



# City Council Agenda

Monday, October 2, 2023 at 7:00 pm

6550 N. High Street, Worthington, Ohio 43085

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Visitor Comments

## Approval of the Minutes

### 5. Approval of Minutes

July 17, 2023 and September 5, 2023

*Recommendation:* Introduce and approve as presented.

## Public Hearings on Legislation

### 6. Ordinance No. 21-2023 - Pay to Stay

To Enact New Chapter 727 "Tenant's Right to Assert Tender of Rent as an Affirmative Defense to Eviction" of the Codified Ordinances of the City of Worthington to Codify an Affirmative Defense in an Eviction Matter for Tenants who attempt to Tender All Past Due Rental Payments

*Executive Summary:* This Ordinance would ensure that residential tenants are afforded the right to assert tender of rent as an affirmative defense to an eviction action.

*Recommendation:* Approve as presented.

## New Legislation - Resolution(s)

### 7. Resolution No. 54-2023 - Resolution for an Amendment to Development Plan with Variances for a Property at 6670 Huntley Rd. – ADP 09-2023

Authorizing an Amendment to the Final Development Plan for 6670 Huntley Rd. and Authorizing Variances (Chris Tilton)

*Executive Summary:* This Resolution is for an Amendment to Development Plan with Variances for three (3) wall-mounted signs that exceed the allowable square footage permitted on a property at 6670 Huntley Rd.

*Recommendation:* Approve as presented.

### 8. Resolution No. 55-2023 - Amending Worthington Gateway Agreements

Authorizing the City Manager to Enter into the Amended and Restated Tax Increment Financing Service Agreement and Development Agreement with the Worthington Gateway Property Owners.

*Executive Summary:* This agenda item is intended to request authorization for the City Manager to enter into an amended Tax Increment Financing Service Agreement and Development Agreement with He Hari, Inc. and other development partners for the Worthington Gateway redevelopment.

*Recommendation:* Approve as presented.

## **New Legislation - Ordinance(s)**

### **9. Ordinance No. 22-2023- Village Green Tree Removal Ordinance**

Approving the Removal of a London Planetree from the Northeast Quadrant of the Village Green

*Executive Summary:* This Ordinance authorizes the removal of a London Planetree from the Northeast Quadrant of the Village Green.

*Recommendation:* Introduce for public hearing on October 16, 2023.

## **Reports of City Officials**

### **10. Policy Item(s)**

#### **a. Griswold Beer and Wine Rentals**

*Executive Summary:* Staff have finalized policies and procedures for Griswold Beer and Wine Rentals and are seeking City Council approval to begin implementation.

*Recommendation:* Motion authorizing staff to move ahead with the provision of Beer and Wine Rentals at the Griswold Center.

## **Reports of Council Members**

## **Other Business**

## **Adjournment**

### **11. Motion to Adjourn**

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# City Council Agenda

## Minutes

Monday, July 17, 2023 at 7:00 pm

6550 N. High Street, Worthington, Ohio 43085

### 1. Call to Order

#### Minutes:

Worthington City Council met in person on Monday, July 17, 2023. President Robinson called the meeting to order at 7:00 p.m.

### 2. Roll Call

#### Minutes:

**Members Present:** Katherine Brewer, Peter Bucher, Rebecca Hermann, Beth Kowalczyk (via Microsoft Teams), Bonnie Michael, Doug Smith, David Robinson

**Member(s) Absent:** None

**Also Present:** Acting City Manager Robyn Stewart, Assistant City Manager & Economic Development Director David McCorkle, Director of Law Tom Lindsey, Director of Finance Scott Bartter, Planning & Building Director Lee Brown, Director of Parks & Recreation Darren Hurley, Acting Chief of Police Eric Grille, Chief of Fire & EMS Mark Zambito, and Clerk of Council Grace Brown.

### 3. Pledge of Allegiance

#### Minutes:

President Robinson invited those in attendance to stand and recite the Pledge of Allegiance.

### 4. Visitor Comments

#### Minutes:

Mr. Mark Gideon of 91 Chaucer Court, addressed Council remarking that he had written and addressed Council several times, but had not heard a response back either in public or afterward. He expressed how he would appreciate a reply.

Council President Robinson expressed how he had replied and asked for additional information in the past, but Mr. Gideon had not responded. Mr. Gideon responded that he was sorry that he did not reply and that it was an oversight.

Mr. Gideon continued by sharing his experience with the Department of Food and Agriculture and his ongoing issues with the City related to the sewer project in relation to his property. He described the potential damage that this sewer line project could have in the proposed area and the carelessness and heartlessness of the City regarding its approach in requesting an easement.

Council President Robinson responded how seriously he takes what was said about dialogue and responsiveness by the City Council. A central fact that makes this nearly impossible to engage in dialogue is the ongoing litigation which needs to be taken into account. Mr. Gideon replied that most of the things he is commenting on do not relate to the litigation, they are people and policy issues. He did not bring the litigation, the City did, so he would think that there was something in all of this that the City Council could respond to.

He again asked for the Council to respond. Ms. Michael and Ms. Brewer both shared they could not respond to his remarks due to his having representation in the ongoing lawsuit.

## **Approval of the Minutes**

### **5. Approval of Minutes**

June 20, 2023 & July 3, 2023 Regular Meetings

**Minutes:**

**MOTION:** Ms. Michael moved, seconded by Ms. Brewer to adopt the minutes of June 20, 2023, and July 3, 2023.

**The motion carried unanimously by a voice vote.**

## **Public Hearings on Legislation**

### **6. Ordinance No. 16-2023- Additional Appropriations – General Fund & General Bond Retirement Fund**

Amending Ordinance No. 39-2022 (As Amended) to Adjust the Annual Budget by Providing for an Appropriation from the General Fund and General Bond Retirement Fund Unappropriated Balance.

**Minutes:**

Mr. Bartter shared that Ordinance No. 16-2023 was a standard additional appropriation ordinance and that the \$15,000 would cover additional survey work requested as part of the Swimming discussion, testing and assessment services for personnel, equipment maintenance, community relations supplies, and police. He also shared how it included roofing repairs at the McConnell Art Center and the general bond retirement fund interest and fiscal charges related to the May issuance of the \$4.4 million in debt.

Mr. Smith clarified for the record, that the survey work was an engineering survey as part of public outreach.

**There being no additional comments, the clerk called the roll on Ordinance No. 16-2023.**

**The motion carried unanimously by the following vote:**

**Vote Results:** Ayes: 6/ Nays: 0

**Ms. Kowalczyk joined the meeting via Teams after the roll call vote was taken.**

## **New Legislation - Resolution(s)**

### **7. Resolution No. 43-2023 - Sponsorship of UnDesign the Redline**

Approving 2023 Sponsorship of UnDesign the Redline Exhibition.

**Minutes:**

**Introduced by Ms. Brewer.**

Ms. Stewart provided background that the Community Relations Commission had sent a letter to



the Council with a request for funding related to a national exhibition that the YWCA brought to Columbus around the impacts of redlining.

It is to be hosted at the Worthington Library and the Community Relations Commission proposed that the City be involved with financial support which was suggested at \$500 from their line item in the budget and then an additional \$1,500 to be added to that for a total of \$2,000 with the passage of Resolution No. 43-2023.

Mr. Robinson asked when the Council would see the design or if it had been designed already for the Worthington area specifically. Ms. Stewart responded that she had not seen anything specific to Worthington or the timeline, and suggested that Staff could check with the Community Relations Commission and the organizers of the exhibit.

Mr. Robinson asked what the organization or creative entity was called. Ms. Stewart stated it was the YWCA who brought it to Central Ohio but she was not sure if they had an overarching group they were working with. She added that the Worthington Libraries, Worthington Historical Society, and the Worthington Schools along with the Otterbein, Ohio State, and other groups have all been involved with the creation of the exhibit.

Mr. Robinson requested clarity on funding moving forward about the CRC.

Ms. Stewart explained that there is a line item in the City's operating budget for the Community Relations Commission which funds several of their ongoing initiatives and programs previously approved by the City Council. Due to UnDesign the Redline being separate from the ongoing initiatives and programs, Mr. Bartter had recommended that the City Council provide clarity to staff by approving the recommendation via the ordinance.

**MOTION:** Ms. Michael moved, seconded by Ms. Brewer to adopt Resolution No. 43-2023.

**The motion carried unanimously by a voice vote.**

## **8. Resolution No. 44-2023 - Directing the Acting City Manager to Finalize the Scope of Work with Camoin Associates for a Housing Assessment**

Directing the Acting City Manager to Finalize the Scope of Work with Camoin Associates for a Housing Assessment.

### **Minutes:**

#### **Introduced by Ms. Brewer**

Ms. Stewart provided background that the resolution placed at Council's seats was slightly revised from what was included in the agenda packet. It clarifies that with the adoption of the resolution she as Acting City Manager had the authority to execute a contract and not just finalize the scope of work with Camoin Associates.

Mr. Brown shared that an RFP with a deadline of May 5, 2023, had been placed for a housing assessment. There were six submissions and the interviewing team narrowed it down to Camoin Associates, adding that they were \$50,000 under budget.

Mr. Robinson stated that one of the elements of the study he was keen on was that it not be limited in the gathering of new information to only the City of Worthington proper, but, in fact, to cover roughly a five-mile radius, which would encompass Sawmill to the west.

Mr. Brown responded that Mr. Robinson was correct that it would be outside of Worthington proper. He noted that Camoin Associates had extensive experience in conducting housing studies and assessments.

A representative of Camoin Associates briefly addressed the Council.

Ms. Kowalczyk added that she was thrilled about the proposal and that she thought it hit all the

things that Council was interested in looking at.

Mr. Bucher asked if there was a timeline for completion of the assessment. Mr. Brown responded that they were looking at wrapping up by May of 2024.

Ms. Hermann thanked Staff and representatives from Camoin Associates and mentioned how she was excited to see the plan move forward.

**MOTION:** Ms. Hermann moved, seconded by Ms. Brewer to adopt Resolution No. 44-2023.

**The motion carried unanimously by a voice vote.**

#### **9. Resolution No. 45-2023 - Amendment to Development Plan with Variances for a Property at 200 E. Wilson Bridge Rd. – ADP 06-2022**

Authorizing an Amendment to the Final Development Plan for 200 E. Wilson Bridge Rd. and Authorizing Variances (Worthington Schools).

##### **Minutes:**

##### **Introduced by Ms. Brewer**

Mr. Brown described how this request is for the Worthington Education Center along East Wilson Bridge Road. When a property is subject to a development plan and variances are associated with it, it does not stop with the Planning Commission, it moves on to Council approval. They are currently undertaking new upgrades to their site. With previously adjusted Wilson Bridge Road guidelines, one item was to have a maximum height for light poles at 15 feet and what is proposed here goes up to 24 feet in height. We worked with the schools to examine what lighting was needed and to make sure there was no light spillover at the property lines. Staff recommends approval, and the Planning Commission recommends approval.

Council President Robinson asked if there was public consideration when looking at lighting regarding the diffusion into the night sky. Mr. Brown replied that we have looked at that with many properties and our regulations are geared toward looking at not seeing the light source from neighboring properties.

**MOTION:** Ms. Michael moved, seconded by Ms. Kowalczyk to adopt Resolution No. 45-2023.

**The motion carried unanimously by a voice vote.**

#### **10. Resolution No. 46-2023 - Worthington TIRC Follow-Up Actions by City Council**

Accepting the Recommendations of the 2023 Worthington Tax Incentive Review Council concerning parcels of commercial real property in the City of Worthington receiving tax exemptions for purposes of economic development

##### **Minutes:**

##### **Introduced by Ms. Michael**

Ms. Stewart described how state law requires that each year cities that have granted either tax abatements or tax increment financing, those incentives be reviewed by a Tax Incentive Review Council (TIRC). Worthington's TIRC recently met and their recommendations are being brought forward.

Mr. McCorkle provided a brief overview of the results of the TIRC which met on June 29, 2023, as well as a brief primer on the operations of Tax Increment Financing (TIFs) and Community Reinvestment Areas (CRAs). The TIRC reviewed the City's two (2) CRA abatement projects and seven (7) TIF projects active during the reporting year 2022. For tax year 2022, the Worthington TIRC recommended continuing all projects as-is. A summary of the projects and the TIRC's recommendations are included in the attached memo in the agenda packet.

Ms. Michael commented how blessed we are that our businesses are doing well, and she hopes

that they continue to grow and prosper.

**MOTION:** Ms. Hermann moved, seconded by Ms. Brewer to adopt Resolution No. 46-2023 as presented

**The motion carried unanimously by a voice vote**

#### 11. Resolution No. 47-2023 - General Fund and Law Enforcement Trust Fund Transfers

Adjusting the Annual Budget by Providing for a Transfer of Previously Appropriated Funds.

**Minutes:**

Ms. Stewart offered background on Resolution No. 47-2023 noting that it did not appropriate additional, but funds rather moved funds around among various line items within the operating budget.

Items being moved were primarily related to some staffing transfers or staffing moves in the police division, personnel costs across various lines in the parks and recreation department, and software purchases within the division of police.

**MOTION:** Ms. Michael moved, seconded by Ms. Hermann to adopt Resolution No. 47-2023.

**The motion carried unanimously by a voice vote.**

### Reports of City Officials

#### 12. Policy Item(s)

##### a. Liquor Permit Transfer – Ohio Food Prep LLC

**Minutes:**

Ms. Stewart shared that the request was for a transfer of D5 and D6 liquor permits, which were essentially full liquor permits and included Sunday sales from the ownership of Velca Grille to the ownership of Rodos Greek. She continued by stating that Rodos was moving from Clintonville to the new location within Worthington and in addition to moving there, they were acquiring the permit from Velca Grille.

The Division of Police and staff did not object to the transfer request and recommended that there be a motion to not request a public hearing.

**MOTION:** Ms. Michael moved, seconded by Ms. Hermann to not request a public hearing

**The motion carried unanimously by a voice vote**

#### 13. Discussion Item(s)

##### a. Worthington Pools

**Minutes:**

Mr. Hurley provided an update on behalf of the pools working group by sharing that they last met on July 11, 2023, to discuss the community survey approach and general concepts around it. He noted that the group initially preferred a survey of the entire school district utilizing a filter question that would take residents to one question set and then the school district residents who are not city residents to another set of questions. He continued by stating that the split would allow for specific questions of city residents on their preferences for pool funding and would probably help provide insight into attitudes and interests of the pool from the rest of the school district in terms of their willingness to be a part of the solution.

Ms. Michael added that as one of the working group members, they were also looking at having the consultant add language asking if someone (the survey taker) would be willing to pay an additional property tax to have a pool, and if yes, what they would be willing to spend, with options for giving so many dollars per year. She summarized it would be a tier system for both sides of city residents and residents within the broader school district. She mentioned that a suggestion was made that rather than only asking about the willingness to pay property taxes, a question should be asked about the willingness to pay additional rent as it could increase rents. She highlighted the working group felt it could not go forward until they knew what the appetite was for a bond issue. She said it was important to get the survey out during the August recess.

Ms. Brewer next asked two questions regarding Ms. Michael's statements. First, she asked if the survey would be pushed out to just Worthington residents or the broader school district as well. Ms. Michael responded it would be going to both. Ms. Brewer then asked if another location had ever been considered from the existing land that they had. Ms. Michael responded that they had not considered it, and Mr. Robinson added that it was briefly highlighted in a prior Columbus Dispatch article, but then the issue of parking along with other concerns came up.

Mr. Robinson stated that he was keen on seeing the survey before it went out with the questions and structure being of utmost importance. He asked what the process was moving forward and when it may be available for Council review to ask questions or make comments. Ms. Stewart responded that the survey was intended to go out during the August recess, and the questions could be shared with the Council beforehand. Mr. Robinson continued by sharing that as a non-member of the working group, he knew that members of it had talked primarily about a levy and taxes. He stated that he recognized that as a possibility and maybe an element or a primary element of structured financing, but he would like to see whether the survey is broad-based and fair in looking at other options. He indicated he did not want to dramatically slow the process down though.

Ms. Stewart offered that they had not yet identified who they would work with, but they would looking for firms experienced in that particular type of survey work. She expected that the firm would help them craft the questions. She shared the option for the Council to submit additional information they think should be included in the survey with her or Mr. Hurley.

Ms. Hermann stated she thought all Council members should have the opportunity to view the survey questions and said she did not know how that would happen during the recess. She wanted the questions to be feasible and clear that other things would have to be given up if certain things were chosen.

Mr. Robinson asked if Mr. Bartter would be involved in creating the survey. Mr. Bartter responded that he would anticipate being involved. Mr. Robinson next asked Ms. Stewart what the process would be like after recess for Council along with the status of the working group. Ms. Stewart responded that the work of the working group versus what the full Council is doing would need to be balanced with professional staff support provided as desired. Mr. Robinson mentioned that the working group would remain a functioning governing entity. Ms. Hermann confirmed that they would be, but not meet again until the

survey results were in. Ms. Michael supported the comment that they would meet at least one more time.

Mr. Michael Siroskey of 569 Oxford Street addressed the Council and asked members to read the email he sent them earlier and mentioned several questions he would like to see in the survey including what people envision with the property, what amenities they want, and whether there are things that people want in the facility if redesigned. Mr. Siroskey also asked the Council how the community could better work with the schools. He added the possibility of integration rather than reproduction of current facilities.

Ms. Hermann said that there was a presentation put on by the City and schools in 2019 that involved a survey as to what people would like to see. She believed that some of the information was incorporated in the most recent project but could not be sure. She added that Mr. Siroskey posed great questions.

**b. 2024 Budget and 2023-2028 CIP**

**Minutes:**

Ms. Stewart provided background that this agenda item was meant as a check-in for the Council. She described how information had been provided the previous week regarding some of the trends and issues at the forefront of their mind leading up to the proposed operating budget and capital plan for the next year. She asked Council to share any questions, comments, or additional thoughts that they wanted staff to keep in mind as they worked on the documents.

**Reports of Council Members**

**14. Reports of Council Members**

**Minutes:**

Ms. Hermann did not have reports to share.

Mr. Bucher shared that the Worthington is Sustainable Vision Implement Team had their second meeting the week before and that they were starting to compile a good list of practices and policies that are already going forward and ideas to start vetting. He thanked Mr. Moorehead for his great work as a staff member.

Ms. Kowalczyk shared that she was joining from Salt Lake City and that the next Sunday Funday would be the 80s. She added that the Age-Friendly Worthington Steering Committee would be hosting an open house on Tuesday of next week with a morning and evening session with walk-ins welcome.

Mr. Smith did not have reports to share.

Ms. Michael shared that the Economic Development Vision Implementation held their first meeting and it went well. She added they had focused the timeline on what could be done in one to two years rather than ten or more years.

Ms. Brewer shared that the last meeting of the Architectural Review Board and Municipal Planning Commission before the break would be that Thursday. Things of note would be a proposed demolition at the rear of The Worthington Inn and the painting of a double brick house on 161 which was more of a fix. She added the meeting of the Northeast Corridor would be at the

Griswold on Wednesday at 6 p.m. and the first VIT meeting for Worthington is Equitable would be the next day.

Mr. Robinson did not have specific reports.

## Other Business

### 15. Motion to Recess for the month of August

**Minutes:**

**MOTION:** Ms. Michael moved, seconded by Ms. Hermann to recess for the month of August.

**The motion carried unanimously by voice vote.**

## Executive Session

- a. To consider the appointment of a public official.
- b. To conference with attorney(s) for the City concerning pending or imminent litigation.

**Minutes**

**MOTION** Ms. Hermann moved. Ms. Michael seconded the motion to enter into an executive session to consider the appointment of a public official and to conference with attorney(s) for the City concerning pending or imminent litigation.

The motion was carried unanimously by Roll Call Vote.

## Adjournment

### 16. Motion to Adjourn

**Minutes:**

**MOTION:** Ms. Hermann moved, seconded by Ms. Brewer to adjourn.

**The motion carried unanimously by a voice vote.**

**President Robinson declared the meeting adjourned at approximately 10:16 p.m.**





# City Council Agenda

## Minutes

Tuesday, September 5, 2023 at 7:00 pm

6550 N. High Street, Worthington, Ohio 43085

### 1. Call to Order

#### Minutes:

Worthington City Council met in person on Tuesday, September 5, 2023. President Robinson called the meeting to order at 7:00 p.m.

### 2. Roll Call

#### Minutes:

**Members Present:** Katherine Brewer, Peter Bucher, Rebecca Hermann, Beth Kowalczyk, Bonnie Michael, Doug Smith, David Robinson

**Member(s) Absent:** None

**Also Present:** Acting City Manager Robyn Stewart, Assistant City Manager & Economic Development Director David McCorkle, Director of Law Tom Lindsey, Director of Finance Scott Bartter, Planning & Building Director Lee Brown, Director of Parks & Recreation Darren Hurley, Acting Chief of Police Eric Grille, Chief of Fire & EMS Mark Zambito, and Clerk of Council Grace Brown.

### 3. Pledge of Allegiance

#### Minutes:

President Robinson invited those in attendance to stand and recite the Pledge of Allegiance.

### 4. Visitor Comments

#### Minutes:

Mr. Mark Gideon of 91 Chaucer Court overviewed his attempts to get the Council to respond to his questions as his elected representatives. He summarized that this was due to ongoing legal proceedings. Mr. Gideon questioned if it was unacceptable to the City if he chose to exercise his constitutional rights to protect his property. Mr. Gideon expressed his love for the City and thanked the Council for listening.

## Special Presentation(s)

### 5. State Auditor's Award of Distinction

#### Minutes:

Mr. Scott Brown, a representative from the State Auditor's Office presented the Award of

Distinction to Mr. Bartter. He shared that the award meant that the City of Worthington had filed financial reports with the Auditor of State's Office by a statutory due date without extension on a GAAP accounting basis and prepared a Annual Comprehensive Financial Report. They did not contain any findings for recovery, material citations, material weaknesses, significant deficiencies, uniform guidance findings, or questionable costs.

Councilmembers congratulated Mr. Bartter and the entire Finance Department.

## Approval of the Minutes

### 6. Approval of Minutes

July 10, 2023 Regular Meeting and July 11 & 12, 2023 Special Meetings

#### Minutes:

Ms. Hermann requested that statements she deemed important be added to the minutes for July 10, 2023. Specifically, the language around the Worthington Pools discussion and funding. Although not verbatim, she requested changes be made in accordance with an email she drafted before the meeting.

Ms. Michael asked that a typo be corrected for the record.

Mr. Lindsay confirmed that legally the minutes could be brought back at the next meeting with changes made as requested and then approved.

**MOTION:** Ms. Michael moved, seconded by Ms. Hermann to adopt the minutes of July 11 & 12, 2023 Special Meetings as presented.

**The motion carried unanimously by a voice vote.**

## New Legislation - Resolution(s)

### 7. Resolution No. 48-2023 – 2023 Community Relations Commission Neighborhood and Community Seed Grant Allocations

Approving Funding for the 2023 Worthington Community Relations Commission Neighborhood and Community Seed Grant Program.

#### Minutes:

##### Introduced by Ms. Brewer

Ms. Stewart provided background that the Community Relations Commission had funding allocated within the City's budget as approved by the Council to provide grants for many years. Historically, the grants had been small-dollar, \$500 or less, targeted toward helping enhance neighborhood connections with an overall neighborhood focus. The request for funding came after a decision to broaden the scope of the grant program so that it could tie into the diverse and equitable visions that were adopted within the community initiatives.

**MOTION:** Ms. Kowalczyk moved, seconded by Ms. Hermann to adopt Resolution No. 48-2023.

**The motion carried unanimously by a voice vote.**

### 8. Resolution No. 49-2023 – Approving WIFA Expenditures

Authorizing the Expenditure of \$4,900 to Reimburse Seven Individual Delegates \$700 Each for Airfare to Japan and up to \$500 for two official Gifts from the City of Worthington and WIFA to Sayama, Japan as Part of the WIFA Sister City Program, and deeming Sister City Related Expenditures a Public Purpose.

#### Minutes:



**Introduced by Ms. Michael.**

Ms. Stewart provided background for Resolution No. 49-2023, sharing that the WIFA program and the delegations to Worthington's sister city Sayama, Japan had occurred for a number of years. Sometimes they were official city representatives and sometimes they were citizen delegates. She shared that in the case before the Council, citizen delegates would be traveling to Sayama and the proposal was to approve funds in support of their trip.

