

Mitch Rhodus

Mayor

Tim Meyers

Councilmember, At-Large

Matt Davidson

Councilmember, At-Large

Gwen Brill

Councilmember, At-Large



Leslie Besl

Councilmember, 1st Ward

Dale Paullus

Councilmember, 2nd Ward

Terry Senger

Councilmember, 3rd Ward

Tim Abbott

Councilmember, 4th Ward

**CITY OF FAIRFIELD CITY COUNCIL
REGULAR MEETING AGENDA
MONDAY, JANUARY 24, 2022 7:00 PM
5350 PLEASANT AVENUE, FAIRFIELD, OH 45014**

Guidelines for Citizen Comments: Thank you for your interest and participation in city government. Fairfield City Council's Guidelines for Citizen Comments describe the rules for addressing City Council. The guidelines are posted in the Council Chambers.

ADA Notice: The City of Fairfield is pleased to provide accommodations to disabled individuals or groups and encourage full participation in city government. Should special accommodations be required, please contact the Clerk of Council at 867-5383 at least 48 hours in advance of the meeting.

1. COUNCIL-MANAGER BRIEFING

A. 5:00 PM - Fire Levy

2. BUSINESS MEETING CALL TO ORDER

3. PRAYER/PLEDGE OF ALLEGIANCE

4. ROLL CALL

5. AGENDA MODIFICATIONS

6. EXECUTIVE SESSION REQUESTS

7. SPECIAL PRESENTATIONS AND CITIZEN COMMENTS

a. Public Safety Oath of Office

8. PUBLIC HEARING(S)

9. APPROVAL OF MINUTES

a. Regular Meeting held January 10, 2022

10. OLD BUSINESS AND REPORTS

A. COMMUNITY & PUBLIC RELATIONS COMMITTEE

Leslie Besl, Chair; Gwen Brill, Vice Chair; Tim Abbott, Member

B. DEVELOPMENT SERVICES COMMITTEE

Matt Davidson, Chair; Terry Senger, Vice Chair; Dale Paullus, Member

1. Ordinance amending Ordinance No. 166-84, the Codified Ordinances of Fairfield, Ohio, Section 1141.02, the City of Fairfield, Ohio, Zoning Map by approving the concept plan for the 5846 Pleasant Avenue Planned Unit Development.
 - Legislation - Hold Second Reading pending Planning Commission recommendation

C. PARKS, RECREATION AND ENVIRONMENT COMMITTEE

Gwen Brill, Chair; Matt Davidson, Vice Chair; Leslie Besl, Member

D. PUBLIC SAFETY COMMITTEE

Tim Meyers, Chair; Dale Paullus, Vice Chair; Leslie Besl, Member

E. PUBLIC WORKS COMMITTEE

Terry Senger, Chair; Tim Meyers, Vice Chair; Matt Davidson, Member

1. Resolution declaring necessity of repairing sidewalks (including aprons).
 - Legislation - Second Reading

F. PUBLIC UTILITIES COMMITTEE

Dale Paullus, Chair; Tim Abbott, Vice Chair; Tim Meyers, Member

G. FINANCE & BUDGET COMMITTEE

Tim Abbott, Chair; Gwen Brill, Vice Chair; Terry Senger, Member

1. Ordinance to Amend Subsection 143.06, Promotions in the Police Department, of Ordinance No. 166-84, the Codified Ordinances of Fairfield, Ohio.
 - Legislation - Third Reading
 - Motion - Adoption

11. NEW BUSINESS

Motion to read all New Business by title only.

A. COMMUNITY & PUBLIC RELATIONS COMMITTEE

Leslie Besl, Chair; Gwen Brill, Vice Chair; Tim Abbott, Member

1. Simple Motion: Motion to approve the following 2022 Boards/Commissions Appointments effective January 24, 2022: Alex Saurber - Board of Zoning Appeals (term expires 3/31/24) Tonya Charles - Civil Service Commission (term expires 3/31/22)

B. DEVELOPMENT SERVICES COMMITTEE

Matt Davidson, Chair; Terry Senger, Vice Chair; Dale Paullus, Member

1. Ordinance to authorize submission of an application to the Ohio Department of Development's Brownfield Remediation Program for environmental remediation activities at the former Fairfield Cleaners property at 1099 Magie Avenue, including authorizing the Acting City Manager to execute associated documents and enter into a contract for professional services with Patriot Engineering and Environmental, Inc., and declaring an emergency.
 - Legislation - First Reading
 - Motion - Suspend Second and Third Readings
 - Motion - Adoption
2. A Resolution approving the Petition for Special Assessments for Special Energy Improvement Projects under Ohio Revised Code Chapter 1710 and declaring the necessity of acquiring, constructing, and improving certain public improvements in the City of Fairfield in cooperation with the Fairfield, Liberty, Monroe Energy Special Improvement District and declaring an emergency.
 - Legislation - First Reading
 - Motion - Suspend Second and Third Readings
 - Motion - Adoption
3. An Ordinance determining to proceed with the acquisition, construction, and improvement of certain public improvements in the City of Fairfield in cooperation with the Fairfield, Liberty, Monroe Energy Special Improvement District, and declaring it an emergency.
 - Legislation - First Reading
 - Motion - Suspend Second and Third Readings
 - Motion - Adoption
4. An Ordinance levying special assessments for the purpose of acquiring, constructing, and improving certain public improvements in the City of Fairfield in cooperation with the Fairfield, Liberty, Monroe Energy Special Improvement District, approving an Energy Project Cooperative Agreement and a Special Assessment Agreement, and declaring it an emergency.
 - Legislation - First Reading
 - Motion - Suspend Second and Third Readings
 - Motion - Adoption

C. PUBLIC UTILITIES COMMITTEE

Dale Paullus, Chair; Tim Abbott, Vice Chair; Tim Meyers, Member

1. Ordinance to authorize the Acting City Manager to enter into a contract with Dixon Engineering for professional engineering and inspection services associated with the Seward Road 0.5 MG tank rehabilitation project.
 - Legislation - First Reading
 - Motion - Suspend Second and Third Readings
 - Motion - Adoption

2. Ordinance to authorize the Acting City Manager to enter into a contract with Clearcreek Coatings, Ltd. for the Seward Road 0.5 Million Gallon Storage Tower "Cleaning, Repairing, and Painting Project."

- Legislation - First Reading
- Motion - Suspend Second and Third Readings
- Motion - Adoption

D. FINANCE & BUDGET COMMITTEE

Tim Abbott, Chair; Gwen Brill, Vice Chair; Terry Senger, Member

1. Ordinance to amend Ordinance No. 148-21 entitled "An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2022, and ending December 31, 2022." - Supplemental Appropriations

- Legislation - First Reading
- Motion - Suspend Second and Third Readings
- Motion - Adoption

2. Ordinance to amend Ordinance No. 148-21 entitled "An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2022, and ending December 31, 2022."

Contractual Appropriations: \$333,720 for Parks & Recreation Department contingency and funding restoration (various projects); \$94,206 for Public Works Department contingency and funding restoration (various projects); \$1,477,685 for Route 4, Michael Lane & Camelot Drive Intersection Improvements; \$64,250 for engineering & inspection services for Seward Road Water Storage Tower; \$495,000 for Seward Road Water Storage Tower Cleaning, Repairing & Painting Project.

- Legislation - First Reading
- Motion - Suspend Second and Third Readings
- Motion - Adoption

3. Ordinance to amend Ordinance No. 148-21 entitled "An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2022, and ending December 31, 2022."

Non-Contractual Appropriations: \$5,000 for 2022 Street Light Installation Program; \$40,000 for 2022 Grounds, Entry-ways & Landscaping Program; \$50,000 for 2022 Annual Drainage Program (multiple vendors).

- Legislation - First Reading
- Motion - Suspend Second and Third Readings
- Motion - Adoption

12. MEETING SCHEDULE

- A. Monday, February 14th - Council-Manager Briefing, 6:00 PM; Regular Meeting 7:00 PM
- B. Monday, February 28th - Council-Manager Briefing, 6:00 PM; Regular Meeting 7:00 PM
- C. Monday, March 14th - Council-Manager Briefing, 6:00 PM; Regular Meeting 7:00 PM

13. EXECUTIVE SESSION OF COUNCIL (IF NEEDED)

14. ADJOURNMENT

**City of Fairfield
Minutes
Regular Meeting of City Council
January 10, 2022**

Council-Manager Briefing

Proposed Fire Levy Discussion

Mayor Rhodus called the briefing to order at 6:30 PM. Councilmembers present: Leslie Besl, Dale Paullus, Terry Senger, Tim Abbott, Tim Meyers, Matt Davidson and Gwen Brill.

Staff members present: Don Bennett, Jake Burton, John Clemmons, Alisha Wilson, Steve Maynard, Carol Mayhall, Greg Kathman, Lee Rosato, Ben Mann, Tiphonie Howard and Adam Sackenheim.

Finance Director Jake Burton and Fire Chief Don Bennett presented the Fire Levy Discussion. See attached slides.

Business Meeting Call to Order

Mayor Rhodus called the Regular Meeting to order at 7:10 PM.

Prayer/Pledge of Allegiance

Councilmember Paullus led in prayer and Pledge of Allegiance.

Roll Call

Councilmembers present included:

Attendee Name	Title	Status	Arrived
Tim Meyers	Councilmember, At-Large	Present	
Matt Davidson	Councilmember, At-Large	Present	
Gwen Brill	Councilmember, At-Large	Present	
Leslie Besl	Councilmember, 1st Ward	Present	
Dale Paullus	Councilmember, 2nd Ward	Present	
Terry Senger	Councilmember, 3rd Ward	Present	
Tim Abbott	Councilmember, 4th Ward	Present	
Mitch Rhodus	Mayor	Present	

Agenda Modifications

Councilmember Meyers requested the possibility of an agenda modification following an Executive Session after the Joint Public Hearing. Councilmember Abbott made the motion, seconded by Councilmember Paullus. Motion carried 7-0.

Special Presentations and Citizen Comments

Minutes Acceptance: Minutes of Jan 10, 2022 7:00 PM (Approval of Minutes)

Casha Cristello, 313 Caudill Drive - stated she received a letter in the mail about Fairfield being declared a sanctuary city. She requested a response to that question. Mayor Rhodus indicated that is a new topic to the Council and Councilmember Paullus stated that it has not been brought up. Ms. Cristello requested that the Council vote No if it is brought up.

Public Hearing(s)

Joint Public Hearing - Pleasant Avenue Re-Zoning

Mayor Rhodus opened the Joint Public Hearing at 7:15 PM. Clerk Wilson took a roll call of Planning Commission. Commissioners present: Martin Medler, Melissa O'Brien, Scott Lepsky and Gwen Ritchie. Commissioner Lepsky, seconded by Commissioner O'Brien, moved to excuse Commissioners Hassler and Begley. Motion carried 4-0. Clerk Wilson read the meeting notice. Planning Manager Erin Lynn presented the requested re-zoning on Pleasant Avenue. See attached slides. The property owner and developer thanked Council for hearing the plan and expressed his thoughts regarding the site and the development. He welcomed any thoughts or recommendations from the City.

Casha Cristello, 313 Caudill Drive, addressed Council and asked if the turn lane would take property from others. Mrs. Lynn answered that there is right-of-way available and any additional land will come from the applicant.

Richard Carr, 1751 Resor Road, addressed Council regarding his traffic and flooding concerns with the plan.

Bert Huffer, 5973 Emerald Lake Drive, addressed Council regarding his concerns for additional traffic in that area.

Mayor Rhodus encouraged the residents to attend the Planning Commission meeting on January 12 at 6:00 PM. He closed the public hearing at 7:38 PM.

Approval of Minutes

The Regular Meeting Minutes of December 13, 2021 were approved as written and submitted.

Executive Session Requests

Councilmember Meyers, seconded by Councilmember Abbott, moved for two separate Executive Sessions. The first to be held following the Public Hearing for the purpose of considering the appointment, employment, and compensation of a public employee or official. The second to be held at the end of the Regular Meeting for the purpose of considering confidential information related to the marketing plans, specific business strategy, or trade secrets of an applicant for economic development assistance or negotiations with other political subdivisions respecting requests for economic development assistance. Clerk Wilson took a roll call vote. Motion carried 7-0.

Minutes Acceptance: Minutes of Jan 10, 2022 7:00 PM (Approval of Minutes)

Council recessed to the first Executive Session at 7:40 PM. Council reconvened open session at 8:10 PM.

Councilmember Besl, seconded by Councilmember Abbott, moved to add a simple motion and an ordinance to the agenda. Motion carried 7-0.

NEW BUSINESS

Councilmember Besl, seconded by Councilmember Paullus, moved to read all New Business by title only. Motion carried 7-0.

Community & Public Relations Committee

Leslie Besl, Chair; Gwen Brill, Vice Chair; Tim Abbott, Member

Simple Motion: Formal recognition and/or approval of Council Committee Assignments and Council appointments dated January 1, 2022.

Recommendation:

It is recommended that City Council recognize and approve the Council appointments as outlined in the attachment via simple motion of Council.

SIMPLE MOTION NO. 1-22. APPROVED 7-0.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Leslie Besl, Councilmember, 1st Ward
SECONDER:	Tim Abbott, Councilmember, 4th Ward
AYES:	Meyers, Davidson, Brill, Besl, Paullus, Senger, Abbott

Simple Motion: Motion to appoint the Clerk of Council as designee for mandatory training required by House Bill 9, Ohio's Public Records Act.

Recommendation:

It is recommended that City Council, via simple motion, formally appoint the Clerk of Council as the Mayor and Council designee for the mandatory three hours of training required by House Bill 9.

SIMPLE MOTION NO. 2-22. APPROVED 7-0.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Leslie Besl, Councilmember, 1st Ward
SECONDER:	Matt Davidson, Councilmember, At-Large
AYES:	Meyers, Davidson, Brill, Besl, Paullus, Senger, Abbott

Simple Motion: Motion to appoint Scott W. Timmer as City Manager effective February 7, 2022.

SIMPLE MOTION NO. 3-22. APPROVED 7-0.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Leslie Besl, Councilmember, 1st Ward
SECONDER:	Tim Meyers, Councilmember, At-Large
AYES:	Meyers, Davidson, Brill, Besl, Paullus, Senger, Abbott

Motion to Suspend Second and Third Readings

Minutes Acceptance: Minutes of Jan 10, 2022 7:00 PM (Approval of Minutes)

Councilmember Besl presented the first reading of this ordinance.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Leslie Besl, Councilmember, 1st Ward
SECONDER:	Dale Paullus, Councilmember, 2nd Ward
AYES:	Meyers, Davidson, Brill, Besl, Paullus, Senger, Abbott

Ordinance to authorize the Acting City Manager to enter into an Employment Agreement with Scott W. Timmer for the City Manager position and declaring an emergency.

ORDINANCE NO. 1-22. APPROVED 7-0.

Councilmember Besl read a statement from Council: Council is pleased to announce that Scott W. Timmer will assume the leadership of the City as its City Manager. Scott brings a strong financial background, a wealth of knowledge of the operations of the City, and a vision for the future of the City. We thank Acting City Manager Don Bennett and Senior Staff of the City for the fine they have and will continue to provide on the behalf of the City. We welcome Scott back to the City after serving as Finance Director and Assistant City Manager for the better part of the last six years. Council is confident that Scott will provide excellent leadership of the City for many years in the future and offers its full support to him and the City staff.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Leslie Besl, Councilmember, 1st Ward
SECONDER:	Tim Abbott, Councilmember, 4th Ward
AYES:	Meyers, Davidson, Brill, Besl, Paullus, Senger, Abbott

OLD BUSINESS AND REPORTS

Development Services Committee

Matt Davidson, Chair; Terry Senger, Vice Chair; Dale Paullus, Member

Ordinance amending Ordinance No. 166-84, the Codified Ordinances of Fairfield, Ohio, Section 1141.02, the City of Fairfield, Ohio, Zoning Map by approving the concept plan for the 5846 Pleasant Avenue Planned Unit Development.

Recommendation:

It is recommended that City Council have a first reading on this item at the December 13, 2021 meeting and set the joint public hearing date for January 10, 2022.

The second reading of this ordinance was held pending Planning Commission recommendation.

RESULT:	TABLED [UNANIMOUS]	Next: 1/24/2022 7:00 PM
AYES:	Meyers, Davidson, Brill, Besl, Paullus, Senger, Abbott	

Parks, Recreation and Environment Committee

Gwen Brill, Chair; Matt Davidson, Vice Chair; Leslie Besl, Member

Public Safety Committee

Minutes Acceptance: Minutes of Jan 10, 2022 7:00 PM (Approval of Minutes)

Tim Meyers, Chair; Dale Paullus, Vice Chair; Leslie Besl, Member

Public Works Committee

Terry Senger, Chair; Tim Meyers, Vice Chair; Matt Davidson, Member

Public Utilities Committee

Dale Paullus, Chair; Tim Abbott, Vice Chair; Tim Meyers, Member

Finance & Budget Committee

Tim Abbott, Chair; Gwen Brill, Vice Chair; Terry Senger, Member

Ordinance to adopt new Subsection 181.09(A)(4) of Chapter 181, Income Tax, of Ordinance No. 166-84, the Codified Ordinances of Fairfield, Ohio relative to required tax filings.

Recommendation:

It is recommended that City Council adopt legislation adding language as 181.091(A)(4) of the Income Tax Ordinance.

Councilmember Abbott presented the third reading of this ordinance.

ORDINANCE NO. 2-22. APPROVED 7-0.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Tim Abbott, Councilmember, 4th Ward
SECONDER:	Dale Paullus, Councilmember, 2nd Ward
AYES:	Meyers, Davidson, Brill, Besl, Paullus, Senger, Abbott

Ordinance to Amend Subsection 143.06, Promotions in the Police Department, of Ordinance No. 166-84, the Codified Ordinances of Fairfield, Ohio.

Recommendation:

It is recommended that Council adopt the promotional process outlined in this ordinance.

Councilmember Abbott presented the second reading of this ordinance.

RESULT:	SECOND READING	Next: 1/24/2022 7:00 PM
----------------	-----------------------	--------------------------------

NEW BUSINESS

Development Services Committee

Matt Davidson, Chair; Terry Senger, Vice Chair; Dale Paullus, Member

Motion to Suspend Second and Third Readings

Kert Radel, President of the Fairfield Chamber of Commerce, addressed Council regarding the programs and support offered by the Chamber to the City as part of the contract for consideration.

Councilmember Davidson presented the first reading of this ordinance.

RESULT: CARRIED [UNANIMOUS]
MOVER: Matt Davidson, Councilmember, At-Large
SECONDER: Tim Meyers, Councilmember, At-Large
AYES: Meyers, Davidson, Brill, Besl, Paullus, Senger, Abbott

Ordinance to authorize the Acting City Manager to enter into a two (2) year professional services contract with the Fairfield Chamber of Commerce.

Recommendation:

This ordinance authorizes the Acting City Manager to execute a Professional Services Contract with the Fairfield Chamber of Commerce. The contract is evaluated every two years and pertains to the City's sponsorship of the Chamber, including business retention services.

ORDINANCE NO. 3-22. APPROVED 7-0.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Matt Davidson, Councilmember, At-Large
SECONDER: Tim Meyers, Councilmember, At-Large
AYES: Meyers, Davidson, Brill, Besl, Paullus, Senger, Abbott

Public Works Committee

Terry Senger, Chair; Tim Meyers, Vice Chair; Matt Davidson, Member

Resolution declaring necessity of repairing sidewalks (including aprons).

Recommendation:

It is recommended that City Council authorizes and directs the preparation of a Resolution of Necessity for the sidewalk/driveway apron repairs.

- Legislation - First Reading

RESULT: FIRST READING Next: 1/24/2022 7:00 PM

Public Utilities Committee

Dale Paullus, Chair; Tim Abbott, Vice Chair; Tim Meyers, Member

Motion to Suspend Second and Third Readings

Councilmember Paullus presented the first reading of this ordinance.

RESULT: CARRIED [UNANIMOUS]
MOVER: Dale Paullus, Councilmember, 2nd Ward
SECONDER: Terry Senger, Councilmember, 3rd Ward
AYES: Meyers, Davidson, Brill, Besl, Paullus, Senger, Abbott

Ordinance to authorize the Acting City Manager to enter into a contract with CT Consultants for professional engineering services related to the final design and permitting of a new elevated water storage tower on Port Union Road.

Recommendation:

It is recommended that City Council authorize the City Manager to enter into a contract with CT

Consultants and appropriate \$190,480 (not to exceed) for final design and permitting and other related engineering services for a new water storage tower on Port Union Road.

ORDINANCE NO. 4-22. APPROVED 7-0.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Dale Paullus, Councilmember, 2nd Ward
SECONDER:	Tim Abbott, Councilmember, 4th Ward
AYES:	Meyers, Davidson, Brill, Besl, Paullus, Senger, Abbott

Finance & Budget Committee

Tim Abbott, Chair; Gwen Brill, Vice Chair; Terry Senger, Member

Motion to Suspend Second and Third Readings

Councilmember Abbott presented the first reading of this ordinance.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Tim Abbott, Councilmember, 4th Ward
SECONDER:	Dale Paullus, Councilmember, 2nd Ward
AYES:	Meyers, Davidson, Brill, Besl, Paullus, Senger, Abbott

Ordinance to amend Ordinance No. 148-21 entitled “An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2022, and ending December 31, 2022.”

Recommendation:

It is recommended that City Council suspend the rules requiring a second and third reading of this Ordinance and adopt the appropriations listed above.

ORDINANCE NO. 5-22. APPROVED 7-0.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Tim Abbott, Councilmember, 4th Ward
SECONDER:	Tim Meyers, Councilmember, At-Large
AYES:	Meyers, Davidson, Brill, Besl, Paullus, Senger, Abbott

Meeting Schedule

Clerk Wilson read the following meeting schedule:

- A. Monday, January 24th - Council-Manager Briefing, 6:00 PM; Regular Meeting 7:00 PM
- B. Monday, February 14th - Council-Manager Briefing, 6:00 PM; Regular Meeting 7:00 PM
- C. Monday, February 28th - Council-Manager Briefing, 6:00 PM; Regular Meeting 7:00 PM

Executive Session of Council (if needed)

Council recessed to Executive Session at 8:30 PM.

15. ADJOURNMENT

The Regular Meeting adjourned at 8:55 PM.

ATTEST:

Clerk of Council

Mayor's Approval

Date Approved_____

Minutes Acceptance: Minutes of Jan 10, 2022 7:00 PM (Approval of Minutes)



Proposed Fire Levy January 10, 2022

Fire Department Staffing

- ▶ Appropriate number of personnel on duty and an appropriate level of skills and experience.
- ▶ 1999 – staffing model was 19 personnel on duty utilizing a combination of city and contract employees – Run volume 3200 fire and ems calls.
- ▶ 2020 – staffing model was 17 maximum and 14 minimum staffing utilizing both career and part time personnel– Run volume 6500 fire and ems calls.
- ▶ It should be noted with 14 personnel on duty E-33 and Rescue 33 could not be staffed. Station 33 was basically out of service.
- ▶ Part time personnel make up approximately 47% of our on duty personnel.
- ▶ The average stay of a part-time FF/EMT who was hired from 1/2019-2/2022 is **10 months**. Average experience at hire **4 months**

Why the decrease in Part-time Personnel

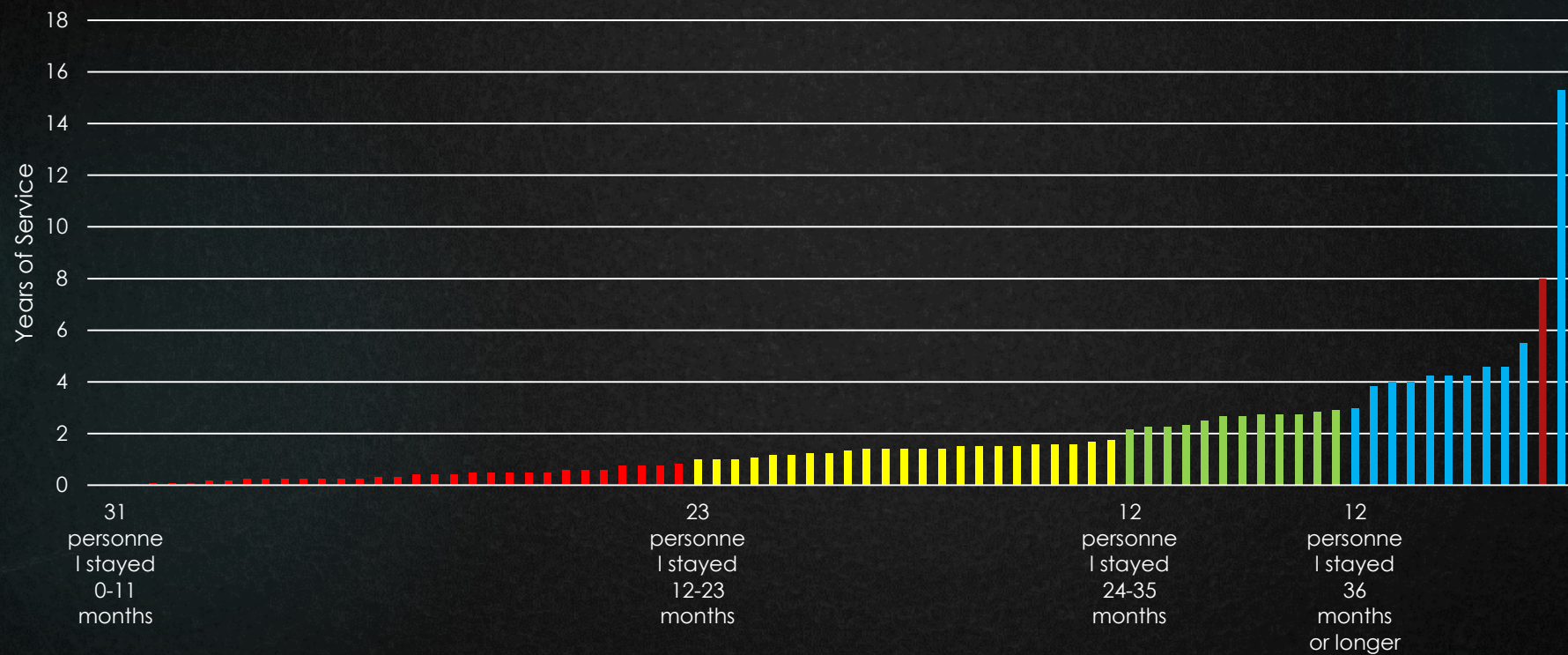
- ▶ More full-time jobs have become available in the Southwest Ohio region and all across the country
 - ▶ Retirements are occurring at a rapid pace due to the DROP program and other factors
 - ▶ Previously volunteer or all part-time departments have added or transitioned to adding or increasing their FT staffing due to a shortage in PT personnel
 - ▶ Hamilton Fire Department
 - ▶ Ross Township FD
 - ▶ Liberty Township FD
 - ▶ Fairfield Township FD
 - ▶ Montgomery FD
 - ▶ West Carrollton FD
 - ▶ Kettering FD
 - ▶ West Chester FD
 - ▶ Oxford FD

Shortage of Part Personnel

- ▶ They want career opportunities which are abundant and will continue to increase.
- ▶ Part-time personnel work 2-3 PT jobs while going to medic school to enhance their employability.
- ▶ From 1/2019 to 2/2022, 78 total part-time personnel left this department
 - ▶ 46 who were hired after 1/2019, 32 who were hired before 1/2019
- ▶ Where did they go?
 - ▶ **60 left for full-time fire service jobs (77.9%)**
 - ▶ 15 left for full-time private sector jobs (19.5%)
 - ▶ 2 left to attend paramedic school (2.6%)

Personnel who have left for Career Opportunities

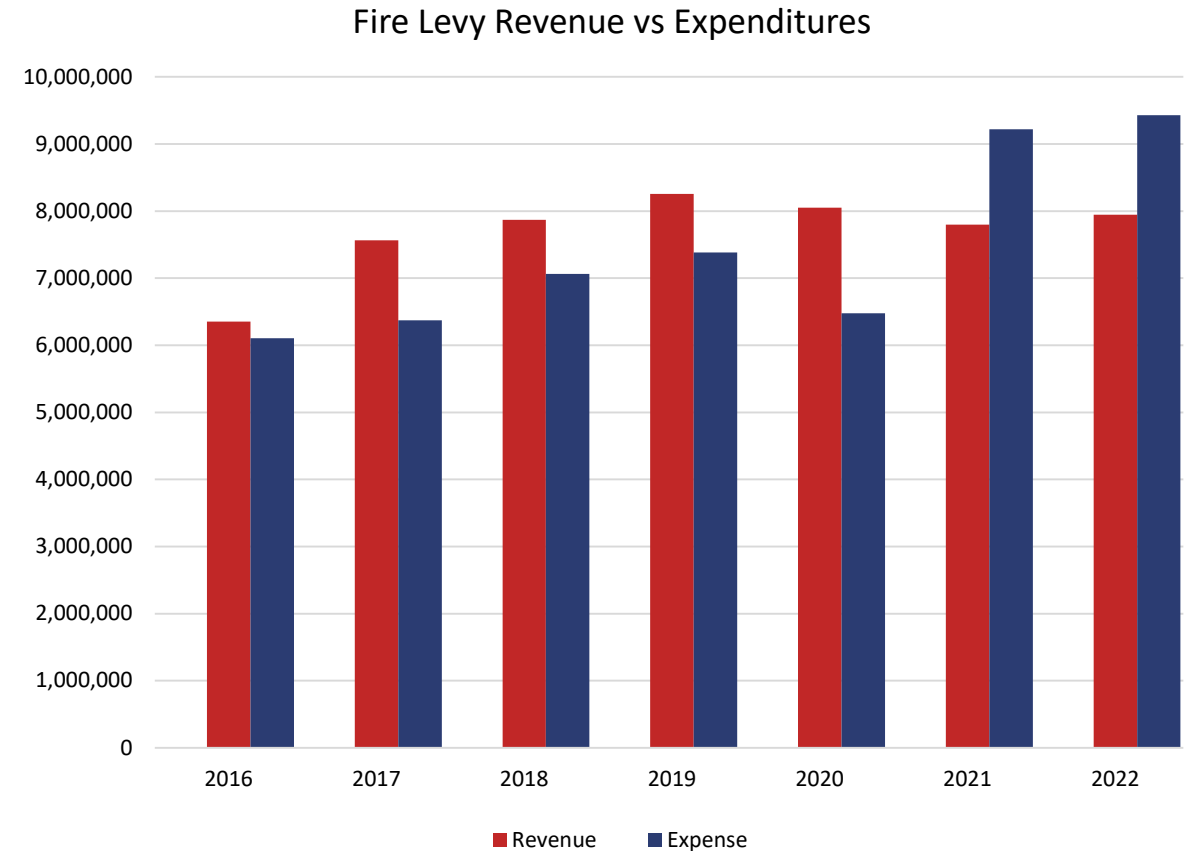
Part-time Personnel who left 1/2019-2/2022 and their years of service to the department



Budget Presentation (11-08-21) Recap

• Fire Levy Year-End Fund Balance

2016 -	\$ 263,448
2017 -	\$1,455,957
2018 -	\$2,263,299
2019 -	\$3,132,639
2020 -	\$4,707,005
2021 (Projected) -	\$3,284,338
2022 (Budgeted) -	\$1,802,861
2023 (Forecast) -	\$ 79,624



Fire Levy Fund Balance Projections with no additional Levy

- Fire Levy Year-End Fund Balance
(Current Staffing Levels)

2022 -	\$ 1,802,861
2023 -	\$ 79,624
2024 -	(\$ 2,050,319)
2025 -	(\$ 4,472,872)
2026 -	(\$ 7,245,943)
2027 -	(\$10,385,237)

- Fire Levy Year-End Fund Balance
(Proposed Staffing Levels – 6
FF/PM in 2023, 3 FF/PM in 2024-
2027)

* Each full-time FF/PM position eliminates 2 P/T position

2022 -	\$ 1,802,861
2023 -	\$ (334,219)
2024 -	(\$ 3,052,487)
2025 -	(\$ 6,486,541)
2026 -	(\$10,682,185)
2027 -	(\$15,628,755)

* Results in additional \$5.2 million over the 5 year period & additional \$1.8 million annually after first 5 years

Minutes Acceptance: Minutes of Jan 10, 2022 7:00 PM (Approval of Minutes)

Rates of Taxation in Butler County, Ohio - Tax Year 2020

	County	School	JVS	TWP	MUNI	Park	Library	Gross		Income Tax	School Tax
Fairfield Corporation-FrFId CSD	9.220	63.300	1.930	-	8.440	0.700	0.750	84.340		1.50%	0.00%
Fairfield Township-FrFId CSD	9.220	63.300	1.930	11.090	-	0.700	0.750	86.990		0.00%	0.00%
Hamilton Corporation-Hamilton CSD	9.220	52.810	1.930	-	10.710	0.700	0.750	76.120		2.00%	0.00%
Hanover Township-Talawanda CSD	9.220	52.810	1.930	7.970	-	0.700	0.750	73.380		0.00%	0.00%
Oxford Township-Talawanda CSD	9.220	54.800	1.930	13.590	-	0.700	0.750	80.990		0.00%	1.00%
Oxford Corporation-Talawanda CSD	9.220	54.800	1.930	0.240	6.900	0.700	0.750	74.540		2.00%	1.00%
West Chester Township-Lakota LSD	9.220	68.640	1.930	18.590	-	0.700	0.750	99.830		0.00%	0.00%
Liberty Township-Lakota LSD	9.220	68.640	1.930	15.090	-	0.700	0.750	96.330		0.00%	0.00%
Ross Twp-Ross LSD	9.220	49.230	1.930	12.220	-	0.700	0.750	74.050		0.00%	1.25%
Middletown Corporation-Middletown CSD	9.220	50.140	1.930	-	6.900	0.700	0.750	69.640		2.00%	0.00%
Madison Twp-Madison LSD	9.220	38.040	1.930	5.260	-	0.700	0.750	55.900		2.00%	0.50%
Trenton Corporation-Edgewood CSD	9.220	49.370	1.930	-	12.990	0.700	0.750	74.960		1.50%	0.00%

** 8.44 "MUNI" millage includes 7.15 for Fire Levies (4.65 from 2000 & 2.5 from 2016) and 1.29 inside millage for General Fund **

Minutes Acceptance: Minutes of Jan 10, 2022 7:00 PM (Approval of Minutes)

Additional Levy vs. Replacement Levy

• ADDITIONAL LEVY – funding begins 2023

- ✓ Keep current levy of 7.15 mills
 - 4.65 mills from 2000 currently collecting 3.26 on Res/Agr & 3.89 on Comm/Ind
 - Includes “Rollback” funds of approx. \$525,000 per year
 - 2.50 mills from 2016 currently collecting 1.99 on Res/Agr & 2.14 on Comm/Ind
- ✓ Funding with staffing changes
 - 5-year = additional 3.15 mills for a total millage of 10.30
 - 10-year = additional 4.25 mills for a total millage of 11.40
- ✓ Funding with no staffing changes
 - 5-year = additional 2.25 mills for a total millage of 9.40
 - 10-year = additional 3.15 mills for a total millage of 10.30

• REPLACEMENT LEVY – funding begins 2023

- ✓ Existing levies replaced by one new levy
 - No “Rollback” included
- ✓ Per ORC – allowed on ballot once per year
- ✓ Funding with staffing changes
 - 5-year = millage of 9.00 (+ 1.85)
 - 10-year = millage of 10.25 (+ 3.10)
- ✓ Funding with no staffing changes
 - 5-year = millage of 8.00 (+ .85)
 - 10-year = millage of 9.00 (+ 1.85)

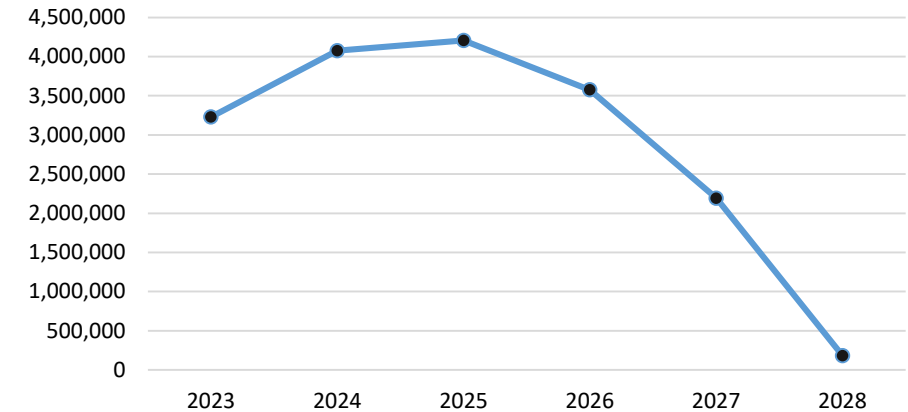
Staff Recommendation – Replacement Levy with Proposed Staffing 9.00 mills – will provide funding required thru 2028

- \$35 per mill per \$100,000 home value

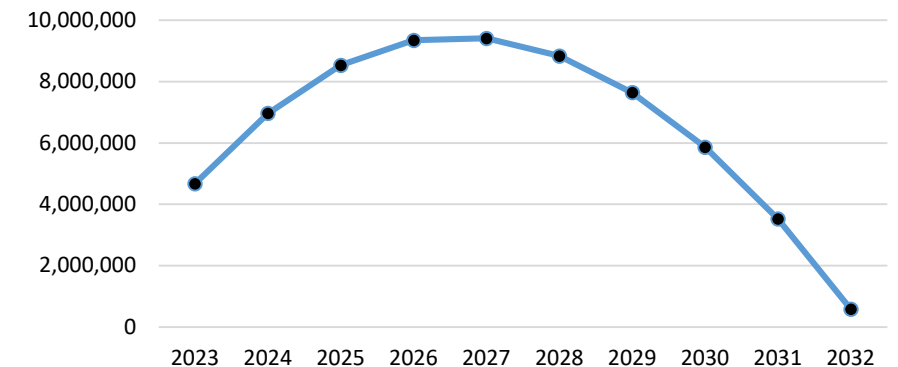
Annual Cost to Homeowner - Avg Home Price 150k

Total Millage	Avg. Cost	Replacement Levy Collections
1.00	\$52.50	\$1,215,072
2.25	\$118.13	\$2,733,912
3.15	\$165.38	\$3,827,476
7.15	\$290.00	\$6,300,000
7.15	\$375.38	\$8,687,764
8.00	\$420.00	\$9,720,575
9.00	\$472.50	\$10,935,647
10.25	\$538.13	\$12,454,487

9 MILLS – 5-YEAR ANNUAL FUND BALANCE



10.25 MILLS - 10-YEAR ANNUAL FUND BALANCE



Minutes Acceptance: Minutes of Jan 10, 2022 7:00 PM (Approval of Minutes)



Fairfield City Council
December 31, 2021

Public Hearing Notice

All property owners and citizens of Fairfield, Ohio are hereby notified that a joint public hearing between the Planning Commission and City Council has been scheduled for 7:00 PM on Monday, January 10, 2022 at the Fairfield Municipal Building at 5350 Pleasant Avenue, Fairfield Ohio, 45014. The purpose of the hearing is to solicit citizen input regarding a request to change the zoning of 3.5 acres of land from R-0 (One-Family Residence District) to Planned Unit Development. The applicant proposes to build a 10-lot subdivision with one existing house to remain, one open space lot, and 8 new single-family houses. The subject site is located on the east side of Pleasant Avenue, 200 feet south of Resor Road and across from Emerald Lake Subdivision.

Parties that wish to review the application may do so by visiting the Development Services Department located at the Fairfield Municipal Building or on the Development Services page on the City website at www.fairfield-city.org/devservices. Questions may be directed to the Department by telephone at (513) 867-5345 or via e-mail at development@fairfieldoh.gov. The Department is open Monday through Friday, between the hours of 8:00 AM and 5:00 PM.

Alisha Wilson
Clerk of Council

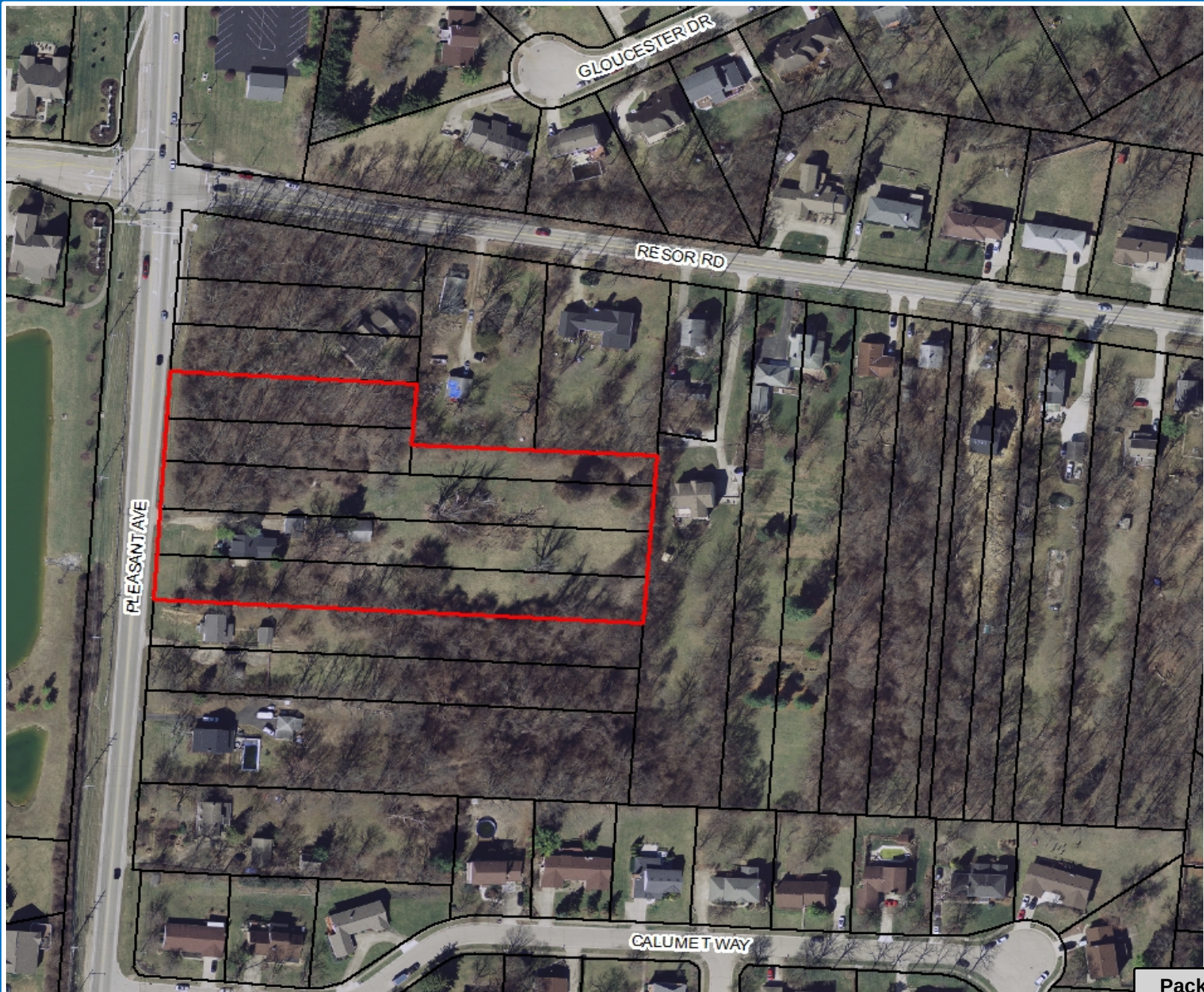
For insertion in the Journal News Friday, December 31, 2021

Minutes Acceptance: Minutes of Jan 10, 2022 7:00 PM (Approval of Minutes)

PUBLIC HEARING

5846 Pleasant Avenue Subdivision

January 10, 2022



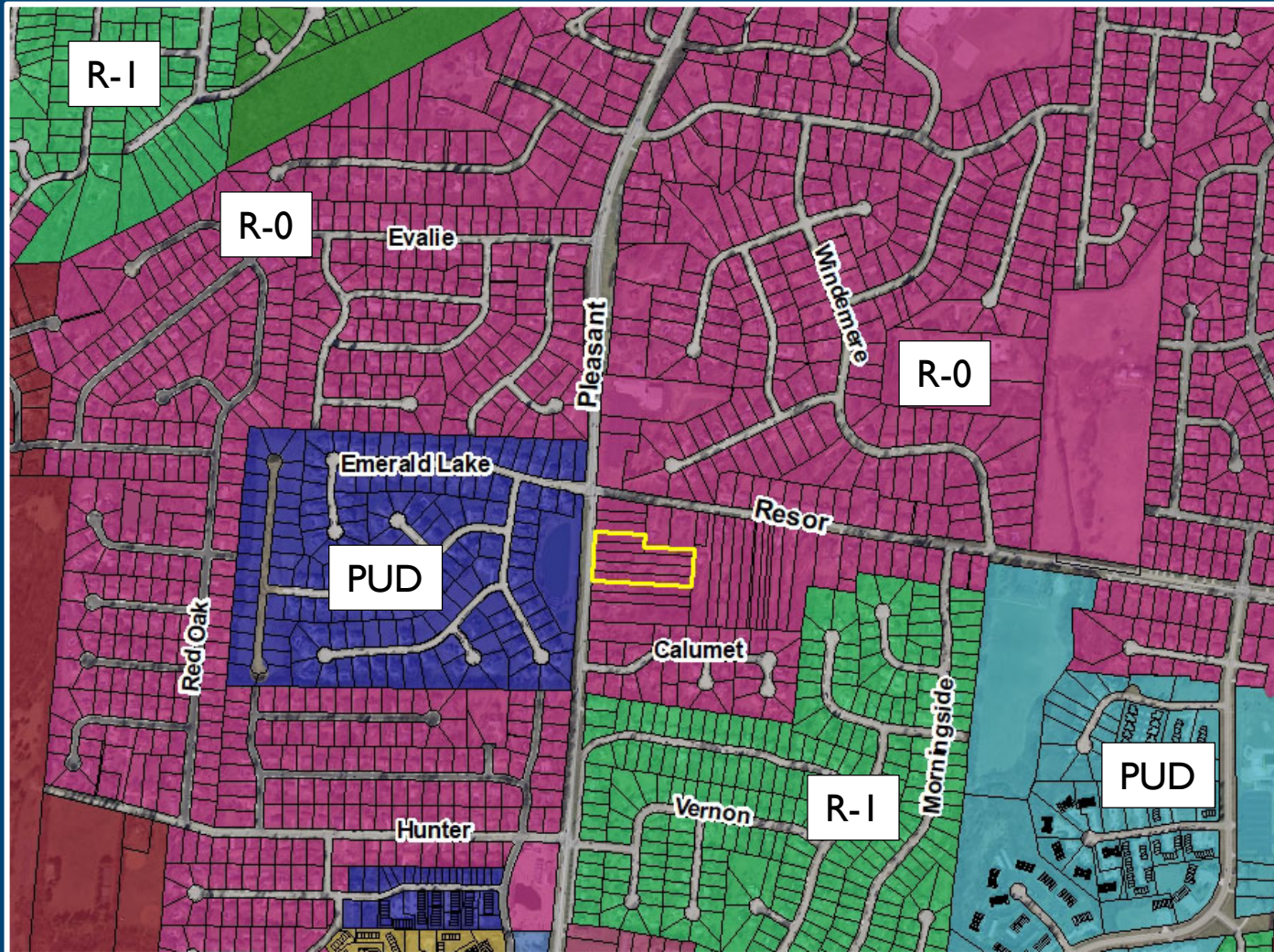


View of site



View of site
looking north

ZONING DISTRICT MAP



Zoning Districts
 R-0: Single-Family
 R-1: Single-Family
 PUD: Planned Unit
 Development
 (residential)



ELEVATION EXAMPLES



ELEVATION EXAMPLES



SCHEDULE

- Public Hearing – January 10 at 7:00 PM
- Planning Commission – January 12 at 6:00 PM
- Second Reading – January 24 at 7:00 PM
- Third Reading – February 14 at 7 PM
- * Dates may be delayed depending upon the outcome of Planning Commission

COMMENTS OR QUESTIONS?

