be amended to include the following endorsements (which will also be included in the Title Policy):

- (i) a location endorsement 5 (*i.e.*, “a survey endorsement” insuring that the legal descriptions in the applicable Title Commitment and the Survey (as such term is defined in Section 5(c) hereof) describe and cover the same real property);
- (ii) an ALTA Form 3.0 zoning endorsement (or, if Purchaser has delivered appropriate plans and specifications to the Title Company, an ALTA Form 3.2 zoning endorsement based on such plans and specifications);
- (iii) a restrictions or comprehensive endorsement insuring against any loss or diminution of title to or interest in the Property by reason of a violation of a covenant, condition or restriction of record affecting the Property;
- (iv) an “access” or “contiguity” endorsement insuring access from the Property to such roads, streets or thoroughfares as Purchaser may designate;
- (v) a tax parcel endorsement;

- (vi) such other endorsements as Purchaser may require; and
- (vii) the agreement of the Title Company to increase the amount of insurance, at a premium not greater than the Title Company's standard rates therefor, to reflect the value of improvements placed on the Land by Purchaser after the Closing Date.

(c) Survey. As part of its delivery of all Due Diligence Materials under Section 3(a) hereof, Seller will deliver to Purchaser a copy of the most recent (if any) existing survey of the Land that is in Seller's possession or reasonable control. Purchaser will order, with Seller's full cooperation and at Seller's sole cost and expense, a current plat of survey ("**Survey**") of the Land, prepared by a registered land surveyor duly licensed in the State of Ohio, selected by Purchaser, and certified to Purchaser, the Title Company and Purchaser's lender, if any, as having been prepared in compliance with the Minimum Standard Detail Requirements for Class A Land Title Surveys established by ALTA/ACSM (NSPS) in 2016, sufficient for the deletion of all survey-related general exceptions under the Title Commitment, and including, without limitation, Table A Item Nos. 1, 2, 3, 4, 6(a) (based on information to be provided by Purchaser), 6(b) (based on information to be provided by Purchaser), 7(a), 7(b)(i), 7(c), 8, 9, 11, 13, 16, 17, 18 and 20, and any such other Table A Items as Purchaser determines, in its sole and absolute discretion. Among other things, the Survey will set forth the Net Acres contained on the Land. In the event Purchaser terminates this Agreement, (i) Purchaser will use commercially reasonable efforts, at Seller's sole cost and expense, to cause the surveyor who prepared the Survey to certify the Survey to Seller and City, and to provide a copy of the Survey to Seller and City, and (ii) the Survey will be the property of Seller and City to own and use in their discretion after such termination.

(d) Unpermitted Encumbrances. If the Title Commitment shows, or the Survey discloses, any matters that are objectionable to Purchaser, in its sole and absolute discretion, then Purchaser will notify Seller thereof, in writing, on or before the date that is 30 days before the Due Diligence Date, specifying the matters to which Purchaser objects (collectively, "**Objectionable Matters**"). In such event, prior to the Due Diligence Date, Purchaser must have received adequate assurances (in Purchaser's sole and absolute discretion) that the Objectionable Matters will be removed, or insured over or otherwise addressed (in each case, in Purchaser's sole and absolute discretion), on or before the Closing. Any Objectionable Matters that have been removed on or before the Due Diligence Date, or that have been insured over or otherwise addressed in each case to Purchaser's sole satisfaction (or that Purchaser has been assured will be removed, or so insured over or otherwise addressed, on or before the Closing) will be "**Unpermitted Encumbrances**". Any matters that are shown on the Title Commitment or disclosed on the Survey, and in each case to which Purchaser does not object or that are insured over or otherwise addressed as provided above in this Section 5(d), will be "**Permitted Encumbrances.**" Anything in this Section 5(d) or elsewhere in this Agreement to the contrary notwithstanding, (i) all mortgages, deeds of trust, deeds to secure debt, assignments of leases and rents, security agreements, financing statements, other financing-related and construction-related liens, and tax liens (other than the lien of real property taxes not yet due and payable), will conclusively be deemed to be Unpermitted Encumbrances and will be removed by Seller, at its sole cost and expense, at or before the Closing (such obligation of Seller to remove such items is herein called "**Seller's Mandatory Cure Obligation**"); and (ii) the ROFR Right will conclusively be deemed to be an Unpermitted Encumbrance.

6. Representations and Warranties of Seller and City. Seller and City, jointly and severally, hereby represent and warrant to Purchaser that all of the following are true and correct on and as of the Effective Date, will continue to be true and correct as of the Closing Date, and will survive the Closing and the delivery of the Deed (as such term is defined in Section 9(a)(i) hereof) for a period of 12 months:

- (a) All requisite action (as required under its organizational governance documents, or by applicable law) has been taken by each of Seller and City in connection with its entering into this Agreement and the instruments referenced herein, and the consummation of the transaction contemplated hereby. No consent of any creditors, partners, managers, members, directors, officers or shareholders, judicial or administrative bodies, governmental or quasi-governmental authorities, or other parties is required for the performance of Seller's or City's obligations hereunder. Each individual executing this Agreement and the instruments referenced herein on behalf of Seller or City has the legal

power, right and actual authority to bind Seller or City, as the case may be, to the terms and conditions hereof and thereof. This Agreement and all documents required hereby to be executed on behalf of Seller or City are and will be valid, legally binding obligations of and enforceable against each of Seller and City, as applicable, in accordance with their respective terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium laws or similar laws or equitable principles affecting or limiting the rights of contracting parties generally.

- (b) Neither Seller nor City has received and, to the best knowledge and belief of each of Seller and City, no predecessor of either Seller or City has received notice of any violation of any law, municipal ordinance or other governmental requirement affecting the Property or any portion thereof. To the best knowledge and belief of each of Seller and City, no governmental authority contemplates issuing such a notice or that any such violation exists.
- (c) There are no condemnation or eminent domain proceedings and no negotiations for purchase in lieu of condemnation which pertain to the Property or any portion thereof, which are pending, threatened or contemplated.
- (d) Other than as set forth in Section 3(e) hereof, (i) other than the conveyance of the Property by City to Seller as provided in Section 2(a) hereof, neither Seller nor City is a party to any agreement, contract or commitment to sell, convey, let, assign, transfer, provide rights of first refusal or other similar rights with respect to, or otherwise dispose of, the Property or any portion thereof, or any interest therein or occupancy right thereto, other than this Agreement; and (ii) except for this Agreement and the Permitted Encumbrances, neither Seller nor City nor any person or entity claiming by, through or under Seller or City has done, suffered or permitted anything whereby any lien, claim or right of another has been created against the Property or any portion thereof, or any interest therein.
- (e) To the best knowledge and belief of each of Seller and City, there are no so-called recapture or similar agreements affecting or pertaining to the Property or any portion thereof.
- (f) There is no action, proceeding or investigation pending or, to the best knowledge and belief of each of Seller and City, threatened against Seller or City, or with respect to the Property or any portion thereof, before any court or governmental department, commission, board, agency or instrumentality. To the best knowledge and belief of each of Seller and City, there is no basis for any such action, proceeding or investigation.
- (g) Neither Seller nor City has received from any governmental authority any notice of environmental or health code violations with respect to the Property or any portion thereof.
- (h) Neither Seller nor City has received notice of any, and to the best knowledge and belief of each of Seller and City, there are no, contemplated special assessments, tax appeals or tax classification changes relating to any of the Property or any portion thereof.
- (i) Except as provided in Section 17(f) hereof, no leasing, sales or other broker's fees or commissions of any nature whatsoever will be or become due or owing to any person, firm, corporation or entity after the Closing Date.
- (j) The Due Diligence Materials that Seller delivers to Purchaser are all of the Due Diligence Materials to be delivered to Purchaser hereunder, and are true, correct and complete in all material respects.