Ms. Michael expressed her support for the program as someone who participated in the program before.

Mr. Smith mentioned opportunities to Zoom or meet virtually with delegates.

**MOTION:** Ms. Hermann moved, seconded by Ms. Kowalczyk to adopt Resolution No. 49-2023.

**The motion carried unanimously by a voice vote.**

**9. Resolution No. 50-2023 - Resolution for an Amendment to Development Plan with Variances for a Property at 100 Old Wilson Bridge Rd. – ADP 07-2022**

Authorizing an Amendment to the Final Development Plan for 100 Old Wilson Bridge Rd. and Authorizing Variances (Tammy Corrado).

**Minutes:**

**Introduced by Ms. Brewer.**

Mr. Brown provided background for Resolution No. 50-2023 describing how it is a request for an amendment to the development plan that included a variance for a rear setback. He mentioned that when a property is subject to a development plan that needs variances, it goes through the Municipal Planning Commission. In 2009 the City approved a generator at the rear of the property line that butted up to I-270. The applicant was requesting another generator to be added to handle the elevators that would be 10 feet from the rear property line to I-270. The code required a 50 ft setback. He said the generator was not visible from the road, therefore municipal Planning Commission Recommended approval.

Ms. Hermann expressed excitement about seeing more foliage along the route.

**MOTION:** Ms. Michael moved, seconded by Ms. Brewer to adopt Resolution No. 50-2023.

**The motion carried unanimously by a voice vote.**

**10. Resolution No. 51-2023 - Resolution for Necessity – DLZ Corporation – PACE Project**

A Resolution Approving the Petition for Special Assessments for Special Energy Improvement Projects and Affidavit under Ohio Revised Code Chapter 1710 and Declaring the Necessity of Acquiring, Constructing, Installing, Equipping, and Improving Certain Public Improvements in the City of Worthington, Ohio in Cooperation with the Columbus Regional Energy Special Improvement District (6121 Huntley Road Project)

**Minutes:**

**Introduced by Ms. Brewer.**

Ms. Stewart offered a brief background that it had been a while since the City had approved a PACE project. She then welcomed Mr. McCorkle to offer information on Resolution No. 51-2023 for the DLZ Corporation project.

Mr. McCorkle stated that the Property Assessed Clean Energy or PACE was a program used by property owners or tenants to finance energy efficiency upgrades to a property. Financing was necessary for the energy upgrades and would be repaid over a certain period of time. For the project in question, it would be 19 years broken into 38 installments. He mentioned that it was important to note that it was not a tax, but a government charge. The PACE assessments used

the special assessment law. Improvements needed to be designated either a public use or to provide a public good. The Resolution in question would approve DLZ Corporation's petition for the special assessments by declaring the necessity of the project as providing a public good. The project outlined was for rooftop air handling units, an automation system, LED lighting, a solar PVRA, and a hydrogen pumping station. The total cost of the upgrades would be about \$1.5 million. He continued by sharing there would be an 11% reduction in total energy use while adding 46% of the energy generated from onsite renewables. He highlighted additional positive environmental impacts and explained there would be subsequent legislative requests in the form of two subsequent ordinances.

Mr. Bucher asked Mr. McCorkle if the tax exemption be contingent upon the approval of PACE. He replied that it was not contingent on the approval. Mr. Bucher expressed that he was extremely supportive of the project.

Ms. Michael also expressed support for the project.

**MOTION:** Ms. Brewer moved, seconded by Ms. Kowalczyk to adopt Resolution No. 51-2023.

**The motion carried unanimously by a voice vote.**

## **New Legislation - Ordinance(s)**

### **11. Ordinance No. 17-2023 - Determining to Proceed with Project (DLZ PACE Project)**

An Ordinance Determining to Proceed with the Acquisition, Construction, Installation, Equipping, and Improvement of Certain Public Improvements in the City of Worthington, Ohio in Cooperation with the Columbus Regional Energy Special Improvement District (6121 Huntley Road Project)

#### **Minutes:**

**Introduced by Ms. Hermann and set for public hearing on September 11, 2023.**

### **12. Ordinance No. 18-2023 - Levying Assessments & Authorizing Agreement for Collections (DLZ PACE Project)**

#### **Minutes:**

**Introduced by Ms. Brewer and set for public hearing on September 11, 2023.**

### **13. Ordinance No. 19-2023 - Accepting Amounts and Rates**

Accepting the Amounts and Rates as Determined by the Budget Commission and Authorizing the Necessary Tax Levies and Certifying Them to the County Auditor.

#### **Minutes:**

**Introduced by Ms. Micheal and set for public hearing on September 18, 2023.**

### **14. Ordinance No. 20-2023 - Additional Appropriations – General Fund, Water Fund, Capital Fund & W. Wilson Bridge Rd. TIF Fund**

Amending Ordinance No. 39-2022 (As Amended) to Adjust the Annual Budget by Providing for an Appropriation from the General Fund, Water Fund, Capital Improvement Fund, and W. Wilson Bridge Rd. TIF Fund Unappropriated Balance.

#### **Minutes:**

**Introduced by Ms. Brewer and set for public hearing on September 18, 2023.**

## **Reports of City Officials**

### **15. Reports of City Officials**

#### **Minutes:**

There were no additional reports from City Officials.

## Reports of Council Members

### 16. Reports of Council Members

#### Minutes:

Ms. Hermann reported on several items from during the month of August. She highlighted activity with Coffee and Conversations, she went to the Farmer's Market and watched a demonstration of CPR. She later attended Stop the Bleed training and had the opportunity to attend the Hartford at Stafford ribbon cutting. She also thanked city staff and police for their work when roadways were blocked by a train. She gave a recommendation for the Council and citizens to listen to the Amplify Podcast. She concluded by expressing interest in revisiting the City's plan to control the deer population and possible services to pick up deceased deer.

Mr. Bucher celebrated the opening of the Wilson Road bridge and a job well done.

Ms. Kowalczyk shared she too was busy over the break. She attended the Coalition of Age-Friendly Communities of Ohio with staff member Colleen Light. She learned about Cincinnati's initiatives to add more accessory dwelling units (ADUs) around the community, and emergency preparedness in Athens County. She also attended the Hartford grand opening, and COTA increased trip times to every 30 minutes for the 102 in Worthington. Ms. Kowalczyk highlighted the 988 line for suicide prevention, and Ms. Hermann mentioned that there were now resources for the LGBTQ community.

Ms. Michael shared she was excited to see the possibility of state funding for railroads in Worthington. She asked that staff review and possibly support the efforts for funding. She noted that people were reaching out about the Worthington Pools and that the following week would be a time for discussion. Lastly, she shared the Meet the Candidate event happening on September 13, 2023, with the Worthington Chamber.

Ms. Brewer shared that Worthington is Inclusive VIT came to a conclusion, but that Ethan Barnhardt was still working on items. She also gave an ARB and MPC update.

Mr. Robinson did not have official business to share.

#### Other Business

#### Executive Session

#### Adjournment

### 17. Motion to Adjourn

#### Minutes:

**MOTION:** Ms. Brewer moved, seconded by Ms. Michael to adjourn.

**The motion carried unanimously by a voice vote.**

**President Robinson declared the meeting adjourned at approximately 8:03 p.m.**





**STAFF MEMORANDUM**  
**City Council Meeting – October 2, 2023**

Date: September 14, 2023

To: Robyn Stewart, Acting City Manager

From: Tom Lindsey, Law Director

Subject: Pay to Stay Update

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**EXECUTIVE SUMMARY**

This Ordinance would ensure that residential tenants are afforded the right to assert tender of rent as an affirmative defense to an eviction action.

**RECOMMENDATION**

Approve as Presented.

**BACKGROUND/DESCRIPTION**

In July 2022, Carlie Boos of the Affordable Housing Alliance of Central Ohio spoke to Council requesting Council to consider adopting “Pay to Stay” legislation. Currently under Ohio law, a landlord is able to evict a tenant even if they are able to pay the full rent as long as it occurs after the due date. “Pay to Stay” legislation allows renters to present the full past due rent and reasonable late fees to obtain the dismissal of an eviction action.

In April 2023, staff provided Council a comprehensive research memo providing additional information regarding “Pay to Stay” legislation adopted by other Ohio communities and details concerning eviction actions filed in Franklin County Municipal Court.

In June 2023, staff provided Council the results of public engagement regarding possible Pay to Stay legislation.

Staff has prepared the proposed ordinance based on Pay to Stay legislation recently adopted by the City of Columbus to provide consistency for tenants, landlords, and the courts.

**ATTACHMENTS**

- Ordinance No. 21-2023 – Pay to Stay – 9-14-23
- Research Memo – Pay to Stay (April 2023)
- Staff Memo – Pay to Stay Update (June 2023)

## ORDINANCE NO. 21-2023

To Enact New Chapter 727 “Tenant’s Right to Assert Tender of Rent as an Affirmative Defense to Eviction” of the Codified Ordinances of the City of Worthington to Codify an Affirmative Defense in an Eviction Matter for Tenants who attempt to Tender All Past Due Rental Payments

WHEREAS, on May 20, 2019, City Council adopted Ordinance No. 14-2019 to enact Chapter 539 of the Codified Ordinances to prohibit discriminatory practices in housing, employment, and public accommodations based on race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, genetic information, or military status; and,

WHEREAS, on July 19, 2021, City Council adopted Ordinance No. 32-2021 to amend Chapter 539 “Discriminatory Practices, Civil Rights, Disclosure” of the Codified Ordinances of the City of Worthington to Prohibit Discrimination in the Rental or Leasing of Housing Accommodations Based on Source of Income; and,

WHEREAS, the State of Ohio is one of only five states in the country that permits a residential landlord to file for eviction immediately upon non-payment of rent and after providing proper notice; and

WHEREAS, evictions for non-payment of rent lead to regional vulnerabilities that prolong economic instability, create educational impairments for children displaced by evictions, increase costs to the homeless system, and negatively impact community stability and relationships; and

WHEREAS, the City Council desires to ensure that tenants are afforded the right to assert tender of rent as an affirmative defense to an eviction action.; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That Part Seven of the Codified Ordinances of the City of Worthington, “Business Regulation Code,” be and the same is hereby amended to add new Chapter 727:

### **CHAPTER 727**

#### **Tenant’s Right to Assert Tender of Rent as an Affirmative Defense to Eviction**

##### **727.01 DEFINITIONS**

As used in this chapter:

- (a) "Dwelling" means any building or portion thereof which is designated for or used for residential purposes.

- (b) "Tenant," as applied to dwellings, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such dwellings, alone or with others.
- (c) "Tender" means the payment of rent. Tender may be made in any lawful form authorized pursuant to a written rental agreement, provided for by city code or state law, or approved by a court of competent jurisdiction.

**727.02           TENANT'S RIGHT TO ASSERT TENDER OF RENT AS AN AFFIRMATIVE DEFENSE TO EVICTION**

- (a) If a tenant, or an agency or individual on the tenant's behalf, tenders all past due rent with reasonable late fees to the landlord prior to the filing of an action under Ohio Revised Code Chapter 1923 and the landlord refuses to accept the payment tendered, the tenant's tender of all past due rent with reasonable late fees shall be an affirmative defense to any action filed by the landlord against the tenant for nonpayment of rent.
- (b) If a tenant, or an agency or individual on the tenant's behalf, tenders all past due rent with reasonable late fees to the landlord prior to a judgment and the landlord refuses to accept the payment tendered, the tenant's tender of all past due rent, reasonable late fees, and court costs shall be an affirmative defense to the eviction action filed by the landlord against the tenant for nonpayment of rent.
- (c) A tenant's tender of payment pursuant to this section does not limit the ability of a landlord to initiate an eviction action for reasons other than solely for non-payment of rent.

SECTION 2. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.





## MEMORANDUM

TO: Robyn Stewart, Acting City Manager

FROM: Ethan Charles Barnhardt, Management Assistant/Special Projects Coordinator

DATE: April 6, 2023

SUBJECT: Pay to Stay Background and Proposed Framework for Adoption

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Throughout Central Ohio, housing issues have been top of mind for many communities, including consideration of policies that address equity and availability. This memorandum is meant to provide a comprehensive background on Pay to Stay legislation, which is a policy approach to help keep tenants in stable housing as well as make sure that landlords are paid what is owed to them. Currently, under Ohio law a landlord has no legal responsibility to accept a late payment from a tenant. Ohio is currently **one of only five states** where a single missed payment can lead to a tenant being evicted even if the tenant can tender the full amount of rent and other fees. This legislation would work to standardize and codify an existing defense currently used in response to eviction actions.

### **What Is Pay to Stay Legislation?**

Pay to Stay legislation provides protections so that landlords are not able to evict a tenant for being just a day or two late on rent. Currently under Ohio law, a landlord is able to evict a tenant even if they are able to pay the full rent as long as it occurs after the due date. This allows a landlord to be able to reject late rent from tenants who may be vulnerable due to circumstances that are out of their control, such as illness and resulting lost wages. With the implementation of Pay to Stay ordinances, a renter may present the full rent due and reasonable late fees to obtain dismissal of an eviction action.

Ordinances have been passed in many locations across the state of Ohio, particularly in the northeastern part of the state where Cleveland and Akron have been joined by the suburbs of Lakewood, Cleveland Heights, Euclid, Newburgh Heights, and Maple Heights. Additionally, Cincinnati, Yellow Springs, Dayton, and Toledo have passed legislation containing Pay to Stay

components. Currently, Reynoldsburg and Gahanna are the only communities in Central Ohio that have adopted legislation that incorporates Pay to Stay provisions.

### **Why is Pay to Stay Legislation Needed?**

Landlords in Ohio are able to issue a notice to leave and begin the eviction process for a tenant if that person is a day late, or a dollar short, on their rent payment. Even if a renter offers to pay the missed rent the day after it becomes late, the landlord can choose whether or not to accept the late payment. Adoption of a local ordinance that requires landlords to accept a late payment made in full, with applicable late fees and costs, would permit renters to defend against an eviction filing.

Pay to Stay legislation provides protection for renters to maintain housing stability and to curb the burdens on the social safety net. Additionally, with the cost of rent rapidly growing in the region due to increased demand and low supply, along with limited tenant protections, there appears to be the potential for some landlords to evict a late paying tenant in order to bring in someone who is willing to pay a higher market-rate rent.

### **What Does the Eviction Process Look Like?<sup>1</sup>**

- A Notice to Leave the Premises (“Three-Day Notice”) is left on the tenant’s door or personally delivered that includes the language:
  - *“You are being asked to leave the premises. If you do not leave, an eviction action may be initiated against you. If you are in doubt regarding your legal rights and obligations as a tenant, it is recommended that you seek legal assistance.”*
- At this point, a tenant has three days to attempt to find a solution to avoid court, including:
  - Negotiating a payment of back rent
  - Resolution of other, non-payment related issues that has led to the notice
  - Coming to an agreed-upon move-out date with the landlord
- If a resolution cannot be made, the landlord can then file an eviction case in court
  - The tenant will be sent a summons by the court with the date, time, and location of the eviction hearing, which is usually in about two weeks.
  - The landlord may also sue for back rent, utilities, or other damages.
- The parties then prepare for the eviction hearing
  - Tenant can enlist a lawyer to help fight an eviction action.
- At the eviction hearing, the Court can then decide whether the tenant should be evicted or not.
  - If the tenant has already moved out, or if a resolution has been negotiated with the landlord, a dismissal can be requested
  - A tenant may also ask for a continuance if additional time is needed to help with the eviction case.

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<sup>1</sup> *Eviction timeline in Ohio*. Ohio Legal Help. (2022, August 1). Retrieved August 25, 2022, from <https://www.ohiolegalhelp.org/eviction-timeline>

- If a court decides to evict, a Writ of Restitution is issued and a “Red Tag” will be posted on the door, telling the tenant how long they have to vacate the property, typically five days.
  - After that, a landlord can ask for the sheriff to come and set out the tenant’s belongings.

### **Eviction Statistics for Worthington**

Evictions have a number of costs to both renters and landlords. Evictions for non-payment of rent can lead to economic instability, educational impairments for children displaced by evictions, and increased costs to the homeless system. Landlords also may incur court costs, attorney fees, and costs associated with tenant turnover.

Staff pulled records from the Franklin County Municipal Court between August 2021 through August 2022, to analyze data for Worthington rental properties where eviction actions were initiated and a notice to leave premises was issued.

Takeaways from the data include:

- During this time frame, 23 eviction actions were initiated in Worthington proper.
  - 22 were multi-family units
  - One was a commercial-use property
  - Zero were single-family
- Of those actions, **seven resulted in a judge issuing a Writ of Restitution**, ordering the tenant to vacate the property.
- **Four of the seven** evictions were attributable to the late payment of rent.
- The other three evictions were due to unsanitary conditions of the rental properties and criminal activity taking place on premises.
- When looking at the number of days given between rent being due and a notice to leave being issued, and accounting for outliers, landlords give tenants approximately **12 days** on average before issuing a notice and beginning the eviction process.
- Of the eviction actions taken within Worthington, there is an average court cost of approximately **\$150**.

### **What About Worthington Landlords?**

The potential Passage of Pay to Stay legislation would bring Worthington’s laws in line with what is common for tenants and landlords nationwide. Pay to Stay would codify and standardize an existing affirmative defense to eviction action. Additionally, it could provide greater stability for renters who are given the opportunity to pay any late rent along with applicable costs and fees.

While there have been some concerns expressed by apartment and realtor associations across the state, overall, there has been little pushback. In Cincinnati, there was close cooperation with the

Greater Cincinnati Northern Kentucky Apartment Association to pass their legislation.<sup>3</sup> The Akron Cleveland Association of Realtors noted that Pay to Stay, “...on the surface...appears to be a win-win situation for all involved. The housing provider receives owed rent and presumably avoids a vacancy, and the tenant remains in the home.”<sup>4</sup> Their concerns mainly centered around whether the legislation was a valid exercise of home rule authority, and how amounts for fees and costs were determined.

### **Proposed Legislation**

The proposed ordinance provides that a tenant may tender the full amount of rent owed, reasonable late fees, and court costs during an eviction proceeding and prior to judgment to maintain the tenancy and have the eviction proceeding dismissed. As a result, courts will be required to dismiss an action if the affirmative defense is proven. Notably, the late fees required to obtain dismissal of the action must be reasonable, as determined by the court.

The proposed ordinance does not include language preventing the filing of an eviction action due to questions of constitutionality in light of R.C. Chapter 1923. This proposed ordinance is modeled after the Pay to Stay components of several Ohio cities’ ordinances. Further, the proposed ordinance is not retroactive so that it does not interfere with pre-existing contracts entered into without knowledge of the impact of this legislation.

### **Proposed Framework for Community Engagement and Adoption of Legislation**

Below is a proposed framework and timeline for adopting Pay to Stay legislation:

- April 2023
  - Distribute staff memorandum providing background research to and share draft ordinance with City Council
  - Staff presentation for April 10, 2023, Committee of the Whole meeting on background research, proposed legislative timeline, and next steps.
- April through May 2023
  - Build website informational page to provide background information and engagement opportunities.
  - Send letter to Worthington landlords, informing them of proposed Pay to Stay legislation and opportunities for engagement.
    - Create a form on the website for landlords & residents to submit questions and/or concerns.
- Mid-to-Late May 2023

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<sup>3</sup> Hart, J. (2022, July 19). *Hamilton County tenants facing eviction can use 'pay-to-stay' as a new legal protection*. WCPO. Retrieved August 25, 2022, from <https://www.wcpo.com/news/local-news/hamilton-county/cincinnati/hamilton-county-tenants-facing-eviction-can-use-pay-to-stay-as-a-new-legal-protection>

<sup>4</sup> City of South Euclid, Ohio Legislative Meeting Packet – March 8, 2021. Retrieved August 25, 2022, from <https://www.cityofsoutheuclid.com/wp-content/uploads/2021/03/03-08-21-Legislative-Committee.pdf>

- Hold Q&A session of staff for interested landlords, tenants, and other community members to learn and ask questions about Pay to Stay
  - Incorporate feedback into draft ordinance and prepare for Council introduction
- June 2023
  - Come back to Council with legislation for introduction and passage.



**STAFF MEMORANDUM**  
**City Council Meeting – June 12, 2023**

Date: June 8, 2023

To: Robyn Stewart, Acting City Manager

From: Ethan Barnhardt, Management Assistant/Special Projects Coordinator

Subject: Pay to Stay Update

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**EXECUTIVE SUMMARY**

Staff will provide an update on public engagement efforts around draft Pay to Stay Legislation and potential options for how best to move forward with this policy.

**RECOMMENDATION**

Staff requests Council input and direction on the desired approach moving forward.

**BACKGROUND/DESCRIPTION**

**HISTORY**

On April 10, 2023, staff provided a comprehensive overview of “Pay to Stay” legislation, which would allow renters to present the full rent due and reasonable late fees to obtain the dismissal of an eviction action. Currently under Ohio law, a landlord is able to evict a tenant even if they are able to pay the full rent as long as it occurs after the due date. This allows a landlord to be able to reject late rent from tenants.

City Council expressed general support for the legislation and supported the public engagement framework outlines by staff with steps to reach out to residents and Worthington landlords to seek their feedback, which City Council expressed their approval of. Letters were sent to approximately **230** Worthington landlords, with background information and different public engagement opportunities including an online survey and a Q&A session held on May 17, 2023.

**FEEDBACK**

The online form received nine submissions from different landlords expressing their perspectives on potential Pay to Stay legislation. Below is a summary of the results

from the survey:

- **Four** respondents were negative and questioned the need for this legislation and expressed that this eroded the rights of property owners.
- **Two** respondents expressed neutral opinions, specifically expressing that it is already standard practice for most landlords to accept reasonable late rent, or that there are already some protections in place under state law.
- **Three** respondents were positive, expressing their support for adopting Pay to Stay legislation.

Additionally, staff received several phone calls from landlords who expressed their concerns about this legislation, sharing similar concerns as what was heard from the online survey. Most comments revolved around the erosion on landlord property rights, and how the vast majority of landlords exhaust all options before having to resort to the eviction process, including accepting late payments of rent.

The online Q&A was conducted via Microsoft Teams with Law Director Tom Lindsey and Management Assistant Ethan Barnhardt serving to lead the session. There was one participant, who was a Worthington property owner, for the session and staff spent the entire hour answering their questions and listening to their concerns. The primary takeaways included questions about the number of complaints that the City has had regarding this particular problem, and that the legislation appeared to seem like it was solving a problem that may not exist within Worthington, as well as concerns about some of the terminology used in the draft legislation.

#### NEXT STEPS

Previously, staff had proposed bringing back legislation in June, however several discussions have influenced that thinking. From a legal perspective, there are some lingering concerns about the constitutionality of Pay to Stay, and it has not faced a legal challenge to consider it settled law at this point. Additionally, the City of Columbus has begun having conversations around adopting Pay to Stay legislation as part of their efforts around housing solutions. As a larger municipality, there may be benefits to seeing what their legislation looks like, and what their legal review looks like.

Staff sees three options for Council to consider on how to move forward:

1. Move forward as originally proposed, bringing back Pay to Stay legislation for consideration and potential adoption.
2. Table this policy until such time that the City of Columbus has made progress on their legislation to take into consideration the components of their legislation, and then bring it back for further discussion and consideration.
3. Table this policy until Pay to Stay has been established as settled law and there is greater certainty regarding the constitutionality of the legislation moving forward.



**STAFF MEMORANDUM**  
**City Council Meeting – October 2, 2023**

Date: September 26, 2023

To: Robyn Stewart, Acting City Manager  
David McCorkle, Assistant City Manager

From: R. Lee Brown, Director of Planning & Building

Subject: Resolution for an Amendment to Development Plan with Variances for a Property at 6670 Huntley Rd. – ADP 09-2023

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**EXECUTIVE SUMMARY**

This Resolution is for an Amendment to Development Plan with Variances for three (3) wall-mounted signs that exceed the allowable square footage permitted on a property at 6670 Huntley Rd.

**RECOMMENDATION**

Introduce and approve as presented.

Staff is recommending **approval** of this application as the proposed signs are acceptable at this location.