Council Committee Assignments

Community & Public Relations

Chairman	<i>Leslie Besl</i>
Vice Chairman	Gwen Brill
Member	Tim Abbott

Vice Mayor

2022 Tim Abbott

Other Assignments

Development Services

Chairman	<i>Matt Davidson</i>
Vice Chairman	Terry Senger
Member	Dale Paullus

Parks & Rec Board

Gwen Brill

Planning Commission

Matt Davidson

Board of Zoning Appeals

Terry Senger

Community Improvement Corp

Tim Abbott

Parks & Rec Committee

Chairman	<i>Gwen Brill</i>
Vice Chairman	Matt Davidson
Member	Leslie Besl

OKI Representative

Matt Davidson

OKI Alt

Mitch Rhodus

Public Safety Committee

Chairman	<i>Tim Meyers</i>
Vice Chairman	Dale Paullus
Member	Leslie Besl

Design Review Committee

Dale Paullus

Public Utilities Committee

Chairman	<i>Dale Paullus</i>
Vice Chairman	Tim Abbott
Member	Tim Meyers

Emergency Management

Mitch Rhodus

Cultural Arts Advisory

Gwen Brill

Public Works Committee

Chairman	<i>Terry Senger</i>
Vice Chairman	Tim Meyers
Member	Matt Davidson

SELF Board

Leslie Besl

Butler Cty Gen Health District Adv Council

Terry Senger

Route 4 Improvement Com

Tim Meyers

Finance & Budget Committee

Chairman	<i>Tim Abbott</i>
Vice Chairman	Gwen Brill
Member	Terry Senger

Minutes Acceptance: Minutes of Jan 10, 2022 7:00 PM (Approval of Minutes)



City Council Ordinance
Regular Meeting - January 24, 2022

Submitted by: Erin Lynn, Planning Manager
Submitting Department: Development Services

Subject:

5846 Pleasant Avenue Rezoning

Legislation Title:

Ordinance amending Ordinance No. 166-84, the Codified Ordinances of Fairfield, Ohio, Section 1141.02, the City of Fairfield, Ohio, Zoning Map by approving the concept plan for the 5846 Pleasant Avenue Planned Unit Development.

Recommendation:

It is recommended that City Council have a first reading on this item at the December 13, 2021 meeting and set the joint public hearing date for January 10, 2022.

Background/Synopsis:

The property currently consists of six lots, five of which have direct frontage on Pleasant Avenue. The applicant is proposing to build a residential development consisting of 10 single-family lots. The development will consist of eight buildable lots, one open space lot, and one lot with an existing house that that will remain. The sizes and dimensions of the lots are smaller than the minimum size permitted in Fairfield. One street with a cul-de-sac is proposed.

Financial Impact:

None. This is a land use decision.

Emergency Provision Explanation:

NA

Rule Suspension Requested:

No

Emergency Provision Needed:

No

Attachments:

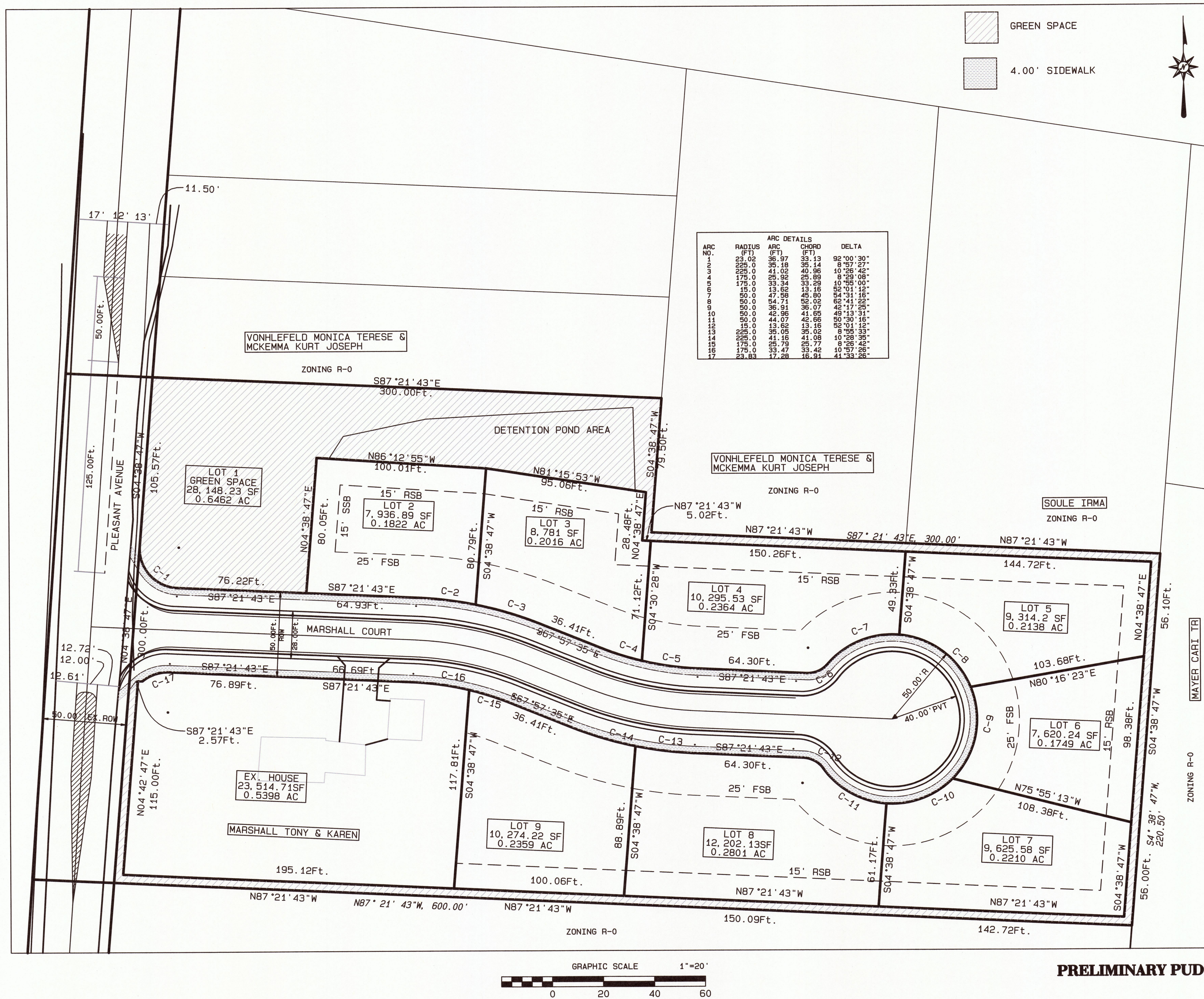
1. 5846 Pleasant Ave PUD_aerial map
2. 5846 PLEASANT PUD site plan_11.22.21
3. 5846 Pleasant Ave PUD-Ord

5846 Pleasant Avenue Subdivision PUD Request

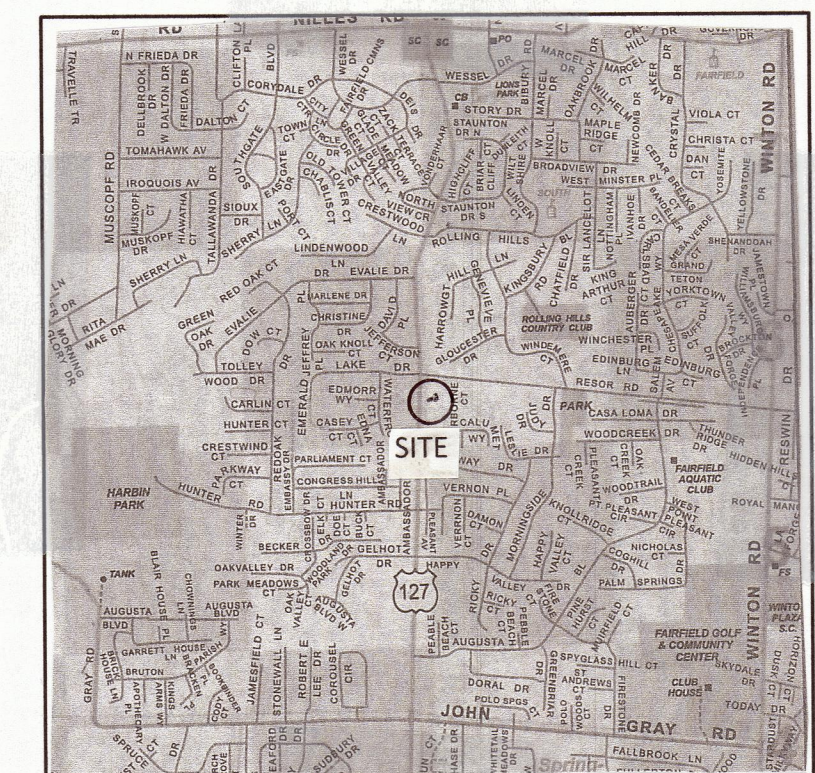
10.B.1.a



Attachment: 5846 Pleasant Ave PUD_aerial map (3042 : 5846 Pleasant Avenue Rezoning)



CONCEPT PUD PLAN 5846 PLEASANT AVENUE SUBDIVISION



VICINITY MAP (N. T. S.)

GENERAL NOTES:

1. NO FEMA FLOOD PLAIN EXISTS AT THE SITE
2. EXISTING RESIDENCE AND GARAGE BUILDING TO REMAIN
3. SUBDIVISION TO BE BUILT IN ONE PHASE
4. CONSTRUCTION IS PLANNED FOR 2022
5. ALL UTILITIES TO BE INSTALLED UNDERGROUND
6. CONCRETE SIDEWALKS TO BE INSTALLED BOTH SIDES OF THE STREET
7. WATER AND SEWER TO BE PROVIDED BY THE CITY OF FAIRFIELD
8. UTILITIES SUCH AS ELECTRIC AND CABLE TO BE INSTALLED BY DUKE ENERGY
9. ALL CONSTRUCTION WORK TO BE PERFORMED IN ACCORDANCE WITH THE CITY FAIRFIELD REGULATIONS
10. A HOME OWNERS ASSOCIATION WILL BE ESTABLISHED FOR MAINTAINANCE OF THE SUBDIVISION
11. A MINIMUM 5' GREEN SPACE HAS BEEN PROVIDED AROUND THE PERIMETER OF THE SUBDIVISION TOGETHER WITH A LARGE LOT DEDICATED AS GREEN SPACE IN THE FRONT NORTHWEST CORNER OF THE SITE.
12. PROPOSED ZONING= R-PUD, EXISTING ZONING= R-0

PROJECT SUMMARY

TOTAL PARCEL AREA= 3.525 ACRES
 TOTAL NO. OF LOTS = 9
 MINIMUM FRONTAGE AT BUILDING LINE= 68'
 MINIMUM LOT AREA = 7,500 SQ. FT. (0.17 ACRES)
 GREEN SPACE = 0.659 ACRES (18.03%)
 OVERALL DENSITY = 2.51 LOTS/ACRE
 EX. ZONING= R-0
 PROPOSED ZONING = R-PUD

STREET DATA AND BUILDING SETBACKS

PROPOSED 5846 PLEASANT AVENUE SUBDIVISION
 DEDICATED RIGHT OF WAY = 0.6509 ACRES
 STREET LENGTH = 478.27 L. F.

EXISTING PLEASANT AVENUE DEDICATED
 RIGHT OF WAY WITHIN PARCEL LIMITS= 0.3419 ACRES
 ROAD LENGTH = 299.82 L. F.

SETBACK DATA:
 FRONT YARD SETBACK (FSB) = 25'
 BACK YARD SET BACK (BSB) = 15'
 SIDE YARD SET BACK (SSB) MINIMUM = 7.5'
 SIDE YARD SET BACK (SSB) TOTAL = 15'

PROPOSED PLEASANT AVENUE LEFT TURN LANE STRIPING PARAMETERS:

DECELERATION LENGTH = 50'
 STOPPING AND STORAGE LENGTH= 125'
 MINIMUM LANE WITH = 11'

OWNERS:

TONY AND KAREN MARSHALL
 5846 PLEASANT AVENUE
 FAIRFIELD, OHIO 45140



11/17/21

DRAWING
 REV.: DATE: 11-17-21

Sheet 1 of 1

5846 PLEASANT AVENUE SUBDIVISION
 5846 PLEASANT AVENUE
 FAIRFIELD, OHIO 45150

ULTRA TECHNIC SERVICES, INC.
 6531 WEST CHESTER ROAD
 WEST CHESTER, OHIO 45069
 TEL.: 513-755-7879, FAX: 513-755-8923
 E-MAIL: AKOMOLEDE@AOL.COM

Designed By: OGA
 Drawn By: OGA
 Checked By: -
 Approved By: -

TONY AND KAREN MARSHALL
 5846 PLEASANT AVENUE
 FAIRFIELD OHIO 45140
 TEL.: 859-393-5159

ORDINANCE NO. _____

ORDINANCE AMENDING ORDINANCE NO. 166-84, THE CODIFIED ORDINANCES OF FAIRFIELD, OHIO, SECTION 1141.02, THE CITY OF FAIRFIELD, OHIO, ZONING MAP BY APPROVING THE CONCEPT PLAN FOR THE 5846 PLEASANT AVENUE PLANNED UNIT DEVELOPMENT.

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. The official Zoning Map of the City of Fairfield, Ohio, which is incorporated into Ordinance No. 166-84, The Codified Ordinances of Fairfield, Ohio, Section 1141.02, is hereby amended by changing the zoning classification of the 3.5 acres of land on the east side of Pleasant Avenue, approximately 200 feet south of Resor Road, located at 5846 Pleasant Avenue and being lots 3128, 3129, 3130 (2 parts), 3131 and 3132 of the City of Fairfield from its present R-O, One-Family Residence District, classification by approving the concept plan for the 5846 Pleasant Avenue Planned Unit Development, a copy of which plan, including the written terms and conditions which constitute a material part thereof, is on file in the office of the Clerk of Council and which are incorporated herein by reference.

Section 2. The Director of Development Services is hereby directed to change the official Zoning Map of the City of Fairfield, Ohio in accordance with this ordinance.

Section 3. This ordinance shall take effect at the earliest period allowed by law.

Passed _____ Mayor's Approval _____

Posted _____

First Reading _____ Rules Suspended _____

Second Reading _____

Third Reading _____

ATTEST:

Clerk of Council

Attachment: 5846 Pleasant Ave PUD-Ord (3042 : 5846 Pleasant Avenue Rezoning)

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

Active Clients\City of Fairfield\Ordinances\2021\5846 Pleasant Ave PUD-Ord

Attachment: 5846 Pleasant Ave PUD-Ord (3042 : 5846 Pleasant Avenue Rezoning)



City Council Ordinance
Regular Meeting - January 24, 2022

Submitted by: Ben Mann,
 Submitting Department: Public Works

Subject:

Resolution of Necessity to require repair and/or replacement of sidewalks

Legislation Title:

Resolution declaring necessity of repairing sidewalks (including aprons).

Recommendation:

It is recommended that City Council authorizes and directs the preparation of a Resolution of Necessity for the sidewalk/driveway apron repairs.

Background/Synopsis:

The City has completed the process of sidewalk inspection thereby requiring repair and/or replacement of sidewalks for 2022 by the abutting property owners.

This is an ongoing program that was implemented in 1994 to inspect sidewalks and approach aprons citywide. The program was designed to complete inspections of all city sidewalks on a four (4) year rotating basis. Marking of sidewalks and aprons citywide has been completed for the 2022 program year. There are approximately 526 property locations marked for repair or replacement (15 of these are City responsibility while the other 511 are resident/business owner responsibility). There are approximately 5,700 Square Feet of 4" (sidewalk), 4,000 Square Feet of 7" (driveway aprons) concrete, and 300 Square Feet of 9" (commercial driveway aprons) concrete marked for replacement. There are 398 locations currently marked for repair via the cutting method. The cutting method has been used for many years now as part of the sidewalk project and has proved an effective method for limiting damage to the adjacent lawn and inconvenience to the residents while also being a cost saving measure for the property owners.

In order to begin the assessment and notification process, it is necessary for City Council to pass a Resolution of Necessity to require repair of sidewalks and driveway aprons located in designated areas of all four wards that have not already been repaired by the abutting property owners.

Notices are sent out to the affected property owners, giving them a minimum of 60 days in which to complete the replacement. The property owner has two options, either have the work completed prior to the end of the 60-day notice, or have the city's contractor complete the work. Should the property owner have the city's contractor perform the work, payment is made via an invoice from the city or charged to the owner's property tax duplicate.

With this early notification, the property owner will have more than the 60-day time frame to complete the work, before the city's contractor begins work, if they so desire. At this time, the

city's contractor is anticipated to begin work sometime during the May/June timeframe.

Financial Impact:

No financial impact at this time.

Emergency Provision Explanation:

Not applicable.

Rule Suspension Requested:

No

Emergency Provision Needed:

No

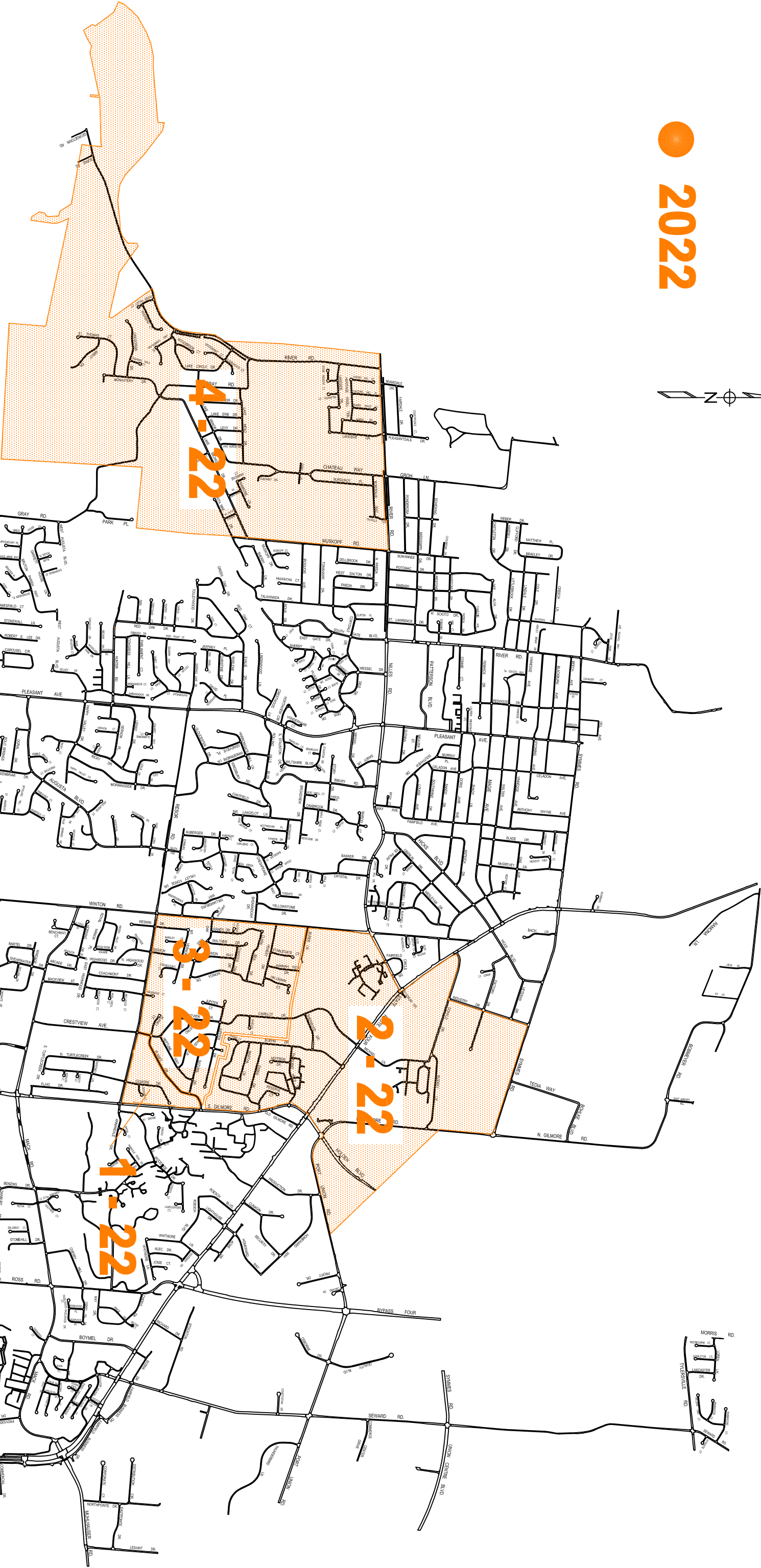
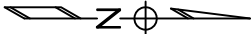
Attachments:

1. 2022 Sidewalk Program Map
2. Sidewalk-Res

Sidewalk Replacement Program



2022



CITY OF FAIRFIELD				JOB NO.	
370 North Giroux Road - Fairfield, Ohio (513) 887-4300					
NO.	DATE	REVISIONS	BY	DATE	
1				11/4/21	
SCALE			DESIGN-LAYOUT	DRAWN	CHECKED
N.T.S.			N.M.C.		1/1
TITLE SHEET				SIDWALK/APPRON REPLACEMENT MAP FAIRFIELD, OHIO	

RESOLUTION NO. _____

RESOLUTION DECLARING NECESSITY OF REPAIRING SIDEWALKS
(INCLUDING APRONS).

WHEREAS, the Public Works Director has heretofore prepared plans, specifications and an estimate of cost for the repair of certain sidewalks (including aprons) at the locations hereinafter set forth; and

WHEREAS, said plans, specifications and estimate of cost are now on file in the office of the Clerk of Council;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fairfield, Ohio, that:

- Section 1. It is necessary to repair certain sidewalks (including aprons) in the City of Fairfield, Ohio, at the addresses of the abutting properties which are shown in the cost estimates prepared by the Public Works Director and which cost estimates are on file in the office of the Clerk of Council and are incorporated herein by reference.
- Section 2. The plans, specifications and estimate of cost for said repair now on file in the office of the Clerk of Council be and the same hereby are approved.
- Section 3. The owners of each lot and parcel of land bounding and abutting upon the proposed sidewalks shall repair that portion of said sidewalks (including aprons) which abuts his/her property, in accordance with the plans and specifications now on file in the office of the Clerk of Council within thirty (30) days after service of notice of the passage of this resolution.
- Section 4. In the event any such abutting property owner does not complete the repair of that portion of such sidewalks (including aprons) which abut his/her property in accordance with said plans and specifications and within the time period as hereinbefore prescribed, then this Council shall cause the same to be done and the entire cost thereof shall be assessed upon the property of such abutting property owner.
- Section 5. The Clerk of Council be and she hereby is authorized and directed to serve notice of the passage of this resolution upon the owners of the lots and lands abutting upon said sidewalks (including aprons) in the manner provided by law.

Attachment: Sidewalk-Res (3052 : Resolution of Necessity to require repair and/or replacement of sidewalks)

Section 6. This Resolution shall take effect at the earliest period allowed by law.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	
Third Reading	_____	

ATTEST:

Clerk of Council

This is to certify that this Resolution has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

Active Clients\City of Fairfield\Ordinances\2022\Sidewalk-Res

Attachment: Sidewalk-Res (3052 : Resolution of Necessity to require repair and/or replacement of sidewalks)



City Council Ordinance
Regular Meeting - January 24, 2022

Submitted by: Alisha Wilson, Clerk
Submitting Department: Clerk

Subject:

Police Promotions

Legislation Title:

Ordinance to Amend Subsection 143.06, Promotions in the Police Department, of Ordinance No. 166-84, the Codified Ordinances of Fairfield, Ohio.

Recommendation:

It is recommended that Council adopt the promotional process outlined in this ordinance.

Background/Synopsis: In 2018, the City established three Classified positions of Major/Deputy Chief in the Police Department, but never established a promotional process for those positions. This proposed Ordinance establishes candidate eligibility and outlines the process to be conducted by the Civil Service Commission, which includes an Assessment Center.

Financial Impact: None

Emergency Provision Explanation: N/A

Rule Suspension Requested:

No

Emergency Provision Needed:

No

Attachments:

1. 143.06 Promotions in the Police Department
2. 2021-12-09 FFC 143.06 revised

ORDINANCE NO. _____

ORDINANCE TO AMEND SUBSECTION 143.06, PROMOTIONS IN
THE POLICE DEPARTMENT, OF ORDINANCE NO. 166-84, THE
CODIFIED ORDINANCES OF FAIRFIELD, OHIO.

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. Subsection 143.06, Promotions in the Police Department, of Ordinance No. 166-84, the Codified Ordinances of Fairfield, Ohio is hereby amended to read as follows: See Attached Exhibit "A".

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	
Second Reading	_____	
Third Reading	_____	

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

Active Clients\City of Fairfield\Ordinances\2021\143.06 Promotions in the Police Department

Attachment: 143.06 Promotions in the Police Department (3055 : Police Promotions)

EXHIBIT A**143.06 PROMOTIONS IN THE POLICE DEPARTMENT.**

(a) The provisions of Ohio R.C. 124.44 and any other section of the Ohio Revised Code notwithstanding, the following shall be the minimum period of service in lower rank in order to be eligible for promotion in the Police Department.

(b) No person in the Police Department shall be eligible to take a promotional examination for the position of sergeant in the Police Department who, prior to the date of the examination, has not served at least thirty-six consecutive months in the next lower rank of the Police Department with the City. No person in the Police Department shall be eligible to take a promotional examination for any position other than sergeant in the Police Department who, **IMMEDIATELY** prior to the date of the examination, has not served at least twelve consecutive months in the next lower rank.

(c) **WITH REGARD TO PROMOTIONS TO THE POSITION OF MAJOR/DEPUTY POLICE CHIEF, THE FOLLOWING SHALL APPLY:**

1. **WHENEVER A VACANCY OCCURS IN THE POSITION OF MAJOR/DEPUTY POLICE CHIEF IN THE FAIRFIELD POLICE DEPARTMENT AND NO ELIGIBILITY LIST FOR SUCH POSITION EXISTS, THE APPOINTING AUTHORITY SHALL CERTIFY THAT FACT TO THE CIVIL SERVICE COMMISSION, AND THE COMMISSION SHALL WITHIN NINETY (90) DAYS OF SUCH CERTIFICATION CONDUCT AN EXAMINATION WHICH MAY CONSIST PARTIALLY OR COMPLETELY OF A PERFORMANCE ASSESSMENT CENTER PROCEDURE AS DETERMINED BY THE COMMISSION.**
2. **THE EXAMINATION PROCEDURE SHALL BE OPEN TO THOSE INDIVIDUALS WHO HAVE ATTAINED AND HELD THE RANK OF POLICE SERGEANT IN THE FAIRFIELD POLICE DEPARTMENT FOR 12 CONSECUTIVE MONTHS IMMEDIATELY PRIOR TO THE DATE OF THE EXAMINATION AND WHO HOLD CURRENT OHIO PEACE OFFICER TRAINING ACADEMY (OPOTA) CERTIFICATION AS A POLICE OFFICER.**
3. **THE CIVIL SERVICE COMMISSION MAY ALSO DETERMINE IN ITS DISCRETION THAT THE EXAMINATION PROCEDURE SHALL BE OPEN TO OTHER QUALIFIED APPLICANTS WHO THE COMMISSION DETERMINES MEET THE QUALIFICATIONS CONTAINED IN THE JOB DESCRIPTION FOR THE POSITION OF MAJOR/DEPUTY POLICE CHIEF AND HOLD A CURRENT OHIO PEACE OFFICER TRAINING ACADEMY (OPOTA) CERTIFICATION AS A POLICE OFFICER.**
4. **ALL APPLICANTS MUST BE WITHIN CERTAIN LIMITATIONS TO BE DETERMINED BY THE CIVIL SERVICE COMMISSION AS TO CITIZENSHIP, RESIDENCE, AGE, EXPERIENCE, EDUCATION, HEALTH, HABIT AND MORAL CHARACTER.**
5. **AFTER SUCH EXAMINATION/ASSESSMENT CENTER PROCEDURE HAS BEEN HELD, AN ELIGIBILITY LIST SHALL BE ESTABLISHED IN ACCORDANCE WITH THE RULES OF THE COMMISSION AND THE COMMISSION SHALL CERTIFY TO THE APPOINTING AUTHORITY THE**

Attachment: 2021-12-09 FFC 143.06 revised (3055 : Police Promotions)

NAMES OF THE FIVE (5) PERSONS STANDING HIGHEST ON SUCH LIST. UPON SUCH CERTIFICATION, THE APPOINTING AUTHORITY SHALL APPOINT ONE OF THE FIVE (5) PERSONS SO CERTIFIED WITHIN THIRTY (30) DAYS.

- 6. ELIGIBILITY LISTS FOR THE POSITION OF MAJOR/DEPUTY POLICE CHIEF SHALL BE EFFECTIVE FOR ONE YEAR, UNLESS EXTENDED BY THE CIVIL SERVICE COMMISSION FOR AN ADDITIONAL PERIOD NOT TO EXCEED ONE YEAR.**
- 7. WHEN AN ELIGIBILITY LIST IS IN EXISTENCE AND A VACANCY OCCURS IN THE POSITION OF MAJOR/DEPUTY POLICE CHIEF, THE APPOINTING AUTHORITY SHALL CERTIFY THAT FACT TO THE CIVIL SERVICE COMMISSION. THE FIVE (5) PERSONS STANDING HIGHEST ON SUCH LIST SHALL BE CERTIFIED TO THE APPOINTING AUTHORITY, AND ONE OF SUCH PERSONS SHALL BE APPOINTED WITHIN THIRTY (30) DAYS AFTER SUCH CERTIFICATION.**
- 8. WHEN LESS THAN FIVE (5) NAMES REMAIN ON AN ELIGIBILITY LIST, THE NAMES SHALL BE CERTIFIED BUT APPOINTMENT FROM SUCH NAMES OR LIST SHALL NOT BE MANDATORY.**
- 9. THERE SHALL BE NO CREDIT GIVEN OR ADDED TO THE EXAMINATION SCORE OR RANKING OF ANY APPLICANT FOR THE POSITION OF MAJOR/DEPUTY POLICE CHIEF FOR SENIORITY OR EFFICIENCY IN THE SERVICE OF THE CITY OR FOR MILITARY SERVICE. THERE SHALL BE NO PREFERENCE GIVEN ON THE EXAMINATION SCORE OR IN THE RANKING OF THE APPLICANTS FOR THE POSITION OF MAJOR/DEPUTY POLICE CHIEF TO ANY CURRENT OR FORMER EMPLOYEE OF THE CITY OF FAIRFIELD, OHIO.**

(e) (d) Except as specifically modified in this chapter or otherwise inconsistent with the provisions of this chapter, the provisions of Ohio R.C. 124.44 and all other applicable sections of the Ohio Revised Code relative to promotions in the Fairfield Police Department shall remain in full force and effect.



City Council Action Item
Regular Meeting - January 24, 2022

Submitted by: Alisha Wilson, Clerk
Submitting Department: Clerk

Subject:

2022 Boards/Commissions Appointments

Legislation Title:

Simple Motion: Motion to approve the following 2022 Boards/Commissions Appointments effective January 24, 2022: Alex Saurber - Board of Zoning Appeals (term expires 3/31/24) Tonya Charles - Civil Service Commission (term expires 3/31/22)

Recommendation:

It is recommended that City Council, via simple motion, appoint the following residents to serve on the various boards and commissions **effective January 24, 2022:**

Alex Saurber - Board of Zoning Appeals (term expires 3/31/24)
Tonya Charles - Civil Service Commission (term expires 3/31/22)

Background/Synopsis: Council was notified in December 2021 of mid-term vacancies on the Board of Zoning Appeals and Civil Service Commission. Advertising for these vacancies began on December 7, 2021 and concluded on January 7, 2022. Interviews of candidates for these vacancies were held on January 15, 2022.

Rule Suspension Requested:

Emergency Provision Needed:



City Council Ordinance
Regular Meeting - January 24, 2022

Submitted by: Nathaniel Kaelin, Economic Development Manager
 Submitting Department: Development Services

Subject:

Fairfield Cleaners Brownfield Remediation Project

Legislation Title:

Ordinance to authorize submission of an application to the Ohio Department of Development's Brownfield Remediation Program for environmental remediation activities at the former Fairfield Cleaners property at 1099 Magie Avenue, including authorizing the Acting City Manager to execute associated documents and enter into a contract for professional services with Patriot Engineering and Environmental, Inc., and declaring an emergency.

Recommendation:

It is recommended that City Council suspend the rules requiring a second and third reading of this ordinance and pass as an emergency.

Background/Synopsis:

Ohio House Bill 110, the 2021 State Biennium Budget, created a \$350 million Brownfield Remediation Grant Program to assist in the remediation of hazardous substances at brownfield properties. Brownfields are defined as abandoned, idled, or under-used industrial, commercial, or institutional properties where expansion or redevelopment is complicated by known or potential releases of hazardous substances or petroleum. The grant program is administered by the Ohio Department of Development and funds will be disturbed during competitive statewide application rounds. Applications for the first round must be submitted no later than January 31, 2022. Only units of local government, such as cities and townships, are eligible applicants.

City staff was approached by the Hicks Manor Realty Company, Inc. ("Hicks"), the property owner of the former Fairfield Cleaners property located at 1099 Magie Avenue. Fairfield Cleaners was a retail dry cleaners that operated for more than 50 years at the site and closed in recent years. Dry cleaners use chemicals such as tetrachloroethylene (known as "PCE") to clean textiles. Hicks has engaged environmental consultants that analyzed the property and determined that the dry cleaning operations resulted in levels of PCE and other related chemicals in the soils beneath the site. The presence of these chemicals limits the ability to reoccupy the building and/or redevelop the property.

Hicks has requested that the City of Fairfield submit a grant application to the Brownfield Remediation Program to remediate the soils and groundwater at the Fairfield Cleaners property. If awarded, the grant funds will allow the property to be cleaned to acceptable levels, as determined by the Ohio Environmental Protection Agency ("OEPA"), and allow for the preparation of a No Further Action ("NFA") letter from a certified professional which will result in a Covenant Not to

Sue (“CNS”) from OEPA. Receipt of a CNS provides comfort to future owners or occupants that a property is safe for reuse.

Hicks has engaged Patriot Engineering and Environmental Inc., an environmental consultant, to serve as the certified professional overseeing the remediation activities. The remediation activities and associated documentation are expected to be approximately \$1 million. The grant requires a 25% match, which the property owner has agreed to pay.

Financial Impact:

The grant funding and property owner will bear the costs of the brownfield remediation activities. The city is only expected to incur minor administrative costs and will benefit long-term through the productive reuse of the property, resulting in future property and income tax revenues.

Emergency Provision Explanation:

It is recommended that City Council suspend the rules requiring a second and third reading of this ordinance and pass as an emergency. This is necessary to ensure the grant can be submitted during the first round of grant funding.

Rule Suspension Requested:

Yes

Emergency Provision Needed:

Yes

Attachments:

1. Fairfield Cleaners - Contract for Professional Services
2. Development_Brownfield_Remediation_Program_Guidelines_12_2021
3. Fairfield Cleaners-Ord

CONTRACT FOR PROFESSIONAL SERVICES (Fairfield Cleaners Brownfield Cleanup)

This Agreement is entered into this _____ day of _____, 2022, by and between the City of Fairfield, Ohio, (hereinafter referred to as "City"), 5350 Pleasant Avenue, Fairfield, Ohio 45014, and Patriot Engineering and Environmental, Inc. (hereinafter referred to as "Company").

In consideration of the promises herein below delineated parties do hereby agree as follows:

1. The City retains the Company to provide professional services for engineering and environmental needs of the former Fairfield Cleaners property located at 1099 Magie Avenue, Fairfield, Ohio 45014, in accordance with Company's standard terms and conditions and Scope of Work attached hereto and incorporated herein as **Exhibit A**.
2. The Company shall prepare an Ohio Department of Development Brownfield Cleanup Grant Application in which City of Fairfield will be the grantee and upon award, the Company is authorized to implement the grant and will complete the activities as stated in the grant agreement with the Ohio Department of Development ("Grant Agreement").
3. The purpose of the grant application is to secure funding necessary to complete an Ohio Voluntary Action Program (VAP) assessment/cleanup of the release from the former dry cleaners located at 1099 Magie Avenue following the requirements of the OEPA VAP for the referenced site, as further described in **Exhibit A – Scope of Work**.
4. Company represents that it has sufficient training, expertise, staffing, and experience to professionally provide those services as delineated in the Scope of Services.
5. The Company shall be paid solely from the funds distributed by and in accordance with the terms of the ODOD Brownfield Remediation Program or the third party match requirement. The Company will prepare the grant application and upon award of the grant, the Company will complete the Grant Agreement stated activities for the grant amount. The City shall not be responsible to Company for any costs or fees associated with any work performed by the Company that are not provided for in the grant award.
6. Modifications of this contract must be in writing and executed by the parties prior to such change actually being effected. There will be no reimbursement for work outside the scope of this contract or fees and expenses beyond the funds distributed by and in accordance with the terms of the Brownfield Remediation Program or the third party match requirement.
7. To the fullest extent permitted by law, the Company shall release, indemnify, defend and hold harmless the City of Fairfield and its representatives, officers, employees and agents for, from, and against any and all claims, liabilities, fines, penalties, costs, damages, losses, liens, causes

of action, suits, demands, judgments, and expenses (including without limitation, courts costs, reasonable attorneys' fees and costs of investigation, removal, and remediation and governmental oversight costs) environmental or otherwise of any nature, kind, or descriptions of any person or entity director or indirectly arising out of, resulting from or related to the services provided or to be provided under this contract.

8. Irrespective of any and all statements to the contrary, as are set forth in the Company's Terms and Conditions in Exhibit A attached hereto or otherwise, the City SHALL NOT AND DOES NOT waive any claim or claims against the Company.
9. Irrespective of any and all statements to the contrary, as set forth in the Company's Terms and Conditions in Exhibit A attached hereto or otherwise, the City SHALL NOT AGREE AND DOES NOT AGREE to defend, indemnify or hold harmless the Company, in any manner whatsoever.
10. The Company acknowledges that it is an independent contractor, is not an employee of the City, and will be responsible accordingly.
11. Company agrees to comply with all federal, state and local laws, statutes, regulations, ordinances and resolutions during the execution of this contract.
12. Company shall carry commercial general liability insurance for bodily injury, personal injury, property damage, and any damages or losses sustained as a result of any and all activities related to the services provided or to be provided under this contract in an amount not less than the limits stipulated in their current Certificate of Liability Insurance included in Exhibit A while performing any services for the City in accordance with the terms of this contract and shall provide to the City a Certificate of Insurance, listing the City as additional insured, as proof of the compliance with this condition.

The Company shall maintain the said commercial general liability insurance until a No Further Action Letter ("NFA Letter") is issued as to the property located at 1099 Magie Avenue, Fairfield, Ohio.
13. Company shall provide and maintain such insurance as will protect the Company from claims under Worker's Compensation, occupational sickness or disease, disability benefit and other similar mandatory employee benefit acts.
14. As part of the consideration of this contract, Company represents that it has no outstanding tax liens of any type, real or personal, in the names of the company and/or its officers or partners. Further, the Company and its principals have made no contributions to the City's Elected Officials in violation of Title 35 of the Ohio Revised Code.

15. When appropriate, the City reserves the right to require of the Company, contractor, or sub-contractors or other persons involved in the provision of services under this contract, appropriate affidavits in accordance with Chapter 1311 of the Ohio Revised Code.
16. The Company agrees to comply with and perform all terms, requirements, and duties that are required of the City by the Grant Agreement.
17. In the event that the Company fails to perform to the satisfaction of the City, the City may give or cause to be given notices in writing to the Company, whereupon the Company shall have thirty (30) days to remedy said performance. If, after thirty days following such notice, the Company has failed to remedy the performance to the City's satisfaction all rights of the Company under this Contract may, at the option of the City, thereupon terminate.
18. This agreement shall be construed in accordance with laws of the State of Ohio and any action on the agreement shall be venued in Butler County, Ohio. In the event that any court of competent jurisdiction should determine that any provision of this agreement is unenforceable or in any manner illegal, then such provision shall be deemed null and void and this contract shall be interpreted as if such provision has never been included and the exclusion of any such provision shall not be deemed a revocation or nullification of this agreement in its entirety.
19. Performance of the work shall be complete in conformance with the terms of the Grant Agreement between the City and the Ohio Department of Development including, but not limited to, the project completion data.
20. Any waiver by the City of a breach of this agreement shall not be construed as a waiver of any subsequent breach.
21. The invalidity or unenforceable of any provision of this agreement shall not affect the validity of the remaining terms and condition.
22. This contract shall terminate upon the termination of the Grant Agreement.
23. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTRAINED HEREIN, IN NO EVENT SHALL THE CITY OR THE COMPANY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL SPECIAL, RELIANCE OR PUNITIVE DAMAGES EVEN IF ADVISED OF THE POSSIBILITY THEREOF.
24. The delivery of a signed copy of this contract by Facsimile Transmission (fax) or by e-mail transmission in Portable Digital Format (pdf) shall constitute effective execution and delivery of this contract as to the parties; and will create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such sax or pdf signature page were an original agreement. Signature of the parties to this

contract transmitted by facsimile of PDF will be deemed to be their original signatures for all purposes.

IN WITNESS WHEREOF, the parties have hereunto executed this agreement in duplicate with the intent to be legally bound thereby.

WITNESS:

Signature

Name

COMPANY:

Signature

Name

Title

Date

ATTEST:

CITY OF FAIRFIELD

BUTLER & HAMILTON COUNTIES, OHIO

Donald G. Bennett, Acting City Manager

Approved as to form by:

Approved as to content by:

John H. Clemmons
Fairfield City Law Director

Greg Kathman
Fairfield Development Services Director

Exhibit A

CITY OF FAIRFIELD SCOPE OF WORK
Fairfield Cleaners/1099 Magie Avenue
ODOD BROWNFIELD CLEANUP GRANT PROGRAM

- ❖ Introduction – Purpose & Timeline
 - The purpose of the grant application is to secure the required funding to remediate chemicals of concern released to the environment and develop appropriate documentation to prepare a No Further Action letter under the Ohio Voluntary Action Program, resulting in a Covenant Not to Sue.
 - The timeline to secure the grant is approximately 60-90days.
 - Cleanup timeline is 18-24 months following grant award.
- ❖ Required activities to secure the assessment grant –
 - Ohio Voluntary Action Program Phase I Property Assessment,
 - The future owner needs a Phase I before they close on the property to avail themselves to the Innocent Landowner defense under CERCLA.
 - If the Phase I ESA was conducted as part of the due diligence for a commercial real estate transaction, it is intended to constitute all appropriate inquiries (AAI) into the previous ownership and uses of the property consistent with good commercial and customary practice as defined in the Comprehensive Response, Compensation and Liability Act (CERCLA), that will qualify a party to a commercial real estate transaction for one of the threshold criteria for satisfying the Landowner Liability Protections (LLPs) to CERCLA liability, assuming compliance with other elements of the defense. The Phase I ESA does not address whether requirements in addition to AAI have been met to qualify for LLPs.
 - Review all previously completed assessment work.
 - Prepare and submit an ODOD Cleanup Grant Application prior to January 31, 2022.
- ❖ Grant activities –
 - Complete an aggressive in-situ chemical oxidation remedial plan.
- ❖ ODOD Cleanup Grant–
 - Prepare an aggressive cleanup plan.
 - Implement the cleanup plan.
 - Prepare a No Further Action letter.
 - Obtain a Covenant Not to Sue from OEPA.



Department of Development

Brownfield Remediation Program Guidelines

The Brownfield Remediation Program was created to award grants for the remediation of brownfield sites throughout Ohio, to assist in the remediation of hazardous substances or petroleum at an industrial, commercial, or institutional property. Remediation includes acquisition of a brownfield, demolition performed at a brownfield, and the installation or upgrade of the minimum amount of infrastructure that is necessary to make a brownfield operational for economic development activity.

These program guidelines expand on statutory terms and requirements included in Ohio Revised Code (ORC) Sections 122.65 and 122.6511.

Availability of Funding

Nearly \$350 million in funds are available and were provided to the Ohio Department of Development (Development) through the 2021 state biennium budget bill, House Bill 110. Funding of \$1 million will be set aside for each county in Ohio. If the minimum funds set aside per county are not obligated by June 30, 2022, funds will become available to all eligible projects. Remaining funds will be available on a first-come, first-served basis.

Eligible Applicants

An eligible applicant is defined as a county, township, municipal corporation, port authority, or conservancy district or a park district, or other similar park authority. These entities are collectively referred to as "units of local government".

Other eligible applicants include a county land reutilization corporation, nonprofit organization, or organization for profit. These entities must have entered into an agreement with a unit of local government to work in conjunction on the project for the purposes of this program. A copy of the agreement must be provided within the application.

Entities that caused or contributed to the contamination at the property are not an eligible partner or applicant. If the entity that caused or contributed to the contamination is the property owner, a purchase agreement transferring the property to the applicant or non-labile third party must be included in the application.

Eligible Properties

Properties are only eligible if they meet the definition of a brownfield. A "brownfield" is defined as an abandoned, idled, or under-used industrial, commercial, or institutional property where expansion or redevelopment is complicated by known or potential releases of hazardous substances or petroleum. The contamination to be remediated is required at the subsurface level, unless remediation is needed to gain access to the subsurface contamination (i.e. building demolition) in order to contain the contaminant (i.e. asbestos abatement). If no known or potential

releases of hazardous substances or petroleum are identified by a Phase I property assessment, but a building or structure with documented asbestos is present, the property is eligible to prevent a future release during planned demolition or renovation activities.

If the property is eligible for the Ohio Environmental Protection Agency's (OEPA) Voluntary Action Program (VAP), based on the substance on the property (i.e. petroleum or other hazardous contamination vs. asbestos contamination), the funds should be used to obtain a "Covenant-Not-To-Sue" from the OEPA. Properties that contain more than one parcel are eligible to apply as one property. The parcels must be contiguous. Parcels separated only by a street, alley or railroad track are considered contiguous. Additional parcels must meet the eligibility criteria outlined above.

