

**City Council meeting
Agenda of business
June 22, 2020**

The Lord's Prayer

Pledge of Allegiance to the flag

Item
no.

A. Roll call

B. Approval of minutes

C. Communications, reports, and resolutions

None were filed for this meeting.

D. Proposed ordinances

1. **Ordinance No. 2020-82** – Introduced by Council – An Ordinance authorizing a Partnership Agreement between Muskingum County and City of Zanesville for the application and administration of the PY 2020 Community Housing Impact and Preservation Program (CHIP) and declaring an emergency. (Emergency or First Reading)
2. **Ordinance No. 2020-83** – Introduced by Council – An Ordinance to amend and revise the zoning map and make permanent zoning in the City of Zanesville, Ohio as herein provided. (First Reading)
3. **Ordinance No. 2020-84** – Introduced by Council – An Ordinance authorizing the bidding/auction of the City's electric accounts and authorizing the Public Service Director to enter into a contract with the lowest and best priced energy provider. (First Reading)
4. **Ordinance No. 2020-85** – Introduced by Council – An Ordinance establishing the real property located at 532 McIntire Avenue, Zanesville as a locally designated Historic Property in accordance with the City's authority as a Certified Local Government. (First Reading)

E. Ordinances for action

5. **Ordinance No. 2020-77 Amended** – Introduced by Council –An Ordinance allowing a moral claim. (Second Reading)

6. **Ordinance No. 2020-78** – Introduced by Council – An Ordinance authorizing the proper City official to enter into a federal local let project agreement with ODOT for the resurfacing and related work on Dresden Road (CR 2) from SR 60 to the Zanesville Corporation Limit. (Second Reading)
7. **Ordinance No. 2020-79** – Introduced by Council – An Ordinance to amend and revise the zoning map and make permanent zoning in the City of Zanesville, Ohio as herein provided. (Second Reading)
8. **Ordinance No. 2020-70 Amended** – Introduced by Council – An Ordinance approving the agreement to create the City of Zanesville – Perry Township Joint Economic Development District; and approving a Cooperative Development Agreement. (Third Reading)
9. **Ordinance No. 2020-71** – Introduced by Council – An Ordinance repealing Ordinance 19-96. (Third Reading)
10. **Ordinance No. 2020-75** – Introduced by Council - An Ordinance repealing Ordinance No. 18-92, creation of a Downtown Redevelopment District. (Third Reading)
11. **Ordinance No. 2020-76** – Introduced by Council - An Ordinance authorizing the proper City official to enter into an agreement terminating an amended Historic Property Investment Agreement in connection with the Zane-Zenith Downtown Redevelopment District. (Third Reading)

F. Traffic orders

None were submitted for the meeting.

G. Miscellaneous and unfinished business

H. Private petitions and communications

No Non-agenda item petitions were filed for this meeting.

ZANESVILLE CITY COUNCIL MEETING – MONDAY, JUNE 8, 2020

The Zanesville City Council met in regular session at 7:00 p.m. on Monday, June 08, 2020 in the City Council Chambers, 401 Market Street, Zanesville, Ohio.

Mr. Vincent led those present in the Lord's Prayer and the Pledge of Allegiance to the Flag.

The following members of Council answered roll call in person: Miss Bradshaw, Ms. Gildow, Mr. Sharrer, Mr. Roberts, Mr. Ware, and Mr. Vincent.

The following members of Council answered roll call by teleconference: Mrs. Osborn, Mr. Foreman, Mr. Baker, and Mrs. Gentry.

All members were present or online for the meeting.

APPROVAL OF MINUTES

Mr. Roberts moved to accept the minutes of Tuesday, May 26, 2020 as written, seconded by Mr. Sharrer.

A voice vote was taken with all members being in favor. None were opposed. Motion carried.

COMMUNICATIONS, REPORTS, AND RESOLUTIONS

There were none submitted for this meeting.

PROPOSED ORDINANCES

Ordinance No. 2020-77 – Introduced by Council – An Ordinance allowing a moral claim.

Mr. Roberts moved for first reading, seconded by Mr. Sharrer.

Mr. Vincent: The has Clerk is giving me information. We didn't have a line item, which you probably noticed as you looked through this, we do have a line item now. That the line item is 603-5470-53408 under Section One. Would someone like to make an amendment to add that to the Ordinance?

Ms. Gildow moved to amend to add line item 603-5470-53408 in Section One of this Ordinance. It was seconded by Mr. Roberts.

Mr. Vincent: Is there any discussion on that amendment? Is everyone clear? So, all in favor of adding in the line item where this payment would come from as read, signify by saying aye.

A voice vote was taken with all members being in favor. None were opposed. Motion carries.

Mr. Vincent: We are now at Ordinance 2020-77 as amended.

Mr. Roberts moved for first reading as amended. It was seconded by Mr. Sharrer.

Mr. Vincent: Is there any discussion? Hearing none, all in favor of first reading as amended signify by saying aye.

A voice vote was taken with all being in favor. None were opposed. Motion carries.

Ordinance No. 2020-78 – Introduced by Council – An Ordinance authorizing the proper City official to enter into a federal local let project agreement with ODOT for the resurfacing and related work on Dresden Road (CR 2) from SR 60 to the Zanesville Corporation Limit.

Mr. Sharrer moved for first reading, seconded by Miss Bradshaw.

Mr. Vincent: Is there any discussion? Hearing none, all in favor of first reading signify by saying aye.

All were in favor. None were opposed.

Motion carries.

Ordinance No. 2020-79 Introduced by Council – An Ordinance to amend and revise the zoning map and make permanent zoning in the City of Zanesville, Ohio as herein provided.

Miss Bradshaw moved for first reading, seconded by Mr. Ware.

Mr. Vincent: Is there any discussion? Hearing none, with this we have a public hearing coming up on July 13, 2020 at 6:30 p.m. Okay so that is the hearing date so all in favor of first reading signify by saying aye.

All were in favor. None were opposed.

Motion carries.

Ordinance No. 2020-80 – Introduced by Council – An Ordinance by the Council of the City of Zanesville authorizing the Mayor of the City of Zanesville to execute all documents required for the purchase of real property, and declaring an emergency.

Mr. Baker moved to waive the readings and it was seconded by Miss Bradshaw.

Mr. Vincent: Is there any discussion on waiving? It is time sensitive so if no other discussion we will have roll call vote for waiving of the readings.

Roll call vote on waiving of the readings.

5 Ayes in person

4 Ayes by phone Mrs. Osborn, Mr. Foreman, Mr. Baker, and Mrs. Gentry

0 Nays

Motion carries.

Ms. Gildow moved for passage, seconded by Mr. Ware.

Mr. Vincent: Is there any discussion? Does anyone need to go to have any additional questions that we would need to go into executive session? Okay, if no other questions we will have roll call vote for passage.

Roll call vote for passage.

5 Ayes in person

4 Ayes by phone Mrs. Osborn, Mr. Foreman, Mr. Baker, and Mrs. Gentry

0 Nays

Motion carries. Ordinance is passed.

Ordinance No. 2020-81 – Introduced by Council – An Ordinance by the Council of the City of Zanesville authorizing the Mayor of the City of Zanesville to submit a bid for the purchase of real property and, if the City is the successful bidder, authorizing the Mayor to enter into a purchase agreement for the acquisition of said property, and declaring an emergency.

Miss Bradshaw moved to waive the readings and it was seconded by Mr. Ware.

Mr. Vincent: Is there any discussion on waiving? Hearing none, we will have roll call. Oh, Mr. Sharrer.

Mr. Sharrer: Mr. Mayor does this need passed as an emergency?

Mayor Mason: Yes, Councilman Sharrer. That way we can move forward on June 18th.

Mr. Vincent: Are there any other questions? Did that answer your question, Mr. Sharrer? I think it is seasonal to get the work done, to get bids, and get the work done. Okay, we will have a roll call vote now for passage (It should have been to waive the readings.)

Roll call vote on waiving of the readings.

4 Ayes in person

4 Ayes by phone Mrs. Osborn, Mr. Foreman, Mr. Baker, and Mrs. Gentry

1 Abstention Mr. Roberts

0 Nays

Motion carries.

Mr. Vincent: That was to waive, I am sorry, I did say passage. It was to waive, so I hope Council is clear on that? Is Council clear on that and you don't need to change your vote on anything? My apologies. Okay, now we need a motion for passage.

Ms. Bradshaw moved for passage, seconded by Mr. Ware.

Mr. Vincent: Is there any further discussion? Does Council need an executive session?

Mr. Sharrer: Yes, do we have and I don't know if we need to go into executive session for this or not, but do we have an idea of what the process and what we are doing with that bid process?

Mr. Vincent: Are you talking about a dollar amount? I think we need to go into executive session if you want to discuss that.

Mr. Sharrer: Yes, please.

Mr. Vincent: So, with that a motion by Mr. Sharrer to go into executive session.

Mayor Mason: Before we go into executive session on that my concern is even discussing it in executive session we really don't know firmly yet the exact amount that we are going to bid because it is not the 18th yet. It is due the 18th. Today is only the 8th. I have a good idea, but we might have to increase it.

Mr. Vincent: So, with that the ordinance before us is up to a dollar amount and that dollar amount was also for cleanup.

Mayor Mason: Yes.

Mr. Sharrer: That dollar amount includes the cleanup or that is what we are bidding in for the property itself?

Mr. Vincent: I think it leaves it open the way it is written. The Mayor can bid up to the amount of \$500,000.

Mayor Mason: Just so you know Mr. Sharrer, I don't intent to go up that high, but I also don't want to lock in a decision today on June 8th that would preclude me and I don't want to look like I am telling something to City Council today and changing it in ten days.

Mr. Sharrer: I understand. I guess that was my, or that answers my question. Thank you.

Mayor Mason: The problem is and I think the Law Director even mentioned this. I know when we were conversing, a bid process is really difficult for a municipality to engage in. Am I adequate in describing that, Dave?

David Tarbert: Yes, the way they are doing this is difficult for us, yes. That is an understatement.

Mr. Sharrer: Again, I guess my concern was this particular piece or property, I think we should have more in clean up than we should in acquiring the property. That was my concern.

Mayor Mason: Mr. Sharrer, and again Dave if you feel at any time we run out too far we can go into executive session I just know the difficulty of going into executive session. I know when I listened to the meeting of the Land Bank in April and that is when the whole discussion was of what kind of offers to receive. The impression I got from the Land Bank is they are really focused on how can the development of this property lead to the betterment of the entire area? So, if that is the case whether someone bids \$100,000 or \$50,000 or something like that really isn't the glamor for what brings the best to the community. What brings the best to the community is how can this area be developed so that incents more economic development across the street? I liken the area on what I call Linden West. Every year those property values continue to drop. Every year that takes money for schoolteachers out of Zanesville City School's pocket or money for meals; whichever way it goes. So at the end of the day, if the City gets control or if the Land Bank's assessment of this; what I am hoping they look at is what brings the most value to the people of Zanesville, most value to the people who used to work there, and the most value to people who had family members that lived there. To people who have to drive by it every day. What makes the best for the entire community? I think that is the direction land banks look at as it is not just if somebody goes \$125,000 and somebody bids \$100,000 is that the best bid when one is a warehouse and one is some sort of a nice commercial development.

If you take a look in Columbus over near Grandview Heights, what you see are old warehousing areas that have been redeveloped commercially. There is no reason you can't have a CVS Pharmacy there or part of Genesis outpatient there. There is no reason you can't have a nice gas station or something along those lines in that area. That area right now is absolutely vacant. I should say absent of a couple restaurants. They can have a real commercial development which exists on the 900 block of Linden Avenue. There is no reason that can't exist on the 2200 block. So, there are a lot of opportunities and I really want City Council, if we get control of it, to have basically the say in the development of it.

Mr. Vincent: Mayor Mason, would it be fair to say that the City, if the City gets this property, that we have a better chance of getting grants to help clean up and improve or make the property better?

Mayor Mason: All I can say to you, Mr. President, is I have worked with the Attorney General's office on getting lawsuits filed. I have worked with them on calculation of what we would need in terms of settlement and part of that settlement does include costs of cleanup. Absolutely.

Mr. Vincent: Mr. Sharrer, are you good with that? You had a motion to go into executive session and you didn't have a second. Do you want to withdraw?

Mr. Sharrer: That is fine.

Mr. Vincent: Okay. Is there any other discussion here? Okay, we will have roll call vote for passage.

Roll call vote for passage.

2 Ayes in person Miss Bradshaw and Ms. Gildow

During the vote

Ms. Gildow: May I take the opportunity to mention that I am on the Land Bank Board, but that the executive director did check with the Ohio Ethics Commission to get a determination on whether I should abstain from votes like this and they said no to that because as a board member it is an unpaid position and essentially it's our responsibility as such to be a voting member whether it is for the Land Bank or City Council.

Mr. Vincent: You have no potential as far as gaining financial benefit one way or the other.

Ms. Gildow: None, none whatsoever.

Mr. Vincent: Thank you.

Continued roll call vote:

2 Ayes in person Mr. Sharrer and Mr. Ware

4 Ayes by phone Mrs. Osborn, Mr. Foreman, Mr. Baker, and Mrs. Gentry

1 Abstention Mr. Roberts

0 Nays

Motion carries. Ordinance is passed.

Mr. Vincent: I hope it works out. Thank you, Mayor, and good luck on deciding on what route to go and what amount. I personally am a little bias because I work here for the City, but I think we have the best opportunity to make this work out the best for the city. That is for sure. Absolutely and under your guidance. We appreciate all your work on this. You have put in a tremendous amount of work into this.

ORDINANCES FOR ACTION

Ordinance No. 2020-70 – Introduced by Council – An Ordinance approving the agreement to create the City of Zanesville – Perry Township Joint Economic Development District; and approving a Cooperative Development Agreement.

Ms. Gildow moved for second reading, seconded by Mr. Roberts.

Mr. Vincent: Is there any discussion?

Mr. Roberts moved to amend 2020-70 by striking section 7A ii and then replacing the following iii, iv, and v with ii, iii, and iv.

Mr. Vincent: The motion is to, on page 4 of the agreement Section 7A Roman numeral ii, striking that and then change the numbers thereafter so it follows in proper order so the following three paragraphs become ii, iii, and iv.

Mr. Roberts: Correct.

It was seconded by Mr. Sharrer.

Mr. Vincent: Is everyone clear on that motion? Is there any discussion? Okay, so all in favor of amendment signify by saying aye.

A voice vote was taken with all being in favor. None were opposed. Motion carries.

Mr. Vincent: We are now at 2020-70 as amended.

Mr. Roberts moved for second reading as amended and it was seconded by Mr. Ware.

Mr. Vincent: Is there any discussion? Hearing none, all in favor of second reading signify by saying aye. Those opposed nay.

All were in favor. None were opposed.
Motion carries.

Ordinance No. 2020-71 – Introduced by Council – An Ordinance repealing Ordinance 19-96.

Miss Bradshaw moved for second reading, seconded by Ms. Gildow.

Mr. Vincent: Is there any discussion? Hearing none, all in favor of second reading signify by saying aye. Those opposed nay.

All were in favor. None were opposed.
Motion carries.

Ordinance No. 2020-75 – Introduced by Council – An Ordinance repealing Ordinance No. 18-92, creation of a Downtown Redevelopment District.

Miss Bradshaw moved for second reading, seconded by Mr. Baker.

Mr. Vincent: Is there any discussion? Hearing none, all in favor of second reading signify by saying aye. Those opposed nay.

All were in favor. None were opposed.
Motion carries.

Ordinance No. 2020-76 – Introduced by Council – An Ordinance authorizing the proper City official to enter into an agreement terminating an amended Historic Property Investment Agreement in connection with the Zane-Zenith Downtown Redevelopment District.

Miss Bradshaw moved for second reading, seconded by Mr. Baker.

Mayor Mason: Mr. President, I did get some emails and questions about this after it passed the reading last week. I assured them the City Council and Administration is committed to redeveloping the downtown by bouncing this one which was not particularly well formed will allow us to create a separate or new one that hopefully will be based on good financials. So again, I know City Council, and I hate to speak on behalf of them, but I know you are committed to downtown and so is the administration.

Mr. Vincent: Thank you, sir. I appreciate you restating that and it was discussed the last time, so the plan is to move forward on one of these for the betterment of downtown, but a better version. Is there anything else? We are at second reading, so all in favor of second reading signify by saying aye. Those opposed nay.

All were in favor. None were opposed.
Motion carries.

TRAFFIC ORDERS

No traffic orders were filed for this meeting.

MISCELLANEOUS AND UNFINISHED BUSINESS

Mayor Mason: Well, Mr. President, The city administration has received two phone calls from people who would like the city to reestablish the speed humps, which I understand is definitionally different that a speed bump, on Center Drive. After discussion with the Public Service Committee it is my understanding that Council likes that, so we will, again with City Council's direction, we can reinstall those. We talked about going back out and getting our metrics together in terms of measurements of speed and volume and then perhaps City Council can ascertain if there are other areas such as Pine Street and other streets people cut through so they can be fitted with those also. We talked about having City Council vote for it but the general consensus I had was a unanimous belief by City Council to move forward with that.

Mr. Vincent: Thank you, sir. With that I don't know if Mr. Roberts or Mr. Sharrer want to add anything here, but it was discussed at length. It did originally come out of committee

for guidance. It kind of boiled down to, I think as far as Mr. Sharrer was saying, that in the figures, has it slowed down traffic, has it reduced the traffic counts? That the big issue being trucks in a residential neighborhood which nobody wants, plus the streets aren't designed for that, so the figures prove that. With that, the City Engineer Mr. Saunders is going to bringing data back, I assume to our next meeting, to share with Council to support that so we will probably have some more discussion on this at the next meeting. Then I thought as far as if Council has anything else they want to discuss here or share, but I think kind of the facts here are what is leading the Public Service Committee and then Council. It sounds like everything was positive. These are temporary and they can be removed. That is why these were gone with instead of doing the paving as Mr. Roberts shared. This gave a chance to try it and if it works here we will look at going to a paved model. Some of the other comments that were real important with that too is the speed humps versus bumps is they don't slow the traffic down. If you drive down at the speed limit, they are nothing. I have done it. I did it the first night they were out there. So, if you are driving what the speed limit is and you could probably go a little higher without that and not that I am encouraging that or it is not legal, but they are not bad; but it does slow, from the feedback we have received, is it does slow people down and it does reduce traffic.

Mayor Mason: Mr. President, as we know I agree with everything you have said, but my only concern was a comparison of November traffic count with a June traffic count is misleading just in terms of who is driving in June, how many hours will be driven in daylight, versus nighttime when school is in session; so, I sort of discount the traffic count as not being valid, but I go with the other points that being if in fact it slowed the vehicular traffic down I am fine with that.

Mr. Vincent: Then someone brought up with COVID there are less people out driving now as there are less people out so it will kind of skew our traffic counts as far as doing another one in June to compare.

Mr. Roberts: Mr. President, I guess and Don to your same point, I think the biggest thing that we were looking to achieve with this project, especially with this area of not having dedicated sidewalks, which there are no sidewalks on any of these streets. The people are forced to walk on or right off the side of the road. We clocked people going in excess of 60 miles per hour. It became a public safety issue at that point. So, I guess looking at Ordinance 19-75 a lot of hours were put into this. A lot of Council's time, and most everybody was here during that time. I would just really like to see the speed humps put back in, understanding that it may not be the end all for the area or for other parts of the city, but I still feel like the feedback I got from my constituents is that it helped. It at least kept people down on the speed.

Mayor Mason: If it has slowed the speed down, I am good with it.

Mr. Roberts: Okay.

Mr. Vincent: Is there anything else from anyone on Council? I would think with this it is ongoing and you can evaluate and if something comes up that are causing problems and they are not beneficial, as hoped, or can't take care of some of the issues or reducing them then they can come back out.

Mayor Mason: Mr. President, if it is in fact effective at slowing traffic down, then I think City Council can consider other areas of the city that have basically similar concerns.

Mr. Roberts: Mr. President, in our discussions that some point that we were doing this it was our full intent of the Public Service Committee to use this as a kind of a Litmus test to see if it did in fact work and I think we are at the point now if we have the data to show us it is decreasing speed, yes we need to start looking at other areas of the city where we can install these.

Mr. Vincent: Are there any other thoughts from Council with this? I guess data is going back as Mr. Sharrer wanted data to look at as it is very important to look and evaluate that. Do you want to leave it as there is data or things that need further discussion? We can take advantage of this time at the end of the Council meeting or if you feel you have enough information and then if anyone has any issues maybe Mr. Sharrer will look at the data and talk to the Mayor and we decide then it needs to come back for more discussion.

Mr. Sharrer: I would just like to point out that as Mr. Roberts, I think it kind of skirted past everybody. We did pass an ordinance last year for these. So, that ordinance is already in place, so we don't need any further action as that ordinance is already in place.

Mr. Vincent: Thank you.

Mr. Roberts: Mr. President, the last thing that we discussed in committee is there will be no additional monetary expenditure except for the city workers' time in placing the speed humps back out there.

Mr. Vincent: Thank you. I appreciate everyone. So, is there anything else?

Ms. Gildow: I would just like to take a minute to congratulate our City of Zanesville First Responders on acquiring a brand-new medic unit. It has been a long time coming and we are really proud of the work they do and this replaces an aging vehicle and I know it is pretty important to our community to have exceptional emergency medical services and the City of Zanesville plays an important role in all of that.

Mr. Vincent: Thank you, Ms. Gildow. Is there anything else from Council? Council on the line do you have anything; Mr. Baker, Mrs. Osborn, Mrs. Gentry, or Mr. Foreman?

Mr. Baker said he is fine. Mrs. Gentry said no. Mrs. Osborn and Mr. Foreman said no.

PRIVATE PETITIONS AND COMMUNICATIONS

No Non-agenda item petitions were filed for this meeting.

Mr. Vincent: Does anyone have any final motions you would like to make?

Mr. Roberts: Mr. President, I move to adjourn.

Mr. Sharrer: I second.

Mr. Vincent: All in favor of adjournment signify by saying aye. Those opposed nay. The motion carries. We stand adjourned. Thank you everyone and have a good evening.

The meeting ended about 7:30 p.m.

Susan Culbertson
Clerk of Council

Daniel M. Vincent
President of Zanesville City Council

ORDINANCE NO. 2020 - 82
INTRODUCED BY COUNCIL

AN ORDINANCE AUTHORIZING A PARTNERSHIP AGREEMENT BETWEEN MUSKINGUM COUNTY AND CITY OF ZANESVILLE FOR THE APPLICATION AND ADMINISTRATION OF THE PY 2020 COMMUNITY HOUSING IMPACT AND PRESERVATION PROGRAM (CHIP) AND DECLARING AN EMERGENCY.

WHEREAS, the City of Zanesville will be the Partner and Muskingum County will be the Grantee of the Partnership; and

WHEREAS, the Grantee, in conjunction with the Partner, is applying for PY 2020 Community Housing Impact and Preservation Program (CHIP) funding from the State of Ohio, Development Services Agency, Office of Community Development; and

WHEREAS, Grantee and Partner wish to set forth the responsibilities and obligations of each in administering the grant, if funded, utilizing the State's CDBG, HOME and Ohio Housing Trust Fund (OHTF) funds; and

WHEREAS, Grantee and Partner understand this agreement is contingent on PY 2020 CHIP funding from the State of Ohio, Development Services Agency, Office of Community Development (OCD); and

WHEREAS, the Grantee will hire an administrative consultant on behalf of the partnership and those services are detailed in an administrative services agreement; and

WHEREAS, this agreement is in effect until the CHIP funds are expended and the funded activities are complete and closed out. The Grantee nor the Partner cannot terminate or withdraw from the partnership agreement while it remains in effect; and

WHEREAS, the Partner's CHIP grant application must be submitted to the State of Ohio no later than June 24th, 2020 thus creating an emergency condition, requiring the adoption of the ordinance immediately. Failure to timely submit the CHIP application would deprive residents of vital housing repair monies, causing unsafe housing conditions; therefore it is in the public's interest to pass the legislation as an emergency.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Zanesville, State of Ohio, that:

SECTION ONE: That City of Zanesville authorizes the Mayor to execute a Partnership Agreement with Muskingum County, and that Muskingum County will be the Grantee of the PY 2020 CHIP Application.

SECTION TWO: The City of Zanesville authorizes participation and partnership for the 2020 Community Housing Impact and Preservation (CHIP) Program Application with the State of Ohio, Development Services Agency, and to provide all information and documentation required in said Application submission.

SECTION THREE: That City of Zanesville hereby understand and agrees that participation in said Program will require compliance with program guidelines and assurances.

SECTION FOUR: That City of Zanesville hereby commits itself to provide any local share of funding, described in the Application, if necessary.

SECTION FIVE: For the reasons stated above, this Ordinance is declared to be an emergency measure. Provided it receives the affirmative vote of six (6) or more members of City Council, this Ordinance shall take effect and be in force immediately upon its passage and approval of the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____, 2020

ATTEST: _____
SUSAN CULBERTSON,
Clerk of Council

DANIEL M. VINCENT,
President of Council

APPROVED: _____, 2020 **THIS LEGISLATION APPROVED AS TO FORM**

DON MASON,
Mayor



LAW DIRECTOR'S OFFICE

Partnership Agreement

Between

Muskingum County and City of Zanesville

for the Application and Administration of the PY 2020 Community Housing Impact and Preservation Program.
(CHIP)

THIS AGREEMENT ("Agreement") is entered into effective the _____ day of June, 2020 by and between Muskingum County (herein called the "Grantee") and the City of Zanesville (herein called "Partner") to undertake the Community Housing Impact and Preservation (CHIP) Program as approved by the State of Ohio, Development Services Agency, Office of Community Development (OCD).