On September 14, 2023, the Municipal Planning Commission reviewed and recommended **approval** of an Amendment to Development Plan with Variances for signage.

To view the meeting, please go to the [Video Archives for September 14, 2023, ARB & MPC Meeting](#).

**BACKGROUND/DESCRIPTION**

**Background & Request:**

Tiltons Automotive Service is constructing its new 26,243 sf facility at this location and is now asking for approval of signage. The 2.57-acre property is located in the I-1 Zoning District (Restricted Light Industrial) at the northeast corner of Huntley Rd. and Schrock Rd.



**Project Details:**

1. Three (3) wall signs are proposed.
2. One sign each is shown on the south and west building elevations. These signs would be mounted on the building panels and consist of halo-lit channel letters and a car logo. Overall height is proposed as 4'1" and width is 10' for 40.8 sf per sign. Planned colors are red, white, and blue.
3. On the part of the building that faces the southwest corner of the property, a 10' x 28' panel is proposed with a 20'6" wide by 8' high red car that would be halo lit. The panel would be the sign area because without the sign, the panel would not be needed in that location. The actual sign would only be 164 sf.
4. Variances would be needed to have 3 wall signs and total sign area of 361.6 sf.

**Land Use Plans:**Worthington Code Sections:[1170.05 Commercial and Industrial District Requirements.](#)

(a) Sign area. Allowable permanent sign area for any single business shall be limited according to the widths of the building or part of the building occupied by such enterprise. For the purposes of this section, width shall be measured along the building face nearest parallel to the street line. In the case of a corner lot, either frontage may be used in determining maximum area for signage. The area of all permanent signs for any single business shall be equivalent to one and one-half square feet of sign area for each lineal foot of width of the building or part of the building, but shall not exceed a maximum area of 100 square feet per business.

(b) Wall-mounted signage. Each business shall be permitted one wall-mounted sign.

[Worthington Planning & Zoning Code – Development Plan – 1175.02](#)

Properties located in any "C-3" or "I-1" Districts that is not less than 2-acres in size shall be required to submit a Preliminary and Final Development Plan for the development of the site. The Preliminary and Final Development Plan looks at the location and character of the development, building heights, site layout, screening, landscaping, tract coverage, parking, utilities and stormwater control. Any changes to an approved Development Plan will be required to go through the Amendment to Development Plan process that would need to be reviewed and approved by the Municipal Planning Commission and possibly City Council if variances are needed.

[Comprehensive Plan Update & 2005 Strategic Plan for Worthington](#)

The 2005 Comprehensive Plan Update recommends Restricted Light Industrial (I-1 District) for Huntley Road north of Schrock Road and General Industrial (I-2 District) for the area south of Schrock Road down to Dublin-Granville Road (SR-161).

Worthington's industrial corridor is significant to the City because these uses contribute to the tax base and provide employment opportunities for its residents. It is an appropriate site for industry, providing an edge for the brewery to the east in Columbus and straddling the railroad tracks. Truck traffic uses Schrock, Huntley, and Busch Boulevard to access SR-161 to Interstate 71.

Based on the competitive regional environment in the industrial market and the lack of large undeveloped parcels, the focus in Worthington should be on maintenance, marketing, and reuse of existing structures. The real estate economics make razing and redeveloping sites difficult without a larger, coordinated effort to assemble land. The Economic Development Plan indicated that Worthington is still able to attract small to medium-sized manufacturers and distributors but has difficulty retaining them as they grow and expand. These users should continue to be the target market, with structures renovated where possible to flexible space, easily converted for the changing needs of the tenant or new lessee.

The corridor consists of a number of buildings of various sizes and arrangements, as well as a few vacant lots. Because of the general age of the corridor and larger size of competing areas, Worthington's industrial corridor is attractive to small and medium-sized manufacturers and distributors as well as business startups. The corridor still has the advantages of access to the rail line, proximity to the freeway system, close labor pool, and a location within the Outerbelt.

It is critical that the City protect this area as an employment center. The City should strive to make this area attractive to investment and redevelopment.

#### **ATTACHMENTS**

- Resolution No. 54-2023 & Exhibit A
- Application & Materials

RESOLUTION NO. 54-2023

Authorizing an Amendment to the Final  
Development Plan for 6670 Huntley Rd. and  
Authorizing Variances (Chris Tilton)

WHEREAS, Chris Tilton submitted a request for an amendment to the Final Development Plan with variances for 6670 Huntley Rd.; and,

WHEREAS, Sections 1175.02(f) and 1107.01 of the Codified Ordinances of the City of Worthington provide that when an applicant wishes to change, adjust or rearrange buildings, parking areas, entrances, heights or yards, following approval of a Final Development Plan, and variances are included, the modification must be approved by the City Council; and,

WHEREAS, the proposal has received a complete and thorough review by the Municipal Planning Commission on September 14, 2023 and approval has been recommended by the Commission.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That the amendment to the approved Final Development Plan with variances at 6670 Huntley Rd. as per Case No. ADP 09-2023, Drawings No. ADP 09-2023 dated August 24, 2023, attached hereto as Exhibit "A" be approved.

SECTION 2. That there be and hereby is granted variances from Code Section 1170.05(a) and Section 1170.05(b) to permit the installation of three (3) wall-mounted signs that exceed the total permitted sign square footage of 100 sq. ft. by 261.6 sq. ft. on a property located in the I-1 District.

SECTION 3. That the Clerk of Council be and hereby is instructed to record this Resolution in the appropriate record book.

Adopted:

\_\_\_\_\_  
President of Council

Attest:

\_\_\_\_\_  
Clerk of Council



#S1-2268.23: HALO-LIT CHANNEL LOGO AND LETTERS  
WITH PVC SMALLER COPY  
SCALE: 3/4" = 1'-0"

- LOGO: 2" DEEP ROUTED HDU - PAINTED PMS 187 RED.
- "TILTONS": 2" DEEP ROUTED HDU - PAINTED WHITE ON ALL SURFACES.  
3630-97 BRISTOL BLUE AND 3630-53 CARDINAL RED VINYL OVERLAYS ON THE LETTER FACES ONLY
- ILLUMINATION: WHITE LED
- "AUTOMOTIVE SERVICE": (NON-ILLUMINATED) 3/4" THICK WHITE PVC, STUD MOUNTED FLUSH.



NITE VIEW

222'-8"



SOUTH ELEVATION 3/32" = 1'-0"

4'-1" X 10'-0" GRAPHIC = 41 SQFT  
BUILDING PANEL: 5' X 12'



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UL APPLIES TO ILLUMINATED SIGNS ONLY.



Approved  
Municipal Planning Commission  
City of Worthington  
Date 09/14/2023  
Lynda Bitar  
Clerk



CITY OF WORTHINGTON  
DRAWING NO. ADP 09-2023  
DATE 08/24/2023

COLORS

- WHITE
- 3630-53 CARDINAL RED (PMS 187 RED)
- 3603-97 BRISTOL BLUE VINYL

APPROVED-CUSTOMER DATE



JOB NAME TILTONS AUTOMOTIVE #S1-2268.23  
STREET 6670 HUNTLEY RD.  
CITY, STATE WORTHINGTON, OH  
SIGN TYPE HALO-LIT WALL SIGNAGE

DATE 8/22/23 REV. DATE:  
FILE NAME TILTONS AUTOMOTIVE.CDR  
DIRECTORY THAD > 2023 > T

SCALE AS NOTED SALE MF DESIGNER TK

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#S1-2268.23: HALO-LIT CHANNEL LOGO AND LETTERS  
WITH PVC SMALLER COPY  
SCALE: 3/4" = 1'-0"

- LOGO: 2" DEEP ROUTED HDU - PAINTED PMS 187 RED.
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- ILLUMINATION: WHITE LED
- "AUTOMOTIVE SERVICE": (NON-ILLUMINATED) 3/4" THICK WHITE PVC, STUD MOUNTED FLUSH.



NITE VIEW

180'-8"



WEST ELEVATION

3/32" = 1'-0"

4'-1" X 10'-0" GRAPHIC = 41 SQFT  
BUILDING PANEL: 5' X 12'



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Approved  
Municipal Planning Commission  
City of Worthington  
Date 09/14/2023  
Lynda Bilar  
Clerk



CITY OF WORTHINGTON  
DRAWING NO. ADP 09-2023  
DATE 08/24/2023

COLORS

- WHITE
- 3630-53 CARDINAL RED (PMS 187 RED)
- 3603-97 BRISTOL BLUE VINYL

APPROVED-CUSTOMER

DATE



JOB NAME TILTONS AUTOMOTIVE #S1-2268.23  
STREET 6670 HUNTLEY RD.  
CITY, STATE WORTHINGTON, OH  
SIGN TYPE HALO-LIT WALL SIGNAGE

DATE 8/22/23 REV. DATE:  
FILE NAME TILTONS AUTOMOTIVE.CDR  
DIRECTORY THAD > 2023 > T

SCALE AS NOTED SALE MF DESIGNER TK

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ADP 09-2023





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FILE NO: E60042 DaNITE SIGN CO.

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Approved  
Municipal Planning Commission  
City of Worthington  
Date 09/14/2023  
Lynda Bitar  
Clerk



CITY OF WORTHINGTON  
DRAWING NO. ADP 09-2023  
DATE 08/24/2023

COLORS

PMS 187 RED

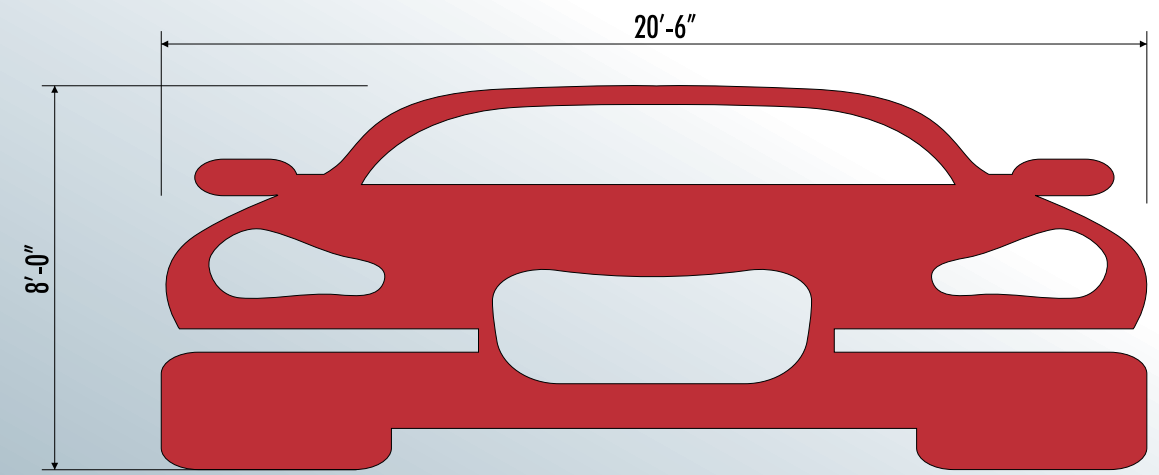
APPROVED-CUSTOMER DATE



JOB NAME	TILTONS AUTOMOTIVE	#S2-2268.23
STREET	6670 HUNTLEY RD.	
CITY, STATE	WORTHINGTON, OH	
SIGN TYPE	HALO-LIT WALL SIGNAGE	
DATE	8/22/23	REV. DATE:
FILE NAME	TILTONS AUTOMOTIVE.CDR	
DIRECTORY	THAD > 2023 > T	

SCALE AS NOTED SALE MF DESIGNER TK

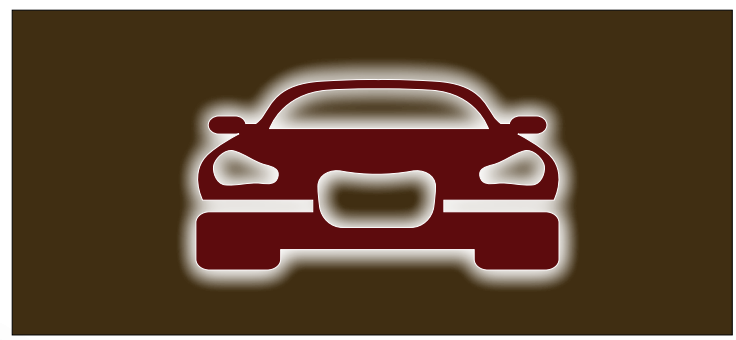
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#S2-2268.23: HALO-LIT CHANNEL LOGO

SCALE: 1/4" = 1'-0"

- LOGO: 6" DEEP FABRICATED ALUMINUM - PAINTED PMS 187 RED.
- ILLUMINATION: WHITE LED



NITE VIEW

98'-6"

29'-4"



SOUTH WEST ELEVATION 1/8" = 1'-0"

8'-0" X 20'-6" CAR = 164 SQFT  
BUILDING PANEL: 10' X 28'



## MPC APPLICATION ADP 09-2023 6670 Huntley Rd.

<b>Plan Type:</b>	Amendment to Development Plan	<b>Project:</b>		<b>App Date:</b>	08/24/2023
<b>Work Class:</b>	Amendment to Development Plan	<b>District:</b>	City of Worthington	<b>Exp Date:</b>	
<b>Status:</b>	In Review			<b>Completed:</b>	
<b>Valuation:</b>	\$0.00			<b>Approval</b>	
<b>Description:</b>	This variance request it for additional signage square footage. The signage needed for this building is finally coming to scale and hasn't changed from its conceptual appearance that Council has previously approved. The total signage square footage needed is 246 square feet. We are asking for a variance to allow the additional 146 square feet that brings our conceptual plan to life.				
<b>Parcel:</b>	100-002184	Main	<b>Address:</b>	6670 Huntley Rd Worthington, OH 43229	Main
			<b>Zone:</b>	I-1(Restricted Industrial: Research Office)	

Applicant / Owner  
Chris Tilton  
6670 Huntley Rd  
Columbus, OH 43229  
Business: (614) 547-0685  
Mobile: (614) 315-2108

Invoice No.	Fee	Fee Amount	Amount Paid
INV-00004470	Amendment to Development Plan	\$50.00	\$50.00
Total for Invoice INV-00004470		\$50.00	\$50.00
Grand Total for Plan		\$50.00	\$50.00



Approved  
Municipal Planning Commission  
City of Worthington  
Date 09/14/2023  
Lynda Bitar  
Clerk



# 6670 Huntley Rd.





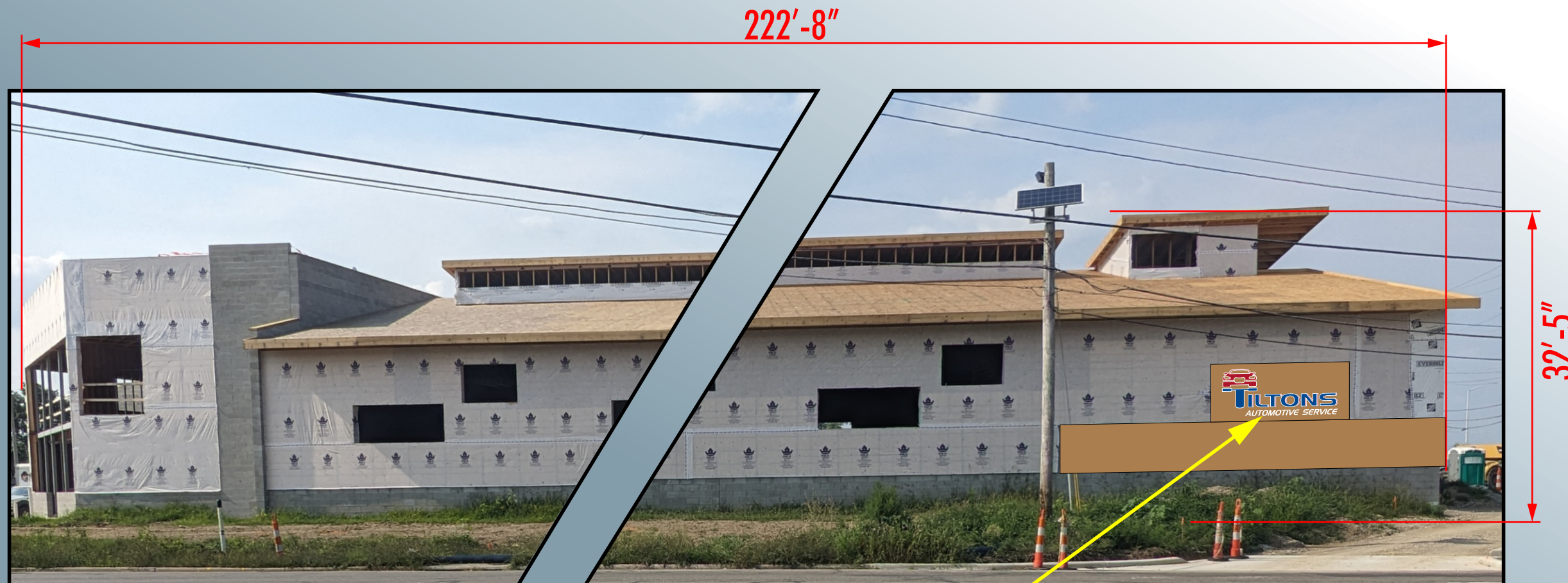


#S1-2268.23: HALO-LIT CHANNEL LOGO AND LETTERS  
WITH PVC SMALLER COPY  
SCALE: 3/4" = 1'-0"

- LOGO: 2" DEEP ROUTED HDU - PAINTED PMS 187 RED.
- "TILTONS": 2" DEEP ROUTED HDU - PAINTED WHITE ON ALL SURFACES.  
3630-97 BRISTOL BLUE AND 3630-53 CARDINAL RED VINYL OVERLAYS ON THE LETTER FACES ONLY.
- ILLUMINATION: WHITE LED
- "AUTOMOTIVE SERVICE": (NON-ILLUMINATED) 3/4" THICK WHITE PVC, STUD MOUNTED FLUSH.

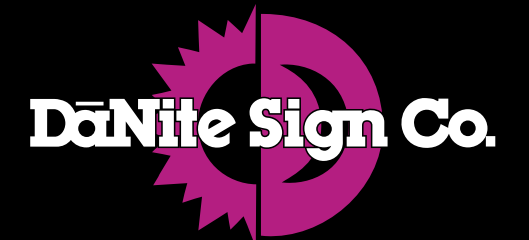


NITE VIEW



SOUTH ELEVATION 3/32" = 1'-0"

4'-1" X 10'-0" GRAPHIC = 41 SQFT  
BUILDING PANEL: 5' X 12'



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CITY OF WORTHINGTON  
DRAWING NO. ADP 09-2023  
DATE 08/24/2023

#### COLORS

- WHITE
- 3630-53 CARDINAL RED (PMS 187 RED)
- 3603-97 BRISTOL BLUE VINYL

APPROVED-CUSTOMER DATE



JOB NAME TILTONS AUTOMOTIVE #S1-2268.23  
STREET 6670 HUNTLEY RD.  
CITY, STATE WORTHINGTON, OH  
SIGN TYPE HALO-LIT WALL SIGNAGE

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DIRECTORY THAD > 2023 > T

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NITE VIEW

180'-8"



WEST ELEVATION

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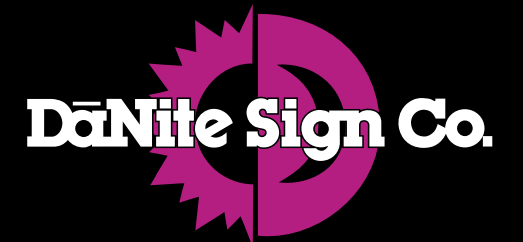
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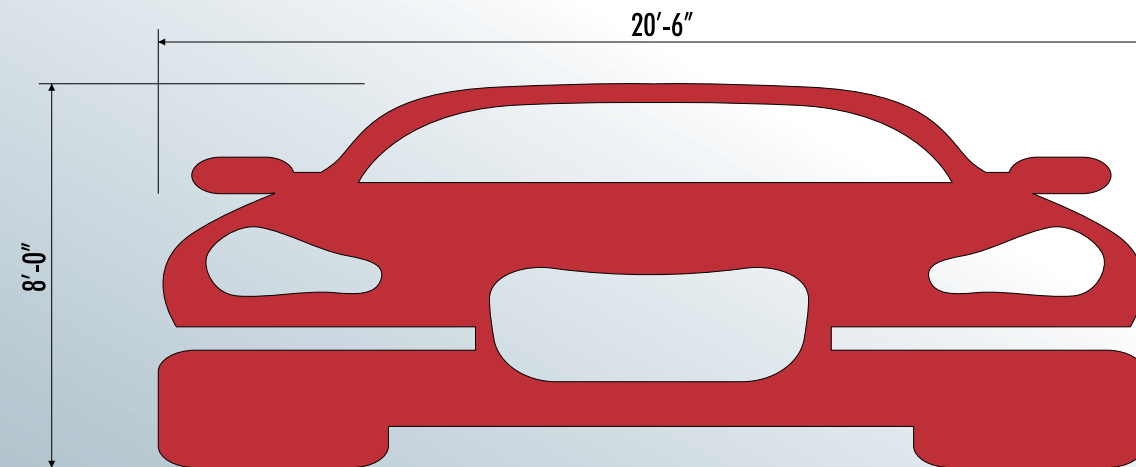
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**STAFF MEMORANDUM**  
**City Council Meeting – October 2, 2023**

Date: September 27, 2023

To: Robyn Stewart, Acting City Manager

From: David McCorkle, Assistant City Manager & Economic Development Director

Subject: **Amending Worthington Gateway Agreements**

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**EXECUTIVE SUMMARY**

This agenda item is intended to request authorization for the City Manager to enter into an amended Tax Increment Financing Service Agreement and Development Agreement with He Hari, Inc. and other development partners for the Worthington Gateway redevelopment.

**RECOMMENDATION**

Approve as presented.

**BACKGROUND/DESCRIPTION**

He Hari, Inc., and the additional development partners, He Hari Development LLC, High Gateway LLC, and Worthington Gateway LLC, are actively redeveloping the Worthington Gateway property into a mixed-use development featuring approximately thirty thousand (30,000) square feet of restaurant or retail space, and approximately fifty thousand (50,000) square feet of Class A office space, including certain onsite and offsite public infrastructure improvements. The estimated aggregate construction cost of the project is approximately thirty million dollars (\$30,000,000).

The City and He Hari, Inc. entered into the original Tax Increment Financing (TIF) Service Agreement and Development Agreement on August 1, 2019. Those agreements were amended and restated in July 2020, via Resolution 36-2020, to add additional development parties, update parcel numbers, change the scope of the project to replace the proposed hotel with a 4-story mixed-use building, slightly increase the maximum TIF reimbursement amount, and to increase the job and payroll projections.

Since that time, the Worthington Gateway development has made substantial progress, with only the 4-story mixed-use building still in the construction/framing stage. Much of the overall project has been completed and numerous tenants have already, or soon will, open their doors to the public for business. However, per the terms of the amended and restated agreements with the City, the developer had (48) months from the Effective Date to complete the project. This original 'Time for Performance' end date was May 2, 2023. Due to various project delays, including a pandemic and steel supply chain issues, an extension of the 'Time for Performance' end date is needed to complete the project. The new proposed end date is October 1, 2024. With significant construction and leasing progress having been made over the last year at the project site, staff are supportive of extending the completion date to October 1, 2024. All proposed changes are reflected in the redline version of the agreements attached to this agenda item.

## **ATTACHMENTS**

Resolution 55-2023

Amended and Restated TIF Service Agreement (Draft)

Amended and Restated Development Agreement (Draft)

## RESOLUTION NO. 55-2023

Authorizing the City Manager to Enter into the Amended and Restated Tax Increment Financing Service Agreement and Development Agreement with the Worthington Gateway Property Owners.

WHEREAS, this Council desires to encourage the redevelopment of the Worthington Gateway property to further the economic development goals of the City in a manner that is consistent with the existing neighborhood; and,

WHEREAS, the City seeks to increase employment opportunities and to encourage establishment of new jobs in the City, in order to improve the economic welfare of the City and its citizens, in furtherance of the public purposes enunciated in Article VIII, Section 13 of the Ohio Constitution; and,

WHEREAS, the original developer, He Hari, Inc., and the additional development partners, He Hari Development LLC, High Gateway LLC, and Worthington Gateway LLC, are actively redeveloping the Worthington Gateway property into a mixed-use development featuring approximately thirty thousand (30,000) square feet of restaurant or retail space, and approximately fifty thousand (50,000) square feet of Class A office space, including certain onsite and offsite public infrastructure improvements. The estimated aggregate construction cost of the project is approximately thirty million dollars (\$30,000,000).