The applicant must demonstrate that it possesses all necessary legal access to the property to complete the project. If the property or any portions of the property are subject to a lease agreement, the application must include a copy of the lease agreement or other agreement that provides the applicant with legal access to complete the project. An asbestos survey needs to be completed and included in an application if any demolition is intended to occur on the property.

Eligible Costs

Applicants may apply for funds for "Assessment" or "Cleanup/remediation".

Assessment is defined as a phase I and phase II property assessment conducted in accordance with section [3746.04](#) of the ORC and/or an asbestos survey for an asbestos abatement. The maximum award available for assessment costs is \$300,000.

Cleanup/remediation is defined as any action to contain, remove, or dispose of hazardous substances at a brownfield. This includes the acquisition (limited to 10% of the total request, not to exceed the county auditor property value) of a brownfield, demolition performed at a brownfield and the installation or upgrade of the minimum amount of infrastructure that is necessary to make a brownfield operational for economic development activity. The maximum award available for cleanup/remediation costs is \$10 million.

Administrative costs (maximum of 10% of the total request) are for costs related to submitting reimbursement requests and submitting reporting information, as requested by Development. Administrative costs must adhere to all uniform cost guidance. The costs associated with the crafting of a "No-Further Action" or CNS report and the fee to OEPA are an eligible administrative cost.

Costs related to employing a certified professional are eligible.

Prevailing Wage Rates and Labor Standards: Applicants will comply with the provisions of ORC Sections 4115.03 to 4115.16, inclusive, as applicable, with respect to the payment of all mechanics and laborers employed in construction work financed with grant funds.

Total project awards are determined at Development's discretion.

Ineligible Costs

Administrative costs related to application preparation and legal counsel related to the application or project implementation are not eligible.

Costs incurred prior to the grant agreement beginning date are not eligible.

Costs related to site clearance (i.e. clearing, grubbing, removing solid waste) are not eligible.

Matching Funds

For projects awarded through the dedicated county portion (\$1 million set-aside), match is not required. For projects awarded outside of the county's dedicated portion, Development can only award up to 75% of the total project cost, with a maximum award of \$10 million. Match funds are funds that are used toward equivalent eligible costs. Acceptable sources of match funds may include local government, state government, federal government and by for-profit or nonprofit entities. If applicable, applicants must maintain the required minimum percent match throughout the project. If at the conclusion of the project, financial accounting indicates that the actual cost is less than the estimated, the applicant shall refund the amount necessary to maintain funding percentages in the grant agreement. Applicants are encouraged to submit an application including match funds if available.

For the purposes of this program, future in-kind costs can be considered as an eligible expense for match. Funds that were utilized previously, within the last two years may also be used for match.

Application Evaluation Criteria

Applicants shall submit one application per property. Each application will be reviewed based on information received and will be screened for completeness and eligibility. If an application is determined to be incomplete, Development will contact the applicant and the applicant will have 14 business days to provide additional information.

Application Process

Each county has been provided \$1 million in dedicated funding through June 30, 2022. Development will monitor applications, and after \$1 million in awards per county have been allocated, additional funding will be awarded through the remaining statewide program funds. As mentioned above, applications awarded after the county's dedicated portion must include match funds within the application. Development can only award up to 75% of the total project cost.

In order to access the application, individuals will be required to login using an existing OH|ID or create a new OH|ID, which provides users with secure access to state of Ohio services and programs. For more information on creating an OH|ID, please click [here](#).

The application process for the program will occur in three rounds. Round one will be open upon the release of these guidelines, and the application will be available to submit until January 31, 2022. Development will review applications and award funding at the conclusion of round one. There can be more than \$1 million in requests from a county, but only the first \$1 million of awards do not require the ORC-mandated match requirements outlined above. Development will prioritize the \$1 million dedicated portion to first fund eligible projects that do not have a match available for the project.

If after the first round, the first \$1 million in awards have not been obligated, development will review what counties have not utilized their full \$1 million allocation of dedicated funds, and inform the respective Board of County Commissioners of the availability of funds prior to the second round. Round two will open on March 1, 2022, for those counties that still have funds from their dedicated set-aside available. Round two will conclude on April 30, 2022.

Round three will open on July 1, 2022, to utilize the remaining portion of the state funding if available, and will include portions of the county set-asides that were not expended in rounds one and two. Round three will remain open until September 30, 2022, or until funds have been

depleted.

At the conclusion of each round, Development will review applications and award funds. Awarded funds outside of the dedicated county portion will be reviewed and awarded on a “first-come first-served” basis, as dictated in ORC 122.65(C)(3).

Upon submission of a complete application, the applicant will receive an email from Development confirming that the application has been received. Submission of an application does not ensure the applicant will be awarded funds. Applications will be reviewed for completeness. Development may request additional information from the applicant. Applicants will have 10 business days from the date of the request to submit the requested information. If the additional information is not submitted within the requested timeframe, this may result in the application being determined ineligible for funding during that round. If Development determines that an application is ineligible the applicant will be notified that the application has not been accepted for funding during that round. The applicant may apply during subsequent rounds if funding remains available.

Awards will be given until funds are depleted. Awarded projects should commence activities within six months of receiving a fully executed agreement. Funds may be reallocated for projects that cannot comply.

Eligible applicants will be required to provide the following on each application:

- Federal Employer Identification Number (FEIN)
- Application type: assessment or cleanup/remediation
- Applicant contact information (indicate a primary contact)
- Project name
- Former project name(s)
- Name of property owner (if not applicant)
- Project location (city/village)
- County(ies) to be served
 - If more than one county, indicate primary county
- Indicate if the applicant has access to the property
- Description of current ownership access
- Indicate if the Median Household Income for the area is less than the state-wide average
- Indicate if the community unemployment rate is greater than the current state-wide average
- Indicate any other economically distressed criteria impacting the community served
- Project history
- Number of vacant structures
- Number of occupied structures
- Current conditions of structures
- Description of known or potential project impediments including VAP program eligibility.
- Information on property boundaries
- Identify if property boundaries are governed by a regulatory program other than VAP
- Description of demolition and/or cleanup activities proposed
- Project readiness including start and end date and project timeline
- Description of the redevelopment activities planned
- Number of anticipated new jobs
- Number of anticipated jobs retained
- Total project costs
- Total requested amount
- Project budget and match budget including sources
- Documentation (as applicable)
 - Supporting resolution or ordinance
 - Survey or plat map

- Access or purchase agreement
- Clean hands affidavit
- Environmental assessment reports
- Project match documentation
- Remediation plans
- Other

Reimbursement Requests

Once a project has been identified by Development to receive a grant award, the Department will notify the eligible applicant of the process to receive grant funds. An Ohio Supplier ID is required for disbursement. If the eligible applicant does not currently have an Ohio Supplier ID, the business will be required to register for an Ohio Supplier ID at [Supplier.Ohio.gov](https://supplier.ohio.gov). Businesses will only be able to receive an award once a valid Ohio Supplier ID matching the FEIN/SSN provided in the application has been obtained and is verified by Development. Applicant businesses that need assistance obtaining an Ohio Supplier ID or need to make changes to an existing Ohio Supplier ID should visit: <https://supplier.ohio.gov/wps/portal/sp/suppliers/help-center>.

Development may request additional documentation in support of the reasonable and necessary costs.

ORDINANCE NO. _____

ORDINANCE TO AUTHORIZE SUBMISSION OF AN APPLICATION TO THE OHIO DEPARTMENT OF DEVELOPMENT'S BROWNFIELD REMEDIATION PROGRAM FOR ENVIRONMENTAL REMEDIATION ACTIVITIES AT THE FORMER FAIRFIELD CLEANERS PROPERTY AT 1099 MAGIE AVENUE, INCLUDING AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE APPLICATION AND ASSOCIATED DOCUMENTS AND ENTER INTO A CONTRACT FOR PROFESSIONAL SERVICES WITH PATRIOT ENGINEERING AND ENVIRONMENTAL, INC., AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

- Section 1. The Acting City Manager is hereby authorized to execute and submit an application to the Ohio Department of Development's Brownfield Remediation Program for Environmental Remediation Activities at the former Fairfield Cleaners property at 1099 Magie Avenue, including authorizing the Acting City Manager to execute associated documents and enter into a contract for professional services with Patriot Engineering and Environmental, Inc. in accordance with the application and agreement on file in the office of the Acting City Manager.
- Section 2. This Ordinance is hereby declared to be an emergency measure necessary for the urgent benefit and protection of the City and its inhabitants for the reason that the grant application can be submitted during the first round of grant funding by January 31, 2022; wherefore, this ordinance shall take effect immediately upon its passage.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	Emergency _____
Third Reading	_____	

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

Active Clients\City of Fairfield\Ordinances\2022\Fairfield Cleaners-Ord

Attachment: Fairfield Cleaners-Ord (3068 : Fairfield Cleaners Brownfield Remediation Project)



City Council Resolution
Regular Meeting - January 24, 2022

Submitted by: Nathaniel Kaelin, Economic Development Manager
 Submitting Department: Development Services

Subject:

Resolution approving Petition for InnoMark PACE Project

Legislation Title:

A Resolution approving the Petition for Special Assessments for Special Energy Improvement Projects under Ohio Revised Code Chapter 1710 and declaring the necessity of acquiring, constructing, and improving certain public improvements in the City of Fairfield in cooperation with the Fairfield, Liberty, Monroe Energy Special Improvement District and declaring an emergency.

Recommendation:

It is recommended that City Council suspend the rules requiring a second and third reading of this ordinance and pass as an emergency.

Background/Synopsis:

InnoMark Communications, a visual marketing company located at 420 Distribution Circle in Fairfield, reached out to the city with an interest to upgrade its manufacturing building. The proposed improvements, which include roof and HVAC replacement, are eligible for financing through a program known as PACE. This is the first of three City Council action items to facilitate a PACE transaction for InnoMark.

PACE, which stands for Property Assessed Clean Energy, is a program authorized in the Ohio Revised Code (ORC) that can be used to finance energy efficiency and renewable energy building improvements. Improvements financed with PACE financing are repaid through special assessments that are collected as a separate line on a real estate tax bill.

A local government has several roles to facilitate a PACE project within its borders. The local government must create or join an Energy Special Improvement District (ESID), which is a non-profit corporation established to review eligibility and approve PACE projects. Local governments also approve, receive, and distribute the special assessment. In the event of a default for any reason, local governments are not held liable.

The City of Fairfield has been invited to join an ESID that has been previously established by the City of Monroe and Liberty Township. Joining this existing ESID reduces start-up and ongoing costs, and also allows the city to leverage the expertise of the ESID Board of Directors. Fairfield will receive two seats on the ESID board, providing representation equal to the other jurisdictions.

Approval of this resolution will accept a petition from Three Rivers Partnership, LLC, the

ownership entity for the real estate occupied by InnoMark, which describes the proposed improvements and requests that the city levy the special assessment. The resolution also approves several other documents, including a Program Plan, Supplemental Plan, and Articles of Incorporation for the project and ESID. This action will establish Fairfield's membership in the now-Fairfield, Liberty, Monroe ESID and will appoint the Director of Finance and Economic Development Manager as board members.

Financial Impact:

Innomark Communications plans to invest in its manufacturing facility at 420 Distribution Circle, providing for the retention of its operations in the community and associated income and property tax revenue.

Emergency Provision Explanation:

It is recommended that City Council suspend the rules requiring a second and third reading of this ordinance and pass as an emergency.

Rule Suspension Requested:

Yes

Emergency Provision Needed:

Yes

Attachments:

1. Resolution Approving Petition for InnoMark PACE Project
2. InnoMark PACE - Petition and Supplemental Plan

Resolution No. _____

Passed: _____

A Resolution approving the Petition for Special Assessments for Special Energy Improvement Projects under Ohio Revised Code Chapter 1710, declaring the necessity of acquiring, constructing, and improving certain public improvements in the City of Fairfield in cooperation with the Monroe, Liberty Energy Special Improvement District, and appointing board members.

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

WHEREAS, the Monroe, Liberty Energy Special Improvement District, Inc. d/b/a I-75 Energy Special Improvement District, Inc. (the “District”) was created under Ohio Revised Code Chapters 1702 and 1710 as an ESID and established pursuant to Resolution No. 53-2019 of the Council of the City of Monroe, Ohio approved on January 14, 2020 (the “Creation Resolution”); and

WHEREAS, effective April 12, 2021, House Bill 444 of the 133rd General Assembly of the State of Ohio amended, in relevant part, ORC Section 1710.02(A) and eliminated the requirement that real property be located within the boundaries of any municipal corporation or township contiguous to the municipal corporations or townships in which a portion of the territory the District is located in order to be duly added to the territory of the District; and

WHEREAS, pursuant to the Creation Resolution, the Monroe, Liberty Energy Special Improvement District Program Plan (as amended and supplemented from time to time, the “Program Plan”) was adopted as a plan for public improvements and public services under Ohio Revised Code Section 1710.02(F), which plan allows for additional properties within the City of Monroe, Ohio and within any municipal corporation or township which is adjacent to any other municipal corporation or township in which a portion of the District’s territory is located to be added to the territory of the District; and

WHEREAS, Three Rivers Partnership, LLC, an Ohio limited liability company (the “Owner”), as the owner of certain real property located within the City of Fairfield, Ohio (the “City”), have identified certain real property consisting of Butler County Auditor Parcel Numbers A0700182000001 and A0700183000005 (collectively, the “Project Site”), as an appropriate property for a special energy improvement project pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, the Owner has determined to submit to the Mayor and the Fairfield City Council (the “Council”), a *Petition for Special Assessments for Special Energy Improvement Projects and Affidavit* (the “Petition”), together with a *Supplement to Plan for 420 Distribution Circle, Fairfield, Ohio Project* (the “Supplemental Plan”), all in accordance with Ohio Revised Code Section 1710.02, each of which are now on file with the Clerk of Council; and

WHEREAS, the Petition and Supplemental Plan request that the Project Site be added to the District and that the City levy special assessments on the Project Site to pay the costs of a special energy improvement project to be provided on the Project Site, all as described more particularly in the Petition and the Supplemental Plan (the “Project”); and

WHEREAS, the Petition is for the purpose of developing and implementing special energy improvement projects in furtherance of the purposes set forth in Section 2 of Article VIII of the Ohio Constitution, including, without limitation, the Project, and the Petition further identifies the amount and length of the special assessments to be imposed with respect to the Project; and

WHEREAS, in furtherance of the future addition of any real property in any municipal corporation or township contiguous to the municipal corporations or townships in which a portion of the territory of the District is located, this Council has determined that it is necessary to approve the addition of such real property to the territory of the District, all in accordance with Ohio Revised Code Chapter 1710; and

WHEREAS, this Council, as mandated by Ohio Revised Code Chapter 1710, must approve or disapprove the Petition within 60 days of the submission of the Petition; and

WHEREAS, this Council has determined to approve the Petition, the Program Plan, the Supplemental Plan, and the Articles of Incorporation of the District now on file with the Clerk of Council; and

WHEREAS, this Council has determined to appoint the Finance Director and the Economic Development Manager of the City to serve on the Board of Directors of the District (the “Board”) as the representative of this Council.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FAIRFIELD, OHIO, THAT:

SECTION 1. This Council approves the Petition, the Program Plan, the Supplemental Plan, and the Articles of Incorporation now on file with the Clerk of Council.

SECTION 2. This Council hereby approves and consents to (i) any addition of real property to the territory of the District within the boundaries of any municipal corporation or township in which a portion of the territory of the District is located or any municipal corporation or township which is contiguous to the municipal corporations or townships in which a portion of the territory of the District is located; (ii) the addition of the municipal

corporation or township in which such real property is located as a “participating political subdivision,” as defined in Ohio Revised Code Section 1710.01(E), of the District; and (iii) any amendment to the Amended Articles of Incorporation necessary to recognize or effect such addition.

SECTION 3. Pursuant to Ohio Revised Code Section 1710.02(G)(4), this Council determines that the Project is not required to be owned exclusively by the City for its purposes, for uses determined by this Council, as the legislative authority of the City, as those that will promote the welfare of the people of such participating political subdivision; to improve the quality of life and the general and economic well-being of the people of the City; to better ensure the public health, safety, and welfare; to protect water and other natural resources; to provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; to control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or to provide for safe and natural areas and resources. This Council accordingly authorizes the Board to act as its agent to sell, transfer, lease, or convey the Project. The consideration the Board must obtain from any sale, transfer, lease, or conveyance of the special energy improvement project on the Project Site is any consideration greater than or equal to One Dollar and Zero Cents (\$1.00).

SECTION 4. This Council determines and declares that the Project is an essential and vital public, governmental purpose of the City as a Special Energy Improvement Project, as defined in Ohio Revised Code Section 1710.01(I); and that in order to fulfill that essential and vital public purpose of the City, it is necessary and proper to provide, in cooperation with the District, for (i) the acquisition, construction, and improvement of the Project by the Owner and the Purchaser, as set forth in the Petition and the Supplemental Plan, and (ii) the payment of the costs of the Project, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, surveying, testing, and inspection costs; the amount of any damages resulting from the Project and the interest on such damages; the reasonable costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; reasonable expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued or incurred to provide a loan or to secure an advance of funds to the Owner or the Purchaser or otherwise to pay costs of the Project in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other reasonable obligations so issued or incurred, including any credit enhancement fees, trustee fees, program administration fees, financing servicing fees, and reasonable District administrative fees and expenses; an amount to reflect interest on unpaid Special Assessments which shall be treated as part of the cost of the Project for which the Special Assessments are made at an interest rate which shall be determined by the District to be substantially equivalent to the fair market rate that would have been borne by notes or bonds if notes or bonds had been issued by the District or another issuer of notes or bonds to pay the costs of the Project; together with all other necessary expenditures, all as more fully described in the Petition, the Supplemental Plan, and profiles, specifications, and estimates of cost of the Project, all of which are on file with the Clerk

of Council and open to the inspection of all persons interested. This Council further determines and declares that the Project is conducive to the public peace, health, safety and welfare of the City and the inhabitants of the City.

SECTION 5. This Council determines that the Project's elements are so situated in relation to each other that in order to complete the acquisition, construction, and improvement of the Project's elements in the most practical and economical manner, they should be acquired and improved at the same time, with the same kind of materials, and in the same manner; and that the Project's elements shall be treated as a single improvement, pursuant to Ohio Revised Code Section 727.09, and the Project's elements shall be treated as a joint improvement to be undertaken cooperatively by the City and the District pursuant to Ohio Revised Code Section 9.482 and Ohio Revised Code Chapter 1710.

SECTION 6. The plans and specifications and total cost of the Project now on file in the office of the Clerk of Council are approved, subject to changes as permitted by Ohio Revised Code Chapter 727. The Project shall be made in accordance with the plans, specifications, profiles, and estimate of costs for the Project.

SECTION 7. Pursuant to and subject to the provisions of a valid Petition signed by the owners of one hundred percent (100%) of the Project Site, the entire cost of the Project shall be paid by the Special Assessments levied against the Project Site, which is the benefited property. The provisions of the Petition and the Supplemental Plan are ratified, adopted, approved and incorporated into this Resolution as if set forth in full in this Resolution. The portion of the costs of the Project allocable to the City will be zero percent (0%). The City does not intend to issue securities in anticipation of the levy or the collection of the Special Assessments.

SECTION 8. The method of levying the Special Assessments shall be in proportion to the benefits received, allocated among the parcels constituting the Project Site as set forth in the Petition and the Supplemental Plan.

SECTION 9. The lots or parcels of land to be assessed for the Project shall be the Project Site, as described in Exhibit A to the Petition, all of which lots and lands are determined to be specially benefited by the Project.

SECTION 10. The Special Assessments shall be levied and paid in 40 semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition and the Supplemental Plan (which list is incorporated herein by reference), and the Owner and the Purchaser have each waived its option to pay the Special Assessment in cash within 30 days after the first publication of the notice of the assessing resolution or ordinance.

SECTION 11. The aggregate amount of Special Assessments estimated to be necessary to pay the costs of the Project is \$865,000. Each semi-annual Special Assessment payment represents payment of a portion of the principal of and interest on obligations issued or incurred to pay the costs of the Project and of administrative expenses. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, shall be treated as part of the cost of the Project for which the Special Assessments are made at an interest rate which shall be determined by the District to be substantially

equivalent to the fair market rate that would have been borne by notes or bonds had notes or bonds been issued by the City or another issuer of notes or bonds to pay the costs of the Project. In addition to the Special Assessments, the County Auditor of Butler County, Ohio may impose a special assessment collection fee with respect to each semi-annual payment, which amount will be added to the Special Assessments by the County Auditor of Butler County, Ohio.

SECTION 12. The Finance Director or the Finance Director's designee is authorized and directed to prepare and file in the office of the Clerk of Council the estimated Special Assessments for the cost of the Project in accordance with the method of assessment set forth in the Petition, the Supplemental Plan, and this Resolution, showing the amount of the assessment against each lot or parcel of land to be assessed.

SECTION 13. The Owner and the Purchaser have, in the Petition, each waived the requirement for the City to, upon the filing of the estimated Special Assessments with the City Clerk, serve notice of the adoption of this Resolution and the filing of the estimated Special Assessments upon the Owner, as the owners of the Project Site, as provided in Section 727.13 Ohio Revised Code. To the extent the Owner has not waived the applicable procedural requirements of Chapter 727 of the Ohio Revised Code, the appropriate officials of the City shall also comply with the applicable procedural requirements of Chapter 727 of the Ohio Revised Code.

SECTION 14. The Finance Director or the Finance Director's designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Project.

SECTION 15. The Special Assessments will be used by the City to pay the costs of the Project in cooperation with the District in any manner, including assigning the Special Assessments actually received by the City to the District or to another party the City deems appropriate, and the Special Assessments are appropriated for such purposes.

SECTION 16. This Council accepts and approves the waiver of all further notices, hearings, claims for damages, rights to appeal and other rights of property owners under the law, including but not limited to those specified in the Ohio Constitution, Ohio Revised Code Chapter 727, Ohio Revised Code Chapter 1710, and the Charter of the City, and consents to the immediate imposition of the Special Assessments upon the Project Site. This waiver encompasses, but is not limited to, waivers by the Owner and the Purchaser of the following rights:

- (i) The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- (ii) The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by the Petition within the limitations contained in Ohio Revised Code Section 727.03 and 727.06 applicable to

- the Special Assessments and any other special assessments properly levied now or in the future;
- (iii) The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
 - (iv) The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
 - (v) The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
 - (vi) The right to notice that bids or quotations for the Project may exceed estimates by 15%;
 - (vii) The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251;
 - (viii) The right to notice of the passage of the assessing resolution or ordinance under Ohio Revised Code Section 727.26; and
 - (ix) Any and all procedural defects, errors, or omissions in the Special Assessment process.

SECTION 17. This Council, in accordance with Ohio Revised Code Section 1710.04, hereby appoints its Finance Director and its Economic Development Manager to serve on the Board, as the representatives of this Council.

SECTION 18. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

SECTION 19. This Resolution shall take effect and be in force from and after the earliest period allowed by law.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	Emergency _____
Third Reading	_____	

ATTEST:

Clerk of Council

This is to certify that this Resolution has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

**PETITION FOR SPECIAL ASSESSMENTS FOR
SPECIAL ENERGY IMPROVEMENT PROJECTS AND AFFIDAVIT**

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

To: The Mayor and City Council of the City of Fairfield, Ohio

As of the date of this Petition, Three Rivers Partnership, LLC, an Ohio limited liability company (the “Petitioner”), is the owner of 100% of the real property described on **Exhibit A** attached to this Petition (the “Property”).

The Board of Directors of the Monroe, Liberty Energy Special Improvement District, Inc., doing business under the registered trade name the I-75 Energy Special Improvement District, Inc. (the “Corporation”), an Ohio nonprofit corporation formed to govern the I-75 Energy Special Improvement District (the “District”), initially created within the boundaries of the City of Monroe, Ohio, has approved a plan (the “Program Plan”) for the purpose of developing and implementing special energy improvement projects, as defined in Ohio Revised Code Section 1710.01(I). The Program Plan is attached to this Petition as **Exhibit C**. The Corporation’s Articles of Incorporation are attached to this Petition as **Exhibit D**.

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

The Board of Directors of the District has received or will receive the Supplemental Plan attached to this Petition as **Exhibit B**, including the description of the special energy improvement projects proposed to be constructed or installed on the Property (the Authorized Improvements), and related materials in support of the expansion of the District to include the Property.

As required by Ohio Revised Code Section 1710.02, the Petitioner, as the owner of the Property, being 100% of the area proposed to be added to the District and 100% of the area proposed to be assessed for the Authorized Improvements, hereby (a) petitions the City Council (the “Council”) of the City of Fairfield, Ohio (the “City”) to (i) approve the addition of the Property to the District and (ii) approve an amendment and supplement to the Plan by the

Supplemental Plan to include the Authorized Improvements and (b) requests that (i) the Authorized Improvements be undertaken by the District, and (ii) the total cost of those Authorized Improvements be assessed on the Property in proportion to the special benefits that will result from the financing of the Authorized Improvements.

In connection with this Petition and in furtherance of its purposes, the Petitioner acknowledges that it has reviewed or caused to be reviewed (i) the Plan and the Supplemental Plan, (ii) the plans, specifications and profiles for the Authorized Improvements, (iii) the estimate of cost for the Authorized Improvements included in the Supplemental Plan, and (iv) the schedule of estimated special assessments to be levied for the Authorized Improvements also included in the Supplemental Plan. The Petitioner acknowledges that the estimated special assessment are in proportion to the benefits that may result from the financing of the Authorized Improvements.

Accordingly, the Petitioner hereby petitions for the construction of the Authorized Improvements identified in this Petition and the Supplemental Plan attached to this Petition as **Exhibit B**, as authorized under Ohio Revised Code Chapter 1710, and for the imposition of the special assessments identified in this Petition and authorized under Ohio Revised Code Chapters 727 and 1710 (the “Special Assessments”) to pay the costs of the Authorized Improvements, in the amount set forth on **Exhibit B**. The Petitioner hereby certifies, represents, and warrants to the District and the City that the actual costs of the Authorized Improvements have been ascertained. The Petitioner further agrees that it will be solely responsible for any costs of the Authorized Improvements in excess of the amount set forth on **Exhibit B**.

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

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

The Petitioner further acknowledges and confirms that the Special Assessments set forth in this Petition and in the Supplemental Plan attached as **Exhibit B** are in proportion to, and do not exceed, the special benefits to be conferred on the Property by the Authorized Improvements identified in this Petition. The Petitioner further consents to the levying of the Special Assessment against the Property by the Council. The Petitioner acknowledges that these Special Assessments are fair, just and equitable and being imposed at the Petitioner's specific request.

The Petitioner hereby waives notice and publication of all resolutions, legal notices and hearings provided for in the Ohio Revised Code with respect to the Authorized Improvements and the Special Assessments, particularly those in Ohio Revised Code Chapters 727 and 1710 and consent to proceeding with the Authorized Improvements. Without limiting the foregoing, the Petitioner specifically waives any notices and rights under the following Ohio Revised Code Sections:

- The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Sections 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future;
- The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;

- The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- The right to notice that bids or quotations for the Authorized Improvements may exceed estimates by 15%;
- The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251; and
- The right to notice of the passage of the Assessing Ordinance under Ohio Revised Code Section 727.26.

The Petitioner, in accordance with Ohio Revised Code Section 1710.02(A), further agrees that the Property may be included in more than one district formed under Ohio Revised Code Chapter 1710. The Petitioner further agrees not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Petitioner, in accordance with Ohio Revised Code Section 929.03, hereby grants permission to collect any Special Assessments levied against such Property.

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

The Petitioner further agrees not to take any actions, or cause to be taken any actions, to place any of the Property in an agricultural district as provided for in Ohio Revised Code Chapter 929, and if any of the Property is in an agricultural district, the Petitioner, in accordance with Ohio Revised Code Section 929.03, hereby grants permission to collect any Special Assessments levied against such Property.

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

The Petitioner further acknowledges that the final Special Assessments for the Authorized Improvements, when levied against the Property, will be payable in cash within thirty (30) days from the date of passage of the resolution or ordinance confirming and levying

the final assessments and that if any of such assessments are not paid in cash they will be certified to the County Auditor of Butler County, Ohio as provided by law, to be placed on the tax list and duplicate and collected as other taxes are collected. Notwithstanding the foregoing, however, the Petitioner hereby waives the right to pay the final assessments for the Authorized Improvements in cash within thirty (30) days from the passage of the ordinance confirming and levying the final assessments and requests that the unpaid final assessments for the Authorized Improvements shall be payable in forty (40) semi-annual installments, with collection commencing on the earliest date permitted by said County Auditor, but in no event sooner than the semiannual installment payment of first-half real property taxes for tax year 2022 (collection year 2023) due with respect to the Property.

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

The Petitioner further waives any and all questions as to the constitutionality of the laws under which Authorized Improvements shall be acquired, installed, equipped, improved, or constructed or the proceedings relating to the acquisition, installation, equipping, improvement, or construction of the Authorized Improvements, the jurisdiction of the City acting in connection with the acquisition, installation, or construction of the Authorized Improvements, all irregularities, errors and defects, if any, procedural or otherwise, in the levying of the assessments or the undertaking of the Authorized Improvements, and specifically waives any and all rights of appeal, including any right of appeal as provided in Ohio Revised Code Title 7, and specifically but without limitation, Ohio Revised Code Chapters 727 and 1710, as well as all such similar rights under the Constitution of the State of Ohio and the Charter of the City. The Petitioner represents that it will not contest, in a judicial or administrative proceeding, the undertaking of the Authorized Improvements, the estimated assessments, the final assessments, and any Special Assessments levied against the Property for the Authorized Improvements, or any other matters related to the foregoing.

The Petitioner acknowledges and understands that the City and the Corporation will be relying upon this Petition in taking actions pursuant to it and expending resources. This Petition therefore shall be irrevocable and shall be binding upon the Petitioner, any successors or assigns of the Petitioner, the Property, and any grantees, mortgagees, lessees, or transferees of the Property. The Petitioner acknowledges that it has had an opportunity to be represented by legal counsel in this undertaking and has knowingly waived the rights identified in this Petition.

The Petitioner further deposes and states that this Petition and actions provided for in this Petition impose burdens and obligations upon the Property and provide for Special Assessments to be levied upon the Property in accordance with this Petition, and that this Petition is available for inspection at the office of the Fiscal Officer of the City.

[Balance of Page Intentionally Left Blank]

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

PETITIONER:

THREE RIVERS PARTNERSHIP, LLC

By: _____

Name: _____

Title: _____

Address for notices to Petitioner:

STATE OF _____)

)

SS:

COUNTY OF _____)

On the _____ day of _____, 2022, _____, as the _____ of Three Rivers Partnership, LLC, an Ohio limited liability company, personally appeared before me, a notary public in and for the State of Ohio, who acknowledged the execution of the foregoing Petition on behalf of Three Rivers Partnership, LLC and that the same was the free act and deed of such officer and of such 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.

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

[SEAL]

Notary Public

[Signature Page to Petition]

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

[TO BE INSERTED]

EXHIBIT B**MONROE, LIBERTY ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM
PLAN****SUPPLEMENT TO PLAN FOR 420 DISTRIBUTION CIRCLE, FAIRFIELD, OHIO
PROJECT**

As more fully provided by the Monroe, Liberty Energy Special Improvement District Program Plan (together with all previously approved supplemental plans, the “Plan”), the Monroe, Liberty Energy Special Improvement District (the “District”) has undertaken the administration of a property assessed clean energy (“PACE”) program (the “Program”). The Program will provide financing secured by special assessments on real property for special energy improvement projects.

Through a Petition submitted in connection with this Supplemental Plan, Three Rivers Partnership, LLC (the “Property Owner”) has requested and consented to certain special assessments by the District with respect to certain real property owned by the Property Owner and located at the commonly used mailing address 420 Distribution Circle in the City of Fairfield, Ohio (the “City”), with Butler County Auditor Parcel ID Nos. A0700182000001 and A0700183000005 (the “Property”). A proposed schedule for special assessments to be assessed against the Property to pay the costs of the Authorized Improvements is attached hereto as Attachment A. Initially, the special assessments shall be allocated among the parcels constituting the Property as follows:

<u>Parcel Number</u>	<u>Proportion of Total Special Assessments</u>
A0700182000001	33%
A0700183000005	67%

The Property Owner hereby certifies, represents, and warrants to the City and the District that the actual costs of the Authorized Improvements have been ascertained. The Authorized Improvements applicable to the Property will include: the acquisition, construction, installation, improvement, and equipping of HVAC and roofing improvements, and related improvements. As required by Ohio Revised Code Section 1710.01(K), said Authorized Improvements are anticipated to reduce or support the reduction of energy consumption, allow for reduction in demand, or support the production of, clean, renewable energy. A detailed description of the Authorized Improvements is attached to this Supplemental Plan as Attachment B. The Property Owner hereby acknowledges and agrees that the special benefit to be provided to the Property under this Supplemental Plan is the consummation of financing to pay the costs of the Authorized Improvements, which shall be conferred immediately upon the consummation of the financing, and that the benefits are in proportion to and do not exceed the amount of the special assessments to be levied to pay the costs of the financing.

The Property Owner will cause this Supplemental Plan promptly to be filed with the Board of Directors of the District and with the Clerk of Council of the City.

The undersigned owner of real property located within the District acknowledges that the District and the City are subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.* The undersigned property owner agrees to the disclosure of certain property owner information by the District or the City to the extent required by law.

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

PROPERTY OWNER:

THREE RIVERS PARTNERSHIP, LLC

By: _____

Name: _____

Title: _____

Address for notices to Property Owner:

Description of Real Property Subject to this Supplemental Plan:

The real property subject to this Supplemental Plan and owned by Three Rivers Partnership, LLC is located at the commonly used mailing address 420 Distribution Circle, Fairfield, Ohio 45014, with Butler County Auditor Parcel ID Nos. A0700182000001 and A0700183000005.

SUPPLEMENTAL PLAN—ATTACHMENT A**Schedule of Special Assessments**

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

Total assessment costs:	\$1,419,730.40
Estimated semi-annual special assessments for 20 years:	\$35,493.26
Number of semi-annual assessments:	40
First semi-annual installment due:	January 31, 2023

[Continued Next Page]

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

PARCEL A0700182000001:

C-PACE Financing Monthly Amortization Table									
Payment	Date	Date Year	Beginning Balance	Payment	Interest	Principal	Ending Balance	Admin Servicing Fee % Payment	Total Assessment Payment
1	1/31/2023	2023	\$285,450.00	\$11,595.65	\$1,926.79	\$9,668.86	\$275,781.14	\$117.13	\$11,712.78
2	7/31/2023	2023	\$275,781.14	\$11,595.65	\$7,487.46	\$4,108.19	\$271,672.95	\$117.13	\$11,712.78
3	1/31/2024	2024	\$271,672.95	\$11,595.65	\$7,498.17	\$4,097.47	\$267,575.47	\$117.13	\$11,712.78
4	7/31/2024	2024	\$267,575.47	\$11,595.65	\$7,304.81	\$4,290.84	\$263,284.63	\$117.13	\$11,712.78
5	1/31/2025	2025	\$263,284.64	\$11,595.65	\$7,266.66	\$4,328.99	\$258,955.65	\$117.13	\$11,712.78
6	7/31/2025	2025	\$258,955.64	\$11,595.65	\$7,030.65	\$4,565.00	\$254,390.64	\$117.13	\$11,712.78
7	1/31/2026	2026	\$254,390.64	\$11,595.65	\$7,021.18	\$4,574.47	\$249,816.17	\$117.13	\$11,712.78
8	7/31/2026	2026	\$249,816.17	\$11,595.65	\$6,782.51	\$4,813.14	\$245,003.03	\$117.13	\$11,712.78
9	1/31/2027	2027	\$245,003.04	\$11,595.65	\$6,762.08	\$4,833.57	\$240,169.47	\$117.13	\$11,712.78
10	7/31/2027	2027	\$240,169.47	\$11,595.65	\$6,520.60	\$5,075.05	\$235,094.42	\$117.13	\$11,712.78
11	1/31/2028	2028	\$235,094.42	\$11,595.65	\$6,488.61	\$5,107.04	\$229,987.38	\$117.13	\$11,712.78
12	7/31/2028	2028	\$229,987.38	\$11,595.65	\$6,278.66	\$5,316.99	\$224,670.39	\$117.13	\$11,712.78
13	1/31/2029	2029	\$224,670.39	\$11,595.65	\$6,200.90	\$5,394.75	\$219,275.64	\$117.13	\$11,712.78
14	7/31/2029	2029	\$219,275.64	\$11,595.65	\$5,953.33	\$5,642.32	\$213,633.32	\$117.13	\$11,712.78
15	1/31/2030	2030	\$213,633.32	\$11,595.65	\$5,896.28	\$5,699.37	\$207,933.95	\$117.13	\$11,712.78
16	7/31/2030	2030	\$207,933.95	\$11,595.65	\$5,645.41	\$5,950.24	\$201,983.71	\$117.13	\$11,712.78
17	1/31/2031	2031	\$201,983.71	\$11,595.65	\$5,574.75	\$6,020.90	\$195,962.81	\$117.13	\$11,712.78
18	7/31/2031	2031	\$195,962.81	\$11,595.65	\$5,320.39	\$6,275.26	\$189,687.55	\$117.13	\$11,712.78
19	1/31/2032	2032	\$189,687.55	\$11,595.65	\$5,235.38	\$6,360.27	\$183,327.28	\$117.13	\$11,712.78
20	7/31/2032	2032	\$183,327.28	\$11,595.65	\$5,004.84	\$6,590.81	\$176,736.47	\$117.13	\$11,712.78
21	1/31/2033	2033	\$176,736.46	\$11,595.65	\$4,877.93	\$6,717.72	\$170,018.74	\$117.13	\$11,712.78
22	7/31/2033	2033	\$170,018.74	\$11,595.65	\$4,616.01	\$6,979.64	\$163,039.10	\$117.13	\$11,712.78
23	1/31/2034	2034	\$163,039.10	\$11,595.65	\$4,499.88	\$7,095.77	\$155,943.33	\$117.13	\$11,712.78
24	7/31/2034	2034	\$155,943.33	\$11,595.65	\$4,233.86	\$7,361.79	\$148,581.54	\$117.13	\$11,712.78
25	1/31/2035	2035	\$148,581.55	\$11,595.65	\$4,100.85	\$7,494.80	\$141,086.75	\$117.13	\$11,712.78
26	7/31/2035	2035	\$141,086.75	\$11,595.65	\$3,830.50	\$7,765.14	\$133,321.60	\$117.13	\$11,712.78
27	1/31/2036	2036	\$133,321.60	\$11,595.65	\$3,679.67	\$7,915.97	\$125,405.62	\$117.13	\$11,712.78
28	7/31/2036	2036	\$125,405.63	\$11,595.65	\$3,423.58	\$8,172.07	\$117,233.56	\$117.13	\$11,712.78
29	1/31/2037	2037	\$117,233.56	\$11,595.65	\$3,235.65	\$8,360.00	\$108,873.56	\$117.13	\$11,712.78
30	7/31/2037	2037	\$108,873.55	\$11,595.65	\$2,955.92	\$8,639.73	\$100,233.82	\$117.13	\$11,712.78
31	1/31/2038	2038	\$100,233.82	\$11,595.65	\$2,766.45	\$8,829.20	\$91,404.62	\$117.13	\$11,712.78
32	7/31/2038	2038	\$91,404.62	\$11,595.65	\$2,481.64	\$9,114.01	\$82,290.61	\$117.13	\$11,712.78
33	1/31/2039	2039	\$82,290.61	\$11,595.65	\$2,271.22	\$9,324.43	\$72,966.18	\$117.13	\$11,712.78
34	7/31/2039	2039	\$72,966.18	\$11,595.65	\$1,981.03	\$9,614.62	\$63,351.56	\$117.13	\$11,712.78
35	1/31/2040	2040	\$63,351.57	\$11,595.65	\$1,748.50	\$9,847.15	\$53,504.42	\$117.13	\$11,712.78
36	7/31/2040	2040	\$53,504.42	\$11,595.65	\$1,460.67	\$10,134.98	\$43,369.44	\$117.13	\$11,712.78
37	1/31/2041	2041	\$43,369.44	\$11,595.65	\$1,197.00	\$10,398.65	\$32,970.79	\$117.13	\$11,712.78
38	7/31/2041	2041	\$32,970.79	\$11,595.65	\$895.16	\$10,700.49	\$22,270.30	\$117.13	\$11,712.78
39	1/31/2042	2042	\$22,270.30	\$11,595.65	\$614.66	\$10,980.99	\$11,289.31	\$117.13	\$11,712.78
40	7/31/2042	2042	\$11,289.31	\$11,595.81	\$306.50	\$11,289.31	\$0.00	\$117.13	\$11,712.94

PARCEL A0700183000005:

C-PACE Financing Monthly Amortization Table									
Payment	Date	Date Year	Beginning Balance	Payment	Interest	Principal	Ending Balance	Admin Servicing Fee % Payment	Total Assessment Payment
1	1/31/2023	2023	\$579,550.00	\$23,542.68	\$3,911.96	\$19,630.72	\$559,919.28	\$237.80	\$23,780.48
2	7/31/2023	2023	\$559,919.28	\$23,542.68	\$15,201.81	\$8,340.87	\$551,578.41	\$237.80	\$23,780.48
3	1/31/2024	2024	\$551,578.41	\$23,542.68	\$15,223.57	\$8,319.12	\$543,259.29	\$237.80	\$23,780.48
4	7/31/2024	2024	\$543,259.30	\$23,542.68	\$14,830.98	\$8,711.70	\$534,547.60	\$237.80	\$23,780.48
5	1/31/2025	2025	\$534,547.59	\$23,542.68	\$14,753.51	\$8,789.17	\$525,758.42	\$237.80	\$23,780.48
6	7/31/2025	2025	\$525,758.43	\$23,542.68	\$14,274.34	\$9,268.34	\$516,490.09	\$237.80	\$23,780.48
7	1/31/2026	2026	\$516,490.09	\$23,542.68	\$14,255.13	\$9,287.55	\$507,202.54	\$237.80	\$23,780.48
8	7/31/2026	2026	\$507,202.54	\$23,542.68	\$13,770.55	\$9,772.13	\$497,430.41	\$237.80	\$23,780.48
9	1/31/2027	2027	\$497,430.40	\$23,542.68	\$13,729.08	\$9,813.60	\$487,616.80	\$237.80	\$23,780.48
10	7/31/2027	2027	\$487,616.80	\$23,542.68	\$13,238.80	\$10,303.88	\$477,312.92	\$237.80	\$23,780.48
11	1/31/2028	2028	\$477,312.92	\$23,542.68	\$13,173.83	\$10,368.85	\$466,944.07	\$237.80	\$23,780.48
12	7/31/2028	2028	\$466,944.07	\$23,542.68	\$12,747.57	\$10,795.11	\$456,148.96	\$237.80	\$23,780.48
13	1/31/2029	2029	\$456,148.96	\$23,542.68	\$12,589.71	\$10,952.97	\$445,195.99	\$237.80	\$23,780.48
14	7/31/2029	2029	\$445,195.99	\$23,542.68	\$12,087.07	\$11,455.61	\$433,740.38	\$237.80	\$23,780.48
15	1/31/2030	2030	\$433,740.38	\$23,542.68	\$11,971.23	\$11,571.45	\$422,168.93	\$237.80	\$23,780.48
16	7/31/2030	2030	\$422,168.93	\$23,542.68	\$11,461.88	\$12,080.80	\$410,088.13	\$237.80	\$23,780.48
17	1/31/2031	2031	\$410,088.13	\$23,542.68	\$11,318.43	\$12,224.25	\$397,863.88	\$237.80	\$23,780.48
18	7/31/2031	2031	\$397,863.88	\$23,542.68	\$10,802.00	\$12,740.68	\$385,123.20	\$237.80	\$23,780.48
19	1/31/2032	2032	\$385,123.20	\$23,542.68	\$10,629.40	\$12,913.28	\$372,209.92	\$237.80	\$23,780.48
20	7/31/2032	2032	\$372,209.92	\$23,542.68	\$10,161.33	\$13,381.35	\$358,828.57	\$237.80	\$23,780.48
21	1/31/2033	2033	\$358,828.58	\$23,542.68	\$9,903.67	\$13,639.01	\$345,189.57	\$237.80	\$23,780.48
22	7/31/2033	2033	\$345,189.57	\$23,542.68	\$9,371.90	\$14,170.78	\$331,018.79	\$237.80	\$23,780.48
23	1/31/2034	2034	\$331,018.79	\$23,542.68	\$9,136.12	\$14,406.56	\$316,612.23	\$237.80	\$23,780.48
24	7/31/2034	2034	\$316,612.23	\$23,542.68	\$8,596.02	\$14,946.66	\$301,665.57	\$237.80	\$23,780.48
25	1/31/2035	2035	\$301,665.56	\$23,542.68	\$8,325.97	\$15,216.71	\$286,448.85	\$237.80	\$23,780.48
26	7/31/2035	2035	\$286,448.85	\$23,542.68	\$7,777.09	\$15,765.60	\$270,683.25	\$237.80	\$23,780.48
27	1/31/2036	2036	\$270,683.26	\$23,542.68	\$7,470.86	\$16,071.83	\$254,611.43	\$237.80	\$23,780.48
28	7/31/2036	2036	\$254,611.43	\$23,542.68	\$6,950.89	\$16,591.79	\$238,019.64	\$237.80	\$23,780.48
29	1/31/2037	2037	\$238,019.64	\$23,542.68	\$6,569.34	\$16,973.34	\$221,046.30	\$237.80	\$23,780.48
30	7/31/2037	2037	\$221,046.31	\$23,542.68	\$6,001.40	\$17,541.28	\$203,505.03	\$237.80	\$23,780.48
31	1/31/2038	2038	\$203,505.03	\$23,542.68	\$5,616.74	\$17,925.94	\$185,579.09	\$237.80	\$23,780.48
32	7/31/2038	2038	\$185,579.09	\$23,542.68	\$5,038.47	\$18,504.21	\$167,074.88	\$237.80	\$23,780.48
33	1/31/2039	2039	\$167,074.88	\$23,542.68	\$4,611.27	\$18,931.41	\$148,143.47	\$237.80	\$23,780.48
34	7/31/2039	2039	\$148,143.47	\$23,542.68	\$4,022.10	\$19,520.58	\$128,622.89	\$237.80	\$23,780.48
35	1/31/2040	2040	\$128,622.88	\$23,542.68	\$3,549.99	\$19,992.69	\$108,630.19	\$237.80	\$23,780.48
36	7/31/2040	2040	\$108,630.19	\$23,542.68	\$2,965.60	\$20,577.08	\$88,053.11	\$237.80	\$23,780.48
37	1/31/2041	2041	\$88,053.11	\$23,542.68	\$2,430.26	\$21,112.42	\$66,940.69	\$237.80	\$23,780.48
38	7/31/2041	2041	\$66,940.69	\$23,542.68	\$1,817.44	\$21,725.24	\$45,215.45	\$237.80	\$23,780.48
39	1/31/2042	2042	\$45,215.45	\$23,542.68	\$1,247.95	\$22,294.73	\$22,920.72	\$237.80	\$23,780.48
40	7/31/2042	2042	\$22,920.72	\$23,543.02	\$622.30	\$22,920.72	\$0.00	\$237.81	\$23,780.83

SUPPLEMENTAL PLAN—ATTACHMENT B**Description of Authorized Improvements**

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

The construction, acquisition, installation, equipping, and improving of HVAC and roofing improvements, together with related improvements, each of which is expected to reduce or support the reduction of energy consumption, allow for the reduction in demand, or support the production of clean, renewable energy.

