Worthington City Council Agenda
Louis J.R. Goorey Municipal Building
John P. Coleman Council Chamber
Monday, April 15, 2019 ~ 7:30 PM

1. Call To Order

2. Roll Call

3. Pledge of Allegiance

4. Visitor Comments

5. Special Presentation(s)

5.A. Resolution No. 19-2019 Good Neighbor Award 2018

To Congratulate Jack and Melissa Conrath on their recognition as recipients of the 2018 Good Neighbor Award from the Worthington Community Relations Commission.

Executive Summary: This Resolution congratulates Jack and Melissa Conrath on their recognition as recipients of the 2018 Good Neighbor Award from the Worthington Community Relations Commission.

Recommendation: Introduce and Approve as Presented
6. Approval of the Minutes

6.A. Meeting Minutes - April 1, 2019

Recommendation: Approve as Presented

7. Public Hearings on Legislation

7.A. **Ordinance No. 09-2019** Worthington Gateway TIF and Development Agreement

Declaring Improvements to Real Property within the City to be a Public Purpose; Declaring such Property to be Exempt from Real Property Taxation; Requiring the Owners of the Real Property to Make Service Payments In Lieu of Taxes; Establishing an Urban Redevelopment Tax Increment Equivalent Fund for the Deposit of Service Payments; and Authorizing the City Manager to Enter Into a Tax Increment Financing Service Agreement and a Development Agreement with the Property Owner.

Executive Summary: This Ordinance authorizes an Urban Redevelopment Tax Increment Financing Program and a Development Agreement to support the redevelopment of the former Holiday Inn property.

Recommendation: Approve as Presented

Legislative History: Introduced March 4, 2019

7.B. **Ordinance No. 13-2019** Appropriation - Bicycle and Pedestrian Improvement Program

Amending Ordinance No. 52-2018 (As Amended) to Adjust the Annual Budget by Providing for an Appropriation from the Capital Improvements Fund Unappropriated Balance to Pay the Costs of the 2019 Bicycle and Pedestrian Improvement Program and all Related Expenses and Determining to Proceed with said Project. (Project No. 693-19)

Executive Summary: This Ordinance appropriates $100,000 from the 2019 Capital Improvement Fund for Bike and Pedestrian Improvements as recommended by the Bicycle and Pedestrian Advisory Board.

Recommendation: Approve as Presented

Legislative History: Introduced on April 1, 2019
8. New Legislation to Be Introduced

8.A. Resolution No. 20-2019  Amends the Personnel Rules and Regulations

Amending the Personnel Rules and Regulations of the City of Worthington to Authorize Communication Technician Retention Agreements.

*Executive Summary:* This Resolution amends the Personnel Rules and Regulations to authorize Communication Technician Retention Agreements.

*Recommendation:* Introduce and Approve as Presented

8.B. Resolution No. 21-2019  NE Gateway Right-of-Way Acquisition

Authorizing the Acquisition of Certain Real Estate Interests Involving Parcel 22 for the Northeast Gateway Intersection Improvement Project. (Project No. 602-14)

*Executive Summary:* This Resolution authorizes the City Manager to purchase various real estate interests involving Parcel 22 for the Northeast Gateway Intersection Improvement Project.

*Recommendation:* Introduce and Approve as Presented


To Amend Sections 1301.05, 1301.06, 1305.01, 1305.06, 1305.07, 1305.08, 1305.09, 1311.01, 1311.02, 1311.07, 1301.05, and 1301.06; and Enacting Section 1301.07 of the Codified Ordinances of the City of Worthington Related to the Coordination with the State of Ohio Building Codes, the Establishment of Demolition Standards, Modifying Pool Barrier Requirements, and Adjusting Fees.

*Executive Summary:* This Ordinance amends Chapter 13 of the City's Codified Ordinances to adopt the new State of Ohio residential building code and to incorporate requirements for building demolition.

*Recommendation:* Introduce for Public Hearing on May 6, 2019
8.D. **Ordinance No. 16-2019** Planning & Zoning Code Amendments

To Amend Sections 1125.02, 1129.05, and 1173.05 of the Codified Ordinances of the City of Worthington Related to the Coordination with the State of Ohio Building Codes, the Establishment of Demolition Standards, Modifying Pool Barrier Requirements, and Adjusting Fees.

*Executive Summary:* This Ordinance amends Chapter 11 of the City’s Codified Ordinances to incorporate changes related to the State of Ohio Building Codes, demolition standards, pool barrier requirements and fees.

*Recommendation:* Introduce for Public Hearing on May 6, 2019

9. **Reports of City Officials**

9.A. **Discussion Item(s)**

9.A.I. Community Visioning

*Executive Summary:* This item provides time for City Council to discuss next steps for the community visioning process.

10. **Reports of Council Members**

11. **Other**

12. **Executive Session**

13. **Adjournment**
STAFF MEMORANDUM
City Council Meeting – April 15, 2019

Date: April 10, 2019

To: Matthew H. Greeson

From: Lori Trego, Personnel Director

Subject: Good Neighbor Award 2018

EXECUTIVE SUMMARY
This Resolution congratulates Jack and Melissa Conrath on their recognition as recipients of the 2018 Good Neighbor Award from the Worthington Community Relations Commission.

RECOMMENDATION
Introduce and Approve as Presented

BACKGROUND/DESCRIPTION
The Community Relations Commission (CRC) established the Good Neighbor Award to recognize members of the community who promote cooperation and goodwill throughout their neighborhoods and the City of Worthington. The CRC voted to present the 2018 award to Jack and Melissa Conrath. Commission Chair Jack Miner will attend to present this recognition to the Conraths.

ATTACHMENTS
Resolution No. 19-2019
RESOLUTION NO. 19-2019

To Congratulate Jack and Melissa Conrath on Their Recognition as Recipients of the 2018 Good Neighbor Award From the Worthington Community Relations Commission.

WHEREAS, the Worthington Community Relations Commission established the Good Neighbor Award to recognize members of the community who promote cooperation and goodwill throughout their neighborhoods; and,

WHEREAS, on April 15, 2019, the Worthington Community Relations Commission will present the 2018 Good Neighbor Award to Jack and Melissa Conrath; and,

WHEREAS, Jack and Melissa Conrath of East South Street exemplify the term “good neighbor” because of their kindness and generosity toward their neighbors; and,

WHEREAS, Jack and Melissa Conrath help their neighbors with everything from finding lost cats, to taking trash cans back from the curb, to checking on neighbors that are ill or on vacation; and,

WHEREAS, Jack uses his chainsaw to help neighbors with fallen branches or tree trimming, and Melissa has come to the rescue when a neighbor’s plumbing project turned into a flood; and,

WHEREAS, neighborhood children always know that they can turn to Jack and Melissa when their parents are not home. The Conraths also take time to play with three-year-old Emma Dopkiss and are known to be her “most favorite people”; and,

WHEREAS, Jack and Melissa Conrath are true partners in life and share a warm, welcoming and generous spirit; and,

WHEREAS, through their many good deeds, Jack and Melissa Conrath have set an example for all of us to follow;

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

SECTION 1. That this Council does hereby recognize Jack and Melissa Conrath for their kindness, consideration and the promotion of goodwill within their neighborhood and the City of Worthington.

SECTION 2. That the Clerk of Council be instructed to forward a duly certified copy of this Resolution to Jack and Melissa Conrath and to record said Resolution in the appropriate record book.

Adopted

___________________________________
President of Council

Attest:

______________________________
Clerk of Council
CALL TO ORDER – Roll Call, Pledge of Allegiance

Worthington City Council met in Regular Session on Monday, April 1, 2019, in the John P. Coleman Council Chambers of the Louis J.R. Goorey Municipal Building, 6550 North High Street, Worthington, Ohio. President Michael called the meeting to order at or about 7:30 p.m.

ROLL CALL


Member(s) Absent: Scott Myers

Also present: City Manager Matt Greeson, Assistant City Manager Robyn Stewart, Director of Law Tom Lindsey, Director of Finance Scott Bartter, Director of Service & Engineering Dan Whited, Director of Planning & Building Lee Brown, Director of Parks & Recreation Darren Hurley, Chief of Fire John Bailot, Chief of Police Jerry Strait, Clerk of Council D. Kay Thress, Assistant City Clerk Ethan Barnhardt

There were 23 visitors present.

PLEDGE OF ALLEGIANCE

President Michael invited all to stand and join in reciting the Pledge of Allegiance to the flag.

VISITOR COMMENTS

No visitor comments.

SPECIAL PRESENTATION(S)

- Oath of Office – Police Lieutenant

Chief Strait explained how the Division of Police has a proud distinction of hiring talented officers to protect the City of Worthington. Recently, the Division has seen the retirement...
of Lieutenant Jennifer Wuertz, so they undertook a rigorous promotion process to find a
candidate to fill her position. He introduced Lieutenant Stephen Mette who will take over
as the Bureau Commander for the Agency’s Patrol Division. Lieutenant Mette has been
with the Agency as an Officer since 2006, becoming a Sergeant in 2011. He has served in
a wide variety of roles during his time with the Division. He has a bachelor’s degree in
communication systems, a master’s degree in criminology, and numerous other
certifications and qualifications. His wife, Rebecca and their two children, Sebastian and
Bernadette, are in attendance tonight.

Mr. Greeson administered the Oath of Office to Lieutenant Mette.

Lieutenant Mette expressed how he has been blessed in his entire career here with the City
of Worthington and he has had wonderful, supportive people here. He is excited to move
forward into this new position. He also noted how the support of his family has been huge.

APPROVAL OF THE MINUTES

- Committee of the Whole Meeting – March 11, 2019
- Regular Meeting – March 18, 2019

MOTION

Mr. Robinson moved, Mr. Foust seconded a motion to approve the
aforementioned meeting minutes as presented.

The motion to approve the minutes as presented carried unanimously by a voice vote.

Mr. Lindsey explained how he is asking that Council remove the introduction of the non-
discrimination ordinance from the agenda tonight. There was a review from Baker
Hostetler requested to have an additional perspective and due to some family emergency
issues from Mr. Guttman, the review has been delayed. He conveyed that he believes it is
in the best interest of the City to delay the introduction of this for two weeks.

MOTION

Mr. Smith moved, seconded by Ms. Dorothy to remove Ordinance
No. 14-2019 from agenda.

There being no additional comments, the motion passed unanimously by a voice vote.

PUBLIC HEARINGS ON LEGISLATION

President Michael declared public hearings and voting on legislation previously
introduced to be in order.

Ordinance No. 11-2019

Amending Ordinance No. 52-2018 (As Amended) to
Adjust the Annual Budget by Providing for
Appropriations from the 2003 Bicentennial Fund

The foregoing Ordinance Title was read.
Mr. Greeson explained how Council requested that an ordinance be brought regarding the Orange Johnson House renovations and the Bicentennial Fund. Background materials were included in the Council packet, and staff is happy to answer any questions Council may have. This issue was originally raised by Mr. Smith and he invited Mr. Smith to voice any additional comments he may have.

Mr. Smith explained how he understands and respects the history of the Bicentennial Fund. He sees no other project or event in sight, aside from the 250-year anniversary coming up in 30 some years, that would be fitting of this fund. However, he does see this project as being a fitting use of this fund. That is why he chose to use funds from this particular fund.

Ms. Dorothy explained how she is excited that the Historical Society is putting such an investment into updating and protecting the Orange Johnson House. It does have a small setback because that is what is historical in Worthington, but it does come with consequences and there are sustainability issues about the structure. We have lost other buildings in Worthington and The Worthington Historical Society was started when the Griswold Inn was torn down. It would be nice to do what we can to ensure that we continue to have this important piece of history in Worthington. She acknowledged that she is concerned about using the Bicentennial Fund to pay for this, but it is a worthy cause.

Ms. Kowalczyk asked for clarification about exactly where the funds in the Bicentennial Fund actually came from. Mr. Greeson responded that there was a small portion of money carried forward from a previous anniversary celebration. The City also set aside some dollars each year over a period of years prior to the bicentennial celebration. There was a private group of citizens including at least one Councilmember and other community members who raised private dollars which were given to us and put into the Bicentennial Fund. It was a mix of those contributions. After all was said and done, there was an amount left in the fund, and no dollars have been spent since then. The accrued interest since then has also been placed into that fund.

President Michael asked if all those funds were raised for the purpose of some sort of a bicentennial or similar celebration. Mr. Greeson said yes, and it is his understanding that the Council also put funds aside over a period of years in advance of the bicentennial celebration in addition to the private financing.

Mr. Foust said that the word that jumps out to him is the word, “Donated.” He wholly respects the intent of Mr. Smith’s original inquiry and he would be the first in line to support celebrating Worthington history and the Orange Johnson House. He explained how he wishes we knew more about the breakdown of the dollars in the fund. To him, there is a difference if it was private donations versus if a lot of it was City money. Mr. Greeson detailed how the original remaining funds from 1977 was a total of $911.45. Those were funds that came privately. We cannot tell how much the City set aside, but the total budget was several hundred thousand dollars.
Mr. Robinson explained that if in fact we decide we should not use dollars from the Bicentennial Fund, we should fund it from elsewhere.

Dr. Lou Goorey – Former Worthington City Council President

Dr. Goorey described how he was here to discuss Ordinance No. 11-2019. Not the merits of the proposed project, which he believes are very worthwhile, but to raise concern about the proposed source of funding from the Bicentennial account.

He brought up how 2003 was the 200th anniversary of the founding of Worthington and it was also the 200th anniversary of Ohio statehood. In 2001, we held several public meetings to get input from our citizens about what they would like to do to celebrate our bicentennial. A Bicentennial Commission was formed, and Lou Briggs and he were co-chairs. The other members were people who had suggested many of the projects or who would serve as chairs of various committees. Some of the projects undertaken included a Wagon Train, which most of the money was spent on, a Heritage Ball, and re-instituting the community Prayer Breakfast. He said he could not recall the amount of the overall budget, but $375,000 to $500,000 seems to be the range.

We did not have that amount of money, and the City could not afford that much, so we hired a fundraiser, Sandy Morckel, and received donations from individuals, businesses, and companies to put on these events. We also charged some fees for participation, which did not cover the costs. At the end of the celebrations, we did have a significant amount remaining in the sum of approximately $66,000. The Bicentennial Commission and the City Council felt that this should be kept in a separate fund and set aside for use the next time the City celebrated a significant anniversary. One of the reasons the money was kept with the City, rather than establishing a separate entity was to take advantage of the hopefully better rate of return the City would have on investment.