WHEREAS, in connection with the construction of the project, the City and He Hari, Inc. entered into a Tax Increment Financing Service Agreement and a Development Agreement on August 1, 2019; and,

WHEREAS, this Council approved an amended and restated Tax Increment Financing (TIF) Service Agreement and an amended and restated Development Agreement on July, 20, 2020, via Resolution 36-2020. This approval amended the agreements to add additional development parties, update parcel numbers, change the scope of the project to replace the hotel with a 4-story mixed-use building, slightly increase the maximum TIF reimbursement amount, and to increase the job and payroll projections; and,

WHEREAS, the project has made substantial construction progress, however, due to various delays, the City and development partners desire to extend the “Time for Performance” end date from May 2, 2023, to October 1, 2024. This new project end date is reflected in both amended and restated agreements; and,

WHEREAS, this Council desires that the project continues to be constructed, and completed, pursuant to the terms of the Restated and Amended Tax Increment Financing Serving Agreement and the Restated and Amended Development Agreement; and,



NOW THEREFORE, BE IT RESOLVED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That the City Manager is hereby authorized to enter into the Amended and Restated Tax Increment Financing Service Agreement and the Restated and Amended Development Agreement with He Hari, Inc., He Hari Development LLC, High Gateway LLC, and Worthington Gateway, LLC.

SECTION 2. That the Clerk be and hereby is instructed to record this Resolution in the appropriate record book.

Adopted \_\_\_\_\_

\_\_\_\_\_  
President of Council

Attest

\_\_\_\_\_  
Clerk of Council

**AMENDED AND RESTATED TAX INCREMENT FINANCING SERVICE  
AGREEMENT**

**Between**

**THE CITY OF WORTHINGTON**

**And**

**HE HARI, INC. & HE HARI DEVELOPMENT, LLC & HIGH GATEWAY, LLC &  
WORTHINGTON GATEWAY, LLC**

Deleted: And

This Amended and Restated Tax Increment Financing Service Agreement (the “**Agreement**”) is between He Hari, Inc., an Ohio corporation, having an address at 600 Enterprise Drive, Lewis Center, Ohio 43035 (the “Original Developer”), He Hari Development, LLC, an Ohio limited liability company, High Gateway, LLC, an Ohio limited liability company, and Worthington Gateway, LLC, an Ohio limited liability company (the “Additional developers,” together with the Original Developer referred to from time to time herein as the “Developers” and each identified individually from time to time as a “Developer”), and the City of Worthington, Ohio, a municipal corporation organized under the laws of the State of Ohio and its Charter, having an address at 6550 North High Street, Worthington, Ohio 43085 (the “City”). The City and the Developers are collectively referred to herein as the “**Parties**.”

Deleted: Additional developer

**WITNESSETH:**

WHEREAS, the Additional developers are the fee owners of the properties identified as Franklin County permanent parcel numbers 100-006791-00, 100-006792-00, and 100-006793-00 (the parcels together the “**Property**”) a description of which real property is attached hereto as Exhibit A and incorporated herein by reference, with each parcel of real property within the Property referred to herein as a “Parcel” (whether as presently appearing on county tax duplicates or as subdivided or combined and appearing on future tax duplicates); and,

Deleted: Original Developer is the fee owner of the property identified as Franklin County permanent parcel numbers 100-006792-00 and 100-006793-00, and the Additional developer

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WHEREAS, the Developers desire to redevelop the Property into a mixed-use development featuring an approximately thirty thousand (30,000) square feet of restaurant or retail space and approximately fifty thousand (50,000) square feet of Class A office space (collectively, the “**Project**”), as more fully described in EXHIBIT B, Scope of Work, attached to this Agreement and incorporated herein; and,

WHEREAS, the City passed Ordinance No. 09-2019 on April 15, 2019 (the “**TIF Ordinance**”), pursuant to and in accordance with Ohio Revised Code (“**ORC**”) §§5709.41, 5709.42 and 5709.43 (the “**TIF Statutes**”), (i) declaring that the increase in the assessed value of the Property subsequent to the acquisition of the Property by the City (which increase in assessed value is the “**Improvement**” as defined in ORC Section 5709.41(A)(2)) is a “public purpose”; (ii) authorizing the use of the Service Payments (as defined hereinafter) for the Designated Improvements (as defined hereinafter); (iii) providing for the exemption of one hundred percent



(100%) of the Improvement from real property taxation (hereinafter referred to as the **“Exempted Portion of the Improvement”**), commencing with the effective date of the TIF Ordinance and ending on the earlier of (a) thirty (30) years after such commencement date or (b) the date on which the City can no longer require Service Payments (as hereinafter defined) to be paid to the 7007 North High Street Urban Redevelopment Tax Increment Equivalent Fund (the **“TIF Fund”**), which TIF Fund is established in the TIF Ordinance, all in accordance with the requirements of the TIF Statutes; and (iv) providing for the payment of service payments in lieu of real property taxes (the **“Service Payments”**, as further defined in Section 1 hereof), which are to be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Exempted Portion of the Improvement; and,

WHEREAS, the Parties have entered into a separate Amended and Restated Development Agreement on the \_\_\_\_ day of \_\_\_\_\_, 2023 setting forth additional terms and conditions regarding the Project (the **“Development Agreement”**); and,

Deleted: 2020

WHEREAS, the City and the Original Developer entered into a Tax Increment Financing Service Agreement dated August 1, 2019 (the **“Original TIF Agreement”**) and Parties desire to amend and restate the Original TIF Agreement primarily for the purposes of adding the Additional developers as a Party, increasing the maximum amount the Additional developers may be reimbursed for the Designated Improvements, clarifying the obligations of the Original Developer and Additional developers, and revising the scope of the Project.

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Deleted: Additional developer

Deleted: Additional developer

WHEREAS, in connection with the Project, the Additional developers intends to undertake or cause to be undertaken certain improvements that are more fully described in EXHIBIT C attached hereto and incorporated herein by this reference (the **“Designated Improvements”**); and,

Deleted: Additional developer

WHEREAS, the City has determined that the development by the Developers of the Property by undertaking the Designated Improvements, and the fulfillment generally of this Agreement, are in the vital and best interests of the City and will advance the health, safety, and welfare of its residents; and,

WHEREAS, in consideration of actions to be undertaken by the City, the Developers have determined to undertake the Designated Improvements, subject to the conditions in this Agreement and the Development Agreement.

NOW THEREFORE, in consideration of these premises and the mutual covenants and obligations of the Parties hereto set forth, each of them does hereby covenant and agree as follows:

§1. Covenant to Make Payments in Lieu of Taxes. The Developers each agree, for itself and its successors and assigns to or of the Property or any part thereof (the Original Developer, the Additional developers and each successor or assign is individually referred to as an **“Owner”** and collectively as the **“Owners”**), that the Owners shall pay all Service Payments with respect to the Exempted Portion of the Improvement pursuant to and in accordance with the TIF Statutes, the TIF Ordinance and this Agreement. All such Service Payments as are levied and assessed from time to time shall be made semiannually to the Treasurer of Franklin County (or to the Treasurer’s designated agent for collection of the Service Payments) on or before the date on which the semi-

Deleted: Additional developer

annual payment in respect of real property taxes would otherwise be due and payable for the Exempted Portion of the Improvement. Each semiannual payment of Service Payments shall be in the same amount as the real property taxes that would have been charged and payable against the Exempted Portion of the Improvement had an exemption from taxation not been granted, and otherwise shall be in accordance with the requirements of the TIF Statutes, including any interest assessed on any late payment of the Service Payments (currently established under ORC §§323.121(B)(1) and 5703.47 of the ORC, as the same may be amended from time to time). The payment of penalties and interest referred to herein, with the service payments in lieu of taxes, collectively comprise the “**Service Payments**”. The Service Payments, and any other payments in respect of the Property that are received by the County Treasurer in connection with the reduction required by ORC §319.302, as may be amended from time to time, or any successor provisions thereto as may be amended from time to time (the “**Property Tax Rollback Payments**”), shall be allocated and distributed in accordance with §5 of this Agreement.

The exemption provided in the TIF Ordinance commences on the effective date of the TIF Ordinance and ends when the City can no longer use the Service Payments for any lawful purpose under the TIF Statutes or on the thirtieth (30<sup>th</sup>) anniversary of such commencement date, whichever is first to occur.

No Owner shall, under any circumstances whatsoever, be required for any period of any tax year to pay, whether pursuant to ORC §5709.42 or this Agreement, (i) both real property taxes with respect to the Exempted Portion of the Improvement and Service Payments with respect to the Exempted Portion of the Improvement, or (ii) an amount of Service Payments in excess of that amount of real property taxes that would otherwise be payable during such period had the Exempted Portion of the Improvement not had an exemption from taxation.

Notwithstanding the current configuration of the Property, the Parties acknowledge for all purposes of this Agreement that, without affecting or changing the area comprising the Property, the Parcel(s) within the Property may change from time to time in number, area and designation. The City acknowledges that the Owner may subdivide the Property in accordance with the Development Agreement and all applicable laws and regulations. Notwithstanding any other provision of this Agreement, the City agrees (i) that each subsequent Owner’s responsibility under this Agreement, including but not limited to responsibility for payment of Service Payments, is limited to that part or parts of the Property owned by such Owner and the Service Payments applicable to such part or parts of the Property, and (ii) that upon conveyance of the Property or any part thereof, provided that the Owner includes in all recorded or recordable documents conveying said Property or in the Declaration (defined hereinafter), the legal responsibility and obligation of the new Owner to make Service Payments (as required herein) as a condition of ownership, the prior Owner shall then have no responsibility for Service Payments applicable to the period after the date of conveyance with respect to the conveyed property. Notice of sale, and copies of all recorded documents related to transferring the obligations hereunder, shall timely be provided to the City by the Owner (transferor).

It is intended and agreed, and it shall be so provided by each Developer, as Owner, in the deed conveying any portion of the Developer’s Property to any other individual or entity, or in a Declaration filed and of record in the Franklin County Recorder’s Office (the “**Declaration**”), that

the covenants provided in this §1 shall be covenants running with the land and that they shall, in any event and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity, for the benefit and in favor of and enforceable by the City, whether or not this Agreement remains in effect or whether or not such provision is included by the Developer, as Owner, in any succeeding deed to the Developer's successors and assigns. It is further intended and agreed that these agreements and covenants in this §1 shall remain in effect for the full period of exemption permitted in accordance with the requirements of the TIF Statutes and the TIF Ordinance.

§2. Priority of Service Payments. By their execution hereof, the Developers, as Owners, each on behalf of itself and subsequent Owners, hereby grant to the City a continuing lien on the Property as security for the timely payment of the Service Payments in accordance with the TIF Statutes, the TIF Ordinance and this Agreement, which lien shall have the priority stated in ORC §5709.91.

§3. Exemption Applications. In respect of portions of the Property owned by the Developers at the time of the filing described in this §3, the Developers each agree and consent to the City preparing and filing all necessary applications and supporting documents to obtain the exemption from real property taxation for the Exempted Portion of the Improvement authorized by the TIF Statutes and the TIF Ordinance (including, but not limited to, the Developers signing the Ohio Department of Taxation DTE Form 24P, filed with the County Auditor, making the City its attorney in fact to submit said documentation). The Developers, each on behalf of itself and each subsequent Owner, agrees that they shall assist and cooperate with the City, and that they shall cause each subsequent Owner by deed or declaration to assist and cooperate with the City, in the preparation and filing by the City of such applications and supporting documents that are necessary to enable the City to collect Service Payments thereunder (including, but not limited to, the Developers signing and timely filing the Ohio Department of Taxation DTE Form 24), and the Developers and each Owner shall cooperate with the City in connection with the preparation and filing of the initial and any further applications required to accomplish that purpose, and will not undertake any acts which would prohibit, prevent, delay or hinder the City from obtaining the Service Payments hereunder.

§4. Covenants to Run with the Land. It is intended and agreed that the covenants of the Developers as Owners in §§1, 2 and 3 hereof shall be covenants running with the land and that they shall, in any event and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the City against the Property, the Project and the Owners. It is further intended and agreed that such covenants shall remain in effect for the full period of exemption provided in accordance with the requirements of the TIF Statutes, the TIF Ordinance enacted pursuant thereto and this Agreement. It is further agreed by the Developers, as Owners, that all such covenants, whether or not such provisions are included by any Owner in any deed to such Owner's successors and assigns, shall be binding upon each Owner and shall be enforceable by the City in the manner provided herein.

In amplification of, and not in restriction of, the provisions of this §4, it is intended and agreed that the City and its respective successors and assigns shall be deemed a beneficiary of the

covenants provided herein. Such covenants shall run in favor of the City for the entire period of the exemption provided by the TIF Ordinance and the TIF Statutes, without regard to whether the City has at any time been, remains or is an owner of any land or interest therein, to which such covenants relate. The City shall have the right in the event of any breach of any covenant herein contained, to exercise all of the rights and remedies, and to maintain all actions or suits at law or in equity or in other proper proceedings, to cure such breach, to which it or any other beneficiaries of such covenant may be entitled.

The Developers further agree, each for itself and any Owners, that all agreements, covenants, rights, duties, remedies and obligations of the Developers and of the City, and their respective successors and assigns, set forth in this Agreement, shall be binding upon them and their respective successors and assigns, which Agreement shall survive any recording and shall be valid and enforceable by and against the Parties referred to in this Agreement, in accordance with the terms and provisions contained therein. Any agreement or covenant referred to in this Agreement as being a covenant running with the land, shall run with the land and be valid and enforceable by and against the Parties referred to herein, in accordance with the terms and provisions thereof.

The City agrees that upon expiration of the period of exemption as that period is defined in this Agreement and the TIF Ordinance, and fulfillment of the obligations of the Developers and any subsequent Owner(s) under this Agreement with respect to each portion of the Property owned by such Owner, the City will, upon request by an Owner, execute and deliver to the Owner a recordable instrument evidencing that the obligations under this Agreement (and under any deed or Declaration) with respect to the portions of the Property owned by the Owner are fully satisfied and that the Owner and such property are released from all further obligations under this Agreement (and under any deed or Declaration).

§5. Order of TIF Payments. The Developers and the City agree that all Service Payments and Property Tax Rollback Payments related to the Exempted Portion of the Improvement when received by the City shall be deposited in the TIF Fund, as required by ORC §5709.43. The TIF Fund shall be an account maintained in the custody of the City and shall receive all distributions required to be made to the City. All Service Payments and Property Tax Rollback Payments shall first be used by the City to pay the City's customary and reasonable costs related to the discharge of its obligations under the TIF Statutes (to the extent related to this Agreement and the TIF Ordinance), the TIF Ordinance and all other related laws. Second, the City shall then use Service Payments and Property Tax Rollback Payments to fully reimburse the City for the City's reasonable Project related expenses, including but not limited to legal, engineering, and inspection costs, prior to reimbursing the Additional developers for costs of the Designated Improvements incurred by the Developers. Third, the City shall then use Service Payments and Property Tax Rollback Payments deposited in the TIF Fund to reimburse the Additional developers for the costs of the Designated Improvements, as provided under §6 below. Fourth, after all such previous payments have been made, then the City shall use Service Payments and Property Tax Rollback Payments deposited in the TIF Fund to reimburse the City for the cost of any additional public infrastructure improvements as permitted under the TIF Ordinance and the TIF Statutes, and then fifth, for any lawful purpose. The TIF Fund shall remain as an account in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the

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aforesaid purposes, after which time the TIF Fund shall be dissolved and any surplus funds remaining therein shall be transferred to the City's general fund, all in accordance with ORC §5709.43.

§6. Undertaking of the Designated Improvements and Reimbursement of the Additional developers.

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- A. If the Developers determine it to be financially feasible, the Developers intend to undertake or cause to be undertaken the Designated Improvements. If the Developers undertake the Designated Improvements, the City hereby agrees to reimburse the Additional developers for a portion of the costs required in connection with the Designated Improvements using Service Payments and Property Tax Rollback Payments paid by Owners pursuant to the TIF Ordinance, as more fully described below in (B), (C), and (D), in the order set forth in §5 above, and subject to the terms and limitations contained in the TIF Ordinance.
- B. The cost of the improvements eligible for reimbursement (the "Eligible Costs") shall include any and all costs incurred in order to undertake the Designated Improvements, including the items of "costs of permanent improvements" set forth in ORC §133.15(B). Those costs include, but are not necessarily limited to: (i) cash paid; (ii) interest on the reimbursable portion of the amount paid by Additional developers for the Off-Site Improvements (as defined and identified in the Development Agreement) from the date of such payment until the date of reimbursement by the City, at the annual rate of four percent (4%), which shall be compounded annually; (iii) review and inspection fees incurred in connection with the construction of the Designated Improvements; (iv) professional fees; and (v) construction management and supervisory costs and fees. The Parties acknowledge the interest accrual commencement date may vary for the Off-Site Improvements based on the date the Developer makes such payments. The Developers shall be responsible for tracking the interest on Off-Site Improvement payments and shall include with the Certified Statements a statement showing the total amount of interest then due.
- C. The portion of the Eligible Costs subject to reimbursement shall not exceed Three Million, Six Hundred Fifty-Seven Thousand, Four Hundred and Forty-Two Dollars (\$3, 657,442), plus interest on the Off-Site Improvements at the annual rate of four percent (4%) and shall be further limited by and in accordance with Section 13 of the Development Agreement (the "Reimbursable Portion"). Designated Improvements will consist of two categories of improvements: "Off-Site Improvements" and "On-Site Improvements," which are used herein as those terms are defined and as those improvements are identified in the Development Agreement.
- D. From time to time after commencement of the Designated Improvements, the Additional developers shall provide a certified statement to the City setting forth and providing reasonable evidence concerning the Cost of the Designated Improvements (each a "Certified Statement", and collectively, the "Certified Statements"). At least twice each year, subsequent to submission of the first

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Certified Statement by the Additional developers, and contingent upon the City having received funds in the TIF Fund, the City shall pay to Additional developers, within thirty (30) business days following the City's receipt of a Certified Statement, the lesser of (i) the Reimbursable Portion, or part thereof, as shown in the Certified Statements, or (ii) the funds available at that time in the TIF Fund, subject to the terms and limitations of this Agreement. Should insufficient funds exist in the TIF Fund at the time of submission of a Certified Statement to reimburse the Additional developers for the Reimbursable Portion, then the City shall maintain a record of such unpaid amounts, and the City shall pay to Additional developers such amounts within thirty (30) business days after such funds exist in the TIF Fund, provided that such payment shall not exceed the available balance in the TIF Fund. The City shall submit an accounting or record of all amounts paid to Additional developers out of the TIF Fund along with each payment to Additional developers, including payments made by the City within thirty (30) business days of the receipt of a Certified Statement and payments made by the City within thirty (30) business days of sufficient funds being deposited into the TIF Fund with respect to any unpaid amounts, but subject to the limitations described in this §6(D).

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- E. Unless the Project is rendered otherwise exempt by the form, structure and/or source of the financing obtained by the Developers to complete the Project, the Developers and the City acknowledge that for purposes of this Agreement, the Off-Site Improvements are subject to the prevailing wage requirements of ORC Chapter 4115, and all wages paid to laborers and mechanics employed on the construction of the Off-Site 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 Off-Site Improvements, which wages shall be determined in accordance with the requirements of ORC Chapter 4115. Notwithstanding any exemption that may apply thereto, the Developers shall otherwise comply with all applicable requirements of ORC Chapter 4115 including, without limitation, (i) obtaining from the Ohio Department of Commerce its determination of the prevailing rates of wages to be paid for all classes of work required for the construction of the Off-Site Improvements; and (ii) ensuring that all subcontractors for the Off-Site Improvements receive notification of changes in prevailing wage rates as required by ORC Chapter 4115.

§7. Agreement Binding on Parties; No Personal Liability. All covenants, obligations and agreements of the Developers and the City contained in this Agreement shall be effective to the extent authorized and permitted by applicable law, and shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto. No such covenants, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the City in other than their official capacity or of any individual person who is an officer, member, director or shareholder of a Developer other than in their capacity as an officer, member, director or shareholder, and neither the members of the City Council nor any City official executing this Agreement or any individual person executing this Agreement on behalf of a Developer, shall be liable personally by reason of the covenants, obligations or agreements of the Developer or the City contained in this Agreement.

§8. Notices. All notices, requests, demands and other communications between the Parties required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and (i) delivered personally, (ii) deposited in the U.S. Mail by registered or certified mail, postage prepaid, or (iii) sent by any nationally recognized courier delivery service, and addressed as follows:

If to the City:

City Manager  
City of Worthington  
6550 North High Street  
Worthington, Ohio 43085

with a copy to:

Director of Law  
City of Worthington  
370 Highland Avenue  
Worthington, Ohio 43085

If to a Developer:

Moment Development  
Attn. Ohm Patel  
800 N. High Street  
Columbus, OH 43215

**Deleted:** The Witness Group

**Deleted:** 600 Enterprise Drive

**Deleted:** Lewis Center, OH 43035

with a copy to:

Scott J. Ziance  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
Columbus, OH 43215

Any party may change the address and/or persons to which notices are to be addressed by giving the other party notice in the manner stated herein.

§9. Complete Agreement. All present negotiations, considerations, representations and understandings between the Parties as to the implementation of the exemptions authorized by the TIF Ordinance and the subject matters of this Agreement are incorporated herein and in the Development Agreement. This Agreement may only be amended by a written instrument duly authorized and executed by the Parties hereto, and subject to authorization by the Worthington City Council, if required.

§10. No Third Party Beneficiaries. None of the provisions of this Agreement or any document contemplated hereby is intended to grant any right or benefit to any person or entity that is not a party to this Agreement.

§11. Governing Law. This Agreement shall be governed exclusively by and construed in accordance with the laws of the State of Ohio.

§12. Severability. If any provision in this Agreement or any portion thereof shall be invalid or unenforceable for any reason, such invalidity or lack of enforceability shall not affect the validity or enforceability of any other provision or portion thereof. To the extent an interpretation of a provision or a portion thereof can be made which will make it valid or enforceable, the Parties agree that the interpretation making it valid or enforceable should be chosen.

§13. Notice and Cure. A party shall be in default of this Agreement if the party fails to perform any material obligation under this Agreement and such failure continues uncured for more than thirty (30) days after receiving a written notice of default from any other party, unless more than thirty (30) days shall be required because of the nature of the default, in which case the party shall be in default if the party shall have failed to proceed diligently to commence to cure within such thirty (30)-day period.

The City and Developers, each by a duly authorized representative, have executed this Agreement to be effective as of July 31, 2020.

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CITY OF WORTHINGTON

HE HARI, INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Robyn Stewart Date  
Acting City Manager

Date

Deleted: Matthew H. Greeson

Approved as to form:

By \_\_\_\_\_  
Tom Lindsey, Director of Law

HE HARI DEVELOPMENT, LLC

By: \_\_\_\_\_  
Date

HIGH GATEWAY, LLC



By: \_\_\_\_\_  
Date \_\_\_\_\_

WORTHINGTON GATEWAY, LLC

By: \_\_\_\_\_  
Date \_\_\_\_\_

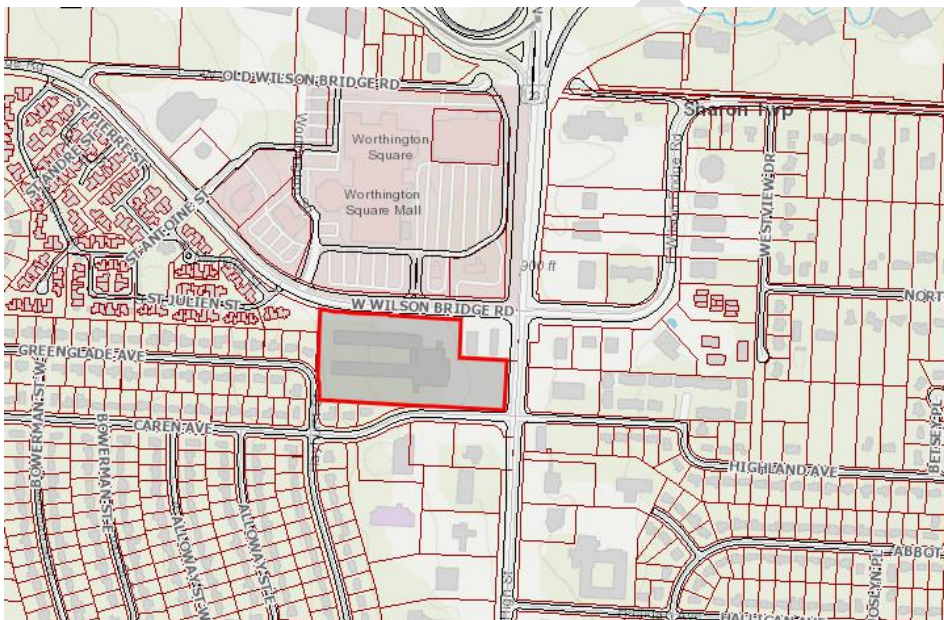
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**EXHIBIT A**

### Real Property Description

Real property located at 7007 North High Street, Parcel Numbers 100-006791-00, 100-006792-00, and 100-006793-00, as that real property is located in the City of Worthington, Franklin County.