EXHIBIT C

MONROE, LIBERTY ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN

The Monroe, Liberty Energy Special Improvement District (the District) will administer a property assessed clean energy (PACE) program (the Program). The Program will provide financing secured by special assessments on real property for special energy improvement projects. Pursuant to Section 1710.02(F) of the Ohio Revised Code, City of Monroe, as the initial owner of real property within the District (the Owner) authorizes, consents to, and submits to the City of Monroe, Ohio (the City) for approval this plan for the Program (as the same may be amended and supplemented from time to time in accordance with its terms, the Plan) to provide for the Program's administration and to set forth the terms and conditions of participation in the Program.

The District is established pursuant to the special energy improvement district provisions of Chapter 1710 of the Ohio Revised Code. This Plan refers to Chapter 1710 and any and all future amendments to the special energy improvement district provisions of Chapter 1710 as the "Act." Any specific statutory reference contained in this Plan shall also refer to any succeeding or amending statutory provision.

Participation in the District's Program is limited to property owners who have agreed to add their property to the District and who otherwise meet the Program's terms and conditions. These terms and conditions are addressed in this Plan, and include, without limitation, an application, a petition, a schedule of assessments to be made on included property (Assessment Schedule), and the governing documents forming the District. The District's governing documents include its Articles of Incorporation, Code of Regulations, resolutions duly adopted by the board of directors of the District, and the applicable resolutions and ordinances of the participating political subdivision where the real property is located (collectively, the Governing Documents). As a condition to participation in the District and the Program, each property owner must review and agree to the Governing Documents and further must review, agree to, and execute this Plan, an application, a petition, and an Assessment Schedule. The Governing Documents, this Plan, the applications, the petitions, and the Assessment Schedules are referred to herein collectively as the "District Documents." In addition to the District Documents, property owners may be required to agree to and execute an agreement to impose special assessments as a condition to receiving financing of special energy improvement projects from the District.

The District Documents establish the terms and conditions of the Program. The Program terms and conditions may be amended from time to time as described in Part X of this Plan. **By agreeing to and executing the District Documents, each property owner consents to the terms and conditions of all District Documents.**

I. Purpose of the Program

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

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

II. The District's Governance and Program Administrator

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

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

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

The Program Administrator may provide, without limitation, the following services: (i) pursuant to Part III of this Plan, developing and administering eligibility guidelines, creating and

administering an application, setting criteria and developing a list of pre-approved contractors, procuring resources or cooperating with property owners to procure resources, and administering referrals; (ii) pursuant to Part IV of this Plan, marketing, program design, cooperating with property owners to implement Authorized Improvements, and other administrative services; and (iii) establishing and administering a revolving loan facility providing financing for certain special energy improvement projects. The initial Program Administrator, if any, shall be designated by the Board.

III. Program Eligibility, Approvals, Financing, and Procurement

The Board is hereby authorized to create, administer, amend, and abolish a process by which property owners join the Program. The process by which property owners join the Program may include, without limitation, the following requirements:

- (A) Eligibility. The Board is hereby authorized to create, administer, amend, and abolish eligibility requirements for the Program. The Board is further authorized to determine, in each individual case, whether property is eligible for participation in the Program.

To be eligible for participation in the Program, each property owner must file a petition with the Board or the legislative authority of the political subdivision in which the property is located requesting to add its property to the District and requesting the levy of special assessments to be used to pay or secure Program Obligations issued or used to finance Authorized Improvements. Each parcel of real property added to the District must have at least one Authorized Improvement. The petition to add property to the District shall be considered by the District in accordance with this Plan and the other District Documents. If the District approves the petition, it shall submit the petition to the executive officer and legislative body of the participating political subdivision in which the real property is located. A property owner may file more than one petition and may amend or withdraw any petition filed at any time before the petition is approved by the legislative body of the participating political subdivision in which the real property is located. Petitions shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board.

To be eligible for participation in the Program, each property owner must agree to be bound by the terms of this Plan. The Plan for the District may be amended and supplemented from time to time in accordance with its terms, including, specifically, by supplements to the Plan which identify additional Authorized Improvements within the District to be subject to the Plan or add property to the District and subject such additional property to the Plan. To be eligible for participation in the Program, each property owner, with the exception of the Owner, must file a supplement to this Plan (the Supplemental Plan) with the Board and the clerk of the legislative body of the participating political subdivision in which the real property is located identifying the Authorized

Improvements to be undertaken as part of the Plan applicable to real property within the District or to be added to the district. Supplemental Plans shall include such other information as may be required by the Board. Supplemental Plans shall conform to the requirements of Ohio Revised Code Chapter 1710 and any requirements of the Board. No special assessments authorized, levied, assessed, or collected with respect to the Authorized Improvements described in this Plan or in any Supplemental Plan shall ever be used to pay the costs of any Authorized Improvements described in any other Plan or Supplemental Plan.

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

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

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

Pursuant to the Act, the Board shall adopt written rules prescribing competitive bidding procedures for the District and for Authorized Improvements undertaken by the District on behalf of property owners, which competitive bidding procedures may differ from competitive bidding procedures applicable to the City or the procedures in Chapter 735 of the Ohio Revised Code and may specify conditions under which competitive bidding is not required. Except as specified in the Act and in this Plan, the District Documents shall not be construed to eliminate or alter the competitive bidding procedures applicable to the City as a participating political subdivision.

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

The District shall acknowledge a property owner's right to choose the source of Program Obligations for a project. Further, the District shall acknowledge a property owner's preference for the Program or another property assessed clean energy program offered by an energy special improvement district in a participating political subdivision other than the District. Nevertheless, a participating political subdivision that approves this Plan shall use its best efforts, when practical and without adversely impacting a property owner, a special energy improvement project, or the Program, to utilize the Program for eligible projects within its territory.

IV. Program Services

The Board is hereby authorized to provide ongoing services to the District, its property, and the property owners. All services provided under this Plan shall be deemed to be services provided in furtherance of Authorized Improvements provided under this Plan. Such services, without limitation, may include the following:

- (A) Program Design. The Board is hereby authorized to design comprehensive services to establish and maintain the Program's legal and programmatic framework. The Board is hereby authorized to facilitate economic development projects in the participating political subdivisions, including the appropriate level of flexibility and risk for the Program and each special energy improvement project.
- (B) Program Administration. The Board is hereby authorized to educate the public on the Program and its purposes, market the program to the public, process applications, verify aspects of the Authorized Improvements, assure the Program's overall quality and the quality of Authorized Improvements, serve customers, and assist property owners in the origination and closing processes; including, but not limited to, arranging for energy audits or analysis of buildings and properties.
- (C) Marketing. The Board is hereby authorized to market the Program and promote the District's image through means such as developing literature and brochures, conducting public relations, collecting data, managing information, cooperating with members, creating electronic and print marketing materials, and holding special events. The marketing activities of the Board shall, when beneficial to the District in the discretion of the Board, primarily focus on the participating political subdivisions
- (D) Authorized Improvement Implementation. The Board is hereby authorized to cooperate with property owners for the implementation of Authorized

Improvements, including cooperating with property owners for the addition of property to the District and the approval of petitions and Supplemental Plans by participating political subdivisions and the Board.

- (E) Tracking and Administration of Program Obligations. The Board is hereby authorized to create, administer, amend, and abolish procedures for the tracking and administration of Program Obligations issued or used to finance Authorized Improvements. Without limitation, the administration of special assessments may include reporting delinquent special assessments, following-up with delinquent property owners, and coordinating with delinquent property owners. The Board may hire such professionals as may be required to successfully track and administer Program Obligations.
- (F) Administering Special Assessments. The Board is hereby authorized to create, administer, amend, and abolish procedures for the administration of special assessments levied pursuant to the District Documents. Without limitation, the administration of special assessments may include calculating the amount of special assessments, preparing certifications of special assessments for the county auditor, billing the special assessments, and considering property owners' claims regarding the calculation or billing of special assessments. The Board may hire such professionals as may be required to successfully administer special assessments.
- (G) Budgeting. The Board shall provide for the production of an annual report describing the District's budget, services delivered, revenues received, expenditures made, and other information about the District's activities. The annual report shall be made available to the Board and to the District's members. The Board may hire such professionals as may be required to successfully account for all District finances.
- (H) Auditing. The Board is hereby authorized to provide for an audit of the District in such manner as the Board deems appropriate. The Board may hire such professionals as may be required to successfully audit the District.
- (I) Annual Report. In accordance with Section 1710.04(D), the Board is hereby authorized, by the first day of March of each year, to submit to each member of the District and to the municipal executive, chief fiscal officer, and legislative authority of each municipal corporation with territory within the boundaries of the District and to the board of township trustees of each township with territory within the boundaries of the District a report of the District's activities and financial condition for the previous year.
- (J) Other Services. The Board is hereby authorized to provide any other services authorized by the Act.

V. Fees

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

- (A) The cost of creating and operating the District, including creating and operating the Corporation, hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;
- (B) The cost of planning, designing, and implementing Authorized Improvements or services under this Plan or any Supplemental Plan, including payment of architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning fees and expenses, and, for services under this Plan or any Supplemental Plan, the management, protection, and maintenance costs of public or private facilities;
- (C) Any court costs incurred by the District in implementing this Plan or any Supplemental Plans;
- (D) Any damages resulting from implementing this Plan or any Supplemental Plan;
- (E) The costs of issuing, monitoring, paying interest on, and redeeming or refunding Program Obligations issued or used to finance Authorized Improvements or services under this Plan or any Supplemental Plan;
- (F) The costs associated with the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of the District's territory, or between the District and any owner of property in the District on which an Authorized Improvement has been acquired, installed, equipped, or improved; and
- (G) In accordance with Section 727.08(I) of the Ohio Revised Code, the costs incurred in connection with the preparation, levy, and collection of the special assessments, including legal expenses incurred by reason of the improvement.

Pursuant to the Act, such Program costs may be included in the special assessments levied on real property within the District.

Application Fee. The Board is hereby authorized to set and charge an application fee for Program services provided by the District. The application fee may be non-refundable. The application fee may be credited to the cost of Authorized Improvements if the application is approved and an Authorized Improvement is made to the property for which application was made.

Amounts from Participating Political Subdivisions. The Board is hereby authorized to request additional funding for the legislative authority of each participating political subdivision if such funding is necessary to adequately reach the goals of the Program. The Board is further authorized to request each participating political subdivision provide a substantially equal share of the amount necessary for the District to meet its statutory requirements.

VI. Energy Efficiency and Renewable Energy Regulations and Requirements

Energy Efficiency Reporting Requirements. Ohio Revised Code Section 1710.061 requires the Board to submit a quarterly report to each electric distribution utility (EDU) with a District Authorized Improvement within the EDU's certified territory. The quarterly report submitted to the EDU must include the total number and a description of each new and ongoing District Authorized Improvement that produces energy efficiency savings or reduction in demand and other additional information that the EDU needs to obtain credit under Ohio Revised Code Section 4928.66 for energy efficiency savings or reduction in demand from such projects. The Board is hereby authorized to submit quarterly reports due required under Ohio Revised Code Section 1710.061. Property owners shall comply with Board requirements for information gathering and reporting to ensure Board compliance with Ohio Revised Code Section 1710.061.

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

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

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

VII. Statutory Requirements

As provided in the District Documents:

- (A) Additional territory may be added to the District in accordance with the Act and the rules established by the Board pursuant to Part III of this Plan.

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

VIII. Changes in State and Federal Law

The ability to issue or use Program Obligations to finance Authorized Improvements is subject to a variety of state and federal laws. If these laws change after property owners have applied to the District for financing, the District may be unable to fulfill its obligations under this Plan. **The District shall not be obligated to implement any provision of this Plan which is contrary to state or federal law. The District shall not be liable for any inability to finance Authorized Improvements as a result of state and federal law or any changes in state and federal law which reduce or eliminate the effectiveness of financing Authorized Improvements through the District's Program.**

IX. Releases and Indemnification

The District has been created with the approval of the City of Monroe, Ohio, as a participating political subdivision, for the purposes of implementing this Plan and administering the Program. The District and any participating political subdivision shall be neither responsible nor liable for the installation, operation, financing, refinancing, or maintenance of Authorized Improvements. Property owners will be solely responsible for the installation, operation, financing, refinancing, and maintenance of the Authorized Improvements. Participation in the Program does not in any way obligate the District or any participating political subdivision to ensure the viability of Authorized Improvements. Owners of assessed real property must pay the special assessments regardless of whether the Authorized Improvements are properly installed or operate as expected.

By agreeing to and executing this Plan, each owner of real property included in the District (other than any political subdivision that owns real property included in the District) agrees to release, defend, indemnify, and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, officials, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with participation in the Program, except as may arise from the acts or omissions of the District in breach of the Governing Documents, the Petition, or the Plan or the negligence of the District. Any political subdivision that owns real property included in the District agrees to release and hold harmless the District and the participating political subdivisions, including their directors, officers, members, agents, officials, independent contractors, and employees, from and against any claims, actions, demands, costs, damages or lawsuits, arising out of or connected with the political subdivision's participation in the Program in its capacity as a property owner.

X. Changes in the Program Terms; Severability

Participation in the Program is subject to the District Documents' terms and conditions in effect from time to time during participation. The District reserves the right to change this Plan and the terms and conditions of the District Documents at any time without notice. No such change will affect a property owner's obligation to pay special assessments as set forth in the District Documents.

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

XI. Disclosure of Property Owner Information

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

Each owner of real property located within the District acknowledges that the District is subject to Ohio public records laws, including Ohio Revised Code Section 149.43 *et seq.*

Each property owner that executes this Plan agrees to the disclosure of certain property owner information as stated in this Part.

XII. Initial Authorized Improvements

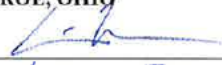
The Owner has requested and consented to certain special assessments to be levied by the City with respect to certain real property owned by the Owner, which Property is described more specifically in **Attachment A** attached to this Plan (the Property). A schedule of special assessments to be levied on the Property to pay the costs of the Authorized Improvements is attached to this Plan in **Attachment B**.

A detailed description of the Authorized Improvements is attached to this Plan in **Attachment B**.

BY EXECUTING THIS PLAN, THE PROPERTY OWNER IDENTIFIED BELOW
HEREBY AUTHORIZES AND CONSENTS TO THIS PLAN AND AGREES TO
PERFORM THE OBLIGATIONS OF THE PROPERTY OWNER CONTAINED IN
THIS PLAN.

Date: January 14, 2020

Property Owner:
CITY OF MONROE, OHIO

By: 
Name: William J Book
Title: City Manager

Address for notices to Property Owner:

City of Monroe, Ohio

[Property Owner Consent to Plan]

PLAN—ATTACHMENT A**LEGAL DESCRIPTION OF PROPERTY**

The Property subject to this Program Plan is located at the commonly used address 233 South Main Street, Monroe, Ohio with Butler County Auditor Parcel ID No. C1800008210005.

PLAN—ATTACHMENT B

DESCRIPTION OF INITIAL AUTHORIZED IMPROVEMENTS AND SCHEDULES OF SPECIAL ASSESSMENTS

The real property owned by the City of Monroe, Ohio at 233 S. Main Street is the location at which the special energy improvements described below shall be constructed and installed, and shall exist (the Project). The legal description of the property is set forth on the attached **Attachment A**. The property will be subject to special assessments for energy improvements in accordance with Ohio Revised Code Chapter 1710.

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

- High efficiency lighting fixtures

Total assessment costs—\$100.00

Estimated average annual special assessments for 1 year: \$100.00

Number of annual assessments: 1

First annual installment due: approximately July 31, 2022

[Balance of Page Intentionally Left Blank]

The schedule of Special Assessments for the Project is as follows:

Special Assessment Payment Date*	Special Assessment Payment Amount**
July 31, 2022	\$100.00

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

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

EXHIBIT D

**ARTICLES OF INCORPORATION
OF THE
MONROE, LIBERTY ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.**

**FIRST:
NAME**

Name of Corporation: The name of the Corporation shall, at any time and from time to time be the unique proper name only of each participating political subdivision, as defined in Ohio Revised Code (“ORC”) Section 1710.02(E), of the special improvement district governed by the Board of Directors of the Corporation, separated by commas, and followed by the words “Energy Special Improvement District, Inc.” For demonstration purposes, as of the adoption of this Article First, the name of the Corporation shall be “Monroe, Liberty Energy Special Improvement District, Inc.”

**SECOND:
PURPOSE**

The purpose for which the Corporation is formed shall be:

- (A) To govern the Monroe, Liberty Energy Special Improvement District, Inc., a special improvement district (the “District”) created pursuant to Ohio Revised Code (“ORC”) Chapter 1710. The District’s purpose is to enhance the value of properties within the District and improve the environment by developing and assisting in developing within the District special energy improvement projects. The District will be authorized to provide special energy improvement projects pursuant to ORC Chapter 1710 that will benefit property and the environment within the boundaries of the District. The District will be authorized to take any other actions pursuant to ORC Chapter 1710 that may be taken by a special improvement district organized for the purpose of developing and implementing plans for special energy improvement projects. The City of Monroe, Ohio the (“City”) and Liberty Township, Butler County, Ohio (the “Township”) are participating political subdivisions that will be authorized to levy a special assessment on each property within the territorial boundaries of the City and the Township within the District to pay for such improvements, based on the benefits conferred by those special energy improvement projects. All other municipal corporations and townships which duly and validly add real property to the District shall be a participating political subdivision that will be authorized to levy a special assessment on each property within the territorial boundaries of such participating political subdivision within the District to pay for such improvements, based on the benefits conferred by those special energy improvement projects.
- (B) To engage in any lawful act, activity or business not contrary to and for which a nonprofit corporation may be formed under the laws of the State of Ohio.

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

THIRD:
RESTRICTIONS

No part of the net earnings of the Corporation shall inure to the benefit of or be distributable to its members, directors, trustees, officers or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article III hereof and to make distributions to its members as authorized by ORC Chapter 1702, including any distribution upon dissolution of the Corporation.

FOURTH:
MEMBERS

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

FIFTH:
BOARD OF
DIRECTORS

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

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

- (B) A person appointed by and serving at the pleasure of the legislative authority of each participating political subdivision of the District each shall serve as a Director.
- (C) A person appointed by and serving at the pleasure of the participating political subdivisions who is an economic development or finance professional that has an active role in all of the participating political subdivisions shall serve as a Director.
- (D) The remaining Directors shall be Members or executive representatives of Members elected, designated, or appointed by the Members as described in the Code of Regulations of the Corporation.

The Board of Directors of the Corporation from time to time shall constitute the Board of Directors of the Corporation under ORC Chapter 1710.

SIXTH:
TERRITORY

The territory within the District shall be described generally as that portion of the participating political subdivisions consisting of property owned by each property owner within a participating political subdivision that has petitioned the participating political subdivision for the development of a special energy improvement project, as that term is defined in ORC Section 1710.01(I). As provided in ORC Section 1710.02(A), the territory in the District may be noncontiguous if at least one special energy improvement project is designated for each parcel of real property included in the District. As further provided in Section 1710.02(A), additional territory may be added to the District for the purpose of developing and implementing plans for special energy improvement projects if at least one special energy improvement project is designated for each parcel of real property included within such additional territory and the addition of territory is authorized by the plan for the District under Chapter 1710. The addition of such territory shall be authorized in the plan for the District.

The following is a listing of properties that are initially included in the District, which are identified by parcel number:

City of Monroe, Ohio	Parcel No. C1800008210005
Board of Township Trustees of Liberty Township, Butler County, Ohio	Parcel No. D2010002000137

SEVENTH:
CERTAIN
TRANSACTIONS

No person shall be disqualified from being a Director of the Corporation because he or she is or may be a party to, and no Director of the Corporation shall be disqualified from entering into, any contract or other transaction to which the Corporation is or may be a party.

No contract, action or other transaction shall be void or voidable for reason

that any Director or officer or other agent of the Corporation is a party thereto, or otherwise has any direct or indirect interest in such contract, action or transaction or in any other party thereto, or for reason that any interested director or officer or other agent of the Corporation authorizes or participates in authorization of such contract, action or transaction, provided that:

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

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

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

EIGHTH:
DISSOLUTION

Upon the dissolution of the Corporation, all assets remaining after paying or making provision for the payment of all of the liabilities of the Corporation shall be conveyed to any person or organization as shall be selected by the affirmative vote of a majority of the Board.

NINTH:
AMENDMENT

Any provision of these Articles of Incorporation may be amended only (a) by the affirmative vote of a majority of the Members of the Corporation at any meeting at which a quorum is present, and (b) after receipt of approval of such amendment by resolution of the legislative authority of each participating political subdivision, and (c) upon filing the approved amendment and resolution with the Ohio Secretary of State; provided that such amendment shall be consistent with the applicable provisions of ORC Chapters 1702 and 1710.

TENTH:
TRADE NAME

The District is hereby authorized to use such trade name as the Board of Directors may duly determine from time to time, and the Corporation is hereby authorized to use such trade name as the Board of Directors may duly determine from time to time.



City Council Ordinance
Regular Meeting - January 24, 2022

Submitted by: Nathaniel Kaelin, Economic Development Manager
 Submitting Department: Development Services

Subject:

Ordinance to Proceed with the InnoMark PACE Project

Legislation Title:

An Ordinance determining to proceed with the acquisition, construction, and improvement of certain public improvements in the City of Fairfield in cooperation with the Fairfield, Liberty, Monroe Energy Special Improvement District, and declaring it an emergency.

Recommendation:

It is recommended that City Council suspend the rules requiring a second and third reading of this ordinance and pass as an emergency.

Background/Synopsis:

This item is the second of three City Council action items to facilitate a PACE transaction for InnoMark Communications.

Approval of this ordinance will affirm the city's intention to proceed with the project and adopt the estimated special assessment. If approved, a certified copy of this ordinance will be delivered to the Butler County Auditor within 15 days of its passage.

Financial Impact:

Innomark Communications plans to invest in its manufacturing facility at 420 Distribution Circle, providing for the retention of its operations in the community and associated income and property tax revenue.

Emergency Provision Explanation:

It is recommended that City Council suspend the rules requiring a second and third reading of this ordinance and pass as an emergency.

Rule Suspension Requested:

Yes

Emergency Provision Needed:

Yes

Attachments:

1. Ordinance to Proceed with InnoMark PACE Project

Ordinance No. _____

Passed: _____

**An Ordinance determining to proceed with the acquisition,
construction, and improvement of certain public
improvements in the City of Fairfield in cooperation with the
Monroe, Liberty Energy Special Improvement District, and
declaring it an emergency.**

WHEREAS, the Council (“Council”) of the City of Fairfield, Ohio (the “City”) duly adopted Resolution No. ____-22 on January 24, 2022 (the “Resolution of Necessity”), (i) declaring the necessity of acquiring, constructing, improving, and installing energy efficiency improvements including, without limitation, energy, water, and resiliency measures, and related improvements (the “Project,” as more fully described in the Petition referenced in this Ordinance) located on real property owned by Three Rivers Partnership, LLC, an Ohio limited liability company (the “Owner”) and identified by the County Auditor of Butler County, Ohio as Parcel Numbers A0700182000001 and A0700183000005 within the City (the “Property”, as more fully described in Exhibit A to the Petition); (ii) providing for the acquisition, construction, and improvement of the Project by the Owner as set forth in the Owner’s *Petition for Special Assessments for Special Energy Improvement Projects and Affidavit* (the “Petition”), including by levying and collecting special assessments to be assessed upon the Property (the “Special Assessments”) in an amount sufficient to pay the costs of the Project, which is estimated to be \$865,000.00, including other related costs of financing the Project, which may include, without limitation, the payment of principal of and interest on nonprofit corporate obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and Monroe, Liberty Energy Special Improvement District (“District”) administrative fees and expenses; and (iii) determining that the Project will be treated as a special energy improvement project to be undertaken cooperatively by the City and the District; and

WHEREAS, the claims for damages alleged to result from, and objections to, the Project have been waived by one hundred percent (100%) of the affected property owners and the Purchaser and no claims for damages have been filed; and

WHEREAS, the passage of this Ordinance as an emergency is necessary for the immediate preservation of public peace, property, health and safety, so the Owner and the Purchaser may begin work on the special energy improvement project on the Property and the District may take advantage of financing available to it for a limited time.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRFIELD, OHIO, THAT:

SECTION 1. Each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Petition.

SECTION 2. This Council declares that its intention is to proceed or to cooperate with the District to proceed with the acquisition, construction, and improvement of the Project described in the Petition and the Resolution of Necessity. The Project shall be made in accordance with the

provisions of the Resolution of Necessity and with the plans, specifications, profiles, and estimates of cost previously approved and now on file with the Finance Director and the Clerk of Council.

SECTION 3. The Special Assessments to pay costs of the Project, which are estimated to be \$865,000.00, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, surveying, testing, and inspection costs; the amount of any damages resulting from the Project and the interest on such damages; the reasonable costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; reasonable expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other reasonable obligations issued or incurred to provide a loan or to secure an advance of funds to the Owner or the Purchaser or otherwise to pay costs of the Project in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued or incurred, including any credit enhancement fees, trustee fees, program administration fees, financing servicing fees, and reasonable District administrative fees and expenses; an amount to reflect interest on unpaid Special Assessments which shall be treated as part of the cost of the Project for which the Special Assessments are made at an interest rate which shall be determined by the District to be substantially equivalent to the fair market rate that would have been borne by notes or bonds if notes or bonds had been issued by the District or another issuer of notes or bonds to pay the costs of the Project; together with all other necessary expenditures, shall be assessed against the Property in the manner and in the number of semi-annual installments provided in the Petition and the Resolution of Necessity. Each semi-annual Special Assessment payment represents the payment of a portion of any principal repayment and interest and administrative fees payable with respect to the Project. The Special Assessments shall be assessed against the Property commencing in tax year 2022 for collection in 2023 and shall continue through tax year 2041 for collection in 2042; provided, however, if the proceedings relating to the Special Assessments are completed at such time that the County Auditor of Butler County, Ohio determines that collections shall not commence in 2023, then the collection schedule may be deferred by one year. In addition to the Special Assessments, the County Auditor of Butler County, Ohio may impose a special assessment collection fee with respect to each semi-annual payment, which amount, if imposed, will be added to the Special Assessments by the County Auditor of Butler County, Ohio.

SECTION 4. The estimated Special Assessments for costs of the Project prepared and filed in the office of the Finance Director, in accordance with the Resolution of Necessity, are adopted.

SECTION 5. In compliance with Ohio Revised Code Section 319.61, the Clerk of Council is directed to deliver a certified copy of this Ordinance to the County Auditor of Butler County, Ohio within 15 days after the date of its passage.

SECTION 6. All contracts for the construction of the Project will be let in accordance with the Petition, the Program Plan, and the Supplemental Plan, and the costs of the Project shall be financed as provided in the Resolution of Necessity.

SECTION 7. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

SECTION 8. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, property, health, and safety in the City, to allow the Owner and the Purchaser to begin work on the special energy improvement project on the Property and the District to take advantage of financing available to it for a limited time; therefore, it shall take effect immediately upon its passage and approval by the Mayor.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	Emergency _____
Third Reading	_____	
ATTEST:		

Clerk of Council

This is to certify that this Resolution has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. ____-22 duly passed by the Council of the City of Fairfield, Ohio on January 24, 2022, and that a true copy of such Ordinance was certified to the County Auditor of Butler County, Ohio within 15 days after its passage.

Clerk of Council

Attachment: Ordinance to Proceed with InnoMark PACE Project (3046 : Ordinance to Proceed with the InnoMark PACE Project)

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

I, Roger Reynolds, the duly elected, qualified, and acting Auditor in and for Butler County, Ohio hereby certify that a certified copy of Ordinance No. ____-22 duly passed by the Council of the City of Fairfield, Ohio on January 24, 2022, determining to proceed with the acquisition, construction, and improvement of certain public improvements in the City of Fairfield, Ohio in cooperation with the Monroe, Liberty Energy Special Improvement District, was filed in this office on _____, 2022.

WITNESS my hand and official seal at Hamilton, Ohio on _____, 2022.

[SEAL]

Auditor
Butler County, Ohio

Attachment: Ordinance to Proceed with InnoMark PACE Project (3046 : Ordinance to Proceed with the InnoMark PACE Project)



City Council Ordinance
Regular Meeting - January 24, 2022

Submitted by: Nathaniel Kaelin, Economic Development Manager
 Submitting Department: Development Services

Subject:

Ordinance to Levy Assessments for InnoMark PACE Project

Legislation Title:

An Ordinance levying special assessments for the purpose of acquiring, constructing, and improving certain public improvements in the City of Fairfield in cooperation with the Fairfield, Liberty, Monroe Energy Special Improvement District, approving an Energy Project Cooperative Agreement and a Special Assessment Agreement, and declaring it an emergency.

Recommendation:

It is recommended that City Council suspend the rules requiring a second and third reading of this ordinance and pass as an emergency.

Background/Synopsis:

This item is the final of three City Council action items to facilitate a PACE transaction for InnoMark Communications.

Approval of this ordinance will formally levy the special assessment at the subject property. The ordinance also authorizes the Acting City Manager to execute an Energy Project Cooperative Agreement and Special Assessment Agreement for the project and special assessment.

Financial Impact:

Innomark Communications plans to invest in its manufacturing facility at 420 Distribution Circle, providing for the retention of its operations in the community and associated income and property tax revenue.

Emergency Provision Explanation:

It is recommended that City Council suspend the rules requiring a second and third reading of this ordinance and pass as an emergency.

Rule Suspension Requested:

Yes

Emergency Provision Needed:

Yes

Attachments:

1. Ordinance to Levy Assessments for InnoMark PACE Project

2. InnoMark PACE - Energy Project Cooperative Agreement
3. InnoMark PACE - Special Assessment Agreement

Ordinance No. _____

Passed: _____

An Ordinance levying special assessments for the purpose of acquiring, constructing, and improving certain public improvements in the City of Fairfield in cooperation with the Monroe, Liberty Energy Special Improvement District, approving an Energy Project Cooperative Agreement and a Special Assessment Agreement, and declaring it an emergency.

WHEREAS, this Council (the “Council”) of the City of Fairfield, Ohio (the “City”) duly adopted Resolution No. ____-22 on January 24, 2022 (the “Resolution of Necessity”) and declared the necessity of acquiring, constructing, improving and installing energy efficiency improvements on certain real property, including, without limitation, energy, water, and resiliency measures, and related improvements (the “Project”), as described in the Resolution of Necessity and as set forth in the Petition requesting those improvements; and

WHEREAS, this Council duly passed Ordinance No. ____-22 on January 24, 2022 and determined to proceed with the Project and adopted the estimated Special Assessments (as defined in the Resolution of Necessity) filed with the Clerk of Council and the Finance Director pursuant to the Resolution of Necessity; and

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

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

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

WHEREAS, the passage of this Ordinance as an emergency is necessary for the immediate preservation of public peace, property, health and safety, so the Owner may begin work on the special energy improvement project on the Property and the District may take advantage of financing available to it for a limited time.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRFIELD, OHIO, THAT:

SECTION 1. Each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity.

SECTION 2. The list of Special Assessments to be levied and assessed on the Property in an amount sufficient to pay the costs of the Project, which is \$865,000.00, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, surveying, testing, and inspection costs; the amount of any damages resulting from the Project and the interest on such damages; the reasonable costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; reasonable expenses of legal services; costs of labor and material; trustee fees and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other reasonable obligations issued or incurred to provide a loan or to secure an advance of funds to the Owner or otherwise to pay costs of the Project in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued or incurred, including any credit enhancement fees, trustee fees, program administration fees, financing servicing fees, and reasonable District administrative fees and expenses, which costs were set forth in the Petition and previously reported to this Council and are now on file in the office of the Finance Director, is adopted and confirmed, and that the Special Assessments are levied and assessed on the Property. The interest portion of the Special Assessments, which shall accrue at the annual rate of 5.40% until the Special Assessments shall have been fully paid, together with amounts used to pay administrative expenses, has been determined by the District to be substantially equivalent to the fair market rate that would have been borne by notes or bonds issued by the District to facilitate the financing of the costs of the Project.

The Special Assessments are assessed against the Property commencing in tax year 2022 for collection in 2023 and shall continue through tax year 2041 for collection in 2042; provided, however, if the proceedings relating to the Special Assessments are completed at such time that the County Auditor determines that collections shall not commence in 2023, then the collection schedule may be deferred by one year. The semi-annual installments of the Special Assessments shall be collected in each calendar year equal to a maximum semi-annual amount of Special Assessments as shown in Exhibit A, attached hereto and incorporated into this Ordinance.

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

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

SECTION 3. This Council finds and determines that the Special Assessments are in proportion to the special benefits received by the Property as set forth in the Petition and are not in excess of any applicable statutory limitation.

SECTION 4. The Owner each waived its right to pay the Special Assessments in cash, and all Special Assessments and installments of the Special Assessments shall be certified by the Finance Director to the County Auditor as provided by the Petition and Ohio Revised Code Section 727.33 to be placed by him or her on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition.

SECTION 5. The Special Assessments will be used by the City to pay the cost of the Project in cooperation with the District in any manner, including assigning the Special Assessments actually received by the City to the District or to another party the City deems appropriate, and the Special Assessments are appropriated for such purposes.

SECTION 6. The Finance Director shall keep the Special Assessments on file in the Office of the Finance Director.

SECTION 7. This Council hereby approves the Energy Project Cooperative Agreement, a copy of which is on file with the Clerk of Council. The Acting City Manager shall sign and deliver, in the name and on behalf of the City, the Energy Project Cooperative Agreement, in substantially the form as is now on file with the Clerk of this Council. The Energy Project Cooperative Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved the Acting City Manager, on behalf of the City, all of which shall be conclusively evidenced by the signing of the Energy Project Cooperative Agreement or amendments to the Energy Project Cooperative Agreement.

SECTION 8. This Council hereby approves the Special Assessment Agreement, a copy of which is on file in the office of the Clerk of Council. The Acting City Manager shall sign and deliver, in the name and on behalf of the City, the Special Assessment Agreement, in substantially the form as are now on file with the Clerk of this Council. The Special Assessment Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Acting City Manager on behalf of the City, all of which shall be conclusively evidenced by the signing of the Special Assessment Agreement or amendments to the Special Assessment Agreement.

SECTION 9. The Acting City Manager is hereby authorized to enter into such other agreements that are not inconsistent with the Resolution of Necessity and this Ordinance and that are approved by the Acting City Manager on behalf of the City, all of which shall be conclusively evidenced by the signing of such agreements or any amendments to such agreements.

SECTION 10. In compliance with Ohio Revised Code Section 319.61, the Clerk of the Council is directed to deliver a certified copy of this Ordinance to the County Auditor within 20 days after its passage.

SECTION 11. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

SECTION 12. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, property, health, and safety in the City, to allow the Owner to begin work on the special energy improvement project on the Property and the District to take advantage of financing available to it for a limited time; therefore, it shall take effect immediately upon its passage and approval by the Mayor.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	Emergency _____
Third Reading	_____	

ATTEST:

Clerk of Council

This is to certify that this Resolution has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

EXHIBIT A**LIST OF SPECIAL ASSESSMENTS AND
SCHEDULE OF SPECIAL ASSESSMENTS****LIST OF SPECIAL ASSESSMENTS**

<u>Name</u>	<u>Assessed Properties Description</u>	<u>Portion of Benefit and Special Assessment</u>	<u>Amount of Special Assessments</u>
Three Rivers Partnership, LLC	A0700182000001	33%	\$468,511.20
Three Rivers Partnership, LLC	A0700183000005	67%	\$951,219.20

**SCHEDULE OF SPECIAL ASSESSMENTS
FOR BUTLER COUNTY PARCEL NO.:**

A0700182000001*

The following schedule of Special Assessment charges shall be certified for collection in forty (40) semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2023 through 2042:

C-PACE Financing Monthly Amortization Table									
Payment	Date	Date Year	Beginning Balance	Payment	Interest	Principal	Ending Balance	Admin Servicing Fee % Payment	Total Assessment Payment
1	1/31/2023	2023	\$285,450.00	\$11,595.65	\$1,926.79	\$9,668.86	\$275,781.14	\$117.13	\$11,712.78
2	7/31/2023	2023	\$275,781.14	\$11,595.65	\$7,487.46	\$4,108.19	\$271,672.95	\$117.13	\$11,712.78
3	1/31/2024	2024	\$271,672.95	\$11,595.65	\$7,498.17	\$4,097.47	\$267,575.47	\$117.13	\$11,712.78
4	7/31/2024	2024	\$267,575.47	\$11,595.65	\$7,304.81	\$4,290.84	\$263,284.63	\$117.13	\$11,712.78
5	1/31/2025	2025	\$263,284.64	\$11,595.65	\$7,266.66	\$4,328.99	\$258,955.65	\$117.13	\$11,712.78
6	7/31/2025	2025	\$258,955.64	\$11,595.65	\$7,030.65	\$4,565.00	\$254,390.64	\$117.13	\$11,712.78
7	1/31/2026	2026	\$254,390.64	\$11,595.65	\$7,021.18	\$4,574.47	\$249,816.17	\$117.13	\$11,712.78
8	7/31/2026	2026	\$249,816.17	\$11,595.65	\$6,782.51	\$4,813.14	\$245,003.03	\$117.13	\$11,712.78
9	1/31/2027	2027	\$245,003.04	\$11,595.65	\$6,762.08	\$4,833.57	\$240,169.47	\$117.13	\$11,712.78
10	7/31/2027	2027	\$240,169.47	\$11,595.65	\$6,520.60	\$5,075.05	\$235,094.42	\$117.13	\$11,712.78
11	1/31/2028	2028	\$235,094.42	\$11,595.65	\$6,488.61	\$5,107.04	\$229,987.38	\$117.13	\$11,712.78
12	7/31/2028	2028	\$229,987.38	\$11,595.65	\$6,278.66	\$5,316.99	\$224,670.39	\$117.13	\$11,712.78
13	1/31/2029	2029	\$224,670.39	\$11,595.65	\$6,200.90	\$5,394.75	\$219,275.64	\$117.13	\$11,712.78
14	7/31/2029	2029	\$219,275.64	\$11,595.65	\$5,953.33	\$5,642.32	\$213,633.32	\$117.13	\$11,712.78
15	1/31/2030	2030	\$213,633.32	\$11,595.65	\$5,896.28	\$5,699.37	\$207,933.95	\$117.13	\$11,712.78
16	7/31/2030	2030	\$207,933.95	\$11,595.65	\$5,645.41	\$5,950.24	\$201,983.71	\$117.13	\$11,712.78
17	1/31/2031	2031	\$201,983.71	\$11,595.65	\$5,574.75	\$6,020.90	\$195,962.81	\$117.13	\$11,712.78
18	7/31/2031	2031	\$195,962.81	\$11,595.65	\$5,320.39	\$6,275.26	\$189,687.55	\$117.13	\$11,712.78
19	1/31/2032	2032	\$189,687.55	\$11,595.65	\$5,235.38	\$6,360.27	\$183,327.28	\$117.13	\$11,712.78
20	7/31/2032	2032	\$183,327.28	\$11,595.65	\$5,004.84	\$6,590.81	\$176,736.47	\$117.13	\$11,712.78
21	1/31/2033	2033	\$176,736.46	\$11,595.65	\$4,877.93	\$6,717.72	\$170,018.74	\$117.13	\$11,712.78
22	7/31/2033	2033	\$170,018.74	\$11,595.65	\$4,616.01	\$6,979.64	\$163,039.10	\$117.13	\$11,712.78
23	1/31/2034	2034	\$163,039.10	\$11,595.65	\$4,499.88	\$7,095.77	\$155,943.33	\$117.13	\$11,712.78
24	7/31/2034	2034	\$155,943.33	\$11,595.65	\$4,233.86	\$7,361.79	\$148,581.54	\$117.13	\$11,712.78
25	1/31/2035	2035	\$148,581.55	\$11,595.65	\$4,100.85	\$7,494.80	\$141,086.75	\$117.13	\$11,712.78
26	7/31/2035	2035	\$141,086.75	\$11,595.65	\$3,830.50	\$7,765.14	\$133,321.60	\$117.13	\$11,712.78
27	1/31/2036	2036	\$133,321.60	\$11,595.65	\$3,679.67	\$7,915.97	\$125,405.62	\$117.13	\$11,712.78
28	7/31/2036	2036	\$125,405.63	\$11,595.65	\$3,423.58	\$8,172.07	\$117,233.56	\$117.13	\$11,712.78
29	1/31/2037	2037	\$117,233.56	\$11,595.65	\$3,235.65	\$8,360.00	\$108,873.56	\$117.13	\$11,712.78
30	7/31/2037	2037	\$108,873.55	\$11,595.65	\$2,955.92	\$8,639.73	\$100,233.82	\$117.13	\$11,712.78
31	1/31/2038	2038	\$100,233.82	\$11,595.65	\$2,766.45	\$8,829.20	\$91,404.62	\$117.13	\$11,712.78
32	7/31/2038	2038	\$91,404.62	\$11,595.65	\$2,481.64	\$9,114.01	\$82,290.61	\$117.13	\$11,712.78
33	1/31/2039	2039	\$82,290.61	\$11,595.65	\$2,271.22	\$9,324.43	\$72,966.18	\$117.13	\$11,712.78
34	7/31/2039	2039	\$72,966.18	\$11,595.65	\$1,981.03	\$9,614.62	\$63,351.56	\$117.13	\$11,712.78
35	1/31/2040	2040	\$63,351.57	\$11,595.65	\$1,748.50	\$9,847.15	\$53,504.42	\$117.13	\$11,712.78
36	7/31/2040	2040	\$53,504.42	\$11,595.65	\$1,460.67	\$10,134.98	\$43,369.44	\$117.13	\$11,712.78
37	1/31/2041	2041	\$43,369.44	\$11,595.65	\$1,197.00	\$10,398.65	\$32,970.79	\$117.13	\$11,712.78
38	7/31/2041	2041	\$32,970.79	\$11,595.65	\$895.16	\$10,700.49	\$22,270.30	\$117.13	\$11,712.78
39	1/31/2042	2042	\$22,270.30	\$11,595.65	\$614.66	\$10,980.99	\$11,289.31	\$117.13	\$11,712.78
40	7/31/2042	2042	\$11,289.31	\$11,595.81	\$306.50	\$11,289.31	\$0.00	\$117.13	\$11,712.94

* As identified in the records of the County Auditor of Butler County, Ohio as of January 24, 2022

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

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

SCHEDULE OF SPECIAL ASSESSMENTS
FOR BUTLER COUNTY PARCEL NO.:

A0700183000005*

The following schedule of Special Assessment charges shall be certified for collection in forty (40) semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2023 through 2042:

C-PACE Financing Monthly Amortization Table									
Payment	Date	Date Year	Beginning Balance	Payment	Interest	Principal	Ending Balance	Admin Servicing Fee % Payment	Total Assessment Payment
1	1/31/2023	2023	\$579,550.00	\$23,542.68	\$3,911.96	\$19,630.72	\$559,919.28	\$237.80	\$23,780.48
2	7/31/2023	2023	\$559,919.28	\$23,542.68	\$15,201.81	\$8,340.87	\$551,578.41	\$237.80	\$23,780.48
3	1/31/2024	2024	\$551,578.41	\$23,542.68	\$15,223.57	\$8,319.12	\$543,259.29	\$237.80	\$23,780.48
4	7/31/2024	2024	\$543,259.30	\$23,542.68	\$14,830.98	\$8,711.70	\$534,547.60	\$237.80	\$23,780.48
5	1/31/2025	2025	\$534,547.59	\$23,542.68	\$14,753.51	\$8,789.17	\$525,758.42	\$237.80	\$23,780.48
6	7/31/2025	2025	\$525,758.43	\$23,542.68	\$14,274.34	\$9,268.34	\$516,490.09	\$237.80	\$23,780.48
7	1/31/2026	2026	\$516,490.09	\$23,542.68	\$14,255.13	\$9,287.55	\$507,202.54	\$237.80	\$23,780.48
8	7/31/2026	2026	\$507,202.54	\$23,542.68	\$13,770.55	\$9,772.13	\$497,430.41	\$237.80	\$23,780.48
9	1/31/2027	2027	\$497,430.40	\$23,542.68	\$13,729.08	\$9,813.60	\$487,616.80	\$237.80	\$23,780.48
10	7/31/2027	2027	\$487,616.80	\$23,542.68	\$13,238.80	\$10,303.88	\$477,312.92	\$237.80	\$23,780.48
11	1/31/2028	2028	\$477,312.92	\$23,542.68	\$13,173.83	\$10,368.85	\$466,944.07	\$237.80	\$23,780.48
12	7/31/2028	2028	\$466,944.07	\$23,542.68	\$12,747.57	\$10,795.11	\$456,148.96	\$237.80	\$23,780.48
13	1/31/2029	2029	\$456,148.96	\$23,542.68	\$12,589.71	\$10,952.97	\$445,195.99	\$237.80	\$23,780.48
14	7/31/2029	2029	\$445,195.99	\$23,542.68	\$12,087.07	\$11,455.61	\$433,740.38	\$237.80	\$23,780.48
15	1/31/2030	2030	\$433,740.38	\$23,542.68	\$11,971.23	\$11,571.45	\$422,168.93	\$237.80	\$23,780.48
16	7/31/2030	2030	\$422,168.93	\$23,542.68	\$11,461.88	\$12,080.80	\$410,088.13	\$237.80	\$23,780.48
17	1/31/2031	2031	\$410,088.13	\$23,542.68	\$11,318.43	\$12,224.25	\$397,863.88	\$237.80	\$23,780.48
18	7/31/2031	2031	\$397,863.88	\$23,542.68	\$10,802.00	\$12,740.68	\$385,123.20	\$237.80	\$23,780.48
19	1/31/2032	2032	\$385,123.20	\$23,542.68	\$10,629.40	\$12,913.28	\$372,209.92	\$237.80	\$23,780.48
20	7/31/2032	2032	\$372,209.92	\$23,542.68	\$10,161.33	\$13,381.35	\$358,828.57	\$237.80	\$23,780.48
21	1/31/2033	2033	\$358,828.58	\$23,542.68	\$9,903.67	\$13,639.01	\$345,189.57	\$237.80	\$23,780.48
22	7/31/2033	2033	\$345,189.57	\$23,542.68	\$9,371.90	\$14,170.78	\$331,018.79	\$237.80	\$23,780.48
23	1/31/2034	2034	\$331,018.79	\$23,542.68	\$9,136.12	\$14,406.56	\$316,612.23	\$237.80	\$23,780.48
24	7/31/2034	2034	\$316,612.23	\$23,542.68	\$8,596.02	\$14,946.66	\$301,665.57	\$237.80	\$23,780.48
25	1/31/2035	2035	\$301,665.56	\$23,542.68	\$8,325.97	\$15,216.71	\$286,448.85	\$237.80	\$23,780.48
26	7/31/2035	2035	\$286,448.85	\$23,542.68	\$7,777.09	\$15,765.60	\$270,683.25	\$237.80	\$23,780.48
27	1/31/2036	2036	\$270,683.26	\$23,542.68	\$7,470.86	\$16,071.83	\$254,611.43	\$237.80	\$23,780.48
28	7/31/2036	2036	\$254,611.43	\$23,542.68	\$6,950.89	\$16,591.79	\$238,019.64	\$237.80	\$23,780.48
29	1/31/2037	2037	\$238,019.64	\$23,542.68	\$6,569.34	\$16,973.34	\$221,046.30	\$237.80	\$23,780.48
30	7/31/2037	2037	\$221,046.31	\$23,542.68	\$6,001.40	\$17,541.28	\$203,505.03	\$237.80	\$23,780.48
31	1/31/2038	2038	\$203,505.03	\$23,542.68	\$5,616.74	\$17,925.94	\$185,579.09	\$237.80	\$23,780.48
32	7/31/2038	2038	\$185,579.09	\$23,542.68	\$5,038.47	\$18,504.21	\$167,074.88	\$237.80	\$23,780.48
33	1/31/2039	2039	\$167,074.88	\$23,542.68	\$4,611.27	\$18,931.41	\$148,143.47	\$237.80	\$23,780.48
34	7/31/2039	2039	\$148,143.47	\$23,542.68	\$4,022.10	\$19,520.58	\$128,622.89	\$237.80	\$23,780.48
35	1/31/2040	2040	\$128,622.88	\$23,542.68	\$3,549.99	\$19,992.69	\$108,630.19	\$237.80	\$23,780.48
36	7/31/2040	2040	\$108,630.19	\$23,542.68	\$2,965.60	\$20,577.08	\$88,053.11	\$237.80	\$23,780.48
37	1/31/2041	2041	\$88,053.11	\$23,542.68	\$2,430.26	\$21,112.42	\$66,940.69	\$237.80	\$23,780.48
38	7/31/2041	2041	\$66,940.69	\$23,542.68	\$1,817.44	\$21,725.24	\$45,215.45	\$237.80	\$23,780.48
39	1/31/2042	2042	\$45,215.45	\$23,542.68	\$1,247.95	\$22,294.73	\$22,920.72	\$237.80	\$23,780.48
40	7/31/2042	2042	\$22,920.72	\$23,543.02	\$622.30	\$22,920.72	\$0.00	\$237.81	\$23,780.83

* As identified in the records of the County Auditor of Butler County, Ohio as of January 24, 2022

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

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

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. ____-22 duly passed by the Council of the City of Fairfield, Ohio on January 24, 2022, and that a true copy of such Ordinance was certified to the County Auditor of Butler County, Ohio within 20 days after its passage.