- (k) Other than as set forth in any environmental site assessments included among the Due Diligence Materials that City or Seller delivers to Purchaser within five business days after the Effective Date, neither Seller nor City has received written notice of any Hazardous Materials located at, on or under the Property or any portion thereof. The term **“Hazardous Materials”** will mean any hazardous substances or hazardous materials, including, without limitation, all substances, the presence of which could subject an owner or occupant to civil or criminal penalties or damages, or responsibility for clean-up of such substances, including, without limitation, any material or substance which is:
- (i) a “hazardous waste,” a “toxic waste,” a “hazardous substance,” a “toxic substance,” an “extremely hazardous waste,” a “restricted hazardous waste,” a “chemical substance,” or a “hazardous chemical,” as such terms are defined under any environmental laws, ordinances or regulations governing or controlling the Property or any portion thereof;
 - (ii) petroleum or petroleum waste, including, without limitation, crude oil or any petroleum derived substance or constituent of any such petroleum substance or waste;
 - (iii) asbestos or asbestos containing materials;
 - (iv) polychlorinated biphenyl;
 - (v) radioactive material; or
 - (vi) pesticides.

Further, except as expressly set forth in the Due Diligence Materials that Seller and City deliver to Purchaser pursuant to this Agreement, neither Seller nor City has stored, transported, discharged or released any Hazardous Materials, or has permitted the storage, transport, discharge or release of Hazardous Materials, on the Property or any portion thereof.

- (l) There are no (i) orders from or agreements with any governmental authority or private party or any judicial or administrative proceedings or investigations, whether pending or, to the best knowledge and belief of each of Seller and City, threatened, respecting any environmental, health or safety requirements under federal, state or local laws or regulations relating to the Property or any portion thereof, or (ii) pending, asserted or, to the best knowledge and belief of each of Seller and City, threatened claims or matters involving material liabilities, obligations or costs arising from the existence, release or threatened release of any Hazardous Materials at, on, under or within 100 feet of any of the Property.
- (m) Neither Seller nor City nor anyone claiming by, through or under Seller or City has committed or permitted any waste or nuisance upon the Property or any portion thereof.

The accuracy of the foregoing representations and warranties will be a condition to Purchaser’s obligations under this Agreement. If any of the foregoing representations or warranties is untrue, and is not cured (at no cost to Purchaser) prior to the scheduled Closing, then Seller and City will be allowed two business days after the date of the scheduled Closing in order to cause such representations and warranties to be true, and will use their respective best efforts to do so (and Seller and City will notify Purchaser promptly if Seller or City determines that it will not be able to do so). If Seller or City fails to cause such representations and warranties to conform to the requirements of this Agreement in all material respects within such two-business day period, then Purchaser may elect, in its sole and absolute discretion, (x) to purchase the Property as it then is, with the right to cause such non-conforming representations and warranties to be true and to deduct from the Purchase Price amounts (if any) that City and

Purchaser mutually and reasonably determine are equal to the costs and expenses incurred as a result thereof and that are of a definite or ascertainable amount; or (y) to terminate this Agreement and receive a refund of all Earnest Money, plus any interest earned thereon (anything in Section 4(d) hereof to the contrary notwithstanding), in which event the parties will have no further rights or obligations under this Agreement except as expressly provided herein; or (z) to extend the time for up to an additional 30 days for Seller and City to cause such representations and warranties to conform to the requirements in this Agreement, and the Closing Date will automatically be extended by the number of days equal to such extended period without payment of any additional Earnest Money (and if Purchaser elects to allow the extension of such time, Purchaser will have the same rights concerning such matters at the end of such extended period as Purchaser had at the end of the original period, other than the further extension of the Closing Date). Further, if the matter that gives rise to the failure of the representations or warranties to conform to the requirements of this Agreement was caused or permitted by Seller or City, then Purchaser's rights set forth in the immediately preceding sentence will be in addition to, and not in lieu of, any other rights and remedies available to Purchaser against Seller (but not against City) hereunder.

7. Representations and Warranties of Purchaser. Purchaser hereby represents and warrants to Seller and City that all of the following are true and correct on and as of the Effective Date, will continue to be true and correct as of the Closing Date, and will survive the Closing and the delivery of the Deed for a period of 12 months:

- (a) All requisite action (as required under its organizational governance documents, or by applicable law) has been taken by Purchaser in connection with entering into this Agreement and the instruments referenced herein, and the consummation of the transaction contemplated hereby. No consent of any creditors, partners, managers, members, directors, officers or shareholders, judicial or administrative bodies, governmental or quasi-governmental authorities, or other parties is required for the performance of Purchaser's obligations hereunder. Each individual executing this Agreement and the instruments referenced herein on behalf of Purchaser has the legal power, right and actual authority to bind Purchaser to the terms and conditions hereof and thereof. This Agreement and all documents required hereby to be executed on behalf of Purchaser are and will be valid, legally binding obligations of and enforceable against Purchaser in accordance with their respective terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium laws or similar laws or equitable principles affecting or limiting the rights of contracting parties generally.
- (b) To the best of Purchaser's knowledge and belief, there is no action, proceeding or investigation pending or threatened against Purchaser before any court or governmental department, commission, board, agency or instrumentality that would materially affect Purchaser's ability to perform under this Agreement. Purchaser has no knowledge of any basis for any such action, proceeding or investigation.

8. Escrow; Gap Closing.

(a) Earnest Money Deposit. Purchaser will deposit the Earnest Money hereunder with the Title Company as escrowee, using commercially reasonable joint order escrow instructions; provided, however, that such instructions will specifically provide that the Earnest Money will be paid to Purchaser or Seller, as applicable, in accordance with Section 3(d) hereof, upon the unilateral direction of Purchaser at any time on or before the Due Diligence Date, without requiring the consent or joint direction of Seller. The Earnest Money will be held by the Title Company in escrow in an interest bearing account (if Purchaser so requests) and will be disposed of only in accordance with the provisions of the aforesaid escrow instructions.