The parcels enumerated herein, and any subsequent purported subdivisions and/or re-assigned parcel number identifications or street addresses shall constitute the “**Property.**”



### EXHIBIT B

### **Scope of Work**

The property is 7± acres located at the northwest corner of North High Street and Caren Avenue with frontage along Wilson Bridge Road, the site of the former Holiday Inn hotel which has been demolished. The Property is bordered on the west by single family homes and a condominium development, to the north is a shopping center, to the south are office buildings and to the east is a gasoline station and North High Street. The property was previously zoned C-4 and was rezoned to a PUD and subdivided into three separate parcels by City Council on March 18, 2019. There are five total buildings proposed for the existing site.

Building #1 and #2 are single story, buildings #3 and #4 are two story, and building #5 is a 4-story mixed-use building. All the buildings are designed as 'four-sided architecture'. By using the same materials on all four sides of each building, the design will not interrupt, and all parts are perceived as a unified whole.

The architectural style of the proposed buildings is meant to complement the surrounding Worthington neighborhood and design standards while differentiating the buildings from one another. Traditional style design elements are incorporated into the design using brick facades, gabled roof lines, dormers, double-hung windows and entrances with transoms. The street level storefront facades are designed using pilasters, bulkheads, cornices, awnings and externally illuminated sign panels. The 2-story office buildings at the western portion of the development utilize traditional rationale and detail while maintaining a more contemporary architectural style.

The four story mixed-use building will also utilize traditional style, tri-partite design (base, middle, top). The design shall incorporate brick veneer and fiber cement paneling. While the four story building will have a flat roof, the fourth floor shall be articulated with a change in façade material to visually break up the elevations.

The proposed materials are consistent with the City of Worthington's design guidelines with brick masonry, siding, multi-panel windows, metal & shingled roof, paint finish and awning fabric or standing seam metal.

### **EXHIBIT C**

## Designated Improvements

Off-Site Improvements: The Off-Site Improvements consist of the following list of improvements, which may be amended by the mutual consent of the City and the Additional developers:

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- Signalization Part 1
  - Relocation of the existing signal on Wilson Bridge Road and the mall. Signal will include:
    - Traffic signal mast arm supports non-decorative to replace in kind which is standard mast arm signals with black finish
    - Signal appurtenances including vehicular signals, pedestrian signals, cable/wire, pushbutton, detection (video assumed), pullboxes and controller for a complete signal installation consistent with the current signal design
    - Material from the existing signal will be reused if feasible and practical. This may include poles, signal heads and controller
- Signalization Part 2
  - Upgrade of the signal at High Street and Caren Avenue:
    - Removal of the span wire signal ☐ Decorative mast arm signal supports to match those at the High Street and Wilson Bridge
    - Road intersection
    - Signal appurtenances including vehicular signals, pedestrian signals, cable/wire, pushbutton, detection (video assumed), pull boxes and controller for a complete signal installation consistent
- Road Construction [Wilson Bridge Road, Mall Drive and Site Drive Intersection]
  - Realignment of ~165 feet of the mall drive including removal of the existing drive pavement and associated paving items for the new drive
  - Wilson Bridge Road Drainage revisions as needed to adjust catch basins and underdrains for the drive relocation
  - Pavement markings (stop lines, crosswalks and westbound left turn lane revision) and ground mounted signs (lane use control and No Turn On Red currently installed) as needed for the intersection
  - ADA Ramps and sidewalk at the corners to make the intersection complete.
- Street Lighting
  - Street lighting on both sides of Wilson Bridge Road and High Street (10 poles total)
  - Poles and bases to match ODOT lights on High Street north of Wilson Bridge Road
- ROW Compensation
  - Compensation to property owners for acquisition (Cost to cure property, easements and other amenities)

- ROW Appraisal - Cost for Professional Services for a Certified Real Estate MAI Appraiser. Appraisal scope includes the Ville Charmante Condominium Access Drive Easement; and Worthington Mall Drive Entry Temporary Work Easement for Entry Drive Re-Configuration.
- Professional Fees
  - Cost for Professional Services: Attorneys, Architects, Engineers or other Professional fee
    - Attorney / Legal Assistance
    - Construction Management
    - Architectural
    - Engineering
    - Road Construction Offsite
    - Signalization
    - Streetscaping LA of Caren/High
    - Streetscaping LA = Wilson Bridge, Caren, High; tree lawns
    - Street Lighting
    - Survey (Topo & Boundary)
    - Right-of-Way Plan Documents
    - Plan Document preparation for dedication Plats of real estate
    - Survey Boundary drawings, descriptions and easements
    - Survey (Staking) Public ROW
    - TIS = Traffic extras beyond std scope, Retaining walls
    - Foundations / Brick
    - Flood & Drainage
    - Bioretention / pavers / WQv
    - Grading change / sitework
    - CEI & CMT
- Streetscaping
  - Intersection corner treatments
  - Construction of brick paver landing at all quadrants of the intersection of Caren Avenue and N. High Street, including brick knee-wall with precast concrete cap, landscaping behind the wall, and ADA ramps with modified crosswalk striping
- Streetscaping (off-site public on periphery of site)
  - Removal of existing and installation of new access drives plus associated repairs to curb and sidewalks
  - Removal and replacement of sidewalks along all 3 streets (High, Wilson Bridge, Caren)
  - Decorative walls/planter boxes at pedestrian access points to development along Wilson Bridge Road o Street trees along all 3 streets spaced approximately 40' center-to-center
  - Groundcover and shrubs along the Wilson Bridge Road frontage

**On-Site Improvements:** The On-Site Improvements consist of the following list of improvements, which may be amended by the mutual consent of the City and the Developers:

- Building Demolition and Asbestos remediation
  - Demolition
  - Asbestos Remediation
- Flood & Drainage - Detention requirements
  - Upgrades to On-Site Storm Water Management System to account for existing downstream public infrastructure capacity/conditions.
  - Underground Detention (Based on 30,000 CF storage @ \$10/CF). The Proposed onsite development is reducing amount of impervious area from current conditions; therefore, runoff volumes are less and no detention would be required. Due to existing conditions and city infrastructure, we have been forced to detain 30,000 CF of runoff.

## AMENDED AND RESTATED DEVELOPMENT AGREEMENT

### HE HARI, INC. & HE HARI DEVELOPMENT, LLC & HIGH GATEWAY, LLC & WORTHINGTON GATEWAY, LLC

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**THIS AMENDED AND RESTATED DEVELOPMENT AGREEMENT** (“Agreement”) is between He Hari, Inc., an Ohio corporation, having an address at 600 Enterprise Drive, Lewis Center, Ohio 43035 (the “Original Developer”), He Hari Development, LLC, an Ohio limited liability company, High Gateway, LLC, an Ohio limited liability company, and Worthington Gateway, LLC, an Ohio limited liability company (the “Additional developers,” together with the Original Developer referred to from time to time herein as the “Developers” and each identified individually from time to time as a “Developer”), and the City of Worthington, Ohio, a municipal corporation organized under the laws of the State of Ohio and its Charter, having an address at 6550 North High Street, Worthington, Ohio 43085 (the “City”). The City and the Developers are collectively referred to herein as the “Parties.”

### RECITALS

A. The Additional developers are the fee owners of the properties identified as Franklin County permanent parcel numbers 100-006791-00, 100-006792-00, and 100-006793-00 Additional developers (the parcels together the “Project Site”) a description of which real property is attached hereto as Exhibit A and incorporated herein by reference, with each parcel of real property within the Project Site referred to herein as a “Parcel” (whether as presently appearing on county tax duplicates or as subdivided or combined and appearing on future tax duplicates). The Project Site contains a building, a parking lot, and other improvements formerly utilized as the Holiday Inn. In addition, as described herein, the City had created parcel number 100-006793-00 along the North High Street frontage of the Project Site (the “North High Street Parcel”) pursuant to Ordinance No. 07-2019, passed by City Council on March 8, 2019.

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B. The Developers desire to redevelop the Project Site into a mixed-use development featuring approximately thirty thousand (30,000) square feet of restaurant or retail space, and approximately fifty thousand (50,000) square feet of Class A office space, including certain Designated Improvements (as defined herein) in support thereof (collectively, the “Project”). The estimated aggregate construction cost of the Project is approximately thirty million dollars (\$30,000,000).

C. The Developers anticipate that the Project will create approximately (i) seventy-five (75) full-time employment positions with annual payroll and benefits of approximately four million dollars (\$4,000,000), and (ii) thirty (30) part-time employment positions with annual payroll and benefits of approximately five hundred thousand dollars (\$500,000).

D. The City created a so-called project-based TIF for the Project Site under Ohio Revised Code (“R.C.”) 5709.41, as the Project is in furtherance of the City’s urban redevelopment activities. The City established the TIF on a non-school basis for thirty (30) years and with respect

to one hundred percent (100%) of the incremental value on the Project Site. The owner of each Parcel (with each such current or future owner referred to herein individually as an "Owner" and collectively as the "Owners") will pay the statutory service payments generated from the Project (the "Project TIF Revenue") to the Franklin County Treasurer pursuant to a Service Payment Agreement entered into by and between the City and the Original Developer dated as of August 1, 2019 (the "Service Agreement"), in the same manner and amount as if the project-based TIF with respect to the Project Site had not been established in accordance with the Service Agreement. The Project TIF Revenue will be distributed by the Franklin County Treasurer to an urban redevelopment tax increment equivalent fund (the "TIF Fund"). The Service Agreement provides, among other things, for the application of the Project TIF Revenue to pay a portion of the costs of improvements required in connection with the Project and identified on Exhibit B attached hereto (the "Designated Improvements") in an amount not to exceed Three Million, Six Hundred Fifty Seven Thousand, Four Hundred and Forty Two Dollars (\$3,657,442), plus interest as described below. In accordance with the Service Agreement, and subject to (i) the Incentive Contingencies provided in Section 2 of this Agreement (ii) the provisions of Section 4.10 of this Agreement and (iii) the valuation requirements provided in Section 12 of this Agreement, the City shall use the Project TIF Revenue in the TIF Fund to reimburse the Additional developers the costs of the Designated Improvements incurred by the Developers and eligible for reimbursement as provided for in this Agreement, plus interest on the Off-Site Improvements (defined herein) at the annual rate of four percent (4%), before the City may utilize the Project TIF Revenue for other uses at its discretion. Designated Improvements will consist of two categories of improvements: "Off-Site Improvements" and "On-Site Improvements". Off-Site Improvements shall consist of improvements that are currently in the public right-of-way or are expected to be in the public right-of-way and that will be dedicated to the City upon completion. All other Designated Improvements, which generally are expected to be on the Project Site, shall be On-Site Improvements.

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E. The Developers and the City agree that the Service Agreement provides that the Project TIF Revenue will be allocated to pay a portion of the costs of the Designated Improvements as specified in the ordinance establishing the project-based TIF with respect to the Project (the "TIF Ordinance"). The City and the Developers further agree that the Service Agreement provides that the Project TIF Revenues will be used to fully reimburse the City for the City's reasonable Project related expenses, including but not limited to legal, engineering, and inspection costs, prior to reimbursing the Additional developers for costs of the Designated Improvements incurred by the Developers.

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F. In order to create a project-based TIF for the Project under R.C. 5709.41, the City must have held fee title to the Project Site prior to the enactment of the TIF Ordinance. Accordingly, the Original Developer conveyed fee title to the Project Site to the City for \$1.00 on April 12, 2019 pursuant to Instrument Number 201904120042173, and the City re-conveyed the Project Site to the Original Developer on the same date for the same amount pursuant to Instrument Number 201904120042174.

G. The City determined that re-conveying the Project Site to the Original Developer for \$1.00 is appropriate because the City received the Project Site for the same amount, and the conveyance of the Project Site back to the Developer is necessary to facilitate the Project.



H. The City determined that eliminating competitive bidding in connection with the re-conveyance of the Project Site to the Original Developer is appropriate because the Project Site was owned by the Original Developer, and the Original Developer's willingness to initially convey the Project Site to the City was contingent upon the City's agreement to promptly re-convey the Project Site to the Original Developer and to no other party.

I. The City and the Original Developer entered into a Development Agreement on or about August 1, 2019 (the "Original Agreement"). On or about December 23, 2019, the Original Developer and Additional developers entered into an assignment agreement (the "Assignment Agreement," attached hereto as Exhibit C) pursuant to which the Original Developer assigned all of its benefits, obligations, agreements, covenants and restrictions set forth in the Original Agreement to the Additional developers, while jointly retaining certain obligations, agreements, covenants and restrictions. On or about December 24, 2019, the City agreed to extend the Financing Contingency, as defined in Section 33 herein. On or about May 15, 2020, the City and the Additional developers agreed to further extend the Financing Contingency to July 31, 2020. The parties hereto desire to amend and restate the Original Agreement primarily for the purposes of increasing the maximum amount the Additional developers may be reimbursed for the Designated Improvements, to clarify the obligations of the Original Developer and Additional developers, to revise the scope of the Project, and to extend the Time for Performance.

**NOW, THEREFORE**, the parties, intending to be legally bound, agree to the following terms and conditions:

1. General Agreement and Term. The Developers agree that the Project will be constructed in a manner which is consistent with generally accepted construction industry standards and guidelines applicable to similar projects. If any portion of the Project does not meet the requirements of the City's zoning regulations, the Developers must obtain the applicable City approvals for the portion(s) of the Project through the appropriate reviewing body or reconstruct the noncomplying portion of the Project.

Except as provided herein and in the Service Agreement, the costs of the Project shall be paid solely and exclusively from funding obtained by the Developers; provided, however, that the City will provide certain incentives for the Project, which are based on the improvements to be made and conditioned on the satisfaction of certain Incentive Contingencies for the Project, as provided herein.

This Agreement shall become effective as of July 31, 2020 and terminate (a) October 1, 2024 if the Incentive Contingencies, as defined below, have not been met, upon written notice delivered by the City to the Developers, or (b) on such earlier date as may be determined pursuant to Section 8 or mutually agreed by the Parties; provided, however, the following provisions shall survive any termination of this Agreement: Sections 6, 8.2, 8.4, 8.7, 8.8, 8.9, 11, 16 - 27.

2. Incentive Contingencies. The obligation of the City to provide the Project TIF Revenue (collectively, the "Incentives") for the Project in accordance with the Service Agreement is contingent upon the satisfaction of all of the following contingencies with respect to the Project (collectively, the "Incentive Contingencies"). Each of the agreements, evidence, or other documents required to be submitted to satisfy an Incentive Contingency must be in form and

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substance reasonably acceptable to the City in order for the Incentive Contingency to be satisfied. The Parties will proceed diligently and in good faith to pursue the satisfaction of the Incentive Contingencies in a timely and coordinated manner intended to result in the timely development of the Project in accordance with the provisions of this Agreement. The Parties will coordinate their efforts to pursue the satisfaction of the Incentive Contingencies as soon as practical. From time to time, at the request of one of the Developers, the City shall confirm the satisfaction, waiver, or failure of any of the Incentive Contingencies which have been satisfied, waived, or not been met.

2.1 Plans. The Developers shall have caused the plans for the Project (the "Project Plans") to be prepared and submitted to the City, and the City shall have approved such plans.

2.2 Completion of Project. The Developers shall have substantially completed or caused the completion of the Project, including all of the Designated Improvements, with such modifications thereto that are acceptable to the City in its reasonably exercised discretion based on a consideration of generally accepted industry standards, costs, and guidelines applicable to similar projects.

2.3 Environmental Reports. The Additional developers shall have submitted such environmental reports for the Project Site to the City as have been requested by the City and evidencing there are no violations of environmental laws that would prevent development of the Off-Site Improvements in accordance with the Project Plans. The Additional developers shall have delivered a reliance letter from the preparer of the environmental reports authorizing reliance on those reports by the City.

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2.4 Completion Guaranty. The Developers and the Principals, as defined in the Completion Guaranty, shall have executed and delivered to the City the Completion Guaranty substantially in the form of the Completion Guaranty attached as Exhibit B.

2.5 Permits. The Developers shall have obtained the required permits for construction of the Project, including the Designated Improvements.

2.6 Transfer of North High Street Parcel. If the Additional developers conveys the North High Street Parcel to another entity, the Additional developers shall have provided evidence satisfactory to the City in its reasonable discretion that the Developer has conveyed the North High Street Parcel to an entity obligated by the terms of such conveyance to comply with the obligations of the Additional developers hereunder as they pertain to the North High Street Parcel, including specifically those set forth in Sections 4, 7, 8.1.7, 9, and 14 of this Agreement.

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2.7 Service Agreement. The Service Agreement shall be effective and shall have been recorded against the Project Site.

2.8 General Site Maintenance. The Developers shall have established a site maintenance plan for the Project Site, which will also apply to the Off-Site Improvements until such improvements are dedicated to the City. The site maintenance plan shall be prepared by the Developers and approved by the City. The plan shall address the frequency for the removal of weeds, mowing of grass, and other general site maintenance, as needed.

3. Property Conveyance. Intentionally omitted.

4. Construction of the Project

4.1 At such time as the Developers have obtained all building permits, zoning approvals, and other governmental approvals required for the Project, the Developers shall commence and thereafter complete the construction of the Project as reflected in the Project Plans, in compliance with all applicable laws. The Developers shall be responsible for acquiring and paying for all State, local, or Federal permits required for the Project.

4.2 The Additional developers shall cooperate in good faith with the City to construct the Designated Improvements in such sequencing with respect to the Project as listed in Exhibit D attached hereto, with such modifications thereto that are acceptable to the City in its reasonably exercised discretion based on a consideration of generally accepted industry standards, costs, and guidelines applicable to similar projects.

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4.3 The Designated Improvements contemplated by this Agreement shall be performed and completed by the Additional developers, its contractors and subcontractors, or any successors thereof, in a good and workmanlike manner using first-class materials in accordance with all applicable laws, ordinances, rules and regulations and related safety standards, including the specifications and standards of the City. Upon the commencement of any construction undertaken pursuant to this Agreement, the Additional developers must diligently pursue such construction to completion.

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4.4 If at the time of the execution of this Agreement, the City and the Additional developers have not yet finalized plans for the Designated Improvements for which City approval is required, the Additional developers agrees to submit such plans to the City Engineer for review, and the City reserves the right to review and approve the design and engineering of the Designated Improvements for consistency with City standards and specifications prior to the issuance of permits. The City covenants that it shall approve or reject such submissions within twenty (20) business days of submittal.

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4.5 The Additional developers agrees to permit duly authorized agents and employees of the City, upon reasonable notice, to inspect and review the construction of any Designated Improvement that is to be located in City right-of-way or to connect into any existing or planned City public infrastructure, including that such Designated Improvement is being constructed in substantial conformance with the approved Project Plans, and to attend any onsite construction meetings pertaining to such Designated Improvement.

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4.6 The Additional developers shall provide a warranty to the City (the "Warranty") that all such Designated Improvements are in conformity with the approved Project Plans and free from defects in workmanship, materials and equipment for a period of one (1) year. The warranty shall remain in effect until the expiration of that period unless the Additional developers shall provide a maintenance bond satisfactory to the City in form and substance.

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4.7 This Warranty does not include remedies for defects or damages caused by normal wear and tear during normal usage, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by others, or abuse.

4.8 To the extent any products, equipment, systems, or materials incorporated in the work are specified and purchased by the City, they shall be covered exclusively by the warranty of the manufacturer or supplier. There are no warranties of the Additional developers which extend beyond the description on the face of any such warranty.

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4.9 The Additional developers's liability for the Warranty shall be limited to the one-year correction period referred to in Section 4.11, as such period may be extended in accordance with Section 4.11.

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4.10 The Warranty time period shall commence on the date of the City's acceptance of the dedication of such Designated Improvements, unless otherwise provided in writing. The City shall have the right, to be exercised reasonably, to inspect, or to hire a third-party to inspect, the dedicated Designated Improvements during construction and during the Warranty time period. The City and the Additional developers agree that the Project TIF Revenues in the TIF Fund will be used to fully reimburse the City for the City's reasonable costs incurred from such inspection prior to reimbursing the Additional developers for costs of the Designated Improvements incurred by the Additional developers.

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4.11 If the Additional developers, after receipt of detailed written notice, does not promptly repair or replace defective work during the period of one (1) year after the City's acceptance, the City may repair or replace such defective work and charge the cost thereof to the Additional developers or the Additional developers's surety. Defective work that is repaired or replaced by the Additional developers shall be inspected by the City Engineer. The repaired or replaced work shall be guaranteed by the Additional developers for the remainder of the warranty one (1) year period or for one (1) additional year from the date of the City Engineer's acceptance of the corrective work, whichever is later.

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4.12 ALL OTHER WARRANTIES OF THE ADDITIONAL DEVELOPERS AS PERTAINS TO THE DESIGNATED IMPROVEMENTS, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY DISCLAIMED.

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5. Security for Performance. The Additional developers shall execute, and provide to the City, a bond, equal to the estimated construction costs of the total Off-Site Improvements shown in the Project Plans, as approved by the City Engineer, as security for performance of all of Additional developers's obligations related to Off-Site Improvements set forth in this Agreement. All forms of financial guarantees must be acceptable to the City to insure faithful performance of the terms and conditions under this Agreement and to ensure completion of the Off-Site Improvements in accordance with all applicable State and local laws and regulations, and in the absence of applicable State and local laws and regulations, best practices of the engineering and construction industry.

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If the surety of any bond so furnished by the Additional developers or a contractor declares bankruptcy, becomes insolvent or its right to do business is terminated in Ohio, the Additional developers shall within ten (10) business days thereafter cause the substitution of another bond or surety.

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6. **Indemnification.** The Additional developers shall, at its cost and expense, defend, indemnify and hold the City and any officials, employees, agents and representatives of the City, its successors and assigns (collectively the “Indemnified Parties” and each an “Indemnified Party”), harmless from and against, and shall reimburse the Indemnified Party for, any and all loss, cost, claim, liability, damage, judgment, penalty, injunctive relief, expense or action (collectively the “Liabilities” and each a “Liability”), other than Excluded Liabilities, as defined below, whether or not the Indemnified Party shall also be indemnified as to any such claim by any other person, the basis of which claim (a) was caused by or results from the actions or failures to act of Additional developers or its affiliates, agents, employees, contractors, subcontractors and material suppliers while in possession or control of the Project, whether or not such action or inaction was negligent or reckless, or is in any way related to the construction of the Project or the selection of contractors, subcontractors or material suppliers relating thereto; (b) is based, in whole or in part upon failure or alleged failure of Additional developers or its affiliates to satisfy their obligations under this Agreement or any other agreement by and between the City and the Additional developers with respect to the Project (each, a “Project Agreement”); (c) relates to fraud, misapplication of funds, illegal acts, or willful misconduct on the part of Additional developers or its affiliates; or (d) relates to the bankruptcy or insolvency of Additional developers or its affiliates. The indemnity provided for herein shall survive the expiration or termination of and shall be separate and independent from any remedy under any Project Agreement.