Clerk of Council

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

I, Roger Reynolds, the duly elected, qualified, and acting Auditor in and for Butler County, Ohio hereby certify that a certified copy of Ordinance No. _____, duly passed by the Council of the City of Fairfield, Ohio on January 24, 2022 levying special assessments for the purpose of acquiring, constructing, and improving certain public improvements in the City of Fairfield, Ohio in cooperation with the Monroe, Liberty Energy Special Improvement District, including the List of Special Assessments and Schedule of Special Assessments, which Special Assessment charges shall be certified for collection in 40 semi-annual installments to be collected with first-half and second-half real property taxes in calendar years 2023 through 2042, was filed in this office on _____, 2022.

WITNESS my hand and official seal at Hamilton, Ohio on _____, 2022.

[SEAL]

Auditor
Butler County, Ohio

ENERGY PROJECT COOPERATIVE AGREEMENT

By and among

FAIRFIELD, LIBERTY, MONROE ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., D/B/A:
I-75 ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.;

THREE RIVERS PARTNERSHIP, LLC;

IR CAPITAL FUNDING, LLC; and

CITY OF FAIRFIELD, OHIO

Dated as of January 31, 2022

BRICKER & ECKLER LLP

ENERGY PROJECT COOPERATIVE AGREEMENT

THIS ENERGY PROJECT COOPERATIVE AGREEMENT (the “Agreement”) is made and entered into as of January 31, 2022, between the FAIRFIELD, LIBERTY, MONROE ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., doing business under the registered trade name I-75 ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., a nonprofit corporation and special improvement district duly organized and validly existing under the laws of the State of Ohio (the “State”) (the “ESID”), THREE RIVERS PARTNERSHIP, LLC, an Ohio limited liability company (the “Owner”), IR CAPITAL FUNDING, LLC, a limited liability company duly organized and validly existing under the laws of the State of Colorado (the “Investor”), and the CITY OF FAIRFIELD, OHIO, a municipal corporation and political subdivision duly organized and validly existing under the constitution and laws of the State (the “City”) (the capitalized terms used in this Agreement and not defined in the preamble and recitals have the meanings stated in **Exhibit A** to this Agreement):

A. The ESID was created under Ohio Revised Code Chapters 1702 and 1710 and established pursuant to Emergency Resolution No. 53-2019 of the City Council of the City of Monroe, Ohio approved on January 14, 2020. Pursuant to the same action, the Fairfield, Liberty, Monroe Energy Special Improvement District Program Plan (as amended and supplemented from time to time, the “Plan”) was adopted as a plan for public improvements and public services under Ohio Revised Code Section 1710.02(F).

B. The ESID is an energy special improvement district and nonprofit corporation duly organized and validly existing under the laws of the State to further the public purpose of implementing special energy improvement projects pursuant to the authority in Ohio Revised Code Chapter 1710 and Article VIII, Section 2o of the Ohio Constitution.

C. On January 24, 2022, by its Resolution No. [__]-22 the City Council of the City (the “City Council”) approved the Petition for Special Assessments for Special Energy Improvement Projects and Affidavit (the “Petition”) submitted by the Owner to the City, together with the Fairfield, Liberty, Monroe Energy Special Improvement District Program Plan Supplement to Plan for 420 Distribution Circle, Fairfield, Ohio Project (the “Supplemental Plan”), as a supplement to the Plan.

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

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

F. The ESID, the Owner, the City, and the Investor (collectively the “Parties,” and each, a “Party”) each have determined that the most efficient and effective way to implement the financing, acquisition, installation, equipment, and improvement of energy special improvement projects and to further the public purposes set forth above is through this Agreement, pursuant to

the Special Assessment Act and on the terms set forth in this Agreement, with (i) the Investor providing the Project Advance to finance the costs of the special energy improvement projects described in the Supplemental Plan; (ii) the ESID and the Owner cooperating to acquire, install, equip and improve special energy improvement projects; (iii) the Owner agreeing to make Special Assessment payments in an aggregate amount that will provide revenues sufficient to pay or repay the permitted costs of the special energy improvement projects; (iv) the City agreeing to assign and transfer all Special Assessment payments and Delinquency Amounts actually received by the City to the Investor to repay the Project Advance and certain fees identified herein; and (v) the ESID agreeing to assign, transfer, and set over to the Investor any of its right, title, or interest in and to the Special Assessments which it may have by operation of law, this Agreement, or otherwise; provided that a portion of the Special Assessments may be retained by, or be payable to, the City or the ESID, all pursuant to and in accordance with this Agreement.

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

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

ARTICLE I: DEFINITIONS

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

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

Any reference to a section or provision of the Constitution of the State or the Special Assessment Act, or to a section, provision or chapter of the Ohio Revised Code or any other legislation or to any statute of the United States of America, includes that section, provision, or

chapter as amended, modified, revised, supplemented, or superseded from time to time; provided, however, that no amendment, modification, revision, supplement, or superseding section, provision, or chapter shall be applicable solely by reason of this provision if it constitutes in any way an impairment of the rights or obligations of the Parties under this Agreement.

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

ARTICLE II: COOPERATIVE ARRANGEMENTS; ASSIGNMENT OF SPECIAL ASSESSMENTS

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

Upon the considerations stated above and upon and subject to the terms and conditions of this Agreement, the Investor, on behalf of the Parties, shall make the Project Advance available to the Owner to pay the costs of the Project. The City and the ESID shall assign, transfer, set over, and pay the Special Assessments and Delinquency Amounts actually received by the City or the ESID, respectively, to the Investor, to pay the costs of the Project at the times and in the manner provided in this Agreement; provided, however, that the City, the ESID, and the Investor intend that the City shall receive all Special Assessments and Delinquency Amounts from the County Treasurer and shall transfer, set over, and pay all Special Assessments and Delinquency Amounts received from the County Treasurer directly to the Investor. The City, the ESID, and the Investor further intend and agree that the Investor shall pay to the ESID, out of the Special Assessments received by the Investor, the semi-annual ESID Fee for the ESID's administrative expenses; provided, however, that if the amount of Special Assessments received by the Investor in any year are insufficient to pay the principal of, and interest on the Project Advance due in that year and the semi-annual ESID Fee, the Special Assessments received shall first be applied to the payment of any past-due Delinquency Amounts, including any interest, fees, or expenses associated with such past-due Delinquency Amounts, then to the payment of interest on the Project Advance, then to the repayment of the principal of the Project Advance, and then to the payment of the semi-annual ESID Fee.

Notwithstanding anything in this Agreement to the contrary, any obligations of the City under this Agreement, including the obligation to transfer the Special Assessments and Delinquency Amounts received by the City to the Investor, shall be a special obligation of the City

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

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

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

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

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

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

- (d) Reduction of Special Assessments. The Parties agree that the Special Assessments, may be subject to reduction, but only upon the express written consent or instruction of the Investor. If the Owner causes the Special Assessments to be prepaid in accordance with Sections 2.2(c) and 4.7 of this Agreement, upon the City's receipt of the Investor's express written consent or instruction (which express written consent or instruction Investor covenants to promptly submit to the City upon any such permitted prepayment by the Owner), the City shall certify to the County Auditor, prior to the last date in the then-current tax year on which municipal corporations may certify special assessments to the County Auditor, a reduction in the amount of Special Assessments collected such that, following such reduction, the amount of Special Assessments remaining to be paid shall be equal to the amounts necessary to pay, as and when due, the remaining outstanding principal of the Project Advance, together with interest at the annual rate of 5.4% (interest shall accrue based on a 360-day year and the actual number of days elapsed) and a semi-annual ESID Fee. The parties acknowledge and agree that the County Auditor may calculate, charge, and collect a fee on each installment of the Special Assessments in an amount that the County Auditor deems necessary to defray the expenses of collecting the Special Assessments pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, and penalties. Notwithstanding anything in this Agreement to the contrary, the City shall not cause any reduction in the amount of the Special Assessments with the prior written consent or instruction of the Investor.
- (e) Assignment of Special Assessments. The City agrees that it shall establish its funds for the collection of the Special Assessments as separate funds maintained on the City's books and records and to be held in the custody of a bank with which the City maintains a depository relationship. The City hereby assigns to the Investor all of its right, title and interest in and to: (i) the Special Assessments actually received by the City under this Agreement, (ii) the City's special assessment funds established for the Project, and (iii) any other property received or to be received from the City under this Agreement with respect to the Project. The City further shall transfer, set over, and pay the Special Assessments and any Delinquency Amounts to the Investor in accordance with this Agreement. The ESID acknowledges and consents to the City's assignment of the Special Assessments to the Investor. The Parties agree that each of the ESID and the Investor, as assignee of the Special Assessments, is authorized to take any and all actions, whether at law, or in equity, to collect delinquent Special Assessments levied by the City pursuant to law and to cause the lien securing any delinquent Special Assessments to be enforced through prompt and timely foreclosure proceedings, including, but not necessarily limited to, filing and prosecution of mandamus or other appropriate proceedings to induce the County Prosecutor, the County Auditor, and the County Treasurer, as necessary, to institute such prompt and timely foreclosure proceedings.
- (f) Transfer of Special Assessments. The parties anticipate that semi-annual installments of the Special Assessments and any Delinquency Amounts will be paid

to the City by the County Auditor and the County Treasurer in accordance with Ohio Revised Code Chapters 319, 321, 323, and 727, which, without limiting the generality of the foregoing, contemplates that the County Auditor and County Treasurer will pay the Special Assessments and any Delinquency Amounts to the City on or before June 1 or December 1 of each year. Immediately upon receipt of any moneys received by the City as Special Assessments and Delinquency Amounts, but in any event not later than twenty-one (21) calendar days after the receipt of such moneys and the corresponding final settlement from the County Auditor, the City shall deliver to the Investor all such moneys received by the City as Special Assessments and Delinquency Amounts by ACH or check as determined in the sole discretion of the City.

The Investor shall provide the City with account and payment information in the form of **Exhibit I** on the date on which this Agreement becomes effective. The Investor may from time to time provide updated written account and payment information in the form of **Exhibit I** to the City for the payment of Special Assessments and any Delinquency Amounts, but the City shall maintain its right to send the Special Assessments and Delinquency Amounts by ACH or check in its sole discretion.

If at any time during the term of this Agreement the County Auditor agrees, on behalf of the City, to disburse the Special Assessments and any Delinquency Amounts to the Investor pursuant to instructions or procedures agreed upon by the County Auditor and the City, then, upon each transfer of an installment of the Special Assessments and any Delinquency Amounts from the County Auditor to the Investor, the City shall be deemed to have satisfied all of its obligations under this Agreement to transfer that installment of the Special Assessments and any Delinquency Amounts to the Investor, and the Investor agrees that the City shall be deemed to have satisfied all of its obligations under this Agreement to transfer that installment of the Special Assessments and any Delinquency Amounts to the Investor.

- (g) **Repayment of Project Advance.** The Investor shall credit, on the dates shown on the Repayment Schedule (which is attached to, and incorporated into, this Agreement as **Exhibit B**), Special Assessments in the amounts shown on the Repayment Schedule to the payment of accrued interest on the Project Advance and to the repayment of the portion of the principal of the Project Advance scheduled to be repaid on such date. On each such date, the Investor shall pay to the ESID, after paying to the Investor amounts sufficient for the payment of accrued interest on the Project Advance and the repayment of the portion of principal of the Project Advance scheduled to be repaid on such date, the semi-annual ESID Fee or such lesser amount as may be available from payment of the Special Assessments by the Owner on the applicable date after the payment of accrued interest on the Project Advance and the repayment of the portion of the principal of the Project Advance scheduled to be repaid on such date. The Parties acknowledge and agree that the County Auditor may calculate, charge, and collect a fee on each installment of the Special Assessments in an amount that the County Auditor deems necessary

to defray the expense of collecting the Special Assessments pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, and penalties, and that such fee shall be paid by the Owner to the County Auditor with the Special Assessments, and that the County Auditor will retain such fee.

Section 2.3. Obligations Unconditional; Place of Payments. The City's obligation to transfer or cause the transfer of the Special Assessments and any Delinquency Amounts to the Investor under Section 2.2 of this Agreement shall be absolute and unconditional, and the City shall make or cause such transfers without abatement, diminution, or deduction regardless of any cause or circumstance whatsoever, including, without limitation, any defense, set-off, recoupment, or counterclaim which the City may have or assert against the Investor, the ESID, or the Owner; provided, however, that the City's obligation to transfer or cause the transfer of the Special Assessments and any Delinquency Amounts is limited to the Special Assessments and any Delinquency Amounts actually received by or on behalf of the City, and nothing in this Agreement shall be construed to obligate the City to transfer or pledge, and the City shall not transfer or pledge any special assessments not related to the ESID.

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

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

ARTICLE III: REPRESENTATIONS, WARRANTIES, AND AGREEMENTS

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

- (a) It is a municipal corporation duly organized, and validly existing under the Constitution and applicable laws of the State.
- (b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the City that would impair its ability to carry out its obligations contained in this Agreement.
- (c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the City's knowledge, execution, delivery and performance of this Agreement does not and will not violate or conflict with any provision of law applicable to the City and does not and will not conflict with or result in a default under any agreement or instrument to which the City is a party or by which it is bound.
- (d) It, by proper action, duly has authorized, executed, and delivered this Agreement, and has taken all steps necessary to establish this Agreement and the City's covenants and agreements within this Agreement, as valid and binding obligations of the City, enforceable in accordance with their terms.
- (e) There is no litigation pending, or to its knowledge threatened, against or by the City in which an unfavorable ruling or decision would materially adversely affect the City's ability to carry out its obligations under this Agreement.
- (f) The assignment contained in Section 2.2(e) is a valid and binding obligation of the City with respect to the Special Assessments received by the City under this Agreement.

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

- (a) It is a nonprofit corporation and special improvement district, duly organized, and validly existing under the Constitution and applicable laws of the State.
- (b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the ESID that would impair its ability to carry out its obligations contained in this Agreement.
- (c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the ESID's knowledge, that execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to the ESID and does not and will not conflict with or result in a default under any agreement or instrument to which the ESID is a party or by which it is bound.

- (d) It, by proper action, duly has authorized, executed, and delivered this Agreement, and the ESID has taken all steps necessary to establish this Agreement and the ESID's covenants and agreements within this Agreement as valid and binding obligations of the ESID, enforceable in accordance with their terms.
- (e) There is no litigation pending, or to its knowledge threatened, against or by the ESID in which an unfavorable ruling or decision would materially adversely affect the ESID's ability to carry out its obligations under this Agreement.
- (f) The assignment contained in Section 2.5 is a valid and binding obligation of the ESID with respect to the ESID's right, title and interest in the Special Assessments under this Agreement.

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

- (a) It is a limited liability company duly organized, validly existing and in full force and effect under the laws of the State. It has all requisite power to conduct its business as presently conducted and to own, or hold under lease, its assets and properties, and, is duly qualified to do business in all other jurisdictions in which it is required to be qualified, except where failure to be so qualified does not have a material adverse effect on it, and will remain so qualified and in full force and effect during the period during which Special Assessments shall be assessed, due, and payable.
- (b) It, by proper action, duly has authorized, executed, and delivered this Agreement, and it has taken all steps necessary to establish this Agreement and its covenants and agreements within this Agreement as valid and binding obligations, enforceable in accordance with their terms.
- (c) There are no actions, suits or proceedings pending or, to its knowledge, threatened against or affecting it, the Property, or the Project that, if adversely determined, would individually or in the aggregate materially impair its ability to perform any of its obligations under this Agreement, or materially adversely affect its financial condition (an "Action"), and during the term of this Agreement, the Owner shall promptly notify the Investor of any Action commenced or to its knowledge threatened against it.
- (d) It is not in default under this Agreement, and no condition, the continuance in existence of which would constitute a default under this Agreement exists. It is not in default in the payment of any Special Assessments or under any agreement or instrument related to the Special Assessments which has not been waived or allowed.
- (e) Except for any financing of the Property and the lien related thereto that Owner has previously disclosed in writing, it has made no contract or arrangement of any kind, other than this Agreement, which has given rise to, or the performance of which by

the other party thereto would give rise to, a lien or claim of lien on its Project, except inchoate statutory liens in favor of suppliers, contractors, architects, subcontractors, laborers or materialmen performing work or services or supplying materials in connection with the acquiring, installing, equipping and improving of its Project.

- (f) No representation or warranty made by it contained in this Agreement, and no statement contained in any certificate, schedule, list, financial statement or other instrument furnished to the Investor or the ESID by it or on its behalf contained, as of the date thereof, any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained herein or therein not misleading.
- (g) Since the date of the most recent financial statements of the Owner provided to the Investor, there has been no material adverse change in the financial condition of the Owner, nor has the Owner mortgaged, pledged or granted a security interest in or encumbered the Property since such date, except as otherwise disclosed to the Investor in writing, and the financial statements which have been delivered to the Investor prior to the date of this Agreement are true, correct, and current in all material respects and fairly represent the respective financial conditions of the subjects of the financial statements as of the respective dates of the financial statements.
- (h) The Owner has good and marketable title to its Property, subject only to existing liens, pledges, encumbrances, charges or other restrictions of record previously disclosed by the Owner to the Investor in writing, liens for taxes not yet due and payable, and minor liens of an immaterial nature.
- (i) The Project complies in all material respects with all applicable zoning, planning, building, environmental and other regulations of each Governmental Authority having jurisdiction of the Project, and all necessary permits, licenses, consents and permissions necessary for the Project have been or will be obtained.
- (j) The plans and specifications for the Project are satisfactory to the Owner, have been reviewed and approved by the general contractor for the Project, the tenants under any leases which require approval of the plans and specifications, the purchasers under any sales contracts which require approval of the plans and specifications, any architects for the Project, and, to the extent required by applicable law or any effective restrictive covenant, by all Governmental Authorities and the beneficiaries of any such covenants; all construction of the Project, if any, already performed on the Property has been performed on the Property in accordance with such approved plans and specifications and the restrictive covenants applicable to the plans and specifications; there are no structural defects in the Project or violations of any requirement of any Governmental Authorities with respect to the Project; the planned use of the Project complies with applicable zoning ordinances, regulations, and restrictive covenants affecting the Property as well as all

environmental, ecological, landmark and other applicable laws and regulations; and all requirements for such use have been satisfied.

- (k) The Owner is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the Owner that would impair its ability to carry out its obligations contained in this Agreement and the Special Assessment Agreement, and it is not in violation of or in conflict with any provision of any mortgage, instrument, document, or agreement evidencing or securing any debt obligations with respect to the Property.
- (l) The Owner has the Required Insurance Coverage and will maintain the Required Insurance Coverage at all times during the term of this Agreement, while any principal of or interest on the Project Advance remains outstanding, and while any Special Assessments remain to be paid.
- (m) Each Disbursement Request Form presented to the Investor by the Owner, and the receipt of the funds requested by the Disbursement Request Form, shall constitute an affirmation that the representations and warranties contained in this Agreement remain true and correct as of the date of the Disbursement Request Form and the receipt of the funds requested by the Disbursement Request Form.
- (n) Each of the Property and the Project are, and at all times during the term of this Agreement, while any principal of or interest on the Project Advance remain outstanding, and while any Special Assessments remain to be paid, used solely for the commercial purposes disclosed by the Owner to the Investor in writing.
- (o) The Project and the plans and specifications for the Project have been developed pursuant to an energy audit prepared by [_____] which energy audit demonstrates that the Project is expected to generate \$[_____] in annual energy savings.
- (p) Each of the components of the Project is a qualified “special energy improvement project” pursuant to the definition of that term in Ohio Revised Code Section 1710.01(I).
- (q) The Owner is not insolvent and shall not be rendered insolvent by the consummation of the transactions contemplated by this Agreement. For purposes of this Agreement, “insolvent” shall mean that the value of the Owner’s liabilities exceeds the value of the Owner’s assets or that the Owner is generally unable to pay its debts as and when due.
- (r) There is no condemnation or eminent domain proceedings pending or to its knowledge threatened against all or any portion of the Property or otherwise affecting or relating to the Project.
- (s) No fraud, error, omission, misrepresentation, negligence, or similar occurrence with respect to the Property or the Project has taken place on the part of the Owner or any other person or entity, including, without limitation, any appraiser, title

company, closing or settlement agent, realtor, builder, or developer or any other party involved in the Property or Project that would materially impair the rights of the Investor in the Property or Project or that would violate applicable law.

- (t) At all times during the term of this Agreement, while any principal of or interest on the Project Advance remain outstanding, and while any Special Assessments remain to be paid, the Owner shall comply in all respects with the Special Assessment Act and shall take any and all action necessary to remain in compliance with the Special Assessment Act.

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

- (a) It shall not transfer or convey any right, title, or interest, in or to the Property and the Project, except after giving prompt notice of any such transfer or conveyance to the Investor; provided, however, that the foregoing restrictions shall not apply to the grant or conveyance of any leasehold interests, mortgage interest, or lien interest, except as may be otherwise provided in this Agreement. Before or simultaneous with any such transfer or conveyance, the Owner shall (i) execute, cause the transferee or purchaser to execute, and deliver to the Investor, the City, and the ESID a fully executed "Assignment and Assumption of Energy Project Cooperative Agreement" in the form attached to and incorporated into this Agreement as Exhibit H, (ii) execute, cause the transferee or purchaser to execute, and deliver to the Investor an assignment of all construction contracts related to the Project, and (iii) pay all reasonable legal fees and expenses of PACE Counsel associated with legal services performed to facilitate such assignment upon receipt of an invoice from PACE Counsel. The Parties acknowledge and agree that the Assignment and Assumption of Energy Project Cooperative Agreement includes the assignment and assumption of the Special Assessment Agreement and the Owner Consent, and the covenants of the Owner in any of them.
- (b) It shall pay when due all taxes, assessments, service payments in lieu of taxes, levies, claims and charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Property, all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Property and all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on any portion of the Property. The Owner shall furnish the Investor, upon reasonable request, with proof of payment of any taxes, governmental charges, utility charges, insurance premiums or other charges required to be paid by the Owner under this Agreement. The Parties acknowledge and agree that the foregoing obligation is in addition to the Owner's obligation to pay the Special Assessments.
- (c) It shall not, without the prior written consent of the Investor, cause or agree to the imposition of any special assessments, other than the Special Assessments, on the Property for the purpose of paying the costs of "special energy improvement projects," as that term is defined in Ohio Revised Code Section 1710.01(I), as amended and in effect at the time.

- (d) It shall promptly pay and discharge all claims for labor performed and material and services furnished in connection with the acquisition, installation, equipment, and improvement of the Project.
- (e) It promptly shall notify the Investor of any material damage or destruction to the Project.
- (f) Upon the reasonable request of the Investor, it shall take any actions and execute any further certificates, instruments, agreements, or documents as shall be reasonably necessary in connection with the performance of this Agreement and with the transactions, obligations, and undertakings contained in this Agreement.
- (g) It does not and will not engage in operations that involve the generation, manufacture, refining, transportation, treatment, storage or handling of hazardous materials or hazardous wastes, as defined in applicable state law, or any other federal, state or local environmental laws or regulations, and neither the Property nor any other of its premises has been so used previously, in each case, except as previously disclosed in writing to the Investor. There are no underground storage tanks located on the Property. There is no past or present non-compliance with environmental laws, or with permits issued pursuant thereto, in connection with the Property, which has not been fully remediated in accordance with environmental laws. There is no environmental remediation required (or anticipated to be required) with respect to the Property. The Owner does not know of, and has not received, any written or oral notice or other communication from any person (including but not limited to a governmental entity) relating to hazardous substances or remediation of hazardous substances, of possible liability of any person pursuant to any environmental law, other environmental conditions in connection with the Property, or any actual or potential administrative or judicial proceedings in connection with the foregoing.
- (h) It shall not cause the Property to be subdivided, platted, or otherwise separated into any additional parcels in the records of the County Auditor without the Investor's express written consent, which may be freely given or withheld in its sole discretion.

ARTICLE IV: PROJECT ADVANCE; CONSTRUCTION OF PROJECT; REPAYMENT

Section 4.1. Project Advance. The Investor has made available to the Owner the Project Advance in the amount of \$865,000.00, of which \$780,546.25 will be net funded into the Project Account (as defined below) for disbursement pursuant to Section 4.2, and capitalized interest or a funded interest reserve in the amount of \$43,466.25 and fees and closing expenses in the amount of \$40,987.50 will be retained for the account of the Investor for further payment to itself and the ESID in accordance with this Agreement. The Investor shall hold the Project Advance in a segregated account established in the custody of the Investor, which account shall be referred to as the "Project Account." Subject to the terms and conditions of this Agreement, the Investor, upon the direction of the Owner, shall disburse amounts on deposit in the Project Account to the Owner or to such parties as may be named by the Owner in order to pay the costs of the Project.

If the Project Advance is insufficient to pay the costs of the Project pursuant to this Agreement, the Owner, nevertheless, shall complete the acquisition, installation, equipment, and improvement of its Project, and the Owner shall pay all such additional costs of its Project from its own funds. The Owner shall not be entitled to reimbursement for any such additional costs of its Project, nor shall it be entitled to any abatement, diminution, or postponement of the Special Assessments. If the cost of construction of the Project or any portion thereof materially exceeds the costs set forth in the approved budget, then the Owner shall immediately deposit with the Investor an amount equal to the deficiency between such budgeted cost and the actual cost.

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

- (a) With each Disbursement Request Form:
 - (i) The Owner shall deliver to the Investor proof that the relevant Milestone pursuant to Exhibit J has occurred and any additional information regarding construction that the Investor reasonably requests;
 - (ii) The Owner shall deliver to the Investor copies of all related receipts and invoices;
 - (iii) The Owner shall deliver to the Investor signed lien waivers in the form attached to the Disbursement Request Form as Schedule 2; and
 - (iv) The Owner shall deliver to the Investor, as necessary, bank information for wiring the amounts requested for disbursement.
- (b) With the first Disbursement Request Form submitted, in addition to the documents required under Section 4.2(a):
 - (i) The Owner shall deliver to the Investor copies of all construction permits required for the construction of the Project;
 - (ii) The Owner shall deliver to the Investor copies of all agreements with all subcontractors performing work or furnishing materials for the Project;
 - (iii) The Owner shall deliver to the Investor a construction schedule completed by the general contractor for the Project, which includes an anticipated date of completion of the Project;
 - (iv) The Owner shall deliver to the Investor copies of all current policies of the Required Insurance Coverage;
 - (v) The construction plans and specifications shall have been approved in all respects by the Investor in its sole discretion;
 - (vi) The budget shall have been approved by the Investor in its sole discretion;
 - (vii) The Owner shall deliver to the Investor the written consent of any existing mortgage lender to the levying, assessment, and collection of the Special Assessments, in the form attached to this Agreement as Exhibit G;

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

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

Additionally, on the date this Agreement becomes effective, the Investor shall disburse to the ESID for closing costs related to the financing described in this Agreement in an amount not to exceed \$2,162.50, as detailed in **Exhibit F** to this Agreement. Without limiting the generality of the foregoing, disbursements made pursuant to this paragraph may be for fees to the Investor, fees to the ESID, legal fees, fees to the City, and other closing costs or contingencies.

In the event that any language contained in this Section 4.2 conflicts with the Disbursement Agreement entered into between the Owner and the Investor, dated as of January 31, 2022, the Disbursement Agreement shall control.

Section 4.3. **Casualties and Takings**. The Owner shall promptly notify the Investor if the Project is damaged or destroyed by fire, casualty, injury or any other cause (each such occurrence, a “Casualty”).

Upon the occurrence of a Casualty, and upon agreement between the Owner and the Investor, the insurance proceeds shall be applied to pay the costs of the restoration of the Project or to the repayment of the outstanding balance of the Special Assessments, and in which case the

Investor shall remain obligated to make disbursements of up to the total amount of the Project Advance in accordance with this Agreement. In the event the Owner and the Investor choose to apply the insurance proceeds to the repayment of the outstanding balance of the Special Assessments, such repayment shall include all fees, costs and other charges associated with the Special Assessments, including any prepayment premiums set forth in Section 4.7 of this Agreement.

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

In the event any part of the Property or the Project shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain (a "Taking"), and the Property or the Project is not restored, the Investor's obligation to make disbursements under this Agreement shall be terminated. If the Lender determines to restore the Property and the Project, the Owner shall immediately proceed with the restoration of the Project in accordance with the plans and specifications. If, in the Investor's reasonable judgment, the Taking proceeds available to the Owner and the Investor are insufficient to complete the restoration, the Owner shall deposit with the Investor such amounts as are necessary, in the Investor's reasonable judgment, to complete the restoration in accordance with the plans and specifications.

The Investor's obligation to make disbursements under this Agreement shall be terminated unless the Property and the Project can be replaced and restored in a manner which will enable the Project to be functionally and economically utilized and occupied as originally intended. If the Property and the Project can be so restored, the Owner shall immediately proceed with the restoration of the Project in accordance with the plans and specifications, and the Investor shall release the funds for such purpose. If, in the Investor's reasonable judgment, the Taking proceeds available to the Owner and the Investor are insufficient to complete the restoration, the Owner shall deposit with the Investor such amounts as are necessary, in the Investor's reasonable judgment, to complete the restoration in accordance with the plans and specifications.

In the event that a Taking occurs after the Project is complete and the Investor's obligation to make disbursements under this Agreement have been completed, the Taking proceeds available to the Owner shall be used (i) first, to repay the Project Advance, and (ii) second, to other purposes for use by the Owner.

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

- (a) costs incurred directly or indirectly for or in connection with the acquisition, installation, equipment, and improvement of the Project, including without

limitation, costs incurred in respect of the Project for preliminary planning and studies; architectural, legal, engineering, surveying, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work;

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

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

During the period of acquisition, installation, equipment, and improvement of the Project, the ESID and the Investor, and their respective agents, subject to reasonable security and safety regulations, and upon reasonable prior notice, shall have the right, during normal business hours, to inspect the Project, at the Owner's expense. The ESID and the Investor and their respective

agents shall utilize commercially reasonable efforts to minimize interference with the tenants of the Property during any such inspection.

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

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

Section 4.6. Repayment. The Parties acknowledge that pursuant to this Agreement, the Project Advance is expected to be repaid by the Special Assessments. The Parties agree that the Special Assessments have been levied in the amounts necessary to amortize the Project Advance, together with interest at the annual rate of 5.4% (interest shall accrue based on a 360-day year and the actual number of days elapsed), and a semi-annual ESID Fee over forty (40) semi-annual payments to be collected beginning approximately on January 31, 2023 and continuing through approximately July 31, 2042. The Parties further acknowledge that in addition to the amount of the Special Assessments and other related interest, fees, and penalties, the County Auditor may charge and collect a County Auditor collection fee on each semi-annual installment of the Special Assessments in an amount to be calculated, charged, and collected by the County Auditor pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, and penalties. Interest shall accrue on the entire amount of the Project Advance from the date of this Agreement; provided, however, that a portion of the Project Advance may be used to pay interest accruing and due and payable on the Project Advance prior to the date on which the first installment of the Special Assessments is paid to the Investor by the City. The Owner agrees to pay, as and when due, all Special Assessments with respect to its Property. The Parties acknowledge and agree that, pursuant to the laws of the State, the Special Assessments to be collected by or on behalf of the City or by the County Treasurer

which as of the relevant date are not yet due and payable never shall be accelerated, and the lien of the Special Assessments never shall exceed the amount of Special Assessments which, as of the relevant date, are due and payable but remain unpaid.

Section 4.7. Prepayment. On any payment date on which the semi-annual assessments are due to the Investor according to Exhibit B attached hereto (the “Payment Dates,” and individually, a “Payment Date”) after the date of this agreement and prior to the fifth anniversary of the date of this Agreement, the Owner may prepay the full amount of the principal of the Project Advance to the Investor by paying, in immediately available funds, 105% of the principal amount of the Project Advance to be prepaid, together with all accrued and unpaid interest on the Project Advance to the date of prepayment. On any Payment Date after the fifth anniversary and prior to the sixth anniversary of the date of this Agreement, the Owner may prepay the full amount of the principal of the Project Advance to the Investor by paying, in immediately available funds, 104% of the principal amount of the Project Advance to be prepaid, together with all accrued and unpaid interest on the Project Advance to the date of prepayment. On any Payment Date after the sixth anniversary and prior to the seventh anniversary of date of this Agreement, the Owner may prepay the full amount of the principal of the Project Advance to the Investor by paying, in immediately available funds, 103% of the principal amount of the Project Advance to be prepaid, together with all accrued and unpaid interest on the Project Advance to the date of prepayment. On any Payment Date after the seventh and prior to the eighth anniversary of the date of this Agreement, the Owner may prepay the full amount of the principal of the Project Advance to the Investor by paying, in immediately available funds, 102% of the principal amount of the Project Advance to be prepaid, together with all accrued and unpaid interest on the Project Advance to the date of prepayment. On any Payment Date after the eighth anniversary and prior to the twentieth anniversary of the date of this Agreement, the Owner may prepay the full amount of the principal of the Project Advance to the Investor by paying, in immediately available funds, 101% of the principal amount of the Project Advance to be prepaid, together with all accrued and unpaid interest on the Project Advance to the date of prepayment. On any Payment Date after the twentieth anniversary of the date of this Agreement, the Owner may prepay the full amount of the principal of the Project Advance to the Investor by paying, in immediately available funds, 100% of the principal amount of the Project Advance to be prepaid, together with all accrued and unpaid interest on the Project Advance to the date of prepayment. In addition to the amounts set forth above, the Investor may require the Owner to pay a prepayment fee of up to \$2,500.00 for its fees and expenses in connection with any prepayment.

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

Section 4.8. Payment of Fees and Expenses. If an Event of Default on the part of the Owner should occur under this Agreement such that the ESID, the Investor, or the City should incur expenses, including attorneys’ fees, in connection with the enforcement of this Agreement or the collection of sums due under this Agreement, the Owner shall reimburse the ESID, the Investor, and the City, as applicable, for any reasonable out-of-pocket expenses so incurred upon demand. If any such expenses are not so reimbursed, the amount of such expenses, together with interest on such amount from the date of demand for payment at an annual rate equal to the lesser

of 17% or the maximum rate allowable by law, shall constitute indebtedness under this Agreement, and the ESID, the Investor, and the City, as applicable, shall be entitled to seek the recovery of those expenses in such action except as limited by law or by judicial order or decision entered in such proceedings.

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

ARTICLE V: EVENTS OF DEFAULT AND REMEDIES

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

- (a) The Owner shall fail to pay an installment of the Special Assessments when due, after taking into account all applicable extensions;
- (b) The City shall fail to transfer, or cause the transfer of, any of the Special Assessments and Delinquency Amounts actually received by the City to the Investor within the time specified in this Agreement;
- (c) Any Party is in material breach of its representations or warranties under this Agreement; provided, however, that upon the material breach of a Party’s representations or warranties under this Agreement, such Party shall have the right to cure such breach within five (5) days of the receipt of notice, and, if so cured, such breach shall not constitute an Event of Default;
- (d) The ESID, the Owner, or the City shall fail to observe and perform any other agreement, term, or condition contained in this Agreement, and the continuation of such failure for a period of thirty (30) days after written notice of such failure shall have been given to the ESID, the Owner, or the City, as applicable, by any other Party to this Agreement, or for such longer period to which the notifying Party may agree in writing; provided, however, that if the failure is other than the payment of money, and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the ESID or the Owner, as applicable, institutes curative action within the applicable period and diligently pursues that action to completion;
- (e) The Owner abandons its Property or its Project;
- (f) The Owner commits waste upon its Property or its Project;
- (g) The Owner becomes bankrupt or insolvent or files or has filed against it (and such action is not stayed or dismissed within ninety (90) days) a petition in bankruptcy or for reorganization or arrangement or other relief under the bankruptcy laws or any similar state law or makes a general assignment for the benefit of creditors; or

- (h) Any workmanship or materials constituting a portion of the Project or incorporated into the Project shall be materially defective and shall not be corrected within thirty (30) days after notice.

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

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

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

- (a) Upon an Event of Default described in Section 5.1(a) only, the Investor shall become entitled to receive any Delinquency Amounts actually received by the City.
- (b) The ESID, the Investor, and the City, together or separately, may pursue all remedies now or later existing at law or in equity to collect all amounts due and to become due under this Agreement or to enforce the performance and observance of any other obligation or agreement of any of the Parties, as applicable, under this Agreement, including enforcement under Ohio Revised Code Chapter 2731 of duties resulting from an office, trust, or station upon the ESID, provided that, Parties may only pursue such remedies against the Party responsible for the particular Event of Default in question; provided, however, that the ESID, the Investor, and the City may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default.
- (c) Any Party may pursue any other remedy which it may have, whether at law, in equity, or otherwise, provided that, Parties may only pursue such remedies against the Party responsible for the particular Event of Default in question; provided, however, that the ESID and the Investor may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default.
- (d) The Investor, in its sole discretion, may choose to perform any or all of the Owner's obligations on the Project on the Owner's behalf, and the Owner shall reimburse the Investor within thirty (30) days after written demand for reimbursement from the Investor for all costs and expenses, including any reasonable attorneys' fees, that the Investor may incur in performing those obligations, together with interest on those sums from and after the dates they are incurred at the rate of interest equal to the lesser of either 17% plus the rate of interest specified in this Agreement or

the maximum rate of interest allowed by law (the “Default Interest Rate”). If any amount due under this Agreement from the Owner to the Investor is not paid as and when due, interest at the Default Interest Rate shall accrue on such amount from the date on which it was due through the date on which payment is made; provided, however, that if any installment of the Special Assessments is not timely paid to the Investor through no fault of the Owner, interest at the Default Interest Rate shall not accrue on any such amount.

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

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

Section 5.4. No Remedy Exclusive. No remedy conferred upon or reserved to the Parties by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, or now or later existing at law, in equity or by statute; provided, however, that the ESID and the Investor may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power nor shall be construed to be a waiver, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Parties to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made in this Agreement.

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

Section 5.6. Notice of Default. Any Party to this Agreement shall notify every other Party to this Agreement immediately if it becomes aware of the occurrence of any Event of Default

or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default.

ARTICLE VI: MISCELLANEOUS

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

Section 6.2. Term of Agreement. This Agreement shall be and remain in full force and effect from the date of execution and delivery until the payment in full of the entire aggregate amount of the Special Assessments and Delinquency Amounts shall have been made to the Investor, or such time as the Parties shall agree in writing to terminate this Agreement. Any attempted termination of this Agreement prior to the payment in full of the entire aggregate amount of the Special Assessments which is not in writing and signed by each of the Parties to this Agreement shall be null and void.

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

Section 6.4. Indemnification. The Owner shall indemnify and hold harmless the ESID, the Investor, and the City (including any member, officer, director, Council Member, official, or employee thereof) (collectively, the “Indemnified Parties”) against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys’ fees and expenses) imposed upon, incurred by or asserted against an Indemnified Party arising or resulting from (i) Owner’s financing, acquisition, construction, installation, operation, use or maintenance of the Project, (ii) any act, failure to act or

misrepresentation solely by the Owner in connection with, or in the performance of any obligation on the Owner's part to be performed under this Agreement or related to the Special Assessments resulting in material actual damages, or (iii) (a) a past, present or future violation or alleged violation of any environmental laws in connection with the Property by any person or other source, whether related or unrelated to the Owner, (b) any presence of any hazardous, toxic or harmful substances, materials, wastes, pollutants or contaminants defined as such in or regulated under any environmental law ("Materials of Environmental Concern") in, on, within, above, under, near, affecting or emanating from the Property, (c) the failure to timely perform any investigation, inspection, site monitoring, containment, clean-up, removal, response, corrective action, mitigation, restoration or other remedial work of any kind or nature because of, or in connection with, the current or future presence, suspected presence, Release (as defined below) or threatened Release in or about the air, soil, ground water, surface water or soil vapor at, on, about, under or within all or any portion of the Property of any Materials of Environmental Concern, including any action to comply with any applicable environmental laws or directives of any governmental authority with regard to any environmental laws, (d) any past, present or future activity by any person or other source, whether related or unrelated to the Owner in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from the Property of any Materials of Environmental Concern at any time located in, under, on, above or affecting the Property, (e) any past, present or future actual generation, treatment, use, storage, transportation, manufacture, refinement, handling, production, removal, remediation, disposal, presence or migration of Materials of Environmental Concern on, about, under or within all or any portion of the Property (a "Release") (whether intentional or unintentional, direct or indirect, foreseeable or unforeseeable) to, from, on, within, in, under, near or affecting the Property by any person or other source, whether related or unrelated to the Owner, (f) the imposition, recording or filing or the threatened imposition, recording or filing of any lien on the Property with regard to, or as a result of, any Materials of Environmental Concern or pursuant to any environmental law, or (g) any misrepresentation or failure to perform any obligations related to environmental matters in any way pursuant to any documents related to the Special Assessments.

In the event any action or proceeding is brought against any Indemnified Party by reason of any such claim, such Indemnified Party will promptly give written notice thereof to the Owner. The Owner shall be entitled to participate at its own expense in the defense or, if it so elects, to assume at its own expense the defense of such claim, suit, action or proceeding, in which event such defense shall be conducted by counsel chosen by the Owner; but if the Owner shall elect not to assume such defense, it shall reimburse such Indemnified Party for the reasonable fees and expenses of any counsel retained by such Indemnified Party. If at any time the Indemnified Party becomes dissatisfied, in its reasonable discretion, with the selection of counsel by the Owner, a new mutually agreeable counsel shall be retained at the expense of the Owner. Each Indemnified Party agrees that the Owner shall have the sole right to compromise, settle or conclude any claim, suit, action or proceeding against any of the Indemnified Parties. Notwithstanding the foregoing, each Indemnified Party shall have the right to employ counsel in any such action at their own expense; and provided further that such Indemnified Party shall have the right to employ counsel in any such action and the fees and expenses of such counsel shall be at the expense of the Owner, if: (i) the employment of counsel by such Indemnified Party has been authorized by the Owner,

(ii) there reasonably appears that there is a conflict of interest between the Owner and the Indemnified Party in the conduct of the defense of such action (in which case the Owner shall not have the right to direct the defense of such action on behalf of the Indemnified Party) or (iii) the Owner shall not in fact have employed counsel to assume the defense of such action. The Owner shall also indemnify the Indemnified Parties from and against all costs and expenses, including reasonable attorneys' fees, lawfully incurred in enforcing any obligations of the Owner under this Agreement. The obligations of the Owner under this Section shall survive the termination of this Agreement and shall be in addition to any other rights, including without limitation, rights to indemnity which any Indemnified Party may have at law, in equity, by contract or otherwise.

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

To the extent that this Agreement confers upon or gives or grants to the City any rights, remedies, or claims by reason of this Agreement, the City is recognized as being a third party beneficiary hereunder and may enforce any such right, remedy, or claim conferred, given, or granted hereunder.

Section 6.5. Notices. All notices, certificates, requests or other communications under this Agreement shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, and addressed to the appropriate Notice Address. The Parties, by notice given under this Agreement to the others, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

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

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

Notwithstanding anything in this Agreement to the contrary, the Owner freely may transfer its interest in the Property and the Project or any portion of the Property and the Project from time to time and may assign this Agreement to an arms-length, good faith purchaser of the Property but only after notice of such assignment is given to the Investor and, only upon (i) the execution and delivery to the Investor and the ESID of an “Assignment and Assumption of Energy Project Cooperative Agreement” in the form attached to, and incorporated into, this Agreement as **Exhibit H**, (ii) the execution and delivery to the Investor of an assignment of all construction contracts for the Project. The Parties acknowledge and agree that the Assignment and Assumption of Energy Project Cooperative Agreement includes the assignment and assumption of the Special Assessment Agreement, and the Owner Consent. Following any assignment by the Owner as described above, all obligations of the Owner contained in or arising out of this Agreement, the Special Assessment Agreement, and the Owner Consent shall be obligations of the assignee, and the assigning Owner shall be released of its obligations to a corresponding extent.