(b) Gap Closing. The Closing hereunder will be a "gap" closing with the Title Company as escrowee, in accordance with the general provisions of the usual form of "gap" escrow agreement then in use by the Title Company, with such special provisions inserted in the escrow agreement as may be required to conform with this Agreement and subject to the terms of a separate money lender's escrow, if any ("**Closing Escrow**"). Seller and Purchaser hereby authorize their respective attorneys to sign the Closing Escrow agreement on behalf of their respective clients. The Purchase Price will be deposited in the Closing Escrow, and the payment thereof and the delivery of the Deed will be made through the Closing Escrow. The Closing will be concluded by use of "gap

undertakings” furnished by the Title Company and executed by Seller, so that (i) the Title Company is prepared, at the Closing, to issue the Title Policy, insuring Purchaser’s fee simple absolute title to the Property in the amount of the Purchase Price and subject only to the Permitted Encumbrances, and (ii) the Purchase Price, plus or minus prorations or adjustments, may be disbursed prior to recording and a later date title search. The cost of the Closing Escrow will be divided equally between Seller and Purchaser.

9. Closing. Provided that all conditions of closing hereunder have been satisfied, the Closing will occur at the offices of the Title Company on the Closing Date (although neither Seller nor Purchaser nor their respective attorneys will be required to attend in person). On the Closing Date (or earlier, if so required by the Closing Escrow agreement), Seller and Purchaser will deliver the following:

- (a) Seller’s Deliveries. Seller will execute and deliver the following to the Title Company for delivery to Purchaser on the Closing Date:
 - (i) Seller’s limited warranty deed (“**Deed**”) in a commercially reasonable and recordable form sufficient to convey to Purchaser fee simple absolute title to the Property, subject only to the Permitted Encumbrances;
 - (ii) Appropriate transfer tax or other similar declarations, executed by Seller or Seller’s agent in the form required pursuant to applicable law, and Seller will pay the amount of any transfer, deed, stamp or similar tax imposed by any governmental body;
 - (iii) A closing statement signed by Seller or Seller’s agent;
 - (iv) If required by the Title Company, an owner’s affidavit duly executed and acknowledged by Seller in form and content required by the Title Company and reasonably acceptable to Seller;
 - (v) A “FIRPTA” affidavit conforming to the requirements of Section 1445 of the Internal Revenue Code of 1986, as amended, and the regulations applicable thereto, and if Seller fails to furnish such FIRPTA affidavit, Purchaser may withhold from the Purchase Price an amount sufficient to comply with the provisions of such Section;
 - (vi) Such documentation as the Title Company may require in order to release in full the ROFR Right, and any and all right, title, interest or claim that the ROFR Holder may have in or to the Property or any portion thereof; and
 - (vii) Such other documents as may be necessary or proper to comply with this Agreement or required (by the Title Company or otherwise) to carry out its terms.

- (b) Purchaser’s Deliveries. Purchaser will execute and deliver the following to the Title Company for delivery to Seller on the Closing Date:
 - (i) The balance of the Purchase Price (*i.e.*, after taking into account a credit for the Earnest Money), plus or minus prorations, by wire transfer or otherwise in immediately available funds;
 - (ii) Appropriate transfer tax or other similar declarations, executed by Purchaser or Purchaser’s agent in the form required pursuant to applicable law;
 - (iii) A closing statement signed by Purchaser or Purchaser’s agent; and

- (iv) Such other documents as may be necessary or proper to comply with this Agreement or required to carry out its terms.

10. Subdivision; Prorations; General Real Estate Taxes.

(a) Subdivision. Seller, at its sole cost and expense, will take such action as may be necessary to effect, simultaneously with the Closing, a subdivision or lot split of the Land from the larger parcel of the which the Land is a part as of the Effective Date (such larger parcel is herein called the “**Parent Parcel**”), so that the Land can be conveyed to Purchaser as a separate legal parcel, and will be taxed as a separate parcel from and after the Closing. In the event that the aforesaid subdivision or lot split has not been approved by all necessary governmental approvals by the 15th day prior to the Closing Date, then (i) Purchaser will have the right to effect such subdivision or lot split; (ii) Seller will cooperate with Purchaser in connection therewith (including, without limitation, executing and delivering all reasonable documentation) and will reimburse Purchaser for all reasonable costs and expenses thereof within 30 days after Purchaser’s invoice therefor; and (iii) the Closing shall be delayed until such subdivision or lot split is complete.

(b) Prorations. At the Closing, general real estate taxes for the Land will be prorated as of the Closing Date, on the basis of 100% of the then most recent ascertainable tax bill in accordance with local custom. In the event that all or any portion of the Land is taxed as part of a larger parcel in the then most recent ascertainable tax bill, the general real estate taxes apportioned to the Land will be the same proportion as the proportion of the square footage of the Land to the square footage of such larger tax parcel. The proration of general real estate taxes under this Section 10(b) shall be final. Seller or City shall pay at Closing any CAUV or other agricultural use tax recoupment assessments levied by the County Auditor’s Office.

(c) Pending Tax Contests. From and after the Effective Date, Seller will not withdraw, settle or otherwise compromise any protest or reduction proceeding affecting real estate taxes assessed against the Property or any portion thereof, without the prior written consent of Purchaser, which consent will not be unreasonably withheld, conditioned or delayed. Real estate tax assessment reductions, tax refunds and credits received after the Closing Date, which are attributable to the tax year during which the Closing Date occurs, will be prorated between Seller and Purchaser, which obligation will survive the Closing and the delivery of the Deed.

11. Development Matters.

(a) Cooperation. From and after the Effective Date and through the Closing, Seller and City will, at the reasonable request of Purchaser and without material out-of-pocket cost to Seller or City, participate and cooperate with Purchaser (including, without limitation, joining in the execution of applications) in connection with:

- (i) applications, agreements and approvals relating to zoning, site plan, subdivision, utility and other development matters, including, without limitation, all licenses, permits, easements, rights-of-way, and proofs of dedication necessary to permit the development of the Property in accordance with the Intended Uses;
- (ii) any requirements of Seller, City or Purchaser or any state or federal government, or any agency thereof, or any public utility, relating to the development of the Property or any portion thereof in accordance with the Intended Uses; and
- (iii) the re-platting of the Land as a separate and distinct parcel.

(b) No Agreements. From and after the Effective Date and through the Closing, neither Seller nor City will make any agreements with, or grant rights to any other party, governmental or private, which will prevent or limit the right of Purchaser, or its lessees, invitees, successors or assigns, to use the Property or to obtain any such consents or approvals for or in connection with the Intended Uses.

(c) Purchaser’s Exclusive Right to Market. From and after the Effective Date and through the Closing Date, Purchaser will have the exclusive right to market the Property for sale or lease. Such exclusive marketing rights include, without limitation, the right to place marketing signage on the Land, to market the

Property to the community at-large through customary commercial real estate channels, and to enter the Property with prospective users and their respective consultants and representatives. Purchaser may, in its sole and absolute discretion, elect to exercise, or not to exercise, the exclusive right to market the Property under this Section 11(c), and any election by Purchaser not so to market the Property will not permit Seller, City or any other party to market the Property or any portion thereof or interest therein, for any purpose whatsoever.