He emphasized that it is his position that the money in this fund does not belong to the City to appropriate for anything other than by use of the next centennial type celebration. Acknowledging that the Orange John project is a worthwhile one, he pointed out that there have been other historical buildings, such as the Kilbourne Library and the renovation of the old high school into the McConnell Arts Center, that the City did not use the money for. He urged that the Council not break the compact that a previous City Council had established with Worthington residents and donors. He asked that if the Orange Johnson project is worth funding, that another source of money is found to do so.

Mr. Smith thanked Dr. Goorey, noting that the other buildings of historical value mentioned were not celebrating a bicentennial as the Orange Johnson House is. He stated that he does like the idea of setting aside small amounts of money starting as soon as this year, $5,000 sounds like a nice amount, to help fund future celebrations. With that said, he appreciates Dr. Goorey’s position, and proposed an amendment to appropriate $36,000 from the General Fund.
MOTION  
Mr. Smith moved, seconded by Mr. Foust to amend the ordinance with the proposed strikethroughs on the screen.

Mr. Greeson said in anticipation of the motion being made, changes to the ordinance were made to accomplish that if it is Council’s desire. The intent would be to replace references to the Bicentennial Fund with the General Fund Unappropriated Balance and to strike the first two whereas clauses from the ordinance.

Ms. Kowalczyk asked if we have this amount of unappropriated money available. Mr. Bartter confirmed that amount is available in the General Fund.

Mr. Foust asked for the amount left in the General Fund unappropriated balance after this $36,000 is appropriated. Mr. Bartter replied there would be approximately $14 million remaining.

There being no additional comments, the motion passed unanimously by a voice vote.

Ms. Dorothy requested that the Worthington Historical Society say what exactly is being funded and fixed.

Kate LaLonde – Worthington Historical Society

Ms. LaLonde expressed how this project is really large in scope for the Historical Society. A nine-year restoration took place in 1963 costing roughly $300,000, which accounting for inflation equals $2.5 million today. The community pooled many financial resources to make that happen.

The Historical Society has continued to care for the property since 1972 and there have been a lot of preservation projects, they have had two new roofs, and a substantial number of other repairs. The masonry that surrounds the north and west sides of the building has only been repaired and it needs attention. The front has structural issues as well. Part of the bicentennial project was to replace the front entry, which was done last spring. Hopefully the masonry on the two sides will be replaced with limestone for the wall and it will be more durable, especially along High Street where they get a lot of salt and weather thrown up on the brick. She is excited for the project to happen, but it is a large undertaking.

Mr. Smith asked where they landed on which portions were the city right-of-way. Ms. LaLonde said that the current planter wall is within the right-of-way because they have documentation from the 1960s that they had to get permission from ODOT to put them there.

Ms. Dorothy asked when this project would be started. Ms. LaLonde replied that they have Architectural Review Board approval and they are looking to start getting bids as soon as possible.
Ms. Kowalczyk asked if this amount would be enough to repair the wall. Ms. LaLonde said there are always things that come up. Because they have two buildings that have unexpected repairs, they are not wanting to exhaust all their funds. They are going to need to continue to fundraise. Ms. Kowalczyk asked if there were ideas on how to continue fundraising. Ms. LaLonde explained they are looking to reach out to the community. They are looking forward to the Orange Johnson house being open again. With Pioneer days coming up soon, they will see lots of community members.

President Michael expressed how she is more comfortable with giving City funds for this project because it is on the City’s right-of-way.

Ms. LaLonde thanked Council and she appreciates having their support.

Mr. Foust said we never effectively referenced the comments and not of Council going back to 2003-2004. When he read it, he was uncomfortable to think we would in our day overlook the intent and wisdom of a former Council. He stressed that he believes it is a third component we need to make sure that is on the record.

There being no additional comments, the clerk called the roll on Ordinance No. 11-2019 (As Amended). The motion carried by the following vote:

Yes 6 Robinson, Kowalczyk, Foust, Dorothy, Smith, and Michael

No 0

Ordinance No. 11-2019 (As Amended) was thereupon declared duly passed and is recorded in full in the appropriate record book.

Mr. Smith said that the Bicentennial Fund is named the 2003 Bicentennial Fund, and he then asked how we change the name. Mr. Lindsey suggested that he and Finance Director Bartter get together to discuss how to do that.


The foregoing Ordinance Title was read.

Mr. Greeson described how this is a right-of-way dedication related to the Granby Place project at 181 East Wilson Bridge Road.

Mr. Brown said that one of the conditions of the approval of Granby Place last year was to dedicate fifteen feet of additional right-of-way on the southside of East Wilson Bridge Road. That was to be used for a future multi-use path that would connect High Street over to the Community Center, and eventually to the Northeast Gateway Project. To satisfy the condition, we worked with the applicant to prepare a deed of dedication. It was reviewed by the Service and Engineering Department and Franklin County.
President Michael clarified this is following the plans that we had, formalizing the paperwork of the easement.

Ms. Dorothy asked if they will build the multi-use path as part of this project. Mr. Brown said no. As we move forward in the design there will be many things that will need to be addressed, we wanted to get the right-of-way under our control so that when we do move forward with the project we can start it and finish it hopefully with connection points.

There being no additional comments, the clerk called the roll on Ordinance No. 12-2019. The motion carried by the following vote:

Yes 6 Kowalczyk, Foust, Dorothy, Smith, Robinson, and Michael

No 0

Ordinance No. 12-2019 was thereupon declared duly passed and is recorded in full in the appropriate record book.

NEW LEGISLATION TO BE INTRODUCED

Resolution No. 17-2019

Amending the Position Description for Firefighter-Paramedic.

Introduced by Ms. Dorothy.

MOTION

Ms. Kowalczyk made a motion to adopt Resolution No. 17-2019. The motion was seconded by Mr. Robinson.

Mr. Greeson explained how it is customary when there are vacancies to review job descriptions. In this case, the job description for Firefighter-Paramedic has not been updated since 2005.

Chief Bailot said this update is bringing it in line with the standard of 2019 versus 2005. It parallels the job description for the part time position that was previously brought to Council. We put in there that we prefer people coming in with an associate’s degree, putting a greater emphasis on higher education. It is not a requirement, just a preference.

There being no additional comments, the motion to adopt Resolution No. 17-2019 passed unanimously by a voice vote.

Ordinance No. 13-2019

Amending Ordinance No. 52-2018 (As Amended) to Adjust the Annual Budget by Providing for an Appropriation from the Capital Improvements Fund Unappropriated Balance to Pay the Costs of the 2019 Bicycle and Pedestrian Improvement Program and all Related Expenses and Determining to Proceed with said Project. (Project No. 693-19)
Introduced by Mr. Foust.

The Clerk was instructed to give notice of a public hearing on said ordinance(s) in accordance with the provisions of the City Charter unless otherwise directed.

REPORTS OF CITY OFFICIALS

Policy Item(s)

- Permission to Bid Huntley Road Waterline Replacement

Mr. Whited observed that this is our second significant waterline project and how we are hitting these important issues in our community. This is useful as well, kickstarting the Northeast Gateway project. The 12-inch waterline extends south from the railroad tracks to the intersection of Worthington-Galena. The current waterline is just inside the curb, the new one will be just outside the curb in the pavement and will require some temporary improvements to the pavement until Northeast Gateway project is underway. He maintained that they would like to get construction started this year and the engineer’s estimate is approximately $522,885.

MOTION

Mr. Smith moved, seconded by Ms. Dorothy to grant permission to solicit for bids for this construction project on Huntley Road.

The motion passed unanimously by a voice vote.

Mr. Greeson said he would send out more information about how the schools are conducting middle school schematic design meetings. This is a second wave of public meetings about their middle schools. There has been a Worthingway based meeting last week, a Perry-Phoenix meeting, and they have scheduled the upcoming Kilbourne meeting. In each of those meetings they talk about the specific schematic issues and the proposed projects.

He updated Council that he was in contact today with our electric aggregation consultant, Rich Surace with Energy Alliances, and Mr. Surace has been soliciting proposals in accordance with our RFP. Those may be available as early as next week to make recommendations about the best couple of options. He reported that we have received six proposals and of those there were two that broke out as being better, meeting more of our criteria such as price and ability to handle a number of service issues. Not all of these proposals are apples to apples but there are a couple that seem to offer most all those alternatives. We are going to go back to negotiate for final proposals. He is confident we will achieve the goals of the program which is to save money and buy Renewal Energy Certificates (RECs). The differences will be who is able to provide both low cost as well as some of the service pieces.
Placed at Councilmembers’ seats is a document where staff attempted to answer the questions from consultants about the Community Visioning Consultant RFP. We want to get answers back to them in short order. Proposals are due in a little over a week.

REPORT OF COUNCIL MEMBERS

Ms. Thress reminded Councilmembers that they need to file their financial disclosure statements before April 15th with the Ohio Ethics Commission. Additionally, if Councilmember have a codebook that needs to be updated, we have the replacement pages in City Hall and staff would be happy to update them.

Mr. Lindsey detailed how he was in Washington DC for the International Municipal Lawyers Association mid-year seminar where there were issues talked about including small cells in the right-of-way, social media, and electric scooters. These are issues we have discussed in Worthington and at a national level as well. While it is not a priority to address electric scooter issue yet this year, it is good to keep up to date and learn how other cities are dealing with that. He will pass on additional information to Council soon.

Mr. Robinson referenced the letter from Betsey and Parker MacDonnell and how they made five requests of us and he would like to comment on two of them. The first request is that we provide a cost to serve analysis of the 2015 Lifestyle Communities proposal made several years ago. He suggests that we do this so that Mr. MacDonnell and any group they may be forming have all the information they need so they can do their best to advocate for the Lifestyle proposal or any comparable mixed-use proposal with a component of high-density apartments. He welcomes them to make a coherent case for this type of development either in writing or public presentations. Mr. Robinson said that he believes the community has already rendered a judgement on this type of development and would do so again, but he may be wrong. If Mr. MacDonnell wants to give it a go, we should empower him to do so. He hopes that Mr. MacDonnell will make a case to the broad public that his ideas will best serve the community.

Regarding the fifth item refers to the upcoming visioning process and the specific request that representatives of the business community be offered places on the steering committee for this visioning process. The letter states that the omission of business will call into question the validity of the study and recommendations. Mr. Robinson explained that the experiences, interests, and viewpoints of the business community will be included along with many other voices that cumulatively comprise the City of Worthington. He asserted that this request for business representation on the visioning committee reflects a misunderstanding of the purpose of the visioning process itself and the function of the committee. Since we will all be reviewing applications for the committee, he believes this issue should be clarified for the public. The committee’s task is not to advocate or lobby for any particular interests, but rather to faithfully engage the broad public and then clearly report their findings regarding public opinion, viewpoints, and ideas about our community and its future. As such, the qualifications for a position on the committee have little or nothing to do with one’s profession or position in life, but rather qualities of character and ability. If an applicant to the committee has the qualities we are seeking but
happens to be an employer or business owner, their viewpoint is neither more or less valuable than others. This general understanding of the nature and task of the community should be respectfully conveyed to the MacDonnells so the validity of our work will not be called into question at the outset on these grounds.

Ms. Kowalczyk responded to Mr. Robinson’s comments for the record that he has mischaracterized Mr. MacDonnell’s letter as articulating support for the Lifestyle proposal. What he is articulating is that residents need to have all of the information available to them in order to assess the various pros and cons of different proposals. Nothing in the letter articulates a particular position. Secondly, she is hearing that if we decide we would like to appoint someone who is a business owner in the City of Worthington, that is an acceptable proposal and people who are business owners would be precluded from sitting on the committee. She is looking at our materials that say residents are encouraged to apply. She does not see anything that states we are mandating they all be residents. President Michael commented that when talking fees and charges, a resident is someone who lives or works in the City, and the Parks and Recreation Department uses the same criteria for a resident. That comes into whether resident is someone who lives or works here. Mr. Robinson said common sense would dictate that a resident is someone who lives here. President Michael noted that we do have city published documents that define it one way.

Ms. Dorothy explained how she would like to have as many perspectives as possible. She agrees with Mr. Robinson that everyone should have very high-quality character and ability to reach out across the whole of Worthington. She would be in favor to include people who work in Worthington, but she understands that lots of people have quite differing views on this. She would like to echo Ms. Kowalczyk’s comments that it would be good to have informed information about the Lifestyle Communities option.

Ms. Kowalczyk said if the people appointed to the committee commit to hearing from as many different stakeholders that have the right to propose what they see as a vision for the City or how they interact with the City that is what is most important. As long as we are certain that the pool of people enables that and they’re reaching out to as many different stakeholders as possible, that is the most important thing this committee should do.

President Michael wondered if we needed to take time to address all the issues in the MacDonnell’s letter. The costs to do some of these things is unknown and we do not want to decide without some cost information.

Mr. Robinson said the reason he focused on the first and fifth requests is because those are the two where they close their statement, calling into question the fairness and validity of the process itself. To him, the fifth request about a specific person to be on the committee, that is an important principle that we need to be clear about. It is not to form a body of special interests, but to analyze feedback and someone’s profession should be irrelevant. If there is no business person on the committee that does not mean we do not want to engage them in the process.

Mr. Foust stated we are not looking for 13 opinions, we are looking for as many as 13,000 opinions that we can get. These 13 people are nothing more or less than a gathering point
Mr. Foust said we are looking for an expert to help with the architecture. He suggested we sit back and wait to listen to what they have to say.

President Michael said we only look at deal breakers if someone comes back and we see something. We do not even know what the committee will come back with and what their thoughts are.

Mr. Robinson asked what is prompting these remarks because he does not understand what the issue is. Mr. Smith replied after reading through the questions from consultants interested in responding to the RFP, he is concerned slightly that some of these people are going to come back way off base. He suggested if we select someone close to base and we have a committee who is selected, all of a sudden the facilitator could push the committee off base. We could have prevented that from the beginning if we said our intent in advance, here are our deal breakers.