Notwithstanding anything in this Agreement to the contrary, the Investor shall have the unrestricted right at any time or from time to time, and without the Owner’s consent, to assign all or any portion of its rights and obligations under this Agreement, and may sell or assign any and all liens received directly or indirectly from the City to any Person (each, an “Investor Assignee”), and the Owner agrees that it shall execute, or cause to be executed, such documents, including without limitation, amendments to this Agreement and to any other documents, instruments and agreements executed in connection with this Agreement as the Investor shall deem necessary to effect the foregoing so long as such amendment does not materially adversely impact the Owner’s rights and obligations under this Agreement. Any Investor Assignee shall be a party to this Agreement and shall have all of the rights and obligations of the Investor under this Agreement (and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement) to the extent that such rights and obligations have been assigned by the Investor pursuant to the assignment documentation between the Investor and such Investor Assignee, and the Investor shall be released from its obligations under this Agreement and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement to a corresponding extent. If, at any time, the Investor assigns any of the rights and obligations of the Investor under this Agreement (and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement) to an Investor Assignee, the Investor shall (i) give prompt notice of such assignment to the other Parties and (ii) pay all legal fees and expenses of PACE Counsel associated with legal services performed to facilitate such assignment upon receipt of an invoice from PACE Counsel. If **Exhibit L** to this Agreement shall have been executed and delivered prior to or simultaneously with any such assignment, at the same time as and with any assignment of this Agreement or the Investor’s right to receive the Special Assessments under this Agreement by the Investor to an Investor Assignee as described above, the Investor also shall assign all of its rights, title, and interest in and to, and all of its obligations under the Special Assessment Agreement and the Owner Consent.

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

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

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

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

Section 6.9. Execution Counterparts. This Agreement may be executed in counterpart and in any number of counterparts, each of which shall be regarded as an original and all of which together shall constitute but one and the same instrument.

Section 6.10. Severability. If any provision of this Agreement, or any covenant, obligation, or agreement contained in this Agreement is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation, or

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

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

[Signature Pages Immediately Follow]

IN WITNESS WHEREOF, the Parties have each caused this Agreement to be duly executed in their respective names, all as of the date first written above.

FAIRFIELD, LIBERTY, MONROE ENERGY SPECIAL
IMPROVEMENT DISTRICT, INC., D/B/A:

I-75 ENERGY SPECIAL IMPROVEMENT
DISTRICT, INC., as the ESID

By: _____

Name: _____

Title: _____

Attachment: InnoMark PACE - Energy Project Cooperative Agreement (3047 : Ordinance to Levy Assessments for InnoMark PACE Project)

[Signature Page to Energy Project Cooperative Agreement]

THREE RIVERS PARTNERSHIP, LLC, as
the Owner

By: _____

Name: _____

Title: _____

Attachment: InnoMark PACE - Energy Project Cooperative Agreement (3047 : Ordinance to Levy Assessments for InnoMark PACE Project)

[Signature Page to Energy Project Cooperative Agreement]

IR CAPITAL FUNDING, LLC, as the Investor

By: _____

Name: Mark Boyer

Title: CEO and President of Imperial Ridge Real Estate Capital it sole Member

[Signature Page to Energy Project Cooperative Agreement]

EXHIBIT A

DEFINITIONS

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

“*Agreement*” means this Energy Project Cooperative Agreement, dated as of January 31, 2022, by and among the ESID, the Owner, the City, and the Investor, as the same may be amended, modified, or supplemented from time to time in accordance with its terms.

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

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

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

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

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

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

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

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

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

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

“*ESID*” means the Fairfield, Liberty, Monroe Energy Special Improvement District, Inc., doing business as the I-75 Energy Special Improvement District, Inc., a nonprofit corporation and energy special improvement district organized under the laws of the State.

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

“*Governmental Authority*” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive,

legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“*Investor*” means IR Capital Funding, LLC, a limited liability company duly organized and validly existing under the laws of the State of Colorado, together with any Investor Assignee.

“*Lender*” means any Person which has loaned money to the Owner to pay or refinance the costs of acquiring, financing, refinancing, or improving the Property and which loan is secured by a mortgage interest in the Property, or any permitted successors or assigns of such Person.

“*Milestone*” means each construction completion funding benchmark shown on **Exhibit J**; Milestones means all such construction completion funding benchmarks

“*Notice Address*” means:

- | | |
|------------------------|--|
| (a) As to the ESID: | I-75 Energy Special
Improvement District
5021 Winners Circle
Liberty Township, OH 45011
Attention: Chair |
| With a Copy to: | J. Caleb Bell, Esq.
Bricker & Eckler LLP
100 S. Third Street
Columbus, OH 43215
Phone: (614) 227-2300
Email: pace@bricker.com |
| (b) As to the Owner | Three Rivers Partnership, LLC
420 Distribution Circle
Fairfield, Ohio 45014
Attention: Paul Molyneaux |
| (c) As to the Investor | IR Capital Funding, LLC
c/o Mark Boyer
1035 Pearl St, Suite 334
Boulder, CO 80302 |
| (d) As to the City | City of Fairfield, Ohio
5350 Pleasant Avenue
Fairfield, Ohio 45014
Attention: Finance Director |

“*Owner*” means Three Rivers Partnership, LLC, a limited liability company duly organized and validly existing under the laws of the State of Ohio, and any permitted successors or assigns.

“*Owner Consent*” means the Owner Consent dated as of January 31, 2022 by the Owner and recorded in the records of the Butler County Recorder with respect to the Property.

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

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

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

“*Plan*” means the Fairfield, Liberty, Monroe Energy Special Improvement District Program Plan adopted by the City Council of the City of Monroe, Ohio by its Emergency Resolution No. 53-2019 of January 14, 2020, and any and all supplemental plans approved by the ESID and the City, including, without limitation, the Supplemental Plan.

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

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

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

“*Property*” means the real property subject to the Supplemental Plan.

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

“*Required Builder’s Risk Insurance Coverage*” means at any time insurance coverage maintained with generally recognized, responsible insurance companies qualified to do business in the State in the minimum amount of the full replacement value of the Project and Project Site, insuring the Project against loss or damage during construction and containing loss deductible provisions not to exceed \$10,000, which insurance coverage shall name the Investor as lender loss payee.

“*Required Business Interruption Insurance Coverage*” means at all times after the Completion Date, business interruption and rent loss insurance maintained with generally recognized, responsible insurance companies qualified to do business in the State in a

commercially reasonable minimum amount, which insurance coverage shall name the Investor as lender loss payee.

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

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

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

“Required Public Liability Insurance Coverage” means at any time commercial general accident and public liability insurance coverage evidenced on Acord 25 and maintained with generally recognized, responsible insurance companies qualified to do business in the State with coverage limits in the maximum amount of \$2,000,000 per occurrence for death or bodily injury and property damage liability combined, with loss deductible provisions of not to exceed \$10,000, which insurance coverage shall name the Investor as additional insureds.

“Special Assessment Act” means, collectively, Ohio Revised Code Section 727.01 *et seq.*, Ohio Revised Code Section 1710.01 *et seq.*, Ohio Revised Code Section 323.01 *et seq.*, Ohio Revised Code Section 319.01 *et seq.*, Ohio Revised Code Section 5721.01 *et seq.*, and related laws.

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

“*State*” means the State of Ohio.

“*Supplemental Plan*” means the Fairfield, Liberty, Monroe Energy Special Improvement District Program Plan Supplement to Plan for 420 Distribution Circle, Fairfield, Ohio Project adopted by the City Council on January 24, 2022 by its Resolution No. []-22.

EXHIBIT B**REPAYMENT SCHEDULE**

PARCEL A0700182000001:

Interest Only Payment Schedule:

C-PACE Financing Monthly Amortization Table									
Payment	Date	Date Year	Beginning Balance	Payment	Interest	Principal	Ending Balance	Admin Servicing Fee % Payment	Total Assessment Payment
0	1/31/2022	2022	\$285,450.00	\$0.00	\$0.00	\$0.00	\$285,450.00	\$0.00	\$0.00
0	2/1/2022	2022	\$285,450.00	\$42.82	\$42.82	\$0.00	\$285,450.00	\$0.00	\$42.82
0	3/1/2022	2022	\$285,450.00	\$1,198.89	\$1,198.89	\$0.00	\$285,450.00	\$0.00	\$1,198.89
0	4/1/2022	2022	\$285,450.00	\$1,327.34	\$1,327.34	\$0.00	\$285,450.00	\$0.00	\$1,327.34
0	5/1/2022	2022	\$285,450.00	\$1,284.53	\$1,284.53	\$0.00	\$285,450.00	\$0.00	\$1,284.53
0	6/1/2022	2022	\$285,450.00	\$1,327.34	\$1,327.34	\$0.00	\$285,450.00	\$0.00	\$1,327.34
0	7/1/2022	2022	\$285,450.00	\$1,284.53	\$1,284.53	\$0.00	\$285,450.00	\$0.00	\$1,284.53
0	8/1/2022	2022	\$285,450.00	\$1,327.34	\$1,327.34	\$0.00	\$285,450.00	\$0.00	\$1,327.34
0	9/1/2022	2022	\$285,450.00	\$1,327.34	\$1,327.34	\$0.00	\$285,450.00	\$0.00	\$1,327.34
0	10/1/2022	2022	\$285,450.00	\$1,284.53	\$1,284.53	\$0.00	\$285,450.00	\$0.00	\$1,284.53
0	11/1/2022	2022	\$285,450.00	\$1,327.34	\$1,327.34	\$0.00	\$285,450.00	\$0.00	\$1,327.34
0	12/1/2022	2022	\$285,450.00	\$1,284.53	\$1,284.53	\$0.00	\$285,450.00	\$0.00	\$1,284.53
0	1/1/2023	2023	\$285,450.00	\$1,327.34	\$1,327.34	\$0.00	\$285,450.00	\$0.00	\$1,327.34

Attachment: InnoMark PACE - Energy Project Cooperative Agreement (3047 : Ordinance to Levy Assessments for InnoMark PACE Project)

PARCEL A0700182000001:

Amortizing Payment Schedule:

C-PACE Financing Monthly Amortization Table									
Payment	Date	Date Year	Beginning Balance	Payment	Interest	Principal	Ending Balance	Admin Servicing Fee % Payment	Total Assessment Payment
1	1/31/2023	2023	\$285,450.00	\$11,595.65	\$1,926.79	\$9,668.86	\$275,781.14	\$117.13	\$11,712.78
2	7/31/2023	2023	\$275,781.14	\$11,595.65	\$7,487.46	\$4,108.19	\$271,672.95	\$117.13	\$11,712.78
3	1/31/2024	2024	\$271,672.95	\$11,595.65	\$7,498.17	\$4,097.47	\$267,575.47	\$117.13	\$11,712.78
4	7/31/2024	2024	\$267,575.47	\$11,595.65	\$7,304.81	\$4,290.84	\$263,284.63	\$117.13	\$11,712.78
5	1/31/2025	2025	\$263,284.64	\$11,595.65	\$7,266.66	\$4,328.99	\$258,955.65	\$117.13	\$11,712.78
6	7/31/2025	2025	\$258,955.64	\$11,595.65	\$7,030.65	\$4,565.00	\$254,390.64	\$117.13	\$11,712.78
7	1/31/2026	2026	\$254,390.64	\$11,595.65	\$7,021.18	\$4,574.47	\$249,816.17	\$117.13	\$11,712.78
8	7/31/2026	2026	\$249,816.17	\$11,595.65	\$6,782.51	\$4,813.14	\$245,003.03	\$117.13	\$11,712.78
9	1/31/2027	2027	\$245,003.04	\$11,595.65	\$6,762.08	\$4,833.57	\$240,169.47	\$117.13	\$11,712.78
10	7/31/2027	2027	\$240,169.47	\$11,595.65	\$6,520.60	\$5,075.05	\$235,094.42	\$117.13	\$11,712.78
11	1/31/2028	2028	\$235,094.42	\$11,595.65	\$6,488.61	\$5,107.04	\$229,987.38	\$117.13	\$11,712.78
12	7/31/2028	2028	\$229,987.38	\$11,595.65	\$6,278.66	\$5,316.99	\$224,670.39	\$117.13	\$11,712.78
13	1/31/2029	2029	\$224,670.39	\$11,595.65	\$6,200.90	\$5,394.75	\$219,275.64	\$117.13	\$11,712.78
14	7/31/2029	2029	\$219,275.64	\$11,595.65	\$5,953.33	\$5,642.32	\$213,633.32	\$117.13	\$11,712.78
15	1/31/2030	2030	\$213,633.32	\$11,595.65	\$5,896.28	\$5,699.37	\$207,933.95	\$117.13	\$11,712.78
16	7/31/2030	2030	\$207,933.95	\$11,595.65	\$5,645.41	\$5,950.24	\$201,983.71	\$117.13	\$11,712.78
17	1/31/2031	2031	\$201,983.71	\$11,595.65	\$5,574.75	\$6,020.90	\$195,962.81	\$117.13	\$11,712.78
18	7/31/2031	2031	\$195,962.81	\$11,595.65	\$5,320.39	\$6,275.26	\$189,687.55	\$117.13	\$11,712.78
19	1/31/2032	2032	\$189,687.55	\$11,595.65	\$5,235.38	\$6,360.27	\$183,327.28	\$117.13	\$11,712.78
20	7/31/2032	2032	\$183,327.28	\$11,595.65	\$5,004.84	\$6,590.81	\$176,736.47	\$117.13	\$11,712.78
21	1/31/2033	2033	\$176,736.46	\$11,595.65	\$4,877.93	\$6,717.72	\$170,018.74	\$117.13	\$11,712.78
22	7/31/2033	2033	\$170,018.74	\$11,595.65	\$4,616.01	\$6,979.64	\$163,039.10	\$117.13	\$11,712.78
23	1/31/2034	2034	\$163,039.10	\$11,595.65	\$4,499.88	\$7,095.77	\$155,943.33	\$117.13	\$11,712.78
24	7/31/2034	2034	\$155,943.33	\$11,595.65	\$4,233.86	\$7,361.79	\$148,581.54	\$117.13	\$11,712.78
25	1/31/2035	2035	\$148,581.55	\$11,595.65	\$4,100.85	\$7,494.80	\$141,086.75	\$117.13	\$11,712.78
26	7/31/2035	2035	\$141,086.75	\$11,595.65	\$3,830.50	\$7,765.14	\$133,321.60	\$117.13	\$11,712.78
27	1/31/2036	2036	\$133,321.60	\$11,595.65	\$3,679.67	\$7,915.97	\$125,405.62	\$117.13	\$11,712.78
28	7/31/2036	2036	\$125,405.63	\$11,595.65	\$3,423.58	\$8,172.07	\$117,233.56	\$117.13	\$11,712.78
29	1/31/2037	2037	\$117,233.56	\$11,595.65	\$3,235.65	\$8,360.00	\$108,873.56	\$117.13	\$11,712.78
30	7/31/2037	2037	\$108,873.55	\$11,595.65	\$2,955.92	\$8,639.73	\$100,233.82	\$117.13	\$11,712.78
31	1/31/2038	2038	\$100,233.82	\$11,595.65	\$2,766.45	\$8,829.20	\$91,404.62	\$117.13	\$11,712.78
32	7/31/2038	2038	\$91,404.62	\$11,595.65	\$2,481.64	\$9,114.01	\$82,290.61	\$117.13	\$11,712.78
33	1/31/2039	2039	\$82,290.61	\$11,595.65	\$2,271.22	\$9,324.43	\$72,966.18	\$117.13	\$11,712.78
34	7/31/2039	2039	\$72,966.18	\$11,595.65	\$1,981.03	\$9,614.62	\$63,351.56	\$117.13	\$11,712.78
35	1/31/2040	2040	\$63,351.57	\$11,595.65	\$1,748.50	\$9,847.15	\$53,504.42	\$117.13	\$11,712.78
36	7/31/2040	2040	\$53,504.42	\$11,595.65	\$1,460.67	\$10,134.98	\$43,369.44	\$117.13	\$11,712.78
37	1/31/2041	2041	\$43,369.44	\$11,595.65	\$1,197.00	\$10,398.65	\$32,970.79	\$117.13	\$11,712.78
38	7/31/2041	2041	\$32,970.79	\$11,595.65	\$895.16	\$10,700.49	\$22,270.30	\$117.13	\$11,712.78
39	1/31/2042	2042	\$22,270.30	\$11,595.65	\$614.66	\$10,980.99	\$11,289.31	\$117.13	\$11,712.78
40	7/31/2042	2042	\$11,289.31	\$11,595.81	\$306.50	\$11,289.31	\$0.00	\$117.13	\$11,712.94

PARCEL A0700183000005:

Interest Only Payment Schedule:

C-PACE Financing Monthly Amortization Table									
Payment	Date	Date Year	Beginning Balance	Payment	Interest	Principal	Ending Balance	Admin Servicing Fee % Payment	Total Assessment Payment
0	1/31/2022	2022	\$579,550.00	\$0.00	\$0.00	\$0.00	\$579,550.00	\$0.00	\$0.00
0	2/1/2022	2022	\$579,550.00	\$86.93	\$86.93	\$0.00	\$579,550.00	\$0.00	\$86.93
0	3/1/2022	2022	\$579,550.00	\$2,434.11	\$2,434.11	\$0.00	\$579,550.00	\$0.00	\$2,434.11
0	4/1/2022	2022	\$579,550.00	\$2,694.91	\$2,694.91	\$0.00	\$579,550.00	\$0.00	\$2,694.91
0	5/1/2022	2022	\$579,550.00	\$2,607.97	\$2,607.97	\$0.00	\$579,550.00	\$0.00	\$2,607.97
0	6/1/2022	2022	\$579,550.00	\$2,694.91	\$2,694.91	\$0.00	\$579,550.00	\$0.00	\$2,694.91
0	7/1/2022	2022	\$579,550.00	\$2,607.97	\$2,607.97	\$0.00	\$579,550.00	\$0.00	\$2,607.97
0	8/1/2022	2022	\$579,550.00	\$2,694.91	\$2,694.91	\$0.00	\$579,550.00	\$0.00	\$2,694.91
0	9/1/2022	2022	\$579,550.00	\$2,694.91	\$2,694.91	\$0.00	\$579,550.00	\$0.00	\$2,694.91
0	10/1/2022	2022	\$579,550.00	\$2,607.97	\$2,607.97	\$0.00	\$579,550.00	\$0.00	\$2,607.97
0	11/1/2022	2022	\$579,550.00	\$2,694.91	\$2,694.91	\$0.00	\$579,550.00	\$0.00	\$2,694.91
0	12/1/2022	2022	\$579,550.00	\$2,607.97	\$2,607.97	\$0.00	\$579,550.00	\$0.00	\$2,607.97
0	1/1/2023	2023	\$579,550.00	\$2,694.91	\$2,694.91	\$0.00	\$579,550.00	\$0.00	\$2,694.91

Attachment: InnoMark PACE - Energy Project Cooperative Agreement (3047 : Ordinance to Levy Assessments for InnoMark PACE Project)

PARCEL A0700183000005:

Amortizing Payment Schedule:

C-PACE Financing Monthly Amortization Table									
Payment	Date	Date Year	Beginning Balance	Payment	Interest	Principal	Ending Balance	Admin Servicing Fee % Payment	Total Assessment Payment
1	1/31/2023	2023	\$579,550.00	\$23,542.68	\$3,911.96	\$19,630.72	\$559,919.28	\$237.80	\$23,780.48
2	7/31/2023	2023	\$559,919.28	\$23,542.68	\$15,201.81	\$8,340.87	\$551,578.41	\$237.80	\$23,780.48
3	1/31/2024	2024	\$551,578.41	\$23,542.68	\$15,223.57	\$8,319.12	\$543,259.29	\$237.80	\$23,780.48
4	7/31/2024	2024	\$543,259.30	\$23,542.68	\$14,830.98	\$8,711.70	\$534,547.60	\$237.80	\$23,780.48
5	1/31/2025	2025	\$534,547.59	\$23,542.68	\$14,753.51	\$8,789.17	\$525,758.42	\$237.80	\$23,780.48
6	7/31/2025	2025	\$525,758.43	\$23,542.68	\$14,274.34	\$9,268.34	\$516,490.09	\$237.80	\$23,780.48
7	1/31/2026	2026	\$516,490.09	\$23,542.68	\$14,255.13	\$9,287.55	\$507,202.54	\$237.80	\$23,780.48
8	7/31/2026	2026	\$507,202.54	\$23,542.68	\$13,770.55	\$9,772.13	\$497,430.41	\$237.80	\$23,780.48
9	1/31/2027	2027	\$497,430.40	\$23,542.68	\$13,729.08	\$9,813.60	\$487,616.80	\$237.80	\$23,780.48
10	7/31/2027	2027	\$487,616.80	\$23,542.68	\$13,238.80	\$10,303.88	\$477,312.92	\$237.80	\$23,780.48
11	1/31/2028	2028	\$477,312.92	\$23,542.68	\$13,173.83	\$10,368.85	\$466,944.07	\$237.80	\$23,780.48
12	7/31/2028	2028	\$466,944.07	\$23,542.68	\$12,747.57	\$10,795.11	\$456,148.96	\$237.80	\$23,780.48
13	1/31/2029	2029	\$456,148.96	\$23,542.68	\$12,589.71	\$10,952.97	\$445,195.99	\$237.80	\$23,780.48
14	7/31/2029	2029	\$445,195.99	\$23,542.68	\$12,087.07	\$11,455.61	\$433,740.38	\$237.80	\$23,780.48
15	1/31/2030	2030	\$433,740.38	\$23,542.68	\$11,971.23	\$11,571.45	\$422,168.93	\$237.80	\$23,780.48
16	7/31/2030	2030	\$422,168.93	\$23,542.68	\$11,461.88	\$12,080.80	\$410,088.13	\$237.80	\$23,780.48
17	1/31/2031	2031	\$410,088.13	\$23,542.68	\$11,318.43	\$12,224.25	\$397,863.88	\$237.80	\$23,780.48
18	7/31/2031	2031	\$397,863.88	\$23,542.68	\$10,802.00	\$12,740.68	\$385,123.20	\$237.80	\$23,780.48
19	1/31/2032	2032	\$385,123.20	\$23,542.68	\$10,629.40	\$12,913.28	\$372,209.92	\$237.80	\$23,780.48
20	7/31/2032	2032	\$372,209.92	\$23,542.68	\$10,161.33	\$13,381.35	\$358,828.57	\$237.80	\$23,780.48
21	1/31/2033	2033	\$358,828.58	\$23,542.68	\$9,903.67	\$13,639.01	\$345,189.57	\$237.80	\$23,780.48
22	7/31/2033	2033	\$345,189.57	\$23,542.68	\$9,371.90	\$14,170.78	\$331,018.79	\$237.80	\$23,780.48
23	1/31/2034	2034	\$331,018.79	\$23,542.68	\$9,136.12	\$14,406.56	\$316,612.23	\$237.80	\$23,780.48
24	7/31/2034	2034	\$316,612.23	\$23,542.68	\$8,596.02	\$14,946.66	\$301,665.57	\$237.80	\$23,780.48
25	1/31/2035	2035	\$301,665.56	\$23,542.68	\$8,325.97	\$15,216.71	\$286,448.85	\$237.80	\$23,780.48
26	7/31/2035	2035	\$286,448.85	\$23,542.68	\$7,777.09	\$15,765.60	\$270,683.25	\$237.80	\$23,780.48
27	1/31/2036	2036	\$270,683.26	\$23,542.68	\$7,470.86	\$16,071.83	\$254,611.43	\$237.80	\$23,780.48
28	7/31/2036	2036	\$254,611.43	\$23,542.68	\$6,950.89	\$16,591.79	\$238,019.64	\$237.80	\$23,780.48
29	1/31/2037	2037	\$238,019.64	\$23,542.68	\$6,569.34	\$16,973.34	\$221,046.30	\$237.80	\$23,780.48
30	7/31/2037	2037	\$221,046.31	\$23,542.68	\$6,001.40	\$17,541.28	\$203,505.03	\$237.80	\$23,780.48
31	1/31/2038	2038	\$203,505.03	\$23,542.68	\$5,616.74	\$17,925.94	\$185,579.09	\$237.80	\$23,780.48
32	7/31/2038	2038	\$185,579.09	\$23,542.68	\$5,038.47	\$18,504.21	\$167,074.88	\$237.80	\$23,780.48
33	1/31/2039	2039	\$167,074.88	\$23,542.68	\$4,611.27	\$18,931.41	\$148,143.47	\$237.80	\$23,780.48
34	7/31/2039	2039	\$148,143.47	\$23,542.68	\$4,022.10	\$19,520.58	\$128,622.89	\$237.80	\$23,780.48
35	1/31/2040	2040	\$128,622.88	\$23,542.68	\$3,549.99	\$19,992.69	\$108,630.19	\$237.80	\$23,780.48
36	7/31/2040	2040	\$108,630.19	\$23,542.68	\$2,965.60	\$20,577.08	\$88,053.11	\$237.80	\$23,780.48
37	1/31/2041	2041	\$88,053.11	\$23,542.68	\$2,430.26	\$21,112.42	\$66,940.69	\$237.80	\$23,780.48
38	7/31/2041	2041	\$66,940.69	\$23,542.68	\$1,817.44	\$21,725.24	\$45,215.45	\$237.80	\$23,780.48
39	1/31/2042	2042	\$45,215.45	\$23,542.68	\$1,247.95	\$22,294.73	\$22,920.72	\$237.80	\$23,780.48
40	7/31/2042	2042	\$22,920.72	\$23,543.02	\$622.30	\$22,920.72	\$0.00	\$237.81	\$23,780.83

EXHIBIT C
DISBURSEMENT REQUEST FORM

[See Attached]

Attachment: InnoMark PACE - Energy Project Cooperative Agreement (3047 : Ordinance to Levy Assessments for InnoMark PACE Project)

OWNER'S CERTIFICATE AND REQUEST FOR DISBURSEMENT

Date: _____

Re: Energy Project Cooperative Agreement dated as of January 31, 2022

Project: 420 Distribution Circle, Fairfield, Ohio Project

This Owner's Certificate and Request for Disbursement is submitted by the Owner to IR Capital Funding, LLC ("Lender") in connection with the Project Advance made pursuant to the Energy Project Cooperative Agreement between the Lender and the Owner, dated as of January 31, 2022 (the "Financing Agreement"). Capitalized terms used herein and not otherwise defined shall have their respective meanings set forth in the Financing Agreement. The Owner hereby requests Lender to make a principal disbursement from the amount of the Project Advance in the Project Account (a "Disbursement") in the amount of \$_____ which is to be funded as follows:

_____ Issue a check to the Owner for reimbursement of proper costs

_____ Issue a check to the Contractor at:

Full Legal Name: _____

Address: _____

_____ Wire Transfer to the Owner or Contractor (circle one) at:

ABA

Bank Name

Bank Address

Account Name

Account Number

Reference:

To induce the Lender to make the requested Disbursement, the Owner hereby certifies, warrants and represents to the Lender that:

1. The proceeds of this Disbursement will be used for the purposes detailed in Schedule 1 attached hereto, which shall have attached to it (A) copies of invoices and other evidence of the items to be paid or reimbursed and (B) if required by Lender, certifications from the Architect in form satisfactory to Lender in its sole discretion.
2. The improvements will be completed as specified in the Financing Agreement. All proceeds of all prior Disbursements have been expended solely for the purposes for which they were requisitioned, and no proceeds of the current or any prior Disbursement have been or will be returned to the Owner as a rebate, refund or otherwise.
3. The Owner has paid all obligations incurred in connection with all work and materials supplied for the Project through the date of the last requisition.
4. The Owner has not authorized, nor does the Owner contemplate, any change-orders or other modifications to any contracts entered into in connection with the Project's development costs that have not been authorized in writing by the Lender.
5. The cost to complete the Project (including financing and other soft costs) after disbursement of the requested funds is reasonably projected to be \$[_____] ("Completion Amount"). \$[_____] is the outstanding undisbursed portion of the Project Advance ("Disbursements Remaining"), after this payment. If

the Completion Amount exceeds the Disbursements Remaining, the Owner certifies that it has a sufficient amount of funds to complete the Project from sources other than the Project Advance.

6. If the Project is complete, the completion date of the Project was [____]. If the Project is not yet completed, the projected completion date remains [____], as described in the Financing Agreement. Each condition precedent to the making of this Disbursement under the Financing Agreement has been satisfied.
7. The Owner has no knowledge or notice of any mechanics' notices of intention, contracts, stop work notices, liens or claims for liens having been filed or threatened to be filed against the Project. The Owner has furnished to the Lender partial waivers and releases of liens (for labor, services or materials which have been performed and paid for or such lien waiver will be subject to payment) from the Contractor and all other contractors, subcontractors and suppliers performing labor, services or materials in connection with the Project, substantially in the form attached hereto as Schedule 2.
8. All required licenses, approvals and permits covering or required for the development of the Project have been issued and are in force, and there are no actions pending or threatened to revoke, rescind, alter or declare invalid any such licenses, approvals or permits or any laws, ordinances, regulations, permits, variances, certificates or agreements for or relating to the Project.
9. No event of default under the terms of the Financing Agreement has occurred.
10. The Owner is not a party to any lawsuit and the Owner has no knowledge of any actions, suits or proceedings pending or threatened, against or affecting Owner which could materially adversely affect the Owner, any of its properties, its financial condition or which will hinder, delay, prevent or interfere with the construction of the Project.
11. There have been no material adverse changes in the financial condition of the Owner since the date of the Financing Agreement that have not been previously disclosed in writing to Lender.
12. A builder's risk (or hazard) insurance policy issued by _____ Policy Number _____ and complying with the terms of the Financing Agreement is presently in effect.

Owner: []

By: _____
Name:

Title:

SCHEDULE 1 TO DISBURSEMENT REQUEST FORM**PURPOSE OF DISBURSEMENT**

Equipment/Service	Amount	Description
1.		If for equipment*, circle one: (Installed/Stored/Contractor Custody) Additional Information: _____ _____
2.		If for equipment*, circle one: (Installed/Stored/Contractor Custody) Additional Information: _____ _____
3.		If for equipment*, circle one: (Installed/Stored/Contractor Custody) Additional Information: _____ _____
Total Amount:	\$ _____	

Have any sub-contractors been involved in the equipment/service work described above? (Y/N)

If yes please list and provide a lien waiver for that sub-contractor. _____

*For any equipment expenses answer the following question(s) by circling the appropriate answer in the 'Description' column:

Is the equipment installed on the Property? (Y/N)

If No, is the equipment stored on the Property or in a bonded warehouse? (Y/N)

If No, is the equipment in the custody of the Contractor? (Y/N)

When is the equipment expected to be delivered and/or installed on the Property?

SCHEDULE 2 TO DISBURSEMENT REQUEST FORM**FORM OF PARTIAL LIEN WAIVER AND RELEASE****Contractor:** _____ (the "Contractor")**Property Address:** _____ (the "Property")

1. Contractor is the contractor pursuant to an agreement dated _____, (the "Contract") entered into by and between Contractor and _____ (the "Owner") in connection with the renovation or retrofit of the Property to reduce energy consumption or to install renewable energy systems at the Property (the "Project").
2. This Partial Lien Waiver and Release is delivered in consideration of a progress payment of \$_____ ("Payment") under the Contract for labor performed and/or materials supplied by the Contractor through _____, (the "Waiver Date").
3. The Contractor and the individual signing on behalf of the Contractor warrant and represent that: (i) all taxes applicable to the materials furnished and the work performed under the Contract have been fully paid and (ii) all laborers, mechanics, subcontractors of any tier, materialmen and suppliers for all work done and for all materials, machinery, equipment, fixtures, tools, scaffolding and appliances furnished for the performance of the Contract and for any other indebtedness connected therewith have been paid in full to the date hereof. The undersigned acknowledges and agrees that the Lender, the Owner, lessees, lessors, mortgage holders, lenders, and any other persons or entities claiming an interest in connection with the Project or the Property, and any person or entity associated with the foregoing, may rely on the statements, agreements, and representations made by the undersigned herein.
4. The Contractor, for itself, its successors, and on behalf of all persons able to claim through or under the Contractor hereby:
 - (a) waives, relinquishes and releases Owner, its sureties, if any, and the Property from all mechanic's liens, claims of mechanic's lien, and claims against labor and material payment bonds that Contractor has for the labor and materials furnished to the Project or Property through the Waiver Date;
 - (b) releases Owner, and the Property of and from all, and all manner of action and actions, cause and causes of actions, suits, debts, dues, sums of money, accounts, reckoning, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, in admiralty, or in equity from the beginning of the world to the Waiver Date except for those claims in existence for which Owner has received the requisite notice pursuant to the Contract and which claims were acknowledged in writing by Lender; and
 - (c) agrees to save harmless Lender and Owner from all liability, costs and expenses, including reasonable attorney's fees to discharge (by bond or otherwise) any

such mechanic's lien or claim of mechanic's lien, to defend suit to enforce or foreclose upon any such mechanic's lien, claim of mechanic's lien, or bond substituted for such mechanic's lien, and to defend suit to enforce any such labor and material payment bond.

5. This Partial Release and Lien Waiver is intended to be enforceable to the fullest extent permitted by law and shall be governed under the laws of the State of Ohio. Should any term or provision herein be determined to be unenforceable or otherwise rendered null or void as a matter of law, the terms and provisions hereof shall be deemed modified only to the most limited extent necessary to render this Partial Release and Lien Waiver enforceable to the fullest extent permitted by law.

Dated: _____

Contractor: _____

By: _____

Name: _____

Title: _____

EXHIBIT D
COMPLETION CERTIFICATE

Three Rivers Partnership, LLC (the "Owner") hereby certifies that the Project, as such term is defined in the Energy Project Cooperative Agreement entered into by and between the Owner, the Fairfield, Liberty, Monroe Energy Special Improvement District, Inc., doing business as the I-75 Energy Special Improvement District, Inc., and IR Capital Funding, LLC ("Lender") dated as of January 31, 2022 (the "Financing Agreement") has been completed at 420 Distribution Circle, Fairfield, Ohio 45014 (the "Property") in strict compliance with the requirements of the Financing Agreement and the Construction Contract entered into by and between the Owner and _____ (the "Contractor") dated _____ (the "Construction Contract").

Note: Capitalized terms used but not defined in this Completion Certificate have the meaning assigned to them in the Financing Agreement to which this Completion Certificate is attached and of which it forms a part.

THE OWNER HEREBY CERTIFIES:

1. As of _____, the Contractor has completed the work in accordance with the terms of the Construction Contract that the Owner has entered into and executed. The Owner has no service requests and no unresolved complaints regarding the work performed.
2. The Project has been completed in all material respects in accordance with the plans and specifications, permits, and budget approved by Lender.
3. The Owner has complied, and will continue to comply with, all applicable statutes, regulations and ordinances in connection with the Property and construction of the Project.
4. The Owner holds fee ownership in the Property on which the Project was completed.
5. The Contractor has not offered the Owner any payment, refund, or any commission in return for completing the Project.
6. All funds provided to the Owner by the Lender for this Project have been used in accordance with the Financing Agreement are correct.

[Balance of Page Intentionally Left Blank]

NOTICE: DO NOT SIGN THIS COMPLETION CERTIFICATE UNLESS YOU AGREE TO EACH OF THE ABOVE STATEMENTS.

THREE RIVERS PARTNERSHIP, LLC

By: _____

Name: _____

Title: _____

EXHIBIT E
FORM OF FINAL LIEN WAIVER AND RELEASE

Contractor: _____ (the "Contractor")

Property Address: _____ (the "Property")

1. Contractor is the contractor pursuant to an agreement dated _____, (the "Contract") entered into by and between Contractor and _____ (the "Owner") in connection with the renovation or retrofit of the Property to reduce energy consumption or to install renewable energy systems at the Property (the "Project").
2. This Final Lien Waiver and Release is delivered in consideration of a final payment of \$_____ ("Payment") under the Contract for labor performed and/or materials supplied by the Contractor in connection with the Project.
3. The Contractor and the individual signing on behalf of the Contractor warrant and represent that: (i) all taxes applicable to the materials furnished and the work performed under the Contract have been fully paid and (ii) all laborers, mechanics, subcontractors of any tier, materialmen and suppliers for all work done and for all materials, machinery, equipment, fixtures, tools, scaffolding and appliances furnished for the performance of the Contract and for any other indebtedness connected therewith have been paid in full to the date hereof. The undersigned acknowledges and agrees that IR Capital Funding, LLC ("Lender"), the Owner, lessees, lessors, mortgage holders, lenders, and any other persons or entities claiming an interest in connection with the Project or the Property, and any person or entity associated with the foregoing, may rely on the statements, agreements, and representations made by the undersigned herein.
4. The Contractor, for itself, its successors, and on behalf of all persons able to claim through or under the Contractor hereby:
 - (a) Waives, relinquishes and releases Owner, its sureties, if any, and the Property from all mechanic's liens, claims of mechanic's lien, and claims against labor and material payment bonds that Contractor has for the labor and materials furnished to the Project or Property;
 - (b) Releases Owner, and the Property of and from all, and all manner of action and actions, cause and causes of actions, suits, debts, dues, sums of money, accounts, reckoning, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, in admiralty, or in equity from the beginning of the world to the date hereof; and
 - (c) Agrees to save harmless Lender and Owner from all liability, costs and expenses, including reasonable attorney's fees to discharge (by bond or otherwise)

any such mechanic's lien or claim of mechanic's lien, to defend suit to enforce or foreclose upon any such mechanic's lien, claim of mechanic's lien, or bond substituted for such mechanic's lien, and to defend suit to enforce any such labor and material payment bond.

5. This Final Release and Lien Waiver is intended to be enforceable to the fullest extent permitted by law and shall be governed under the laws of the State of Ohio. Should any term or provision herein be determined to be unenforceable or otherwise rendered null or void as a matter of law, the terms and provisions hereof shall be deemed modified only to the most limited extent necessary to render this Final Release and Lien Waiver enforceable to the fullest extent permitted by law.

Dated: _____

Contractor: _____

By: _____

Name: _____

Title: _____

EXHIBIT F
CLOSING COSTS DETAIL

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

Closing Costs	
Ohio PACE	\$4,325.00
ESID	\$2,162.50
Bricker Legal	\$9,500.00
IR 3rd Party Reimbursement	\$10,000.00
IR Closing Fee	\$10,000.00
IR Underwriting Fee	\$5,000.00
Subtotal	\$40,987.50
C-PACE Funded Interest Reserve	\$43,466.25
TOTAL	\$84,453.75

EXHIBIT G
CONSENT OF MORTGAGEE

[See attached]

EXHIBIT H

FORM OF ASSIGNMENT AND ASSUMPTION OF ENERGY PROJECT
COOPERATIVE AGREEMENT

ASSIGNMENT AND ASSUMPTION
OF
ENERGY PROJECT COOPERATIVE AGREEMENT

_____ (“Assignor”), in consideration of the sum of \$ _____ in hand paid and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by Assignor’s execution of this Assignment and Assumption of Energy Project Cooperative Agreement (“Assignment”), assigns, transfers, sets over, and conveys to _____ (“Assignee”) all of Assignor’s right, title, and interest in and to that certain Energy Project Cooperative Agreement dated as of January 31, 2022 by and among the Fairfield, Liberty, Monroe Energy Special Improvement District, Inc., d/b/a the I-75 Energy Special Improvement District, Inc. (the “ESID”), the City of Fairfield, Ohio (the “City”), Three Rivers Partnership, LLC, and IR Capital Funding, LLC (the “Energy Project Cooperative Agreement”).

By executing this Assignment, Assignee accepts the assignment of, and assumes all of Assignor’s duties and obligations under, the Energy Project Cooperative Agreement. Assignee further represents and warrants that it has taken title to the “Property,” as that term is defined in the Energy Project Cooperative Agreement, subject to the Special Assessment Agreement dated as of even date with the Energy Project Cooperative Agreement between the Butler County Treasurer, the ESID, the City, Three Rivers Partnership, LLC, and IR Capital Funding, LLC (the “Special Assessment Agreement”) and the “Owner Consent” dated as of January 31, 2022 by Three Rivers Partnership, LLC and recorded in the records of the Butler County Recorder with respect to the Property. By executing this Assignment, Assignee accepts the assignment of, and assumes all of Assignor’s duties and obligations under, the Special Assessment Agreement, and the Owner Consent.

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

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

[Signature Pages Follow]

ASSIGNOR:

[_____]

By: _____

Name: _____

Title: _____

ASSIGNEE:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT I
PAYMENT INSTRUCTIONS

All Payment shall be directed via check as follows:

IR Capital Funding, LLC
1035 Pearl Street
Suite 419
Boulder, CO 80302
Attn: Mark Boyer – CEO
Phone: 303-390-1655
Email: mboyer@imperialridgerealestatecap.com

EXHIBIT J
DRAW SCHEDULE

[TO BE INSERTED]

EXHIBIT K
OWNER AUTHORIZED REPRESENTATIVE

Authorized Person for Borrower	Title/Position/Status	Email Address	Telephone Number(s) for Authorized Person
Paul Molyneaux	Member/CFO	Molyneauxp@innomarkcom.com	888-466-6627

SPECIAL ASSESSMENT AGREEMENT

(ORC Sections 5721.33 and 9.482)

by and among

COUNTY TREASURER OF BUTLER COUNTY, OHIO,

And

CITY OF FAIRFIELD, OHIO,

And

IR CAPITAL FUNDING, LLC,

And

FAIRFIELD, LIBERTY, MONROE ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., D/B/A:
I-75 ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.,

And

THREE RIVERS PARTNERSHIP, LLC

Dated as of January 31, 2022

SPECIAL ASSESSMENT AGREEMENT

THIS SPECIAL ASSESSMENT AGREEMENT (this “Agreement”) is made effective as of January 31, 2022, by and among the County Treasurer of Butler County, Ohio (the “Treasurer”), the City of Fairfield, Ohio (the “City”), the Fairfield, Liberty, Monroe Energy Special Improvement District, Inc., d/b/a the I-75 Energy Special Improvement District, Inc. (the “District”), IR Capital Funding, LLC (together with its permitted successors and assigns, the “Investor”), and Three Rivers Partnership, LLC (the “Owner”) (the Treasurer, the District, the Owner, and the Investor are collectively referred to herein as the “Parties”).

BACKGROUND:

WHEREAS, the District was created under Ohio Revised Code Chapters 1702 and 1710 and established pursuant to Emergency Resolution No. 53-2019 of the City Council of the City of Monroe, Ohio approved on January 14, 2020. Pursuant to the same action, the Fairfield, Liberty, Monroe Energy Special Improvement District Program Plan (as amended and supplemented from time to time, the “Plan”) was adopted as a plan for public improvements and public services under Ohio Revised Code Section 1710.02(F);

WHEREAS, the Owner has determined that it is in its best interests to cause the acquisition, construction, installation, improvement, and equipping of energy efficiency improvements, including, without limitation, HVAC improvements, and related improvements (collectively, the “Project”) on the real property located within Butler County, Ohio (the “County”) and the City, and as more fully described in Exhibit A to this Agreement (the “Assessed Lands”); and

WHEREAS, pursuant to Resolution No. []-22 of the Council of the City (the “Council”), approved on January 24, 2022, the Assessed Lands were added to the territory of the District; and

WHEREAS, the costs of the Project are being funded in part through an advance in the amount of \$865,000 (the “Project Advance”) to the Owner pursuant to an Energy Project Cooperative Agreement dated as of January 31, 2022 (the “Energy Project Cooperative Agreement”) between the District, the Investor, the City, and the Owner; and

WHEREAS, to secure the repayment of the principal of, and the payment of any premium, fees, and unpaid interest on, the Project Advance used to finance the Project (the “Project Costs”), (i) the Owner signed and delivered to the Clerk of Council a Petition for Special Assessments for Special Energy Improvement Projects and Affidavit (the “Petition”) for the acquisition, construction, installation, equipping, and improvement of the Project and evidencing the Owner’s agreement to the levy and collection of special assessments by the City (the “Special Assessments”) on the Assessed Lands, which are located within the District in amounts sufficient to pay the Project Costs, and (ii) the City (a) has taken all the necessary actions required by Ohio Revised Code Chapter 727, including, without limitation, the passage of the assessing resolution or ordinance pursuant to the requirements of Ohio Revised Code

Section 727.25, for the levying of the Special Assessments and has caused or will cause the Special Assessments to be certified to the County Auditor of Butler County, Ohio (the “County Auditor”) for collection by the Treasurer in semi-annual installments, and (b) hereby has agreed to transfer to the Investor the payments of Special Assessments received, which payments are to be transferred to the Investor to pay the Project Costs; and

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

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

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

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

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

WHEREAS, based on the Owner Consent and other considerations, at the request of the District, upon the occurrence of an Event of Default under the Energy Project Cooperative Agreement, the Treasurer has agreed to foreclose the lien of the Special Assessments as soon as possible as described herein; and

WHEREAS, if any assessments, including, without limitation, the Special Assessments, payments in lieu of taxes, real property taxes, or other governmental charges levied on the Assessed Lands are not paid when due and thereafter remain delinquent, the Treasurer, pursuant to Ohio Revised Code Sections 5721.30 through 5721.41 (the “Delinquent Tax Lien Sale Act”), specifically Ohio Revised Code Section 5721.33, may, in his discretion, but is not required to, negotiate with one or more persons the sale of any number of tax certificates (“Tax Certificates”) which evidence the liens (the “Tax Liens”) of the State of Ohio (the “State”) and its applicable taxing districts for such delinquent assessments, including Special Assessments, real property taxes, payments in lieu of taxes, governmental charges, or penalties and interest on such Assessed Lands; and

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

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

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

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

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

Section 1. Special Assessments.

1.1 The Owner, prior to the execution and delivery of this Agreement, signed and delivered to the Clerk of Council the Petition for the acquisition, construction, installation, equipping and improvement of the Project and evidencing the agreement of the Owner to the levy and collection of the Special Assessments as security for the Project Advance. The Owner agrees that its delivery of the Petition and the requests and agreements made therein are irrevocable and that the Parties have acted and will act in reliance on the agreements contained in that Petition. The City has duly enacted Resolution No. [__]-22, Ordinance No. [__]-22, and Ordinance No. [__]-22 (the "Assessing Ordinance") to provide for the levy and collection of the Special Assessments on the Assessed Lands. The Clerk of Council certified (or caused to be certified) the Assessing Ordinance to the County Auditor as set forth in the Petition.

1.2 The City shall cause the Special Assessments, as set forth in the Assessment Schedule attached to the Petition, to be certified to the County Auditor on or before the last date for the certification of special assessments to the County Auditor pursuant to the requirements of Section 727.33 of the Ohio Revised Code.

1.3 In the event the Project Advance is prepaid or redeemed in full in accordance with the Energy Project Cooperative Agreement, the parties shall, in cooperation with the Owner, and to the extent permitted by law, cause the aggregate lien of the Special Assessments to be no greater than the remaining principal of and interest and premium, if any, on the Project Advance through maturity, including any such premiums or penalties as set forth in the Energy Project Cooperative Agreement.

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

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

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

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

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

Section 2. Foreclosure Process.