12. Conditions of Closing.

(a) Purchaser's Closing Conditions. The obligation of Purchaser to consummate the transaction hereunder is expressly subject to and contingent upon the occurrence of each and every one of the following:

- (i) Purchaser or the Title Company, as applicable, will have received the items set forth in Section 9(a) hereof.
- (ii) The Title Company will be prepared to issue the Title Policy, dated as of the Closing Date and showing fee simple title in Purchaser, subject only to the Permitted Encumbrances, and otherwise in accordance with the provisions of and containing the extended coverage and the endorsements specified in Sections 5(a) and 5(b) hereof.
- (iii) All representations and warranties of Seller and City will be true and correct as of the Closing Date.
- (iv) There will not have been any material adverse change in the physical condition or characteristics of, the condition of title of, or otherwise with respect to the Property, including, without limitation, the presence of any Hazardous Materials at, on or under the Property or any portion thereof, or any material adverse change in the ability to use or develop the Property for the Intended Uses.
- (v) Seller and City will have complied with all terms, provisions and conditions of this Agreement.
- (vi) Purchaser will have obtained all Governmental Approvals.
- (vii) The ROFR Right will have been waived or released in accordance with the terms of Section 3(e).

(b) Purchaser's Right to Terminate. In the event any of the foregoing conditions has not been fulfilled or expressly waived in writing by Purchaser, then in addition to any other remedy available to Purchaser (but subject to Seller's and City's respective cure rights under Section 13(a) hereof), Purchaser may terminate this Agreement by giving written notice to Seller on or before the Closing Date. In the event of any such termination, all of the Earnest Money and any interest thereon will be promptly paid to Purchaser; provided, however, that if any such termination is solely due to the failure of the condition set forth in Section 12(a)(viii) hereof, then that portion of the Earnest Money that would be payable to Seller under Section 3(d) hereof at the time of such termination (*i.e.*, as if such termination had been effected as of the latest Due Diligence Date elected by Purchaser hereunder) will be promptly paid to Seller, and all of the balance of the Earnest Money and any interest on all of the Earnest Money will be promptly paid to Purchaser. Nothing in this Section 12(b) will limit Purchaser's other remedies under this Agreement.

13. Default.

(a) Default by Seller or City. IF EITHER ONE OR BOTH OF SELLER AND CITY BREACH THEIR RESPECTIVE OBLIGATIONS TO COMPLETE THE SALE AND CONVEYANCE OF THE PROPERTY AS PROVIDED IN THIS AGREEMENT AND SUCH BREACH CONTINUES FOR FIVE BUSINESS DAYS AFTER PURCHASER'S DELIVERY TO SELLER OR CITY, AS THE CASE MAY BE, OF WRITTEN NOTICE THEREOF, THEN PURCHASER WILL BE ENTITLED EITHER TO (I) TERMINATE

THIS AGREEMENT AND RECEIVE A REFUND OF ALL EARNEST MONEY, PLUS ANY INTEREST EARNED THEREON (ANYTHING IN SECTION 4(d) HEREOF TO THE CONTRARY NOTWITHSTANDING), OR (II) INSTITUTE AN ACTION FOR SPECIFIC PERFORMANCE. SELLER, CITY AND PURCHASER ACKNOWLEDGE AND AGREE THAT (1) THE PROPERTY IS UNIQUE IN NATURE; (2) A FAILURE BY EITHER ONE OR BOTH OF SELLER AND CITY TO PERFORM THEIR RESPECTIVE OBLIGATIONS TO COMPLETE THE SALE AND CONVEYANCE OF THE PROPERTY AS PROVIDED IN THIS AGREEMENT WILL MATERIALLY AND IRREPARABLY INJURE, AND RESULT IN THE SUFFERING OF A MATERIAL LOSS BY, PURCHASER; (3) SUCH INJURY AND LOSS CANNOT BE FULLY OR ADEQUATELY COMPENSATED BY THE PAYMENT OF MONEY OR BY AN AWARD OF DAMAGES; AND (4) PURCHASER SHALL BE ENTITLED TO THE SPECIFIC PERFORMANCE OF THIS AGREEMENT. IN ADDITION, IN THE EVENT PURCHASER TERMINATES THIS AGREEMENT DUE TO (I) A DEFAULT BY EITHER OR BOTH OF SELLER AND CITY, (II) A REPRESENTATION OR WARRANTY OF EITHER OR BOTH OF SELLER AND CITY BEING UNTRUE WHEN MADE AS OF THE EFFECTIVE DATE, OR (III) A REPRESENTATION OR WARRANTY OF EITHER OR BOTH OF SELLER AND CITY BECOMING UNTRUE DUE TO SELLER'S OR CITY'S ACTION AS PROVIDED IN SECTION 6 HEREOF, THEN SELLER (BUT NOT CITY) SHALL REIMBURSE PURCHASER FOR ALL THIRD-PARTY OUT-OF-POCKET COSTS AND EXPENSES, UP TO A MAXIMUM OF \$50,000.00. FURTHER, IN THE EVENT PURCHASER TERMINATES THIS AGREEMENT DUE TO A DEFAULT BY EITHER OR BOTH OF SELLER AND CITY THAT IS WILLFUL OR INTENTIONAL (INCLUDING, WITHOUT LIMITATION, THE CONVEYANCE OF THE PROPERTY OR ANY INTEREST THEREIN TO A THIRD PARTY), THEN SELLER (BUT NOT CITY) SHALL REIMBURSE PURCHASER FOR ALL THIRD-PARTY OUT-OF-POCKET COSTS AND EXPENSES (WITHOUT ANY MAXIMUM AMOUNT LIMITATION) AND ALL OTHER DAMAGES INCURRED BY PURCHASER AS A RESULT THEREOF.

(b) Default by Purchaser. IF PURCHASER BREACHES ITS OBLIGATION TO COMPLETE THE PURCHASE OF THE PROPERTY AS PROVIDED IN THIS AGREEMENT AND SUCH BREACH CONTINUES FOR FIVE BUSINESS DAYS AFTER SELLER'S DELIVERY TO PURCHASER OF WRITTEN NOTICE THEREOF, THEN THE SOLE AND EXCLUSIVE REMEDY OF EACH OF SELLER AND CITY WILL BE TO TERMINATE THIS AGREEMENT AND FOR SELLER TO RECEIVE ALL OF THE EARNEST MONEY AND ALL ACCRUED INTEREST THEREON AS LIQUIDATED DAMAGES. SELLER, CITY AND PURCHASER ACKNOWLEDGE AND AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO ESTIMATE THE DAMAGES THAT SELLER OR CITY MAY SUFFER IN THE EVENT PURCHASER BREACHES ITS OBLIGATION TO COMPLETE THE PURCHASE OF THE PROPERTY HEREUNDER. SELLER, CITY AND PURCHASER THEREFORE AGREE THAT A REASONABLE PRESENT ESTIMATE OF THE NET DETRIMENT THAT SELLER AND CITY WOULD SUFFER IN THE EVENT PURCHASER BREACHES SUCH OBLIGATION IS AN AMOUNT OF MONEY EQUAL TO ALL OF THE EARNEST MONEY AND ALL ACCRUED INTEREST THEREON, WHICH WILL BE THE FULL, AGREED AND LIQUIDATED DAMAGES. CITY AND SELLER MAY THEN AGREE SEPARATELY AS TO THE EQUITABLE DIVISION BETWEEN THEM OF THE AFORESAID LIQUIDATED DAMAGES.