WHEREAS, Grantee, in conjunction with the Partner, is applying for Community Housing Impact and Preservation Program (CHIP) funding from the State of Ohio, Development Services Agency, Office of Community Development (OCD) and

WHEREAS, Grantee and Partner wish to set forth the responsibilities and obligations of each in administering the grant, if funded, utilizing the State's CDBG, HOME and Ohio Housing Trust Fund (OHTF) funds;

WHEREAS, Grantee and Partner understand this Agreement is contingent upon PY 2018 CHIP funding from the State of Ohio, Development Services Agency, Office of Community Development (OCD). Notwithstanding anything herein to the contrary, the parties agree that if the grant is not funded, this Agreement shall automatically terminate with no further obligations to either party;

WHEREAS, this Agreement is in effect until the CHIP funds are expended and the funded activities are complete and closed out. The Grantee and the Partner are not permitted to terminate or withdraw from the partnership agreement while it remains in effect;

NOW, THEREFORE, it is agreed between the parties hereto that:

I. SCOPE OF PROJECT.

A. Activities

The Partner shall undertake and complete the activities as set forth in CHIP Application and the Attachment A of the CHIP Grant Agreement from OCD (herein called "Attachment A"), provided when funded by OCD. Both the Application and Attachment A provides a description of each activity including the amounts to be provided and the services to be performed. The location of the activities and any particular identifying attributes of the activities.

PY 2018 Eligible Activities are limited to:

Rehabilitation Assistance

- Owner Rehabilitation
- Rental Rehabilitation

Repair Assistance (capped at 30% of the total grant request)

- Owner Home Repair
 - Rental Home Repair (*New activity – an activity description must be submitted with application for funding*)

Accommodations will be made in the application to fund more expensive septic systems without jeopardizing the cost effectiveness score.

Homeownership Assistance

- Homeownership (Down Payment Assistance/Rehabilitation or Down Payment Assistance only)
- New Construction with Habitat for Humanity

Tenant-Based Rental Assistance

Administration

Fair Housing (*a required activity for all grants*)

B. National Objectives.

All activities funded with CHIP funds must meet the CHIP income eligibility requirement to benefit the low- and moderate-income persons.

The Partner certifies that the activity(ies) carried out under this Agreement will meet the CHIP income eligibility requirements. All client households will be certified to meet the HUD approved method 24 CFR Part 5 Annual Income (aka Section 8 Method).

II. SCOPE OF SERVICES.

A. General Administration.

The Grantee, as well as the Partner, will be responsible for the general administration of the CHIP Program activities set forth in the CHIP Application and OCD grant agreement in a manner satisfactory to Grantee and consistent with the standards set forth in the Grantee's Policy and Procedure Manual that has been reviewed and approved by OCD. See Section D and E for the duties of each, the Grantee, the Partner and the Administrative Consultant.

B. Levels of Accomplishment – Goals and Performance Measures.

Partner shall be responsible to accomplish the levels of performance as set forth in the CHIP Application and Attachment A and report such measures as units completed and persons or households assisted. Partner shall also include time frames for performance to the Grantee and other information as requested.

C. Staffing.

Partner shall ensure adequate and appropriate staffing to complete the budgeted activities in the CHIP Application. Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. Partner shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Partner is an independent contractor, and will only be paid for services rendered per this Agreement.

Any changes in the Key Personnel assigned, or administering agency or their general responsibilities under this project are subject to the prior approval of Grantee.

D. Duties of the Grantee.

- Grant Preparation
- Policy and Procedure Manual Updates
- Prepare program amendment as needed
- Conduct Environmental Review-Tier 1 and Release of Funds
- Perform Quality Control
- Oversight of the Partner
- Approve Policy and Procedure Manual Updates
- Approve and submit Program amendments
- Conduct Environmental Review Record Tier 2 – OHPO Coordination, Floodplain Management, etc. for Projects
- Public Relations/Marketing
- Coordinate with Local Agencies (Community Services Resource Guide)
- Responsible for Contractor Certification
- Contract Management for Consultant/Subcontractors
- Monitor Financial Reports
- Monitor Performance Reports
- Daily Project Management for Projects
 - Client intake/determine eligibility
 - Maintain files
 - Conduct pre-construction conferences
 - Determine appropriate client assistance level
 - Document preparation
 - Serve as liaison between contractor and homeowner
 - Perform clerical duties
 - Maintain priority ranking & waiting lists
 - Oversee contractor procurement
- Overall Financial Management
 - Responsible for overall grant finances
 - Responsible for preparation and submission of drawdown requests.
 - Preparation and processing of purchase orders & contractor pay requests
 - Responsible for preparation of performance reports
- Homebuyer Education for Homeownership Projects
- Post-Grant Management
 - Maintain records/prepare mortgage releases
 - Conflict resolution
 - Manage Program Income
- Fair Housing Coordination & Trainings
 - Responsible for receiving and referring fair housing complaints/questions
 - Responsible for providing tenant/landlord information

E. Duties of the Grantee's Consultant

- Inspections and Field Construction Management
 - Verifies required RRS tests
 - Assignment/completion of duties for inspection/construction management staff

- Perform initial, interim, and final inspections
- Prepare scope of work/specifications for bidding
- Oversee contractor procurement
- Conduct contractor pre-bid meeting
- Conduct contractor negotiations for single bidders
- Provide cost estimates
- Prepare necessary punch lists
- Approve change orders
- Approve contractor payments
- Perform lead risk assessments, or sub-contractor the risk assessments
- Prepare lead related specifications
- Perform lead clearance testing

F. Duties of the Partner

- Monitor Financial Reports
- Monitor Performance Reports
- Fair Housing Coordination & Trainings for the City
 - Responsible for receiving and referring all fair housing complaints/questions
 - Responsible for providing tenant/landlord information

G. Performance Monitoring.

Grantee will monitor the performance of the Partner against goals and performance standards as stated above. Partner shall provide Grantee all necessary reporting information as required by OCD in the administration and review of the grant. Furthermore, the administrating agencies shall complete and submit to the Grantee and Partner detailed, monthly finance reports that show current financial status and commitments of the CHIP.

III. TIME OF PERFORMANCE

The Grantee and Partner will work together to assist in the planning process for the CHIP Application. Furthermore, the parties will work together to develop the CHIP Application. The Application shall be submitted by the Grantee by the application deadline on May 4, 2018.

Activities of the Partner shall start when a grant agreement is issued by OCD to the Grantee, and the Grantee issues a notice to proceed to the Partner.

Grant Agreement Start Date:	September 1, 2020
Work Completion Date:	October 31, 2022
Final Draw Date:	November 30, 2022
Final Completion/Close Out:	December 31, 2022

Grantee and the Partner will proceed with the Budgeted amounts as set by the OCD Application Guidelines, Grant Ceiling amounts, also outlined in the next section IV. Budget. Regular reviews of the Grantee and Partner's performance will be made. If the Grantee or Partner are not successful in expending the funds budgeted for their Community in a timely manner, a revised budget will be presented to the Grantee and the Partner for review and approval. If 80% of the partner's funds are not committed by September 2019, a revised plan for immediate commitment and expenditure shall be put in place by the Grantee and the Partner in order to successfully meet the State of Ohio's milestones.

Given the competitive nature of the grant, all Projects must be completed within the Project Period. Any Projects not completed as described may be subject to immediate recapture or reallocation.

IV. BUDGET

CHIP funds shall be used solely for the stated purposes set forth in this Agreement, the CHIP Application and Attachment A, and the expenditures shall be supported by contracts, invoices, vouchers and other data as appropriate, including any reports required by OCD, evidencing the costs incurred. No interest shall be earned on any money from OCD or the Grantee. If the CHIP Funds are not expended in accordance with the terms, conditions and time period set forth in this Agreement or the total amount of the CHIP funds exceeds the eligible costs of the project(s), funds will be returned to the grantor.

Grantee shall require delivery before payment is made for purchased goods, equipment or services unless Grantee obtains satisfactory security from the vendor.

Project costs shall be paid in accordance with the budget allocations outlined in Attachment A. All costs incurred must be fully documented. In addition, Grantee may require additional detail budget breakdown. Partner shall provide such supplementary budget information in a timely fashion in the form and content prescribed by Grantee. Any amendments to the budget must be approved in writing by both Grantee and Partner and be in accordance with Grantee’s Agreement with OCD.

Grantee and the Partner will proceed forward with the Budgeted amounts as set by the OCD Application Guidelines, Grant Ceiling amounts:

Grant Ceiling

Through a competitive application process, jurisdictions may apply for a maximum award as follows:

	MAXIMUM AWARD	
	<u>OPTION 1</u>	<u>OPTION2</u>
County	\$300,000	\$400,000
City with a population of at least 15,000	\$250,000	\$350,000
City with a population between 5,000 and 14,999	\$200,000	\$300,000

Regardless of the number of communities in the partnership, the maximum grant request cannot exceed \$1.6 million.

This is a budget and projection of funding. It is NOT a guarantee of funding to the partner’s eligible jurisdiction. Upon completion of the planning process, an activity budget will be approved by each partner and become an addendum to this Agreement.

In September 2019, if each of the partner’s budgeted funds has not been committed, a “re-organization” of the uncommitted funds will take place. The uncommitted funds will be committed immediately by whichever partner can utilize them immediately to allow for completion of the work by the PY 2018 grant milestone deadlines.

See Time of Performance for adjustments from this Budget.

Administrative Costs: The cap for CHIP grant is 12% of the grant amount for administrative costs.

V. PAYMENT

Grantee shall provide CHIP Funds in an amount not to exceed Budgeted amounts set forth by OCD for the sole and express purpose of undertaking the Projects specified in Attachment A for the Partner community. This could include an addendum with the partner once final funding is allocated by OCD and will reflect the amount of work that will actually be done by the Partner. It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed the CHIP Funds allocated to the Partner or as amended. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified Attachment A and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in Section Attachment A and in accordance with performance.

CHIP Funds shall be deposited and maintained in a separate fund account upon the books and records of the Grantee only. All invoices will be paid from the Grantee directly, and all financial record keeping, set-ups, and draws will be completed by the Grantee.

Payment of the CHIP Funds shall be made upon the timely submission to Grantee of a "Request for Payment and Status of Funds Report." Grantee reserves the right to suspend payments should the Partner fail to provide required reports in a timely and adequate fashion or if Partner fails to meet other terms and conditions of this Agreement.

The Partner shall keep all records required for the performance of the grant it is operating, in accordance with the CHIP guidelines (such as CHIP inspections, write ups, client information).

VI. NOTICES

Notices required by this Agreement shall be made in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means (provided that receipt is confirmed). Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this contract shall be directed to the following contract representatives:

Grantee
Muskingum County Commissioners
401 Main St
Zanesville, OH 43701
Phone# 740-455-7100
Fax# 740-455-3785
Commissioners@muskingumcounty.org

Partner
City of Zanesville
401 Market Street
Zanesville, OH 43701
Phone# 740-617-4910
Mayor@coz.org

VII. REPORTING AND COMPLIANCE

A. Reporting Requirements

Partner shall submit to Grantee the reports as required by the OCD. All records of Partner pertinent to the activities undertaken as part of this Agreement shall be maintained in accordance with 24 CFR 570.490 or 570.506 and the Ohio CDBG Small Cities Program Handbook (the "Handbook"), which is not attached hereto but is incorporated herein by reference. All activities funded with HOME funds and undertaken as part of this Agreement shall be maintained in accordance with 24 CFR 92. Additionally, all activities funded with Ohio Housing Trust Funds (OHTF) and undertaken as part of this Agreement shall be maintained in accordance with ORC 174.02

B. Records, Access and Maintenance

Partner shall establish and maintain for at least four (4) years from the final close out of this Agreement such records as are required by Grantee, including but not limited to, financial reports, intake and participant information, program and audit reports. The parties further agree that records required by Grantee with respect to any questioned costs, audit disallowance's, litigation or dispute between Partner and Grantee shall be maintained for the time needed for the resolution of any such issue and that in the event of early termination of this Agreement, or if for any other reason Grantee shall require a review of the records related to the Project(s), Partner shall, at its own cost and expense, segregate all such records related to the Project(s) from its other records of operation.

C. Inspections

At any time during normal business hours upon three (3) days prior written notice and as often as Grantee may deem necessary and in such a manner as not to interfere unreasonably with the normal business operations, Partner shall make available to Grantee, for examination, and appropriate state agencies or officials, all of its records with respect to matters covered by this Agreement including, but not limited to, records of personnel and conditions of employment and shall permit Grantee to audit, examine and make excerpts or transcripts from such records.

D. Audits

CHIP Funds shall be audited according to the requirements of OMB Circular A-133. In addition, Partner must follow the guidelines provided in the Office of Community Development (OCD) Financial Management Rules and Regulations Handbook. An audited Grantee and or Partner shall submit to the Federal Clearinghouse and make available for public inspection a copy of the audit, data collection form and reporting package as described in OMB Circular A-133 within the earlier of thirty (30) days after receipt of the auditor's report(s) or nine months after the end of the audit period.

E. Use of Federal Grant Funds

Partner acknowledges that this Agreement involves the use of federal funds and as such, is subject to audit by the agency of the United States Government granting the funds for the purposes of performing the work and activities as listed in Attachment A. Partner shall fully reimburse Grantee for any cost of the Partner which is disallowed by any federal agency and which must be refunded thereto by Grantee and Development.

VIII. SPECIAL CONDITIONS

PROGRAM INCOME: The Program Income shall be retained by the Grantee, however program income received by the Grantee from projects within the Partner's jurisdiction shall be spent in the Partner's jurisdiction.

IX. GENERAL CONDITIONS

A. General Compliance.

Partner agrees to comply with the requirements of Housing and Economic recovery Act of 2008 and Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning CDBG) including subpart K of these regulations, except that Partner does not assume the Grantee's environmental responsibilities described in 24 CFR 570.604. Partner also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract.

B. Adherence to State and Federal Laws, Regulations

- (1) General: Partner accepts full responsibility for payment of any and all unemployment compensation, insurance premiums, workers' compensation premiums, income tax withholdings, social security withholdings and any and all other taxes or payroll withholdings required for all employees engaged by the Grantee in the performance of the work and activities authorized by this Agreement. Partner accepts full responsibility for providing workers with proper safety equipment and taking any and all necessary precautions to guarantee the safety of workers or persons otherwise affected.
- (2) Ethics: In accordance with Executive Order 2007-01S, Partner, by its signature on this document, certifies: (1) it has reviewed and understands Executive Order 2007-01S, (2) has reviewed and understands the Ohio ethics and conflict of interest laws including, without limitation, Ohio Revised Code §§ 102.01 et seq., §§ 2921.01, 2921.42, 2921.421 and 2921.43, and §§ 3517.13(I) and (J), and (3) will take no action inconsistent with those laws and the order, as any of them may be amended or supplemented from time to time. Partner understands that failure to comply with Executive Order 2007-01S is, in itself, grounds for termination of this Agreement and the grant of funds made pursuant to this Agreement and may result in the loss of other contracts or grants with the State of Ohio.

C. Outstanding Liabilities

Partner represents and warrants that it does not owe: (1) any delinquent taxes to the Grantee, the State of Ohio (the "State") or a political subdivision of the State; (2) any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State; and (3) any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.

D. Falsification of Information

Partner represents and warrants that it has made no false statements to the Grantee in the process of obtaining this award of the CHIP Funds.

F. Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization

If applicable, the Partner must certify compliance with Ohio Revised Code Section 2909.33. For further information go to: <http://www.homelandsecurity.ohio.gov>

G. Equal Employment Opportunity

Both parties will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age, military status, or ancestry. Grantee will take affirmative action to ensure that applicants are considered for employment and that employees are treated during employment, without regard to their race, religion, color, sex, national origin, disability, age, military status, or ancestry. Grantee will, in all solicitations or advertisements for employees placed by or on behalf of Grantee, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, disability, age, military status, or ancestry. Grantee will incorporate the requirements of this paragraph in all of its respective contracts for any of the work for which Grant Funds are expended (other than subcontracts for standard commercial supplies or raw materials), and Grantee will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

H. Prevailing Wage Rates and Labor Standards

Not applicable.

I. Procurement

(1) Compliance: Partner shall comply with current Grantee policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this Agreement.

(2) OMB Standards: Unless specified otherwise within this Agreement, the Partner shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84.40-48 or 24 CFR 85.36.

(3) Travel: Partner shall obtain written approval from Grantee for any travel outside the metropolitan area for which CHIP Funds are provided under this Agreement. All travel costs reimbursed with CHIP Funds shall be at the rates allowed under Partner's HUD-approved travel rules.

(4) Use and Reversion of Assets: The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 or 85 and 24 CFR 570.502, 570.503, and 570.504, as applicable.

(5) Subcontracts: Partner will include all relevant provisions of this Agreement in all subcontracts entered into as part of the activities undertaken in furtherance of this Agreement and will take appropriate action pursuant to any subcontract upon a finding that the subcontractor is in violation of regulations issued by any federal agency. Partner will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations

(6) Conflict of Interest: No personnel of Partner, any subcontractor of Partner, public official, employee or member of the governing body of the particular locality where this Agreement shall be completed, who exercises any functions or responsibilities in connection with the review or approval of the work completed under this Agreement, shall prior to the completion of such work, voluntarily or involuntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge or fulfillment of his functions or responsibilities with respect to the completion of the work contemplated under this Agreement. Any person who, prior to or after the execution of this Agreement, acquires any personal interest, involuntarily or voluntarily, shall immediately disclose his interest to Grantee in writing. Thereafter, he shall not participate in any action affecting the work under this Agreement unless the Grantee determines that, in light of the personal interest disclosed, his participation in any such action would not be contrary to the public interest.

J. Environmental Requirements

Partner agrees to comply with all applicable environmental requirements insofar as they apply to the performance of this Agreement, including but not limited to the Clean Air Act, the Federal Water Pollution Control Act and the Flood Disaster Protection Act. Partner also shall comply with the Historic Preservation requirements of National Historic Preservation Act of 1966 and HUD Lead-Based Paint Regulation at CFR 570.608 and 24 CFR Part 35, Subpart B.

K. Relocation

Partner agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. [The Grantee may preempt the optional policies.] Partner shall provide relocation assistance to displaced persons as defined by 24 CFR 570.606(b)(2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. Partner also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

L. Liability

Partner shall maintain liability and property insurance to cover actionable legal claims for liability or loss which are the result of injury to or death of any person, or damage to property (including property of Grantee) caused by the negligent acts or omissions, or negligent conduct of Partner, its employees, agents or subcontractors, to the extent permitted by law, in connection with the activities of this Agreement. Furthermore, each party to this Agreement agrees to be liable for the negligent acts or negligent omissions by or through itself, its employees, agents and subcontractors. Each party further agrees to defend itself and themselves and pay any judgments and costs arising out of such negligent acts or omissions, and nothing in this Agreement shall impute or transfer any such liability from one to the other.

M. Source and Availability of CHIP Funds

Partner acknowledges that the source of the CHIP Funds is the State of Ohio, CDBG, HOME and Ohio Housing Trust Fund (OHTF) funds managed by a Grant Agreement between the Grantee and OCD. Grantee shall have the responsibility to pay all invoices. The Grantee shall not advance any funds to the Partner.

Furthermore, the Grantee shall not pay the Partner with any funds, other than administration, for the CHIP projects.

N. Insurance & Bonding

Partner shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from Grantee.

Partner shall comply with the bonding and insurance requirements of 24 CFR 84.31, 84.48, and 85.36, as applicable, Bonding and Insurance.

O. Grantee Recognition

Partner shall insure recognition of the role of Grantee in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, Partner will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

P. Termination Procedure

Neither the Grantee, nor the Partner, shall terminate this Agreement or withdraw from this Agreement while it remains in effect.

X. MISCELLANEOUS

A. Governing Law

This Agreement shall be governed by the laws of the State of Ohio as to all matters, including but not limited to matters of validity, construction, effect and performance.

B. Forum and Venue

All actions regarding this Agreement shall be brought exclusively in a court of competent subject matter jurisdiction in Muskingum County or Franklin County, Ohio, and the parties agree that venue in such courts is appropriate.

C. Entire Agreement

This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.

D. Severability

Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.

E. Amendments or Modifications

Either party may at any time during the term of this Agreement request amendments or modifications, as described in the applicable State of Ohio Consolidated Submission. Requests for amendment or

modification of this Agreement shall be in writing and shall specify the requested changes and the justification of such changes. The parties shall review the request for modification in terms of the regulations and goals relating to the Project(s). Should the parties consent to modification of the Agreement, then an amendment shall be drawn, approved, and executed in the same manner as the original agreement.

F. Pronouns

The use of any gender pronoun shall be deemed to include all the other genders, and the use of any singular noun or verb shall be deemed to include the plural, and vice versa, whenever the context so requires.

G. Headings

Section headings contained in this Agreement are inserted for convenience only and shall not be deemed to be a part of this Agreement.

H. Assignment

Neither this Agreement nor any rights, duties, or obligations described herein, shall be assigned, subcontracted or sub granted by the Partner without the prior express written consent of the Grantee.

IN WITNESS WHEREOF, the parties hereto have executed this Grant Agreement on the last day and year set forth below.

PARTNER:

City of Zanesville

Name: _____
Donald L. Mason, Mayor

GRANTEE:

Muskingum County Commissioners

Name: _____
Cindy S. Cameron, President of Commissioners

Name: _____
James W. Porter, Commissioner

Name: _____
Mollie S. Crooks, Commissioner

Date: _____

Date: _____

Approved to Form:

City of Zanesville Law Director:

Name: _____

Date: _____

I. PROGRAM INCOME IMPLEMENTATION PLAN

	HOME	CDBG
<i>MUSKINGUM COUNTY - Applicant</i>		
"Cash on Hand" as of December 31, 2019	\$ 17,763.00	\$ -
Leveraged in PY 2020 CHIP	\$ -	\$ -
Amount Committed to PY 2018 CHIP	\$ 17,763.00	\$ 262.00
Amount in Implementation Plan	\$ -	\$ -
Uncommitted Balance	\$ -	\$ -
<i>CITY OF ZANESVILLE - Partner</i>		
"Cash on Hand" as of December 31, 2019	\$ 40,683.00	\$ -
Leveraged in PY 2020 CHIP	\$ 11,283.00	\$ -
Amount Committed to PY 2018 CHIP	\$ 29,400.00	\$ 3,139.00
Amount in Implementation Plan	\$ 40,683.00	\$ -
Uncommitted Balance	\$ -	\$ -
<i>APPLICANT/PARTNER</i>		
"Cash on Hand" as of December 31, 2019	\$ 58,446.00	\$ -
Leveraged in PY 2020 CHIP	\$ 11,283.00	\$ -
Amount Committed to PY 2018 CHIP	\$ 47,163.00	\$ 3,401.00
Amount in Implementation Plan	\$ 58,446.00	\$ -
Uncommitted Balance	\$ -	\$ -

Muskingum County has a balance of \$17,763 in HOME funds and \$0 in CDBG funds. \$17,763 of the HOME funds have been committed to PY 2018 CHIP grant to contribute to 2 Owner Rehabilitation projects. Muskingum County has committed all Program Income Funds to date.

City of Zanesville has a balance of \$40,683 in HOME funds and \$0 in CDBG funds. \$22,000 in HOME funds have been committed to PY 2018 CHIP grant to assist with the construction of 1 new unit with Habitat for Humanity of Southeast Ohio and \$7,400 in HOME funds have been committed to assist with the completion of an Owner Rehabilitation project. City of Zanesville has committed all Program Income Funds to date.

PY 2020 CHIP PARTNERSHIP STRUCTURE NARRATIVEGrantee: **Muskingum County**Partner(s): **City of Zanesville**

Muskingum County and the City of Zanesville are partnering together for PY 2020 Community Housing Impact and Preservation (CHIP) Program to improve and protect the supply of sound, serviceable and affordable owner occupied housing stock in Muskingum County. Muskingum County (applicant) will administer the PY 2020 CHIP for the entire partnership.

Grant Fund Distribution:

Muskingum County is applying for a total of \$750,000 with the following breakdown of activities:

Rehabilitation Assistance – Owner Rehabilitation	\$351,000	7 units*
Repair Assistance – Owner Home Repair	\$207,000	12 units
Repair Assistance – Rental Home Repair	\$ 18,000	2 units**
Homeownership – New Construction – Habitat for Humanity	\$ 64,000	2 units***
Tenant Based Rental Assistance	\$ 20,000	30 units
Administration	\$ 90,000	

Funds are budgeted in this partnership using the State of Ohio, Development Services Agency methodology. This grant budget is \$400,000 for Muskingum County (Partnering County), \$350,000 for the City of Zanesville (Partnering Cities within County with population of at least 15,000) for a grant total of \$750,000. The budget breakdown is as follows:

Muskingum County: \$400,000

Rehabilitation Assistance – Owner Rehabilitation	\$194,000	4 units*
Repair Assistance – Owner Home Repair	\$110,000	7 units
Repair Assistance – Rental Home Repair	\$ 9,000	1 unit**
Homeownership – New Construction – Habitat for Humanity	\$ 32,000	1 unit***
Tenant Based Rental Assistance	\$ 10,000	15 units
Administration	\$ 50,000	

City of Zanesville: \$350,000

Rehabilitation Assistance – Owner Rehabilitation	\$157,000	3 units*
Repair Assistance – Owner Home Repair	\$ 97,000	5 units
Repair Assistance – Rental Home Repair	\$ 9,000	1 unit**
Homeownership – New Construction – Habitat for Humanity	\$ 32,000	1 unit***
Tenant Based Rental Assistance	\$ 10,000	15 units
Administration	\$ 40,000	

*HOME Program Income will be used to assist with funding for one Owner Rehabilitation unit in in City of Zanesville (\$11,283)

**Local/State Landlord match will contribute to four Owner Home Repair units; one in Muskingum County (\$9,000) and one in the City of Zanesville (\$9,000).

*** \$64,000 in PY 2020 CHIP funds has been budgeted for New Construction-HfH for 2 new units. Habitat for Humanity of Southeast Ohio commits \$140,000 in private funds needed to complete the 2 units

Please note: In no instance will OCD's maximum amount of assistance be exceeded for any activity unless we have authorization by OCD.