2.1 The Treasurer, the District, the City, the Investor, and the Owner each acknowledge that the Special Assessments are to secure payments relating to the Project

Advance, including the Project Costs and other amounts as provided under the Energy Project Cooperative Agreement (collectively, the “PACE Obligations”). The Treasurer agrees that so long as the PACE Obligations are outstanding, upon the Treasurer’s receipt of written notice from the Investor or the District, with a copy to the other of the Investor or the District, and to the Owner and the City, that an Event of Default (as defined under the Energy Project Cooperative Agreement, as applicable) has occurred and is continuing and which notice directs Treasurer to foreclose on the lien of the Special Assessments, the Treasurer will, not later than thirty (30) days from the date of the receipt of such notice, file and diligently prosecute a foreclosure action against the Assessed Lands, following the procedures for lien foreclosures established in Ohio Revised Code Section 323.25 and related sections. The foreclosure action shall be to collect all Special Assessments then due and owing on the Assessed Lands in accordance with the Petition. Without the prior written consent of the District and the Investor, the Treasurer will not confirm the sale of the Assessed Lands for an amount less than 100% of the amount of the Special Assessments and other general real estate taxes, payments in lieu of taxes, and assessments then due and owing with respect to the Assessed Lands, as shall be certified by the District to the Treasurer pursuant to the records of the Treasurer. All fees and expenses of the Treasurer in collecting the Special Assessments are to be included and paid for by the Owner.

2.2 The Treasurer hereby acknowledges that the City has assigned all of its right, title, and interest in and to the Special Assessments to the Investor, and that the District has assigned all of its right, title and interest it may have in and to the Special Assessments to the Investor, and the Treasurer hereby agrees that so long as the PACE Obligations are outstanding, the Treasurer will not sell or negotiate the sale of one or more Tax Certificates related to the Assessed Lands for an amount less than 100% of the amount levied and certified for collection without the prior written consent of the District and the Investor.

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

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

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

2.6 The District and the Investor each hereby agrees that upon written notice from the Treasurer pursuant to Section 2.3 of this Agreement, it, within thirty (30) days of receipt of the Treasurer's notice, shall give a written response to the Treasurer indicating therein whether it consents to the request for sale of a Tax Certificate or Tax Certificates.

2.7 No delay or failure of the District or the Investor to give a written response shall be construed to be a consent to such request or to be a waiver of the right to give such consent. No consent or refusal thereof by the District or the Investor in response to a request by the Treasurer shall extend to or affect any subsequent request of the Treasurer or shall impair the rights of the District or the Investor with respect any such subsequent request.

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

Section 3. Indemnification by Owner

3.1 The Owner hereby releases the District, the City, the Treasurer, the Investor, and their respective officers, directors, Council members, officials, and employees (the "Indemnified Parties"), from, agrees that the Indemnified Parties shall not be liable for, and indemnifies the Indemnified Parties against, all liabilities, claims, costs, and expenses, including out-of-pocket and incidental expenses and legal fees, imposed upon, incurred, or asserted against Indemnified Parties, on account of: (i) the levy and collection of the Special Assessments; (ii) any loss or damage to property or injury to or death of or loss by any person that may be occasioned by any cause whatsoever pertaining to the acquisition, construction, installation,

equipment, improvement, maintenance, operation and use of the Project; (iii) any breach or default on the part of the Owner in the performance of any covenant, obligation or agreement of the Owner under the Energy Project Cooperative Agreement, or arising from any act or failure to act by the Owner, or any of the Owner's agents, contractors, servants, employees, or licensees; (iv) the Owner's failure to comply with any requirement of this Agreement; (v) the efforts of the City and the Treasurer to collect Special Assessments; (vi) any legal costs or out-of-pocket costs incurred by the District or the City specifically related to additional approvals or actions that may be required by the District or the City arising after the date of the Energy Project Cooperative Agreement (and in the case of such legal costs or out-of-pocket costs, agrees to pay such costs, respectively, directly to the District and the City); (vii) any claim, action or proceeding brought with respect to any matter set forth in clause (i), (ii), (iii), (iv), (v), or (vi) above, provided, however that the Owner shall not indemnify the Indemnified Parties as provided above to the extent that any liability, claim, cost, or expense arises out of or results from the gross negligence, willful misconduct, or breach of this Agreement or the Energy Project Cooperative Agreement of the Indemnified Parties.

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

Section 4. Additional Agreements and Covenants.

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

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

4.3 This Agreement shall inure to the benefit of each of the Parties, and each of their successors and assigns, all subject to the provisions of this Agreement. This Agreement may be amended only by a written instrument of the Parties, and any attempt to amend or modify this Agreement without a written instrument signed by all of the Parties shall be null and void.

Notices given hereunder shall be in writing and shall be effective when actually received if delivered by hand or overnight courier, or three days after being sent by registered or certified mail, postage prepaid, the certification receipt therefore being deemed the date of such notice, and addressed to the Parties as follows:

If to City:	City of Fairfield, Ohio 5350 Pleasant Avenue Fairfield, Ohio 45014 Attention: Finance Director
If to Treasurer:	County Treasurer Butler County, Ohio 315 High Street, #10 Hamilton, Ohio 45011 Attention: Nancy Nix
If to the District:	I-75 Energy Special Improvement District 5021 Winners Circle Liberty Township, OH 45011 Attention: Chair
With a Copy to:	J. Caleb Bell Bricker & Eckler LLP 100 South Third Street Columbus, Ohio 43215
If to Owner:	Three Rivers Partnership, LLC 420 Distribution Circle Fairfield, Ohio 45014 Attention: Paul Molyneaux
If to Investor:	IR Capital Funding, LLC 1035 Pearl St. Ste. 334 Boulder, CO 80302 Attention: Mark Boyer

4.4 (a) The Investor shall have the unrestricted right at any time or from time to time, and without the Treasurer, the City, the District, or the Owner's consent, to assign all or any portion of its rights and obligations under this Agreement and may sell or assign any and all liens received directly or indirectly from the City to any person (each, an "Investor Assignee"); provided, the Owner shall give notice of any such assignment to the City and the District. In the case of such an assignment, the Owner agrees that it shall execute, or cause to be executed, such documents, including without limitation, amendments to this Agreement and to any other

documents, instruments and agreements executed in connection with this Agreement as the Investor shall deem necessary to effect the foregoing. Any Investor Assignee shall be a party to this Agreement and shall have all of the rights and obligations of the Investor under this Agreement (and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement) to the extent that such rights and obligations have been assigned by the Investor in accordance herewith and pursuant to the assignment documentation between the Investor and such Assignee, and the Investor shall be released from its obligations under this Agreement and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement to a corresponding extent.

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

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

4.5 This Agreement shall be construed in accordance with the laws of the State of Ohio. Any action brought under this Agreement shall be brought in a court of competent jurisdiction located in Butler County, Ohio.

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

4.7 The Parties hereby acknowledge and agree that this Agreement does not constitute a contract involving the expenditure of money by the County.

(Signature Pages Immediately Follow)

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

“TREASURER”
COUNTY TREASURER OF BUTLER
COUNTY, OHIO

Treasurer
County of Butler, Ohio

“CITY”
CITY OF FAIRFIELD, OHIO

By: _____

Name: _____

Title: _____

“INVESTOR”
IR CAPITAL FUNDING, LLC,

By: _____

Name: _____

Title: _____

“DISTRICT”

FAIRFIELD, LIBERTY, MONROE ENERGY SPECIAL
IMPROVEMENT DISTRICT, INC., D/B/A:

I-75 ENERGY SPECIAL IMPROVEMENT
DISTRICT, INC.

By: _____

Name: _____

Title: _____

“OWNER”
THREE RIVERS PARTNERSHIP, LLC

By: _____

Name: _____

Title: _____

FISCAL OFFICER'S CERTIFICATE

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

Dated: _____, 2021

Fiscal Officer
City of Fairfield, Ohio

EXHIBIT ADESCRIPTION OF ASSESSED LANDS

The Assessed Lands subject to this Special Assessment Agreement are located at the commonly used mailing address 420 Distribution Circle, Fairfield, Ohio 45014, with Butler County Auditor Parcel ID Nos. A0700182000001 and A0700183000005, and having the following legal description:

EXHIBIT B

OWNER CONSENT

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

The undersigned, [____], having been duly cautioned and sworn, deposes and states as follows:

The undersigned is the [____] of Three Rivers Partnership, LLC, an Ohio limited liability company (the “Owner”).

This Owner Consent, dated as of January 31, 2022, is given by the Owner pursuant to the Special Assessment Agreement dated as of January 31, 2022 (the “Agreement”) by and among the County Treasurer of Butler County, Ohio (the “Treasurer”), the Fairfield, Liberty, Monroe Energy Special Improvement District, Inc., d/b/a the I-75 Energy Special Improvement District, Inc. (the “District”), the City of Fairfield, Ohio (the “City”), and IR Capital Funding, LLC (together with its permitted successors and assigns under the Agreement, the “Investor”), and the Owner. Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

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

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

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

Recorder's Office and the Owner covenants and agrees to record such documents and to take such reasonable steps as are necessary, so that the foreclosure process with respect to the lien of the Special Assessments is a covenant on and running with the Assessed Lands and is binding on the Owner and any and all future owners of all or any portion of the Assessed Lands.

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

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

(Signature Page Immediately Follows)

Further affiant sayeth naught.

“OWNER”

THREE RIVERS PARTNERSHIP, LLC

By: _____

Name: _____

Title: _____

STATE OF _____)
) SS:
 COUNTY OF _____)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named THREE RIVERS PARTNERSHIP, LLC, by _____, its _____, who acknowledged that he did sign the foregoing instrument and that the same is such officer's free act and deed as such officer and of said limited liability company.

The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2021.

 Notary Public

This instrument was prepared by:

Colin J. Kalvas, Esq.
 Bricker & Eckler LLP
 100 South Third Street
 Columbus, Ohio 43215

EXHIBIT 1DESCRIPTION OF ASSESSED LANDS

The Assessed Lands subject to this Owner Consent are located at the commonly used mailing address 420 Distribution Circle, Fairfield, Ohio 45014, with Butler County Auditor Parcel ID Nos. A0700182000001 and A0700183000005, and having the following legal description:

[TO BE INSERTED]

EXHIBIT 2

SCHEDULE OF SPECIAL ASSESSMENTS

PARCEL A0700182000001:

C-PACE Financing Monthly Amortization Table									
Payment	Date	Date Year	Beginning Balance	Payment	Interest	Principal	Ending Balance	Admin Servicing Fee % Payment	Total Assessment Payment
1	1/31/2023	2023	\$285,450.00	\$11,595.65	\$1,926.79	\$9,668.86	\$275,781.14	\$117.13	\$11,712.78
2	7/31/2023	2023	\$275,781.14	\$11,595.65	\$7,487.46	\$4,108.19	\$271,672.95	\$117.13	\$11,712.78
3	1/31/2024	2024	\$271,672.95	\$11,595.65	\$7,498.17	\$4,097.47	\$267,575.47	\$117.13	\$11,712.78
4	7/31/2024	2024	\$267,575.47	\$11,595.65	\$7,304.81	\$4,290.84	\$263,284.63	\$117.13	\$11,712.78
5	1/31/2025	2025	\$263,284.63	\$11,595.65	\$7,266.66	\$4,328.99	\$258,955.65	\$117.13	\$11,712.78
6	7/31/2025	2025	\$258,955.64	\$11,595.65	\$7,030.65	\$4,565.00	\$254,390.64	\$117.13	\$11,712.78
7	1/31/2026	2026	\$254,390.64	\$11,595.65	\$7,021.18	\$4,574.47	\$249,816.17	\$117.13	\$11,712.78
8	7/31/2026	2026	\$249,816.17	\$11,595.65	\$6,782.51	\$4,813.14	\$245,003.03	\$117.13	\$11,712.78
9	1/31/2027	2027	\$245,003.04	\$11,595.65	\$6,762.08	\$4,833.57	\$240,169.47	\$117.13	\$11,712.78
10	7/31/2027	2027	\$240,169.47	\$11,595.65	\$6,520.60	\$5,075.05	\$235,094.42	\$117.13	\$11,712.78
11	1/31/2028	2028	\$235,094.42	\$11,595.65	\$6,488.61	\$5,107.04	\$229,987.38	\$117.13	\$11,712.78
12	7/31/2028	2028	\$229,987.38	\$11,595.65	\$6,278.66	\$5,316.99	\$224,670.39	\$117.13	\$11,712.78
13	1/31/2029	2029	\$224,670.39	\$11,595.65	\$6,200.90	\$5,394.75	\$219,275.64	\$117.13	\$11,712.78
14	7/31/2029	2029	\$219,275.64	\$11,595.65	\$5,953.33	\$5,642.32	\$213,633.32	\$117.13	\$11,712.78
15	1/31/2030	2030	\$213,633.32	\$11,595.65	\$5,896.28	\$5,699.37	\$207,933.95	\$117.13	\$11,712.78
16	7/31/2030	2030	\$207,933.95	\$11,595.65	\$5,645.41	\$5,950.24	\$201,983.71	\$117.13	\$11,712.78
17	1/31/2031	2031	\$201,983.71	\$11,595.65	\$5,574.75	\$6,020.90	\$195,962.81	\$117.13	\$11,712.78
18	7/31/2031	2031	\$195,962.81	\$11,595.65	\$5,320.39	\$6,275.26	\$189,687.55	\$117.13	\$11,712.78
19	1/31/2032	2032	\$189,687.55	\$11,595.65	\$5,235.38	\$6,360.27	\$183,327.28	\$117.13	\$11,712.78
20	7/31/2032	2032	\$183,327.28	\$11,595.65	\$5,004.84	\$6,590.81	\$176,736.47	\$117.13	\$11,712.78
21	1/31/2033	2033	\$176,736.46	\$11,595.65	\$4,877.93	\$6,717.72	\$170,018.74	\$117.13	\$11,712.78
22	7/31/2033	2033	\$170,018.74	\$11,595.65	\$4,616.01	\$6,979.64	\$163,039.10	\$117.13	\$11,712.78
23	1/31/2034	2034	\$163,039.10	\$11,595.65	\$4,499.88	\$7,095.77	\$155,943.33	\$117.13	\$11,712.78
24	7/31/2034	2034	\$155,943.33	\$11,595.65	\$4,233.86	\$7,361.79	\$148,581.54	\$117.13	\$11,712.78
25	1/31/2035	2035	\$148,581.55	\$11,595.65	\$4,100.85	\$7,494.80	\$141,086.75	\$117.13	\$11,712.78
26	7/31/2035	2035	\$141,086.75	\$11,595.65	\$3,830.50	\$7,765.14	\$133,321.60	\$117.13	\$11,712.78
27	1/31/2036	2036	\$133,321.60	\$11,595.65	\$3,679.67	\$7,915.97	\$125,405.62	\$117.13	\$11,712.78
28	7/31/2036	2036	\$125,405.63	\$11,595.65	\$3,423.58	\$8,172.07	\$117,233.56	\$117.13	\$11,712.78
29	1/31/2037	2037	\$117,233.56	\$11,595.65	\$3,235.65	\$8,360.00	\$108,873.56	\$117.13	\$11,712.78
30	7/31/2037	2037	\$108,873.55	\$11,595.65	\$2,955.92	\$8,639.73	\$100,233.82	\$117.13	\$11,712.78
31	1/31/2038	2038	\$100,233.82	\$11,595.65	\$2,766.45	\$8,829.20	\$91,404.62	\$117.13	\$11,712.78
32	7/31/2038	2038	\$91,404.62	\$11,595.65	\$2,481.64	\$9,114.01	\$82,290.61	\$117.13	\$11,712.78
33	1/31/2039	2039	\$82,290.61	\$11,595.65	\$2,271.22	\$9,324.43	\$72,966.18	\$117.13	\$11,712.78
34	7/31/2039	2039	\$72,966.18	\$11,595.65	\$1,981.03	\$9,614.62	\$63,351.56	\$117.13	\$11,712.78
35	1/31/2040	2040	\$63,351.57	\$11,595.65	\$1,748.50	\$9,847.15	\$53,504.42	\$117.13	\$11,712.78
36	7/31/2040	2040	\$53,504.42	\$11,595.65	\$1,460.67	\$10,134.98	\$43,369.44	\$117.13	\$11,712.78
37	1/31/2041	2041	\$43,369.44	\$11,595.65	\$1,197.00	\$10,398.65	\$32,970.79	\$117.13	\$11,712.78
38	7/31/2041	2041	\$32,970.79	\$11,595.65	\$895.16	\$10,700.49	\$22,270.30	\$117.13	\$11,712.78
39	1/31/2042	2042	\$22,270.30	\$11,595.65	\$614.66	\$10,980.99	\$11,289.31	\$117.13	\$11,712.78
40	7/31/2042	2042	\$11,289.31	\$11,595.81	\$306.50	\$11,289.31	\$0.00	\$117.13	\$11,712.94

PARCEL A0700183000005:

C-PACE Financing Monthly Amortization Table									
Payment	Date	Date Year	Beginning Balance	Payment	Interest	Principal	Ending Balance	Admin Servicing Fee % Payment	Total Assessment Payment
1	1/31/2023	2023	\$579,550.00	\$23,542.68	\$3,911.96	\$19,630.72	\$559,919.28	\$237.80	\$23,780.48
2	7/31/2023	2023	\$559,919.28	\$23,542.68	\$15,201.81	\$8,340.87	\$551,578.41	\$237.80	\$23,780.48
3	1/31/2024	2024	\$551,578.41	\$23,542.68	\$15,223.57	\$8,319.12	\$543,259.29	\$237.80	\$23,780.48
4	7/31/2024	2024	\$543,259.30	\$23,542.68	\$14,830.98	\$8,711.70	\$534,547.60	\$237.80	\$23,780.48
5	1/31/2025	2025	\$534,547.59	\$23,542.68	\$14,753.51	\$8,789.17	\$525,758.42	\$237.80	\$23,780.48
6	7/31/2025	2025	\$525,758.43	\$23,542.68	\$14,274.34	\$9,268.34	\$516,490.09	\$237.80	\$23,780.48
7	1/31/2026	2026	\$516,490.09	\$23,542.68	\$14,255.13	\$9,287.55	\$507,202.54	\$237.80	\$23,780.48
8	7/31/2026	2026	\$507,202.54	\$23,542.68	\$13,770.55	\$9,772.13	\$497,430.41	\$237.80	\$23,780.48
9	1/31/2027	2027	\$497,430.40	\$23,542.68	\$13,729.08	\$9,813.60	\$487,616.80	\$237.80	\$23,780.48
10	7/31/2027	2027	\$487,616.80	\$23,542.68	\$13,238.80	\$10,303.88	\$477,312.92	\$237.80	\$23,780.48
11	1/31/2028	2028	\$477,312.92	\$23,542.68	\$13,173.83	\$10,368.85	\$466,944.07	\$237.80	\$23,780.48
12	7/31/2028	2028	\$466,944.07	\$23,542.68	\$12,747.57	\$10,795.11	\$456,148.96	\$237.80	\$23,780.48
13	1/31/2029	2029	\$456,148.96	\$23,542.68	\$12,589.71	\$10,952.97	\$445,195.99	\$237.80	\$23,780.48
14	7/31/2029	2029	\$445,195.99	\$23,542.68	\$12,087.07	\$11,455.61	\$433,740.38	\$237.80	\$23,780.48
15	1/31/2030	2030	\$433,740.38	\$23,542.68	\$11,971.23	\$11,571.45	\$422,168.93	\$237.80	\$23,780.48
16	7/31/2030	2030	\$422,168.93	\$23,542.68	\$11,461.88	\$12,080.80	\$410,088.13	\$237.80	\$23,780.48
17	1/31/2031	2031	\$410,088.13	\$23,542.68	\$11,318.43	\$12,224.25	\$397,863.88	\$237.80	\$23,780.48
18	7/31/2031	2031	\$397,863.88	\$23,542.68	\$10,802.00	\$12,740.68	\$385,123.20	\$237.80	\$23,780.48
19	1/31/2032	2032	\$385,123.20	\$23,542.68	\$10,629.40	\$12,913.28	\$372,209.92	\$237.80	\$23,780.48
20	7/31/2032	2032	\$372,209.92	\$23,542.68	\$10,161.33	\$13,381.35	\$358,828.57	\$237.80	\$23,780.48
21	1/31/2033	2033	\$358,828.58	\$23,542.68	\$9,903.67	\$13,639.01	\$345,189.57	\$237.80	\$23,780.48
22	7/31/2033	2033	\$345,189.57	\$23,542.68	\$9,371.90	\$14,170.78	\$331,018.79	\$237.80	\$23,780.48
23	1/31/2034	2034	\$331,018.79	\$23,542.68	\$9,136.12	\$14,406.56	\$316,612.23	\$237.80	\$23,780.48
24	7/31/2034	2034	\$316,612.23	\$23,542.68	\$8,596.02	\$14,946.66	\$301,665.57	\$237.80	\$23,780.48
25	1/31/2035	2035	\$301,665.56	\$23,542.68	\$8,325.97	\$15,216.71	\$286,448.85	\$237.80	\$23,780.48
26	7/31/2035	2035	\$286,448.85	\$23,542.68	\$7,777.09	\$15,765.60	\$270,683.25	\$237.80	\$23,780.48
27	1/31/2036	2036	\$270,683.26	\$23,542.68	\$7,470.86	\$16,071.83	\$254,611.43	\$237.80	\$23,780.48
28	7/31/2036	2036	\$254,611.43	\$23,542.68	\$6,950.89	\$16,591.79	\$238,019.64	\$237.80	\$23,780.48
29	1/31/2037	2037	\$238,019.64	\$23,542.68	\$6,569.34	\$16,973.34	\$221,046.30	\$237.80	\$23,780.48
30	7/31/2037	2037	\$221,046.31	\$23,542.68	\$6,001.40	\$17,541.28	\$203,505.03	\$237.80	\$23,780.48
31	1/31/2038	2038	\$203,505.03	\$23,542.68	\$5,616.74	\$17,925.94	\$185,579.09	\$237.80	\$23,780.48
32	7/31/2038	2038	\$185,579.09	\$23,542.68	\$5,038.47	\$18,504.21	\$167,074.88	\$237.80	\$23,780.48
33	1/31/2039	2039	\$167,074.88	\$23,542.68	\$4,611.27	\$18,931.41	\$148,143.47	\$237.80	\$23,780.48
34	7/31/2039	2039	\$148,143.47	\$23,542.68	\$4,022.10	\$19,520.58	\$128,622.89	\$237.80	\$23,780.48
35	1/31/2040	2040	\$128,622.88	\$23,542.68	\$3,549.99	\$19,992.69	\$108,630.19	\$237.80	\$23,780.48
36	7/31/2040	2040	\$108,630.19	\$23,542.68	\$2,965.60	\$20,577.08	\$88,053.11	\$237.80	\$23,780.48
37	1/31/2041	2041	\$88,053.11	\$23,542.68	\$2,430.26	\$21,112.42	\$66,940.69	\$237.80	\$23,780.48
38	7/31/2041	2041	\$66,940.69	\$23,542.68	\$1,817.44	\$21,725.24	\$45,215.45	\$237.80	\$23,780.48
39	1/31/2042	2042	\$45,215.45	\$23,542.68	\$1,247.95	\$22,294.73	\$22,920.72	\$237.80	\$23,780.48
40	7/31/2042	2042	\$22,920.72	\$23,543.02	\$622.30	\$22,920.72	\$0.00	\$237.81	\$23,780.83



City Council Ordinance
Regular Meeting - January 24, 2022

Submitted by: Adam Sackenheim,
 Submitting Department: Public Utilities

Subject:

Contract with Dixon Engineering for water engineering services, and related project appropriations

Legislation Title:

Ordinance to authorize the Acting City Manager to enter into a contract with Dixon Engineering for professional engineering and inspection services associated with the Seward Road 0.5 MG tank rehabilitation project.

Recommendation:

It is recommended that City Council authorize the Acting City Manager to enter into a contract with Dixon Engineering and appropriate \$64,250.00 for engineering and inspection services associated with the Seward Road 0.5 MG tank rehab project.

Background/Synopsis:

Through this project, the City's 0.5 million gallon Seward Road Water Storage Tower will be cleaned, repaired, primed, and painted - both inside and out.

To ensure the integrity of the rehabilitation work, the City proposes to secure third-party technical inspection support for this project. Technical support and resident project representation services will be provided by Dixon Engineering per the attached proposal. Dixon Engineering is a firm that specializes in water tower coating systems, and has inspected all City of Fairfield water tower projects for at least the past 7 years. Dixon Engineering has great familiarity with City of Fairfield specifications and project objectives.

A contractual appropriation is requested for Dixon Engineering for these professional services in the amount of \$64,250.

Rules suspension is requested to expedite project advancement. The City intends to have the contractor start working on the tower in early April 2022 – in accordance with bid specifications.

Financial Impact:

Funding for this project was included in the approved 2021-2025 Capital Improvement Program (CIP) under project 2WT12 – Water Tank/Tower Maintenance. The funding source is the Water Replacement and Improvement Fund (604).

Rule Suspension Requested:

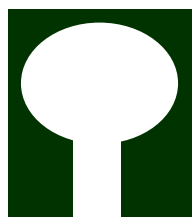
Yes

Emergency Provision Needed:

No

Attachments:

1. 2021 Fairfield 500,000 Toroellipse (Seward) Paint Observations Proposal
2. Dixon Engineering-Ord



DIXON

**ENGINEERING & INSPECTION SERVICES
FOR THE COATING INDUSTRY**

789 Lafayette Road
Medina, OH 44256
Telephone: (330) 983-006
Fax: (330) 725-0512

AGREEMENT BETWEEN OWNER AND DIXON

FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of: _____ (“Effective date”) between City of Fairfield, Ohio (“Owner”) and Dixon Engineering, Inc. of Lake Odessa, Michigan (DIXON).

IN WITNESS WHEREOF, the (“Owner”) and (“DIXON”) have executed this Agreement. The Owners Project, of which DIXON’s Services under this Agreement are a part, is generally identified as follows: **Preconstruction Meeting, Project Administration, Weld Observation, Wet Interior, Exterior Coating Observation, Pit Piping, and One (1) Year ROV Warranty on the 500,000 Gallon Toro-Ellipse (Seward Rd.)** (“Project”).

Other terms used in this Agreement are defined in EXHIBIT GP and EJCDC C-700-18®, Standard General Conditions of the Construction Contract, incorporated by reference into this Agreement.

This service fee is the Estimated Amount **\$64,250**.

Proposals / Agreement Signatures

Keith Marcum, Project Manager December 21, 2021
PROPOSED by DIXON (Not a contract until approved by Project Manager or Officer) PROPOSAL DATE

CONTRACT APPROVED BY OWNER	POSITION	DATE
Co SIGNATURE (if required)	POSITION	DATE
AGREEMENT APPROVED by DIXON	POSITION	DATE

With the execution of this Agreement, DIXON and Owner shall designate specific individuals to act as DIXON’s and Owner’s representatives with respect to the services to be performed or furnished by DIXON and responsibilities of Owner under this Agreement, said individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party whom the individual represents.

Designated Person: Adam Sackenheim
Address for Owner’s receipt of notices:
City of Fairfield
5021 Groh Lane
Fairfield, OH 45014
Email: asackenheim@fairfield-city.org

Designated Person: Keith Marcum
Address for DIXON’s receipt of notices:
Dixon Engineering, Inc.
789 Lafayette Rd.
Medina, OH 44256
Email: keith.marcum@dixonengineering.net

Any notice required under this Agreement shall be in writing, addressed to the Designated Contract Person at its address on this signature page, or given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices be shall effective upon the date of receipt.

Owner and DIXON further agree as follows:

ARTICLE 1 SERVICES OF DIXON

1.01 DIXON shall provide or cause to be provided:

- A. Contract and Project Management (Basic) Services: EXHIBIT A Part 1
- B. Resident Project Representative (RPR): EXHIBIT A Part 1
- C. Other Services: Services beyond the scope of Exhibit A are Additional Services.

ARTICLE 2 OWNER'S RESPONSIBILITIES

2.01 Owner shall provide or cause to be provided:

- A. Responsibilities set forth in Exhibit A, Part 1, Section C of each Phase.
- B. Owner shall arrange for safe access to and make all provisions for DIXON to enter upon public and private property as required for DIXON to perform services under the agreement.

ARTICLE 3 SCHEDULE FOR RENDERING SERVICES

3.01 Commencement:

- A. DIXON is authorized to begin rendering services as of the Effective Date or mutually agreeable date.
- B. DIXON shall complete its obligations within a reasonable time. If a specific period of time for rendering services, or specific dates by which services are to be completed are required, the dates are provided in Exhibit A, and are hereby agreed to be reasonable.

ARTICLE 4 INVOICES AND PAYMENTS – PER EXHIBIT C

ARTICLE 5 OPINIONS OF COST – GENERAL PROVISIONS PER EXHIBIT GP

ARTICLE 6 GENERAL PROVISIONS PER EXHIBIT GP

ARTICLE 7 DEFINITIONS

- A. Whenever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the same meanings indicated in the Construction Contract Documents, EJCDC C-700 18.
- B. Additional definitions pertinent to invoicing or payment can be found in Exhibit C.

ARTICLE 8 EXHIBITS AND SPECIAL PROVISIONS

- A. EXHIBITS Included:
 - 1. EXHIBIT A, DIXON's Services and Owner's Responsibilities.
 - 2. EXHIBIT C, Basis of Fees, Invoicing, and Payment Matters.
 - 3. EXHIBIT C, Attachments C-1, and C-2.
 - 4. EXHIBIT E, Electronic Documents Protocol (EDP).
 - 5. EXHIBIT GP, General Provisions from the Agreement and Exhibits.
 - 6. EXHIBIT IR, Insurance Requirements and Limits of Liability.
- B. EXHIBITS to be added as needed:
 - 1. EXHIBIT J, Special Provisions. Services added at/before Effective date (included in original Agreement sometimes referred to as an Addendum).
 - 2. EXHIBIT K, Amendment to Owner-DIXON Agreement for Services added or changed after effective date of this Agreement or for clarification if requested.
- C. EXHIBITS B, D, F, and H merged with other EXHIBITS or not used.

ARTICLE 9 MISCELLANEOUS PROVISIONS

9.00 Items that pertain to the legal terms of this Agreement. All General Provisions from Article 6 are in Exhibit GP. Those provisions refer mostly to services that result from this Agreement.

9.01 Survival:

- A. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

9.02 Severability:

- A. Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and DIXON, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

9.03 Successors, Assigns, and Beneficiaries:

- A. Owners and DIXON are hereby bound, and the successors, executors, administrators, and legal representatives of Owner and DIXON are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Unless expressly provided otherwise in this Agreement:
 - 1. Nothing in this Agreement shall be constructed to create, impose, or give rise to any duty owed by Owner or DIXON to any Contractor, other third-party individual or entity, or to any surety for or employee of any of them and not for the benefit of any other party.
 - 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and DIXON and not for the benefit of any other party.

9.04 Waiver:

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this agreement.

9.05 Accrual of Claims:

- A. To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

9.06 DIXON's Certifications:

- A. DIXON certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement.

9.07 Total Agreement:

- A. This Agreement, (together with the included Exhibits) constitutes the entire agreement between Owner and DIXON and supersedes all prior written or oral understandings. This agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based, whenever possible, on the format of Exhibit K.

EXHIBIT A: Agreement Between
Owner and DIXON

DIXON'S SERVICES AND OWNER'S RESPONSIBILITIES

Article 1 and 2 of the Agreement is supplemented to include the following agreement of the parties: DIXON shall provide Contract and Project Management (BASIC) Services, and Resident Project Representative (RPR).

DIXON has combined the six construction project phases into four phases: Design or Technical Specification Phase, Contract Document and Bidding Phase, Construction Phase, and Post Construction Phase. We then included DIXON's Basic Services, RPR Services, and Owner's responsibilities for each respective phase.

PART 1

A1.01 Construction Phase:

A. Basic Services:

1. DIXON will consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of DIXON shall be as assigned in EJCDC C-700-18 Standard General Conditions of the Construction Contract.
2. All of Owner's instructions to Contractor will be issued through DIXON, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.
3. Engineer or RPR has authority to Stop Work if Engineer or RPR questions the quality of Work or rejects the Work, or if there (in the sole opinion of Engineer or RPR) a potential for creating an environmental contamination.
4. Finalize Project to observe all items in the contract specifications have been completed and review the quality of workmanship.
5. Duration of Construction Phase: The Construction Phase will terminate upon written recommendation by DIXON for final payment to Contractors.

B. RPR Services for Maintenance of Existing Structures

1. Perform services expected of DIXON RPR and as detailed in the EJCDC Construction Contract General Conditions, GC-700-18.
2. Attend a Preconstruction Meeting, and address questions regarding observation services and coordination of field observations.
3. Hold Point General:
 - a. Hold Point is a stage of the Construction Project where the Contractor stops Work. Work commences again after the Work is observed and reviewed for compliance.
4. Hold Point Weld/Modifications- Observe, Record, Report, and:
 - a. Observe repair, and or the installation of work for specifications compliance. All weld repairs will be visually observed for surface defects (i.e., undercut, negative reinforcement, non-fusion, etc.).
5. Hold Point Coating Wet Interior - Observe, Record, Report, and:
 - a. Verify test area for abrasive cleaning meets or exceeds minimum of specified standard.
 - b. Collect spent abrasive for sampling and testing.
 - c. Abrasive blast cleaning prior to application of the prime coat.
 - d. Prime coat prior to application of the next coat.
 - e. Intermediate coat prior to application of the stripe or topcoat.
 - f. Stripe coat prior to application of the topcoat.
 - g. Topcoat for compliance with specifications.
 - h. Observe wet interior using high/low voltage holiday detection.
6. Hold Point Coating Exterior - Observe, Record, Report, and:
 - a. Abrasive blast cleaning prior to primer application.

- b. Spot power tool, feathering, and compliance with specifications.
- c. Spot prime coat prior to application of the epoxy intermediate coat.
- d. Epoxy intermediate coat prior to application of the urethane intermediate coat.
- e. Topcoat for compliance with specifications.
- f. Check foundations coating for compliance with specifications.
- 7. Hold Point Coating Pit Piping- Observe, Record, Report, and:
 - a. Verify test area meets or exceeds minimum specified standard for abrasive blast cleaning and surface profile created.
 - b. Abrasive blast cleaning prior to application of the prime coat.
 - c. Prime coat prior to application of the stripe or topcoat.
 - d. Stripe coat prior to application of the topcoat.
 - e. Topcoat for compliance with specifications.
- 8. Hold Point Project Finalization:
 - a. Review all repairs not installed until after coating.
 - b. Examine entire project for damage that occurred during construction or post construction from rigging and de-rigging or other causes.
 - c. Observe the installation of screens, light bulbs, etc.
 - d. Observe Site for restoration to pre-project conditions.
 - e. Formulate a punch list of items to complete.
 - f. Create a second punch list if needed before finalization.
 - g. Finalize the project to assure all items in the contract specifications have been completed, and the quality of workmanship meets contract requirements.
- C. Construction Phase - Owner's Responsibilities:
 - 1. Inform DIXON in writing of any specific requirements of safety or security programs that are applicable to DIXON, as a visitor to the Site.
 - 2. Attend and participate in the Preconstruction conferences, construction progress and other job-related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
 - 3. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of DIXON in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on DIXON, then Owner shall compensate DIXON for any related increases in the cost to provide Construction Phase services.

A1.02 Post Construction Phase:

- A. Basic Services:
 - 1. One Year Warranty Observation - ROV and Exterior:
 - a. Review all wet or dry interior surfaces for corrosion and/or damage, qualify and quantify damage for repairs. All coating repairs needed are to be quantified by extrapolation of a measured area and compared with warranty requirements.
 - b. Observe the exterior coating and quantify damages.
 - c. Review all repairs completed during Construction Phase.
 - d. Review all exterior appurtenances for damage due to corrosion or construction.
 - e. Review exterior of the exposed foundations.
 - f. Review all health aspects of the tank, including screening of the vent, overflow pipe, and other possible contamination sources.
 - g. Prepare a report documenting all items found that meet or fail to meet warranty requirements and recommendations for repair. The report will be letter format.
- B. Post Construction Phase - Owner's Responsibilities:
 - 1. Warranty Observation - ROV Observation:
 - a. Fill the tank to overflow or higher capacity and isolate it from the system during the ROV observation, or as a minimum, maintain positive flow (No water withdrawal from tank).
 - b. Perform chlorine residual and bacteriological testing after completion of observation.

A2.01 ADDITIONAL SERVICES

- A. Any service not listed or referenced above in Part 1 will be considered an Additional Service.
 - 1. All additional requested services and associated fees shall be documented by an Exhibit K, Contract Amendment signed by both parties.

EXHIBIT C: Agreement Between
Owner and DIXON

BASIS OF FEES, INVOICING AND PAYMENT

General Provisions of Article 4 of the Agreement has been moved to this EXHIBIT C:

Part 1 BASIS OF FEES

C1.00 Owner's Responsibility:

- A. Owner shall pay DIXON for Basic (Project Management and Contract Administration), Resident Project Representative (RPR), and Additional Services as detailed below and as summarized in Attachment 1 to Exhibit C. (Exhibit C-1).

C1.01 Basis:

- A. Hourly rates of DIXON's employee are per classification in the Standard Hourly Rate and Reimbursable Expense Schedule included in this Exhibit C as Exhibit C Attachment 2. (Exhibit C-2) A classification that has a range of fees, reflects varying levels of experience within that classification. DIXON reserves the right to select the level of RPR and classification. This decision is at DIXON's discretion only and will be dependent primarily on experience with Owner selected Contractor as well as other factors.
 1. Reimbursable expenses are those expenses directly related to and resulting from this Project. These expenses are primarily living expenses and mileage.

C1.02 Methods of Rate Calculation and Definitions including Limitations:

- A. Standard Hourly Rate (SHR) Method: An amount equal to the cumulative hours charged to the Project by each classification of DIXON's personnel, times Standard Hourly Rates and Overtime rates for each applicable billing classification. (Exhibit C-2)
 1. The SHR method may be used for all services. It is more commonly used on portions of various Phase Services where scheduling and speed are controlled by the Contractor or unforeseen project expenses. (Phase 3 Construction, Basic, and RPR services, and for Additional Services during all phases. Overtime rates apply on weekends, holiday, and over 40 hours per week. When accounting for the 40 hours it applies over 40 hours worked between Monday and Friday, weekend rates are already at Overtime rate. Holiday pay also does not contribute toward the accounting for 40 hours.)
 2. The SHR charged by DIXON constitutes full and complete compensation for DIXON services including labor costs, overhead, and profit but not Reimbursable Expenses.
 3. The Standard Hourly Rates per employee classification listed in Attachment C-2 do not include reimbursable expenses. The estimated Reimbursable Expenses are NOT calculated and averaged over the classification rate.
 - a. The estimator calculates the number of days a project is expected to require and calculates manpower required to match number of hours and services required.
 - b. The estimator then calculates Reimbursable Expenses based on the same criteria.
 - c. Both the total manpower estimate, and Reimbursable Expenses total estimate are added. And the total estimate is included in the fee schedule shown in Attachment C-1.
- B. Lump Sum (LS) Method: One agreed fee for completing an agreed defined scope of services. The Lump Sum Method fee charged by DIXON constitute full and completed compensation for DIXON's services including labor costs, overhead, and profit, and reimbursable expenses.
- C. The Lump Sum Method is more commonly used by DIXON for portions of the Phases where DIXON has control over a greater percentage of unknowns, such as the Technical Specifications, Bidding and Contract Documents, and Post Construction Phases excluding fees for Additional Services.

1. DIXON may use a Lump Sum for the entire project.
- D. Unit Price (UP) Method: Can be considered individual Lump Sum amounts. Reimbursable expenses are calculated and included in Unit Price methods.
 1. The Unit Price Method is used when DIXON completes Hold Point Observations, Project Progress or Preconstruction Meetings, known, controlled portions of the Contract and unknown Post Construction (Additional Services).
 2. Exhibit J Amendment: If Amendment changes Scope of Services then Additional Services may be negotiated Lump Sum or Standard Hourly Rate Method.
 2. Exhibit B Antennas: LS, UP, or SHR or Combination per Exhibit K based on type of services.
 3. Exhibit K Addendum: Addenda items (if any) may be negotiated according to any agreed method.
 4. Subconsultants or Subcontractor Service Fees are not included in the SHR, LS, or UP methods. DIXON will invoice for Subconsultant's or Subcontractor's actual invoiced amount times a factor of 1.20. The 1.20 factor includes DIXON's overhead and profit associated with DIXON's responsibility for the administration of such services.
- E. Not every Method of Rate Calculation may be used in this or any Contract, but every contract may be amended by using Exhibit K. If additional Work proposed in Exhibit K involves a different Method of Rate Calculation, it will be clearly defined herein.

C1.03 Definitions including Limitations:

- A. Basic Services to be performed are identified as Basic Services in Exhibit A, or by reference, in the General Conditions (GC-700-18) of the Owner/Contractor Construction Documents. Basic Services are generally calculated using the SHR method. These services are contracted services and thus are prior authorized.
- B. RPR Services contractually agreed services per Exhibit A or by reference, in the General Conditions (GC-700-18) of the Owner/Contractor Construction Document RPR services. These services are primarily observation during the Construction phase. RPR Services are generally calculated using the SHR method for Full Time or Daily services and by Unit Price for Hold Point Observations. Often a Contract for RPR services involves a combination of the SHR and the Unit Price method. These are contracted services and thus are prior authorized.
- C. Contingent Services some services are Basic to every contract such as Preconstruction Meeting and review of Final Pay Request. Other Basic Services and the Project Manager's time associated with them are unknown. Some services are not used on all projects, such as review of multiple Pay Requests, Change Orders, Field Orders, and Work Change Directives. These are services which may or may not be needed, and thus Contingent. Contingent Services are generally calculated using the SHR method but may be Lump Sum or Unit Price method. These are contracted services and thus are prior authorized.
- D. Additional Services are services outside of the Scope of Services as defined in Exhibit A. These are NOT contracted services and prior authorization in the form of Exhibit K- Addendum to Agreement is required. The calculation of fees is Work dependent and may be calculated by the SHR method, or Lump Sum or Unit Price.
- E. Antenna Services are defined in Exhibit B and authorized by Exhibit K – Antenna Addendum. The calculation of the services is usually a combination of Unit Price and SHR methods. These are contracted services (by addendum) and thus are prior authorized.

C1.04 Fees:

- A. Contracted Fees are detailed in this Exhibit C Attachment 1.
- B. Contingency Allowance Fees if identified or requested, are intended to allow the flexibility to continue the Project and Services, without the need for an Addendum for additional fees. Contingent Fees may be transferred within the Project Phase or transferred to other project Phases as needed. Transfer does not require prior authorization. It is intended that any fees in this Contingency be used when other accounts are exhausted or minor Additional Services are

required. Contingency fees unused will not be invoiced. Basic and/or RPR Fees may be increased to accomplish the same benefits of a Contingency Allowance.

- C. Set-Off Fees contractual Set-off: (Applies to Construction and Post Construction Phases only) as defined in the Technical Specifications and General Conditions of the Owner/Contractor Contract, is a Contractually agreed remedy for small violations or nonadherence of the Contract terms which result in extra or unnecessary expenses to the Owner. The cost for these unnecessary expenses are not foreseen and cannot be calculated. They are the same SHR or Unit Price method, that had the service been necessary would have been invoiced to Owner. These services generally do not require prior approval of Owner, because they are required in the administration of the Contract. Set-off fees are invoiced to the Owner, who pays DIXON. The Owner can then Set-off these charges from amounts owed to the Contractor.
1. A few examples of Set-off Fees are when the Owner has incurred extra charges or engineering costs related to:
 - a. Excessive submittal review,
 - b. Excessive evaluations of proposed substitutes,
 - c. Tests and inspections, or return Hold Point Observations to complete Field Work that were determined to be a failed inspection and,
 - d. Work is defective, require correction or replacement including additional inspection costs.
 2. Set-off is only used during the Construction and Post Construction Phases where additional Observation or engineering services are required to correct failed Work.

C1.05 Estimated Fee:

- A. The SHR Method of Rate Calculation is an estimate. The SHR Method is prepared based on extensive experience and is intended to be conservative.
 1. Calculating SHR includes, DIXON's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to DIXON under the agreement.
 2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to DIXON that the total compensation amount thus estimated will be exceeded, DIXON shall give Owner notice thereof, allowing Owner to consider its options, including suspension or termination of DIXON's services for Owner's Convenience. Upon notice, Owner and DIXON promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate DIXON's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by DIXON, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend DIXON's services during the negotiations and DIXON exceeds the estimated amount before Owner and DIXON have agreed to an increase in the compensation due DIXON or a reduction in the remaining services, then DIXON shall be paid for all services rendered hereunder.
 3. The requirements of minimum work hours and weeks shall remain in effect through negotiations and the minimum requirements of these paragraphs are not negotiable. An RPR is a professional, and if he remains on Site, he is guaranteed the minimum number of hours. Negotiations may Full Time or Daily RPR to Hold Point Observation Services or reduce the number of Daily Inspections. Then minimum hour requirements apply only to demobilization if RPR was Full Time.

C1.06 DIXON's Reimbursable Expenses Schedule and Standard Hourly and Overtime Rates:

- A. Attached to this Exhibit C is Attachment C-2, Standard Hourly Rate and Reimbursable Expense Schedule
- B. Annual Cost Adjustment – January 1 each year.

1. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually as of the first January 1 date past expiration date printed on Attachment C-2 to reflect equitable changes in the compensation payable to DIXON. Proposals sent after August 1st will have Attachment C-2 with effective rates through December 31 of the subsequent year.
2. Unit Price for Hold Point observations and Lump Sum items shall be increased at the same time as hourly rate by the same percentage increase as Standard Hourly Rates.
3. Notification of these cost adjustments, or the issuance of an Addendum or Change Order are not required, but DIXON shall endeavor to so advise. Failure to supply notification does not waive the right for implementing rate increases.

PART 2 INVOICING AND PAYMENT for Services in EXHIBIT A per EXHIBIT C-1:

- A. Preparation and Submittal of Invoices: DIXON will prepare invoices in accordance with its standard invoicing practices and the terms of this Exhibit C and Attachments C-1 and C-2. DIXON will submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. Small monthly invoices may be held by DIXON only, for a month or more and combined.
- B. Application to Interest and Principal: Payment will be credited first to any interest owed to DIXON and then to principal.
- C. Failure to Pay: If Owner fails to make any payment due DIXON for services and expenses within 30 days after receipt of DIXON's invoice, then:
 1. Amounts due DIXON will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said 30th day.
- D. Disputed Invoices: If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise DIXON in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.

PART 3 SELECTION OF RPR SERVICES

C3.01 Hold Point Observations:

- A. The RPR travels to site complete the observation and travels back to Base Office. On site time at a minimum is time to complete observations and to complete report.