14. Condemnation. In the event that, between the Effective Date and the Closing Date, any condemnation or eminent domain proceedings are instituted that might result in the taking of all or any portion of the Property, Seller will immediately notify Purchaser in writing of such occurrence, and thereupon Purchaser may elect (in its sole and absolute discretion) to:

- (a) terminate this Agreement, in which event all rights and obligations of the parties hereunder will cease with respect to such Property, all of the Earnest Money and any interest thereon will be paid to Purchaser;
- (b) elect to consummate the subject transaction and require Seller and City, as applicable, to deliver to Purchaser a duly executed assignment, in form and substance satisfactory to Purchaser, of proceeds payable as a result of Seller's and City's respective rights to receive any condemnation award; or
- (c) elect to consummate the subject transaction, but with an adjustment of the Purchase Price based on a re-determination of the net usable square footage of the Land.

Purchaser will have 30 days after the date of its receipt of written notice of such institution of proceedings within which to exercise its rights under this Section 14. If the Closing is scheduled to occur within such 30-day period, the Closing will be delayed until Purchaser makes such election, and if Purchaser elects to consummate the transaction, the Closing Date will be adjusted accordingly.

15. Covenants of Seller and City. Between the Effective Date and the Closing Date, Seller and City will:

- (a) not, without first obtaining the written consent of Purchaser (which may be given or withheld in Purchaser's sole and absolute discretion), enter into any contracts, leases or other agreements pertaining to the Property or any portion thereof that are not terminable prior to the Closing at no cost to Purchaser;
- (b) comply with all laws, ordinances, regulations and restrictions affecting the Property or any portion thereof (including, without limitation, the use thereof);
- (c) comply with the terms of all mortgages, liens, pledges, leases, licenses, easements and other similar encumbrances affecting the Property or any portion thereof;
- (d) not create or permit to be created any mortgage, lien, pledge, lease, license, easement or other similar encumbrance in any way affecting the Property or any portion thereof; and
- (e) not commit any waste or nuisance upon the Property or any portion thereof.

16. Notices. Any notice or other communication in connection with this Agreement will be in writing and will be sent by United States certified mail, return receipt requested, postage prepaid, by a nationally recognized overnight courier guaranteeing next day delivery, by e-mail transmission or by personal delivery, properly addressed as follows:

If to Purchaser: Opus Development Company, L.L.C.
Suite 450
8801 River Crossing Boulevard
Indianapolis, Indiana 46240
Attention: Douglas J. Swain, Vice President, General Manager
Email: douglas.swain@opus-group.com

with a copy to: Opus Holding, L.L.C.
10350 Bren Road West
Minnetonka, Minnesota 55343
Attention: Legal Department
Email: annemarie.solberg@opus-group.com

and with a copy to: O'Rourke, Hogan, Fowler & Dwyer, LLC
Suite 3700
10 South LaSalle Street
Chicago, Illinois 60603
Attention: W. Craig Fowler
Email: wcfowler@ohfdlaw.com

If to Seller or City: Canal Winchester Industry and Commerce Corporation or
City of Canal Winchester, Ohio, as applicable
c/o City of Canal Winchester, Ohio
36 South High Street
Canal Winchester, Ohio 43110
Attention: Lucas Haire, Development Director

All notices will be deemed given three business days following deposit in the United States mail with respect to certified or registered letters, one business day following deposit if delivered to an overnight courier guaranteeing next day delivery, and on the same day if sent by personal delivery or by e-mail transmission (with proof of transmission). Attorneys for each party will be authorized to give notices for each such party. Any party may change its address for the service of notice by giving written notice of such change to the other party, in any manner above specified.

17. Miscellaneous.

(a) Counterpart: Electronic Transmission. This Agreement may be executed in multiple counterparts, each of which will be effective upon delivery and, thereafter, will be deemed to be an original, and all of which will be taken as one and the same instrument with the same effect as if each party had signed on the same signature page. This Agreement may be transmitted by fax or by electronic mail in portable document format (“pdf”) and signatures appearing on faxed instruments and/or electronic mail instruments will be treated as original signatures. At the request of any party, any electronic or facsimile document will be re-executed in original form by the parties who executed the electronic or facsimile document.

(b) Section Headings. The Section headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.

(c) Entire Agreement: No Waiver. This written Agreement constitutes the entire agreement between or among two or more of the parties and supersedes any prior oral or written agreements among the parties regarding the Property. There are no verbal agreements that can or will modify this Agreement, and no waiver of any of its terms will be effective unless in a writing executed by the parties.

(d) Severability. The unenforceability or invalidity of any provisions hereof will not render any other provisions herein contained unenforceable or invalid.

(e) Assignment. Neither Seller nor City may assign this Agreement or any of its rights hereunder. Purchaser shall not assign this Agreement without the prior written consent of Seller and City, in their sole and absolute discretion; provided, however, that Purchaser may freely assign this Agreement and its rights and obligations hereunder, without the consent of Seller or City, to any entity with which Purchaser is affiliated (*i.e.*, controls, is controlled by or is under common control with) or in which Purchaser is a member, shareholder or partner (but not necessarily a controlling or managing member, shareholder or partner). Any approved or other permitted assignee shall assume all of Purchaser’s obligations hereunder pursuant to a commercially reasonable form of assignment, a fully executed copy of which shall be delivered to Seller and City within five business days after any such assignment. Upon any such assignment by Purchaser, such Purchaser/assignor will be automatically released from any and all liability under or in connection with this Agreement or the transactions contemplated hereunder.

(f) Brokers. With respect to real estate brokers:

(i) Seller and City, jointly and severally, represent and warrant to Purchaser that neither Seller nor City has engaged or dealt with any broker or other person or entity, other than Jones Lang LaSalle Americas, Inc. (Brian Marsh) (“**Broker**”), who would be entitled to any brokerage fee or commission with respect to the finding, negotiation or execution of this Agreement or the consummation of the transactions contemplated hereby. Pursuant to a separate agreement, Seller or City will pay Broker any and all brokerage fee or commission with respect to the finding, negotiation or execution of this Agreement or the consummation of the transactions contemplated hereby. Seller and City, jointly and severally, will indemnify, defend and hold harmless Purchaser, and Purchaser’s successors and assigns, with respect to any claim by any person or entity claiming to have been engaged by Seller or City, or claiming by, through or under Seller or City, so as to become entitled to any such fee or commission.

- (ii) Purchaser represents and warrants to Seller and City that Purchaser has not engaged or dealt with any broker or other person or entity, other than Broker, who would be entitled to any brokerage fee or commission with respect to the finding, negotiation or execution of this Agreement or the consummation of the transactions contemplated hereby. Purchaser will indemnify, defend and hold harmless Seller and City with respect to any claim by any person or entity claiming to have been engaged by Purchaser, or claiming by, through or under Purchaser, so as to become entitled to any such fee or commission.

- (g) Governing Law. This Agreement will be construed and enforceable in accordance with the laws of the State of Ohio, without application of its choice of law rules.

- (h) Binding Nature. This Agreement will be binding upon and inure to the benefit of the parties hereto, and their respective successors and permitted assigns.