Restructure of Funds

The Partnership is focused and committed to meeting the Milestone deadlines. Therefore, the proceeding budget details the plan of implementation. However, if funds must be moved between Partners to assure the CHIP Grant meets those deadlines, those changes will be made. Regular progress assessments will be made on each of the partner’s funds with State’s mandatory Milestones. The Partnership understands the importance of committing funds in a timely manner. Funding Commitment Milestones are as follows:

- December 1, 2021 50% HOME committed, at least 25% drawn
- July 31, 2022 HOME funds at least 50% drawn
- February 28, 2023 All work MUST be completed
- March 31, 2023 100% of funds MUST be 100% committed and drawn

If necessary, the “re-organization” of uncommitted funds will take place in January 2022 to ensure meeting mandatory July 31, 2022 milestone. Uncommitted funds will be committed by whichever partner can utilize them immediately to complete the work by the PY 2020 grant milestone/deadlines. The ultimate goal of the Partnership is to assist Muskingum County residents with making their homes decent, safe, serviceable and affordable while assuring all regulations and milestones are met.

Progress Assessment

To assure all partners meet their projected outcomes and budgeted grant funds, reports will be completed and provided by all partners on a monthly basis. These reports will be due to the Applicant on the first day of each month. This will ensure regular oversight by all parties, as well as present the status of funds and the progress of each partner. The method will ensure projected outcomes will be achieved and budgeted funds will be expended in a timely manner.

Checks and Balances

Monthly progress Reports will help ensure proper checks and balances. These reports will allow Partners to be aware of the progress, commitments and any re-organization of funds that may need to take place. The Partnership has met or exceeded their goals in past grants and is on track to successfully complete PY 2020 CHIP grant meeting all outcomes, goals and deadlines.

ORDINANCE NO. 2020- 83
INTRODUCED BY COUNCIL

**AN ORDINANCE TO AMEND AND REVISE THE ZONING MAP AND
MAKE PERMANENT ZONING IN THE CITY OF ZANESVILLE, OHIO
AS HEREIN PROVIDED**

WHEREAS, an application has been duly made requesting a zoning district change from RS-4 Medium-High-Density Single-Family Residential to RM-1 Low-Density Multi-Family Residential ; and

WHEREAS, proper notification of the intent of this Council to consider this request to rezone the below described property was given to abutters within 200 feet of the requested rezoning and in a newspaper of general circulation; and

WHEREAS, after testimony and discussion the Zanesville Planning Commission recommended to City Council that the zone change request further identified on Exhibit "B", be approved.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Zanesville, State of Ohio; that

SECTION ONE: The application for rezone change with respect to the real property hereinafter described and shown in Exhibit "B" is hereby approved and the zoning with respect to said property is so changed.

SECTION TWO: The Zoning Map of the City of Zanesville, Ohio, and the same is hereby amended and revised by changing the zoning as follows:

From RS-4 Medium-High-Density Single-Family Residential to RM-1 Low-Density Multi-Family Residential, situated in the City of Zanesville, County of Muskingum, and State of Ohio, and bounded and described as follows:

Auditors Parcel #84-18-02-16-000, recorded in Deed Volume 1036, Page 0536 being located in the Muskingum County Recorder's Office.

Auditors Parcel #84-18-02-15-000, recorded in Deed Volume 2118, Page 0574 being located in the Muskingum County Recorder's Office.

Auditors Parcel #84-18-02-14-000, recorded in Deed Volume 2896, Page 397 being located in the Muskingum County Recorder's Office.

Auditors Parcel #84-18-02-13-000, recorded in Deed Volume 0800, Page 0145 being located in the Muskingum County Recorder's Office.

Auditors Parcel #84-18-02-12-000, recorded in Deed Volume 2903, Page 267 being located in the Muskingum County Recorder's Office.

Auditors Parcel #84-19-03-13-000, recorded in Deed Volume 2855, Page 947 being located in the Muskingum County Recorder's Office.

Auditors Parcel #84-19-03-12-000, recorded in Deed Volume 1079, Page 0054 being located in the Muskingum County Recorder's Office.

SECTION THREE: This Ordinance shall take effect upon the approval of the Mayor and from and after the earliest period allowed by law .

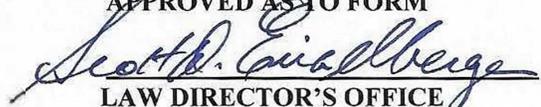
PASSED: _____, 2020.

ATTEST: _____
SUSAN CULBERTSON
CLERK OF COUNCIL

DANIEL M. VINCENT
PRESIDENT OF COUNCIL

APPROVED: _____, 2020.

DON MASON
MAYOR

THIS LEGISLATION
APPROVED AS TO FORM

LAW DIRECTOR'S OFFICE

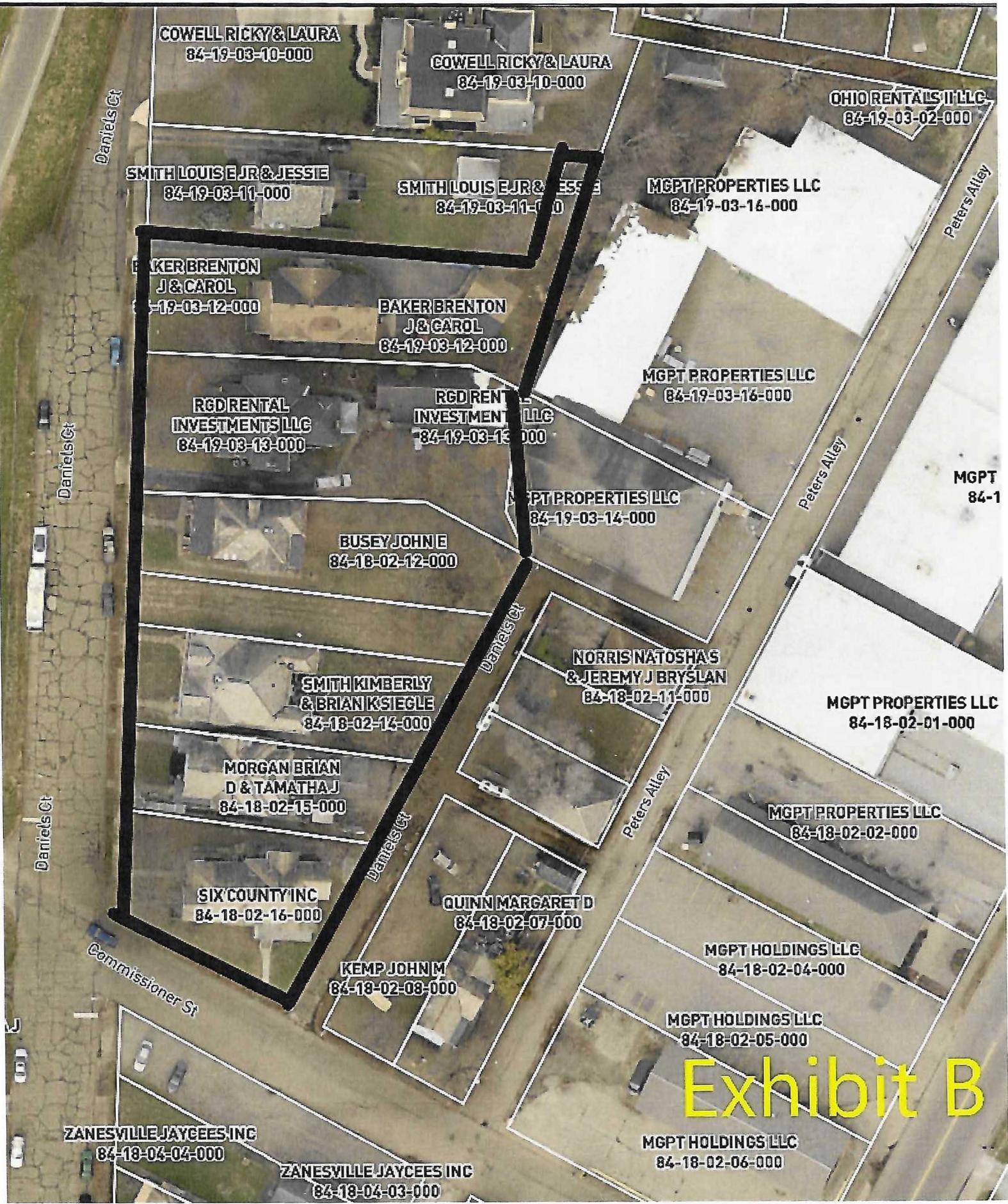


Exhibit B

ORDINANCE NO. 2020 - 84
INTRODUCED BY COUNCIL

AN ORDINANCE AUTHORIZING THE BIDDING/AUCTION OF THE CITY'S ELECTRIC ACCOUNTS AND AUTHORIZING THE PUBLIC SERVICE DIRECTOR TO ENTER INTO A CONTRACT WITH THE LOWEST AND BEST PRICED ENERGY PROVIDER.

WHEREAS, the City of Zanesville currently has 150 electric accounts and expends approximately \$1,374,000.00 annually on electric services that encompass the operations of the City; and

WHEREAS, in 2016, the City conducted a reverse auction for electric services utilizing the Ohio Department of Administrative Services (DAS) Contract CSP904713 for third party electric aggregation; and

WHEREAS, beginning in 2017, the City had signed a contract for electric services with the winning bidder, Direct Energy, for a four year period for the awarded fixed rate; and

WHEREAS, the Direct Energy contract is set to expire in March 2021; and

WHEREAS, the Ohio DAS did not renew a contract for a third party electric aggregation contract; and

WHEREAS, In order to secure the best possible price, the Public Service Director has entered into an agreement with Bricker & Eckler Attorneys at Law to solicit bids for energy services, and to review and execute an agreement as soon as possible after the bidding process.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Zanesville, State of Ohio, that:

SECTION ONE: The Council of the City of Zanesville authorizes Bricker & Eckler to solicit and receive bids for the City's electric accounts in order to select an electric supplier for the City's future needs.

SECTION TWO: The Council of the City of Zanesville authorizes the City's Board of Control to review and award a contract to the lowest and best priced provider for the City of Zanesville's energy needs. The Public Service Director is then authorized to enter into an agreement with the awarded retail energy provider.

SECTION THREE: This Ordinance shall take effect upon the approval of the Mayor and from and after the earliest period allowed by law.

PASSED: _____, 2020

ATTEST:

SUSAN CULBERTSON,
Clerk of Council

DANIEL M. VINCENT,
President of Council

Ordinance Number 2020-84

APPROVED: _____, 2020

THIS LEGISLATION APPROVED
AS TO FORM

DONALD MASON,
Mayor



LAW DIRECTOR'S OFFICE

ORDINANCE NO. 2020- 85
INTRODUCED BY COUNCIL

AN ORDINANCE ESTABLISHING THE REAL PROPERTY LOCATED AT 532 MCINTIRE AVENUE, ZANESVILLE AS A LOCALLY DESIGNATED HISTORIC PROPERTY IN ACCORDANCE WITH THE CITY'S AUTHORITY AS A CERTIFIED LOCAL GOVERNMENT

WHEREAS, the City of Zanesville is designated as a Certified Local Government (CLG) under 16 U.S.C. 470a (c); and

WHEREAS, the real property located at 532 McIntire Avenue, Zanesville, Muskingum County, Ohio, Parcel Number 84-18-06-10-000 (herein called the "Subject Property"), which is owned by the Hemmer Ice Cream Company LLC (herein called the "Historic Property Owner"), is a property of recognized historical and architectural significance in the City of Zanesville;

WHEREAS, the City, using its status as a CLD, wishes to certify the Subject Property as a locally designated historic property; and

WHEREAS, The City and Historic Building Owner have entered into a Historic Property Nomination Agreement (attached as Exhibit "A") to nominate the Subject Property as a locally designated historic property effective May 20th, 2020; and

WHEREAS, and proper notification of the intent of this Council to consider this request to the Subject Property was given to abutters within 200 feet of the Subject property and in a newspaper of general circulation; and

WHEREAS, after testimony and discussion the Zanesville Planning Commission and the Zanesville Historic Preservation Board recommended to City Council that the Subject Property be recognized as a locally designated historic property.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Zanesville, State of Ohio; that

SECTION ONE: The City of Zanesville is an Ohio Certified Local Government, established under 16 U.S.C. 470a (c); and by Ordinance No 91-44.

SECTION TWO: The real property located at 532 McIntire Avenue, Zanesville, Muskingum County, Ohio, Parcel Number 84-18-06-10-000 is hereby recognized as a property of local historical and architectural significance in the City of Zanesville, in accordance with the City's authority as a Certified Local Government.

SECTION THREE: This Ordinance shall take effect upon the approval of the Mayor and from and after the earliest period allowed by law .

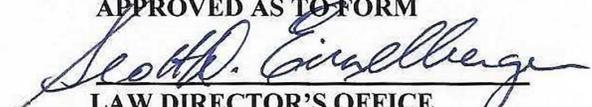
PASSED: _____, 2020.

ATTEST: _____
SUSAN CULBERTSON
CLERK OF COUNCIL

DANIEL M. VINCENT
PRESIDENT OF COUNCIL

APPROVED: _____, 2020.

DON MASON
MAYOR

THIS LEGISLATION
APPROVED AS TO FORM


LAW DIRECTOR'S OFFICE

David J. Tarbert
Law Director

ORDINANCE 2020-77 Amended

AN ORDINANCE ALLOWING A MORAL CLAIM

WHEREAS, Mark Vensil presented a legal claim in the amount of Five Hundred Thirty-Four Dollars (\$534.00) against the City of Zanesville; and,

WHEREAS, said claim was reviewed by the Law Director, David J. Tarbert, who determined that the City of Zanesville was not legally liable for said claim; and

WHEREAS, the basis of said claim is set forth in Exhibit A; and,

WHEREAS, Law Director, David J. Tarbert, advised the claimant that although the City of Zanesville had no legal liability, he had a right to present a moral claim to City Council;

WHEREAS, City Council has reviewed the claim and determined that said claim should be paid as a moral claim.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Zanesville, Ohio, that:

SECTION ONE: The proper City Official is hereby authorized to pay \$ 534.00 to Mark Vensil and said monies shall be taken from line item 603-5470-53408.

SECTION TWO: This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____, 2020

ATTEST: _____
SUSAN CULBERTSON
Clerk of Council

DANIEL M. VINCENT
President of Council

APPROVED: _____, 2020

This Legislation Approved As To Form:

DONALD L. MASON
Mayor



LAW DIRECTOR'S OFFICE

CITY OF ZANESVILLE

OFFICE OF THE LAW DIRECTOR

401 Market Street, Room 209 • Zanesville, Ohio 43701

740-617-4886 / 740-617-4889 • Fax: 740-453-2435

Email: lawdirector@coz.org

DAVID J. TARBERT
LAW DIRECTOR

SCOTT D. EICKELBERGER
EMILY STRANG TARBERT
ASSISTANT LAW DIRECTORS

January 31, 2020

Mark Vensil
560 Brookover Avenue
Zanesville, Ohio 43701

RE: **Claim No.: 19-39**

Dear Mr. Vensil,

I completed my review of the claim you filed against the City of Zanesville. It is one of my duties as Law Director to review such claims and advise the City as to whether or not legal liability exists. Prior to the mid-1980s, governmental entities were generally immune from all liability. In 1985, the Ohio Legislature enacted new laws which still granted governmental entities immunity in most instances, but did provide some liability in a few limited situations.

Unfortunately, it is my opinion that the claim that you filed does not fall within one of the areas of liability created under Chapter 2744 of the Ohio Revised Code. Therefore, your claim has to be denied from a legal standpoint. However, City Code requires me to submit all rejected legal claims to City Council as a "moral claim." A moral claim differs from a legal claim in that City Council may decide, although the City is not legally liable for the claim, an ethical or moral reason exists to pay the claim.

As such, I will draft the appropriate ordinance and submit it to the Clerk of Council. The ordinance will likely go before Council at one of the next two meetings. Ordinances typically go three readings and Council meets every second and fourth Monday. You should contact your City Councilperson to discuss what steps you can take, if you choose, to help advocate your position. Feel free to contact the Clerk of Council at (740) 617-4875 and she can help direct you to the appropriate Councilperson.

If you have any questions, please feel free to contact me.

Truly,



David J. Tarbert
Law Director

DJT:ab



The City of Zanesville

401 Market Street, Zanesville, Ohio 43701

Phone: (740) 617-4910

Email: scott.brown@coz.org

Council-Mayor Government
Donald Mason, Mayor

Department of Public Service
Scott Brown, Interim Director

MEMO

TO: David Tarbert, Law Director
FROM: Scott Brown, Interim Public Service Director
DATE: January 21, 2020
RE: Claim 19-39/Vensil
CC: Scott Bryant, Water Superintendent

A handwritten signature in black ink, appearing to be 'Scott Brown', is written over the 'FROM:' line of the memo.

Please find attached Claim 19-39/Vensil, along with corresponding information from Scott Bryant, Water Superintendent.

Should you have any questions, please advise.

SB/am

Attachments



Council-Mayor Government
Donald L. Mason, Mayor

The City of Zanesville

14 Buckeye Drive, Zanesville, Ohio 43701
Phone: (740) 455-0631

Department of Public Service
Water Division
Scott A. Bryant, Superintendent

MEMO

TO: Scott Brown, Public Service Director
FROM: Scott A. Bryant, Water Superintendent
DATE: January 17, 2020
RE: 19-39 Vensil

This memo addresses the claim 19-39/Vensil. The property in question is located at 560 Brookover Ave. Zanesville OH 43701.

In reviewing the claim I find the following:

- The Call Log indicates a report of a water main break at 3:45 am on 12/3/2019. Excerpts of the Call Log is attached.
- Crew member(s) of the Water Division indicated they arrived on site and had the water shutoff by 4:45 am.
- Crew members performed the necessary emergency repairs and replaced a 12 foot section of 12 inch diameter water line. A picture of the water line is included.

Considering the magnitude of the line break it is likely that water flowed from the street onto the 560 Brookover Ave. property.

Please advise if you have any questions or require additional information.



Date	Time	Address	Phone #	Description of Issue	Complete	Truck #	Who took call
Tuesday 12/3/2019	3:45am	560 Brookover Ave.	ZPD 0700	big break--BOC--call for locates--water down--on hold with oups for 50min--J.Spring got through/bo running all night-- off	X	144	JWB
12/3/2019	7:00a	2765 W. Ray Dr.		check for break/water down from N. Ray to Harding/road closed-water back up & road open	X	129	MS
12/3/2019	9:12a	150 Green St.		emergency t/off-broke on po-water off	X	132	MS
12/3/2019	9:24a	1132 Central Ave.		check for break-tested surface per Mark J.	X	132	MS
12/3/2019	1:30p	934 Sevall st.		water off tod.	X	143	MS





The City of Zanesville

401 Market Street, Zanesville, Ohio 43701

Phone: (740) 617-4910

Email: scott.brown@coz.org

Council-Mayor Government
Donald Mason, Mayor

Department of Public Service
Scott Brown, Interim Director

MEMO

TO: Scott Bryant, Water Superintendent
FROM: Scott Brown, Interim Public Service Director 
DATE: January 14, 2020
RE: Claim 19-39/Vensil
CC:

Please find attached Claim 19-39/Vensil, along with corresponding information.

Please attach your remarks to the claim and return.

Should you have any questions, please advise.

SB/am

Attachments

RECEIVED

JAN 14 2020

FOR CITY CLERK'S USE
CLAIM NO. 19-39
DATE REC. 1-13-2020

CLERK OF COUNCIL

**STATEMENT OF CLAIM AGAINST THE CITY OF
ZANESVILLE, OHIO**

MAIL COMPLETED CLAIM TO: CLERK OF COUNCIL, 401 MARKET ST.,
ZANESVILLE, OHIO 43701

1. NAME OF CLAIMANT Mark Vensl

1a. ADDRESS IF APPLICABLE IN OWNERSHIP OF DAMAGED

PROPERTY 560 Brookover Avenue, Zanesville, OH 43701

2. ADDRESS OF CLAIMANT P.O. Box 8122, Zanesville, OH 43702-8122

3. TELEPHONE NO. (740) 819-8659

4. INFORMATION CONCERNING THE INCIDENT UPON WHICH CLAIM IS
BASED:

A. DATE 12/3/19 B. TIME Morning

C. WEATHER CONDITIONS _____

D. EXACT LOCATION 560 Brookover Ave Zanesville, OH 43701

E. NAMES & ADDRESSES OF WITNESSES: IF NONE, SO STATE

Jim Smith 560 Brookover Ave, Zanesville

F. WAS THE INCIDENT INVESTIGATED BY THE ZANESVILLE POLICE
DEPARTMENT OR OTHER CITY DEPARTMENT YES NO _____

G. IF ANSWER TO 4-F IS "YES", PLEASE INDICATE DEPARTMENT THAT
INVESTIGATED AND/OR THE NAME OF ANY CITY EMPLOYEE WHO
MAY HAVE INVESTIGATED SAID OCCURRENCE

Water Dept.

RECEIVED
JAN 14 2020
City of Zanesville
Public Service Department

5. IN YOUR OWN WORDS, STATE IN DETAIL WHAT HAPPENED AND HOW IT HAPPENED (CONTINUE ON BACK IF NEEDED)

City water line busted and flooded
basement causing damage to
furnace and hot water tank.

6. PROPERTY DAMAGE DETAILS

A. AMOUNT OF CLAIM FOR PROPERTY DAMAGE \$534.00

DO YOU HAVE HOMEOWNER'S INSURANCE Not for flooding

B. IF MOTOR VEHICLE DAMAGE IS CLAIMED, STATE YEAR, MAKE AND MODEL OF VEHICLE

N/A
OWNERS NAME AND ADDRESS N/A

STATE WHETHER OR NOT VEHICLE WAS COVERED BY COLLISION INSURANCE N/A IF YES, NAME COMPANY AND AGENT
N/A

C. ATTACH ESTIMATES OR RECEIPT(S) OF COST IN CONNECTION WITH THE ABOVE CLAIM (VEHICLE OR PROPERTY). ESTIMATES OR RECEIPT(S) MUST BE FILED WITH CLAIM OR CLAIM CANNOT BE PROCESSED.

7. WHERE ARE YOU EMPLOYED N/A

HOW LONG EMPLOYED ABOVE N/A

8. IF CLAIM IS FOR BODILY INJURY, STATE THE FOLLOWING:

A. NATURE OF INJURY N/A

B. WERE YOU HOSPITALIZED No IF SO, WHERE N/A
 AND FOR HOW LONG N/A
 C. WERE YOU ATTENDED BY A PHYSICIAN (IF YES) WHO N/A
 PHYSICIAN ADDRESS N/A
 D. AMOUNT CLAIMED FOR BODILY INJURY DAMAGES N/A

9. DO YOU KNOW WHETHER OR NOT THE CITY HAD BEEN NOTIFIED OF THE CONDITIONS OR CIRCUMSTANCES CONCERNING ANY STREET OR SIDEWALK DEFECT WHICH MAY HAVE BEEN INVOLVED IN THE INCIDENT WHICH GAVE RISE TO YOUR CLAIM PRIOR TO THE TIME OF OCCURRENCE OF SAID INCIDENT, IF YES GIVE DETAILS:

No

THE UNDERSIGNED Mark Vass-7 BEING FIRST DULY CAUTIONED AND SWORN DEPOSES AND SAYS THAT HE OR SHE HAS READ THE INFORMATION CONTAINED IN THE FOREGOING STATEMENT OF CLAIM AND THAT THE SAME IS TRUE.

[Signature]
 SIGNATURE OF CLAIMANT

SWORN TO AND SUBSCRIBED BEFORE ME THIS 13 DAY OF

January, ~~2019~~^{CA} 2020



CORTNEY ADAMS
 Notary Public, State of Ohio
 My Commission Expires
 08-16-2022

[Signature]
 NOTARY PUBLIC





**ORDINANCE NO. 2020 - 78
INTRODUCED BY COUNCIL**

AN ORDINANCE AUTHORIZING THE PROPER CITY OFFICIAL TO ENTER INTO A FEDERAL LOCAL LET PROJECT AGREEMENT WITH ODOT FOR THE RESURFACING AND RELATED WORK ON DRESDEN ROAD (CR 2) FROM SR 60 TO THE ZANESVILLE CORPORATION LIMIT.

WHEREAS, the administration is interested in allocating STP grant funding through ODOT for resurfacing and related work on Dresden Road (CR 2) from SR 60 to the Zanesville corporation limits per Attachment "A"; and

WHEREAS, ODOT will provide 80% of the total project cost upon approval of this LPA agreement by City Council.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Zanesville, State of Ohio, that:

SECTION ONE: The proper city official is hereby authorized to enter into a federal local let project agreement with ODOT for the resurfacing and related work on Dresden Road (CR 2) from SR 60 to the Zanesville corporation limits.

SECTION TWO: The estimated cost of the project is \$359,000.00 with 80% provided as federal grant through ODOT using STP fund allocations.

SECTION THREE: This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____, 2020

ATTEST:

SUSAN CULBERTSON
Clerk of Council

DANIEL M. VINCENT
President of Council

APPROVED: _____, 2020

**THIS LEGISLATION APPROVED
AS TO FORM**

DONALD MASON
Mayor



LAW DIRECTOR'S OFFICE

Ordinance 2020-78
Attachment A

MUS CR 2 00.00
COUNTY-ROUTE-SECTION

106985
PID NUMBER

31506
AGREEMENT NUMBER

606-631-562
DUNS NUMBER

CFDA 20.205

LPA FEDERAL LOCAL-LET PROJECT AGREEMENT

THIS AGREEMENT is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the City of Zanesville, 401 Market Street, Zanesville, Ohio 43701 hereinafter referred to as the LPA.