EXHIBIT C ATTACHMENT C-1: Agreement Between
Owner and DIXON

SUMMARY OF DIXON'S COMPENSATION FEES SCHEDULE of VALUES

1. The total compensation for services under this Agreement is the estimated total compensation amount of **Sixty-Four Thousand, Two Hundred, Fifty Dollars \$64,250**. and summarized as follows:

Schedule of Values				
Discription of Services	# of Units	Unit Price	Amount	Basis of Compensation
A1.01-Preconstruction Meeting			\$1,500	Unit Price
A1.01-Other Defined Basic Services - Project Administration			\$3,000	Lump Sum
A1.01-RPR Services Weld	3	\$1,250	\$3,750	Unit Price
A1.01-RPR Critical Phase Coating	42	\$1,250	\$52,500	Unit Price
A1.02-Warranty Observation			\$3,500	Lump Sum
Total			\$64,250	

2. In the event of a conflict with the number in the Total and the written amount in 1 above or with the number on the Signature Page, the first governance shall be a review of math in this schedule of values.
3. DIXON may alter the distribution of compensation consistent with services actually rendered between individual phases of Basic and RPR Service with unused fees calculated by any method. Reallocation of fees shall not result in a total fee in excess of the total compensation amount unless approved by the Owner.

EXHIBIT C ATTACHMENT C-2: Agreement Between
Owner and DIXON

STANDARD HOURLY RATE AND REIMBURSABLE EXPENSE SCHEDULE

<u>Labor Class</u>	<u>Per Hour</u>	<u>Overtime Rate</u>
Principal	\$400.00	
Officer/Associate	\$200.00	
Project Manager	\$170.00	\$255.00
Engineer	\$175.00	\$265.00
CWI Welding RPR	\$155.00	\$233.00
DIXON Level 3 or NACE certified Level 3 RPR	\$117.00-\$155.00	\$176.00-\$233.00
DIXON Level 2 or NACE Level 2 RPR	\$107.00-\$140.00	\$160.00-\$210.00
DIXON Level 1 or NACE Level 1 RPR	\$98.00-\$107.00	\$148.00-\$160.00
Contract Support Staff	\$123.00-150.00	\$185.00-\$225.00

<u>Expenses</u>	<u>Metropolitan</u>	<u>Out-State</u>
Mileage	\$0.80/mile + tolls	\$0.70/mile
Lodging	\$140.00 per diem	\$130.00 per diem
Meals	\$52.00 per diem	\$48.00 per diem

FEES EFFECTIVE THROUGH: December 31, 2022 (Revised: 8/16/2021)

EXHIBIT E: Agreement Between
Owner and DIXON

ELECTRONIC DOCUMENTS PROTOCOL (EDP)

With so many personnel and parties involved in Construction, it is essential, especially through the Construction Phase, that all means of EDP, and communication be kept as simple and uniform as possible. Following is a consolidated Protocol prepared by EJCDC which DIXON will complete if contracted to follow. Otherwise, DIXON will open a line of communication as directed by email and when that contact has responded then by simple email, using the agreed addresses will be followed. This excludes Notice and Contract requirements of a contact Person (page One).

ARTICLE 1—ELECTRONIC DOCUMENTS PROTOCOL (EDP)

The Main Agreement is supplemented by the following consolidated Exhibit E and Exhibit E-Attachment 1: Software Requirements for Electronic Document Exchange:

E1.01 Electronic Documents Protocol

- A. Electronic Transmittals: The parties shall conform to the following provisions together referred to as the Electronic Documents Protocol ("EDP" or "Protocol") for exchange of electronic transmittals.
 1. Basic Requirements
 - a. To the fullest extent practical, the parties agree to and will transmit and accept Electronic Documents by Electronic Means using the procedures described in this Protocol. Use of the Electronic Documents and any information contained therein is subject to the requirements of this Protocol and other provisions of the Agreement.
 - b. The contents of the information in any Electronic Document will be the responsibility of the transmitting party.
 - c. Electronic Documents as exchanged by this Protocol may be used in the same manner as the printed versions of the same documents that are exchanged using non-electronic format and methods, subject to the same governing requirements, limitations, and restrictions, set forth in the Agreement.
 - d. Except as otherwise explicitly stated herein, the terms of this Protocol will be incorporated into any other agreement or subcontract between the Owner and DIXON and any third party for the Project. Nothing herein will modify the requirements of the Agreement and applicable Construction Contract Documents regarding communications.
 - e. When transmitting Electronic Documents, the transmitting Party makes no representations as to long term compatibility, usability, or readability of the items resulting from the receiving Party's use of software application packages, operating systems, or computer hardware differing from those established in this Protocol.
 2. System Infrastructure for Electronic Document Exchange
 - a. Each party will provide hardware, operating system(s) software, internet, e-mail, and large file transfer functions ("System Infrastructure") at its own cost and sufficient for complying with the EDP requirements. Except for minimum standards set forth in this EDP and any explicit system requirements specified by attachment to this EDP, it will be the obligation of each party to determine, for itself, its own System Infrastructure.
 - b. Each party is responsible for its own system operations, security, back-up, archiving, audits, printing resources, and other Information Technology ("IT") for maintaining operations of its System Infrastructure during the Project.
 - c. Each party will operate and maintain industry-standard, industry-accepted, ISO-standard, commercial-grade security software and systems that are intended to protect the other party from: software viruses and other malicious software like worms, trojans, adware; data breaches; loss of confidentiality; and other threats in the transmission to or storage of

information from the other parties, including transmission of Electronic Documents by physical media such as CD/DVD/flash drive/hard drive. To the extent that a party maintains and operates such security software and systems, it will not be liable to the other party for any breach of system security.

- d. In the case of disputes, conflicts, or modifications to the EDP required to address issues affecting System Infrastructure, the parties will cooperatively resolve the issues; but, failing resolution, the Owner is authorized to make and require reasonable and necessary changes to the EDP to effectuate its original intent.
 - e. Each party is responsible for its own back-up and archive of documents sent and received during the term of any Project contract/agreement under this EDP. Further, each party remains solely responsible for its own post-Project back-up and archive of project documents, as each party deems necessary for its own purposes, after the term of contract.
 - f. If a receiving party receives an obviously corrupted, damaged, or unreadable Electronic Document, the receiving party will advise the sending party of the incomplete transmission.
 - g. The parties will bring any non-conforming Electronic Documents into compliance with the EDP.
 - h. If the Owner operates a Project information management system (also referred to in this EDP as "Project Website") for use of Owner, DIXON, Contractors, during the Project for exchange and storage of Project-related communications and information, then that provision and requirements shall be identified in an Exhibit J - Amendment.
- B. Software Requirements for Electronic Document Exchange; Limitations
1. Each party will acquire the software necessary to create and transmit and read Electronic Documents received from the other party (and if relevant from third parties).
 2. Software and data formats for exchange of Electronic Documents will conform to the requirements set forth in the following Attachment 1 to this EDP, including software version, if listed.

EXHIBIT E ATTACHMENT 1: Agreement Between
Owner and DIXON

SOFTWARE REQUIREMENTS FOR ELECTRONIC DOCUMENT EXCHANGE

Item	Electronic Documents	Transmittal Means	Data Format	Note (1)
a.1	General communications, transmittal covers, meeting notices, and responses to general information requests for which there is no specific prescribed form.	Email	EML	
a.2	Meeting agendas; meeting minutes; RFI's and Responses to RFI's; and Construction Contract administrative forms.	Email w/ Attach	PDF	(2)
a.3	Contractor's Submittals (Shop Drawings, "Or Equal" requests, Substitute requests, documentation accompanying Sample submittals and other Submittals) to Owner and DIXON; and Owner's and DIXON's Responses to Contractor's Submittals, Shop Drawings, Correspondence, and Applications for Payment	Email w/ Attach	PDF	
a.4	Correspondence; Interim and Final Versions of reports, layouts, Specifications, Drawings, maps, calculations and spreadsheets, Construction Contract, Bidding/Proposal Documents, and Front-End Construction Contract Documents.	Email w/ Attach or LFE	PDF	(3)
a.5	Layouts, plans, maps, and Drawings to be submitted to Owner by DIXON for future use and modification	Email w/ Attach or LFE	DWG	
a.6	Correspondence, reports, and specifications to be submitted by DIXON to Owner for future word processing use and modification	Email w/ Attach or LFE	DOCX	
a.7	Spreadsheets and data to be submitted to Owner by DIXON for future data processing use and modification DIXON can PDF any Spreadsheet.	Email w/ Attach or LFE	XLSX	
Notes				
(1)	All exchanges and uses of transmitted data are subject to the appropriate provisions of the Agreement and Construction Contract.			
(2)	Transmittal of written notices is governed by requirements of the Agreement and Construction Contract.			
(3)	Transmittal of Bidding/Proposal Documents and Front-End Construction Contract Documents will be in manner selected by Owner in Exhibit A, Paragraph 1.05.A.1.a. Unless otherwise expressly stated, these documents and the Construction Contract will be transmitted in PDF format, including transmittals to bidders and Contractor.			
Key				
EML	Standard Email formats (.eml). Do not use stationery formatting or other features that impair legibility of content on screen or in printed copies.			
LFE	Agreed upon Large File Exchange method (FTP, CD, DVD, Flash Drive, File Sharing Services.)			
PDF	Portable Document Format readable by Adobe® Acrobat Reader.			
DWG	Autodesk® AutoCAD. dwg format.			
DOCX	Microsoft® Word. docx format.			
DB	Microsoft® Access .mdb DIXON does not transmit Database material If required for your future use you will have the program.			

EXHIBIT GP: Agreement Between
Owner and DIXON

**GENERAL PROVISIONS AND RELATED CONDITIONS FROM AGREEMENT OR
EXHIBITS**

GP1.00 Time for Completion:

- A. If there is a change in the Scope of Services, or in Scope of Project, if Projects are delayed or suspended through no fault of DIXON, if the orderly and continuous progress of DIXON's services is impaired, if the agreed periods of time or dates are changed, then the time for completion of DIXON's services, and the rates and amounts of DIXON's compensation, shall be adjusted equitably. Delay of Projects by Owner or Contractor until the next season (past the expiration date of EXHIBIT C ATTACHMENT 1 and 2), is considered a Change in Scope of Services and the rates and amounts of DIXON's compensation shall be adjusted equitably in accordance with the succeeding year's EXHIBIT C ATTACHMENT 1 and 2.
- B. Owner shall give prompt written notice to DIXON whenever Owner observes or otherwise becomes aware of any development that affects the scope or time of performance of DIXON's services; the presence at the Site of any Constituents of Concern; or any relevant, material defect or nonconformance in: (a) DIXON's services, (b) the Work, (c) the performance of any Contractor, or (d) Owner's performance of its responsibilities under this Agreement.
- C. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay DIXON's performance of its services.
- D. If DIXON fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

GP1.01 Opinions of Probable Construction Cost:

- A. DIXON's opinions (if any) of probable Construction Cost are to be made on the basis of DIXON's experience, qualifications, and general familiarity with the construction industry. However, because DIXON has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive Bidding or market conditions, DIXON cannot and does not guarantee that proposals, Bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by DIXON.

GP1.02 Standards of Performance and Compliance with Laws and Regulations:

- A. Standard of Care: The Standard of Care for all services performed or furnished by DIXON under this Agreement will be the care and skill ordinarily used by members of this subject profession practicing under similar circumstances at the same time and in the same locality.
- B. Technical accuracy: Owner shall not be responsible for discovering deficiencies in the technical accuracy of DIXON's services. DIXON shall correct deficiencies in technical accuracy without additional compensation unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. Reliance on Others: Subject to the Standard of Care set forth above in Paragraph GP1.02. A, DIXON, and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers and the publishers or technical standards.
- D. DIXON will make visits to the Site at intervals appropriate to the various stages of construction as DIXON deems necessary in order to observe, as an experienced and qualified design professional, the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, DIXON, for the benefit

of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents.

- E. DIXON shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall DIXON have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Constructor's furnishing and performing of its work. DIXON shall not be responsible for the acts or omissions of any Constructor or for Constructor's compliance with Laws and Regulations.
- F. DIXON makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Contractor.
- G. DIXON shall not be responsible for any decisions made regarding the construction Contract requirements, or any application, interpretation, clarification, or modification of the construction Contract documents other than those made by DIXON or its consultants.
- H. DIXON's Services and Additional Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of the Section 975 of the Dodd-Frank Wall Street Reform and the Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Owner, or any municipal entity or other person or entity regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements, or (4) providing legal advice or representation.

GP1.03 Use of Documents:

- A. All Documents are instruments of service, and DIXON shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of DIXON) whether the Project is completed or not. NOTE: A delayed project may require revisions of the Bid and/or Contract Documents.
 - 1. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project. DIXON grants Owner a limited license to use the Documents on the Project. Owner shall not use, reuse, or modify the Documents without written verification, completion, or adaptation by DIXON. The limited license to Owner shall not create any rights in third parties.

GP1.04 Suspension and Termination:

- A. Suspension:
 - 1. By Owner: Owner may suspend the Project for up to 90 days upon seven days written notice to DIXON.
 - 2. By DIXON: DIXON may, after giving seven days written notice to Owner, suspend services under this Agreement if Owner has failed to pay DIXON for invoiced services and expenses, or in response to the presence of Constituents of Concern at the Site.
- B. Termination: The obligation to provide further services under this Agreement may be terminated.
 - 1. For cause, by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
 - 2. By DIXON:
 - a. Upon seven days written notice if Owner demands that DIXON furnish or perform services contrary to DIXON's responsibilities as a licensed professional; or if services for the Project are delayed or suspended for more than 90 days for reasons beyond DIXON's control, or as the result of the presence at the Site of undisclosed Constituents of Concern.
 - b. DIXON shall have no liability to Owner on account of either such termination. This Agreement will not terminate; however, if the party receiving such notice begins, within

seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof.

3. For convenience, by Owner effective upon DIXON's receipt of notice from Owner.
- C. Effective Date of Termination: The terminating party under Paragraph GP1.04 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow DIXON to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- D. Payments Upon Termination:
 1. In the event of termination by Owner or by DIXON for cause, DIXON shall be entitled, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.
 2. The scheduled time period between Contract Award and the physical start of Construction, or if Construction is postponed for the off season (winter), shall not be considered a "suspension."

GP1.05 Controlling Law and Compliance with Laws and Regulations:

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located. DIXON and Owner shall comply with state Laws and Regulations of state of Project.
- B. DIXON shall comply with any and all instructions of Owner, and all requirements of Contractor's or Owner's safety program that are applicable to DIXON's performance of services under this Agreement and that Owner provides to DIXON in writing, prior to the Effective Date; subject to the Standard of Care set forth in Paragraph GP1.02.A above, and to the extent compliance is not inconsistent with professional practice requirements.
- C. The following may be the basis for modifications to Owner's responsibilities or to DIXON's scope of services, times of performance, or compensation:
 1. Changes after the Effective Date to Laws and Regulations.
 2. The receipt by DIXON; or changes after the Effective Date of Owner-provided written policies and procedures.
- D. The General Conditions for any construction contract documents prepared hereunder are to be EJCDC C-700-18 "Standard General Conditions of the Construction Contract" (2018 Edition), prepared by the Engineer's Joint Contract Documents Committee, and as modified by DIXON unless expressly indicated otherwise. If Owner supplied General Conditions are used, then DIXON supplied Additions shall also be used to the extent they do not conflict with Owner's.

GP1.06 Dispute Resolution

- A. Owner and DIXON agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking nonbinding mediation or exercising their rights at law.
- B. If negotiations fail then Owner and DIXON shall proceed to nonbinding mediation before a panel of three, one panel member selected by each party, and one mutually agreeable person. The only requirements are that neither party have any financial or relational control over any panel member. DIXON will select, based on expertise in the area of dispute. (DIXON pays fees for their panel member, Owner pays fees of their member and third member's fees are to be paid as direct by the panel, even if their final dispute resolution is not accepted).
- C. After one trial mediation, unless an additional attempt is accepted by both parties either party may exercise their rights at law.

GP1.07 Environmental Condition of Site:

- A. Owner represents to DIXON that as of the Effective Date to the best of Owner's knowledge, that there are no Constituents of Concern, other than those disclosed in writing to DIXON, exist at or adjacent to the Site.
- B. Constituents of Concern in the Coating Industry- DIXON and Owner acknowledge that the coating industry may generate hazardous waste or Constituents of Concern (C of C) when removing old coatings, C of C may be existing in soils from coating removal in the past, and some gasket materials contained asbestos. Old coatings may contain heavy metals such as lead, chrome, and cadmium. Hazardous solvents may be present in new coatings, thinners, or used in the cleaning of equipment. These materials may be C of C but are considered Known C of C.
- C. If DIXON Encounters or learns of an undisclosed Constituents of Concern at the Site, then DIXON shall notify Owner. State and Federal notifications, if required, are the responsibility of the Owner.
- D. Owner acknowledges that DIXON is performing professional services for Owner and that DIXON is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as determined in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with DIXON's activities under this Agreement.

EXHIBIT IR: Agreement Between
Owner and DIXON

INSURANCE REQUIREMENTS AND LIABILITY CONCERNS

The Agreement is supplemented to include the following agreement of the parties:

IR1.00 Insurance:

- A. The limits of liability for the insurance required on this project are as follows:
- B. By DIXON:
 - 1. Workers' Compensation: Statutory
 - 2. Employer's Liability --
 - 1) Bodily injury, each accident: \$1,000,000
 - 2) Bodily injury by disease, each employee: \$1,000,000
 - 3) Bodily injury/disease, aggregate: \$1,000,000
 - 3. General Liability --
 - 1) Each Occurrence (Bodily Injury and Property Damage) \$1,000,000
 - 2) General Aggregate \$2,000,000
 - 4. Excess or Umbrella Liability
 - 1) Per Occurrence: \$5,000,000
 - 2) General Aggregate: \$5,000,000
 - 5. Automobile Liability
 - 1) Combined Single Limit (Bodily Injury and Property Damage): \$1,000,000
 - 6. Professional Liability --
 - 1) Each Claim Made \$2,000,000
 - 2) Annual Aggregate \$2,000,000
- C. Additional Insured's: The following individuals or entities are to be listed on DIXON's general liability policies of insurance as additional insured's: Owner and other parties requested by Owner Electronic Data Transmittal Protocol within reason.
- D. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and DIXON's interests in the Project. Owner shall also require Contractor to cause DIXON and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project.
- E. DIXON shall deliver to the Owner certificates of insurance evidencing the coverages. Such certificates shall be furnished prior to commencement of DIXON's services and at renewals thereafter during the life of the Agreement.
- F. All policies of property insurance relating to the Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against DIXON or its Consultants. Owner and DIXON waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Project. Owner shall take appropriate measures in other Project-related contracts to secure waivers of rights.
- G. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.
- H. At any time, Owner may request that DIXON or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit IR. If so, requested by Owner, and if commercially available, DIXON

shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit IR will be supplemented to incorporate this requirement.

I. Definitions:

1. Owner and Party 1 is Owner and Owner's officers, directors, membership, partners, agents, employees, consultants, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.
2. DIXON and Party 2 is DIXON and/or DIXON's officers, directors, members, partners, agents, employees, consultants, subcontractors, or others under contract to DIXON relative to this Project or Agreement.

IR1.01 Limitation of Liability:

- A. DIXON's Liability Limited to Amount of Insurance Proceeds: DIXON shall procure and maintain insurance as required by and set forth in Exhibit IR to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by Laws and Regulations, the total liability, in the aggregate, of DIXON and Party 2 to Owner and anyone claiming by, through, or under Owner shall not exceed the total insurance proceeds paid on behalf of or to DIXON by DIXON's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of DIXON's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal), up to the amount of insurance required under this Agreement

IR1.02 Exclusion of Special, Incidental, Indirect, and Consequential Damages:

- A. To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision in the Agreement, DIXON and Party 2 shall not be liable for special, incidental, indirect, or consequential damages arising out of, or related to this Agreement or the Project, from any cause or causes, including but not limited to: damage to water supply or reduction in fire protection.

IR1.03 Percentage Share of Negligence:

- A. To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming under the other party for damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

ORDINANCE NO. _____

ORDINANCE TO AUTHORIZE THE ACTING CITY MANAGER TO ENTER INTO A CONTRACT WITH DIXON ENGINEERING FOR PROFESSIONAL ENGINEERING AND INSPECTION SERVICES ASSOCIATED WITH THE SEWARD ROAD 0.5 MG TANK REHABILITATION PROJECT.

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. The Acting City Manager is hereby authorized to enter into a contract with Dixon Engineering for professional engineering and inspection services associated with the Seward Road 0.5 MG tank rehabilitation in accordance with the proposal on file in the office of the Acting City Manager.

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed _____ Mayor's Approval _____

Posted _____

First Reading _____ Rules Suspended _____

Second Reading _____

Third Reading _____

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

Active Clients\City of Fairfield\Ordinances\2022\Dixon Engineering-Ord

Attachment: Dixon Engineering-Ord (3066 : Contract with Dixon Engineering for water engineering services, and related project appropriations)



City Council Ordinance
Regular Meeting - January 24, 2022

Submitted by: Adam Sackenheim,
 Submitting Department: Public Utilities

Subject:

Contract and appropriation for Seward Road Water Storage Tank rehabilitation

Legislation Title:

Ordinance to authorize the Acting City Manager to enter into a contract with Clearcreek Coatings, Ltd. for the Seward Road 0.5 Million Gallon Storage Tower "Cleaning, Repairing, and Painting Project."

Recommendation:

It is recommended that City Council authorize the City Manager to enter into a contract with Clearcreek Coatings Ltd., and appropriate project funding in the amount of \$474,800.00 for the Seward Road 0.5 Million Gallon Water Storage Tower Cleaning, Repairing and Painting Project.

Background/Synopsis:

Through this project, the City's 0.5 million gallon Seward Road Water Storage Tower will be cleaned, repaired, primed, and painted - both inside and out.

The Seward Road 0.5 million gallon Water Storage Tower is one of the City's five drinking water storage tanks, and the older of the two towers in the City's "Seward" pressure zone. This pressure zone is located on the east side of the City and is home to the majority of the City's industrial and commercial businesses. The Seward Road 0.5 million gallon storage tower is a critical component of the water distribution system. The Tower was constructed in the late 1960's. It was last rehabbed – fully – in 1996, and the existing coating systems are beginning to fail. The project will recoat the steel tank both inside and out, protecting water quality and the structural integrity of the tank for decades.

The project was prepared for formal competitive bidding, with seven (7) bids received and opened on 11/22/2021. Staff recommends that the bid be awarded to Clearcreek Coatings Ltd., the lowest and best bidder. Bids are summarized on the attached sheet. A contractual appropriation is requested for Clearcreek Coatings Ltd. in the amount of \$495,000.00 (which includes minor contingency).

Rules suspension is requested to expedite project advancement. The City intends to have the contractor start working on the tower in early April 2022 – in accordance with bid specifications.

Financial Impact:

Funding for this project was included in the approved 2021-2025 Capital Improvement Program (CIP) under project 2WT12 – Water Tank/Tower Maintenance. The funding source is the Water Replacement and Improvement Fund (604).

Emergency Provision Explanation:

Not applicable.

Rule Suspension Requested:

Yes

Emergency Provision Needed:

No

Attachments:

1. Bid Tab results - Painting 500000 Gallon Seward Rd Water Storage Tower
2. Clearcreek Coating-Ord

City of Fairfield
 Bid Tabulation for
 Cleaning, Repairing & Painting of 500,000 Gallon Seward Road Water Storage Tower
 Bid Opening: November 22, 2021
 Engineer's Estimate: \$595,000.00

		Maguire Iron Inc PO Box 1446 Sioux Falls, SD 57101 605-334-9749	Worldwide Industries Corp PO Box 1681 Butler, PA 16003 724-283-9845	LC United Painting Co 3525 Barbara Dr Sterling Heights, MI 48310 586-979-2855	Seven Brothers Painting Inc 50805 Rizzo Dr Shelby Township, MI 48315 586-323-7054	D & M Painting Corporation 1500 Amity Ridge Rd Washington, PA 15301 724-229-0440
Item	Description	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price
Section 03 00 00						
1	Splash Pad					
	Total Section 03 00 00	\$ 1,500.00	\$ 5,000.00	\$ 3,000.00	\$ 2,500.00	\$ 2,500.00
Section 05 00 00						
1	Wet Interior Roof Hatch	\$ 4,500.00	\$ 5,200.00	\$ 4,000.00	\$ 7,500.00	\$ 3,140.00
2	Riser Grate	\$ 5,500.00	\$ 8,200.00	\$ 6,000.00	\$ 7,200.00	\$ 3,900.00
3	Overflow Pipe Discharge Modification	\$ 2,000.00	\$ 4,200.00	\$ 3,000.00	\$ 2,900.00	\$ 5,600.00
4	Fall Prevention Device	\$ 2,000.00	\$ 9,100.00	\$ 2,500.00	\$ 4,500.00	\$ 2,000.00
5	Wet Interior Ladder	\$ 2,500.00	\$ 7,200.00	\$ 2,500.00	\$ 8,500.00	\$ 4,200.00
6	Roof Platform	\$ 14,000.00	\$ 21,400.00	\$ 9,500.00	\$ 9,500.00	\$ 12,000.00
7	Vandal Guard	\$ 3,000.00	\$ 3,100.00	\$ 3,000.00	\$ 3,500.00	\$ 1,800.00
8	Roof Vent	\$ 6,500.00	\$ 7,100.00	\$ 5,500.00	\$ 5,600.00	\$ 5,800.00
9	Cathodic Clips and Coupling	\$ 4,500.00	\$ 3,100.00	\$ 2,500.00	\$ 2,200.00	\$ 650.00
10	Roof Hole Repair	\$ 2,500.00	\$ 1,000.00	\$ 250.00	\$ 9,000.00	\$ 600.00
11	Roof Handrail and Painter's Railing	\$ 34,000.00	\$ 22,500.00	\$ 17,000.00	\$ 26,000.00	\$ 8,300.00
12	Swing Gate	\$ 500.00	\$ 2,900.00	\$ 2,000.00	\$ 2,500.00	\$ 650.00
13	Aviation Light	\$ 12,000.00	\$ 4,100.00	\$ 6,500.00	\$ 6,500.00	\$ 1,600.00
14	Sidewall Stiffener Section Replacement	\$ 6,000.00	\$ 5,100.00	\$ 9,500.00	\$ 8,500.00	\$ 6,200.00
15	Siphon Pipe Removal	\$ 500.00	\$ 500.00	\$ 1,500.00	\$ 1,000.00	\$ 900.00
16	Sample Tap	\$ 500.00	\$ 900.00	\$ 2,500.00	\$ 1,500.00	\$ 650.00
	Total Section 05 00 00	\$ 100,500.00	\$ 105,600.00	\$ 77,750.00	\$ 106,400.00	\$ 57,990.00
Section 09 00 00						
1	Exterior Repaint with Containment	\$ 282,000.00	\$ 254,400.00	\$ 317,000.00	\$ 340,100.00	\$ 290,200.00
2	Wet Interior Repaint	\$ 167,000.00	\$ 95,000.00	\$ 98,000.00	\$ 128,000.00	\$ 156,000.00
3	Seam Sealer	\$ 4,000.00	\$ 12,000.00	\$ 3,000.00	\$ 4,500.00	\$ 2,940.00
4	Pit Piping Repaint	\$ 3,500.00	\$ 9,500.00	\$ 6,000.00	\$ 4,500.00	\$ 3,600.00
5	Lettering and Logo	\$ 10,000.00	\$ 12,000.00	\$ 8,000.00	\$ 8,500.00	\$ 18,110.00
	Total Section 09 00 00	\$ 466,500.00	\$ 382,900.00	\$ 432,000.00	\$ 485,600.00	\$ 470,850.00
Total	Total Base Bid Amount	\$ 568,500.00	\$ 493,500.00	\$ 512,750.00	\$ 594,500.00	\$ 531,340.00

These bids will be reviewed by the Public Utilities Department, and a recommendation will be made to Council.
 There is no guarantee that the contract will be awarded to the lowest bidder. Contracts are awarded to the bidder deemed to be the best and the lowest.

City of Fairfield
 Bid Tabulation for
 Cleaning, Repairing & Painting of 500,000 G:
 Bid Opening: November 22, 2021
 Engineer's Estimate: \$595,000.00

		Clearcreek Coatings Ltd 1900 N Business Way New Carlisle, OH 45344 937-315-8116	American Suncraft Co Inc 10836 Schiller Rd Medway, OH 45341 937-849-9475
Item	Description	Unit Price	Unit Price
Section 03 00 00			
1	Splash Pad		
	Total Section 03 00 00	\$ 6,500.00	\$ 7,500.00
Section 05 00 00			
1	Wet Interior Roof Hatch	\$ 3,200.00	\$ 4,800.00
2	Riser Grate	\$ 5,500.00	\$ 4,000.00
3	Overflow Pipe Discharge Modification	\$ 2,900.00	\$ 2,200.00
4	Fall Prevention Device	\$ 1,300.00	\$ 3,000.00
5	Wet Interior Ladder	\$ 1,800.00	\$ 3,500.00
6	Roof Platform	\$ 6,700.00	\$ 11,500.00
7	Vandal Guard	\$ 1,400.00	\$ 2,200.00
8	Roof Vent	\$ 6,200.00	\$ 7,000.00
9	Cathodic Clips and Coupling	\$ 1,500.00	\$ 2,500.00
10	Roof Hole Repair	\$ 1,200.00	\$ 800.00
11	Roof Handrail and Painter's Railing	\$ 20,000.00	\$ 16,500.00
12	Swing Gate	\$ 800.00	\$ 700.00
13	Aviation Light	\$ 2,500.00	\$ 4,500.00
14	Sidewall Stiffener Section Replacement	\$ 1,800.00	\$ 5,500.00
15	Siphon Pipe Removal	\$ 500.00	\$ 1,500.00
16	Sample Tap	\$ 800.00	\$ 300.00
	Total Section 05 00 00	\$ 58,100.00	\$ 70,500.00
Section 09 00 00			
1	Exterior Repaint with Containment	\$ 294,000.00	\$ 308,800.00
2	Wet Interior Repaint	\$ 100,000.00	\$ 99,900.00
3	Seam Sealer	\$ 2,200.00	\$ 4,500.00
4	Pit Piping Repaint	\$ 6,000.00	\$ 4,500.00
5	Lettering and Logo	\$ 8,000.00	\$ 8,900.00
	Total Section 09 00 00	\$ 410,200.00	\$ 426,600.00
Total	Total Base Bid Amount	\$ 474,800.00	\$ 504,600.00

These bids will be reviewed by the Public Utilities
 There is no guarantee that the contract will be a
 bidder deemed to be the best and the lowest.

ORDINANCE NO. _____

ORDINANCE TO AUTHORIZE THE ACTING CITY MANAGER TO ENTER INTO A CONTRACT WITH CLEARCREEK COATINGS, LTD. FOR THE SEWARD ROAD 0.5 MILLION GALLON STORAGE TOWER "CLEANING, REPAIRING, AND PAINTING PROJECT."

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. The City Acting Manager is hereby authorized to enter into a contract with Clearcreek Coatings, Ltd. for the Seward Road 0.5 Million Gallon Storage Tower cleaning, repairing and painting project in accordance with the bid on file in the office of the Acting City Manager.

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed _____ Mayor's Approval _____

Posted _____

First Reading _____ Rules Suspended _____

Second Reading _____

Third Reading _____

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

Active Clients\City of Fairfield\Ordinances\2022\Clearcreek Coating-Ord

Attachment: Clearcreek Coating-Ord (3065 : Contract and appropriation for Seward Road Water Storage Tank rehabilitation)



City Council Ordinance
Regular Meeting - January 24, 2022

Submitted by: Jake Burton,
 Submitting Department: Finance

Subject:

Supplemental Appropriations

Legislation Title:

Ordinance to amend Ordinance No. 148-21 entitled “An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2022, and ending December 31, 2022.” - Supplemental Appropriations

Recommendation:

It is recommended that City Council authorize and direct the preparation of legislation amending the annual operating budget for 2022.

Background/Synopsis:

From: Unappropriated Fire Levy Fund	\$15,940
To: 20332024-241200 – Non Capital Equip/Furnishing	\$15,940
(2020 AFG Fire Prevention and Safety Grant)	

As part of the 2020 AFG Grant the Fire Department applied for \$16,635.50 for the purchase of tools and equipment for the Fire Investigation Team. The equipment will range from cameras, recording equipment, combustible gas meters, and various evidence collection equipment. An appropriation of \$16,635.50 was required in 2021 to support the purchase of the equipment with \$15,843.33 being reimbursed by the AFG grant. The total expense to the City will be \$792.17.

At the September 13, 2021 Council meeting, City Council approved Ordinance No. 96-21, which approved Acceptance of AFG Fire Prevention and Safety Grant and Ordinance No. 106-21, which approved appropriations in the amount of \$16,636 in the Fire Levy Fund for the 2020 AFG Fire Prevention and Safety Grant.

At the end of fiscal year 2021, the Fire Department had spent \$696.45 related to this AFG Grant. In order to fully utilize and expend the grant dollars, an appropriation of \$15,940 is necessary in 2022. This does not change the total amount awarded or the total amount of City funds to be expended related to this grant.

Financial Impact:

A net total of \$792 from the Fire Levy Fund as all other expenditures related to this AFG Grant will be reimbursed.

Emergency Provision Explanation:

Rule Suspension Requested:

Yes

Emergency Provision Needed:

No

Attachments:

1. Supplemental-Ord

ORDINANCE NO. _____

ORDINANCE TO AMEND ORDINANCE NO. 148-21 ENTITLED "AN ORDINANCE TO MAKE ESTIMATED APPROPRIATIONS FOR THE EXPENSES AND OTHER EXPENDITURES OF THE CITY OF FAIRFIELD, OHIO, DURING A PERIOD BEGINNING JANUARY 1, 2022, AND ENDING DECEMBER 31, 2022."

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. Ordinance No. 148-21, the 2022 Appropriation Ordinance, is hereby amended in the following respects:

From:	Unappropriated Fire Levy Fund	\$12,398
To:	20332024-241200 Non Capital Equip/Furnishings (2020 AFG Fire Prevention and Safety Grant)	\$12,398

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	
Third Reading	_____	

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council



City Council Ordinance
Regular Meeting - January 24, 2022

Submitted by: Alisha Wilson, Clerk
 Submitting Department: Clerk

Subject:

Contractual Appropriations

Legislation Title:

Ordinance to amend Ordinance No. 148-21 entitled “An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2022, and ending December 31, 2022.”

Recommendation:

It is recommended that City Council suspend the rules requiring a second and third reading of this Ordinance and adopt the appropriations listed above.

Background/Synopsis: Please refer to specific Council Communications for full description of these items.

\$333,720 for Parks & Recreation Department contingency and funding restoration (various projects);
 \$94,206 for Public Works Department contingency and funding restoration (various projects);
 \$1,477,685 for Route 4, Michael Lane & Camelot Drive Intersection Improvements;
 \$64,250 for engineering & inspection services for Seward Road Water Storage Tower;
 \$495,000 for Seward Road Water Storage Tower Cleaning, Repairing & Painting Project.

Financial Impact: \$2,464,861.00 from noted funding source.

Rule Suspension Requested:

Yes

Emergency Provision Needed:

No

Attachments:

1. ContractualAppropriations.012422
2. Contractual 1-24-Ord



City Council Information Item
Regular Meeting - January 24, 2022

Submitted by: Tiphannie Mays,
Submitting Department: Parks

Subject:

Contingency and Funding Restoration

Legislation Title:

Contingency and Funding Restoration

SYNOPSIS:

Funding, including contingencies, were awarded in 2021-2025 Capital Improvement Plan. The projects were either delayed for completion or had not been started prior to the end of the fiscal year due to various reasons (i.e. supply chain, contractor availability, etc.).

FINANCIAL IMPACT:

1PR02 – Village Green Park/Town Center included an unreconciled amount of \$35,000.00 from the Capital Improvement Fund.

1PR20 – Property Acquisition (5742 River Road) included an unreconciled amount of \$83,939.00 from the Capital Improvement Fund.

1PR21 – Facilities Maintenance included an unreconciled amount of \$5,780.64 from the Capital Improvement Fund.

1RC13 – South Trace Patio Expansion included an unreconciled amount of \$189,000.00 from the Recreation Facilities Fund.

1RC15 – Outdoor Tables and Chairs included an unreconciled amount of \$20,000.00 from the Recreation Facilities Fund.

LEGISLATIVE ACTION:

Suspension of Rules and Adoption Requested? yes

Emergency Provision Needed? **yes**



City Council Information Item
Regular Meeting - January 24, 2022

Submitted by: Ben Mann,
Submitting Department: Public Works

Subject:

Contingency Funds Restored from 2021 for 2022 – Various Projects

Legislation Title:

Contingency Funds Restored from 2021 for 2022 – Various Projects

Background/Synopsis:

1PW29 - Winton / South Gilmore Road at Interstate 275 – Ramp Y (PID 107866) included a contingency of \$73,668.74 from the Street Improvement Fund.

1PW51 - Headwall Replacement and Culvert Extension – Starlight Estates (Between Resor Road and Planet Court) included a contingency of \$22,706.87 from the Capital Improvement Fund.

The contingencies were awarded in 2021 for 1PW29 and 1PW51 but not used yet as the projects stretch into the next calendar year.

Financial Impact:

\$73,668.74 from the Street Improvement Fund for 1PW29.

\$22,706.87 from the Capital Improvement Fund for 1PW51.

Emergency Provision Explanation:

Not applicable.

Attachment: Contractual Appropriations.012422 (3072 : Contractual Appropriations)



City Council Information Item
Regular Meeting - January 24, 2022

Submitted by: Jake Burton,
 Submitting Department: Finance

Subject:

Route 4, Michael Lane & Camelot Drive Intersection Improvements Project

Legislation Title:

Appropriation for 2021 Route 4, Michael Lane and Camelot Drive Intersection Improvement Project (2021 approved contract)

Background/Synopsis:

At the November 8, 2021 City Council meeting, Council approved Ordinance 136-21, an Ordinance to authorize the Acting City Manager to enter into a contract with Barrett Paving Materials for the 2021 Route 4, Michael Lane, and Camelot Drive Intersection Improvement Project (BUT-4-3.56 PID 108270).

Due to the timing required by ODOT of contract approval, the contract was required to be approved in 2021, however, the appropriation of funds was included in fiscal year 2022, therefore the contractual appropriation is necessary at this time in order for the project to move forward. It is recommended that City Council authorize and direct the preparation of legislation for the appropriation of funding in the amount of \$1,477,684.82 from the funding sources listed in the Financial Impact section.

LJB Inc. provided the City with plans for the intersection improvements at this intersection. Right of way has been acquired and utility relocations are set to be completed over the winter. Construction will begin in the spring of 2022.

The intersection has been identified by the City as an intersection in need of realignment in order to eliminate the existing offset condition of the side streets. It is the City's desire to realign the intersection to allow for protected left turns on Route 4 and better coordination between this traffic signal and other traffic signals on Route 4.

This project is identified in the Capital Improvement Program as 2PW27.

Financial Impact:

The financial impact of the project is the requested funding of \$1,477,684.82 (\$1,335,439.34 base bid and alternates of \$7,910.50, as well as contingency funds of \$134,334.98) from various funding sources.

Approximately \$55,000.00 of this work will be from the Water Replacement Funds, \$113,000.00 from Community Development Block Grant Funding, \$348,365.02 from the Street Improvement Fund, and \$961,319.80 from ODOT HSIP Funding.

Attachment: Contractual Appropriations.012422 (3072 : Contractual Appropriations)

Emergency Provision Explanation:

ORDINANCE NO. _____

ORDINANCE TO AMEND ORDINANCE NO. 148-21 ENTITLED "AN ORDINANCE TO MAKE ESTIMATED APPROPRIATIONS FOR THE EXPENSES AND OTHER EXPENDITURES OF THE CITY OF FAIRFIELD, OHIO, DURING A PERIOD BEGINNING JANUARY 1, 2022, AND ENDING DECEMBER 31, 2022."

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. Ordinance No. 148-21, the 2022 Appropriation Ordinance, is hereby amended in the following respects:

From:	Unappropriated Street Improvement Fund	\$1,494,184
To:	40116025-252000 Improvements Other Than Building <i>(Engineering for Winton/South Gilmore Road at I-275 1PW29 (\$71,499); Route 4/Michael/Camelot Construction 2PW27 (\$1,422,685))</i>	\$1,494,184
From:	Unappropriated Capital Improvement Fund	\$147,427
To:	40216025-252000 Improvements Other Than Building <i>(Headwall Replacement and Culvert Extension 1PW51 (\$22,707); Village Green Improvements 1PR02 (\$35,000); Park Facilities Upgrades 1PR21 (\$5,781)</i>	\$63,488
To:	40216025-252100 Park Improvements <i>(5742 River Rd - Water Works Park Improvements 1PR20)</i>	\$83,939
From:	Unappropriated Water Replacement & Improvement Fund	\$614,250
To:	60416023-233300 Engineering Services <i>(Seward Road Water Storage Tower Engineering Services 2WT12)</i>	\$64,250

Attachment: Contractual 1-24-Ord (3072 : Contractual Appropriations)

To: 60416025-252000 Improvements Other Than Building \$550,000
(Seward Road Water Storage Tank Rehabilitation 2WT12(\$495,000); Route 4/Michael/Camelot Construction 2PW27 (\$55,000))

From: Unappropriated Recreational Facilities Fund \$209,000

To: 64052025-252000 Improvements Other Than Bldg. \$209,000
(South Trace Patio Expansion 1RC13 (\$189,000); Outdoor Tables and Chairs at North and South 1RC15 (\$20,000))

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed _____ Mayor's Approval

Posted _____

First Reading _____ Rules Suspended _____

Second Reading _____

Third Reading _____

ATTEST:

 Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

 Clerk of Council



City Council Ordinance
Regular Meeting - January 24, 2022

Submitted by: Alisha Wilson, Clerk
 Submitting Department: Clerk

Subject:

Non-Contractual Appropriations

Legislation Title:

Ordinance to amend Ordinance No. 148-21 entitled “An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2022, and ending December 31, 2022.”

Recommendation:

It is recommended that City Council suspend the rules requiring a second and third reading of this Ordinance and adopt the appropriations listed above.

Background/Synopsis: Please refer to specific Council Communications for full description of these items.

\$5,000 for 2022 Street Light Installation Program;
 \$40,000 for 2022 Grounds, Entry-ways & Landscaping Program;
 \$50,000 for 2022 Annual Drainage Program (multiple vendors).

Financial Impact: \$95,000.00 from noted funding source.

Rule Suspension Requested:

Yes

Emergency Provision Needed:

No

Attachments:

1. NonContractualAppropriations.012422
2. NonContractual 1-24-Ord



City Council Ordinance
Regular Meeting - January 24, 2022

Submitted by: Ben Mann,
 Submitting Department: Public Works

Subject:

Appropriation of funding for 2022 Street Light Installation Program

Legislation Title:

Appropriation of funding for 2022 Street Light Installation Program

Recommendation:

It is recommended that City Council authorize and direct the preparation of legislation authorizing the appropriation of funding in the amount of \$5,000.00 from the Capital Improvement Fund for this project.

Background/Synopsis:

This is an annual expenditure, funded in the Capital Improvement Program. Often, the Public Works Department and/or the Police Department receive requests for additional street lights.

Costs covered are primarily for contracted work by Duke Energy or Butler Rural for the installation of street lights and infrastructure needed for street lighting.

The project is programmed in the 2021-2025 CIP as 2PW11.

Financial Impact:

\$5,000.00 from the Capital Improvement Fund.

Emergency Provision Explanation:

Not applicable.

Rule Suspension Requested:

No

Emergency Provision Needed:

No

Attachment: NonContractualAppropriations.012422 (3071 : Non-Contractual Appropriations)



City Council Ordinance
Regular Meeting - January 24, 2022

Submitted by: Ben Mann,
 Submitting Department: Public Works

Subject:

Appropriation of funding for 2022 Grounds, Entry-ways & Landscaping Program

Legislation Title:

Appropriation of funding for 2022 Grounds, Entry-ways & Landscaping Program

Recommendation:

It is recommended that City Council authorize and direct the preparation of legislation authorizing the appropriation of funding in the amount of \$40,000.00 from the Capital Improvement Fund for this program.

Background/Synopsis:

This is an annual expenditure, funded under the Capital Improvement Program. The funds are needed to provide the necessary labor, materials, and equipment needed to maintain the landscaped areas throughout the City.

Costs covered are primarily materials and supplies such as trees, shrubs, flowers and mulch. Street tree plantings will be included in these purchases as well as the maintenance of street trees. As a part of the landscaping contract, the City provides new plantings as well as sprinkler parts for the streetscape unless it was a failure on the contractor's part that necessitates repairs or replacements.

The project is programmed in the 2021-2025 CIP as 2PW08.

Financial Impact:

\$40,000.00 from the Capital Improvement Fund.

Emergency Provision Explanation:

Not applicable.

Rule Suspension Requested:

No

Emergency Provision Needed:

No



City Council Ordinance
Regular Meeting - January 24, 2022

Submitted by: Ben Mann,
 Submitting Department: Public Works

Subject:

Appropriation of funding for 2022 Annual Drainage Program

Legislation Title:

Appropriation of funding for 2022 Annual Drainage Program

Recommendation:

It is recommended that City Council authorize and direct the preparation of legislation authorizing the appropriation of funding in the amount of \$50,000.00 from the Capital Improvement Fund for this project.

Background/Synopsis:

This has historically been \$100,000 but will be discussed during the budgeting process for the Capital Improvement Program in 2022. Only partial funding is being requested in order to allow Council and management flexibility in future decision making.

This is an annual expenditure, funded in the Capital Improvement Program. Each year, the Public Works Department performs a number of improvement projects to improve small drainage problems and maintain existing infrastructure.

Costs covered are primarily materials and supplies such as drainage pipe, castings, grates, concrete, stone, etc. The list of projects is continually updated to make improvements involving drainage problems.

The project is programmed in the 2021-2025 CIP as 2PW04.

Financial Impact:

\$50,000.00 from the Capital Improvement Fund.

Emergency Provision Explanation:

Not applicable.

Rule Suspension Requested:

No

Emergency Provision Needed:

No

ORDINANCE NO. _____

ORDINANCE TO AMEND ORDINANCE NO. 148-21 ENTITLED "AN ORDINANCE TO MAKE ESTIMATED APPROPRIATIONS FOR THE EXPENSES AND OTHER EXPENDITURES OF THE CITY OF FAIRFIELD, OHIO, DURING A PERIOD BEGINNING JANUARY 1, 2022, AND ENDING DECEMBER 31, 2022."

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. Ordinance No. 148-21, the 2022 Appropriation Ordinance, is hereby amended in the following respects:

From:	Unappropriated Capital Improvement Fund	\$95,000
To:	40216025-252000 Improvements Other Than Building (2022 Street Light Installation 2PW11)	\$5,000
To:	40216025-252500 Drainage Improvements (2022 Annual Drainage Improvements 2PW04)	\$50,000
To:	40216025-252600 Grounds & Median Improvements (2022 Landscape Maintenance 2PW08)	\$40,000

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	
Third Reading	_____	

ATTEST:

Clerk of Council

Attachment: NonContractual 1-24-Ord (3071 : Non-Contractual Appropriations)

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

Active Clients\City of Fairfield\Ordinances\2022\NonContractual 1-24-Ord

Attachment: NonContractual 1-24-Ord (3071 : Non-Contractual Appropriations)