- (i) Survival. This Agreement and the provisions, representations and warranties herein set forth will survive the Closing and the delivery of the Deed only as expressly provided herein.

- (j) Time of Essence. Time is of the essence of this Agreement.

- (k) Attorneys' Fees and Costs; Prevailing Party. In the event of any dispute regarding this Agreement or any claimed default or breach of the terms, provisions or conditions of this Agreement, the substantially prevailing party in any action related to such dispute will be entitled to recover reasonable costs and attorneys' fees incurred by such substantially prevailing party in connection with such dispute.

[Signatures on following page]

In witness whereof, the parties hereto have caused this Agreement to be executed and delivered the day and the date first above written.

Purchaser:

Opus Development Company, L.L.C., a Delaware limited liability company

By: _____
Douglas J. Swain, Vice President, General Manager

Seller:

Canal Winchester Industry and Commerce Corporation, an Ohio community improvement corporation

By: _____
Name: _____
Title: _____

City:

City of Canal Winchester, Ohio, an Ohio municipal corporation

By: _____
Name: _____
Title: _____

Exhibit A – Legal Description of Land

August 30, 2017

**DESCRIPTION OF A 15.588 ACRE TRACT
SOUTH FROM ROBINETT WAY, WESTERLY OF DOVE PARKWAY,
CITY OF CANAL WINCHESTER, FAIRFIELD CO., OHIO**

Situated in the State of Ohio, County of Fairfield, City of Canal Winchester, in Sections 20 and 29, Township 15 North, Range 20 West, Congress Lands, and being a 15.588 acre portion of an original 98.989 acre tract of land conveyed, as Tract 1, to Village of Canal Winchester, by deed of record in Deed Book 639, Page 273, all references being to the Recorder's Office, Fairfield County, Ohio, and bounded and described as follows:

Beginning at a 3/4" I.D. iron pipe set in the south right-of-way line of Robinett Way (70 feet in width), as shown upon the plat entitled Robinett Way and Dove Parkway Dedication and Easements, of record in Plat Cabinet 3, Slot 1, said iron pipe being N 85° 16' 08" W a distance of 444.90 feet from a 3/4" I.D. iron pipe found at the point of curvature in the south right-of-way line of Robinett Way;

thence S 04° 43' 52" W crossing a portion of said original 98.989 acre tract a distance of 1,066.07 feet to a point on the approximate centerline of an existing 20" HP gasline (passing a 3/4" I.D. iron pipe set on-line at 1,016.07 feet);

thence N 72° 08' 22" W crossing a portion of said original 98.989 acre tract and along the approximate centerline of said existing 20" HP gasline a distance of 733.11 feet to a point in the west line of said original 98.989 acre tract and in the east line of a tract of land conveyed to Temmy A. Evans, by deed of record in Official Record 1614, Page 1826;

thence N 04° 25' 40" E along a portion of the west line of said original 98.989 acre tract and along a portion of the east line of said tract of land conveyed to Temmy A. Evans a distance of 755.79 feet to a 3/4" I.D. iron pipe set (passing a 3/4" I.D. iron pipe found at 51.64 feet);

thence S 85° 34' 20" E crossing a portion of said original 98.989 acre tract a distance of 96.22 feet to a 3/4" I.D. iron pipe set;

thence N 65° 37' 44" E crossing a portion of said original 98.989 acre tract a distance of 78.71 feet to a 3/4" I.D. iron pipe set;

thence N 51° 44' 11" E crossing a portion of said original 98.989 acre tract a distance of 69.93 feet to a 3/4" I.D. iron pipe set;

thence N 30° 07' 44" E crossing a portion of said original 98.989 acre tract a distance of 52.20 feet to a 3/4" I.D. iron pipe set;

thence N 13° 23' 17" W crossing a portion of said original 98.989 acre tract a distance of 42.09 feet to a 3/4" I.D. iron pipe set at the southwest corner of a 2.767 acre tract of land conveyed to Patrick M. Shea and Susan R. Stedman, by deed of record in Official Record 1651, Page 2214;

thence S 85° 16' 08" E crossing a portion of said original 98.989 acre tract and along the south line of said 2.767 acre tract a distance of 259.16 feet to a 3/4" I.D. iron pipe set at the southeast corner of said 2.767 acre tract and in the bulbed westerly end of Robinett Way;

thence southerly crossing a portion of said original 98.989 acre tract, along a portion of the bulbed westerly end of Robinett Way and with a curve to the left, data of which is: radius = 67.50 feet, a delta = 40° 25' 23", arc length = 47.62 feet, a chord distance of 46.64 feet bearing S 19° 50' 13" E to a 3/4" I.D. iron pipe set at a point of reverse curvature;

thence southerly crossing a portion of said original 98.989 acre tract, along the right-of-of return to the south and with a curve to the right, data of which is: radius = 44.50 feet, a delta = 44° 46' 47", arc length = 34.78 feet, a chord distance of 33.90 feet bearing S 17° 39' 31" E to a 3/4" I.D. iron pipe set at the point of tangency;

thence S 04° 43' 52" W crossing a portion of said original 98.989 acre tract and along said right-of-way return a distance of 19.61 feet to a 3/4" I.D. iron pipe set;

thence S 85° 16' 08" E crossing a portion of said original 98.989 acre tract and along the south end of said right-of-way return a distance of 70.00 feet to a 3/4" I.D. iron pipe set;

August 30, 2017

thence N 04° 43' 52" E crossing a portion of said original 98.989 acre tract and along said right-of-way return a distance of 19.00 feet to a 3/4" I.D. iron pipe set at a point of curvature;

thence northerly crossing a portion of said original 98.989 acre tract, along the right-of-of return of Robinett Way and with a curve to the right, data of which is: radius = 44.50 feet, a delta = 90° 00' 00", arc length = 69.90 feet, a chord distance of 62.93 feet bearing N 49° 43' 52" E to a 3/4" I.D. iron pipe set at the point of tangency;

thence S 85° 16' 08" E crossing a portion of said original 98.989 acre tract and along the south right-of-way line of Robinett Way a distance of 86.54 feet to the place of beginning;

containing 15.588 acres of land, more or less, and being subject to all easements and restrictions of record. Of said 15.588 acres, 8.177 acres are within said Section 20, P.N. 0420376100 and 7.411 acres are within said Section 29, P.N. 0420376000.