Ms. Kowalczyk said we have articulated as much as possible in the architecture and the RFP process is to see who is up to the job. We are not accepting something less than we want. If we do not get what we want, we go back to the drawing board and continue to discuss and monitor.

Ms. Dorothy said that she attended the Worthington International Friendship Association meeting and they are planning additional content, such as a book club and a celebration at Selby Park. She also attended the cemetery board meeting, they have consultants to go out and get as much unbiased information as they can. He has no concerns about the business community finding a way to have its thoughts represented in this.

Ms. Kowalczyk said our website does identify things we are looking for in the community members for the visioning committee including geographic location, age, gender, ethnicity, residents who are active in various community groups, inclusion of persons who work in the community, various constituency groups of the community, and persons or perspectives that are infrequently heard. We do identify some things we are looking for in those committee members, including people who work in the community. We could knock a few of these off with someone who is appointed or applies.

President Michael said we could share that list of qualities with the MacDonnells about the selection process and maybe it will meet the needs of the community. It is inclusive not exclusive. She directed Mr. Greeson to draft answers for the requests and suggestions two through four from the MacDonnells letter.

Mr. Smith conveyed how we have come a long way with the visioning process. Before we have a consultant come in we can put some of our thoughts on paper. Where we are now is what is the architecture of the actual outreach and what the committee is going to do. A lot of the committee work will be figuring out what the architecture is, but this conversation just now is an example of something we can get ahead of the committee and facilitator and write our thoughts on paper. He proposed talking about the architectural deal breakers and what are our key intents of this outreach.
working on designs for the Ozem Gardner property which is starting to take shape but is still not finalized.

Ms. Kowalczyk reminded everyone that Wednesday is Worthington First Wednesday. For all your pizza needs, the second annual Slice of Worthington is coming up on April 9th. There are two ticket slots for either 5:30pm or 630pm. It takes place at Shops at Worthington place.

President Michael shared that National League of Cities leadership training is coming up and the next one is in June in Indianapolis. If anyone is interested, let us know. It is not going to get any closer, so it makes some sense.

EXECUTIVE SESSION

MOTION Ms. Kowalczyk moved, Ms. Dorothy seconded a motion to meet in Executive Session to discuss the Compensation of Public Employees, Appointments to Boards & Commissions, and Economic Development Incentives.

The clerk called the roll on Executive Session. The motion carried by the following vote

Yes 6 Robinson, Smith, Kowalczyk, Dorothy, and Michael

No 0

Council recessed at 8:52 P.M. from the Regular meeting session

MOTION Ms. Dorothy moved, Mr. Smith seconded a motion to return to open session at 9:20 P.M.

The motion carried unanimously by a voice vote.

ADJOURNMENT

MOTION Mr. Robinson moved, Mr. Foust seconded a motion to adjourn.

The motion carried unanimously by a voice vote.

President Michael declared the meeting adjourned at 9:20 p.m.

___________________________________
Assistant City Clerk

APPROVED by the City Council, this 15th day of April, 2019.
Council President
STAFF MEMORANDUM
City Council Meeting – April 15, 2019

Date: April 10, 2019
To: Matthew H. Greeson
From: David McCorkle, Economic Development Manager
Subject: Ordinance No. 09-2019 Worthington Gateway TIF and Development Agreement

EXECUTIVE SUMMARY
This Ordinance authorizes an Urban Redevelopment Tax Increment Financing Program and a Development Agreement to support the redevelopment of the former Holiday Inn property.

RECOMMENDATION
Approve as Presented

BACKGROUND/DESCRIPTION
The redevelopment of the former Holiday Inn property, now known as the Worthington Gateway, represents an opportunity for the City to use TIF to capture and redirect non-school property taxes from the incremental increase in value of this parcel towards numerous public improvements. Under such an arrangement, the property owner would make service payments to Franklin County in amounts equivalent to the taxes otherwise due on the improved value of the land. Funds are then redirected into a City-controlled TIF fund. From the TIF fund, the City would reimburse the developer for a portion of the public improvement costs. Any excess TIF fund revenues may also be used by the City for public improvements that benefit the parcel(s).

FINANCIAL IMPLICATIONS/FUNDING SOURCES
The City would reimburse the property owner between $1,500,000 and $3,400,000, plus 4% annual interest on the off-site improvements only. The reimbursement cap is dependent upon minimum valuation thresholds for the property.
The funding source will be a newly-created TIF Fund. Revenues are generated by capturing and redirecting property taxes from the incremental increase in the value of the parcel(s) into the TIF Fund. Reimbursements to the property owner, including interest, shall not exceed the amount of revenue available in the TIF Fund.

ADDITIONAL INFORMATION
This Ordinance was introduced on March 4, 2019. The public hearing on this ordinance could not be held until Ordinance No. 08-2019, which authorized the acceptance and conveyance of this parcel became effective. The effective date of that ordinance is today, April 10, 2019.

ATTACHMENTS
Ordinance No. 09-2019
ORDINANCE NO. 09-2019

Declaring Improvements to Real Property within the City to be a Public Purpose; Declaring such Property to be Exempt from Real Property Taxation; Requiring the Owners of the Real Property to Make Service Payments In Lieu of Taxes; Establishing an Urban Redevelopment Tax Increment Equivalent Fund for the Deposit of Service Payments; and Authorizing the City Manager to Enter Into a Tax Increment Financing Service Agreement and a Development Agreement with the Property Owner.

WHEREAS, Ohio Revised Code (“ORC”) Sections 5709.41, 5709.42 and 5709.43 (the “TIF Statutes”) provide that this Council may, under certain circumstances, declare improvements to certain parcels of real property to be a public purpose (the “Improvements”, as further defined in ORC Section 5709.41 and below) thereby exempting those Improvements from real property taxation, provide for payments in lieu of taxes by the owners of the parcels, and establish an urban redevelopment tax increment equivalent fund (the “TIF Fund” as defined below), provided the City has held fee title to such real property prior to the adoption of this Ordinance providing for the exemption; and,

WHEREAS, this Council desires to encourage the redevelopment of the parcel of real property described and depicted on Exhibit A attached to this Ordinance (the “Property”) to further the economic development goals of the City in a manner that is consistent with the existing neighborhood; and,

WHEREAS, He Hari, Inc., and any related entity formed for the specific purpose of developing said Property (collectively, the “Developer”) desires to develop the Property into a mixed-use development featuring an approximately one hundred five (105)-key hotel, approximately thirty thousand (30,000) square feet of restaurant or retail space, and approximately eighteen thousand (18,000) square feet of Class A office space, and certain designated improvements described in the Development Agreement (the “Designated Improvements”)(collectively, the “Project”); and,

WHEREAS, in connection with the construction of the Project, the City and the Developer desire to execute a tax increment financing service agreement substantially in the form attached hereto as Exhibit B (the “TIF Agreement”), which TIF Agreement would provide for the undertaking of the Designated Improvements and reimbursement of the Developer for the costs of the Designated Improvements; and,

WHEREAS, in connection with the administration of the TIF Agreement and the Planned Unit Development, the City and the Developer desire to execute a development agreement substantially in the form attached hereto as Exhibit C (the “Development Agreement”); and,

WHEREAS, the City seeks to increase employment opportunities and to encourage establishment of new jobs in the City, in order to improve the economic welfare of the City and its citizens, in furtherance of the public purposes enunciated in Article VIII, Section 13 of the Ohio Constitution; and,
ORDINANCE NO. 09-2019

WHEREAS, in connection with the redevelopment of the Property and the construction of the Project, it is in the best interest of the City to declare the Improvements to the Property to be a public purpose and to provide an exemption from real property taxes as set forth in this Ordinance; and,

WHEREAS, it is necessary and appropriate and in the best interests of the City to provide for the payment of service payments in lieu of taxes ("Service Payments") by the current and future owners of the Property (each an “Owner,” and collectively, the “Owners”) with respect to the Improvements pursuant to ORC Section 5709.42; and,

WHEREAS, as authorized by Ordinance No. ___-2019 passed ______________, 2019, the City acquired from the Owner fee title to the Property, pursuant to a Quitclaim Deed recorded with the Franklin County Recorder’s Office, and, pursuant to a Quitclaim Deed, has conveyed said Property back to said Owner; and,

WHEREAS, notice of this Council’s intention to declare the Improvements exempt from real property taxes and to pass this Ordinance has been delivered to the Board of Education of the Worthington City School District (the “Board”) in accordance with ORC §5709.83, and this Council ratifies and affirms the delivery of such notice; and,

WHEREAS, pursuant to ORC §5709.41, this Ordinance directs the Service Payments to be paid to the Board in the amount of the taxes that would have been payable to the Board if the Improvements had not been exempted from taxation, as such payments and their distribution to the Board are described under ORC §5709.42; and,

WHEREAS, pursuant to ORC §5709.82(C)(2), it is the City’s intention that Service Payments paid to the Board as directed in this Ordinance represent the full scope of compensation to the Board and the Board shall not be compensated under an income tax sharing arrangement as otherwise described under ORC §5709.82(D); and,

WHEREAS, the City intends to apply for exemptions from taxation on behalf of the Owner or Owners of the Property, pursuant to ORC §5709.911; and,

WHEREAS, this Council desires that the Project be constructed, pursuant to the terms of the Development Agreement; and,

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

SECTION 1. Pursuant to and in accordance with the provisions of the TIF Statutes, this Council hereby determines and finds that it is in the best interests of the City to declare the Improvements to the Property to be a public purpose and to grant an exemption from real property taxes as set forth in this Ordinance; and,
ORDINANCE NO. 09-2019

taxes on those Improvements. This Council finds and determines that 100% of the increase in the assessed value of the Property subsequent to the acquisition of the Property by the City (which increase in assessed value is the “Improvements” as defined in ORC Section 5709.41(A)(2)) is hereby declared to be a public purpose, and shall be exempt from taxation for a period commencing on the effective date of this Ordinance and ending thirty (30) years after such date, all in accordance with the requirements of ORC Sections 5709.41 and 5709.42.

SECTION 2. As provided in ORC Section 5709.42, the Owner of the parcel comprising the Property is hereby required to, and shall make, Service Payments to the Treasurer of Franklin County (the “County Treasurer”) on or before the final dates for payment of real property taxes without penalty or interest, which Service Payments shall be remitted to the City for deposit in the TIF Fund, pursuant to ORC Sections 5709.41 and 5709.42 and as provided in Section 3 of this Ordinance. Each Service Payment shall be in the same amount as the real property taxes that would have been charged and payable against the Improvements (after credit for any other payments received by the City under ORC Section 319.302) had an exemption from taxation not been granted, and otherwise shall be in accordance with the requirements of the TIF Statutes. Any late Service Payments shall be subject to penalty and bear interest at the then current rate established under ORC Sections 323.121(B)(1) and 5703.47, as the same may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time (the payment of penalties and interest and any related amounts received by the City under ORC Section 319.302 shall be considered part of the Service Payments). The Service Payments shall be allocated and deposited in accordance with Section 3 of this Ordinance.

SECTION 3. This Council hereby authorizes and directs the Director of Finance to establish pursuant to and in accordance with the provisions of ORC Section 5709.43(B), the Worthington Gateway Urban Redevelopment Tax Increment Equivalent Fund (the “TIF Fund”) to be maintained in the custody of the City. The TIF Fund shall receive all Service Payments made in respect of the Improvements which are received by the City from the County Treasurer in accordance with this Ordinance.

The Service Payments received by the City shall be deposited into the TIF Fund and used (i) first, to pay the City’s customary and reasonable costs related to the discharge of its obligations under the TIF Statutes, this Ordinance, the Development Agreement and all other related laws, and (ii) second, to reimburse the City for the City’s reasonable Project related expenses, including but not limited to legal, engineering, and inspection costs, (iii) third, to reimburse the Developer for the costs of the Designated Improvements, (iv) fourth, if any Service Payments remain in the TIF Fund after the payments described in (i) – (iii) above, to reimburse the City for the cost of any additional public infrastructure improvements as permitted under the TIF Ordinance and the TIF Statutes, and (v) fifth, for any lawful purpose.

The TIF Fund shall remain in existence so long as the Service Payments are collected and used for the aforesaid purposes, after which the TIF Fund shall be dissolved in accordance with ORC Section 5709.43(D). Upon such dissolution, any incidental surplus remaining in the TIF Fund shall be disposed as provided in ORC Section 5709.43(D).
ORDINANCE NO. 09-2019

SECTION 4. The City Manager is hereby authorized to execute the TIF Service Agreement and the Development Agreement on behalf of the City substantially in the form attached to this Ordinance, which Development Agreement includes provisions regarding the construction of the Project, administration of the PUD, and the undertaking of the Designated Improvements, and which TIF Service Agreement includes provisions regarding, among other things, the payment of Service Payments with respect to the Property and the use of the TIF Funds, together with such revisions or additions thereto as approved by the City Manager as consistent with the objectives and requirements of this Ordinance, which approval shall be conclusively evidenced by the signing of said TIF Service Agreement and Development Agreement. The City Manager and other appropriate City officials are further authorized to provide such information and to execute, certify or furnish such other documents, and to do all other things as are necessary for and incidental to carrying out the provisions of the TIF Service Agreement and Development Agreement.

SECTION 5. The City Manager, the Director of Finance and the Director of Law, and any other City official, as appropriate, are each authorized and directed to sign any other documents, instruments or certificates and to take such actions as are necessary or appropriate to consummate or implement the transactions described in or contemplated by this Ordinance.

SECTION 6. Pursuant to ORC Section 5709.41(E), the Clerk of this Council is hereby directed to deliver a copy of this Ordinance to the Director of the Ohio Development Services Agency within fifteen days after its passage. On or before March 31st of each year that the exemption set forth in Section 1 hereof remains in effect, the City Manager shall prepare and submit, or cause to be prepared and submitted, to the Director of the Ohio Development Services Agency the status report required under ORC Section 5709.41(E).

SECTION 7. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council that resulted in those formal actions were in meetings open to the public in compliance with the law.

SECTION 8. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed ________________

___________________________________
President of Council

Attest:

____________________________
Clerk of Council

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EXHIBIT A

PROPERTY DESCRIPTION

Real property located at 7007 North High Street, Parcel Number 100-001218-00, as that real property is located in the City of Worthington, Franklin County.