1. PURPOSE

- 1.1 The National Transportation Act has made available certain Federal funding for use by local public agencies. The Federal Highway Administration (hereinafter referred to as FHWA) designated ODOT as the agency in Ohio to administer FHWA's Federal funding programs.
- 1.2 Section 5501.03 (D) of the **Ohio Revised Code** (hereinafter referred to as ORC) provides that ODOT may coordinate its activities and enter into contracts with other appropriate public authorities to administer the design, qualification of bidders, competitive bid letting, construction, inspection, and acceptance of any projects administered by ODOT, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.
- 1.3 The resurfacing and related work on Dresden Road (CR 2) from SR 60 to the Zanesville Corp Limit (0.00 to 1.04) (hereinafter referred to as the PROJECT) is a transportation activity eligible to receive Federal funding, and which is further defined in the PROJECT scope.
- 1.4 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities for the local administration of the PROJECT.

2. LEGAL REFERENCES AND COMPLIANCE

- 2.1 This Agreement is authorized and/or governed by the following statutes and/or policies, which are incorporated, by reference, in their entirety:
 - a. National Transportation Act, Title 23, U.S.C.; 23 CFR 635.105;
 - b. Federal Funding Accountability and Transparency Act of 2006 (FFATA);
 - c. 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
 - d. ODOT Locally Administered Transportation Projects, Manual of Procedures; and
 - e. State of Ohio Department of Transportation Construction and Material Specifications Manual (applicable to dates of PROJECT).
- 2.2 The LPA shall comply with all applicable Federal and State laws, regulations, executive orders, and applicable ODOT manuals and guidelines. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement.

3. FUNDING

- 3.1 The total cost for the PROJECT is estimated to be \$ 359,000.00 as set forth in Attachment 1. ODOT shall provide to the LPA 80 percent of the eligible costs, up to a maximum of \$ 359,000.00

Ordinance 2020-78
Attachment A

in Federal funds. This maximum amount reflects the funding limit for the PROJECT set by the applicable Program Manager. Unless otherwise provided, funds through ODOT shall be applied only to the eligible costs associated with the actual construction of the transportation project improvements and construction engineering/inspection activities.

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

4. PROJECT DEVELOPMENT AND DESIGN

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

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

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

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

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

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

5. ENVIRONMENTAL RESPONSIBILITIES

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

- 5.2 If the LPA does not have the qualified staff to perform any or all of the respective environmental responsibilities, the LPA shall hire an ODOT Pre-Qualified Consultant through a QBS process. The pre-qualified list is available on the ODOT web page at www.dot.state.oh.us/CONTRACT. If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's

Ordinance 2020-78
Attachment A

activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.

- 5.3 ODOT shall be responsible for the review of all environmental documents and reports and shall complete all needed coordination activities with State and Federal regulatory agencies toward securing environmental clearance.
- 5.4 The LPA shall be responsible for assuring compliance with all commitments made as part of the PROJECT's environmental clearance and/or permit requirements during the construction of the PROJECT.
- 5.5 The LPA shall require its consultant, selected to prepare a final environmental document pursuant to the requirements of the National Environmental Policy Act, to execute a copy of a disclosure statement specifying that the consultant has no financial or other interest in the outcome of the PROJECT.
- 5.6 The LPA shall submit a NOI to Ohio EPA to obtain coverage under the National Pollution Discharge Elimination System (NPDES) Construction General Permit for all projects where the combined Contractor and Project Earth Disturbing Activity (EDA) are one acre or more. If the LPA chooses not to use ODOT's L&D Vol. 2 on Local-Let LPA projects, they may use an alternative post-construction BMP criteria with Ohio EPA approval.
6. RIGHT OF WAY/ UTILITIES/ RAILROAD COORDINATION
- 6.1 All right-of-way acquisition activities shall be performed by the LPA in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Public Law 91-646) as amended by 49 CFR Part 24 (hereinafter referred to as Uniform Act), any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT.
- 6.2 If existing and newly-acquired right of way is required for this PROJECT, the LPA shall certify that the all right of way has been acquired in conformity with Federal and State laws, regulations, policies, and guidelines. Per ODOT's Office of Real Estate, any LPA staff who perform real estate functions shall be prequalified. If the LPA does not have the qualified staff to perform any or all of the respective right of way functions, the LPA shall hire an ODOT Pre-qualified Consultant through a QBS process. The LPA shall not hire the same consultant to perform both the appraisal and appraisal review functions. Appraisal review shall be performed by an independent staff or fee reviewer and shall be hired directly by the LPA. Likewise, a consultant hired to perform right of way acquisition work is not permitted to perform both the relocation and relocation review functions. Relocation review shall be performed by an independent staff or fee reviewer.
- 6.3 If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.
- 6.4 All relocation assistance activities shall be performed by the LPA in conformity with Federal and State laws, including the Uniform Act, and any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. The LPA shall not hire a consultant to perform both the relocation and relocation review functions nor shall the LPA hire a sub-consultant for relocation and another sub-consultant for relocation review. Relocation review shall be performed by an independent staff person or independent fee reviewer and shall be hired directly by the LPA.
- 6.5 The LPA shall provide the ODOT District Office with its certification that all right of way property rights necessary for the PROJECT are under the LPA's control, that all right of way has been cleared of encroachments, and that utility facilities have been appropriately relocated or accounted

Ordinance 2020-78
Attachment A

for so as not to interfere with project construction activities. ODOT shall make use of the LPA's Right of Way Certification, as well as evaluate the LPA's and/or consultant's performance of the project real estate activities under Titles II and III of the Uniform Act, and, as appropriate, certify compliance to the FHWA. The LPA shall be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement if the certification of the LPA is found to be in error or otherwise invalid.

- 6.6 In the administration of this PROJECT, the LPA agrees to follow all procedures described in the ODOT Utilities Manual and 23 CFR Part 645. When applicable, the LPA shall enter into a utility relocation agreement with each utility prior to the letting of construction. No reimbursable construction costs shall be incurred by the LPA prior to the receipt of the "Authorization to Advertise" notification from ODOT. If such costs are incurred, ODOT may terminate this Agreement and cease all Federal funding commitments.
- 6.7 The LPA shall submit all subsequent modifications to the design of the PROJECT and/or any disposal of property rights acquired as part of the PROJECT to ODOT and FHWA for approval.
- 6.8 The LPA shall be responsible for any necessary railroad coordination and agreements. The LPA shall comply with the provisions of Title 23 of the Code of Federal Regulations and applicable chapters of the ORC regarding all activities relating to Railroad-Highway projects.
- 6.9 Consistent with sections 10.1 and 10.4 of this Agreement, the LPA shall assure that, if any property acquired for this PROJECT is subsequently sold for less than fair market value, all Title VI requirements are included in the instrument which transfers the property. Consistent with sections 10.1 and 10.4 of this Agreement, the LPA shall assure that if the LPA grants a permit or license for the property acquired for this PROJECT that the license or permit require the licensee or permit holder to adhere to all Title VI requirements.

7. ADVERTISING, SALE AND AWARD

- 7.1 The LPA **shall not** advertise for bids prior to the receipt of the "Authorization to Advertise" notification from ODOT. Should advertising or work commence prior to the receipt of the "Authorization to Advertise" notification, ODOT shall immediately terminate this Agreement and cease all Federal funding commitments.
- 7.2 Any use of sole source or proprietary bid items must be approved by the applicable ODOT district. All sole source or proprietary bid items should be brought to the attention of the LPA Coordinator as soon as possible so as not to cause a delay in the plan package submission process. Bid items for traffic signal and highway lighting projects must be in conformance with ODOT's Traffic Engineering Manual.
- 7.3 Once the LPA receives Federal authorization to advertise, the LPA may begin advertising activities. Whenever local advertisement requirements differ from Federal advertisement requirements, the Federal requirements shall prevail. The period between the first legal advertising date and the bid opening date shall be a minimum of twenty-one (21) calendar days. The LPA shall submit to ODOT any addendum to be issued during the advertisement period that changes estimates or materials. ODOT shall review and approve such addendum for project eligibility. All addenda shall be distributed to all potential bidders prior to opening bids and selling the contracts.
- 7.4 The LPA must incorporate ODOT's LPA Bid Template in its bid documents. The template includes Form FHWA-1273, Required Contract Provisions, a set of contract provisions and proposal notices that are required by regulations promulgated by the FHWA and other Federal agencies, which must be included in all contracts as well as appropriate subcontracts and purchase orders.

Ordinance 2020-78
Attachment A

- 7.5 The LPA shall require the contractor to be enrolled in, and maintain good standing in, the Ohio Bureau of Workers' Compensation Drug-Free Safety Program (DFSP), or a similar program approved by the Bureau of Workers' Compensation, and the LPA must require the same of any of its subcontractors.
- 7.6 Only pre-qualified contractors are eligible to submit bids for this PROJECT. Pre-qualification status must be in effect/current **at the time of award**. For work types that ODOT does not pre-qualify, the LPA must still select a qualified contractor. Subcontractors are not subject to the pre-qualification requirement. In accordance with FHWA Form 1273 Section VII and 23 CFR 635.116, the "prime" contractor must perform no less than 30 percent of the total original contract price. The 30-percent prime requirement does not apply to design-build contracts.
- 7.7 In accordance with ORC Section 153.54, et. seq., the LPA shall require that the selected contractor provide a performance and payment bond in an amount equal to at least 100 percent of its contract price as security for the faithful performance of its contract. ODOT shall be named an obligee on any bond. If the LPA has 100 percent locally-funded work product within this Agreement, the LPA must allocate the correct percent of the performance and payment bond cost to the 100 percent locally-funded work product.
- 7.8 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is not subject to a finding for recovery under ORC Section 9.24, that the contractor has taken the appropriate remedial steps required under ORC Section 9.24, or that the contractor otherwise qualifies under the exceptions to this section. Findings for recovery can be viewed on the Auditor of State's website at <https://ohioauditor.gov/findings.html> . If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all Federal funding commitments.
- 7.9 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is an active registrant on the Federal System for Award Management (SAM). Pursuant to 48 CFR 9.404, contractors that have an active exclusion on SAM are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits. If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all federal funding commitments.
- 7.10 The LPA is prohibited from imposing any geographical hiring preference on any bidder in the LPA's bid documents or on any successful contractor in the LPA's award or contract for the construction of the PROJECT.
- 7.11 After analyzing all bids for completeness, accuracy, and responsiveness, per ORC 153.12, the LPA shall approve the award of the contract in accordance with laws and policies governing the LPA within 60 days after bid opening. Within 45 days of that approval, the LPA shall submit to ODOT notification of the project award by submitting a bid tabulation, a copy of the ordinance or resolution, and direct payment information as required in Attachment 2 of this Agreement, if applicable.
8. CONSTRUCTION CONTRACT ADMINISTRATION
- 8.1 The LPA shall provide and maintain competent and adequate project management covering the supervision and inspection of the development and construction of the PROJECT. The LPA shall bear the responsibility of ensuring that construction conforms to the approved plans, surveys, profiles, cross sections and material specifications. If a consultant is used for engineering and/or inspection activities, the LPA must use a QBS process as required pursuant to ORC sections 153.65 through 153.71. Any construction contract administration or engineering costs incurred by the LPA or their consultant prior to the construction contract award date will not be eligible for reimbursement under this Agreement.

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- 8.2 The LPA must maintain a project daily diary that is up-to-date and contains the following information: all work performed, list of equipment utilized, project personnel and hours worked, pay quantities, daily weather conditions, special notes and instructions to the contractor, and any unusual events occurring on or adjacent to the PROJECT. Additionally, the LPA is responsible for documenting measurements, calculations, material quality, quantity, and basis for payment; change orders, claims, testing and results, traffic, inspections, plan changes, prevailing wage, EEO and DBE, if applicable. The LPA is responsible for ensuring all materials incorporated into the PROJECT comply with ODOT's Construction and Material Specifications and meet the requirements of Appendix J in the LAMP Manual of Procedures.
- 8.3 The LPA shall certify both the quantity and quality of material used, the quality of the work performed, and the amount of construction engineering cost, when applicable, incurred by the LPA for the eligible work on the PROJECT, as well as at the completion of construction. The LPA shall certify that the construction is in accordance with the approved plans, surveys, profiles, cross sections and material specifications or approved amendments thereto.
- 8.4 The Federal-aid Highway Program operates on a reimbursement basis, which requires that costs actually be incurred and paid before a request is made for reimbursement. The LPA shall review and/or approve all invoices prior to payment and prior to requesting reimbursement from ODOT for work performed on the PROJECT. If the LPA requests reimbursement, it must provide documentation of payment for the project costs requested. The LPA shall ensure the accuracy of any invoice in both amount and in relation to the progress made on the PROJECT. The LPA must submit to ODOT a written request for either current payment or reimbursement of the Federal/State share of the expenses involved, attaching copies of all source documentation associated with pending invoices or paid costs. To assure prompt payment, the measurement of quantities and the recording for payment should be performed on a daily basis as the items of work are completed and accepted.
- 8.5 ODOT shall pay, or reimburse, the LPA or, at the request of the LPA and with concurrence of ODOT, pay directly to the LPA's construction contractor ("Contractor"), the eligible items of expense in accordance with the cost-sharing provisions of this Agreement. If the LPA requests to have the Contractor paid directly, Attachment 2 to this Agreement shall be completed and submitted with the project bid tabulations, and the Contractor shall be required to establish Electronic Funds Transfer with the State of Ohio. ODOT shall pay the Contractor or reimburse the LPA within thirty (30) days of receipt of the approved Contractor's invoice from the LPA.
- 8.6 The LPA shall notify ODOT of the filing of any mechanic's liens against the LPA's Contractor within three (3) business days of receipt of notice of lien. Failure to so notify ODOT or failure to process a mechanic's lien in accordance with the provisions of Chapter 1311 of the ORC may result in the termination of this Agreement. Upon the receipt of notice of a mechanic's lien, ODOT reserves the right to (1) withhold an amount of money equal to the amount of the lien that may be due and owing to either the LPA or the Contractor; (2) terminate direct payment to the affected Contractor; or (3) take both actions, until such time as the lien is resolved.
- 8.7 Payment or reimbursement to the LPA shall be submitted to:
- | |
|------------------------|
| City of Zanesville |
| 401 Market Street |
| Zanesville, Ohio 43701 |
- 8.8 If, for any reason, the LPA contemplates suspending or terminating the contract of the Contractor, it shall first seek ODOT's written approval. Failure to timely notify ODOT of any contemplated suspension or termination, or failure to obtain written approval from ODOT prior to suspension or termination, may result in ODOT terminating this Agreement and ceasing all Federal funding commitments.

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- 8.9 If ODOT approves any suspension or termination of the contract, ODOT reserves the right to amend its funding commitment in paragraph 3.1 and, if necessary, unilaterally modify any other term of this Agreement in order to preserve its Federal mandate. Upon request, the LPA agrees to assign all rights, title, and interests in its contract with the Contractor to ODOT to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.
- 8.10 Any LPA right, claim, interest, and/or right of action, whether contingent or vested, arising out of, or related to any contract entered into by the LPA for the work to be performed by the Contractor on this PROJECT (the Claim), may be subrogated to ODOT, and ODOT shall have all of the LPA's rights in/to the Claim and against any other person(s) or entity(ies) against which such subrogation rights may be enforced. The LPA shall immediately notify ODOT in writing of any Claim. The LPA further authorizes ODOT to sue, compromise, or settle any such Claim. It is the intent of the parties that ODOT be fully substituted for the LPA and subrogated to all of the LPA's rights to recover under such Claim(s). The LPA agrees to cooperate with reasonable requests from ODOT for assistance in pursuing any action on the subrogated Claim including requests for information and/or documents and/or to testify.
- 8.11 After completion of the PROJECT, and in accordance with Title 23 United States Code 116 and applicable provisions of the ORC, the LPA shall maintain the PROJECT to design standards and provide adequate maintenance activities for the PROJECT, unless otherwise agreed to by ODOT. The PROJECT must remain under public ownership and authority for 20 years unless otherwise agreed to by ODOT. If the PROJECT is not being adequately maintained, ODOT shall notify the LPA of any deficiencies, and if the maintenance deficiencies are not corrected within a reasonable amount of time, ODOT may determine that the LPA is no longer eligible for future participation in any Federally-funded programs.
- 8.12 The LPA must provide the final invoices, and final report (Appendix P located in the Construction Chapter of the LPA Manual) along with all necessary closeout documentation within 6 months of the physical completion date of the PROJECT. All costs must be submitted within 6 months of the established completion date. Failure to submit final invoices along with the necessary closeout documentation within the 6-month period may result in closeout of the PROJECT and loss of eligibility of any remaining Federal and or State funds.
9. CERTIFICATION AND RECAPTURE OF FUNDS
- 9.1 This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to the State for the purpose of this Agreement and to the certification of funds by the Office of Budget and Management, as required by ORC section 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date funding expires.
- 9.2 Unless otherwise directed by ODOT, if for any reason the PROJECT is not completed in its entirety or to a degree acceptable to ODOT and FHWA, the LPA shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT. In turn, ODOT shall reimburse FHWA an amount equal to the total sum of Federal dollars it has received for the PROJECT. If the LPA has not repaid ODOT in full an amount equal to the total funds ODOT disbursed on behalf of the PROJECT, any funds recovered from the performance and payment bond as required under section 7.7 shall be used to offset the Federal dollars reimbursed to FHWA.
10. NONDISCRIMINATION
- 10.1 In carrying out this Agreement, the LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex (including pregnancy, gender identity and sexual orientation), national origin, ancestry, age, disability as that term is defined in the American

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

- 10.2 The LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and in all solicitations or advertisements for employees placed by it, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, sex (including pregnancy, gender identity and sexual orientation), national origin, ancestry, age, disability, military status, or genetic information. The LPA shall incorporate this nondiscrimination requirement within all of its contracts for any of the work on the PROJECT (other than subcontracts for standard commercial supplies or raw materials) and shall require all of its contractors to incorporate such requirements in all subcontracts for any part of such project work.
- 10.3 The LPA shall ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, will have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement. To meet this requirement, subcontractors who claim to be DBEs must be certified by ODOT. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

Disadvantaged Business Enterprise (DBE) Requirement. DBE participation goals (subcontracts, materials, supplies) have been set on this PROJECT for those certified as DBEs pursuant to Title 23, U.S.C. section 140(c) and 49 CFR, Part 26, and where applicable qualified to bid with ODOT under Chapter 5525 of the **ORC**.

ODOT shall supply the percentage goal to the LPA upon review of the Engineer's Estimate. Prior to executing the contract with the contractor, and in order for ODOT to encumber the Federal/State funds, the contractor must demonstrate compliance with the DBE Utilization Plan and Good Faith Efforts requirements.

GOOD FAITH EFFORTS (GFEs)

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

The Contractor shall demonstrate its GFEs by submitting information including but not limited to the following to the LPA:

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

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

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

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

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

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

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

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

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

- (a) letter of reprimand;
- (b) contract termination; and/or
- (c) other remedies available by law including administrative suspension.

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

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

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

- (a) **Compliance with Regulations:** The LPA will comply with the regulations relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation (hereinafter "U.S. DOT") Title 49, Code of Federal Regulations, Part 21, as

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they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

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

- (b) **Nondiscrimination:** The LPA, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status or limited English proficiency in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The LPA will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.
- (c) **Solicitations for Contractors or Subcontractors, including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a contract or subcontract, including procurements of materials or leases of equipment, each potential contractor, subcontractor, or supplier will be notified by the LPA of the LPA's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status or limited English proficiency.
- (d) **Information and Reports:** The LPA will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the STATE or FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the LPA is in the exclusive possession of another who fails or refuses to furnish this information, the LPA will so certify to the STATE or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- (e) **Sanctions for Noncompliance:** In the event of the LPA's noncompliance with the nondiscrimination provisions of this contract, the STATE will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:
 - (1) withholding of payments to the LPA under the contract until the LPA complies, and/or
 - (2) cancellation, termination or suspension of the contract, in whole or in part.
- (f) **Incorporation of Provisions:** The LPA will include the provisions of paragraphs 10.4 (a) through (e) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The LPA will take such action with respect to any contractor or subcontractor procurement as the STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the LPA becomes involved in, or is threatened with, litigation with a contractor, subcontractor, or supplier as a result of such direction, the LPA may request the STATE to enter into such litigation to protect the interests of the STATE, and, in addition, the LPA may request the United States to enter into such litigation to protect the interests of the United States.

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11. DATA, PATENTS AND COPYRIGHTS - PUBLIC USE

- 11.1 The LPA shall ensure that any designs, specifications, processes, devices or other intellectual properties specifically devised for the PROJECT by its consultants or contractors performing work become the property of the LPA, and that when requested, such designs, specifications, processes, devices or other intellectual properties shall become available to ODOT and FHWA with an unrestricted right to reproduce, distribute, modify, maintain, and use. The LPA's consultants and contractors shall not seek or obtain copyrights, patents, or other forms of proprietary protection for such designs, specifications, processes, devices or other intellectual properties, and in providing them to the PROJECT, shall relinquish any such protections should they exist.
- 11.2 The LPA shall not allow its consultants or contractors to utilize within the development of the PROJECT any copyrighted, patented or similarly protected design, specification, process, device or other intellectual property unless the consultant or contractor has provided for such use by suitable legal agreement with the owner of such copyright, patent or similar protection. A consultant or contractor making use of such protected items for the PROJECT shall indemnify and save harmless the LPA and any affected third party from any and all claims of infringement on such protections, including any costs, expenses, and damages which it may be obliged to pay by reason of infringement, at any time during the prosecution or after the completion of work on the PROJECT.
- 11.3 In the case of patented pavements or wearing courses where royalties, licensing and proprietary service charges, exacted or to be exacted by the patentees, are published and certified agreements are filed with the LPA, guaranteeing to prospective bidders free unrestricted use of all such proprietary rights and trademarked goods upon payment of such published charges, such patented pavements or wearing courses may be specifically designated in the proposal and competition secured upon the item exclusive of the patent or proprietary charges.

12. TERMINATION; DEFAULT AND BREACH OF CONTRACT

- 12.1 Neglect or failure of the LPA to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, may be an event of default, unless such failure or neglect are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or State of Ohio or any of their departments or political subdivisions, or any other cause not reasonably within the LPA's control. If a default has occurred, ODOT may terminate this Agreement with thirty (30) days written notice, except that if ODOT determines that the default can be remedied, then ODOT and the LPA shall proceed in accordance with sections 12.2 through 12.4 of this Agreement.
- 12.2 If notified by ODOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the LPA shall have thirty (30) days from the date of such notification to remedy the default or, if the remedy will take in excess of thirty (30) days to complete, the LPA shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days and failure by the LPA to remedy, or to satisfactorily commence the remedy of, the default whether payment of funds has been fully or partially made, shall result in ODOT, at its discretion, declining to make any further payments to the LPA, or in the termination of this Agreement by ODOT. If this Agreement is terminated, the LPA may be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement.
- 12.3 The LPA, upon receiving a notice of termination from ODOT for default, shall cease work on the terminated activities covered under this Agreement. If so requested by ODOT, the LPA shall assign to ODOT all its rights, title, and interest to any contracts it has with any consultants or contractors. Otherwise, the LPA shall terminate all contracts and other agreements it has entered into relating to such covered activities, take all necessary and appropriate steps to limit disbursements and minimize any remaining costs. At the request of ODOT, the LPA may be required to furnish a report

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describing the status of PROJECT activities as of the date of its receipt of notice of termination, including results accomplished and other matters as ODOT may require.

- 12.4 No remedy herein conferred upon or reserved by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or option accruing to ODOT upon any default by the LPA shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.
- 12.5 This Agreement and obligation of the parties herein may be terminated by either party with thirty days written notice to the other party. In the event of termination, the LPA shall cease work, terminate all subcontracts relating to such terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish all data results, reports, and other materials describing all work under this contract, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as ODOT may require.
- 12.3. In the event of termination for convenience, the LPA shall be entitled to compensation, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination, less any funds previously paid by or on behalf of ODOT. ODOT shall not be liable for any further claims, and the claims submitted by the LPA shall not exceed the total amount of consideration stated in this Agreement. In the event of termination, any payments made by ODOT in which services have not been rendered by the LPA shall be returned to ODOT.

13. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS

- 13.1 Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies for the PROJECT sufficient to impose upon the Director any of the obligations specified in section 126.30 of the ORC.
- 13.2 The LPA hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees or agents in the performance of the LPA's obligations made or agreed to herein.

14. NOTICE

- 14.1 Notice under this Agreement shall be directed as follows:

If to the LPA:

If to ODOT:

Public Service Director	Andrea Stevenson
City of Zanesville	ODOT, Office of Local Programs
401 Market Street	1980 W. Broad St., Mail Stop 3180
Zanesville, Ohio 43701	Columbus, OH 43223

RAL PROVISIONS

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

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

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

- (A) The LPA **does not** currently maintain an ODOT approved federally compliant time-tracking system¹, **and**
- (B) The LPA **does not** intend to have a federally compliant time-tracking system developed, implemented, and approved by ODOT prior to the period of performance of this PROJECT, **and/or**
- (C) The LPA **does not** intend to pursue recovery of these project direct labor, fringe benefits, or overhead costs during the period of performance of this PROJECT Agreement.

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

- (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved federally compliant time-tracking system, **and**
- (B) The LPA **does not** currently have, and **does not** intend to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT.