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“Excluded Liability” means each Liability to the extent it is attributable to the gross negligence or willful misconduct of any Indemnified Party or the failure of any Indemnified Party that is a third party beneficiary of this Agreement to perform any obligation required to be performed by the Indemnified Party as a condition to being indemnified hereunder, including without limitation, the settlement of any Liability without the consent of the Additional developers, or, to the extent the Additional developers’s ability to defend a Liability is prejudiced materially, the failure of an Indemnified Party to give timely written notice to the Additional developers of the assertion of a Liability.

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Upon notice of the assertion of any Liability, the Indemnified Party shall give prompt written notice of the same to the Additional developers. Upon receipt of written notice of the assertion of a Liability, the Additional developers shall have the duty to assume, and shall assume, the defense thereof, with power and authority to litigate, compromise or settle the same; provided that, the Indemnified Party shall have the right to approve any obligations imposed upon it by compromise or settlement of any Liability or in which it otherwise has a material interest, which approval may be withheld in its sole discretion.

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At the Additional developers’s expense, an Indemnified Party may employ separate counsel and participate in the defense of any Liability; provided, however, that any such fees and expenses must be reasonable and necessary to protect the interests of the Indemnified Party. The Additional developers shall not be liable for any settlement of any Liability made without its written consent, but if settled with the written consent of the Additional developers, or if there is a final judgment for the plaintiff in an action, the Additional developers agrees to indemnify and hold harmless the Indemnified Party, except only to the extent of any Excluded Liability.

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7. **Time for Performance.** The intent and understanding of the parties is for the Additional developers to have the Project constructed and completed by October 1, 2024.

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The time for performance indicated immediately above is subject to any approved extensions by the City for delays beyond the reasonable control of the Additional developers that prevent the Additional developers from timely performing its obligations under this Agreement. A request for extension must be in writing and may be granted at the discretion and approval of the City.

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At all times during construction of the Project, the Additional developers shall have on-site a competent representative who is knowledgeable and familiar with the Project. The representative shall be capable of reading plans and specifications related to the Designated Improvements and shall have the authority to execute those plans and specifications and any alterations required by the City. The representative shall be replaced by the Additional developers when, in the opinion of the City, reasonably determined, his/her performance is deemed inadequate.

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#### 8. Events of Default and Remedies.

8.1 Developer Defaults. Any one or more of the following shall constitute a "Developer Default" as to the applicable Developer:

8.1.1 The Developer shall fail to observe or perform any agreement, term or condition stated in this Development Agreement, and such failure shall continue for a period of 10 business days (with respect to these failures which may be cured by the payment of money) or 30 days (with respect to any other failure) after the Developer has received a Default Notice (as defined herein) of such failure unless more than thirty (30) days shall be required because of the nature of the default, in which case if the Developer shall have failed to proceed diligently to commence to cure such failure within such 30-day period after notice and thereafter fails to cure such failure;

8.1.2 Any representation or warranty made by the Developer in this Agreement or in any other Project Agreement is false or misleading in any material respect as of the time made;

8.1.3 Any report, certificate, or other document furnished by the Developer to the City pursuant to this Agreement or any other Project Agreement is false or misleading in any material respect as of the time furnished and has been relied upon by the City to its material detriment prior to correction by the Developer;

8.1.4 The filing by the Developer of a petition for the appointment of a receiver or trustee;

8.1.5 The making by the Developer of a general assignment for the benefit of creditors;

8.1.6 The entry of an order for relief pursuant to any Chapter of Title 11 of the U.S. Code, as the same may be amended from time to time, with the Developer as debtor;

8.1.7 The Developer shall develop, or permit to be developed, any portion of the Project Site as a Parcel that is used or will be used for residential purposes, as defined in Ohio Revised Code Section 5709.41(B);

8.1.8 The filing by the Developer of an insolvency proceeding with respect to the Developer or any proceeding with respect to the Developer for compromise, adjustment, or other relief under the laws of any country or state relating to the relief of debtors; or

8.2 Remedies for Developer Default. At any time as of which a Developer Default exists, the City at its option, may, but shall not be obligated to, exercise any one or more of the following remedies with respect to the applicable Developer:

8.2.1 By written notice to the Developer, terminate this Agreement, provided that such termination shall not affect the obligations of the Developer that have then accrued;

8.2.2 By written notice to the Developer, cease disbursements of proceeds from the TIF Fund;

8.2.3 (i) recover from the Developer any sums of money that are due and payable by the Developer to or for the benefit of the City under this Agreement; (ii) solely with regard to a failure of Developer to complete the Off-Site Improvements once the Developer has commenced construction of the Off-Site Improvements (the parties agreeing that this remedy is not available to the City with regard to any On-Site Improvements), commence an action for specific performance or other equitable relief against the Developer with respect to the defaulted obligations as provided in Section 8.6; and (iii) exercise the City's rights under Section 8.7 with respect to the Developer Default; and

8.2.4 Enforce, or avail themselves of, any other remedies available to them at law or in equity.

8.3 City Default. Any one or more of the following shall constitute a "City Default":

8.3.1 The City shall fail to observe or perform any agreement, term or condition stated in this Development Agreement, and such failure shall continue for a period of 10 business days (with respect to these failures which may be cured by the payment of money) or 30 days (with respect to any other failure) after the City has received a Default Notice of such failure unless more than thirty (30) days shall be required because of the nature of the default, in which case if the City shall have failed to proceed diligently to commence to cure such failure within such 30-day period after notice and thereafter fails to cure such failure;

8.3.2 Any representation or warranty made by City in this Agreement or any other Project Agreement is false or misleading in any material respect as of the time made and has been relied upon by the recipient to its material detriment prior to correction by City; or

8.3.3 Any report, certificate or other document furnished by City to a Developer pursuant to this Agreement or any other Project Agreement is false or misleading in any material respect as of the time made and has been relied upon by the recipient to its material detriment prior to correction by City.

8.4 Remedies for City Default. At any time as of which a City Default exists, the applicable Developer, at its option, may, but shall not be obligated to, exercise any one or more of



the following remedies, provided, however, that in no event shall the City be obligated hereunder to pay amounts to the applicable Developer from sources other than the Project TIF Revenue:

8.4.1 By written notice to the City, terminate this Agreement, provided that such termination shall not affect the obligations of the City that have then accrued;

8.4.2 (i) recover from City any sums of money that are due and payable by City to or for the benefit of the applicable Developer under this Agreement; (ii) except for obligations requiring City Council approval, commence an action for specific performance or other equitable relief against City with respect to the defaulted obligations as provided in Section 8.6; and (iii) exercise the applicable Developer's rights under Section 8.7 with respect to the City Default; and

8.4.3 Enforce, or avail itself of, any other remedies available to it at law or in equity.

8.5 Default Notices. At any time when there exists a default by a Developer in the due and punctual payment, performance or observance of any obligation of the Developer under this Agreement or any other Project Agreement, City shall give the Developer a written notice, indicated as being a "Default Notice" under this Section. At any time when there exists a default by City in the due and punctual payment, performance or observance of any obligation of City under this Agreement or any other Project Agreement, the applicable Developer shall give the City a written notice, indicated as being a "Default Notice" under this Section. Any notice given in accordance with this Section is called a "Default Notice."

8.6 Enforcement. Except as expressly provided otherwise in this Agreement (specifically, with regard to the construction or completion of the On-Site Improvements or the Additional developers's Failure to Complete the On-Site Improvements), as the remedy at law for the breach of any of the terms of this Agreement may be inadequate, each enforcing Party has a right of temporary and permanent injunction, specific performance and other equitable relief that may be granted in any proceeding brought to enforce any provision hereof, without the necessity of proof of actual damage or inadequacy of any legal remedy.

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8.7 Self-Help. Without limiting the provisions of Section 8.6, solely with respect to Off-Site Improvements, (i) should any defaulting Party fail to remedy any default identified in a Default Notice within the reasonable cure period specified in the Default Notice, or (ii) should any default under this Agreement exist which (A) constitutes or creates an immediate threat to health or safety or (B) constitutes or creates an immediate threat of damage to or destruction of property, then, in any such event, the non-defaulting Party has the right, but not the obligation, to enter upon the property of the defaulting Party to take such steps as the non-defaulting Party may elect to cure, or cause to be cured, the default or violation. If a non-defaulting Party cures, or causes to be cured, a default as provided above in this Section, then there will be due and payable by the defaulting Party to the non-defaulting Party upon demand the amount of the reasonable costs and expenses incurred by the non-defaulting Party in pursuing the cure, plus interest thereon from the date of demand at the rate set forth in Section 8.8. For avoidance of doubt, this section shall apply only to defaults associated with Off-Site Improvements.



8.8 Interest. Except as otherwise expressly provided herein, amounts that are due and payable by a Developer to City under this Agreement will bear interest if not paid when due, until paid, (a) at the prime rate published in the “Money Rates” section of the Wall Street Journal from time to time for the first 30 days after due, and (b) at the higher of the rate provided for in clause (a) or 8% per annum beyond the first 30 days after due.

8.9 Costs of Enforcement. If an action is brought by the City for the enforcement of any provision of this Agreement, the applicable Developer, and only to the extent that the Developer is found to be in default or breach of this Agreement or another Project Agreement, will pay to the City all costs and other expenses that become payable as a result thereof, including without limitation, reasonable attorneys’ fees and expenses.

8.10 Notwithstanding any other provision of this Agreement, the above-described notification and cure provisions shall not apply when (i) the City’s Director of Planning and Building issues a stop work order for local, county or state code violations related to construction defects that present an imminent risk of serious injury or seriously threatens public safety, or (ii) the City Engineer issues a stop work order for local, county or state construction code violations that present an imminent risk of serious injury or seriously threatens public safety.

9. Plan Review and Inspection Cost.

9.1 Prior to receiving all permits required to commence construction of the Project, the Developers shall deposit a non-refundable amount estimated to be necessary to pay the City’s cost of plan review. The Developers shall also pay for all inspection fees incurred by the Developers.

9.2 The Developers shall permit the City or its agents to inspect the Project upon one full business day’s notice at any time during business hours and shall provide the City or its agents such information as they shall reasonably require in order to perform inspections of the Project from time to time.

10. Completion. Notwithstanding anything to the contrary in this Agreement, it shall not be an event of default under this agreement if a Developer elects not to commence construction of the Project. However, if the a Developer commences construction of the Project, the Additional developers agrees to substantially complete the construction of the Off-Site Improvements, whether or not it completes the On-Site Improvements. The Additional developers shall, within 30 days following the completion of the Off-Site Improvements, furnish to the City, as required, “as built” drawings of the Off-Site Improvements, which drawings shall become the property of the City and remain in the office of the City Engineer.

The Additional developers shall, within 30 days of completing the Designated Improvements, furnish to the City an itemized statement showing the cost of the Designated Improvements and a notarized affidavit stating that all material and labor costs have been paid. The Additional developers shall indemnify and hold harmless the City from all expenses and claims for labor and/or material related to construction by the Additional developers of the Project. In its contracts with agents, subcontractors, and subconsultants, the Additional developers shall require each entity to indemnify and hold harmless the City from all expenses and claims for labor

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and/or material related to construction of the Project. The Additional developers shall provide the City with evidence satisfactory to it that all liens affecting the Designated Improvements, including but not limited to liens for delinquent taxes, the lien of any mortgage, and any mechanic's liens, have been released.

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The Additional developers shall comply with all rules and regulations and conform to all reasonable procedures established by the City regarding submission of shop drawings, construction schedules, operation of facilities, and other matters related hereto.

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The Additional developers shall obtain all necessary utility services necessary for the construction of the Designated Improvements and for its continued operation. The Additional developers shall be responsible for all utility charges and installation costs. The utility user charges shall be paid by the Additional developers.

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11. Prevailing Wage. The Additional developers and the City acknowledge and agree that construction of the Off-Site Improvements is subject to the prevailing wage requirements of Ohio Revised Code Chapter 4115 and all wages paid to laborers and mechanics employed in constructing the Off-Site 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 Off-Site Improvements, which wages shall be determined in accordance with the requirements of that Chapter 4115. The Additional developers shall require compliance by all contractors, and shall require all contractors to require all subcontractors working on the (reimbursable) aspects of the Off-Site Improvements, to comply with all applicable requirements of that Chapter 4115. The Additional developers acknowledges and agrees that, regardless of the parties' efforts, desires, or intentions, in the event that the Ohio Department of Commerce or a court of law may ultimately determine that the prevailing wage law applies to other portions or all of the Project, then the City shall not be responsible for and Additional developers shall hold the City harmless for any increased cost to Additional developers or the City, including but not limited to increased labor costs, attorney fees, or litigation costs, as a result of such determination. The provisions of this Section 11 shall survive the termination of this Agreement.

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12. Minimum Property Value. The City and the Developers agree that the real property valuation of the Project as established by the Franklin County Auditor shall be equal to or exceed six million, five hundred sixty-five thousand dollars (\$6,565,000) by the earlier of (i) the first tax year that begins at least twelve (12) months after the date of issuance of the Certificate of Occupancy or (ii) January 1, 2023 and shall remain at or above that amount during the remaining life of the TIF. Absent manifest error by the Franklin County Auditor, which the Developers and City shall work together to have fixed, failure to meet such valuation shall be considered a Developer Default by the Original Developer under Section 8.1 of this Agreement.

13. TIF Project Revenue Cap. The City and the Additional developers agree that the amount of TIF Project Revenue provided to the Additional developers to pay for the Designated Improvements shall be capped ("TIF Project Revenue Cap") based on certain real property valuation thresholds the Project must meet ("Valuation Threshold") by certain dates ("Target Dates") according to the schedule below:

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<u>Valuation Threshold</u>	<u>Target Date</u>	<u>TIF Project Revenue Cap</u>
\$12,500,000 for at least five consecutive tax years	Tax year <u>2032</u>	\$1,500,000
\$15,000,000 for at least five consecutive tax years	Tax year <u>2037</u>	\$2,150,000
\$17,500,000 for at least five consecutive tax years	Tax year <u>2042</u>	\$2,750,000
\$20,000,000 for at least five consecutive tax years	Tax year <u>2047</u>	\$3,657,442

Should the Project fail to meet a Valuation Threshold by the applicable Target Date, the Project shall still be eligible to meet the subsequent Valuation Thresholds by the applicable Target Dates. For example, if the Project does not meet the initial two Value Thresholds in the table above, but the Project does meet the third Value Threshold (\$17,500,000 for at least five consecutive tax years) by the applicable Target Date (Tax Year 2042), the Additional developers shall receive TIF Project Revenues from the City up to the applicable TIF Project Revenue Cap (\$2,750,000), plus interest on the Off-Site Improvements at an annual rate of 4%.

The Additional developers shall be eligible to receive TIF Project Revenue from the City after the initial tax year for which the real property valuation of the Project meets or exceeds a Valuation Threshold. If the Valuation Threshold is not maintained for the next four (4) consecutive tax years, the City may require the Additional developers to refund TIF Project Revenue received in excess of the applicable TIF Project Revenue Cap, plus interest on the Off-Site Improvements at an annual rate of 4%. Should the Additional developers meet a Valuation Threshold for five consecutive tax years by the required Target Date, and the valuation of the Project subsequently falls below such Valuation Threshold, the City shall still be obligated to pay to the Additional developers the TIF Project Revenue up to the amount of the TIF Project Revenue Cap associated with the Valuation Threshold that was met, plus interest on the Off-Site Improvements at an annual rate of 4%. However, if a Developer or an owner of a Parcel contests or files a complaint (including, without limitation a complaint filed in accordance with Ohio Revised Code Sections 5715.13 or 5715.19) against the real property tax valuation of a Parcel that results in the valuation of the Project falling below such Valuation Threshold, then the City shall only be obligated to pay the Additional developers the TIF Project Revenue up to the amount of the TIF Project Revenue Cap associated with the Valuation Threshold of the new lower valuation, plus interest on the Off-Site Improvements at an annual rate of 4%. In addition, the City may require the Additional developers to refund TIF Project Revenue received in excess of the new lower TIF Project Revenue Cap, plus interest on the Off-Site Improvements at an annual rate of 4%; provided, however, if the Valuation Threshold has been met for at least the five (5) prior tax years, then no refund shall be due from Additional developers.

14. Zoning. At the request of the Original Developer, the City has rezoned the Project Site from C-4, Highway and Automotive Services to PUD pursuant to Ordinance No. 06-2019, approved by City Council on March 18, 2019, in accordance with the Planning and Zoning Code

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of the City. The Developers shall ensure that the Development will at all times comply with the zoning that applies to it from time to time.

15. Insurance. Prior to the commencement of construction of the Designated Improvements, the Developers or their contractor(s) shall take out and maintain, and shall require all contractors to require all subcontractors to take out and maintain, insurance in such amounts as provided below. The Developers or their contractor(s) shall provide sufficient evidence to the City, prior to construction, that such insurance exists and is in effect.

- Public Liability Insurance in the amount of \$1,000,000.00 for bodily injuries including those resulting in death of any one person and on account of any one accident or occurrence.
- Property Damage Insurance and Builders Risk Insurance in an amount of \$1,000,000.00 from damages on account of any one accident or occurrence.
- Valuable Papers Insurance (when applicable to the type of work undertaken by the contractor or subcontractor) in an amount sufficient to assure restoration of any plans, drawings, field notes, or other similar data relating to the work covered by this Agreement, in the event of their loss or destruction, until such time as the plans and field and design data are delivered to the City.
- Professional Liability Insurance in the sum of not less than \$1,000,000.00 annual aggregate, on a claims-made basis.

The Developers each agree, on behalf of itself and its agents, subcontractors, and subconsultants that the insurance policies required herein (excluding the professional liability insurance) shall require the insurer to name the City as an additional insured, and to provide the City with 30 days' prior written notice before the cancellation of a policy.

16. Representations. The Developers each represent and warrant that the execution and delivery by the Developers of this Agreement and the compliance by the Developers with all of the provisions herein (i) are within the authority and powers of the Developers; (ii) will not conflict with or result in any breach of any of the provisions of, or constitute default under, any agreement, its articles of organization or operating agreement, or other instrument to which the Developers are a party or by which it may be bound, or, to the Developers' knowledge, any license, judgment, decree, law, statute, order, rule or regulation or any court or governmental agency or body having jurisdiction over the Developers or any of its activities or properties; and (iii) have been duly authorized by all necessary action on the part of the Developers.

The City hereby represents and warrants that (i) execution of this Agreement has been approved and authorized by Ordinance No. 09-2019, passed by City Council on April 15, 2019; and (ii) the City has full power and authority to enter into this Agreement, to carry out its terms and to perform its obligations hereunder.

17. Waiver. In the event that any covenant, agreement, or obligation under this Agreement shall be breached by either a Developer or the City and the breach shall have been

waived thereafter by the applicable Developer or the City, as the case may be, the waiver shall be limited to the particular breaches so waived and shall not be deemed to waive any other or any subsequent breach thereunder.

18. **Severability.** In case any section or provision of this Agreement, or any covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, or any application thereof, is held to be illegal or invalid for any reason,

- (a) that illegality or invalidity shall not affect the remainder hereof or thereof; any other section or provision hereof, or any other covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein or therein,
- (b) the illegality or invalidity of any application hereof or thereof shall not affect any legal and valid application hereof or thereof; and
- (c) each section, provision, covenant, agreement, obligation or action, or part thereof, shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law.

19. **Assignment.** Except as otherwise provided in this Section 20 this Agreement may not be assigned by any party hereto without the written consent of the other party, not to be unreasonably withheld. Notwithstanding any provisions to the contrary in this Section 20, each Developer may assign its respective interest in this Agreement to an Affiliate (defined herein) or in connection with any merger, reorganization, sale of all or substantially all of the applicable Developer's assets or any similar transaction without the prior written consent of the City, conditioned upon an assignment including the assignment of both the rights and obligations of the applicable Developer hereunder, and a copy of such assignment being timely provided to the City. "Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with the applicable Developer. All representations and warranties of the Developers and the City herein shall survive the execution and delivery of this Agreement.

20. **Notices.** Any notices, statements, acknowledgements, consents, approvals, certificates or requests required to be given on behalf of either party to this Agreement shall be made in writing addressed as follows and sent by registered or certified mail, return receipt requested, and shall be deemed delivered when the return receipt is signed, refused or unclaimed:

**If to the City to:**

City of Worthington, Ohio  
Attn: Law Director  
6550 North High Street  
Worthington, Ohio 43085

and

Bricker & Eckler LLP  
Attn: Robert F. McCarthy  
100 South Third Street  
Columbus, Ohio 43215

**If to a Developer to:**

Moment Development  
Attn: Ohm Patel  
800 N. High Street  
Columbus, OH 43215

and

Scott J. Ziance  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
Columbus, OH 43215

or to any such other persons or addresses as may be specified by either party, from time to time, by prior written notification.

21. **Administrative Actions.** To the extent permitted by law, and except as otherwise provided in this Agreement, all actions taken or permitted to be taken by the City under or in furtherance of this Agreement (excepting the TIF Ordinance and related legislative approvals) may be taken by the City Manager and will not require legislative action of a City Council beyond the legislative actions authorizing this Agreement. The City Manager, on behalf of the City, is authorized to make all approvals and consents that are contemplated by this Agreement and other Project Agreements, without the separate approval by the City Council, including reviews, approvals, and consents (including but not limited to, such actions with respect to the Incentive Contingencies) and any and all such other approvals contemplated herein. All actions, approvals, and consents of City required under this Agreement must be given in writing in order to be effective.

22. **Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Additional developers, its employees, contractors, subcontractors and agents arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Franklin County, Ohio.

23. **Confidentiality.** Unless otherwise directed by court order, City will treat the any equity or loan documents provided to it by a Developer, the commitments of any tenants or purchasers to the Project, the expected or actual tenant and ownership mix of the Project, any proformas, and any other information provided to the City and clearly marked "trade secret" as trade secrets and not as public records or information, and will not disclose such documents or information to any third party without the written consent of the Developer. The City will promptly notify the Developer within three (3) business days of (a) any public records request made to it that seeks disclosure of such documents or information and (b) any court action filed

**Deleted:** The Witness Group

**Deleted:** 600 Enterprise Drive

**Deleted:** Lewis Center, OH 43035

**Deleted:** Additional Developer



against it to compel the disclosure of such documents or information. The City will reasonably cooperate with the Developer in defending any such court action. Each Developer will defend City against any third-party claim related to the Developer's designation of certain records as exempt from public disclosure, and will hold harmless the City for any liability or award to a plaintiff for damages, costs and reasonable attorney's fees, incurred by the City by reason of such claim.

24. Survival of Representations and Warranties. All representations and warranties of the Parties in this Agreement shall survive the execution and delivery of this Agreement.

25. Time is of the Essence. Time is of the essence in this Agreement.

26. Diligent Performance. With respect to any duty or obligation imposed on a Party by this Agreement, unless a time limit is specified for the performance of such duty or obligation, it is the obligation of that Party to commence and perform the same in a diligent and workmanlike manner and to complete the performance of that obligation as soon as reasonably practicable after commencement of performance.

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

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

29. Construction Easement. The City will grant to the Additional developers a temporary construction easement in, over, through, under and across all public right-of-way to the extent reasonably necessary to complete the Off-Site Improvements for so long as is reasonably necessary to complete the Off-Site Improvements.

Deleted: Additional Developer

30. Third Party Easements. [Intentionally omitted; already performed]

31. Force Majeure. Any delay in the performance of any of the duties or obligations of either party (the "Delayed Party") shall not be considered a breach of this Agreement and the time required for performance shall be extended for a period equal to the period of such delay, provided that such delay has been caused by or is the result of a Force Majeure Event (as defined below). A Force Majeure Event pauses a party's performance obligation for the duration of the event, but does not excuse it. "Force Majeure Event" means any event or occurrence that is not within the control of such party and prevents a party from performing its obligations under this Agreement, including without limitation, any act of God; act of a public enemy; war; riot; sabotage; blockage; embargo; failure or inability to secure materials, supplies or labor through ordinary sources by reason of shortages or priority; labor strike, lockout or other labor or industrial disturbance (whether or not on the part of agents or employees of either party); civil disturbance; terrorist act; power outage; fire, flood, windstorm, hurricane, earthquake or other casualty;

epidemics; pandemics, including, but not limited to the COVID-19 pandemic; any law, order, regulation or other action of any governing authority; any action, inaction, order, ruling moratorium, regulation, statute, condition or other decision of any governmental agency having jurisdiction over the party hereto, over the Project or over a party's operations. The Delayed Party shall give prompt notice to the other party of such cause, and shall take whatever reasonable steps are necessary to relieve the effect of such cause as promptly as possible.