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

TAX INCREMENT FINANCING SERVICE AGREEMENT

Between

THE CITY OF WORTHINGTON

And

HE HARI, INC.

This Tax Increment Financing Service Agreement (the “Agreement”) is between He Hari, Inc., an Ohio corporation, having an address at [______________________________] (the “Developer”) and the City of Worthington, Ohio, a municipal corporation organized under the laws of the State of Ohio and its Charter, having an address at 6550 North High Street, Worthington, Ohio 43085 (the “City”). The City and the Developer are collectively referred to herein as the “Parties.”

WITNESSETH:

WHEREAS, the Developer is the fee owner of the property located at 7007 North High Street, Worthington, Ohio, 43085, and described more fully as Franklin County permanent parcel number 100-001218-00 (the “Property”) a description of which real property is attached hereto as Exhibit A and incorporated herein by reference, with each parcel of real property within the Property referred to herein as a “Parcel” (whether as presently appearing on county tax duplicates or as subdivided or combined and appearing on future tax duplicates). In addition, as described herein, the Developer intends to create a new Parcel along the North High Street frontage of the Property (the “North High Street Parcel”) and to convey the North High Street Parcel to a third party in accordance with the terms of this Agreement.; and,

WHEREAS, the Developer desires to redevelop the Property into a mixed-use development featuring an approximately one hundred five (105)-key hotel, approximately thirty thousand (30,000) square feet of restaurant or retail space, and approximately eighteen thousand (18,000) square feet of Class A office space (collectively, the “Project”), as more fully described in EXHIBIT B, Scope of Work, attached to this Agreement and incorporated herein; and,

WHEREAS, the City anticipates passing or has passed Ordinance No. ___-2019 (the “TIF Ordinance”), pursuant to and in accordance with Ohio Revised Code (“ORC”) §§5709.41, 5709.42 and 5709.43 (the “TIF Statutes”), (i) declaring that the increase in the assessed value of the Property subsequent to the acquisition of the Property by the City (which increase in assessed value is the “Improvement” as defined in ORC Section 5709.41(A)(2)) is a “public purpose”; (ii) authorizing the use of the Service Payments (as defined hereinafter) for the Designated Improvements (as defined hereinafter); (iii)
providing for the exemption of one hundred percent (100%) of the Improvement from real property taxation (hereinafter referred to as the “Exempted Portion of the Improvement”), commencing with the effective date of the TIF Ordinance and ending on the earlier of (a) thirty (30) years after such commencement date or (b) the date on which the City can no longer require Service Payments (as hereinafter defined) to be paid to the 7007 North High Street Urban Redevelopment Tax Increment Equivalent Fund (the “TIF Fund”), which TIF Fund is established in the TIF Ordinance, all in accordance with the requirements of the TIF Statutes; and (iv) providing for the payment of service payments in lieu of real property taxes (the “Service Payments”, as further defined in Section 1 hereof), which are to be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Exempted Portion of the Improvement; and,

WHEREAS, the Parties have entered into a separate Development Agreement on the __ day of ________, 2019 setting forth additional terms and conditions regarding the Project (the “Development Agreement”); and,

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

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

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

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

§1. Covenant to Make Payments in Lieu of Taxes. The Developer agrees, for itself and its successors and assigns to or of the Property or any part thereof (the Developer and each successor or assign is individually referred to as an “Owner” and collectively as the “Owners”), that the Owners shall pay all Service Payments with respect to the Exempted Portion of the Improvement pursuant to and in accordance with the TIF Statutes, the TIF Ordinance and this Agreement. All such Service Payments as are levied and assessed from time to time shall be made semiannually to the Treasurer of Franklin County (or to the Treasurer’s designated agent for collection of the Service Payments) on or before the date on which the semi-annual payment in respect of real property taxes would otherwise be due and payable for the Exempted Portion of the Improvement. Each semiannual payment of Service Payments shall be in the same amount as the real property taxes that would have
been charged and payable against the Exempted Portion of the Improvement had an exemption from taxation not been granted, and otherwise shall be in accordance with the requirements of the TIF Statutes, including any interest assessed on any late payment of the Service Payments (currently established under ORC §§323.121(B)(1) and 5703.47 of the ORC, as the same may be amended from time to time). The payment of penalties and interest referred to herein, with the service payments in lieu of taxes, collectively comprise the “Service Payments”. The Service Payments, and any other payments in respect of the Property that are received by the County Treasurer in connection with the reduction required by ORC §319.302, as may be amended from time to time, or any successor provisions thereto as may be amended from time to time (the “Property Tax Rollback Payments”), shall be allocated and distributed in accordance with §5 of this Agreement.

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

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

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

It is intended and agreed, and it shall be so provided by the Developer, as Owner, in the deed conveying any portion of the Developer’s Property to any other individual or entity, or in a Declaration filed and of record in the Franklin County Recorder’s Office (the
“Declaration”), that the covenants provided in this §1 shall be covenants running with the land and that they shall, in any event and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity, for the benefit and in favor of and enforceable by the City, whether or not this Agreement remains in effect or whether or not such provision is included by the Developer, as Owner, in any succeeding deed to the Developer’s successors and assigns. It is further intended and agreed that these agreements and covenants in this §1 shall remain in effect for the full period of exemption permitted in accordance with the requirements of the TIF Statutes and the TIF Ordinance.

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

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

§4. Covenants to Run with the Land. It is intended and agreed that the covenants of the Developer as Owner in §§1, 2 and 3 hereof shall be covenants running with the land and that they shall, in any event and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the City against the Property, the Project and the Owners. It is further intended and agreed that such covenants shall remain in effect for the full period of exemption provided in accordance with the requirements of the TIF Statutes, the TIF Ordinance enacted pursuant thereto and this Agreement. It is further agreed by the Developer, as Owner, that all such covenants, whether or not such provisions are included by any Owner in any deed to such Owner’s successors and assigns, shall be binding upon each Owner and shall be enforceable by the City in the manner provided herein.
In amplification of, and not in restriction of, the provisions of this §4, it is intended and agreed that the City and its respective successors and assigns shall be deemed a beneficiary of the covenants provided herein. Such covenants shall run in favor of the City for the entire period of the exemption provided by the TIF Ordinance and the TIF Statutes, without regard to whether the City has at any time been, remains or is an owner of any land or interest therein, to which such covenants relate. The City shall have the right in the event of any breach of any covenant herein contained, to exercise all of the rights and remedies, and to maintain all actions or suits at law or in equity or in other proper proceedings, to cure such breach, to which it or any other beneficiaries of such covenant may be entitled.

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

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

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


A. If the Developer determines it to be financially feasible, the Developer intends to undertake or cause to be undertaken the Designated Improvements. If the Developer undertakes the Designated Improvements, the City hereby agrees to reimburse the Developer for a portion of the costs required in connection with the Designated Improvements using Service Payments and Property Tax Rollback Payments paid by Owners pursuant to the TIF Ordinance, as more fully described below in (B), (C), and (D), in the order set forth in §5 above, and subject to the terms and limitations contained in the TIF Ordinance.

B. The cost of the improvements eligible for reimbursement (the “Eligible Costs”) shall include any and all costs incurred in order to undertake the Designated Improvements, including the items of “costs of permanent improvements” set forth in ORC §133.15(B). Those costs include, but are not necessarily limited to: (i) cash paid; (ii) interest on the reimbursable portion of the amount paid by Developer for the Off-Site Improvements (as defined and identified in the Development Agreement) from the date of such payment until the date of reimbursement by the City, at the annual rate of four percent (4%); (iii) review and inspection fees incurred in connection with the construction of the Designated Improvements; (iv) professional fees; and (v) construction management and supervisory costs and fees.

C. The portion of the Eligible Costs subject to reimbursement shall not exceed Three Million, Four Hundred Thousand Dollars ($3,400,000), plus interest on the Off-Site Improvements at the annual rate of four percent (4%) and shall be further limited by and in accordance with Section 13 of the Development Agreement (the “Reimbursable Portion”). Designated Improvements will consist of two categories of improvements: “Off-Site Improvements” and “On-Site Improvements,” which are used herein as those terms are defined and as those improvements are identified in the Development Agreement.

D. From time to time after commencement of the Designated Improvements, the Developer shall provide a certified statement to the City setting forth and providing reasonable evidence concerning the Cost of the Designated Improvements (each a “Certified Statement”, and collectively, the “Certified Statements”). At least twice each year, subsequent to submission of the first Certified Statement by the Developer, and contingent upon the City having received funds in the TIF Fund, the City shall pay to Developer, within thirty (30) business days following the
City’s receipt of a Certified Statement, the lesser of (i) the Reimbursable Portion, or part thereof, as shown in the Certified Statements, or (ii) the funds available at that time in the TIF Fund, subject to the terms and limitations of this Agreement. Should insufficient funds exist in the TIF Fund at the time of submission of a Certified Statement to reimburse the Developer for the Reimbursable Portion, then the City shall maintain a record of such unpaid amounts, and the City shall pay to Developer such amounts within thirty (30) business days after such funds exist in the TIF Fund, provided that such payment shall not exceed the available balance in the TIF Fund. The City shall submit an accounting or record of all amounts paid to Developer out of the TIF Fund along with each payment to Developer, including payments made by the City within thirty (30) business days of the receipt of a Certified Statement and payments made by the City within thirty (30) business days of sufficient funds being deposited into the TIF Fund with respect to any unpaid amounts, but subject to the limitations described in this §6(D).

E. Unless the Project is rendered otherwise exempt by the form, structure and/or source of the financing obtained by the Developer to complete the Project, the Developer and the City acknowledge that for purposes of this Agreement, the Off-Site Improvements are subject to the prevailing wage requirements of ORC Chapter 4115, and all wages paid to laborers and mechanics employed on the construction of the Off-Site Improvements shall be paid at not less than the prevailing rates of wages of laborers and mechanics for the classes of work called for by the Off-Site Improvements, which wages shall be determined in accordance with the requirements of ORC Chapter 4115. Notwithstanding any exemption that may apply thereto, the Developer shall otherwise comply with all applicable requirements of ORC Chapter 4115 including, without limitation, (i) obtaining from the Ohio Department of Commerce its determination of the prevailing rates of wages to be paid for all classes of work required for the construction of the Off-Site Improvements; and (ii) ensuring that all subcontractors for the Off-Site Improvements receive notification of changes in prevailing wage rates as required by ORC Chapter 4115.

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

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

If to the City:

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

with a copy to:

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

If to the Developer:

The Witness Group
Attn. Ohm Patel
600 Enterprise Drive
Lewis Center, OH  43035

with a copy to:

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

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

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

§10. No Third Party Beneficiaries. None of the provisions of this Agreement or any
document contemplated hereby is intended to grant any right or benefit to any person or
entity that is not a party to this Agreement.
§11. **Governing Law.** This Agreement shall be governed exclusively by and construed in accordance with the laws of the State of Ohio.

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

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

The City and Developer, each by a duly authorized representative, have executed this Agreement to be effective as of the date last written below.

CITY OF WORTHINGTON

By: ________________________________
    Matthew H. Greeson
    City Manager

HE HARI, INC.

By: ________________________________
    Date

Approved as to form:

By ________________________________
    Tom Lindsey, Director of Law
EXHIBIT C

DEVELOPMENT AGREEMENT

He Hari, Inc. (Worthington Gateway Project)

THIS DEVELOPMENT AGREEMENT (“Agreement”) is between HE HARI, INC., an Ohio corporation, having an address at [______________________________] (the “Developer”) and the CITY OF WORTHINGTON, OHIO, a municipal corporation organized under the laws of the State of Ohio and its Charter, having an address at 6550 North High Street, Worthington, Ohio 43085 (the “City”).

RECITALS

A. The Developer is the fee owner of the property located at 7007 North High Street, Worthington, Ohio, 43085, and described more fully as Franklin County permanent parcel number 100-001218-00 (the “Project Site”) a description of which real property is attached hereto as Exhibit A and incorporated herein by reference, with each parcel of real property within the Project Site referred to herein as a “Parcel” (whether as presently appearing on county tax duplicates or as subdivided or combined and appearing on future tax duplicates). The Project Site contains a building, a parking lot, and other improvements formerly utilized as the Holiday Inn. In addition, as described herein, the Developer intends to create a new Parcel along the North High Street frontage of the Project Site (the “North High Street Parcel”) and to convey the North High Street Parcel to a third party in accordance with the terms of this Agreement.

B. Developer desires to redevelop the Project Site into a mixed-use development featuring an approximately one hundred five (105)-key hotel, approximately thirty thousand (30,000) square feet of restaurant or retail space, and approximately eighteen thousand (18,000) square feet of Class A office space, including certain Designated Improvements (as defined herein) in support thereof (collectively, the “Project”). The estimated aggregate construction cost of the Project is approximately thirty six million dollars ($36,000,000).

C. Developer anticipates that the Project will create approximately (i) sixty (60) full-time employment positions with annual payroll and benefits of approximately two million, five hundred thousand dollars ($2,500,000), and (ii) thirty (30) part-time employment positions with annual payroll and benefits of approximately five hundred thousand dollars ($500,000).

D. The City intends to create a so-called project-based TIF for the Project Site under Ohio Revised Code (“R.C.”) 5709.41, as the Project will be in furtherance of the City’s urban redevelopment activities. The City intends to establish the TIF for thirty (30) years and with respect to one hundred percent (100%) of the incremental value on the Project Site; provided that the City will establish the TIF on a non-school basis. The owner of each Parcel (with each such current or future owner referred to herein individually as an “Owner” and collectively as the “Owners”) will pay the statutory service payments generated from the Project (the “Project TIF Revenue”) to the Franklin County Treasurer pursuant to a Service Payment Agreement entered into by and between the City and the Developer dated as of [____], 2019 (the “Service Agreement”),
in the same manner and amount as if the project-based TIF with respect to the Project Site had not been established in accordance with the Service Agreement. The Project TIF Revenue will be distributed by the Franklin County Treasurer to an urban redevelopment tax increment equivalent fund (the “TIF Fund”). The Service Agreement will provide, among other things, for the application of the Project TIF Revenue to pay a portion of the costs of improvements required in connection with the Project and identified on Exhibit C attached hereto (the “Designated Improvements”) in an amount not to exceed Three Million, Four Hundred Thousand Dollars ($3,400,000), plus interest as described below. In accordance with the Service Agreement, and subject to (i) the Incentive Contingencies provided in Section 2 of this Agreement (ii) the provisions of Section 4.10 of this Agreement and (iii) the valuation requirements provided in Section 12 of this Agreement, the City shall use the Project TIF Revenue in the TIF Fund to reimburse the Developer the costs of the Designated Improvements incurred by the Developer and eligible for reimbursement as provided for in this Agreement, plus interest on the Off-Site Improvements (defined herein) at the annual rate of four percent (4%), before the City may utilize the Project TIF Revenue for other uses at its discretion. Designated Improvements will consist of two categories of improvements: “Off-Site Improvements” and “On-Site Improvements”. Off-Site Improvements shall consist of improvements that are currently in the public right-of-way or are expected to be in the public right-of-way and that will be dedicated to the City upon completion. All other Designated Improvements, which generally are expected to be on the Project Site, shall be On-Site Improvements.