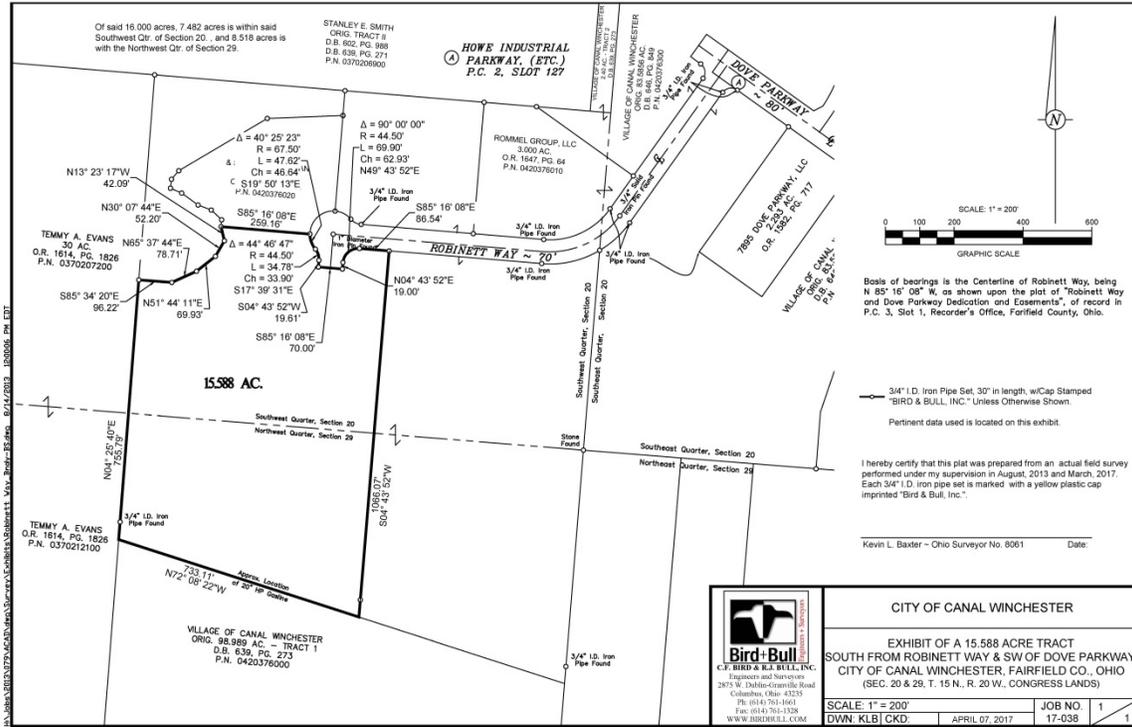
The above description was prepared by Kevin L. Baxter, Ohio Surveyor No. 7697, of C.F. Bird & R.J. Bull, Inc., Consulting Engineers & Surveyors, Columbus, Ohio from an actual field survey, performed under his supervision, in August, 2013 and March, 2017. 3/4" I.D. iron pipe set are 30" in length with a plastic cap stamped "BIRD & BULL, INC.". Basis of bearings is the centerline of Robinett Way southwesterly from Dove Parkway, being S 35° 33' 42" W, as shown upon the plat entitled Robinett Way and Dove Parkway Dedication and Easements, of record in Plat Cabinet 3, Slot 1, Recorder's Office, Franklin County, Ohio and all other bearings are based upon this meridian.

Kevin L. Baxter 8/30/17
Kevin L. Baxter - Ohio Surveyor #7697



Exhibit B -- Depiction of Land

(see attached)





Mayors Report

December 4th, 2017

MORPC Southeast Regional Collaboration Group:

This group meets quarterly and this quarter Canal Winchester was the host community. The group discusses Economic Development and construction projects within the Southeast area of Franklin and Fairfield counties. ODOT reported they are planning to install overhead lighting at the Diley Road / US 33 Interchange in 2019 similar to that at the new Carroll Interchange. They also reported construction will begin on a third lane in each direction between Hamilton Road and I-270 in 2018. This should help with the merging traffic issue in the area from I-270 onto US-33 E. bound as well as Hamilton Road onto US-33 W. towards the I-270 entrance ramps.

Madison Township Update:

Amanda Jackson and I met with Susan Brobst, one current Trustee and the newly elected Trustee last week. We threw out our idea to them and they pretty much agreed that they should be making a police presence in Canal Winchester. Next steps will come after the first of the year when the new Trustee takes office and we can get both parties back together. Incorporating this may not happen quite as soon as we originally thought as Chief Bates of the MTFD has announced his retirement and changes may be coming to their Police Department. That however will not stop us from discussions and planning.

COUNCIL UPDATE



December 4, 2017

Finance Department
Amanda Jackson, Finance Director

Request for Council Action:

Resolution - A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER LEASE AGREEMENT AND FINANCING SCHEDULE THEREON IN CONNECTION WITH THE ACQUISITION OF CERTAIN PROPERTY IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$300,000

Project Status:

2018 Appropriations Update – Based on our discussions regarding special duty at our last Council meeting, I met with the Mayor, Law Director, and Sgt. Cassel to talk more about making changes to the 2018 budget. The conversation concluded with a determination that an additional \$10,000 would be added to the budget before passage to allow for the piloting of the program starting at January 1st with the intention of an appropriation amendment being brought to Council in early 2018. This timeline will allow Sgt. Cassel to integrate the new deputy into his staffing and determine the best course of action for special duty deputies. While this does not get us to the original \$80,000 discussed, it does allow us to start in January without any delays related to funding. We hope Council will understand our position on this topic and agree this is a good starting point. The ordinance has been updated to reflect the additional \$10,000.

2018 Council Calendar – Please review for discussion at Work Session regarding the 2018 meeting dates.

2017 Merit Raises – Employee evaluations for 2017 are nearing completion. Based on the 2018 budget, the proposed merit raise schedule would have a maximum of a 2.5% increase. The complete merit raise scale is included under a separate memo.



To: City Council

CC: Mayor Ebert

From: Amanda Jackson, Finance Director

Date: 12/1/17

RE: 2017 Performance Evaluations and Merit Raises

MEMORANDUM

Annual employee performance evaluations for 2017 are under way. Merit raises are given to employees for the following year based on a point system assigned to the evaluation form. The following scale is recommended for the results of the 2017 evaluations to be effective with the pay period beginning December 25, 2017.

Merit Points Received	% Raise
15-19	1.5%
20-24	2.0%
25-30	2.5%

The maximum number of points that can be received by an employee is 30. No raise will be given for evaluations resulting in 14 points or below.

If you have any questions, please let me know.

COUNCIL UPDATE



November 30, 2017

Department of Public Service
Matthew C. Peoples, Director

Project Status:

5-Year Capital Improvements Plan: We presented the 5-year CIP and examples of the new CIP Fact Sheets to Council at the October Committee-of-the-Whole meeting. As discussed, we continue to review the Pavement Condition Rating (PCR) report and will incorporate those results in formulating the CIP priorities. Once that is complete we will finalize the CIP and provide to Council.

Speed Studies: We completed the speed study on W. Waterloo St. and are moving to Washington St south of the bridge. We will continue our studies (weather pending) and share data with the Sheriff's Department.

Gender IV OPWC Project: EMH&T has submitted the 90% plan set and we have begun the review. This set includes the new alignment for the path west of Gender Rd. Additionally, South Central Power has finalized their relocation design and, initially, costs appear to be in line with what we had anticipated during the grant application process.

Greengate Blvd. Project: We are progressing with the Greengate Blvd. design process that includes a 30% design set. The plans are being modified from original plans submitted for a proposed development in the 2000's to accommodate the waterline installation for Winchester Ridge Section III. Ultimately we will have the plans completed for the potential to construct the roadway improvements or have a developer construct them as part of a future project.