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

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

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

² [Also be sure to read footnote # 1] The De Minimis Indirect Cost Rate is 10 percent of modified total direct costs (MTDC) per 2 CFR §200.414. The definition of MTDC is provided in the regulation at 2 CFR §200.68. Any questions regarding the calculation of MTDC for a specific project should be directed to the Office of Local Programs. Further, regardless of whether the LPA subrecipient negotiates overhead rates with ODOT or uses the 10-percent de minimis rate, LPAs are required to maintain Federally-compliant time-tracking systems. Accordingly, LPAs are permitted to bill for labor costs, and then potentially associated fringe/indirect costs, only if the labor costs are accumulated, tracked, and allocated in accordance with compliant systems. Before an LPA is eligible to invoice ODOT for and recover the 10% de minimis indirect cost rate on any project, the LPA's time-tracking system and methods for tracking other project costs must be reviewed and approved by the ODOT Office of External Audits. A non-Federal entity that elects to charge the de minimis rate must meet the requirements in 2 CFR 200 Appendix VII Section D, Part 1, paragraph b.

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

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

- (A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved federally compliant time-tracking system, **and**
- (B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT, **and**
- (C) Instead of using the Federal 10% De Minimis Indirect Cost Rate, the LPA currently has, or intends to negotiate, an ODOT approved indirect cost rate prior to the period of performance of this PROJECT.

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

- 15.2 If the LPA decides to change its indirect cost recovery option, the change shall not become effective until this Agreement is amended pursuant to section 15.12 below to reflect the indirect cost recovery option utilized by the LPA on the PROJECT.
- 15.3 *Financial Reporting and Audit Requirements:* One or more phases of this Agreement include a sub award of Federal funds to the LPA. Accordingly, the LPA must comply with the financial reporting and audit requirements of 2 CFR Part 200.

All non-federal entities, including ODOT's LPA sub recipients, that have aggregate federal awards expenditures from all sources of \$750,000 or more in the non-federal entity's fiscal year must have a Single Audit, or program-specific audit, conducted for that year in accordance with the provisions of 2 CFR Part 200.

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

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

When project expenditures are not accurately reported on the SEFA, the LPA may be required to make corrections to and republish the SEFA to ensure Federal funds are accurately reported in the

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

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correct fiscal year. An ODOT request for the restatement of a previously published SEFA will be coordinated with the Ohio Auditor of State.

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

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

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

- 15.5 *Ohio Ethics Laws:* LPA agrees that they are currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the ORC.
- 15.6 *State Property Drug-Free Workplace Compliance:* In accordance with applicable State and Federal laws, rules, and policy, the LPA shall make a good faith effort to ensure that its employees and its contractors will not purchase, transfer, use, or possess alcohol or a controlled substance while working on State property.
- 15.7 *Trade:* Pursuant to the federal Export Administration Act and Ohio Revised Code 9.76(B), the LPA and any contractor or sub-contractor shall warrant that they are not boycotting any jurisdiction with whom the United States and the State of Ohio can enjoy open trade, including Israel, and will not do so during the term of this Agreement.

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

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

**Ordinance 2020-78
Attachment A**

the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

- 15.9 *Debarment.* LPA represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either R.C. 153.02 or R.C. 125.25 or by the Federal Government pursuant to 2 CFR Part 1200 and 2 CFR Part 180.
- 15.10 *Governing Law:* This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
- 15.11 *Assignment:* Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
- 15.12 *Merger and Modification:* This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.
- 15.13 *Severability:* If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.
- 15.14 *Signatures:* Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.
- 15.15 *Facsimile Signatures:* Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile or electronic signature on any other party delivered in such a manner as if such signature were an original.

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

LPA: City of Zanesville	STATE OF OHIO OHIO DEPARTMENT OF TRANSPORTATION
By:	By:
Scott Brown Title: Public Service Director	Jack Marchbanks Director
Date:	Date:

Attachment 1

PROJECT BUDGET – SOURCES AND USES OF FUNDS

SOURCES USES	LPA FUNDS			FHWA FUNDS			STATE FUNDS			TOTAL
	Amount	%	SAC	Amount	%	SAC	Amount	%	SAC	
PRELIMINARY DEVELOPMENT										
FINAL DESIGN, CONSTRUCTION PLANS & SPECIFICATIONS										
ACQUISITION OF RIGHT OF WAY & UTILITY RELOCATION										
PROJECT CONSTRUCTION COSTS	\$70,000.00	20	LNTP	\$280,000.00	80	4TA7				\$300,000.00
INSPECTION	\$1,800.00	20	LNTP	\$7,200.00	80	4TA7				\$9,000.00
TOTALS	\$71,800.00			\$287,200.00						\$359,000.00

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Attachment A

Attachment 2

MUS CR 2 00.00
COUNTY-ROUTE-SECTION

106985
PID NUMBER

31506
AGREEMENT NUMBER

606-631-562
DUNS NUMBER

DIRECT PAYMENT OF CONTRACTOR

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

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

We (INSERT NAME OF LPA) request that all payments for the Federal/State share of the construction costs of this Agreement performed by (CONTRACTOR'S NAME) be paid directly to (CONTRACTOR'S NAME).

VENDOR Name:	Error! Reference source not found.
Oaks Vendor ID:	0000000000
Mailing Address:	Error! Reference source not found.
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LPA signature:	

LPA Name:	Error! Reference source not found.
Oaks Vendor ID:	0000000000
Mailing Address:	Error! Reference source not found.
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ODOT Approval signature:	

Community Development Committee
Mark Baker, Chair

ORDINANCE NO. 2020-79
INTRODUCED BY COUNCIL

**AN ORDINANCE TO AMEND AND REVISE THE ZONING MAP AND
MAKE PERMANENT ZONING IN THE CITY OF ZANESVILLE, OHIO
AS HEREIN PROVIDED**

WHEREAS, an application has been duly made requesting a zoning district change from I-1 Industrial to C-4 Highway Commercial; and

WHEREAS, proper notification of the intent of this Council to consider this request to rezone the below described property was given to abutters within 200 feet of the requested rezoning and in a newspaper of general circulation; and

WHEREAS, after testimony and discussion the Zanesville Planning Commission recommended to City Council that the zone change request further identified on Exhibit "A", be approved.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Zanesville, State of Ohio; that

SECTION ONE: The application for rezone change with respect to the real property hereinafter described and shown in Exhibit "A" is hereby approved and the zoning with respect to said property is so changed.

SECTION TWO: The Zoning Map of the City of Zanesville, Ohio, and the same is hereby amended and revised by changing the zoning as follows:

From I-1 Industrial to C-4 Highway Commercial, situated in the City of Zanesville, County of Muskingum, and State of Ohio, and bounded and described as follows:

Auditors Parcel #83-25-07-07-000, recorded in Deed Volume 2541, Page 592 being located in the Muskingum County Recorder's Office.

Auditors Parcel #83-26-03-02-000, recorded in Deed Volume 2538, Page 863 being located in the Muskingum County Recorder's Office.

SECTION THREE: This Ordinance shall take effect upon the approval of the Mayor and from and after the earliest period allowed by law.

PASSED: _____, 2020.

ATTEST: _____
SUSAN CULBERTSON
CLERK OF COUNCIL

DANIEL M. VINCENT
PRESIDENT OF COUNCIL

APPROVED: _____, 2020.

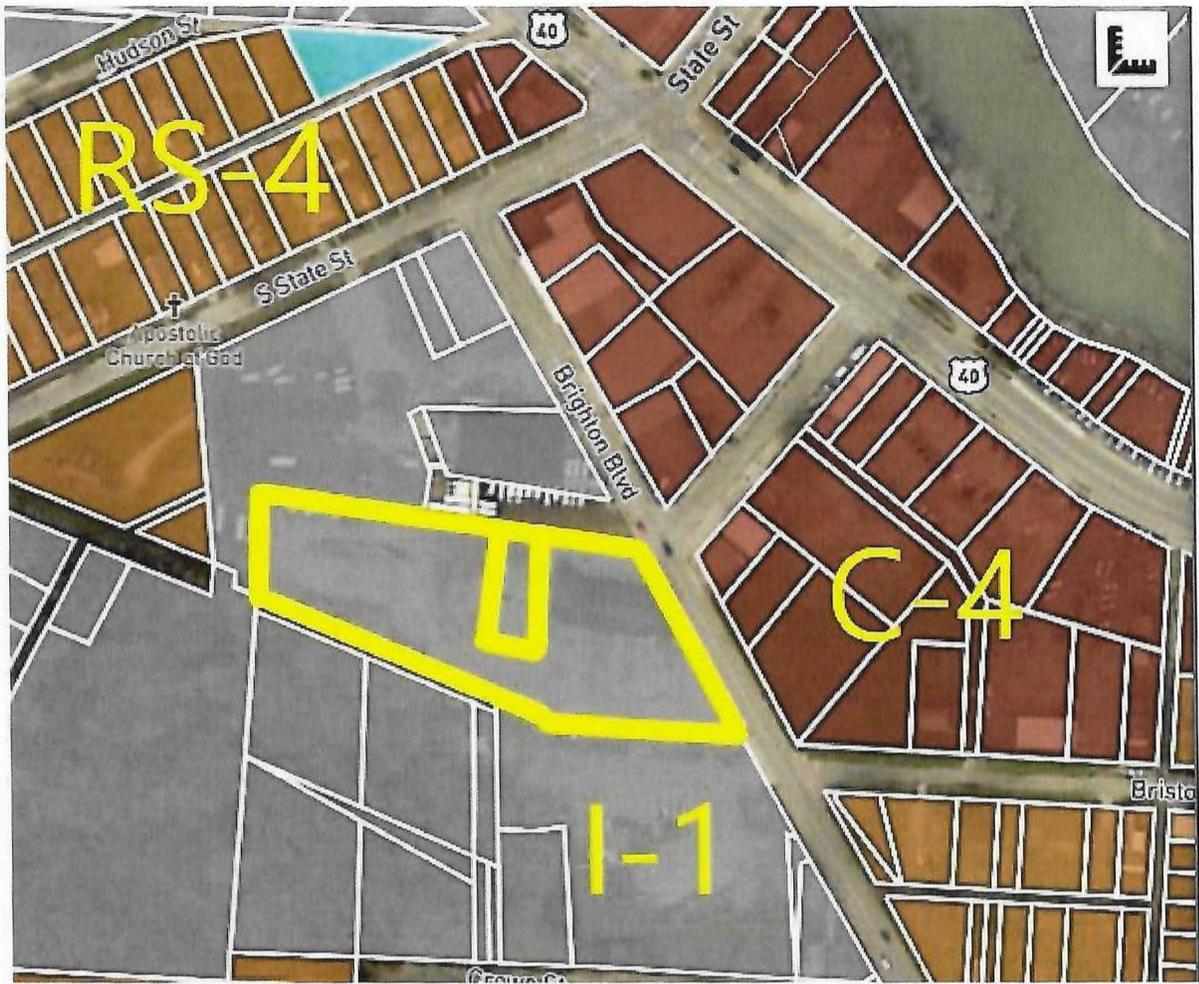
DON MASON
MAYOR

**THIS LEGISLATION
APPROVED AS TO FORM**



LAW DIRECTOR'S OFFICE

EXHIBIT A



Highlighted area denotes area to be rezoned from I-1 Industrial to C-4 Highway Commercial

ORDINANCE NO. 2020-70 Amended
INTRODUCED BY COUNCIL

**AN ORDINANCE APPROVING THE AGREEMENT TO CREATE THE
CITY OF ZANESVILLE - PERRY TOWNSHIP JOINT ECONOMIC
DEVELOPMENT DISTRICT; AND APPROVING A COOPERATIVE
DEVELOPMENT AGREEMENT**

WHEREAS, Ohio Revised Code Chapter 715 empowers certain political subdivisions to form joint economic development districts to share in the costs of improvements for economic development purposes; and

WHEREAS, in accordance with Ohio Revised Code Section 715.72, the City of Zanesville, Muskingum County, Ohio (the "City") and Perry Township, Muskingum County, Ohio (the "Township") have negotiated and intend to enter into the City of Zanesville - Perry Township Joint Economic Development District Agreement (the "JEDD Agreement") to create and provide for the operation of a joint economic development district known as the City of Zanesville - Perry Township Joint Economic Development District (the "JEDD"); and

WHEREAS, the stated purpose of the JEDD Agreement is to facilitate economic development to create or preserve jobs and employment opportunities and to improve the economic welfare of the people in the State of Ohio, Muskingum County, the Township, and the City; and

WHEREAS, the Zanesville-Muskingum County Port Authority (the "Port Authority"), as the only property owner in the territory proposed for inclusion in the JEDD (the "District") and there being no businesses yet in the District, has petitioned for the formation of the JEDD, the territory to be included is not subject to any zoning regulations that would be adverse to the purposes of the JEDD, and no electors reside within the District; and

WHEREAS, pursuant to Ohio Revised Code Section 715.72, the City conducted a public hearing regarding the JEDD Agreement and the JEDD, with appropriate public notice, and made available for public examination all documents required by law for review; and

WHEREAS, the City, the Township, the Port Authority, and Muskingum County, Ohio (the "County") desire to collaborate on the acquisition, construction, improvement, and equipment of public infrastructure improvements and private commercial improvements within the District by entering into a Cooperative Development Agreement (the "Cooperative Development Agreement") setting forth certain obligations of the City, the Township, the Port Authority, and the County with respect to the District.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Zanesville, State of Ohio:

SECTION 1. The Council approves the JEDD Agreement, in substantially the form attached to this Ordinance as Exhibit A, and authorizes the Mayor to sign the JEDD Agreement. The Mayor and the Clerk of Council are jointly authorized and directed to execute and deliver any other agreements, documents or certificates, and take all other actions, necessary to accomplish the purposes of this Ordinance.

SECTION 2. The Council adopts the Economic Development Plan for the District as provided in Exhibit A of the JEDD Agreement.

SECTION 3. The Clerk of Council shall retain on file a copy of the JEDD Agreement and its exhibits, including (i) the Economic Development Plan; (ii) the JEDD map and list of included parcels; and (iii) Ohio Revised Code Section 715.72 as effective on the date of the executed Agreement. Upon the creation of the JEDD, the Clerk of Council is authorized to file a copy or provide for the filing of all documents required by Ohio Revised Code Section 715.72(O) with the Ohio Development Services Agency in accordance with Ohio Revised Code Section 715.72(O).

SECTION 4. The Council approves the Cooperative Development Agreement, in substantially the form attached to this Ordinance as Exhibit B, and authorizes the Mayor to sign the Cooperative Development Agreement. The Mayor and the Clerk of Council are jointly authorized and directed to execute and deliver any other agreements, documents or certificates, and take all other actions, necessary to accomplish the purposes of this Ordinance.

SECTION 5. This Council hereby finds and determines that all formal actions of this Council concerning and relating to the adoption 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 those formal actions occurred in meetings open to the public, in compliance with law, including Ohio Revised Code Section 121.22.

SECTION 6. This Ordinance shall be effective at the earliest date allowed by law.

Signed:

1st Reading: _____, 2020
2nd Reading: _____, 2020
3rd Reading: _____, 2020

Donald Mason
Mayor of City of Zanesville

Adopted _____, 2020

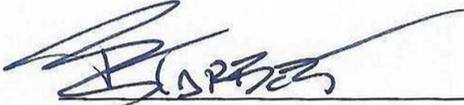
Daniel M. Vincent
President of Council

Attest:

Susan Culbertson, Clerk of Council

Effective _____, 2020

Approved as to form:



Law Director

AUTHENTICATION

This is to certify that this Ordinance was duly adopted and filed with the Clerk of Council of the City of Zanesville, this _____ day of _____, 2020.

Clerk of Council

CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the City Council of the City of Zanesville, Muskingum County, Ohio.

Clerk of Council

Dated: _____

EXHIBIT A

JEDD AGREEMENT

CITY OF ZANESVILLE-PERRY TOWNSHIP JOINT ECONOMIC
DEVELOPMENT DISTRICT AGREEMENT

This City of Zanesville-Perry Township Joint Economic Development District Agreement (the **Agreement**) is made and entered into this ___ day of _____, 2020 (the **Effective Date**), by and between the CITY OF ZANESVILLE, OHIO (the **City**), a municipal corporation duly organized and validly existing under the laws of, and a political subdivision of, the State of Ohio (the **State**) and having an address for purposes hereof at 401 Market Street, Zanesville, Ohio 43701 and PERRY TOWNSHIP, MUSKINGUM COUNTY, OHIO (the **Township** and, together with the City, the **Contracting Parties** and each a **Contracting Party**), a political subdivision of the State and having an address for the purposes hereof at 4625 Boggs Road, Zanesville, Ohio 43701, in accordance with the terms and provisions set forth herein.

WHEREAS, the City and the Township are located entirely within Muskingum County, Ohio (**Muskingum County**) and share contiguous territorial boundaries;

WHEREAS, the Zanesville-Muskingum County Port Authority (the **Port Authority**) has purchased or has the option to purchase approximately 203.41 acres located in the Township as more fully described in Exhibit A (the **Site**), to develop into port authority facilities as defined in Ohio Revised Code (**ORC**) Section 4582.21, including office and commercial space on the Site (the **Project**);

WHEREAS, in order to support the Project as well as additional economic development in neighboring areas of Muskingum County, the Site requires certain necessary infrastructure improvements, including but not limited to the road maintenance and improvements, snow removal, and emergency, police, and fire services;

WHEREAS, pursuant to the terms of a Cooperative Agreement of even date herewith (the **Cooperative Agreement**), the City, the County of Muskingum, Ohio (the **County**), the Port Authority, and the Township will provide services to the Site as provided therein and the Port Authority will provide for the construction of the Project;

WHEREAS, the City and the Township desire to promote cooperative economic development efforts in the area of the Township generally located along State Route 40 east of the territorial boundaries of the City, including through efforts to promote the economic development of the City, the Township, and the County, by means of creating a joint economic development district (the **District** or the **JEDD**) pursuant to ORC Section 715.72 (the **Act**), which District shall facilitate economic development to create or preserve jobs and employment opportunities within the meaning of ORC Section 715.72(C), thereby improving the economic welfare of residents of the City, the Township, and the State generally; and

WHEREAS, the legislative authorities of the City and the Township each have approved, authorized, and directed the City and the Township, respectively, to make and enter into this Agreement, by and through their respective officers in accordance with Ordinance No. _____, enacted by the City on _____, 2020, and Resolution No. _____, adopted by the Township on _____, 2020.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in this Agreement, the Contracting Parties agree and bind themselves, their agents, employees and successors as follows:

Section 1. Creation of District and Purpose.

The City and the Township, as contracting parties within the meaning of ORC Section 715.72(A)(1), by their combined action evidenced by the approval of legislation identified above and by the duly authorized execution of this Agreement, hereby create the District, which shall be known as the “City of Zanesville-Perry Township Joint Economic Development District.” The District shall be a joint economic development district under, and operating pursuant to, the Act.

Each Contracting Party hereby acknowledges and agrees as follows with respect to this Agreement and the District:

- A. that it is entering into this Agreement freely and without duress or coercion;
- B. that the creation of the District and the levy of an income tax within the District as provided herein will enable the City, the Township, and the District to more efficiently provide governmental services to the area within the District and to more effectively promote economic development within the District, the City, and the Township;
- C. that the District shall, and it is the purpose of the District to, facilitate economic development to create or preserve jobs and employment opportunities and to improve the economic welfare of the people in the State, Muskingum County, the City, and the Township; and
- D. that consideration exists to support this Agreement.

Section 2. Territory of the District.

The territorial boundaries of the District are described in Exhibit A attached hereto and incorporated by reference into this Agreement. The territory of the District is located entirely within the territorial boundaries of the Township. The territory to be included in the District is not zoned, which lack of zoning designation is appropriate to the function of the District.

Section 3. Formation of the District.

It is the intent of the Contracting Parties that this Agreement be approved without an election by complying with the requirements of ORC Section 715.72(M)(1). The Contracting Parties represent and warrant as follows:

- A. The resolution approving this Agreement has been approved by a unanimous vote of the Township Trustees;
- B. Owners of a majority of the properties and businesses located within the proposed District have petitioned for the District to be formed, as contemplated under the Act; and
- C. The territory to be included in the District is zoned in a manner appropriate to the proposed function of the District.

The City shall be responsible for filing with the Director of Development Services of the State the documents required to be filed by ORC Section 715.72(O). Each Contracting Party shall separately bear its own costs related to the establishment of the District, including any professional engineering, legal counsel, or other services that may be necessary.

Section 4. Term.

The initial term of this Agreement shall commence on the Effective Date (which Effective Date is more than thirty-one (31) days after the Agreement was approved in accordance with ORC Section 715.72(M)(3)) and shall continue for a period of thirty (30) years (the **Initial Term**). The Agreement shall automatically extend for one renewal term of thirty (30) years (the **Renewal Term**) unless (i) either the City or the Township notifies the other Contracting Party in writing at least one year prior to the expiration of the Initial Term that it does not intend to renew this Agreement, or (ii) either the City or the Township notifies the other Contracting Party in writing at least one year prior to the expiration of the Initial Term or any Renewal Term that it is requesting to extend this Agreement beyond the originally contemplated Initial Term of thirty (30) years or the originally contemplated Renewal Term of thirty (30) years, as applicable, in which case this Agreement shall extend in accordance with such written request if such written request is accepted by the other Contracting Party. In the event of any expansion of the District pursuant to Section 6 herein, the Agreement shall begin a new Initial Term, followed by a Renewal Term upon the terms and conditions described herein.

This Agreement may only be terminated in compliance with applicable statutory provisions and in accordance with Section 5 of this Agreement. The Agreement shall continue in existence throughout its term and shall be binding on the Contracting Parties and on either Contracting Party's succeeding entities, whether such entities succeed by annexation, merger, or otherwise.

The provision herein for the Initial Term and any Renewal Term or other extension of this Agreement recognizes that the accrual of benefits to the Contracting Parties resulting from this Agreement may take decades.

Section 5. Amendments to the Agreement Other than to Amend to Add Property.

The Contracting Parties may amend or modify the terms of this Agreement or terminate this Agreement at any time by mutual agreement. An amendment or modification to this Agreement shall not be effective or binding on the Contracting Parties unless the legislative authorities of both Contracting Parties pass the appropriate legislation agreeing to and authorizing the amendment to this Agreement within ninety (90) days of each other.

This Agreement may only be terminated pursuant to its terms as set forth in Section 4 or in accordance with this Section. If the Contracting Parties mutually agree to terminate this Agreement, such agreement to terminate must provide for the unwinding of this Agreement and must be approved by the legislative authorities of both Contracting Parties within ninety (90) days of each other. Upon termination of this Agreement, the City shall keep and maintain the records of the District in accordance with the City's records retention policy.

If any portion of this Agreement becomes null and void or illegal, or the performance of any provision of this Agreement becomes impossible, through any subsequent change, amendment or enactment of state law or through a ruling of any court that has jurisdiction over the Contracting Parties, the Contracting Parties agree to negotiate in good faith to reach mutual agreement regarding the manner and method of amending this Agreement to bring the Agreement into compliance with then-applicable statutory provisions or case law and to maintain the intent of the Contracting Parties under this Agreement and/or to rebalance the equities between the Contracting Parties consistent with the intent of this Agreement. In the event that the Contracting Parties are unable to reach a new agreement that is authorized and approved by the legislative authorities of both Contracting Parties, then the Contracting Parties may either mutually agree to terminate this Agreement in accordance with the provisions of the preceding paragraph, or either Contracting Party may apply to a court of competent jurisdiction to interpret the contract consistent with then-applicable statutes or case law and, if necessary, modify or terminate this Agreement in order to comply with then-applicable statutes or case law and to preserve the equities of the Contracting Parties as set forth in this Agreement.

Section 6. Addition of Property to the District.

Subject to any applicable provisions of the ORC now existing or hereafter adopted, including but not limited to ORC Section 715.72(L), this Agreement, including the exhibits hereto, may be amended from time to time to add property to the District. Property may be added to the District upon the filing with either Contracting Party of a request by the majority of the owners of the property to be added to the District and a majority of the owners of the businesses to be added to the District. Upon agreement of both Contracting Parties, the Agreement, including Exhibits A, B, and C hereto, shall be amended to add such property to the territory of the District pursuant to the request of the majority of the owners of that property and a majority of the owners of those businesses. Property added to the District shall meet all of the requirements of Section 3 herein and ORC Section 715.72(E)(1), and all procedures of ORC Section 715.72(L) shall be followed in connection with any such addition of property to the District. Property shall not be removed from the District without the agreement of both Contracting Parties.

Section 7. Contributions and Covenants of the Contracting Parties.

A. The City shall:

i. Collect, administer, enforce, and audit the JEDD income tax applicable in the District in accordance with this Agreement.

ii. ~~Remove ii. Provide municipal water and sewer service to the District in accordance with all City policies, rules, and regulations until the completion of all utility upgrades, at which time the County will provide water and sewer service to the District.~~

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~~iii~~.ii. Through its City Auditor or his or her designee, provide service as fiscal officer to the District, including administration and management of JEDD Board accounts.

~~iv~~.iii. The City shall work in good faith with the Township regarding any proposed incentives for locating new businesses or expanding existing businesses within the District and, further the City agrees and affirms that it will not unreasonably withhold written approval of the exemptions set forth in ORC Section 715.72(U).

~~v~~.iv. As provided in ORC Section 715.72(R), the City hereby agrees that, for so long as this Agreement is in effect, it shall not annex any real property within the District. To the extent not prohibited by law, the City shall not accept any such annexation within the District

B. The Township shall:

- i. Provide all usual and customary governmental services to the District that are furnished by the Township to other unincorporated portions of the Township.
- ii. Be responsible for the acceptance, dedication, and maintenance of all existing or future Township roads located within the District.
- iii. Have the right to issue and reissue levies in all areas of the Township, including within the District, for the provision of such services.
- iv. Pursuant to ORC Section 715.72(U), throughout the term of the JEDD, obtain the express written consent of the City prior to granting any tax exemption for any property in the JEDD District. The foregoing limitation shall apply solely to tax exemptions set forth in ORS Section 715.72(U), which include exemptions established pursuant to ORC Chapter 1728 and ORC Section 3735.67, 5709.62, 5709.63, and 5709.632, as applicable.
- v. Maintain and enforce zoning regulations within the District, if, as to the Site, such property is subject to zoning laws or regulations when the District was formed, otherwise if such property is subject to zoning laws or regulations when the property is added to the District.