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

F. In order to create a project-based TIF for the Project under R.C. 5709.41, the City must have held fee title to the Project Site prior to the enactment of the TIF Ordinance. Accordingly, the Developer will convey fee title to the Project Site to the City for $1.00 following the date this Agreement is executed, and the City will re-convey the Project Site to the Developer thereafter for the same amount, in each case subject to, the terms of this Agreement.

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

H. The City has determined that eliminating competitive bidding in connection with the re-conveyance of the Project Site to the Developer is appropriate because the Project Site is currently owned by the Developer, and the Developer’s willingness to initially convey the Project Site to the City is contingent upon the City’s agreement to promptly re-convey the Project Site to the Developer and to no other party.
NOW, THEREFORE, the parties, intending to be legally bound, agree to the following terms and conditions:

1. General Agreement and Term

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

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

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

2. Incentive Contingencies

The obligation of the City to provide the Project TIF Revenue (collectively, the “Incentives”) for the Project in accordance with the Service Agreement is contingent upon the satisfaction of all of the following contingencies with respect to the Project (collectively, the “Incentive Contingencies”). Each of the agreements, evidence, or other documents required to be submitted to satisfy an Incentive Contingency must be in form and substance reasonably acceptable to the City in order for the Incentive Contingency to be satisfied. The Parties will proceed diligently and in good faith to pursue the satisfaction of the Incentive Contingencies in a timely and coordinated manner intended to result in the timely development of the Project in accordance with the provisions of this Agreement. The Parties will coordinate their efforts to pursue the satisfaction of the Incentive Contingencies as soon as practical. From time to time, at the request of the Developer, the City shall confirm the satisfaction, waiver, or failure of any of the Incentive Contingencies which have been satisfied, waived, or not been met.

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

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

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

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

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

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

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

3. Property Conveyance.

3.1 The Developer’s transfer of the title to the Project Site to the City (the “Initial Conveyance”) shall take place on [___________], 201_, or such other date as the parties may agree upon (the “Initial Conveyance Date”); provided, however that the Initial Conveyance shall occur prior to the passage of the TIF Ordinance. On the Initial Conveyance Date, the Developer shall convey the Project Site to the City for $1.00, by Quitclaim Deed. Developer shall pay all customary closing costs relating to the Initial Conveyance. The City agrees to neither make, nor permit to be made, any material changes to the condition of the Project Site during the period in which it owns the Project Site. During the period in which City owns the Project Site, the Developer, its employees, and its agents are permitted to enter upon the Project Site for the purpose of conducting activities associated with the Project at no cost to the City, provided that such entry shall be
at the sole risk of the Developer, its employees, and its agents, and provided, further that the activities described in this Section 3 are subject to the indemnification provision of Section 6 of this Agreement.

3.2 On the Initial Conveyance Date, immediately after conveyance to the City, the City shall re-convey the Project Site to the Developer (the “Re-conveyance”), for $1.00, by Quitclaim Deed. Developer shall pay all customary closing costs relating to the Re-conveyance.

3.3 Notwithstanding anything to the contrary herein, the Developer shall not transfer the North High Street Parcel or any other portion of the Project Site to a third party unaffiliated with the Developer until after the Re-conveyance shall be complete.

4. Construction of the Project

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

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

4.3 The Designated Improvements contemplated by this Agreement shall be performed and completed by the Developer, its contractors and subcontractors, or any successors thereof, in a good and workmanlike manner using first-class materials in accordance with all applicable laws, ordinances, rules and regulations and related safety standards, including the specifications and standards of the City. Upon the commencement of any construction undertaken pursuant to this Agreement, the Developer must diligently pursue such construction to completion.
4.4 If at the time of the execution of this Agreement, the City and the Developer have not yet finalized plans for the Designated Improvements for which City approval is required, the Developer agrees to submit such plans to the City Engineer for review, and the City reserves the right to review and approve the design and engineering of the Designated Improvements for consistency with City standards and specifications prior to the issuance of permits. The City covenants that it shall approve or reject such submissions within twenty (20) business days of submittal.

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

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

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

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

4.9 The Developer's liability for the Warranty shall be limited to the one-year correction period referred to in Section 4.11, as such period may be extended in accordance with Section 4.11.
4.10 The Warranty time period shall commence on the date of the City’s acceptance of the dedication of such Designated Improvements, unless otherwise provided in writing. The City shall have the right, to be exercised reasonably, to inspect, or to hire a third-party to inspect, the dedicated Designated Improvements during construction and during the Warranty time period. The City and the Developer agree that the Project TIF Revenues in the TIF Fund will be used to fully reimburse the City for the City’s reasonable costs incurred from such inspection prior to reimbursing the Developer for costs of the Designated Improvements incurred by the Developer.

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

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

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

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

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

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

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

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

7. **Time for Performance.** The intent and understanding of the parties is for the Developer to have the Project constructed and completed within forty-eight (48) months of the latter of (i) executing this Agreement, or (ii) the date the PUD becomes effective.

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

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

8. Events of Default and Remedies.

8.1 Developer Defaults. Any one or more of the following shall constitute a “Developer Default”:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8.4 Remedies for City Default. At any time as of which a City Default exists, the Developer, at its option, may, but shall not be obligated to, exercise any one of more of the following remedies, provided, however, that in no event shall the City be obligated hereunder to pay amounts to the Developer from sources other than the Project TIF Revenue:

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

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

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

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

8.6 Enforcement. Except as expressly provided otherwise in this Agreement (specifically, with regard to the construction or completion of the On-Site Improvements or the Developer’s Failure to Complete the On-Site Improvements), as the remedy at law for the breach of any of the terms of this

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Agreement may be inadequate, each enforcing Party has a right of temporary and permanent injunction, specific performance and other equitable relief that may be granted in any proceeding brought to enforce any provision hereof, without the necessity of proof of actual damage or inadequacy of any legal remedy.

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

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

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

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

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

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

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

The Developer shall, within 30 days of completing the Designated Improvements, furnish to the City an itemized statement showing the cost of the Designated Improvements and a notarized affidavit stating that all material and labor costs have been paid. The Developer shall indemnify and hold harmless the City from all expenses and claims for labor and/or material related to construction by the Developer of the Project. In its contracts with agents, subcontractors, and subconsultants, the Developer shall require each entity to indemnify and hold harmless the City from all expenses and claims for labor and/or material related to construction of the Project. The Developer shall provide the City with evidence satisfactory to it that all liens affecting the Designated Improvements, including but not limited to liens for delinquent taxes, the lien of any mortgage, and any mechanic’s liens, have been released.

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

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

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

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

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

<table>
<thead>
<tr>
<th>Valuation Threshold</th>
<th>Target Date</th>
<th>TIF Project Revenue Cap</th>
</tr>
</thead>
<tbody>
<tr>
<td>$12,500,000 for at least five</td>
<td>Tax year 2030</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>consecutive tax years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$15,000,000 for at least five</td>
<td>Tax year 2035</td>
<td>$2,150,000</td>
</tr>
<tr>
<td>consecutive tax years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$17,500,000 for at least five</td>
<td>Tax year 2040</td>
<td>$2,750,000</td>
</tr>
<tr>
<td>consecutive tax years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$20,000,000 for at least five</td>
<td>Tax year 2045</td>
<td>$3,400,000</td>
</tr>
<tr>
<td>consecutive tax years</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Should the Project fail to meet a Valuation Threshold by the applicable Target Date, the Project shall still be eligible to meet the subsequent Valuation Thresholds by the applicable Target Dates. For example, if the Project does not meet the initial two Value Thresholds in the table above, but the Project does meet the third Value Threshold ($17,500,000 for at least five consecutive tax years) by the applicable Target Date (Tax Year 2040), the Developer shall receive TIF Project Revenues from the City up to the applicable TIF Project Revenue Cap ($2,750,000), plus interest on the Off-Site Improvements at an annual rate of 4%.
The Developer shall be eligible to receive TIF Project Revenue from the City after the initial tax year for which the real property valuation of the Project meets or exceeds a Valuation Threshold. If the Valuation Threshold is not maintained for the next four (4) consecutive tax years, the City may require the Developer to refund TIF Project Revenue received in excess of the applicable TIF Project Revenue Cap, plus interest on the Off-Site Improvements at an annual rate of 4%. Should the Developer meet a Valuation Threshold for five consecutive tax years by the required Target Date, and the valuation of the Project subsequently falls below such Valuation Threshold, the City shall still be obligated to pay to the Developer the TIF Project Revenue up to the amount of the TIF Project Revenue Cap associated with the Valuation Threshold that was met, plus interest on the Off-Site Improvements at an annual rate of 4%. However, if the Developer or an owner of a Parcel contests or files a complaint (including, without limitation a complaint filed in accordance with Ohio Revised Code Sections 5715.13 or 5715.19) against the real property tax valuation of a Parcel that results in the valuation of the Project falling below such Valuation Threshold, then the City shall only be obligated to pay the Developer the TIF Project Revenue up to the amount of the TIF Project Revenue Cap associated with the Valuation Threshold of the new lower valuation, plus interest on the Off-Site Improvements at an annual rate of 4%. In addition, the City may require the Developer to refund TIF Project Revenue received in excess of the new lower TIF Project Revenue Cap, plus interest on the Off-Site Improvements at an annual rate of 4%; provided, however, if the Valuation Threshold has been met for at least the five (5) prior tax years, then no refund shall be due from Developer.

14. **Zoning.** The City and the Developer acknowledge and agree that (i) the Caren Parcel is currently zoned R-10, “Low Density Residential”, and that (ii) the balance of the Project Site is currently zoned C-4, “Highway and Automotive Services,” each in accordance with the Planning and Zoning Code of the City. The Developer is requesting that the City rezone the Project Site as part of the [[___] PUD] in accordance with the Planning and Zoning Code of the City. The Developer shall ensure that the Development will at all times comply with the zoning that applies to it from time to time. **Insurance.** Prior to the commencement of construction of the Designated Improvements, the Developer or its contractor shall take out and maintain, and shall require all contractors to require all subcontractors to take out and maintain, insurance in such amounts as provided below. The Developer or its contractor shall provide sufficient evidence to the City, prior to construction, that such insurance exists and is in effect.

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

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

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

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

17. Waiver. In the event that any covenant, agreement, or obligation under this Agreement shall be breached by either the Developer or the City and the breach shall have been waived thereafter by the Developer or the City, as the case may be, the waiver shall be limited to the particular breaches so waived and shall not be deemed to waive any other or any subsequent breach thereunder.

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

(a) that illegality or invalidity shall not affect the remainder hereof or thereof; any other section or provision hereof, or any other covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein or therein,

(b) the illegality or invalidity of any application hereof or thereof shall not affect any legal and valid application hereof or thereof; and

(c) each section, provision, covenant, agreement, obligation or action, or part thereof, shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law.

18. Assignment. Except as otherwise provided in this Section 16, this Agreement may not be assigned by any party hereto without the written consent of the other party, not to be unreasonably withheld. Notwithstanding any provisions to the
contrary in this Section 16, the Developer may assign its interest in this Agreement to an Affiliate (defined herein) or in connection with any merger, reorganization, sale of all or substantially all of the Developer’s assets or any similar transaction **without the prior written consent of the City, conditioned upon an assignment including the assignment of both the rights and obligations of the Developer hereunder, and a copy of such assignment being timely provided to the City.** “Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with the Developer. All representations and warranties of the Developer and the City herein shall survive the execution and delivery of this Agreement.

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

**If to the City to:**

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

and  

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

**If to the Developer to:**

The Witness Group  
Attn: Ohm Patel  
600 Enterprise Drive  
Lewis Center, OH 43035  

and  

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

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

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

22. **Confidentiality.** Unless otherwise directed by court order, City will treat any equity or loan documents provided to it by the Developer, the commitments of any tenants or purchasers to the Project, the expected or actual tenant and ownership mix of the Project, any proformas, and any other information provided to the City and clearly marked “trade secret” as trade secrets and not as public records or information, and will not disclose such documents or information to any third party without the written consent of the Developer. The City will promptly notify the Developer within three (3) business days of (a) any public records request made to it that seeks disclosure of such documents or information and (b) any court action filed against it to compel the disclosure of such documents or information. The City will reasonably cooperate with the Developer in defending any such court action. The Developer will defend City against any third-party claim related to the Developer’s designation of certain records as exempt from public disclosure, and will hold harmless the City for any liability or award to a plaintiff for damages, costs and reasonable attorney’s fees, incurred by the City by reason of such claim.

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

24. **Time is of the Essence.** Time is of the essence in this Agreement.

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

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

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

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

29. **Third Party Easements.** The Developer’s obligations under this Agreement shall be contingent upon the Developer obtaining construction easements for the benefit of the Developer or the City, in form and substance reasonably acceptable to the City, from all third parties as are necessary for the Developer to complete the Off-Site Improvements (collectively, the “Third Party Easements”) no later than [_______] (the “Outside Date”). In the event the Developer is unable to obtain all the Third Party Easements on or before the Outside Date, the Developer shall have the right to terminate this Agreement by written notice thereof to the City.