32. Financing Contingency. The Additional developers's obligations under this Agreement shall be contingent upon the Additional developers securing financing for purposes of funding the Project on terms and conditions reasonably satisfactory to the Additional developers (the "Financing Contingency"), no later than no later than December 31, 2020 ("Financing Contingency Period"). In the event the Additional developers is unable to obtain the Financing Contingency on terms and conditions reasonably satisfactory to the Additional developers within the Financing Contingency Period, the Additional developers shall have the right to terminate this Agreement by written notice thereof to the City.

33. Recording. Upon execution of this Agreement, an original counterpart of this Agreement shall be placed of record in the real estate records of the Recorder of the County of Franklin, Ohio with respect to each parcel comprising the Project Site, and each and every term and provision of this Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and any successors and assigns of the parties.

34. City Obligation Limited. Notwithstanding anything to the contrary herein, the financial obligation of the City hereunder is expressly limited to Project TIF Revenue actually received by the City.

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IN WITNESS WHEREOF, the City and Developers, each by a duly authorized representative, have ~~executed~~ this Agreement to be ~~effective~~ on ~~July 31~~, 2020.

**Deleted:** caused

**Deleted:** executed

**Deleted:** this \_\_\_\_ day of \_\_\_\_\_,

CITY OF WORTHINGTON

HE HARI, INC.

By:

By:

Robyn Stewart, Acting City Manager

Its: \_\_\_\_\_

**Deleted:** Matthew H. Greeson

Approved as to Form:

\_\_\_\_\_  
Tom Lindsey, Law Director

HE HARI DEVELOPMENT, LLC

By:

\_\_\_\_\_  
Its: \_\_\_\_\_

HIGH GATEWAY, LLC

By: \_\_\_\_\_  
Date \_\_\_\_\_

WORTHINGTON GATEWAY, LLC

By: \_\_\_\_\_  
Date \_\_\_\_\_

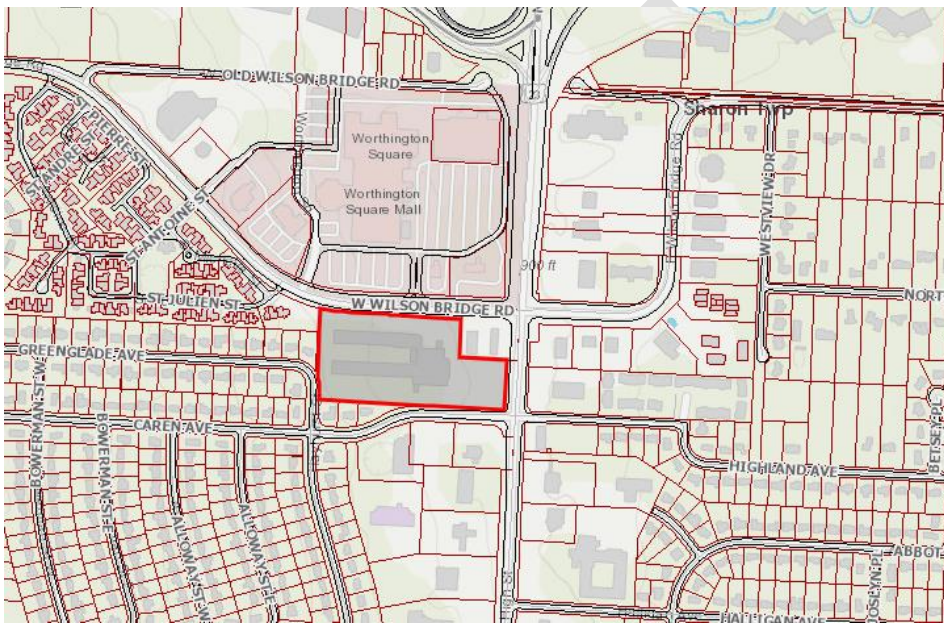
## EXHIBIT A

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### PROJECT SITE

Real property located at 7007 North High Street, Parcel Numbers 100-006791-00, 100-006792-00, and 100-006793-00, as that real property is located in the City of Worthington, Franklin County.

The parcels enumerated herein and any subsequent purported subdivisions and/or re-assigned parcel number identifications or street addresses shall constitute the “**Project Site**.”



## EXHIBIT B

Deleted: DEVELOPMENT AGREEMENT -

### GUARANTY

**THIS PROJECT COMPLETION GUARANTY** (this “Guaranty”) is dated as of [\_\_\_\_], by \_\_\_\_\_, an Ohio \_\_\_\_\_ having an address at [\_\_\_\_\_] (“Developer”), (sometimes referred to herein individually as “Guarantor” or collectively as “Guarantors”), [\_\_\_\_] and [\_\_\_\_] (each, a “Principal” and together, the “Principals”) to and for the benefit of the **CITY OF WORTHINGTON, OHIO**, a municipal corporation and political subdivision of the State of Ohio, having an address at 6550 North High Street, Worthington, Ohio 43085, Attn: City Manager (the “City”). Capitalized words and terms used herein and not otherwise defined herein shall have the meaning assigned to them in the Development Agreement (as hereinafter defined).

### BACKGROUND

- A. The Developer and the City have executed a Development Agreement, dated August 1, 2019 (the “Development Agreement”), pursuant to which the Developer has agreed to construct the Project and the City has agreed to provide public support for the Project in the form of the Incentives described in the Development Agreement;
- B. It is a condition precedent to the City’s provision of the Incentives for the Project that the Guarantors execute and deliver this Guaranty; and
- C. In order to provide assurance to the City that the Developer’s obligations under the Development Agreement with respect to the Project will be timely completed as required under the Development Agreement, the Developer has agreed, pursuant to the Development Agreement, to execute and deliver, and to cause the Principals to execute and deliver, this Guaranty.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantors hereby agree as follows:

- 1. **Completion of Project.** Guarantors hereby, jointly and severally, unconditionally guarantee:
  - 1.1 The performance of all obligations of the Developer under the Development Agreement with respect to its portion of the Project, including, without limitation, (a) the satisfactory and timely completion of the construction of the Project in a good and workmanlike manner, free from any and all liens or claims of any persons or entities performing labor thereon or furnishing materials therefor, or both, subject to Force Majeure (as defined in the Development Agreement), on or before the date that is 48 months after satisfaction of the Incentive Contingencies for the Project and in substantial accordance with the Development Agreement and all applicable legal requirements; (b) payment by the Developer when due of all amounts due under the Development Agreement incurred in connection with the

Project; (c) if any chattel mortgages, vendor, mechanics' or materialmen's liens should be filed, or should attach, with respect to the Project, to promptly cause the removal of such mortgages or liens, or post or have posted a bond or other security against the consequences of their possible foreclosure and procure an endorsement(s) to the title policy insuring the City against the consequences of the foreclosure or enforcement of such lien(s); and (d) the prompt and full payment, and not merely the collectability, when due, of all costs and expenses including, to the fullest extent not prohibited by law, court costs and attorneys' fees paid or incurred by the City in realizing any of the obligations or payments hereby guaranteed or in enforcing this Guaranty.

2. **Direct Obligation.** The liability of the Guarantors under this Guaranty shall be primary, direct, joint and several, and immediate and not conditional or contingent upon pursuit by the City of any remedies it may have against the Developer or any other party. No exercise or non-exercise by the City of any right given to it hereunder or under the Development Agreement, and no change, impairment or suspension of any right or remedy of the City shall in any way affect the Guarantors' obligations hereunder or give the Guarantors any recourse against the City. Without limiting the generality of the foregoing, the City shall not be required to make any demand on Developer, and/or any other party, or otherwise pursue or exhaust its remedies against Developer, or any other party, before, simultaneously with or after, enforcing its rights and remedies hereunder against the other Guarantors.
3. **Unconditional and Absolute Guaranty.** This Guaranty is an unconditional and absolute guaranty, irrespective of the validity, regularity or enforceability of the Development Agreement or any other document or agreement executed in connection therewith or any circumstances which might otherwise constitute a legal or equitable discharge or defense of any Guarantor. No counterclaim, setoff, reduction of an obligation, or defense of any kind which the Developer or any Guarantor may have or assert against the City or which any Guarantor may have or assert against the Developer shall affect, modify or impair any Guarantor's unconditional and absolute obligations hereunder. THIS IS AN UNCONDITIONAL GUARANTY OF PAYMENT AND NOT OF COLLECTION AND EACH GUARANTOR FURTHER IRREVOCABLY WAIVES ANY RIGHT TO REQUIRE THAT ANY ACTION BE BROUGHT AGAINST THE DEVELOPER OR ANY OTHER PERSON OR TO REQUIRE THAT RESORT BE HAD TO ANY SECURITY PRIOR TO THE ENFORCEMENT OF THIS GUARANTY.
4. **Affirmative Covenants of the Guarantors.** Throughout the term of this Guaranty, each Guarantor shall:
  - 4.1 **Deliver Notice.** Immediately upon learning of any of the following, deliver written notice thereof to the City describing the same and the steps being taken by the Guarantor with respect thereto:
    - 4.1.1 the occurrence of any event of default or an event or circumstance which would constitute such an event of default under the Development Agreement or any other document or agreement



executed in connection therewith, but for the requirement that notice be given, time elapse or otherwise, or

- 4.1.2 any action, suit or proceeding against the Guarantor at law or in equity, or before any governmental instrumentality or agency, is instituted or threatened in writing which, if adversely determined, would materially and adversely affect the Guarantor's businesses, operations, properties, assets or condition (financial or otherwise).

- 5. **Negative Covenants of Guarantor.** Throughout the term of this Guaranty, no Guarantor shall enter into any agreement containing any provision which would be violated or breached by the performance of the Guarantor's obligations hereunder or under any instrument or document delivered or to be delivered by the Guarantor hereunder or in connection herewith.
- 6. **Waivers.** The Guarantors waive any and all defenses to any action or proceeding brought to enforce this Guaranty. Without limiting the foregoing, the Guarantors specifically waive the following defenses:
  - 6.1 **Waivers of Suretyship Defenses.** The Guarantors agree that the City, in its sole and absolute discretion, without notice to or further assent of any Guarantor and without in any way releasing, affecting, or impairing the obligations and liabilities of the Guarantors hereunder, may deal with the Developer as if this Guaranty were not in effect. Without limiting the generality of the foregoing, the City may: (i) waive compliance with, or any defaults under, or grant any other indulgences with respect to, the Development Agreement or any other document or agreement executed in connection therewith, (ii) modify, amend, or change any provisions of the Development Agreement or any other document or agreement executed in connection therewith, (iii) grant extensions or renewals of (or with respect to) the Development Agreement or any other document or agreement executed in connection therewith and/or effect any release, compromise, or settlement in connection with the Development Agreement or any other document or agreement executed in connection therewith, (iv) agree to the substitution, exchange, release, or other disposition of all or any part of any collateral, (v) and assign or otherwise transfer this Guaranty, the Development Agreement or any other document or agreement executed in connection therewith this Guaranty or any interest therein or herein.
  - 6.2 **Waivers of Notices.** The Guarantors waive (i) presentment and demand for payment, notice of dishonor, and protest of non-payment, (ii) notice of acceptance of this Guaranty, (iii) notice of any default hereunder (but without waiving any notice of default which may be required under the Development Agreement), (iv) demand for observance or performance of, or enforcement of, any terms or provisions of this Guaranty, the Development Agreement or any other document or agreement executed in

connection therewith, and (v) all other notices and demands otherwise required by law which the Guarantors may lawfully waive.

- 6.3 **Changes to Project.** Each Guarantor consents and agrees that Developer may, to the extent permitted under the Development Agreement, alter, extend, change or modify any of the development plans for the Project or any terms or conditions contained in any contract or subcontract or surety bond related to the Project, or may approve any change, or may release or waive or compromise the obligations of any such contractor or subcontractor or surety, and that no such action by the Developer shall in any manner affect this Guaranty or release the obligations of the Guarantors hereunder, regardless of whether the Guarantors have received notice of the same or have further consented thereto and regardless of whether the City has approved the action of the Developer in question, and the Guarantors hereby waive and relinquishes any claim or defense against the City based on any of the foregoing.
- 6.4 **Other Guarantors.** The Guarantors waive all defenses arising from the fact that there may now or hereafter be other guarantors or sureties liable for all or any part of the obligations under this Guaranty, or that solvent entities or persons other than the Developer or a Guarantor may have undertaken the performance of all or any part of said obligations.
- 6.5 **Waiver of Certain Other Possible Defenses.** The Guarantors waive (i) all defenses based on suretyship or impairment of collateral, and (ii) any defenses that the Developer may assert on the underlying debt, including failure of consideration, breach of warranty, fraud, statute of frauds, bankruptcy, lack of legal capacity, statute of limitations and usury.
7. **No Waiver.** No failure by the City to insist upon the strict performance by a Guarantor of any provision hereof shall constitute a waiver of the City's right to strict performance, and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by a Guarantor to observe or comply with any provision hereof.
8. **Financial Condition.** Each of the Guarantors represents and warrants that such Guarantor is not now insolvent and the Guarantor's obligations under this Guaranty do not render the Guarantor insolvent; the Guarantor is not contemplating either the filing of a petition by the Guarantor under any state or federal bankruptcy or insolvency laws or the liquidating of all or a major portion of the Guarantor's property; and the Guarantor has no knowledge of any person contemplating the filing of any such petition against the Guarantor.
9. **Reliance by the City.** Each Guarantor acknowledges that the City is providing the Incentives in reliance upon this Guaranty and the representations, warranties, covenants and agreements of each Guarantor made herein.
10. **Notices.** Any notice, demand, request or other communication given hereunder or in connection herewith (hereinafter "Notices") 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 party to receive such Notice at its address set forth above, 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.

11. **Events of Default.** Each of the following shall be an event of default (an “Event of Default”) with respect to each Guarantor hereunder:

11.1 Any Guarantor shall: (i) admit in writing any inability to pay any of the Guarantor’s debts generally as they become due; (ii) have an order for relief entered in any case commenced by or against the Guarantor under the federal bankruptcy laws, as now or hereafter in effect; (iii) commence a proceeding under any other federal or state bankruptcy, insolvency, reorganization or other similar law, or have such a proceeding commenced against the Guarantor and either have an order of insolvency or reorganization entered against the Guarantor or have the proceeding remain undismissed and unstayed for 90 days; (iv) except in connection with financing the Project, make an assignment for the benefit of creditors; or (v) have a receiver or trustee appointed by a court for the Guarantor or for all or substantially all of the Guarantor’s assets or property.

11.2 Any Guarantor shall fail to observe or perform any agreement, term or condition stated in this Guaranty, other than as required or described in subsection (11.1) above, and such failure shall continue for a period of 10 business days (with respect to these failures which may be cured by the payment of money) or 30 days (with respect to any other failure) after the Guarantor has received written notice of such failure unless more than thirty (30) days shall be required because of the nature of the default, in which case if the any Guarantor shall have failed to proceed diligently to commence to cure such failure within such 30-day period after notice and thereafter fails to cure such failure.

12. **Remedies for Default.** Upon the occurrence of an Event of Default, the City shall have the right to pursue, in the City’s sole discretion, all available remedies at law or in equity, including without limitation, specific performance. All remedies available to the City hereunder shall be in addition to and shall not limit the remedies available to the City under the Development Agreement and any document executed in connection therewith. Without limiting the generality of the foregoing, if a Guarantor fails to perform timely any of its obligations under this Guaranty, the City shall have the right (but not the obligation) to perform them by or through any agent, contractor or subcontractor of its selection, and the Guarantors shall indemnify and hold the City free and harmless from and against any and all actual loss, damage, cost, expense, injury, or liability the City may suffer or incur in connection with the exercise of its rights under this Guaranty or the performance of any obligations under this Section. During the course of any exercise of rights undertaken by the City or any other party on behalf of the City in accordance with the terms of this Section, the Guarantors shall, jointly and severally, pay within 30 days after demand

therefore any amounts due to contractors, subcontractors, and material suppliers and for permits and licenses necessary or desirable in connection therewith. The Guarantors' obligations in connection with such work shall not be affected by any errors or omissions of any party in the design, supervision, and performance of the work; it being understood that such risk is assumed by the Guarantors. Neither the completion of the construction of the Project nor failure of said party to complete the construction of the Project shall relieve the Guarantors of any liabilities hereunder; rather, such liability shall be continuing and may be enforced by the City to the end that the construction of the Project shall be timely completed, lien-free, without loss, cost, expense, injury or liability of any kind to the City in accordance with the Development Agreement.

13. **Termination of Guaranty.** This Guaranty shall terminate and the Guarantors shall thereupon be released from any further liability, obligation or responsibility hereunder upon the completion of the Project, as evidenced by issuance of all necessary certificates of occupancy for those improvements, and discharge of all liens and claims of any persons or entities performing labor thereon or furnishing materials therefor, or both, provided, however, any such release shall not affect the Developer's obligations under the Development Agreement.
14. **Governing Law.** This Guaranty shall be construed in accordance with the laws of the State of Ohio.
15. **Consent to Jurisdiction.** EACH OF THE GUARANTORS, TO THE EXTENT THAT IT MAY LAWFULLY DO SO, HEREBY SUBMITS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURTS LOCATED WITHIN FRANKLIN COUNTY, OHIO AS WELL AS TO THE JURISDICTION OF ALL COURTS FROM WHICH AN APPEAL MAY BE TAKEN FROM THE AFORESAID COURTS, FOR THE PURPOSE OF ANY SUIT, ACTION OR OTHER PROCEEDING ARISING OUT OF ANY OF THE GUARANTORS' OBLIGATIONS UNDER OR WITH RESPECT TO THIS GUARANTY.
16. **Waiver of Jury Trial.** THE GUARANTORS AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY AND ALL CLAIMS OR CAUSES OF ACTION BASED UPON OR ARISING OUT OF THIS GUARANTY. IT IS HEREBY ACKNOWLEDGED THAT THE WAIVER OF A JURY TRIAL IS A MATERIAL INDUCEMENT FOR THE ACCEPTANCE OF THIS GUARANTY BY THE CITY AND THAT THE ACCEPTANCE OF THIS GUARANTY BY THE CITY IS MADE IN RELIANCE UPON SUCH WAIVER. EACH OF THE GUARANTORS FURTHER WARRANTS AND REPRESENTS THAT SUCH WAIVER HAS BEEN KNOWINGLY AND VOLUNTARILY MADE BY EACH GUARANTOR, FOLLOWING CONSULTATION WITH THEIR RESPECTIVE LEGAL COUNSEL.
17. **Recitals.** The facts and circumstances as described in the Background section hereto are an integral part of this Guaranty and as such are incorporated herein by reference.

18. **Entire Guaranty.** This Guaranty cannot be changed or terminated orally. This Guaranty contains the entire understanding between the parties with respect to the subject matter. This Guaranty shall not be amended or terminated without the written consent of the City.
19. **Successors.** This Guaranty shall inure to the benefit of, and be enforceable by, the City and its respective successors and assigns, and shall be binding upon, and enforceable against, each of the Guarantors and their respective successors, heirs and assigns, in accordance with its terms.
20. **Severability.** In case any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, but this Guaranty shall be construed as if such invalid, illegal or unenforceable provision had never been included.
21. **Execution of Counterparts.** This Guaranty may be executed in any number of counterparts, each of which shall be deemed to be an original hereof, and all of which shall constitute but one and the same instrument, it not being necessary in proving this Guaranty to produce or account for more than one such counterpart. Signatures transmitted by facsimile or electronic means are deemed to be original signatures.
22. **Section Headings.** The section headings in this Guaranty are inserted for convenience of reference only and shall not in any way affect the meaning or construction of any provision of this Guaranty.
23. **Financing Contingency.** The Guarantors' obligations under this Agreement shall be contingent upon the Developer (as defined in the Development Agreement) securing financing for purposes of funding the Project on terms and conditions reasonably satisfactory to the Developer (the "**Financing Contingency**"), no later than no later than \_\_\_\_ ("**Financing Contingency Period**"). In the event the Developer is unable to obtain the Financing Contingency on terms and conditions reasonably satisfactory to the Developer within the Financing Contingency Period, the Developer shall have the right to terminate this Agreement by written notice thereof to the City.

**Attorney Review.** The terms and conditions of this Guaranty were reviewed by the attorneys for each of the Guarantors, and said terms and conditions explained to the appropriate officers/representatives of the Guarantors who, by their execution hereof, hereby acknowledge that they fully understand them.

|

IN WITNESS WHEREOF, the Guarantors have executed this Guaranty as of the day and year first above written.

**Guarantors:**

\_\_\_\_\_, an Ohio \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

[PRINCIPAL]

\_\_\_\_\_

[PRINCIPAL]

\_\_\_\_\_



STATE OF OHIO :  
 : ss.  
COUNTY OF FRANKLIN :

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the subscriber, a Notary Public in and for said state, personally appeared \_\_\_\_\_, duly authorized signer for \_\_\_\_\_, and acknowledged the signing hereof to be his voluntary act on behalf of said company. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

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IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

\_\_\_\_\_  
Notary Public

STATE OF OHIO :  
 : ss.  
COUNTY OF FRANKLIN :

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the subscriber, a Notary Public in and for said state, personally appeared [\_\_\_\_], and acknowledged the signing hereof to be his voluntary act. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Deleted: 2020

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

\_\_\_\_\_  
Notary Public

STATE OF OHIO :  
: ss.  
COUNTY OF FRANKLIN :

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the subscriber, a Notary Public in and for said state, personally appeared [Principal], and acknowledged the signing hereof to be his voluntary act. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

\_\_\_\_\_  
Notary Public

Deleted: 2020

Acknowledged and accepted this \_\_\_\_ day of 2023:

**Deleted:** 2020

Approved as to form for the City: CITY OF WORTHINGTON, OHIO

By: \_\_\_\_\_  
Tom Lindsey, Law Director

By: \_\_\_\_\_  
byn Stewart, Acting City Manager

**Deleted:** MaMatthew H. Greeson

DRAFT

## EXHIBIT C

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### DESIGNATED IMPROVEMENTS

Off-Site Improvements: The Off-Site Improvements consist of the following list of improvements, which may be amended by the mutual consent of the City and the Additional developers:

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- Signalization Part 1
  - Relocation of the existing signal on Wilson Bridge Road and the mall. Signal will include:
    - Traffic signal mast arm supports non-decorative to replace in kind which is standard mast arm signals with black finish
    - Signal appurtenances including vehicular signals, pedestrian signals, cable/wire, pushbutton, detection (video assumed), pullboxes and controller for a complete signal installation consistent with the current signal design
    - Material from the existing signal will be reused if feasible and practical. This may include poles, signal heads and controller
- Signalization Part 2
  - Upgrade of the signal at High Street and Caren Avenue:
    - Removal of the span wire signal
    - Decorative mast arm signal supports to match those at the High Street and Wilson Bridge
    - Road intersection
    - Signal appurtenances including vehicular signals, pedestrian signals, cable/wire, pushbutton, detection (video assumed), pull boxes and controller for a complete signal installation consistent
- Road Construction Wilson Bridge Road, Mall Drive and Site Drive Intersection
  - Realignment of ~165 feet of the mall drive including removal of the existing drive pavement and associated paving items for the new drive
  - Wilson Bridge Road Drainage revisions as needed to adjust catch basins and underdrains for the drive relocation
  - Pavement markings (stop lines, crosswalks and westbound left turn lane revision) and ground mounted signs (lane use control and No Turn On Red currently installed) as needed for the intersection
  - ADA Ramps and sidewalk at the corners to make the intersection complete.
- Street Lighting
  - Street lighting on both sides of Wilson Bridge Road and High Street (10 poles total)
  - Poles and bases to match ODOT lights on High Street north of Wilson Bridge Road

- ROW Compensation
  - Compensation to property owners for acquisition (Cost to cure property, easements and other amenities)
  - ROW Appraisal - Cost for Professional Services for a Certified Real Estate MAI Appraiser. Appraisal scope includes the Ville Charmante Condominium Access Drive Easement; and Worthington Mall Drive Entry Temporary Work Easement for Entry Drive Re-Configuration.
- Professional Fees
  - Cost for Professional Services: Attorneys, Architects, Engineers or other Professional fee
    - Attorney / Legal Assistance
    - Construction Management
    - Architectural
    - Engineering
    - Road Construction Offsite
    - Signalization
    - Streetscaping LA of Caren/High
    - Streetscaping LA = Wilson Bridge, Caren, High; tree lawns
    - Street Lighting
    - Survey (Topo & Boundary)
    - Right-of-Way Plan Documents
    - Plan Document preparation for dedication Plats of real estate
    - Survey Boundary drawings, descriptions and easements
    - Survey (Staking) Public ROW
    - TIS = Traffic extras beyond std scope, Retaining walls
    - Foundations / Brick
    - Flood & Drainage
    - Bioretention / pavers / WQv
    - Grading change / sitework
    - CEI & CMT
- Streetscaping
  - Intersection corner treatments
  - Construction of brick paver landing at all quadrants of the intersection of Caren Avenue and N. High Street, including brick knee-wall with precast concrete cap, landscaping behind the wall, and ADA ramps with modified crosswalk striping
- Streetscaping (off-site public on periphery of site)
  - Removal of existing and installation of new access drives plus associated repairs to curb and sidewalks
  - Removal and replacement of sidewalks along all 3 streets (High, Wilson Bridge, Caren)
  - Decorative walls/planter boxes at pedestrian access points to development along Wilson Bridge Road
  - Street trees along all 3 streets spaced approximately 40' center-to-center

- Groundcover and shrubs along the Wilson Bridge Road frontage

On-Site Improvements: The On-Site Improvements consist of the following list of improvements, which may be amended by the mutual consent of the City and the Developers:

- Building Demolition and Asbestos remediation
  - Demolition
  - Asbestos Remediation
- Flood & Drainage - Detention requirements
  - Upgrades to On-Site Storm Water Management System to account for existing downstream public infrastructure capacity/conditions.
  - Underground Detention (Based on 30,000 CF storage @ \$10/CF). The Proposed onsite development is reducing amount of impervious area from current conditions; therefore, runoff volumes are less and no detention would be required. Due to existing conditions and city infrastructure, we have been forced to detain 30,000 CF of runoff.