McGill Park: We have begun the infrastructure planning for the park with concepts for the water, sewer, and fiber lines currently being completed. We will be working next on maintenance/equipment planning.

ODOT Maintenance: Mayor Ebert and I meet with ODOT representatives to discuss maintenance responsibilities of US Rout 33. Not much was rectified, though we were able to identify a few inconsistencies with their position. However, Gene has been working on ODOT's general counsel from a previous meeting and we are working on the possibility of a compromise to share in the maintenance responsibility.

COUNCIL UPDATE



November 30, 2017

Division of Urban Forestry

Dick Miller, Urban Forester

Project Status:

Tree Maintenance: STAB pruning day is Thursday 11-30-17. Volunteers will meet at the Wigwam @ 8am and proceed to Cherry Landing at 9 am. Light pruning and suckering until approximately noon.

Street Tree Inventory: This inventory is in process. The list will eventually tell us what species we have too many of or too few of for a healthful balance of diverse types. In addition, the inventory will indicate quantity and health of individuals and diameter of trunk suggesting potential maintenance needs.

Tree Removals proposed:

*South Central Power has marked one maple near Columbus St. and Liberty Street for probable removal at no cost to the city.

*Several standing dead wild ash near the public works compound may be taken down before the end of December.

*South Central Power may remove saplings and small diameter trees and brush along Groveport Road for a rebuild of power lines east of Gender Road and south of the bike path.

*Brew dog tree removals are complete for the hotel site.

*Partial tree removals will occur at a Winchester Ridge Apartments to permit tree protection fencing and new border tree plantings just west of that phase III site.

Fall Street Tree Plantings:

*The city fall 2017 street tree planting will be completed in November

*Private border plantings at Canal Cove are in progress

COUNCIL UPDATE



November 30, 2017

Division of Water Reclamation
Steve Smith, Superintendent

Project Status:

Phosphorous Removal: The plan for methodology and cost for phosphorus removal at the WRF has been submitted to OEPA as required on or before the December 1st deadline.

Brew Dog: The automated reporting feature of Brew Dog's pollution monitoring equipment has now been initiated. This helps the plant staff have access to the latest data regarding their discharges.

Process Blower: Two of the WRF process blowers have been upgraded from 100 HP to 125 HP to allow for proper aeration performance. Electrical control components have been received and should be installed and in service by the end of December.

Aeration system damage: Work to repair the damage to the diffusers in the aeration system has been completed, and a manufacturer's representative has certified the system as use-ready.

Albion St. Sewer: An RFQ (request for quote) for the work on the Albion/Furman street sewer line repairs has been sent.

Emergency Storm Pump: The piping and pad for the new flood control pump is installed and ready for service. We are to receive the pump the first half of December. Once delivered, custom connections will be fabricated and the pump placed in service. Target date is the end of the year.

Safety: The city participated in an HR/Safety expo at the Groveport links golf course where health and safety information was made available. Most city employees attended.

COUNCIL UPDATE



November 30, 2017

Division of Streets, Lands and Buildings

Shawn Starcher, Manager

Project Status:

Patching: Weather permitting, crews continue utilizing the Durapatcher for filling longitudinal cracking within our residential neighborhoods

Vegetation Removal: Weather permitting, crews continue on clean-up and clearing projects along Groveport Rd. (Old Detty Property) and McGill Park

Leaf Pick-up: Crews are extremely busy collecting leaves. This will continue thru December 8th.

Building Maintenance: General Temperature Control replaced two heat exchangers on the HVAC systems at Town Hall and the Municipal Building. These were almost 20 years old and the original equipment.

Winter Season: • Plows and Plow Trucks have been inspected and prepped for this Winter. A brine tank has been installed to one of our trucks and is filled and ready to go.

Christmas Decorations: Crews have been busy decorating the town for the Holiday season and gearing up for the city's last event of the year, Christmas in the Village.

COUNCIL UPDATE



November 30, 2017

Division of Information Technology

Rick Brown, IT Coordinator

Project Status:

Network Environment: Our next generation of server infrastructure has been designed. Some components have been delivered, with the remainder being ordered next year. The first objective is to build and implement a contingency site at our off-site data center. As we have in the past, our target use for hardware is between four and five years. With a highly virtualized environment, this should be obtainable.

Network Security: We will be implementing some no-cost security enhancements later this year. The Clerk of Council will be sending out information regarding those changes and how they affect you.

Security Training: There will be one additional technology class conducted before year's end.

COUNCIL UPDATE



November 30, 2017

Division of Water

Joe Taylor, Superintendent

Project Status:

Plant Repairs:

- Staff worked with Brehob to repair the Air Drier for the Ion Exchange valve system.
- Staff will be making repairs Thursday 11/30/18 to the brine make up line to the east brine tank.

AMI: Staff is continuing its efforts in the installation of the Zenner AMI meters. Staff currently has approximately 665 meters installed.

Bulk Water Sales: We are currently working to purchase a new Bulk Water Sales Control Panel.

Leiberman Wellfield: Dow Construction will be on site to begin work on Friday 12/1/17 to begin work on the well casing drains.

COUNCIL UPDATE



December 1, 2017

Construction Services Department
Bill Sims, Administrator

ACTION NEEDED BY COUNCIL:

Capital Improvement Projects

2017 Street Program: Towing Path Alley mostly complete. Asphalt base to go down week of 12/4. Final surface, striping and lighting to be completed in spring.

Gender Rd. Ph. 4: Detailed design complete and being reviewed. Utility relocation designs underway. RR crossing design underway. Anticipate advertising for bids in February 2018.

2018 Street Program: Design underway. Anticipate bidding in late January.

Private Development Projects

Canal Cove Sec. 5: Westport Homes. Utilities complete. Road construction delayed until spring.

Macintosh Senior Living: Utilities complete. Site work complete.

Crossroads Church: Awaiting submittal of engineering plans for review. Developer's engineer working on bridge design issues.

Winchester Veterinary Clinic: Preconstruction conducted 9/20/17. Not much production due to design issues.

New Faith Church: Preconstruction Meeting held. Site work anticipated to commence the week of 12/4.

Brew Dog Hotel: Civil plans approved. Clearing performed. Parking lot under construction. Building pad under construction.

COUNCIL UPDATE



November 29, 2017

Development Department

Lucas Haire, Director

Development Report

- The building department has issued permits for 44 new single family homes year to date within the City. This is a similar pace as was constructed in 2016.
- Winchester Veterinary Clinic is under construction on Thrush Drive with an anticipated finish date of next summer.
- New Faith Church has been issued a permit for the construction of a new church at the corner of Groveport Road and Thrush Drive.
- A groundbreaking was held for BrewDog's Dog House hotel on November 8. Construction is set to be complete in July 2018.
- The last apartment building at Winchester Ridge has been completed and all 192 units are complete.

New Businesses

- T- Mobile has leased a space at 6378 Gender Road within the Waterloo Crossing Shopping Center.
- Autozone has submitted building permits to locate with the former Discount Tire located at 6348 Gender Road. They will be significantly altering the facades of the building with changes in window and door locations.
- The former Dysart buildings at 60 Elm St. have submitted plans to finish the space into multiple tenant spaces and work is currently underway.