30. **Force Majeure.** Any delay in the performance of any of the duties or obligations of either party (the “Delayed Party”) shall not be considered a breach of this Agreement and the time required for performance shall be extended for a period equal to the period of such delay, provided that such delay has been caused by or is the result of a Force Majeure Event (as defined below). A Force Majeure Event pauses a party’s performance obligation for the duration of the event, but does not excuse it. “Force Majeure Event” means any event or occurrence that is not within the control of such party and prevents a party from performing its obligations under this Agreement, including without limitation, any act of God; act of a public enemy; war; riot; sabotage; blockage; embargo; failure or inability to secure materials, supplies or labor through ordinary sources by reason of shortages or priority; labor strike, lockout or other labor or industrial disturbance (whether or not on the part of agents or employees of either party); civil disturbance; terrorist act; power outage; fire, flood, windstorm, hurricane, earthquake or other casualty; any law, order, regulation or other action of any governing authority; any action, inaction, order, ruling moratorium, regulation, statute, condition or other decision of any governmental agency having jurisdiction over the party hereto, over the Project or over a party’s operations. The Delayed Party shall give prompt notice to the other party of such cause, and shall take whatever reasonable steps are necessary to relieve the effect of such cause as promptly as possible.

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

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

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

**IN WITNESS WHEREOF,** the City and Developer, each by a duly authorized representative, have caused this Agreement to be executed on this ___ day of __________, 2019.

CITY OF WORTHINGTON

By:

_______________________________

Matthew H. Greeson, City Manager

HE HARI, INC.

By:

_______________________________

Its:

_______________________________

Approved as to Form:

_______________________________

Tom Lindsey, Law Director
DEVELOPMENT AGREEMENT - EXHIBIT A

PROJECT SITE

Real property located at 7007 North High Street, Parcel Number 100-001218-00, as that real property is located in the City of Worthington, Franklin County.

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

GUARANTY

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

BACKGROUND

A. The Developer and the City have executed a Development Agreement, dated [___], 2019 (the “Development Agreement”), pursuant to which the Developer has agreed to construct the Project and the City has agreed to provide public support for the Project in the form of the Incentives described in the Development Agreement;

B. It is a condition precedent to the City’s provision of the Incentives for the Project that the Guarantors execute and deliver this Guaranty; and

C. In order to provide assurance to the City that the Developer’s obligations under the Development Agreement with respect to the Project will be timely completed as required under the Development Agreement, the Developer has agreed, pursuant to the Development Agreement, to execute and deliver, and to cause the Principals to execute and deliver, this Guaranty.

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

1. **Completion of Project.** Guarantors hereby, jointly and severally, unconditionally guarantee:
1.1 The performance of all obligations of the Developer under the Development Agreement with respect to the Project, including, without limitation, (a) the satisfactory and timely completion of the construction of the Project in a good and workmanlike manner, free from any and all liens or claims of any persons or entities performing labor thereon or furnishing materials therefor, or both, subject to Force Majeure (as defined in the Development Agreement), on or before the date that is 48 months after satisfaction of the Incentive Contingencies for the Project and in substantial accordance with the Development Agreement and all applicable legal requirements; (b) payment by the Developer when due of all amounts due under the Development Agreement incurred in connection with the Project; (c) if any chattel mortgages, vendor, mechanics’ or materialmen’s liens should be filed, or should attach, with respect to the Project, to promptly cause the removal of such mortgages or liens, or post or have posted a bond or other security against the consequences of their possible foreclosure and procure an endorsement(s) to the title policy insuring the City against the consequences of the foreclosure or enforcement of such lien(s); and (d) the prompt and full payment, and not merely the collectability, when due, of all costs and expenses including, to the fullest extent not prohibited by law, court costs and attorneys’ fees paid or incurred by the City in realizing any of the obligations or payments hereby guaranteed or in enforcing this Guaranty.

2. **Direct Obligation.** The liability of the Guarantors under this Guaranty shall be primary, direct, joint and several, and immediate and not conditional or contingent upon pursuit by the City of any remedies it may have against the Developer or any other party. No exercise or non-exercise by the City of any right given to it hereunder or under the Development Agreement, and no change, impairment or suspension of any right or remedy of the City shall in any way affect the Guarantors’ obligations hereunder or give the Guarantors any recourse against the City. Without limiting the generality of the foregoing, the City shall not be required to make any demand on Developer, and/or any other party, or otherwise pursue or exhaust its remedies against Developer, or any other party, before, simultaneously with or after, enforcing its rights and remedies hereunder against the other Guarantors.

3. **Unconditional and Absolute Guaranty.** This Guaranty is an unconditional and absolute guaranty, irrespective of the validity, regularity or enforceability of the Development Agreement or any other document or agreement executed in connection therewith or any circumstances which might otherwise constitute a legal or equitable discharge or defense of any Guarantor. No counterclaim, setoff, reduction of an obligation, or defense of any kind which the Developer or any Guarantor may have or assert against the City or which any Guarantor may have or assert against the Developer shall affect, modify or impair any Guarantor’s unconditional and absolute obligations hereunder. THIS IS AN UNCONDITIONAL GUARANTY OF PAYMENT AND NOT OF COLLECTION AND EACH GUARANTOR FURTHER IRREVOCABLY WAIVES ANY RIGHT TO REQUIRE THAT ANY ACTION BE BROUGHT AGAINST THE DEVELOPER OR ANY OTHER PERSON OR TO REQUIRE THAT RESORT BE HAD TO ANY SECURITY PRIOR TO THE ENFORCEMENT OF THIS GUARANTY.
4. **Affirmative Covenants of the Guarantors.** Throughout the term of this Guaranty, each Guarantor shall:

4.1 **Deliver Notice.** Immediately upon learning of any of the following, deliver written notice thereof to the City describing the same and the steps being taken by the Guarantor with respect thereto:

4.1.1 the occurrence of any event of default or an event or circumstance which would constitute such an event of default under the Development Agreement or any other document or agreement executed in connection therewith, but for the requirement that notice be given, time elapse or otherwise, or

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

5. **Negative Covenants of Guarantor.** Throughout the term of this Guaranty, no Guarantor shall enter into any agreement containing any provision which would be violated or breached by the performance of the Guarantor’s obligations hereunder or under any instrument or document delivered or to be delivered by the Guarantor hereunder or in connection herewith.

6. **Waivers.** The Guarantors waive any and all defenses to any action or proceeding brought to enforce this Guaranty. Without limiting the foregoing, the Guarantors specifically waive the following defenses:

6.1 **Waivers of Suretyship Defenses.** The Guarantors agree that the City, in its sole and absolute discretion, without notice to or further assent of any Guarantor and without in any way releasing, affecting, or impairing the obligations and liabilities of the Guarantors hereunder, may deal with the Developer as if this Guaranty were not in effect. Without limiting the generality of the foregoing, the City may: (i) waive compliance with, or any defaults under, or grant any other indulgences with respect to, the Development Agreement or any other document or agreement executed in connection therewith, (ii) modify, amend, or change any provisions of the Development Agreement or any other document or agreement executed in connection therewith, (iii) grant extensions or renewals of (or with respect to) the Development Agreement or any other document or agreement executed in connection therewith and/or effect any release, compromise, or settlement in connection with the Development Agreement or any other document or agreement executed in connection therewith, (iv) agree to the substitution, exchange, release, or other disposition of all or any part of any collateral, (v) and assign or otherwise transfer this Guaranty, the
Development Agreement or any other document or agreement executed in connection therewith this Guaranty or any interest therein or herein.

6.2 Waivers of Notices. The Guarantors waive (i) presentment and demand for payment, notice of dishonor, and protest of non-payment, (ii) notice of acceptance of this Guaranty, (iii) notice of any default hereunder (but without waiving any notice of default which may be required under the Development Agreement), (iv) demand for observance or performance of, or enforcement of, any terms or provisions of this Guaranty, the Development Agreement or any other document or agreement executed in connection therewith, and (v) all other notices and demands otherwise required by law which the Guarantors may lawfully waive.

6.3 Changes to Project. Each Guarantor consents and agrees that Developer may, to the extent permitted under the Development Agreement, alter, extend, change or modify any of the development plans for the Project or any terms or conditions contained in any contract or subcontract or surety bond related to the Project, or may approve any change, or may release or waive or compromise the obligations of any such contractor or subcontractor or surety, and that no such action by the Developer shall in any manner affect this Guaranty or release the obligations of the Guarantors hereunder, regardless of whether the Guarantors have received notice of the same or have further consented thereto and regardless of whether the City has approved the action of the Developer in question, and the Guarantors hereby waive and relinquishes any claim or defense against the City based on any of the foregoing.

6.4 Other Guarantors. The Guarantors waive all defenses arising from the fact that there may now or hereafter be other guarantors or sureties liable for all or any part of the obligations under this Guaranty, or that solvent entities or persons other than the Developer or a Guarantor may have undertaken the performance of all or any part of said obligations.

6.5 Waiver of Certain Other Possible Defenses. The Guarantors waive (i) all defenses based on suretyship or impairment of collateral, and (ii) any defenses that the Developer may assert on the underlying debt, including failure of consideration, breach of warranty, fraud, statute of frauds, bankruptcy, lack of legal capacity, statute of limitations and usury.

7. No Waiver. No failure by the City to insist upon the strict performance by a Guarantor of any provision hereof shall constitute a waiver of the City’s right to strict performance, and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by a Guarantor to observe or comply with any provision hereof.

8. Financial Condition. Each of the Guarantors represents and warrants that such Guarantor is not now insolvent and the Guarantor’s obligations under this Guaranty do not render the Guarantor insolvent; the Guarantor is not contemplating either the filing of a petition by
the Guarantor under any state or federal bankruptcy or insolvency laws or the liquidating of all or a major portion of the Guarantor’s property; and the Guarantor has no knowledge of any person contemplating the filing of any such petition against the Guarantor.

9. **Reliance by the City.** Each Guarantor acknowledges that the City is providing the Incentives in reliance upon this Guaranty and the representations, warranties, covenants and agreements of each Guarantor made herein.

10. **Notices.** Any notice, demand, request or other communication given hereunder or in connection herewith (hereinafter “Notices”) shall be deemed sufficiently given if actually received or if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the party to receive such Notice at its address set forth above, or to such other address as the recipient shall have previously notified the sender of in writing, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to have been received when the return receipt is signed or refused.

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

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

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

12. **Remedies for Default.** Upon the occurrence of an Event of Default, the City shall have the right to pursue, in the City’s sole discretion, all available remedies at law or in equity, including without limitation, specific performance. All remedies available to the City hereunder shall be in addition to and shall not limit the remedies available to the City under
the Development Agreement and any document executed in connection therewith. Without limiting the generality of the foregoing, if a Guarantor fails to perform timely any of its obligations under this Guaranty, the City shall have the right (but not the obligation) to perform them by or through any agent, contractor or subcontractor of its selection, and the Guarantors shall indemnify and hold the City free and harmless from and against any and all actual loss, damage, cost, expense, injury, or liability the City may suffer or incur in connection with the exercise of its rights under this Guaranty or the performance of any obligations under this Section. During the course of any exercise of rights undertaken by the City or any other party on behalf of the City in accordance with the terms of this Section, the Guarantors shall, jointly and severally, pay within 30 days after demand therefore any amounts due to contractors, subcontractors, and material suppliers and for permits and licenses necessary or desirable in connection therewith. The Guarantors’ obligations in connection with such work shall not be affected by any errors or omissions of any party in the design, supervision, and performance of the work; it being understood that such risk is assumed by the Guarantors. Neither the completion of the construction of the Project nor failure of said party to complete the construction of the Project shall relieve the Guarantors of any liabilities hereunder; rather, such liability shall be continuing and may be enforced by the City to the end that the construction of the Project shall be timely completed, lien-free, without loss, cost, expense, injury or liability of any kind to the City in accordance with the Development Agreement.

13. **Termination of Guaranty.** This Guaranty shall terminate and the Guarantors shall thereupon be released from any further liability, obligation or responsibility hereunder upon the completion of the Project, as evidenced by issuance of all necessary certificates of occupancy for those improvements, and discharge of all liens and claims of any persons or entities performing labor thereon or furnishing materials therefor, or both, provided, however, any such release shall not affect the Developer’s obligations under the Development Agreement.

14. **Governing Law.** This Guaranty shall be construed in accordance with the laws of the State of Ohio.

15. **Consent to Jurisdiction.** EACH OF THE GUARANTORS, TO THE EXTENT THAT IT MAY LAWFULLY DO SO, HEREBY SUBMITS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURTS LOCATED WITHIN FRANKLIN COUNTY, OHIO AS WELL AS TO THE JURISDICTION OF ALL COURTS FROM WHICH AN APPEAL MAY BE TAKEN FROM THE AFORESAID COURTS, FOR THE PURPOSE OF ANY SUIT, ACTION OR OTHER PROCEEDING ARISING OUT OF ANY OF THE GUARANTORS’ OBLIGATIONS UNDER OR WITH RESPECT TO THIS GUARANTY.

16. **Waiver of Jury Trial.** THE GUARANTORS AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY AND ALL CLAIMS OR CAUSES OF ACTION BASED UPON OR ARISING OUT OF THIS GUARANTY. IT IS HEREBY ACKNOWLEDGED THAT THE WAIVER OF A JURY TRIAL IS A MATERIAL INDUCEMENT FOR THE ACCEPTANCE OF THIS GUARANTY BY THE CITY AND THAT THE ACCEPTANCE OF THIS GUARANTY BY THE CITY IS MADE IN
RELIANCE UPON SUCH WAIVER. EACH OF THE GUARANTORS FURTHER WARRANTS AND REPRESENTS THAT SUCH WAIVER HAS BEEN KNOWINGLY AND VOLUNTARILY MADE BY EACH GUARANTOR, FOLLOWING CONSULTATION WITH THEIR RESPECTIVE LEGAL COUNSEL.

17. **Recitals.** The facts and circumstances as described in the Background section hereto are an integral part of this Guaranty and as such are incorporated herein by reference.

18. **Entire Guaranty.** This Guaranty cannot be changed or terminated orally. This Guaranty contains the entire understanding between the parties with respect to the subject matter. This Guaranty shall not be amended or terminated without the written consent of the City.

19. **Successors.** This Guaranty shall inure to the benefit of, and be enforceable by, the City and its respective successors and assigns, and shall be binding upon, and enforceable against, each of the Guarantors and their respective successors, heirs and assigns, in accordance with its terms.

20. **Severability.** In case any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, but this Guaranty shall be construed as if such invalid, illegal or unenforceable provision had never been included.