## EXHIBIT D

Deleted: DEVELOPMENT AGREEMENT -

### LIST OF SEQUENCING FOR DESIGNATED IMPROVEMENTS

#### Sequence 1

- Engineering approval for both On-Site Improvements and Off-Site Improvements (to include the intersection on Wilson-Bridge Road). This is subject to an efficient approval process in working with City's Engineer and the City's third-party engineering firm
- Building drawing approval for the structures on Wilson-Bridge parcels

#### Sequence 2

- Site work for all parcels to ensure all parcels are pad ready in terms of utilities, storm water, grading, etc.
- Realignment of Wilson-Bridge intersection
- Establish new curb cuts for the site
- Initiate the ARB and Planning Commission approvals for the North High Street Parcel

#### Sequence 3

- Construction of the buildings on the Wilson-Bridge Road parcel subject to timely building approval
- Installation of Off-Site Improvements on Wilson-Bridge Road
- Continue the ARB and Planning Commission approvals for the North High Street Parcel

#### Sequence 4

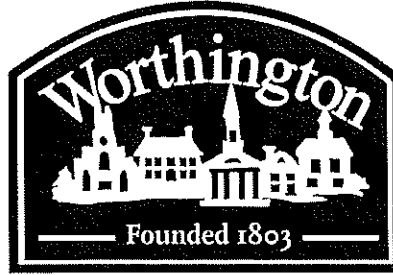
- Building drawing approval of the North High Street Parcel subject to timely ARB and Planning Commission approvals
- Construction of the North High Street Parcel building subject to timely building approval.
- Installation of the North High Street frontage off-site improvements
- Installation of the Off-Site Improvements at the North High Street and Caren Ave. intersection

#### Sequence 5

- Building drawing approval of the back parcel
- Construction of the back parcel building subject to building approval

#### Sequence 6

- Tie all three parcels together aesthetically
- Project clean up and closeout



**STAFF MEMORANDUM**  
**City Council Meeting – October 2, 2023**

Date: September 27, 2023

To: Robyn Stewart, Acting City Manager

From: Darren Hurley, Parks & Recreation Director

Subject: Village Green Tree Removal Ordinance

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**EXECUTIVE SUMMARY**

This Ordinance authorizes the removal of a London Planetree from the Northeast Quadrant of the Village Green.

**RECOMMENDATION**

Introduce for public hearing on October 16, 2023

**BACKGROUND/DESCRIPTION**

Section 12.03 of the Charter of the City of Worthington provides that the removal of living trees in excess of five (5) inches in diameter measured three (3) feet above the ground from the Worthington Village Green shall require the approval of six members of Worthington City Council.

City arborists have been monitoring a London Planetree currently growing under a large Pin Oak tree in the southwest corner of the northeast Village Green (see illustration attached). The London Planetree, at its current rate of growth, will soon start to interfere with and have a detrimental effect on the Pin Oak tree. The Pin Oak canopy is large enough to serve the area occupied by the London Planetree. As a result, a large species tree such as a London Planetree is not needed in this location and replanting a smaller tree would interfere with traffic and line-of-sight on this busy corner of High Street and 161.

As a result, city arborists and the Arbor Advisory Committee are recommending removal of the London Planetree. Staff would utilize funds already appropriated in our annual operating budget to remove the tree.

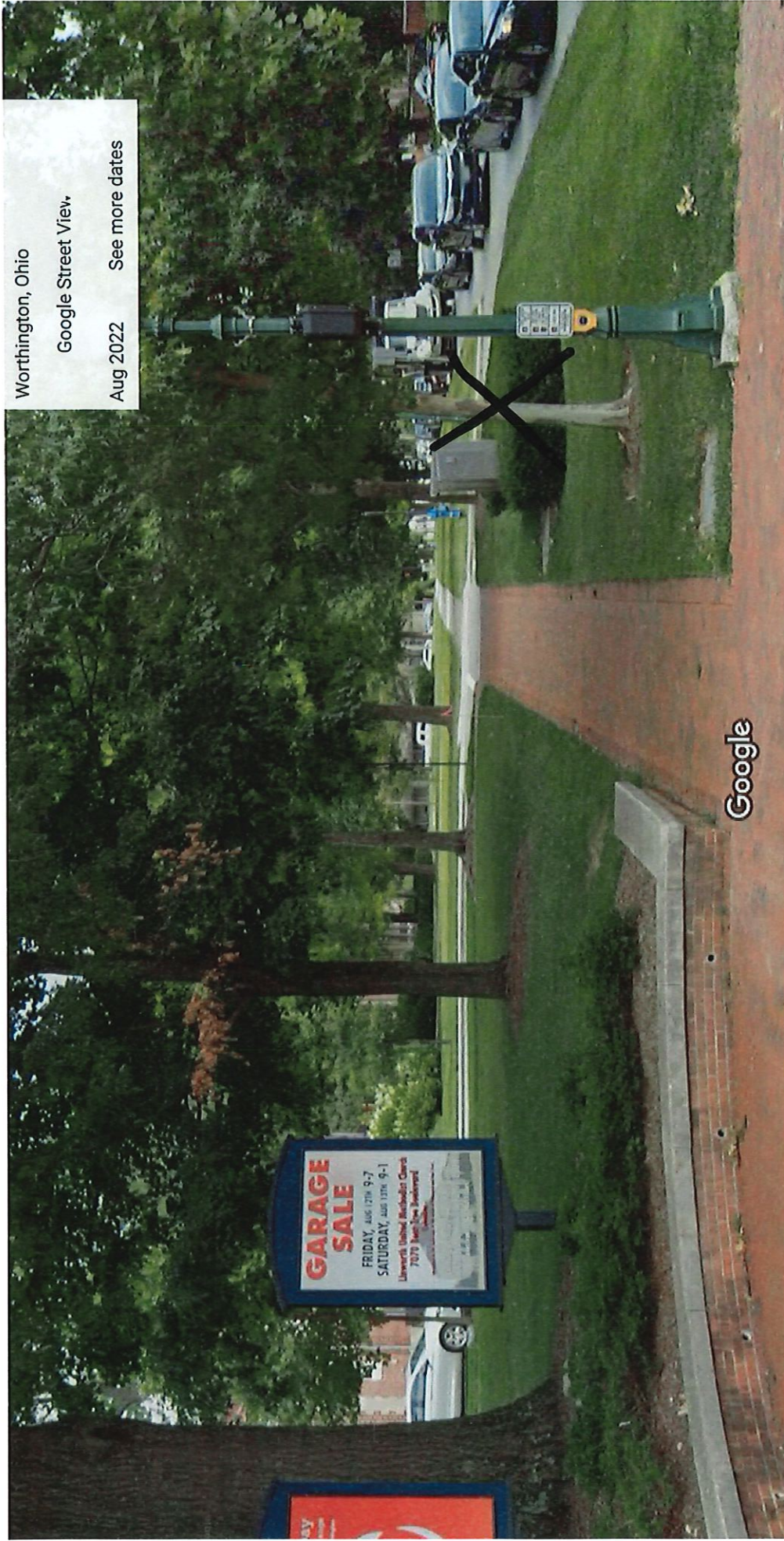
**ATTACHMENTS**

Ordinance No. 22-2023

Image of London Planetree on the Northeast Village Green

# Attachment A

Google Maps 747 US-23



Worthington, Ohio

Google Street View

Aug 2022

See more dates

Image capture: Aug 2022 © 2023 Google



Page 96 of 104

X = London  
Plane tree

ORDINANCE NO. 22-2023

**Approving the Removal of a London Planetree from  
the Northeast Quadrant of the Village Green**

WHEREAS, Section 12.03 of the Charter of the City of Worthington provides that the removal of living trees in excess of five (5) inches in diameter measured three (3) feet above the ground from the Worthington Village Green shall require the approval of six members of Worthington City Council; and,

WHEREAS, there is a London Planetree currently growing in the southwest corner of the northeast Village Green underneath the canopy of a large Pin Oak tree; and,

WHEREAS, the London Planetree at its current growth rate will soon start to interfere with and have a detrimental effect on the large Pin Oak tree and the Pin Oak tree has a canopy large enough to serve this area of the Village Green; and,

WHEREAS, the removal of the London Planetree is recommended for the health and future viability of the large Pin Oak tree by city arborists and the Arbor Advisory Committee;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio, six-sevenths of the members elected thereto herein concurring:

SECTION 1. That the Director of Parks and Recreation be and hereby is authorized and directed to proceed with the removal of said London Planetree located on the Northeast Quadrant of the Village Green as depicted on the attached drawing identified as "Attachment A".

SECTION 2. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed \_\_\_\_\_.

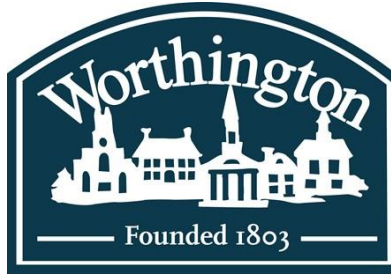
\_\_\_\_\_  
President of Council

Attest:

\_\_\_\_\_  
Clerk of Council

Introduced October 2, 2023  
P.H. October 16, 2023  
Effective \_\_\_\_\_





**STAFF MEMORANDUM**  
**City Council Meeting – October 2, 2023**

Date: September 27, 2023

To: Robyn Stewart, Acting City Manager

From: Darren Hurley, Parks & Recreation Director

Subject: Griswold Beer and Wine Rentals

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**EXECUTIVE SUMMARY**

Staff have finalized policies and procedures for Griswold Beer and Wine Rentals and are seeking City Council approval to begin implementation.

**RECOMMENDATION**

Motion authorizing staff to move ahead with the provision of Beer and Wine Rentals at the Griswold Center.

**BACKGROUND/DESCRIPTION**

On June 12, staff presented an update to City Council on work and drafted policies around Griswold Beer and Wine Rentals. Staff have been reviewing questions asked by City Council members at our last presentation and working with Law Director Tom Lindsey on policy and procedural language review. During the presentation, staff will review the City Council questions and requests and make final recommendations on moving forward with the rentals.

**ATTACHMENTS**

DRAFT Beer and Wine Service Agreement  
DRAFT Food and Beverage Catering Guidelines  
DRAFT Griswold Town Hall Rental Information





# Beer & Wine Service Agreement

Please complete this form to serve beer and/or wine at catered events held at the Griswold Center.

**APPLICANT / ORGANIZATION NAME:** \_\_\_\_\_

**DATE OF RENTAL:** \_\_\_\_\_ **TIME:** \_\_\_\_\_ **to** \_\_\_\_\_

**DESCRIPTION OF RENTAL:** \_\_\_\_\_

**TYPE OF IDENTIFICATION:** \_\_\_\_\_ **ID #:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CITY/STATE/ZIP:** \_\_\_\_\_

**HOME/WORK PHONE:** \_\_\_\_\_ **CELL:** \_\_\_\_\_

**EMAIL:** \_\_\_\_\_

There is a \$200 alcohol permit fee for the privilege of having beer and wine at the Griswold Center. This fee is in addition to the regular rental rates for the facility. In addition to the \$200 alcohol permit fee and facility charges there is a refundable damage deposit of \$200. The Licensee of the Beer and Wine Service Agreement must be a responsible adult, age 21 or older, with proof of identification. The Licensee must pay the service fee and deposit and sign the Beer and Wine Service Agreement in person. The City will accept a valid driver's license or other valid state (USA) picture identification containing the date of birth as a substitute for a driver's license. The Agreement will be kept on file as proof of acceptance and any liability associated with the privilege of serving beer and wine on the rental premises. All beer and wine must be purchased, brought, and served by a Worthington Parks and Recreation Department Approved Caterer.

## AGREEMENT

THIS AGREEMENT MADE \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ by and between the City of Worthington, Ohio (the "City") and \_\_\_\_\_ (the Licensee) in consideration of the promises and payments described below:

WHEREAS, the Licensee wish to provide beer and wine service inside the Griswold Center during the specified rental period set forth in the Rental Agreement and pursuant to the terms of said agreement.

NOW, THEREFORE, IT IS AGREED TO FOLLOW THE CITY'S POLICY AND RULES ATTACHED:

1. There is a \$200 alcohol permit fee for the privilege of having beer and wine at Town Hall. In addition, there is a refundable damage deposit of \$200 (paid by credit card). This service fee and deposit are in addition to the regular rental rates and deposit for the facility. Any of the following rule violations will result in forfeiture of the \$200 damage deposit.
2. There is a minimum requirement of at least 2 hours per rental.
3. The Licensee must pay the service fee and deposit and sign the Beer and Wine Service Agreement in person. This agreement shall be signed no less than fifteen (15) calendar days prior to the event.
4. Any Beer and Wine Service Agreement that is requested less than fifteen (15) calendar days prior to the event will require support staff to be scheduled prior to payment and completion of the agreement.
5. The Licensee must be a responsible adult, age 21 or older, with proof of identification. The City will accept a valid driver's license or other valid state picture identification containing the date of birth as a substitute for a driver's license.

6. The beer and wine service privilege that this agreement authorizes must be contracted with a City pre-approved vendor for the service of professional food and beer and wine.
7. All beer and wine shall be brought to Town Hall and served only by the City Approved Caterer.
8. Service is limited to canned or plastic bottled beer, wine, champagne and some approved seltzers. Beer, wine and seltzers must be poured into clear cups. Hard liquor and beer kegs are not allowed. It is the responsibility of the licensee to ensure only beer and wine brought by the Caterer is present.
9. Beer and wine may not be sold (no cash bars) and no money or tickets may exchange hands on premises. Gratuity arrangements should be made with the contractor prior to the event. Tip jars are prohibited.
10. All beer and wine must be served, possessed and consumed within the confines of Town Hall and the north patio area inside the barriers. Alcohol is not permitted on the South Patio. A floor plan will be provided to renters with barriers clearly marked.
11. Signs will be posted at exit locations within Town Hall and north patio stating 'No Alcohol Beyond This Point'
12. Beer and wine may be possessed or consumed only by individuals over the age of 21. The event Licensee shall ensure that identification is in accordance with the applicable law, to ensure that no one under the age of 21 is served beer and wine. A valid driver's license or other valid state picture identification containing the date of birth as a substitute for a driver's license shall serve as proper identification.
13. A maximum of two drinks may be served to an individual at any one time.
14. No beer and wine may be consumed at Town Hall during hours of operation for the conduct of official business (Monday - Friday 9:00am-4:00pm).
15. Non-alcoholic drinks must be available at all times that beer and wine is available.
16. Food must be available at all times when beer and wine is being served.
17. No beer or wine shall be served to any person who is obviously intoxicated. Doing so may result in criminal prosecution.
18. All serving of beer and wine must cease one hour prior to the end of the reservation.
19. No gambling or games of chance will be permitted at any event.
20. The City reserves the right to require the use of security and/or police officers to be arranged and paid for by the Licensee.
21. The City reserves the right to escort any visitor off of the premises who appears to be intoxicated or is disruptive to the safety or enjoyment of event participants or City staff.
22. City representative may enter the event at any and all times to review compliance with this policy and these rules. Non-compliance will result in closure of the event.

## **INDEMNIFICATION/DAMAGES**

Licensee acknowledges they have read and understand the Indemnification/damages clause outlined in the Policy attached to this document.

## **MISCELLANEOUS**

1. **Extent of Agreement.** This Agreement and the associated Rental Agreement and Licensee's Responsibilities represent the entire and integrated agreement between the City and the Licensee and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written amendment prepared by the City and signed by both parties.
2. **Governing Law.** This Agreement shall be governed by the law of the State of Ohio to the exclusion of the law of any other jurisdiction.
3. **Severability.** If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by the court to be invalid or unenforceable, such as determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable provision were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such manner and to the full extent permitted by law.
4. **When it is in the best interest of the City,** the City may terminate the Contract, in whole or in part by providing fifteen (15) calendar days or other appropriate length of time written notice to the Permit Holder prior to the effective date of termination.

**IN WITNESS WHEREOF, the parties have executed this Agreement.**

Licensee Name (print) \_\_\_\_\_

Date: \_\_\_\_\_

Licensee Signature \_\_\_\_\_

Date: \_\_\_\_\_

City Approval \_\_\_\_\_

Date: \_\_\_\_\_

*(City Manager or Authorized Designee)*

**OFFICE USE ONLY**  
FEES AND CHARGES

**Alcohol Permit Fee** **\$200**

**Refundable Damage Deposit** **+\$200**

\$ \_\_\_\_\_ Hourly Rate x \_\_\_\_\_ Hours = + \_\_\_\_\_

**DATE PAID:** \_\_\_\_\_ **STAFF:** \_\_\_\_\_

**DATE REFUNDED:** \_\_\_\_\_ **STAFF:** \_\_\_\_\_



**CITY OF WORTHINGTON  
PARKS AND RECREATION DEPARTMENT  
FOOD AND BEVERAGE CATERING GUIDELINES**

**CATERING COMPANY:** \_\_\_\_\_

**GENERAL GUIDELINES:**

- All caterers must be professionally licensed and must be on file with the City of Worthington.
- Proof of insurance and current workman's compensation certification must be on file with the City of Worthington.
- Caterers must conform to all applicable alcohol and food handling regulations as required by law.
- Caterers are responsible for complying with all local, state, and federal regulations.
- Caterers are required to meet with a representative of the facility prior to the first event to complete planning.
- Caterers may not access the facility sooner than rental times contracted by the renter.
- Caterers may park vehicles near the facility on the turnarounds or parking lot for load in and load out only. All vehicles must be parked in designated parking spaces immediately after load in. No parking or driving on patios or sidewalks.
- Caterers must walk through the facility with the facility staff to check for cleanliness and any damages incurred before, during, and after their service.
- Cleaning supplies must be provided by the Caterer.
- Caterers must remove everything they bring on to the premises immediately after the event.
- Caterers may be responsible for damages to the facility.
- Ice may only be disposed of in designated areas.
- Caterers are responsible for bagging and removing to the dumpster any/all trash/recycling from the tables, sinks, counters, floors, and trash containers in the kitchen and facility that has been generated by the catering operation.
- Caterers are responsible for cleaning all equipment used. When clean, equipment must be free of food particles, liquids, and stains. Damages by caterer include but are not limited to: clogged sinks, dirty floors and counter tops. Damage to equipment during use by caterer will result in a damage fee being assessed for repair or replacement of equipment. Equipment that is not cleaned may result in a cleaning fee being assessed.
- Prior to leaving, the caterer must check with the City of Worthington facility staff for final inspection and release.
- The City of Worthington facility staff will set up table and chairs prior to the agreed upon renter setup time.

**FOOD GUIDELINES:**

- Proof of insurance requirement: minimum \$1,000,000 per occurrence
- All food must be prepared off-site with the exception of outside grilling. Kitchen facilities are only for staging, plating, and organization.
- Caterers may use available equipment provided in the catering kitchen including: refrigerator, freezer, microwave, and warming oven.

**BEER AND WINE GUIDELINES** – if applicable

- Service is limited to canned or plastic bottled beer, wine, and champagne. No kegs, glass bottles, or hard liquor.
- Proof of insurance requirement: \$2,000,000 aggregate coverage, \$1,000,000 alcohol liability coverage.

- Alcoholic beverages are not permitted unless a Beer and Wine Service Agreement has been signed and paid for by the renter to the Parks and Recreation Department. Beer and Wine is not permitted until the catering company has received a copy of the Agreement.
- Caterers must return a signed copy of the Beer and Wine Policy set forth by the Parks and Recreation Department and follow all requirements.
- No more than two drinks may be served to one person at a time.
- Beer and wine must be purchased, brought to the Griswold Center and served by the caterer.
- Caterers will assist the Worthington Parks and Recreation staff in enforcing no alcohol outside of the Griswold Center.
- All dispensing of beer and wine must cease 1 hour prior to the end of the event time.

**By signing below, the cater acknowledges that he/she has read the above guidelines and other applicable Park and Recreation policies and is responsible for ensuring that all employees adhere to this agreement. Failure to follow said guidelines will result in removal from the City's Approved Catering List. City of Worthington will need to verify Catering Company's documents yearly.**

Catering Company Name (print)

Company Contact (print)

Business Address

Business Phone

Business E-mail

Caterer Responsible Party (Print Name)

Caterer Responsible Party (Signature) Date

**OFFICE USE ONLY**

**Documentation on File – Must have all the following paperwork.**

<input type="checkbox"/>	<b>Food &amp; Beverage Catering Guidelines</b>	<b>Date received</b>	_____
<input type="checkbox"/>	<b>Beer and Wine Policy</b>	<b>Date received</b>	_____
<input type="checkbox"/>	<b>Food License</b>	<b>Date received</b>	_____
<input type="checkbox"/>	<b>Workman's Compensation</b>	<b>Date received</b>	_____
<input type="checkbox"/>	<b>Proof of Insurance</b>		
	<input type="checkbox"/> <b>Minimum \$1,000,000</b>	<b>Date received</b>	_____
	<input type="checkbox"/> <b>\$2,000,000 aggregate (if applicable)</b>	<b>Date received</b>	_____
	<input type="checkbox"/> <b>\$1,000,000 alcohol liability (if applicable)</b>	<b>Date received</b>	_____
	<b>Beer and Wine permitted</b>	<b>Y</b>	<b>N</b>



# Town Hall

Proposed Rental Information

## Rental Times and Fees

Weekdays	
Rentals accepted between 4:00pm – 9:00pm	
Resident	\$60/hour
NonResident	\$95/hour
Full Kitchen	\$100/rental

Weekend and Holidays*	
Rentals accepted between 12:00pm – 10:00pm	
*no rentals on major holidays – New Years Day, Memorial Day, Easter, July 4 <sup>th</sup> , Labor Day, Thanksgiving Day, Christmas Day.	
Resident	\$115/hour
NonResident	\$200/hour
Full Kitchen	\$100/rental

Beer & Wine Fees	
Alcohol Permit Fee	\$200
Refundable Damage Deposit	\$200

## Rental Timeline

Rentals will open on a rolling calendar, 18 months in advance for Town Hall. For example: in July of 2023 Rentals will be accepted through December 31<sup>st</sup>, 2024. In August of 2023 they will open through January 2024.