C. The Contracting Parties shall:

- i. jointly cooperate in carrying out the economic development plan for the District attached hereto as Exhibit B.
- ii. collaborate through the District with respect to capital improvements in the event that the Contracting Parties jointly determine that economic development in the District creates a demand for public infrastructure

improvements serving the District or the area surrounding the District including, but not limited to, and solely upon joint agreement of the Contracting Parties, paying costs of infrastructure improvements within or otherwise benefitting the District; which infrastructure improvements may include improvements relating to roads, water and sewer, electric, natural gas, fiber, cable, or any other capital improvements directly supporting non-residential development within the District, or, upon the joint agreement of the Contracting Parties, otherwise benefitting the District, but which infrastructure improvements shall not include ordinary maintenance or repairs.

- iii. pay equal shares of any District administrative costs in excess of income tax revenue received by the JEDD Board each year or otherwise available to the JEDD Board for the purposes of paying administrative costs.

Section 8. Board of Directors of the District.

The Board is hereby established to govern the District. The Board shall consist of three members appointed as set forth in ORC Section 715.72(P)(2).

- A. The initial City member of the Board shall be _____. Subject to any applicable restrictions in ORC Section 715.72, all future City members of the Board shall be appointed by City Council and shall serve at the pleasure of City Council.
- B. The initial Township member of the Board shall be _____. Subject to any applicable restrictions in ORC Section 715.72, all future Township members of the Board shall be appointed by a majority vote of the Board of Township Trustees and shall serve at the pleasure of the Board of Township Trustees.
- C. The third member of the Board shall be nominated by the Port Authority and appointed by the unanimous vote of the initial City member and the initial Township member. Subject to any applicable restrictions in ORC Section 715.72, all future members of the Board selected pursuant to this Section 8(C) shall be nominated to the Board by the Port Authority and appointed by the unanimous vote of the City member and the Township member.
- D. When applicable, the representative of the business owner or owners located in the JEDD District shall be appointed by mutual agreement of the City member and the Township member, provided that if the City member and the Township member do not so appoint a representative under this Section 3(b)(iv) within thirty (30) days after (A) the date that the first business becomes operational in the JEDD District, (B) the end of a term of office for a business owner representative, or (C) the occurrence of any other vacancy in the office of business owner representative, the chairperson of the Board shall notify the business with the greatest number of employees working in the JEDD District that said business is entitled to appoint the

business owner representative, provided that any such appointment shall be made in writing by a duly authorized officer of the appointing business and delivered to the chairperson of the Board.

- E. When applicable, the representative of the employees working in the JEDD District shall be appointed by mutual agreement of the City member and the Township member, provided that if the City member and the Township member do not so appoint a representative under this Section 3(b)(iv) within thirty (30) days after (A) the date that the first business becomes operational in the JEDD District, (B) the end of a term of office for a business owner representative, or (C) the occurrence of any other vacancy in the office of business owner representative, the chairperson of the Board shall notify the business with the greatest number of employees working in the JEDD District that said business is entitled to appoint the employee representative, provided that any such appointment shall be made in writing by a duly authorized officer of the appointing business and delivered to the chairperson of the Board.

The members of the Board shall serve without compensation. Necessary and authorized expenses incurred by members on behalf of the District shall be reimbursed from District funds in accordance with procedures established by the Board.

The Board shall have the following officers (hereinafter, the **Officers**): a Chairperson, a Vice-Chairperson, a Secretary, and a Treasurer. The Chairperson shall be the Board Member specified in ORC Section 715.72. The Board shall elect the Vice-Chairperson, who shall be a Board Member. The Treasurer of the Board shall be the City Auditor or his or her designee of the City, provided that the Treasurer is not required to be a Board Member. The Board shall elect the Secretary, provided that the Secretary is not required to be a Board Member. The Officers shall be elected at the first meeting of the Board and thereafter every other year for two-year terms and shall serve until their respective successors take office. The Board shall establish a procedure for conducting those elections. The Officers shall perform such duties as provided herein and such additional duties as may be required from time to time by the Board. The Board may employ such additional personnel or professional services as may be necessary to assist the Board or the Officers in the performance of their duties.

Section 9. Power, Duties, and Functions of Board.

The Board shall meet at least once each calendar year on a date determined by the Board. The Board shall adopt procedures for holding and conducting regular and special meetings. The Contracting Parties shall provide the Board with necessary meeting space. The City shall also provide any necessary clerical and administrative assistance that the Board may need from time to time, including telephone services and a mailing address.

A minimum of two members shall constitute a quorum for Board meeting purposes. The Board shall act through resolutions adopted by the Board. A resolution must receive the affirmative vote of at least a majority of members present and constituting a quorum to be adopted. A resolution adopted by the Board shall be immediately effective unless otherwise provided in that resolution.

The Board may adopt by-laws for the regulation of its affairs and the conduct of its business consistent with this Agreement. The Chairperson shall preside over and conduct the meetings of the Board in accordance with its by-laws or other procedures adopted by the Board. Pursuant to ORC Section 715.72(P)(5), the Board is a public body for the purposes of ORC Section 121.22, the Ohio Public Meetings Act. All meetings of the Board, whether regularly scheduled or special meetings, must comply with the provisions of ORC Section 121.22 as amended from time to time.

The Vice-Chairperson shall act as Chairperson in the temporary absence of the Chairperson. The Secretary shall be responsible for the records of the Board including, but not limited to, correspondence and minutes of the meetings of the Board. The City Auditor or his or her designee of the City, as Treasurer of the Board, shall be the fiscal officer of the Board and shall be responsible for all fiscal matters of the Board including, but not limited to, the preparation of the budget and the appropriations resolution, paying or providing for the payment of expenses of operation of the Board, receiving, safekeeping, and investing, or providing for the receipt, safekeeping, and investment of, funds of the Board and maintaining, and providing for the maintenance of, accurate accounts of all receipts and expenditures. The Board shall designate by resolution, or in its by-laws, those Officers who may sign documents on behalf of the Board.

The Board, upon the recommendation of the City Auditor or his or her designee of the City, shall adopt an annual budget for the District. The fiscal year of the District shall be the same as the fiscal year of the City, unless otherwise determined by the Board with the consent of the City Auditor or his or her designee of the City. The budget shall estimate the revenues of the District and the expenses of the operation of the District. The Board shall establish an appropriations procedure to provide for payment of the long-term maintenance of the District and the distribution of income tax revenues in accordance with Section 10 herein.

The Board, on behalf of the District, shall:

- A. establish and maintain such funds or accounts as it deems necessary, either of its own, or in conjunction with or through the Contracting Parties to this Agreement, which accounts shall be managed by the City Auditor or his or her designee of the City;
- B. authorize one or more Officers to sign all instruments necessary or incidental to the performance of its duties and the execution of its powers under this Agreement;
- C. adopt a resolution to levy an income tax within the District in accordance with ORC Section 715.72(F)(5) and Section 10 herein;
- D. apply JEDD Board Revenue, as defined in Section 10(D) herein, for Board administrative expenses, for infrastructure improvements and for any other lawful purpose;
- E. use any other revenues of the District available to the Board to carry out the economic development plan for the District and, from time to time, modify the economic development plan to better accomplish the public purposes of the District;

- F. apply for, receive and accept from any federal agency, state agency or other person or entity grants for or in aid of the construction or operation of any District facility, or for programs or other projects of the District, and receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the benefit of the District and the purposes for which such grants, aid or contributions are made;
- G. purchase liability insurance protecting the District, its Board or Officers or such other insurance as the Board may determine to be necessary and appropriate;
- H. be authorized to execute any agreement, cooperative agreement, financing agreement, or other arrangement with any private entity and with any other political subdivision or governmental entity as may be permitted by law, including but not limited to the Port Authority, Muskingum County, the City, and the Township, to provide or facilitate the provision of public infrastructure improvements that benefit of the District or whenever otherwise necessary or convenient to carry out the powers granted in this Agreement, including, without limitation, any agreement related to any economic development program, tax increment financing program, special assessment program, or bond financing undertaking by any Contracting Party or political subdivision in cooperation with any Contracting Party;
- I. be authorized to do all acts and things necessary or convenient to carry out the powers granted in ORC Section 715.72 or any successor provisions thereto; and
- J. be authorized to do all acts and things necessary or convenient to carry out the powers granted in this Agreement.

The City and the Township agree that the JEDD Board may use any available revenues of the District to carry out the economic development plan for the District and may, from time to time, modify the economic development plan to better accomplish the public purposes of the District. The City and the Township agree that the Board or either Contracting Party may execute any agreement, cooperative agreement, financing agreement, or other arrangement with any private entity and with any other political subdivision, including but not limited to Muskingum County, the Township, and the City, to provide or facilitate the provision of public infrastructure improvements or services to benefit the District or whenever otherwise necessary or convenient to carry out the powers granted in this Agreement, including, without limitation, any agreement related to any tax increment financing program, special assessment program, or bond financing undertaking by any Contracting Party or political subdivision in cooperation with any Contracting Party.

Section 10. Income Tax to be Levied in the District.

- A. The Board at its initial meeting shall adopt a resolution to levy a tax on income earned by persons working within the District and based on net profits of businesses located in the District in accordance with ORC Section 715.72(F)(5) (the **Income Tax Resolution**). The Income Tax Resolution shall be effective until it is replaced by a subsequent Income Tax Resolution. Pursuant to ORC Section 715.72(F)(5),

all income tax collected from any business or entity within the District or any person working within the District shall be subject to this Agreement and included in the total income tax revenue collected within the District (collectively, the **Total Revenues**). The income tax shall go into effect as soon as legally permissible.

- B. The Income Tax Resolution shall establish the income tax rate for employees working in the District (the **Employee Rate**), which Employee Rate shall at all times during the term of this Agreement equal the rate levied in the City. As of the date of execution of this Agreement by the Contracting Parties, the City income tax rate is 1.9%. In each annual Income Tax Resolution, the Board shall adjust the Employee Rate as necessary so that it matches the rate of income taxation in the City.
- C. The Income Tax Resolution also shall establish the income tax rate applicable to net profits of businesses located in the District (the **Business Rate**), which Business Rate shall at all times during the term of this Agreement equal the rate levied in the City. In each annual Income Tax Resolution, the Board shall adjust the Business Rate as necessary so that it matches the rate of income taxation in the City.
- D. The Income Tax Resolution shall designate that (a) a reasonable amount of the Total Revenues collected each year, as determined by the Board, shall be paid to the Board for the administrative expenses of the Board, which administrative expenses may include reimbursement to the City for the time of employees of the City in carrying out Section 7(a)(i) of this Agreement, outside legal or accounting fees, the cost of public notice and the like, and (b) the remaining amount of the Total Revenues collected each year after the application of Section 10(D)(a) shall be divided as follows: (i) 30% shall be paid to the City; (ii) 30% shall be paid to Muskingum County; (iii) 30% shall be paid to the Port Authority; and (iv) 10% shall be paid to the Township.

Notwithstanding the foregoing, before the Board may adopt an Income Tax Resolution, the Board shall (i) confirm that the City, the Port Authority, Muskingum County, and the Township have met to consider whether any modifications to the allocation of Total Revenues may be appropriate for that year; and (ii) upon a request approved in writing by the applicable officials of each of the City and the Township, modify the allocation of Total Revenues according to such written request.

At such time as the Board adopts the second Income Tax Resolution following the first Income Tax Resolution and every other year thereafter, the Board shall review the amount of its administrative expenses from the preceding two year period and include such findings in its determination of its reasonable administrative expenses for the succeeding Income Tax Resolutions until such time as the Board makes a new finding under this Section.

- E. The Board shall resolve that, pursuant to this Agreement, the City will collect, administer, and enforce the income tax within the District in accordance with this Agreement and the City's rules and regulations currently in effect and as may be amended from time to time regarding the collection, administration, and enforcement of the municipal income tax in effect within the City.
- F. Pursuant to ORC Section 715.72(F)(5)(c), the Board shall enter into an agreement with the City (the **District Income Tax Collection and Distribution Agreement**) as expeditiously as possible upon the District's creation to administer, collect and enforce the income tax on behalf of the District in accordance with this Agreement. The District Income Tax Collection and Distribution Agreement shall provide that the City is responsible for the receipt, safeguarding, and investment of the income tax revenues collected within the District and that the City shall make an annual written report to be mailed to the Board and the Township within sixty (60) days of the end of the fiscal year regarding the receipt and distribution of the income tax of the District during the previous fiscal year. In addition, the Board may enter into such additional agreements as it determines may be necessary to effectuate the collection of income tax by the City within the District, including with respect to the apportionment of income tax liability under ORC Section 718.02(B).
- G. The Board may establish procedures by which the income tax levied on employee wages earned within the District is to be collected from employees employed within the District or withheld by businesses located in the District, and the Board shall establish procedures by which the income tax on net profits of businesses located in the District is to be collected from one or more businesses located in the District. Such procedures may provide for the payment of withholding or estimated taxes by those employees or businesses and the reconciliation of income taxes paid on net profits of businesses between fiscal years.

Section 11. Defaults and Remedies.

A failure to comply with the terms of this Agreement shall constitute a default hereunder. The Contracting Party in default shall have sixty (60) days after receiving written notice from the other Contracting Party of the event of default and demand to cure the default. If the default is not cured within that time period, the non-defaulting Contracting Party may sue the defaulting Contracting Party for specific performance under this Agreement or for damages or both. This Agreement may not be terminated because of default under the Agreement by either Contracting Party unless termination occurs as provided for in Section 5 of this Agreement.

The Contracting Parties agree that the nature of the Agreement is unique and monetary damages are inadequate to fully compensate a non-defaulting Contracting Party. Accordingly, the Contracting Parties agree that specific performance is an appropriate and available remedy for a breach of contract action brought pursuant to this Agreement in addition to any other remedy available at law and equity. Both Contracting Parties also agree that because monetary damages are inadequate to fully compensate a non-defaulting Contracting Party, a non-defaulting

Contracting Party has the right to seek an injunction or other equitable relief to prevent the continued breach of this Agreement by a defaulting Contracting Party.

Section 12. Support of Contract.

This Agreement shall be binding upon the Contracting Parties and their lawful successors and assigns. The Contracting Parties agree to cooperate with each other and to use their best efforts to do all things necessary for the creation and continued operation of the District. In the event that this Agreement, or any of its terms, conditions, or provisions is challenged by any third party or parties in a court of law, the Contracting Parties agree to cooperate with one another and to use their best efforts in defending this Agreement with the object of upholding this Agreement. Each Contracting Party shall bear its own costs in any such proceeding challenging this Agreement or any term or provision herein.

Section 13. Severability.

With the exception of Section 7 or Section 10 of this Agreement, if any other paragraph, provision or section of this Agreement is held to be illegal or invalid for any reason, then:

- (i) that illegality or invalidity shall not affect the remainder of any other paragraph, provision or section, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein;
- (ii) the illegality or invalidity of any paragraph, provision or section shall not affect any legality or applicability of any other paragraph, provision, or section of this Agreement; and
- (iii) each paragraph, provision, or section of this Agreement shall be deemed to be effective, operative, made, assumed, entered into, or taken in the manner and to the full extent permitted by law.

If any paragraph, provision, or part thereof of Section 7 or Section 10 of this Agreement is held to be illegal or invalid for any reason, the Contracting Parties may jointly determine to terminate this Agreement pursuant to Section 5 of this Agreement.

Section 14. Governing Law.

This Agreement shall be governed exclusively by and construed in accordance with the laws of the State of Ohio, and in particular, ORC Section 715.72 in effect as of the date when the owners of property in the District filed their petitions consenting to the formation of the District. A copy of ORC Section 715.72 in effect as of the date when the owners of property in the District filed their petitions consenting to the formation of the District is attached hereto as Exhibit C. In the event that ORC Section 715.72 is amended or is supplemented by the enactment of one or more new sections of the ORC relating to joint economic development districts, the Contracting Parties shall follow the provisions of ORC Section 715.72 when the owners of property in the District filed their petitions consenting to the formation of the District, unless the Contracting Parties agree to amend this Agreement in accordance with Section 5 herein. If any amendment or subsequent

enactment of one or more new sections of the ORC relating to joint economic development districts renders compliance by the Board, the Contracting Parties, or the District with Sections 7 or 10 of this Agreement illegal or impossible, the Contracting Parties may jointly determine to terminate this Agreement pursuant to Section 5 of this Agreement.

Section 15. Miscellaneous.

Any notice or consent required or permitted to be given by or on behalf of either party to the other shall be given by mailing such notice or consent by United States certified or registered mail, postage prepaid and return receipt requested, or via a reputable express overnight mail service which provides proof of delivery addressed to the parties set as set forth below or at such other address as may be specified from time to time in writing delivered to the other party. Notices shall be effective upon receipt or refusal, as the case may be:

If to the City: City of Zanesville, Ohio
 Attn: Mayor
 401 Market Street
 Zanesville, Ohio 43701
 (740) 617-4908

If to the Township: Perry Township, Muskingum County, Ohio
 Attn: President
 4625 Boggs Road
 Zanesville, Ohio 43701
 (740) 819-2344

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

This Agreement may be executed in one or more counterparts, each of which shall be regarded as an original and all of which together shall constitute but one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the Contracting Parties have caused this Agreement to be duly signed in their respective names by their duly authorized officers, all as of the date first hereinbefore written.

TOWNSHIP OF PERRY,
MUSKINGUM COUNTY, OHIO

CITY OF ZANESVILLE, OHIO

By: _____
Trustee

By: _____
Mayor

By: _____
Trustee

Approved as to form and correctness:

By: _____
Trustee

Director of Law

[Signature Page to City of Zanesville - Perry Township JEDD Agreement]

CITY'S FISCAL OFFICER'S CERTIFICATE

The undersigned, Fiscal Officer of the City of Zanesville, Ohio, hereby certifies that the moneys required to meet the obligations of the City during the year 2020 under the foregoing Agreement have been lawfully appropriated by the City Council of the City of Zanesville, Ohio for such purpose and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

Fiscal Officer
City of Zanesville, Ohio

Dated: _____, 2020

[City's Fiscal Officer Certificate]

TOWNSHIP'S FISCAL OFFICER'S CERTIFICATE

The undersigned, Fiscal Officer of Perry Township, Muskingum County Ohio, hereby certifies that the moneys required to meet the obligations of the Township during the year 2020 under the foregoing Agreement have been lawfully appropriated by the Board of Trustees of Perry Township, Muskingum County, Ohio for such purpose and are in the treasury of the Township or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

Fiscal Officer
Perry Township, Muskingum County, Ohio

Dated: _____, 2020

[Township's Fiscal Officer Certificate]

**LEGAL DESCRIPTION AND MAP
OF TERRITORY TO BE INCLUDED IN
CITY OF ZANESVILLE-PERRY TOWNSHIP
JOINT ECONOMIC DEVELOPMENT DISTRICT**

The City of Zanesville-Perry Township Joint Economic Development District (the **District**) shall include a portion of the following parcels, as identified in the records of the County Auditor of Muskingum County, Ohio as of October 30, 2019:

Muskingum County Auditor Parcel Number	Approx. Acreage
51-70-03-13-000	203.41

Notwithstanding the foregoing, the property identified above and thereby included in the District shall be consistent with the property identified in that certain Option to Purchase Real Estate dated April 20, 2017 by and between the Zanesville-Muskingum County Port Authority and Jeff Robert Beam and Jack W. McClelland, Co-Trustees of Ross L. Johnston Trust.

Attachment to Ordinance No. 2020-70
EXHIBIT A

The real property included in the City of Zanesville - Perry Township Joint Economic Development District is outlined in red on the following map:

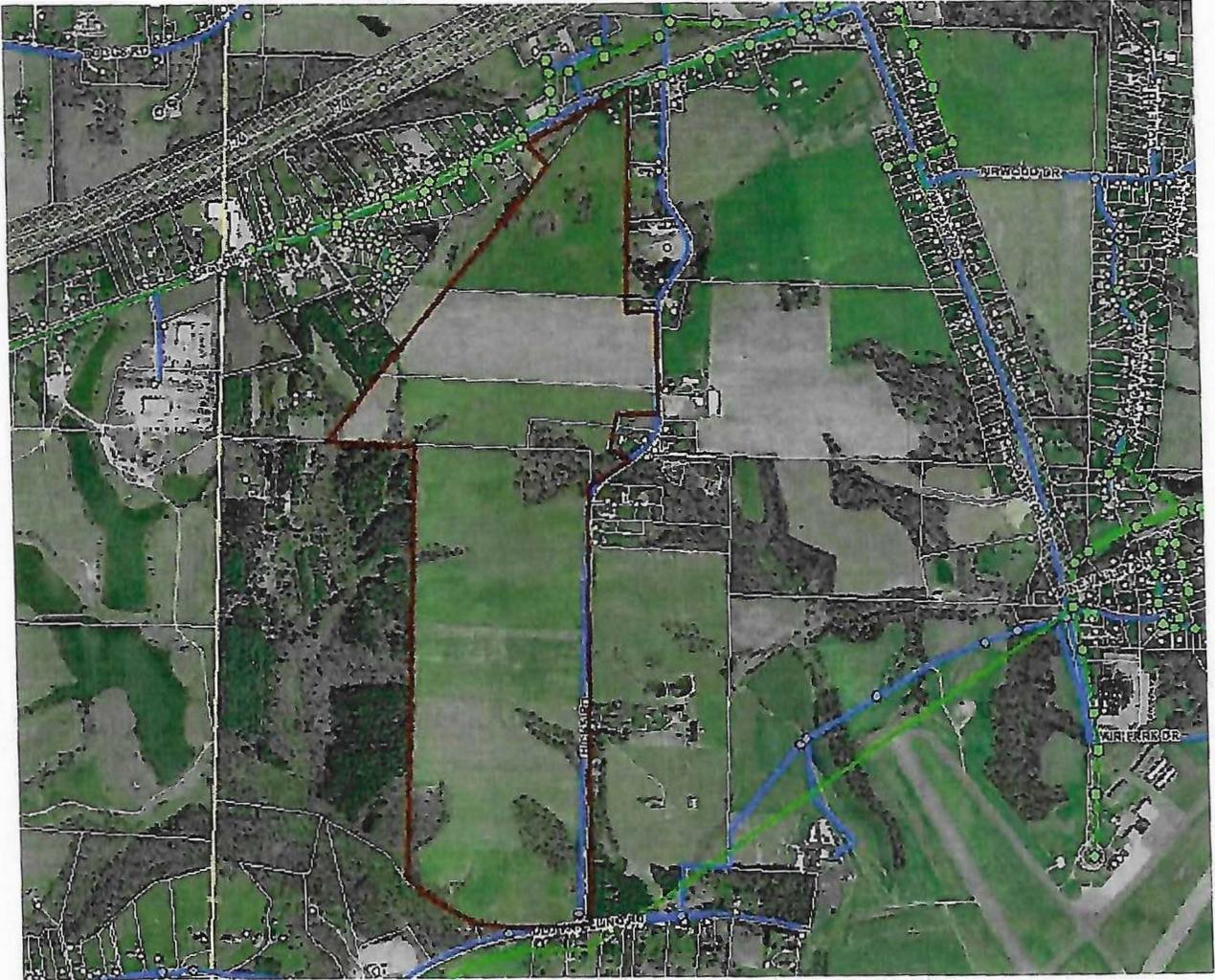


EXHIBIT B

Cooperative Development Agreement

COOPERATIVE DEVELOPMENT AGREEMENT

This COOPERATIVE DEVELOPMENT AGREEMENT (the **Agreement**) is entered into as of this [] day of [], 2020 (the **Execution Date**) by and among the CITY OF ZANESVILLE, OHIO, a municipal corporation duly organized and validly existing under the laws the State of Ohio (the **State**) (the **City**), the COUNTY OF MUSKINGUM, OHIO, a county duly organized and validly existing under the constitution and laws of the State (the **County**), the ZANESVILLE-MUSKINGUM COUNTY PORT AUTHORITY, an Ohio port authority duly organized and validly existing under the laws of the State (the **Port Authority**), and the TOWNSHIP OF PERRY, MUSKINGUM COUNTY, OHIO, a township duly organized and validly existing under the constitution and laws of the State (the **Township** and, together with the City, the County, and the Port Authority the **Cooperative Parties**).

RECITALS

WHEREAS, the Cooperative Parties share a mutual interest in economic development that creates and preserves jobs and employment opportunities throughout the County, thereby improving the economic welfare of the residents of the City, the Township, the County and the State as a whole; and

WHEREAS, the Cooperative Parties seek a collaborative approach to fostering and supporting business growth in their communities, including specifically growth that is anticipated to occur in certain real property located within the territorial boundaries of the Township and depicted on Exhibit A hereto (the **Cooperative District**); and

WHEREAS, Ohio Revised Code (**ORC**) Section 9.482 authorizes contracts for services between political subdivisions, and ORC Chapter 715 empowers municipal corporations and townships to establish a joint economic development district (**JEDD**) for the purposes of facilitating economic development by means of, among other things, providing for appropriate infrastructure and public services to support such growth and establishing an income tax to pay the costs thereof; and

WHEREAS, the Cooperative Parties have determined to pursue the creation of a JEDD with respect to the Cooperative District pursuant to the terms hereof and the City and the Township will, to that end, enter into an agreement creating and governing the JEDD according to the terms set forth in Exhibit B; and

WHEREAS, the Port Authority owns or soon will own all of the real property located in the Cooperative District and has presented to the parties to this Agreement its plan to develop port authority facilities as defined in Ohio Revised Code Section 4582.21, including office and commercial space in a mixed-use business and industrial park (**Project**); and

WHEREAS, the Cooperative Parties wish to cooperate in the development of certain public infrastructure improvements and roads within and supporting the Project and wish to outline the rights and responsibilities relating thereto in this Agreement; and

WHEREAS, the legislative authorities of the City, the County, the Port Authority, and the Township each have approved, authorized and directed the City, the County, the Port Authority, and the Township, respectively, to make and enter into this Agreement by and through their respective officers in accordance with Ordinance No. [____], adopted by the City on [____], 2020, Resolution No. [____], enacted by the County on [____], 2020, Resolution No. [____], enacted by the Port Authority on [____], 2020, and Resolution No. [____], enacted by the Township on [____], 2020.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and promises herein contained, the sufficiency of which are acknowledged by the parties hereto, the City, the County, the Port Authority, and the Township hereby agree as follows:

Section 1. Term.