21. **Execution of Counterparts.** This Guaranty may be executed in any number of counterparts, each of which shall be deemed to be an original hereof, and all of which shall constitute but one and the same instrument, it not being necessary in proving this Guaranty to produce or account for more than one such counterpart. Signatures transmitted by facsimile or electronic means are deemed to be original signatures.

22. **Section Headings.** The section headings in this Guaranty are inserted for convenience of reference only and shall not in any way affect the meaning or construction of any provision of this Guaranty.

23. **Financing Contingency.** The Guarantors’ obligations under this Agreement shall be contingent upon the Developer (as defined in the Development Agreement) securing financing for purposes of funding the Project on terms and conditions reasonably satisfactory to the Developer (the “Financing Contingency”), no later than no later than _______________ (“Financing Contingency Period”). In the event the Developer is unable to obtain the Financing Contingency on terms and conditions reasonably satisfactory to the Developer within the Financing Contingency Period, the Developer shall have the right to terminate this Agreement by written notice thereof to the City.

**Attorney Review.** The terms and conditions of this Guaranty were reviewed by the attorneys for each of the Guarantors, and said terms and conditions explained to the appropriate officers/representatives of the Guarantors who, by their execution hereof, hereby acknowledge that they fully understand them.
IN WITNESS WHEREOF, the Guarantors have executed this Guaranty as of the day and year first above written.

Guarantors:
He Hari, Inc., an Ohio corporation
By: ____
Its: ____

[PRINCIPAL]

______

[PRINCIPAL]

______
STATE OF OHIO
   : 
   : ss.
COUNTY OF FRANKLIN
   :

BE IT REMEMBERED, that on this ___ day of _____________, 2019, before me, the subscriber, a Notary Public in and for said state, personally appeared ________________, duly authorized signer for He Hari, Inc., and acknowledged the signing hereof to be his voluntary act on behalf of said company.

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

_____________________________
Notary Public

STATE OF OHIO
   : 
   : ss.
COUNTY OF FRANKLIN
   :

BE IT REMEMBERED, that on this ___ day of _____________, 2019, before me, the subscriber, a Notary Public in and for said state, personally appeared [___], and acknowledged the signing hereof to be his voluntary act.

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

_____________________________
Notary Public

STATE OF OHIO
   : 
   : ss.
COUNTY OF FRANKLIN
   :

BE IT REMEMBERED, that on this ___ day of _____________, 2019, before me, the subscriber, a Notary Public in and for said state, personally appeared [Principal], and acknowledged the signing hereof to be his voluntary act.

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

_____________________________
Notary Public
Acknowledged and accepted this ____ day of _______ 2019:

Approved as to form for the City:  

_______________________  
Tom Lindsey, Law Director

CITY OF WORTHINGTON, OHIO

By: _______________________

Matthew H. Greeson, City Manager
DEVELOPMENT AGREEMENT - EXHIBIT C

DESIGNATED IMPROVEMENTS

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

- Signalization Part 1
  - Relocation of the existing signal on Wilson Bridge Road and the mall. Signal will include:
    - Traffic signal mast arm supports non-decorative to replace in kind which is standard mast arm signals with black finish
    - Signal appurtenances including vehicular signals, pedestrian signals, cable/wire, pushbutton, detection (video assumed), pullboxes and controller for a complete signal installation consistent with the current signal design
    - Material from the existing signal will be reused if feasible and practical. This may include poles, signal heads and controller

- Signalization Part 2
  - Upgrade of the signal at High Street and Caren Avenue:
    - Removal of the span wire signal
    - Decorative mast arm signal supports to match those at the High Street and Wilson Bridge Road intersection
    - Signal appurtenances including vehicular signals, pedestrian signals, cable/wire, pushbutton, detection (video assumed), pull boxes and controller for a complete signal installation consistent

- Road Construction [Wilson Bridge Road, Mall Drive and Site Drive Intersection]
  - Realignment of ~165 feet of the mall drive including removal of the existing drive pavement and associated paving items for the new drive
  - Wilson Bridge Road Drainage revisions as needed to adjust catch basins and underdrains for the drive relocation
  - Pavement markings (stop lines, crosswalks and westbound left turn lane revision) and ground mounted signs (lane use control and No Turn On Red currently installed) as needed for the intersection
  - ADA Ramps and sidewalk at the corners to make the intersection complete.

- Street Lighting
  - Street lighting on both sides of Wilson Bridge Road and High Street (10 poles total)
  - Poles and bases to match ODOT lights on High Street north of Wilson Bridge Road
• ROW Compensation
  o Compensation to property owners for acquisition (Cost to cure property, easements and other amenities)
  o ROW Appraisal - Cost for Professional Services for a Certified Real Estate MAI Appraiser. Appraisal scope includes the Ville Charmante Condominium Access Drive Easement; and Worthington Mall Drive Entry Temporary Work Easement for Entry Drive Re-Configuration.

• Professional Fees
  o Cost for Professional Services: Attorneys, Architects, Engineers or other Professional fee
    ▪ Attorney / Legal Assistance
    ▪ Construction Management
    ▪ Architectural
    ▪ Engineering
    ▪ Road Construction Offsite
    ▪ Signalization
    ▪ Streetscaping LA of Caren/High
    ▪ Streetscaping LA = Wilson Bridge, Caren, High; tree lawns
    ▪ Street Lighting
    ▪ Survey (Topo & Boundary)
    ▪ Right-of-Way Plan Documents
    ▪ Plan Document preparation for dedication Plats of real estate
    ▪ Survey Boundary drawings, descriptions and easements
    ▪ Survey (Staking) Public ROW
    ▪ TIS = Traffic extras beyond std scope, Retaining walls
    ▪ Foundations / Brick
    ▪ Flood & Drainage
    ▪ Bioretention / pavers / WQv
    ▪ Grading change / sitework
    ▪ CEI & CMT

• Streetscaping
  o Intersection corner treatments
  o Construction of brick paver landing at all quadrants of the intersection of Caren Avenue and N. High Street, including brick knee-wall with precast concrete cap, landscaping behind the wall, and ADA ramps with modified crosswalk striping

• Streetscaping (off-site public on periphery of site)
  o Removal of existing and installation of new access drives plus associated repairs to curb and sidewalks
  o Removal and replacement of sidewalks along all 3 streets (High, Wilson Bridge, Caren)
- Decorative walls/planter boxes at pedestrian access points to development along Wilson Bridge Road
- Street trees along all 3 streets spaced approximately 40’ center-to-center
- Groundcover and shrubs along the Wilson Bridge Road frontage

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

- **Building Demolition and Asbestos remediation**
  - Demolition
  - Asbestos Remediation

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

LIST OF SEQUENCING FOR DESIGNATED IMPROVEMENTS

Sequence 1
- Engineering approval for both On-Site Improvements and Off-Site Improvements (to include the intersection on Wilson-Bridge Road). This is subject to an efficient approval process in working with City’s Engineer and the City’s third-party engineering firm
- Building drawing approval for the structures on Wilson-Bridge parcels

Sequence 2
- Site work for all parcels to ensure all parcels are pad ready in terms of utilities, storm water, grading, etc.
- Realignment of Wilson-Bridge intersection
- Establish new curb cuts for the site
- Initiate the ARB and Planning Commission approvals for the North High Street Parcel

Sequence 3
- Construction of the buildings on the Wilson-Bridge Road parcel subject to timely building approval
- Installation of Off-Site Improvements on Wilson-Bridge Road
- Continue the ARB and Planning Commission approvals for the North High Street Parcel

Sequence 4
- Building drawing approval of the North High Street Parcel subject to timely ARB and Planning Commission approvals
- Construction of the North High Street Parcel building subject to timely building approval.
- Installation of the North High Street frontage off-site improvements
- Installation of the Off-Site Improvements at the North High Street and Caren Ave. intersection

Sequence 5
- Building drawing approval of the back parcel
- Construction of the back-parcel building subject to building approval

Sequence 6
- Tie all three parcels together aesthetically
- Project clean up and closeout
STAFF MEMORANDUM
City Council Meeting – April 15, 2019

Date: April 10, 2019
To: Matthew H. Greeson, City Manager
From: Darren Hurley, Parks & Recreation Director
Subject: Ordinance 013-2019 Appropriation - Bicycle and Pedestrian Improvement Program

EXECUTIVE SUMMARY
This Ordinance appropriates $100,000 from the 2019 Capital Improvement Fund for Bike & Pedestrian Improvements as recommended by the Bicycle & Pedestrian Advisory Board.

RECOMMENDATION
Approve as presented

BACKGROUND/DESCRIPTION
The 2019 Capital Improvements Program (CIP) included $100,000 for Bike and Pedestrian Improvements. The Bicycle and Pedestrian Advisory Board has reviewed the draft of the soon to be finalized Bike and Pedestrian Master Plan and has identified priority projects for 2019. Their top priority project is to add a pedestrian crossing across 161 at East Granville Road Park and Pingree Drive. This crossing has received support from residents, was a priority for the board prior to the planning process and has now shown up as a priority in the master planning process.

Service and Engineering Department staff are doing an assessment of the crossing location and the best treatment to be applied. A traffic consultant is being utilized to assess the crossing and to make recommendations for the safest and most appropriate treatment. Once this assessment is complete and approaches are identified, the Bike and Pedestrian Advisory Board will work with staff to select the best approach and implement the project. If there is any additional funding remaining in the $100,000 allocation, the board has recommended bike racks in the adjacent parks, possible pilot projects in the surrounding neighborhoods, and looking at any viable sidewalk connections in the areas that might be considered. These projects would be smaller in nature and determined based on the available funding after the priority crossing is funded.
ORDINANCE NO. 13-2019

Amending Ordinance No. 52-2018 (As Amended) to Adjust the Annual Budget by Providing for an Appropriation from the Capital Improvements Fund Unappropriated Balance to Pay the Costs of the 2019 Bicycle and Pedestrian Improvement Program and all Related Expenses and Determining to Proceed with said Project. (Project No. 693-19)

WHEREAS, the Charter of the City of Worthington, Ohio, provides that City Council may at any time amend or revise the Budget by Ordinance, providing that such amendment does not authorize the expenditure of more revenue than will be available;

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

SECTION 1. That there be and hereby is appropriated from the Capital Improvements Fund Unappropriated Balance to Account No. 308.8150.533422 an amount not to exceed one-hundred thousand dollars ($100,000) to pay the cost of the 2019 Bicycle and Pedestrian Improvement Program and all related expenses (Project No. 693-19).

SECTION 2. For the purposes of Section 2.21 of the Charter of the City, this ordinance shall be considered an “Ordinance Determining to Proceed” with the Project, notwithstanding future actions of this Council, which may be necessary or appropriate in order to comply with other requirements of law.

SECTION 3. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed ___________________

____________________________________
President of Council

Attest:

________________________________
Clerk of Council
STAFF MEMORANDUM
City Council Meeting – April 15, 2019

Date: April 11, 2019

To: Matthew H. Greeson

From: Lori Trego, Personnel Director

Subject: Resolution to Amend the Personnel Rules and Regulations

EXECUTIVE SUMMARY
This Resolution amends the Personnel Rules and Regulations to authorize Communication Technician Retention Agreements.

RECOMMENDATION
Introduce and Approve as Presented

BACKGROUND/DESCRIPTION
A recommendation has been made to City Council for the City of Worthington to join the Northwest Center for 911 call taking and public safety dispatching. The transition to the Northwest Center would be phased over the next year, with Fire/EMS in July 2020, and then Police in September 2020. The Worthington Communications Center will need to remain operational during this transition period. In order to show appreciation for our current fulltime Communication Technicians, and to incentivize them to stay with the City during the transition of the City’s communication functions, staff is recommending retention payments. This Resolution would amend the Personnel Rules and Regulations to authorize retention payment agreements for fulltime Communication Technicians that remain employed with the City through the transition in 2020.

FINANCIAL IMPLICATIONS/FUNDING SOURCES (if applicable)

ATTACHMENTS
Resolution
RESOLUTION NO. 20-2019

Amending the Personnel Rules and Regulations of the City of Worthington to Authorize Communication Technician Retention Agreements.

WHEREAS, it is necessary to periodically update the City’s Personnel Rules and Regulations; and,

WHEREAS, the Personnel Rules of the City of Worthington contain provisions addressing compensation for Communication Technicians; and,

WHEREAS, a recommendation has been made to City Council for the City of Worthington to join the Northwest Center for 911 call-taking and public safety dispatching; and,

WHEREAS, it is the desire of City Council to amend the compensation provisions for Full-time Communication Technician to authorize a retention payment for Full-time Communication Technicians in order to maintain emergency dispatching services during a period of transition for these services; and,

WHEREAS, City Council authorizes the City Manager and Personnel Director to develop retention agreements to encourage employee retention during this period of transition with the terms and conditions determined by the City in the retention agreements. Along with other terms and conditions, the City is authorized to offer employees in the classification of Full-time Communication Technician a $250 retention payment for every 36 regular hours actually worked per week. All terms and conditions for participation and payment under the retention plan will be addressed in the agreements;

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

SECTION 1. That Rule V of the Personnel Rules and Regulations of the City of Worthington be and the same is hereby amended to include the addition of Section 13 to read as follows:

Rule V CLASSIFICATION AND PAY PLAN

SECTION 13. Communication Technician Retention Agreements

The City Manager and Personnel Director are authorized to develop retention agreements, with the terms and conditions determined by the City in the retention agreements, to encourage employee retention during a period of transition for public safety dispatching services. Along with other terms and conditions, the City is authorized to offer employees in the classification of Full-time Communication Technician a $250 retention payment for
RESOLUTION NO. 20-2019

every 36 regular hours actually worked per week. All terms and conditions for participation and payment under the retention plan will be addressed in the agreements.

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

adopted ________________

____________________________________
President of Council

Attest:

________________________________
Clerk of Council
Date: April 9, 2019

To: Matthew H. Greeson

From: Tom Lindsey, Law Director

Subject: Resolution No. 21-2019 - Northeast Gateway Right-of-Way Acquisition

EXECUTIVE SUMMARY
This Ordinance authorizes the City Manager to purchase various real estate interests involving Parcel 22 for the Northeast Gateway Intersection Improvement Project.