(a) This Agreement shall be and remain in full force and effect from the date hereof and until [____], 2050 (the **Initial Term**), at which time, unless otherwise terminated by any or all of the Cooperative Parties, this Agreement automatically shall renew for one successive terms of 30 years (the **Renewal Term**); provided, however, that notwithstanding anything to the contrary herein, this Agreement shall automatically renew and remain in effect for a period of one or more Renewal Terms, as applicable, for so long as the JEDD Agreement, as defined herein, shall remain in effect. During the final year of the Initial Term and the final year of each Renewal Term, any of the Cooperative Parties may, by written notification to the other parties following authorization by its legislative authority, cause this Agreement to terminate at the end of such term. The provision herein for the Initial Term of this Agreement recognizes that the accrual of benefits to the parties from this Agreement may take decades.

(b) This Agreement may be terminated at any time by mutual consent of the Cooperative Parties as authorized by their respective legislative authorities as provided herein. Unless otherwise agreed, in order for such termination to be effective, the legislative actions of the Cooperative Parties that terminate this Agreement must occur and be effective within a period of ninety (90) days of each other.

Section 2. Covenants of the City, the County, the Port Authority, and the Township.

(a) Territory. The Cooperative Parties hereby agree to the covenants of this Section 2 with respect to any parcel of real property located, either in whole or in part, within the Cooperative District. It is the intent of the Cooperative Parties that the territory of the Cooperative District, as depicted in Exhibit A, may be amended from time to time so that it conforms with the territory of the JEDD (the **JEDD District**). An amendment to the territory of the Cooperative District requires written consent of the Township Board of Trustees, the City Mayor, the County Commissioners, and the Executive Director of the Port Authority. Any other amendment to the Agreement shall be made in accordance with Section 6(h) hereof.

(b) Services.

(i) Law Enforcement. The County Sheriff's office shall provide law enforcement services to the Cooperative District.

(ii) Fire Department and Emergency Medical Services. The Township Fire Department shall provide fire and emergency medical services to the Cooperative District.

(iii) Snow Removal and Right-of-Way Mowing. The Township shall undertake or provide for the removal of snow and the mowing and care of greenspace along right-of-ways for the roads described on Exhibit C in the following approximate specifications: (i) for the Phase 1 roadway, approximately 3,300 linear feet of roadway, including one 55' diameter cul-de-sac, (ii) for the Phase 2 roadway, approximately 850 linear feet of roadway, including one 55' diameter cul-de-sac, and (iii) an approximately 640 linear foot future right-of-way between Hicks Road and the cul-de-sac at the end of Phase 1.

(iv) Developer and Marketing Agent. The Port Authority shall act as the developer (the **Developer**) and marketing agent for the Cooperative District with sole discretion for the development of and marketing for the Project in the Cooperative District.

(c) Initial Investment. Upon the Execution Date, each of the City, the County, and the Port Authority shall make \$1,500,000.00 available for immediate use at, on, and for the Initial Infrastructure Improvements as defined in Section 2(c) (the **Initial Investment**). Each of the City, the County and the Port Authority shall appropriate the outstanding balance of the Initial Investment as necessary for each year in which an outstanding balance remains on each Initial Investment.

(d) Public Infrastructure Improvements. In its role as Developer, the Port Authority agrees to complete or cause the completion of the road improvements, utility projects and other infrastructure improvements necessitated by the Project as described on Exhibit B and as approved by the City and County (the **Initial Infrastructure Improvements**). Funds from the Initial Investment shall be used for such Initial Infrastructure Improvements. The Cooperative Parties shall collaborate through the JEDD with respect to capital improvements in the event that the Cooperative Parties determine that economic development in the JEDD District creates a demand for additional public infrastructure improvements serving the JEDD District or the area surrounding the JEDD District including, but not limited to, and solely upon the agreement of the Cooperative Parties, paying costs of infrastructure improvements within the JEDD District or, upon agreement of the Cooperative Parties, otherwise benefitting the JEDD District, which infrastructure improvements may include improvements relating to roads (as further provided in Section 2(e), water and sewer (except as provided in Section 2(f)), electric, natural gas, fiber, cable, or any other capital improvements directly supporting non-residential development within the JEDD District except as provided in Section 2(f) (collectively, the **Future Infrastructure Improvements**).

(e) Road Maintenance and Future Projects. The Cooperative Parties, including the Port Authority in its role as the Developer, shall use funds from the Initial Investment for all road installation, replacement, or pavement projects for so long as a balance remains outstanding on the Initial Investment. At such time as there is no longer any balance of the Initial Investment outstanding, the Contracting Parties shall reasonably and in good faith cooperate on the funding,

development, construction, and reconstruction of all road replacement and pavement projects in the Cooperative District.

(f) Utilities. The County shall maintain all utilities connecting to and located at the Cooperative District; provided, that the Cooperative Parties shall construct and maintain all water and sewer infrastructure on the Cooperative District with funds from the Initial Investment for so long as a balance remains outstanding on the Initial Investment. At such time as there is no longer any balance of the Initial Investment outstanding, the County shall maintain all water and sewer infrastructure at the Cooperative District.

Section 3. Terms of the JEDD.

(a) JEDD Agreement. The City and the Township will take all steps necessary to create and enter into a joint economic development district agreement (the **JEDD Agreement**) under ORC Section 715.72 in substantially the form attached hereto as Exhibit C, which JEDD Agreement shall contain the terms and provisions in this Section 3.

(b) JEDD Board. The JEDD Agreement shall provide for the governance of the JEDD by a board of directors (the **Board**) appointed as follows, pursuant to ORC Section 715.72(P)(2):

(i) The initial City member of the Board shall be _____ . Subject to any applicable restrictions in ORC Section 715.72, all future City members of the Board shall be appointed by City Council and shall serve at the pleasure of City Council.

(ii) The initial Township member of the Board shall be _____ . Subject to any applicable restrictions in ORC Section 715.72, all future Township members of the Board shall be appointed by a majority vote of the Board of Township Trustees and shall serve at the pleasure of the Board of Township Trustees.

(iii) The third member of the Board shall be nominated by the Port Authority and appointed by the unanimous vote of the initial City member and the initial Township member. Subject to any applicable restrictions in ORC Section 715.72, all future members of the Board selected pursuant to this Section 3(b)(iii) shall be nominated to the Board by the Port Authority and appointed by the unanimous vote of the City member and the Township member.

(iv) When applicable, the representative of the business owner or owners located in the JEDD District shall be appointed by mutual agreement of the City member and the Township member, provided that if the City member and the Township member do not so appoint a representative under this Section 3(b)(iv) within thirty (30) days after (A) the date that the first business becomes operational in the JEDD District, (B) the end of a term of office for a business owner representative, or (C) the occurrence of any other vacancy in the office of business owner representative, the chairperson of the Board shall notify the business with the greatest number of employees working in the JEDD District that said business is entitled to appoint the business owner representative, provided that any such appointment shall be made in writing by a duly authorized officer of the appointing business and delivered to the chairperson of the Board.

(iv) When applicable, the representative of the employees working in the JEDD District shall be appointed by mutual agreement of the City member and the Township member, provided that if the City member and the Township member do not so appoint a representative under this Section 3(b)(iv) within thirty (30) days after (A) the date that the first business becomes operational in the JEDD District, (B) the end of a term of office for a business owner representative, or (C) the occurrence of any other vacancy in the office of business owner representative, the chairperson of the Board shall notify the business with the greatest number of employees working in the JEDD District that said business is entitled to appoint the employee representative, provided that any such appointment shall be made in writing by a duly authorized officer of the appointing business and delivered to the chairperson of the Board.

(c) Power

(i) Territory. The JEDD District initially will include the property within the Cooperative Agreement. The Cooperative Parties will, from time to time and as necessary to accommodate proposed business development, cooperate with respect to additions of properties to the JEDD District under ORC Section 715.72(L), including where applicable and permitted under ORC Chapter 715 any properties located outside of the boundaries of the Cooperative District. For the avoidance of doubt, this Agreement shall not be interpreted to prohibit the Cooperative Parties from adding to the JEDD District a property outside of the Cooperative District or a property that does not meet the requirements of Section 2(a) hereof.

(ii) Term. The JEDD Agreement shall have a term of 30 years from its effective date and will automatically renew for one term of 30 years, unless either party acts to prevent such renewal according to terms of the JEDD Agreement.

(iii) Income Tax. The JEDD Agreement will provide for an income tax on income earned by persons working within the JEDD District and based on net profits of businesses located in the JEDD District at a rate equal to the income tax levied in the City at the time of the JEDD Agreement, subject to adjustment by the Board in the event of any change in the City income tax rate (the **Total Revenues**). The tax will be administered by the City, and distributed as follows:

(A) A reasonable amount of the total Revenues collected each year, as determined by the JEDD Board, shall be paid to the JEDD Board for the administrative expenses of the JEDD Board, after administrative expenses which may include reimbursement to the City for the time of employees of the City in collecting, administering, enforcing, and auditing the JEDD income tax applicable in the JEDD District in accordance with the JEDD Agreement, outside legal or accounting fees, the cost of public notice and the like have been deducted by the City; and

(B) The remaining amount of the Total Revenues collected each year after the application of Section 3(c)(iii)(A) shall be divided as follows: (I) 30% shall be paid to the City; (II) 30% shall be paid to Muskingum County; (III) 30% shall be paid to the Port Authority; and (IV) 10% shall be paid to the Township.

The foregoing allocations of income tax proceeds may be amended at any time by joint written agreement of the Contracting Parties pursuant to Section 6(h) hereof. At such time as the JEDD Board adopts the second resolution establishing an income tax in the JEDD District following its first resolution establishing an income tax and every other year thereafter, the JEDD Board will review the amount of its administrative expenses from the preceding two year period and include such findings in its determination of its reasonable administrative expenses for the succeeding resolutions establishing an income tax until such time as the Board makes a new finding under the JEDD Agreement.

(d) Authority. The JEDD Agreement will authorize the Board, among other things and with the consent and agreement of the City, the Township and, where applicable, the County and the Port Authority, to pay certain costs of such Future Infrastructure Improvements as may be necessary to support growth within the JEDD District.

(e) Incentives. Pursuant to ORC Section 715.72(U), throughout the term of the JEDD, the City and the Township shall each obtain the express written consent of the other prior to granting any tax exemption for any property in the JEDD District. The foregoing limitation shall apply solely to tax exemptions set forth in ORC Section 715.72(U), which include exemptions established pursuant to ORC Chapter 1728 and ORC Sections 3735.67, 5709.62, 5709.63, and 5709.632, as applicable.

(f) Expenses. Should the JEDD Board incur legal or other administrative expenses prior to the levying and collection of adequate Total Revenues, the Cooperative Parties shall equally share said expenses.

Section 4. Annexation Moratorium.

This Agreement shall be considered an Annexation Agreement pursuant to ORC Section 709.192. The City hereby agrees that, during the Initial Term or any Renewal Term of this Agreement, it shall not annex any real property within the Cooperative District. To the extent not prohibited by law, the City shall not accept any such annexation within the Cooperative District during the Initial Term or any Renewal Term of this Agreement.

Section 5. Port Authority Operational Funding.

For each year in which the Total Revenue exceeds \$200,000.00, and if the Port Authority has received more than \$1,500,000.00 in aggregate for all years pursuant to the distribution of the Total Revenue under Section 3(c)(iii) of this Agreement and the JEDD Agreement, the Port Authority shall not seek operational funding from the City or the County for that year, if reasonable.

Section 6. Other.

(a) Notices. Any notice or consent required or permitted to be given by or on behalf of either party to the other shall be given by mailing such notice or consent by United States certified or registered mail, postage prepaid and return receipt requested, or via a reputable express

overnight mail service which provides proof of delivery addressed to the parties as set forth below or at such other address as may be specified from time to time in writing delivered to the other party. Notices shall be effective upon receipt or refusal, as the case may be.

- If to the County: County of Muskingum, Ohio
Attn: Board of County Commissioners
401 Main Street
Zanesville, Ohio 43701
Phone: (740) 455-7100

- If to the City: City of Zanesville, Ohio
Attn: Mayor
401 Market Street
Zanesville, Ohio 43701
Phone: (740) 617-4908

- If to the Township: Township of Perry, Muskingum County, Ohio
Attn: President
4625 Boggs Road
Zanesville, Ohio 43701
Phone: (740) 819-2344

- If to the Port Authority: Zanesville-Muskingum County Port Authority
Attn: Executive Director
205 North Fifth Street
Zanesville, Ohio 43701
Phone: (740) 455-0742

(b) Waivers. All waivers of the provision of this Agreement must be in writing and signed by the appropriate authorities of the City, the County, the Port Authority, and the Township, and all amendments hereto must be in writing and signed by the appropriate authorities of the City, the County, the Port Authority, and the Township. No consent or waiver, express or implied, by either party to or of any breach of any covenant, condition, or duty of the other party shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty to be observed by the other party.

(c) Severability. In the event that any portions, sections or subsections of this Agreement are rendered invalid by the decision of any court or by the enactment of any law, ordinance or regulation, such provision of this Agreement will be deemed to have never been included therein and the balance of the Agreement shall continue in full force and effect.

(d) Authority. Each party to this Agreement hereby represents and warrants that it is executing this Agreement with the full and proper authority and that the parties whose names appear hereon are duly authorized and empowered to make and execute this Agreement and that this Agreement is supported by consideration.

(e) Counterparts. This Agreement may be executed in counterpart, and in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same Agreement.

(f) Further Actions. The Cooperative Parties agree to execute such additional documents, and take such further actions, as may reasonably be required to carry out the provisions and intent of this Agreement.

(g) In General. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement by either party hereto, or any successor to such party, such party (or successor) shall, within sixty (60) days of receipt of written notice from the other, proceed to cure or remedy such default or breach. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations. All rights and remedies shall be cumulative and shall not be construed to exclude any other remedies allowed at law or in equity.

(h) Amendments and Modifications. Except as otherwise provided herein, this Agreement may be amended by the Cooperative Parties only in writing and only following formal approval of the amendment by both the Board of Trustees of the Township, the City Council of the City, the Board of Commissioners of the County, and the Board of Directors of the Port Authority (the **Board of Directors**).

(i) Subject to Appropriation. The financial obligations of the City, the County, the Port Authority, and the Township, as applicable, under this Agreement are expressly subject to future ordinances or resolutions of the City Council, the Board of County Commissioners, the Board of Directors, or the Township Trustees, respectively, appropriating and authorizing the expenditure of such funds as are necessary to meet their respective financial obligations occurring after the current fiscal year. Those obligations, as applicable, are also subject to the certification of the City Auditor or his or her designee of the City, the County Auditor of the County, the Fiscal Officer of the Port Authority, or the the Township Fiscal Officer under ORC Sections 5705.41 and 5705.44. Notwithstanding anything to the contrary contained in this Agreement, however, the financial obligations of the City, the County, the Port Authority, and the Township, respectively, under this Agreement shall, to the extent funds are then available, be under the continuing obligation to appropriate the amount necessary to pay such obligations as they become due.

[Signature Pages Follow]

IN WITNESS WHEREOF, the City and the Township have caused this Agreement to be executed by their duly authorized officers as of the date first stated above.

CITY OF ZANESVILLE, OHIO

By: _____
Mayor

Approved as to form and correctness:

Director of Law

[Signature Page to Cooperative Development Agreement]

TOWNSHIP OF PERRY,
MUSKINGUM COUNTY, OHIO

By: _____
Trustee

By: _____
Trustee

By: _____
Trustee

[Signature Page to Cooperative Development Agreement]

MUSKINGUM COUNTY, OHIO

By: _____
Commissioner

By: _____
Commissioner

By: _____
Commissioner

[Signature Page to Cooperative Development Agreement]

ZANESVILLE-MUSKINGUM
COUNTY PORT AUTHORITY

By: _____
Matt Abbott, Executive Director

[Signature Page to Cooperative Development Agreement]

CITY'S FISCAL OFFICER'S CERTIFICATE

The undersigned, Fiscal Officer of the City of Zanesville, Ohio, hereby certifies that the moneys required to meet the obligations of the City during the year 2020 under the foregoing Agreement have been lawfully appropriated by the City Council of the City of Zanesville, Ohio for such purpose and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

Fiscal Officer
City of Zanesville, Ohio

Dated: [], 2020

[Fiscal Officer Certificate to Cooperative Development Agreement]

TOWNSHIP'S FISCAL OFFICER'S CERTIFICATE

The undersigned, Fiscal Officer of Perry Township, Muskingum County, Ohio, hereby certifies that the moneys required to meet the obligations of the Township during the year 2020 under the foregoing Agreement have been lawfully appropriated by the Board of Trustees of Perry Township, Muskingum County, Ohio for such purpose and are in the treasury of the Township or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

Fiscal Officer
Perry Township, Muskingum County, Ohio

Dated: [], 2020

[Fiscal Officer Certificate to Cooperative Development Agreement]

COUNTY'S FISCAL OFFICER'S CERTIFICATE

The undersigned, County Auditor of Muskingum County, Ohio, hereby certifies that the moneys required to meet the obligations of the County during the year 2020 under the foregoing Agreement have been lawfully appropriated by the Board of Commissioners of Muskingum County, Ohio for such purpose and are in the treasury of the County or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

County Auditor
Muskingum County, Ohio

Dated: [____], 2020

[Fiscal Officer Certificate to Cooperative Development Agreement]

PORT AUTHORITY'S FISCAL OFFICER'S CERTIFICATE

The undersigned, fiscal officer of the Zanesville-Muskingum County Port Authority, hereby certifies that the moneys required to meet the obligations of the Port Authority during the year 2020 under the foregoing Agreement have been lawfully appropriated by the Board of Directors of the Zanesville-Muskingum County Port Authority for such purpose and are in the treasury of the Port Authority or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

Fiscal Officer
Zanesville-Muskingum County Port Authority

Dated: [____], 2020

[Fiscal Officer Certificate to Cooperative Development Agreement]

EXHIBIT A

MAP OF COOPERATIVE DISTRICT

[Map of Cooperative District]

Attachment to Ordinance No. 2020-70
EXHIBIT A

The real property included in the City of Zanesville - Perry Township Joint Economic Development District is outlined in red on the following map:



EXHIBIT B

INITIAL INFRASTRUCTURE IMPROVEMENTS

[Fiscal Officer Certificate to Cooperative Development Agreement]

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ECONOMIC DEVELOPMENT PLAN

Introduction

The purpose of this plan, established pursuant to Ohio Revised Code Section 715.72(F)(3), is to set forth the economic development objectives of the City of Zanesville-Perry Township Joint Economic Development District (the **District**). This plan shall serve as a framework for District efforts to engineer economic growth in Perry Township (the **Township**) and the City of Zanesville (the **City**) as well as throughout the region as a whole.

Background and Goals

The District is located on approximately 203.41 acres near intersection of Hicks Road and State Route 40 in Perry Township in Muskingum County, Ohio (the **Site**). Other industry is located near the District, and the District is a prime location for industry if supported by infrastructure and services. The Zanesville-Muskingum County Port Authority (the **Port Authority**), has expressed interest in undertaking the acquisition, construction, equipping and improvement of port authority facilities as defined in Ohio Revised Code Section 4582.21, including office and commercial space (the **Project**) on the Site if necessary infrastructure improvements can be provided.

The District, together with its partners the Township and the City and with the assistance of the Port Authority, has agreed to cooperate to attract and retain quality employers and to fuel continued industrial growth in the region.

Specifically, the District will pursue the following objectives:

- To support the Project and additional economic development in the vicinity of the Project;
- To stabilize the local tax base through the encouragement of commercial investment;
- To ensure that the District's growth is supported by adequate governmental services, including police and fire protection;
- To ensure that the District's growth is supported by adequate roads in the District, including the maintenance of existing roads and the construction and maintenance of necessary future roads;
- To promote development opportunities; and
- To encourage development that will retain and create quality jobs in the Township and the City.

EXHIBIT C

FORM OF JEDD AGREEMENT

[See Attached.]

[Form of JEDD Agreement]

OHIO REVISED CODE SECTION 715.72
EFFECTIVE AS OF DATE OF PETITION

(A) As used in this section:

(1) "Contracting parties" means one or more municipal corporations, one or more townships, and, under division (D) of this section, one or more counties that have entered into a contract under this section to create a joint economic development district.

(2) "District" means a joint economic development district created under this section.

(3) "Contract for utility services" means a contract under which a municipal corporation agrees to provide to a township or another municipal corporation water, sewer, electric, or other utility services necessary to the public health, safety, and welfare.

(4) "Business" means a sole proprietorship, a corporation for profit, a pass-through entity as defined in section 5733.04 of the Revised Code, the federal government, the state, the state's political subdivisions, a nonprofit organization, or a school district.

(5) "Owner" means a partner of a partnership, a member of a limited liability company, a majority shareholder of an S corporation, a person with a majority ownership interest in a pass-through entity, or any officer, employee, or agent with authority to make decisions legally binding upon a business.

(6) "Record owner" means the person or persons in whose name a parcel is listed on the tax list or exempt list compiled by the county auditor under section 319.28 or 5713.08 of the Revised Code.

(7) A business "operates within" a district if the net profits of the business or the income of employees of the business would be subject to an income tax levied within the district.

(8) An employee is "employed within" a district if any portion of the employee's income would be subject to an income tax levied within the district.

(9) "Mixed-use development" means a real estate project that tends to mitigate traffic and sprawl by integrating some combination of retail, office, residential, hotel, recreation, and other functions in a pedestrian-oriented environment that maximizes the use of available space by allowing members of the community to live, work, and play in one architecturally expressive area with multiple amenities.

(B) This section provides alternative procedures and requirements to those set forth in sections 715.70 and 715.71 of the Revised Code for creating and operating a joint economic development district. This section applies to municipal corporations and townships that are located in the same county or in adjacent counties.

(C) One or more municipal corporations, one or more townships, and, under division (D) of this section, one or more counties may enter into a contract pursuant to which they designate one or

more areas as a joint economic development district for the purpose of facilitating economic development and redevelopment, to create or preserve jobs and employment opportunities, and to improve the economic welfare of the people in this state and in the area of the contracting parties.

(1) Except as otherwise provided in division (C)(2) of this section, the territory of each of the contracting parties shall be contiguous to the territory of at least one other contracting party, or contiguous to the territory of a township, municipal corporation, or county that is contiguous to another contracting party, even if the intervening township or municipal corporation is not a contracting party.

(2) Contracting parties that have entered into a contract under section 715.70 or 715.71 of the Revised Code creating a joint economic development district prior to November 15, 1995, may enter into a contract under this section even if the territory of each of the contracting parties is not contiguous to the territory of at least one other contracting party, or contiguous to the territory of a township or municipal corporation that is contiguous to another contracting party as otherwise required under division (C)(1) of this section. The contract and district shall meet the requirements of this section.

(D) If, on or after December 30, 2008, but on or before June 30, 2009, one or more municipal corporations and one or more townships enter into a contract or amend an existing contract under this section, one or more counties in which all of those municipal corporations or townships are located also may enter into the contract as a contracting party or parties.

(E)

(1) The area or areas to be included in a joint economic development district shall meet all of the following criteria:

(a) The area or areas shall be located within the territory of one or more of the contracting parties and may consist of all of the territory of any or all of the contracting parties.

(b) No electors, except those residing in a mixed-use development, shall reside within the area or areas on the effective date of the contract creating the district.

(c) The area or areas shall not include any parcel of land owned in fee by or leased to a municipal corporation or township, unless the municipal corporation or township is a contracting party or has given its consent to have the parcel of land included in the district by the adoption of an ordinance or resolution.

(2) The contracting parties may designate excluded parcels within the boundaries of the joint economic development district. Excluded parcels are not part of the district and persons employed or residing on such parcels shall not be subject to any income tax imposed within the district under division (F)(5) of this section.

(F)

(1) The contract creating a joint economic development district shall provide for the amount or nature of the contribution of each contracting party to the development and operation of the district and may provide for the sharing of the costs of the operation of and improvements for the district. The contributions may be in any form to which the contracting parties agree and may include, but are not limited to, the provision of services, money, real or personal property, facilities, or equipment.

(2) The contract may provide for the contracting parties to share revenue from taxes levied by one or more of the contracting parties if those revenues may lawfully be applied to that purpose under the legislation by which those taxes are levied.

(3) The contract shall include an economic development plan for the district that consists of a schedule for the provision of new, expanded, or additional services, facilities, or improvements. The contract may provide for expanded or additional capacity for or other enhancement of existing services, facilities, or improvements.

(4) The contract shall enumerate the specific powers, duties, and functions of the board of directors of the district described under division (P) of this section and shall designate procedures consistent with that division for appointing members to the board. The contract shall enumerate rules to govern the board in carrying out its business under this section.

(5)

(a) The contract may grant to the board the power to adopt a resolution to levy an income tax within the entire district or within portions of the district designated by the contract. The income tax shall be used to carry out the economic development plan for the district or the portion of the district in which the tax is levied and for any other lawful purpose of the contracting parties pursuant to the contract, including the provision of utility services by one or more of the contracting parties.

(b) An income tax levied under this section shall be based on both the income earned by persons employed or residing within the district and the net profit of businesses operating within the district.

Except as provided in this section, the income tax levied within the district is subject to Chapter 718. of the Revised Code, except that no vote shall be required. The rate of the income tax shall be no higher than the highest rate being levied by a municipal corporation that is a contracting party.

(c) If the board adopts a resolution to levy an income tax, it shall enter into an agreement with a municipal corporation that is a contracting party to administer, collect, and enforce the income tax on behalf of the district.

(d) A resolution levying an income tax under this section shall require the contracting parties to annually set aside a percentage, to be stated in the resolution, of the amount of the income tax collected for the long-term maintenance of the district.

(e) An income tax levied under this section shall apply in the district or the portion of the district in which the contract authorizes an income tax throughout the term of the contract creating the district. The tax shall not apply to any persons employed or residing on a parcel excluded from the district under division (E)(2) of this section.

(6) If there is unincorporated territory in the district, the contract shall specify that restrictions on annexation proceedings under division (R) of this section apply to such unincorporated territory. The contract may prohibit proceedings under Chapter 709. of the Revised Code proposing the annexation to. merger of. or consolidation with a municipal corporation that is a contracting party of any unincorporated territory within a township that is a contracting party during the term of the contract regardless of whether that territory is located within the district.

(7) The contract may designate property as a community entertainment district, or may be amended to designate property as a community entertainment district, as prescribed in division (D) of section 4301.80 of the Revised Code. A contract or amendment designating a community entertainment district shall include all information and documentation described in divisions (B)(1) to (6) of section 4301.80 of the Revised Code. The public notice required under division (I) of this section shall specify that the contract designates a community entertainment district and describe the location of that district. Except as provided in division (F) of section 4301.80 of the Revised Code, an area designated as a community entertainment district under a joint economic development district contract shall not lose its designation even if the contract is canceled or terminated.

(G) The contract creating a joint economic development district shall continue in existence throughout its term and shall be binding on the contracting parties and on any parties succeeding to the contracting parties, whether by annexation, merger, or consolidation. Except as provided in division (H) of this section, the contract may be amended, renewed, or terminated with the approval of the contracting parties or any parties succeeding to the contracting parties. If the contract is amended to add or remove an area to or from an existing district, the amendment shall be adopted in the manner prescribed under division (L) of this section.

(H) If two or more contracting parties previously have entered into a separate contract for utility services, then amendment, renewal, or termination of the separate contract for utility services shall not constitute any part of the consideration for the contract creating a joint economic development district. A contract creating a joint economic development district shall be rebuttably presumed to violate this division if it is entered into within two years prior or five years subsequent to the amendment, renewal, or termination of a separate contract for utility services that two or more contracting parties previously have entered into. The presumption stated in this division may be rebutted by clear and convincing evidence of both of the following:

(1) That other substantial consideration existed to support the contract creating a joint economic development district;

(2) That the contracting parties entered into the contract creating a joint economic development district freely and without duress or coercion related to the amendment, renewal, or termination of the separate contract for utility services.

A contract creating a joint economic development district that violates this division is void and unenforceable.

(I)

(1) Before the legislative authority of any of the contracting parties adopts an ordinance or resolution approving a contract to create a district, the legislative authority of each of the contracting parties shall hold a public hearing concerning the contract and district. Each legislative authority shall provide at least thirty days' public notice of the time and place of the public hearing in a newspaper of general circulation in the municipal corporation, township, or county, as applicable. During the thirty-day period prior to the public hearing and until the date that an ordinance or resolution is adopted under division (K) of this section to approve the joint economic development district contract, all of the following documents shall be available for public inspection in the office of the clerk of the legislative authority of a municipal corporation and county that is a contracting party and in the office of the fiscal officer of a township that is a contracting party:

(a) A copy of the contract creating the district, including the economic development plan for the district and the schedule for the provision of new, expanded, or additional services, facilities, or improvements described in division (F)(3) of this section;

(b) A description of the area or areas to be included in the district, including a map in sufficient detail to denote the specific boundaries of the area or areas and to indicate any zoning restrictions applicable to the area or areas, and the parcel number, provided for under section 319.28 of the Revised Code, of any parcel located within the boundaries of the joint economic development district and excluded from the district under division (E)(2) of this section;

(c) If the contract authorizes the board of directors of the district to adopt a resolution to levy an income tax within the district or within portions of the district, a schedule for the collection of the tax.

(2) A public hearing held under this division shall allow for public comment and recommendations on the contract and district. The contracting parties may include in the contract any of those recommendations prior to approval of the contract.

(J) Before any of the contracting parties approves a contract under division (K) of this section, the contracting parties shall circulate one or more petitions to record owners of real property located within the proposed joint economic development district and owners of businesses operating within the proposed district. The petitions shall state that all of the documents described in divisions (I)(1)(a) to (c) of this section are available for public inspection in the office of the clerk of the legislative authority of each municipal corporation and county that is a contracting party or the office of the fiscal officer of each township that is a contracting party. The petitions shall clearly indicate that, by signing the petition, the record owner or owner consents to the proposed joint economic development district.

A contracting party may send written notice of the petitions by certified mail with return receipt requested to the last known mailing addresses of any or all of the record owners of real property located within the proposed district or the owners of businesses operating within the proposed district. The contracting parties shall equally share the costs of complying with this division.

(K)

(1) After the public hearings required under division (I) of this section have been held and the petitions described in division (J) of this section have been signed by the majority of the record owners of real property located within the proposed joint economic development district and by a majority of the owners of businesses, if any, operating within the proposed district, each contracting party may adopt an ordinance or resolution approving the contract to create a joint economic development district. Not later than ten days after all of the contracting parties have adopted ordinances or resolutions approving the district contract, each contracting party shall give notice of the proposed district to all of the following:

(a) Each record owner of real property to be included in the district and in the territory of that contracting party who did not sign the petitions described in division (J) of this section;

(b) An owner of each business operating within the district and in the territory of that contracting party no owner of which signed the petitions described in division (J) of this section.

(2) Such notices shall be given by certified mail and shall specify that the property or business is located within an area to be included in the district and that all of the documents described in divisions (I)(1)(a) to (c) of this section are available for public inspection in the office of the clerk of the legislative authority of each municipal corporation and county that is a contracting party or the office of the fiscal officer of each township that is a contracting party. The contracting parties shall equally share the costs of complying with division (K) of this section.

(L)

(1) The contracting parties may amend the joint economic development district contract to add any area that was not originally included in the district if the area satisfies the criteria prescribed under division (E) of this section. The contracting parties may also amend the district contract to remove any area originally included in the district or exclude one or more parcels located within the district pursuant to division (E)(2) of this section.

(2) An amendment adding an area to a district, removing an area from the district, or excluding one or more parcels from the district may be approved only by a resolution or ordinance adopted by each of the contracting parties. The contracting parties shall conduct public hearings on the amendment and provide notice in the manner required under division (I) of this section for original contracts. The contracting parties shall make available for public inspection a copy of the amendment, a description of the area to be added, removed, or excluded to or from the district, and a map of that area in sufficient detail to denote the specific boundaries of the area and to indicate any zoning restrictions applicable to the area.

Attachment to Ordinance No. 2020-70
EXHIBIT C

(3) Before adopting a resolution or ordinance approving the addition of an area to the district, the contracting parties shall circulate petitions to the record owners of real property located within the proposed addition to the district and owners of businesses operating within the proposed addition to the district in the same manner required under division (J) of this section for original contracts. The contracting parties may notify such record owners of real property and owners of businesses that the petitions are available for signing in the same manner provided by that division. The contracting parties shall equally share the costs of complying with this division.

(4) The contracting parties to a joint economic development district may vote to approve an amendment to the district contract under this division after the public hearings required under division (L)(2) of this section are completed and, if the amendment adds an area or areas to the district, the petitions required under division (L)(3) of this section have been signed by the majority of record owners of real property located within the area or areas added to the district and by a majority of the owners of businesses, if any, operating within the proposed addition to the district.

(5) Not later than ten days after all of the contracting parties have adopted ordinances or resolutions approving an amendment adding one or more areas to the district, each contracting party shall give notice of the addition to all of the following:

(a) Each record owner of real property to be included in the addition to the district and in the territory of that contracting party who did not sign the petitions described in division (L)(3) of this section;

(b) An owner of each business operating within the addition to the district and in the territory of that contracting party no owner of which signed the petitions described in division (L)(3) of this section.

The contracting parties shall equally share the costs of complying with division (L)(5) of this section.

(M)

(1) A board of township trustees that is a party to a contract creating a joint economic development district may choose not to submit its resolution approving the contract to the electors of the township if all of the following conditions are satisfied:

(a) The resolution has been approved by a unanimous vote of the members of the board of township trustees or, if a county is one of the contracting parties under division (D) of this section, the resolution has been approved by a majority vote of the members of the board of township trustees;

(b) The contracting parties have circulated petitions as required under division (J) of this section and obtained the signatures required under division (L) of this section;

(c) The territory to be included in the proposed district is zoned in a manner appropriate to the function of the district.

(2) If the board of township trustees has not invoked its authority under division (M)(1) of this section, the board, at least ninety days before the date of the election, shall file its resolution approving the district contract with the board of elections for submission to the electors of the township for approval at the next succeeding general, primary, or special election.

(3) Any contract creating a district in which a board of township trustees is a party shall provide that the contract is not effective before the thirty-first day after its approval, including approval by the electors of the township if required by this section.

(4) If the board of township trustees invokes its authority under division (M)(1) of this section and does not submit the district contract to the electors for approval, the resolution of the board of township trustees approving the contract is subject to a referendum of the electors of the township when requested through a petition. When signed by ten per cent of the number of electors in the township who voted for the office of governor at the most recent general election, a referendum petition asking that the resolution be submitted to the electors of the township may be presented to the board of township trustees. Such a petition shall be presented within thirty days after the board of township trustees adopts the resolution approving the district contract. The board of township trustees shall, not later than four p.m. of the tenth day after receipt of the petition, certify the text of the resolution to the board of elections. The board of elections shall submit the resolution to the electors of the township for their approval or rejection at the next general, primary, or special election occurring at least ninety days after certification of the resolution.

(N) The ballot respecting a resolution to create a district or a referendum of such a resolution shall be in the following form:

"Shall the resolution of the board of township trustees approving the contract with..... (here insert name of every other contracting party) for the creation of a joint economic development district be approved?"

FOR THE RESOLUTION AND CONTRACT

AGAINST THE RESOLUTION AND CONTRACT

If a majority of the electors of the township voting on the issue vote for the resolution and contract, the resolution shall become effective immediately and the contract shall go into effect on the thirty-first day after the election or thereafter in accordance with terms of the contract.

(O) Upon the creation of a district under this section, one of the contracting parties shall file a copy of each of the following documents with the director of development services:

(1) All of the documents described in divisions (I)(1)(a) to (c) of this section;

(2) Certified copies of the ordinances and resolutions of the contracting parties relating to the contract and district;

(3) Documentation from each contracting party that the public hearings required by division (I) of this section have been held, the date of the hearings, and evidence that notice of the hearings was published as required by that division;

(4) A copy of the signed petitions required under divisions (J) and (K) of this section.

(P) A board of directors shall govern each district created under this section.

(1) If there are businesses operating and persons employed within the district, the board shall be composed of the following members:

(a) One member representing the municipal corporations that are contracting parties;

(b) One member representing the townships that are contracting parties;

(c) One member representing the owners of businesses operating within the district;

(d) One member representing the persons employed within the district;

(e) One member representing the counties that are contracting parties, or, if no contracting party is a county, one member selected by the members described in divisions (P)(1)(a) to (d) of this section.

The members of the board shall be appointed as provided in the district contract. Of the members initially appointed to the board, the member described in division (P)(1)(a) of this section shall serve a term of one year; the member described in division (P)(1)(b) of this section shall serve a term of two years; the member described in division (P)(1)(c) of this section shall serve a term of three years; and the members described in divisions (P)(1)(d) and (e) of this section shall serve terms of four years. Thereafter, terms for each member shall be for four years, each term ending on the same day of the same month of the year as did the term that it succeeds. A member may be reappointed to the board, but no member shall serve more than two consecutive terms on the board.

The member described in division (P)(1)(e) of this section shall serve as chairperson of the board described under division (P)(1) of this section.

(2) If there are no businesses operating or persons employed within the district, the board shall be composed of the following members:

(a) One member representing the municipal corporations that are contracting parties;

(b) One member representing the townships that are contracting parties;

(c) One member representing the counties that are contracting parties, or if no contracting party is a county, one member selected by the members described in divisions (P)(2)(a) and (b) of this section.

The members of the board shall be appointed as provided in the district contract. Of the members initially appointed to the board, the member described in division (P)(2)(a) of this section shall serve a term of one year; the member described in division (P)(2)(b) of this section shall serve a term of two years; and the member described in division (P)(2)(c) of this section shall serve a term of three years. Thereafter, terms for each member shall be for four years, each term ending on the same day of the same month of the year as did the term that it succeeds. A member may be reappointed to the board, but no member shall serve more than two consecutive terms on the board.

The member described in division (P)(2)(c) of this section shall serve as chairperson of a board described under division (P)(2) of this section.

(3) A board described under division (P)(1) or (2) of this section has no powers except as described in this section and in the contract creating the district.

(4) Membership on the board of directors of a joint economic development district created under this section is not the holding of a public office or employment within the meaning of any section of the Revised Code prohibiting the holding of other public office or employment. Membership on such a board is not a direct or indirect interest in a contract or expenditure of money by a municipal corporation, township, county, or other political subdivision with which a member may be affiliated. Notwithstanding any provision of law to the contrary, no member of a board of directors of a joint economic development district shall forfeit or be disqualified from holding any public office or employment by reason of membership on the board.

(5) The board of directors of a joint economic development district is a public body for the purposes of section 121.22 of the Revised Code. Chapter 2744. of the Revised Code applies to such a board and the district.

(Q)

(1) On or before the date occurring six months after the effective date of the district contract, an owner of a business operating within the district may, on behalf of the business and its employees, file a complaint with the court of common pleas of the county in which the majority of the territory of the district is located requesting exemption from any income tax imposed by the board of directors of the district under division (F)(5) of this section if all of the following apply:

(a) The business operated within an unincorporated area of the district before the effective date of the district contract;

(b) No owner of the business signed a petition described in division (J) of this section;

(c) Neither the business nor its employees has derived or will derive any material benefit from the new, expanded, or additional services, facilities, or improvements described in the economic development plan for the district, or the material benefit that has, or will be, derived is negligible in comparison to the income tax revenue generated from the net profits of the business and the income of employees of the business.

The legislative authority of each contracting party shall be made a party to the proceedings and the business owner filing the complaint shall serve notice of the complaint by certified mail to each such contracting party. The court shall not accept any complaint filed more than six months after the effective date of the district contract.

(2) Any or all of the contracting parties may submit a written answer to the complaint submitted under division (Q)(1) of this section to the court within thirty days after notice of the complaint was served upon them. Such a contracting party shall submit to the court, along with the answer, documentation sufficient to prove that the contracting party sent copies of the answer to the owner of the business who filed the complaint.

(3) The court shall review each complaint submitted by a business owner under division (O) (1) of this section and each answer submitted by a contracting party under division (Q)(2) of this section. The court may make a determination on the record and the evidence thus submitted, or it may conduct a hearing and request the presence of the business owner and the contracting parties to present evidence relevant to the complaint. The court shall make a determination on the complaint not sooner than thirty days but not later than sixty days after the complaint is filed by the business owner. The court may make a determination more than sixty days after the complaint is filed if the business owner and all contracting parties to the district consent.

(4) The court shall grant the exemption requested in the complaint if all of the criteria described in divisions (Q)(1)(a) to (c) of this section are met.

(5) If all the criteria described in divisions (Q)(1)(a) to (c) of this section are not met, the court shall deny the complaint and the exemption.

(6) The court shall send notice of the determination with respect to the complaint to the owner of the business and each contracting party. If the court grants the exemption, the net profits of the business from operations within the district and the income of its employees from employment within the district are exempt from any income tax imposed by the board of directors of the district. If the court denies the exemption, the net profits of the business and the income of its employees shall be taxed according to the terms of the district contract and any taxes, penalties, and interest accrued before the date of the court's determination shall be paid in full. In addition, no owner of the business may submit another complaint under division (Q)(1) of this section for the same district contract. The court's determination on a complaint filed under division (O) of this section is final.

(7) Chapter 2506. of the Revised Code does not apply to the proceedings described in division (O) of this section.

(R)

(1) No proceeding pursuant to Chapter 709. of the Revised Code that proposes the annexation to, merger of, or consolidation with a municipal corporation of any unincorporated territory within a joint economic development district may be commenced at any time between the effective date of the contract creating the district and the date the contract expires, terminates, or is otherwise

rendered unenforceable. This division does not apply if each board of township trustees whose territory is included within the district and whose territory is proposed to be annexed, merged, or consolidated adopts a resolution consenting to the commencement of the proceeding. Each such board of township trustees shall file a copy of the resolution with the clerk of the legislative authority of each county within which a contracting party is located.

(2) The contract creating a joint economic development district may prohibit any annexation proceeding by a contracting municipal corporation of any unincorporated territory within the district or zone beyond the period described in division (R)(1) of this section.

(3) No contracting party is divested or relieved of its rights or obligations under the contract creating a joint economic development district because of annexation, merger, or consolidation.

(S) Contracting parties may enter into agreements pursuant to the contract creating a joint economic development district with respect to the substance and administration of zoning and other land use regulations, building codes, permanent public improvements, and other regulatory and proprietary matters determined to be for a public purpose. No contract, however, shall exempt the territory within the district from the procedures of land use regulation applicable pursuant to municipal corporation, township, and county regulations, including, but not limited to, zoning procedures.

(T) The powers granted under this section are in addition to and not in the derogation of all other powers possessed by or granted to municipal corporations, townships, and counties pursuant to law.

(1) When exercising a power or performing a function or duty under a contract entered into under this section, a municipal corporation may exercise all the powers of a municipal corporation, and may perform all the functions and duties of a municipal corporation, within the district, pursuant to and to the extent consistent with the contract.

(2) When exercising a power or performing a function or duty under a contract entered into under division (D) of this section, a county may exercise all of the powers of a county, and may perform all the functions and duties of a county, within the district pursuant to and to the extent consistent with the contract.

(3) When exercising a power or performing a function or duty under a contract entered into under this section, a township may exercise all the powers of a township, and may perform all the functions and duties of a township, within the district, pursuant to and to the extent consistent with the contract.

(U) No political subdivision shall grant any tax exemption under Chapter 1728, or section 3735.67, 5709.62, 5709.63, or 5709.632 of the Revised Code on any property located within the district without the consent of all the contracting parties. The prohibition against granting a tax exemption under this section does not apply to any exemption filed, pending, or approved before the effective date of the contract entered into under this section.

Attachment to Ordinance No. 2020-70
EXHIBIT C

Amended by 131st General Assembly File No. TBD, HB 182, §1, eff. 9/13/2016.

Effective Date: 03-22-1999; 2008 SB129 12-30-2008

Ways and Means Committee
Ann Gildow - Chairperson

ORDINANCE NO. 2020- 71
INTRODUCED BY COUNCIL

AN ORDINANCE REPEALING ORDINANCE 19-96

WHEREAS, on or about September 9, 2019, Zanesville City Council passed Ordinance 19-96, titled "An Ordinance authorizing the proper City official to enter into an agreement with Compucorp as the internet service provider for Zanesville Downtown Fiberoptic Network"; and

WHEREAS, the agreement between the City and Compucorp was not executed before the end of 2019; and

WHEREAS, R.C. Section 731.48 states, "Contract Restrictions: The legislative authority of a municipal corporation shall not enter into any contract which is not to go into full operation during the term for which all the members of such legislative authority are elected"; and

WHEREAS, because the Compucorp agreement was not executed in 2019, the agreement became null and void; and

WHEREAS, the City has determined, in light of the recent COVID-related emergency, to utilize the grant funding originally slated for Compucorp for more urgent community health-related purposes; and

WHEREAS, in an effort to effectively organize the Ordinances of the City of Zanesville, it was determined that Ordinance 19-96 should be repealed.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Zanesville, State of Ohio, that:

SECTION ONE: Zanesville City Ordinance 19-96, titled "An Ordinance authorizing the proper City official to enter into an agreement with Compucorp as the internet service provider for Zanesville Downtown Fiberoptic Network", is hereby repealed in its entirety.

SECTION TWO: It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including §121.22 of the Ohio Revised Code, and the Rules of this Council.

SECTION THREE: This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____, 2020

ATTEST: _____
Susan Culbertson
Clerk of Council

Daniel M. Vincent
President of Council

APPROVED: _____, 2020

This legislation approved as to form:

Don Mason, Mayor



Law Director's Office

**ORDINANCE NO. 2020-75
INTRODUCED BY COUNCIL**

AN ORDINANCE REPEALING ORDINANCE NO. 18-92, CREATION OF A DOWNTOWN REDEVELOPMENT DISTRICT

WHEREAS, The City of Zanesville ("the City") approved Ordinance No. 18-92 using the authority granted in Ohio Revised Code Sections 5709.45 through 5709.47 to create a Downtown Redevelopment District (DRD), the "Zane-Zenith DRD," and to declare to be a public purpose any infrastructure improvements made that are necessary for the development of such a DRD, thereby exempting seventy percent (70%) of improvements to such parcels from real property taxation for established time periods; and

WHEREAS, the historic building of the Zane-Zenith DRD is the Zane-Zenith building, a locally designated historic property established by Ordinance 17-117, which is located at 11 North 4th Street, Zanesville, Ohio, Parcel Number 81-64-03-18-000; and

WHEREAS, the City filed necessary documentation with the Muskingum County Auditor's for the Zane-Zenith DRD to be certified to and by the Ohio Tax Commissioner's Office; and

WHEREAS, the DRD is still pending certification from the Ohio Tax Commissioner's Office; and

WHEREAS, the City and historic building owner have determined the benefits of the DRD will not greatly enhance downtown redevelopment efforts; and

WHEREAS, the historic building owner has requested the pending DRD be withdrawn from consideration for certification.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Zanesville, State of Ohio, that:

- SECTION 1:** Ordinance No. 18-92 be repealed in its entirety.
- SECTION 2:** The Community Development Director is authorized and directed to provide a certified copy of this ordinance to the Muskingum County Auditor's Office and the Ohio Tax Commissioner's Office to demonstrate the City's desire that the request for certification be withdrawn.
- SECTION 3:** This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____, 2020

ATTEST: _____
SUSAN CULBERTSON
CLERK OF COUNCIL

DANIEL M. VINCENT
PRESIDENT OF COUNCIL

APPROVED: _____, 2020

THIS LEGISLATION APPROVED AS TO FORM

Donald L. Mason,
Mayor



LAW DIRECTOR'S OFFICE

**ORDINANCE NO. 2020-76
INTRODUCED BY COUNCIL**

**AN ORDINANCE AUTHORIZING THE PROPER CITY OFFICIAL TO ENTER INTO AN AGREEMENT
TERMINATING AN AMENDED HISTORIC PROPERTY INVESTMENT AGREEMENT IN CONNECTION
WITH THE ZANE-ZENITH DOWNTOWN REDEVELOPMENT DISTRICT**

WHEREAS, Zanesville City Council previously authorized Ordinance 17-117, which Ordinance certified the property located at 11 North 4th Street, Zanesville, Parcel Number 81-64-03-18-000, as a locally designated historic property (the "Historic Property" or "Zane-Zenith Building"); and

WHEREAS, Zanesville City Council previously authorized Ordinance 18-92 that engaged the authority granted to the City of Zanesville ("the City") pursuant to Ohio Revised Code ("ORC") Sections 5709.45 through 5709.47 to establish a Downtown Redevelopment District (the "Zane-Zenith DRD") in an area located in Downtown Zanesville and encompassing a 9.65 acre area enclosed by a continuous boundary in which a historic building will be rehabilitated; and

WHEREAS, the City filed necessary documentation with the Muskingum County Auditor's for the Zane-Zenith DRD to be certified to and by the Ohio Tax Commissioner's Office; and

WHEREAS, the DRD is still pending certification from the Ohio Tax Commissioner's Office; and

WHEREAS, Ordinance 18-93, previously approved by the Zanesville City Council, authorized the proper city official to enter in to a Historic Property Investment Agreement with the Zane-Zenith Company for rehabilitation of the Historic Property; and

WHEREAS, Zanesville City Council previously authorized Ordinance No. 2020-13 authorizing the proper city official to enter into an amended Historic Property Investment Agreement with the Zane-Zenith Company for rehabilitation of the Historic Property; and

WHEREAS, the City and historic building owner have determined the benefits of the DRD will not greatly enhance downtown redevelopment efforts; and

WHEREAS, the historic building owner has requested the pending DRD be withdrawn from consideration for certification; and

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Zanesville, State of Ohio, that:

- SECTION 1:** The Proper City Official of the City of Zanesville is hereby authorized to enter into An Agreement with the Zane-Zenith Company to terminate the amended Historic Property Investment Agreement.
- SECTION 2:** A certified copy of this ordinance will be provided to the Muskingum County Auditor's Office and Ohio Tax Commissioner's Office.
- SECTION 3:** This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____, 2020

ATTEST: _____
SUSAN CULBERTSON
CLERK OF COUNCIL

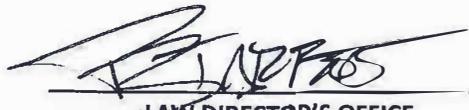
DANIEL M. VINCENT
PRESIDENT OF COUNCIL

Ordinance No. 2020-76

APPROVED: _____, 2020

THIS LEGISLATION APPROVED AS TO FORM

Donald L. Mason,
Mayor



LAW DIRECTOR'S OFFICE

CERTIFICATE OF RECORDING OFFICER

I, the undersigned, hereby certify, that the foregoing is a true and correct copy of the resolution adopted by the Council of the City of Zanesville at the Council Meeting held on the ____ day in the month of _____, 2020, and that I am a duly authorized to execute this certificate.

Signature
Sue Culbertson, Clerk of Council