RECOMMENDATION
Introduce and Approve as Presented

BACKGROUND/DESCRIPTION
The Northeast Gateway Intersection Improvement Project (Project No. 602-14) will reconstruct Worthington Galena Road starting 600 feet north of the CSX railroad to Lakeview Plaza Boulevard, Wilson Bridge Road from the CSX Railroad to Worthington Galena Road, and Huntley Road starting 400 feet south of Wilson Bridge Road to Wilson Bridge Road. The Project requires the City of Worthington to acquire over 100 separate parcels from over 30 different property owners. A list of the parcels and a map is attached as Exhibit A.

The Ohio Department of Transportation's Real Estate Manual provides the federally mandated appraisal and acquisition process to acquire Right-of-Way parcels with federal grant funding. The City's consultants have been following this process in conducting appraisals of the various parcels and in attempting to negotiate with the property owners.

Council adopted Ordinance No. 61-2018 determining to proceed with the acquisition of the parcels and requiring the adoption of a resolution to authorize the acquisition of any parcels described in Exhibit A if the negotiated purchase price exceeds $30,000 or is more than $3,000 over the fair market value estimate as determined in accordance with the ODOT Manual.
The City’s consultants have negotiated a purchase agreement to acquire various real estate interests designated as Parcels 22-WD, 22-U, and 22-T from Hudson Bearings, LLC for $20,000.00. (See Exhibit A for the parcel designations.) Parcel 22 is located at 7060 Huntley Road. The negotiated purchase price is $3,613 over the fair market value estimate. ODOT has administratively reviewed and approved the purchase price for the reasons set forth in the attached Exhibit B.

The proposed ordinance will authorize the purchase of the designated real estate interests for Parcel 22.

ATTACHMENTS
Resolution No. 21-2019
Exhibit A – List of parcels and a map
Exhibit B – ODOT approval
RESOLUTION NO. 21-2019

Authorizing the Acquisition of Certain Real Estate Interests Involving Parcel 22 for the Northeast Gateway Intersection Improvement Project. (Project No. 602-14)

WHEREAS, the Northeast Gateway Intersection Improvement Project will reconstruct Worthington Galena Road starting 600 feet north of the CSX railroad to Lakeview Plaza Boulevard, Wilson Bridge Road from the CSX Railroad to Worthington Galena Road, and Huntley Road starting 400 feet south of Wilson Bridge Road to Wilson Bridge Road (the “Project”); and,

WHEREAS, the Project requires the City of Worthington to acquire various real estate interests, including Parcels 22-WD, 22-U, and 22-T (the “Parcel 22 real estate interests”); and,

WHEREAS, the Ohio Department of Transportation’s Real Estate Manual provides the federally mandated appraisal and acquisition process to acquire Right-of-Way parcels with federal grant funding; and,

WHEREAS, Council passed Ordinance No. 33-2018 appropriating the estimated necessary funds for such acquisition; and,

WHEREAS, Council passed Ordinance No. 61-2018 determining to proceed with the acquisition and requiring the adoption of a resolution to authorize the acquisition of any parcels described in Exhibit A of the ordinance if the negotiated purchase price exceeds $30,000 or is more than $3,000 over the fair market value estimate; and,

WHEREAS, the City’s consultants have negotiated and ODOT has approved the purchase of the Parcel 22 real estate interests from Hudson Bearings, LLC for $20,000.00.

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

SECTION 1. That Council hereby approves the purchase of the Parcel 22 real estate interests from Hudson Bearings, LLC for $20,000.00.

SECTION 2. That the City Manager, Finance Director, and Law Director are each hereby authorized, acting singly or jointly, to take all actions, including the execution of the purchase contract, any escrow agreements and instructions, closing statements, affidavits, approvals, payments, or other documents, necessary to effectuate the purchase of the Parcel 22 real estate interests.
RESOLUTION NO. 21-2019

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

Adopted ________________

_____________________________
President of Council

Attest:

_____________________________
Clerk of Council
### Exhibit A

**Northeast Gateway Project Parcel List**

### Ordinance No. 61-2018

#### 8.B. - NE Gateway Right-of-Way Acquisition

<table>
<thead>
<tr>
<th>Owner</th>
<th>Parcel</th>
<th>Address</th>
<th>FMVE</th>
<th>$/acre</th>
</tr>
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<tbody>
<tr>
<td>City of Worthington</td>
<td>1-WD, -T</td>
<td>Wilson Bridge Rd</td>
<td>n/a</td>
<td>$7,278</td>
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<td>Norfolk Southern Railway Company</td>
<td>2-SH1, -SH2, -T1, -T2</td>
<td>Wilson Bridge Rd</td>
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<td>400-406 E Wilson Bridge Rd</td>
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<td>n/a</td>
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</tr>
<tr>
<td>State of Ohio</td>
<td>5-WD, -T</td>
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<td>RSL Partners, LLC</td>
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<td>Franca Adams, Trustee</td>
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<td>Rush Creek Investors LLC</td>
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<td>Robert Morris Montgomery</td>
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<td>Capital Enterprises</td>
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</tr>
</tbody>
</table>
**Exhibit A**  
(Ordinance No. 61-2018)  
Northeast Gateway Project Parcel List

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Address</th>
<th>Owner</th>
<th>FMVE</th>
</tr>
</thead>
<tbody>
<tr>
<td>15-WS, -S, -T, -U w/E</td>
<td>7200 Huntley Rd</td>
<td>7200 Huntley Road, LLC</td>
<td>$699,108</td>
</tr>
<tr>
<td>15-BS1</td>
<td>7200 Huntley Rd</td>
<td>REM Motors, LLC</td>
<td>$1,207</td>
</tr>
<tr>
<td>16-WS, -S1, -S2, -U, -T</td>
<td>Worthington-Galena Rd</td>
<td>Anheuser-Busch Commercial Strategy</td>
<td>$387,814</td>
</tr>
<tr>
<td>17-T</td>
<td>6767 Huntley Rd</td>
<td>Atlas Industrial Contractors, LLC</td>
<td>$300</td>
</tr>
<tr>
<td>18-WS, -U1, -U2, -T</td>
<td>6800 Huntley Rd</td>
<td>Nucon International Inc.</td>
<td>$10,340</td>
</tr>
<tr>
<td>19-WS1, -WD2, -U, -T1, -T2</td>
<td>7029 Huntley Rd</td>
<td>Huntley Corporate Center, LLC</td>
<td>$34,774</td>
</tr>
<tr>
<td>20-WS, -U, -T</td>
<td>7020 Huntley Rd</td>
<td>7020 Huntley Road, LLC</td>
<td>$16,739</td>
</tr>
<tr>
<td>21-WS, -U, -T</td>
<td>7057 - 7079 Huntley Rd</td>
<td>Worthington Galena, LLC</td>
<td>$24,976</td>
</tr>
<tr>
<td>21-BS1</td>
<td>7079 Huntley Rd</td>
<td>Dream Baths, LLC</td>
<td>$1,347</td>
</tr>
<tr>
<td>22-WS, -U, -T</td>
<td>7060 Huntley Rd</td>
<td>Huntley Road Holdings, LLC</td>
<td>$16,387</td>
</tr>
<tr>
<td>23-WS, -U1, -U2, -T</td>
<td>7086 Huntley Rd</td>
<td>Werstler Holdings, LLC</td>
<td>$12,780</td>
</tr>
<tr>
<td>24-WS, -U, -T</td>
<td>7100 Huntley Rd</td>
<td>MayFam Realty</td>
<td>$69,133</td>
</tr>
<tr>
<td>25-WS, -T</td>
<td>733 Lakeview Plaza Blvd</td>
<td>Lakeview Commercial Properties, LLC</td>
<td>$26,968</td>
</tr>
<tr>
<td>28-SH1, -SH2, -U, -T1, -T2</td>
<td>Huntley Rd</td>
<td>CSX Transportation, Inc.</td>
<td>$4,863</td>
</tr>
<tr>
<td>Parcel</td>
<td>Address</td>
<td>Owner</td>
<td>FMVE</td>
</tr>
<tr>
<td>--------</td>
<td>--------------------------</td>
<td>--------------------------------------------</td>
<td>-------</td>
</tr>
<tr>
<td>29-T</td>
<td>7000 Huntley Rd</td>
<td>Nucon International Inc.</td>
<td>$300</td>
</tr>
<tr>
<td>30-WD</td>
<td>Worthington-Galena Rd</td>
<td>Estate of Hester Dysert</td>
<td>$300</td>
</tr>
<tr>
<td>33-WD, -T</td>
<td>6969 Worthington-Galena Rd</td>
<td>6969 Worth-Galena, LLC</td>
<td>$26,904</td>
</tr>
<tr>
<td>34-WD, -U, -T1, -T2</td>
<td>7036 Worthington-Galena Rd</td>
<td>Eastwood Properties, Ltd</td>
<td>$10,746</td>
</tr>
<tr>
<td>35-WD1, -WD2, -S1, -S2, -T1, -T2 w/E</td>
<td>7045 Worthington-Galena Rd</td>
<td>Top World Legacy, LLC</td>
<td>$55,058</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$55,493</td>
</tr>
<tr>
<td>36-WD, -S, -T1, -T2 w/E</td>
<td>7059 Worthington-Galena Rd</td>
<td>Pia Truman</td>
<td>$65,008</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$65,490</td>
</tr>
<tr>
<td>37-WD, -S, -T1, -T2 w/E</td>
<td>7069 Worthington-Galena Rd</td>
<td>Carlo Cautela</td>
<td>$65,256</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$65,735</td>
</tr>
<tr>
<td>38-WD</td>
<td>7044 Worthington-Galena Rd</td>
<td>Black Building, LLC</td>
<td>$386</td>
</tr>
<tr>
<td>39-WD</td>
<td>E Wilson Bridge Rd</td>
<td>Estates of Richard M. &amp; Evelyn C. Gilbert</td>
<td>$300</td>
</tr>
<tr>
<td>40-WD</td>
<td>760 Lakeview Plaza Blvd</td>
<td>Stonehenge Professional Park</td>
<td>$980</td>
</tr>
</tbody>
</table>
Legend
WD = a fee simple interest
SH = a perpetual easement for highway purposes
T = a temporary easement for construction purposes
U = a utility or railroad easement
E = a fee simple interest for excess land
BS = a bill of sale
S = a sewer easement
## 8.B. - NE Gateway Right-of-Way Acquisition

### Owner's Name

**Huntley Road Holdings, LLC**

### Acquiring Agency's Fair Market Value Estimate

<table>
<thead>
<tr>
<th>Parcel No.</th>
<th>Items Included in This Estimate</th>
<th>Original</th>
<th>Revision</th>
<th>Admin Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>22-WD</td>
<td>0.047 acres (1,795 sq SF) @ $170,000/Ac</td>
<td>$6,970</td>
<td>$6,970</td>
<td></td>
</tr>
<tr>
<td>22-U</td>
<td>0.022 acres (958 sq SF) @ $170,000/Ac x 50%</td>
<td>$1,870</td>
<td>$1,870</td>
<td></td>
</tr>
</tbody>
</table>

### Items

<table>
<thead>
<tr>
<th>No.</th>
<th>Kind</th>
<th>AV Size</th>
<th>Original</th>
</tr>
</thead>
<tbody>
<tr>
<td>22-T</td>
<td>Miscellaneous</td>
<td>Medium</td>
<td>$1,500</td>
</tr>
<tr>
<td>22-WD</td>
<td>1,600 sq SF unused lawns @ $60/30 SF</td>
<td>$452</td>
<td>$452</td>
</tr>
<tr>
<td>22-WD</td>
<td>4,600 sq SF asphalt pavement @ $3.50/30 SF, depr. 25%</td>
<td>$473</td>
<td>$473</td>
</tr>
<tr>
<td>22-T</td>
<td>Private sign @ $2,578, depr. 25%</td>
<td>$1,934</td>
<td>$1,934</td>
</tr>
<tr>
<td>22-T</td>
<td>Two (2) large shrubs @ $100 each</td>
<td>$200</td>
<td>$200</td>
</tr>
<tr>
<td>22-WD</td>
<td>Administrative Review</td>
<td></td>
<td>$3,613</td>
</tr>
</tbody>
</table>

**TOTAL FAIR MARKET VALUE FOR REQUIRED ROW**

$16,387

**TOTAL FAIR MARKET VALUE FOR REQUIRED ROW AND EXCESS LAND**

$16,387

**ADJUSTED COST TO ACQUIRE EXCESS LAND**

$20,000

---

The allocation of compensation recommended above is based upon an approved appraisal report.

**Reviewer's Recommendation**

**Date**: 09/21/2018

---

**Agency Signature Establishing FMVL**

**Typed Name & Title**: Matthew H. Greason, City Manager

**Agency Name**: City of Worthington

---

**Appraisal Unit Manager**

**Typed Name & Title**: Tammy Boring, Real Estate Administrator

**Agency Name**: ODOT - District 6

---

**Date**: 09/21/2018

---

**Date**: 3/6/2019
8.B. - NE Gateway Right-of-Way Acquisition

APPRaisal and Review Record

<table>
<thead>
<tr>
<th>Fee/Staff</th>
<th>Appraiser</th>
<th>Value of Taking</th>
<th>Date Approved</th>
<th>Total Take</th>
<th>Partial Take</th>
<th>Type Report</th>
<th>Type of Specialists Report</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fee</td>
<td>Melissa Dean Speert</td>
<td>$16,387</td>
<td>08/30/18</td>
<td>X</td>
<td>VF</td>
<td>Sign Estimate</td>
<td></td>
</tr>
</tbody>
</table>

Reviewer’s Reasoning for the Recommendation:

The appraisal problem is simplistic and there is no apparent damage to the residue. Therefore, the Value Finding format was utilized, which does not require that the property be valued as a whole. A unit value is determined for the underlying land, the estimated contributory value is determined for any improvements within the take(s) and necessary cost to cures are estimated.

The subject property includes 1.629 gross/1.629 net acres. It is improved with an office/warehouse building and associated improvements. The subject is within the I-1, Restricted Light Industrial District. As vacant, the subject does not meet the zoning requirements in the before and after conditions for lot width. As improved, it does not appear to meet zoning requirements in the before and after situations for lot width. Therefore, it is considered legal, non-conforming in the before and after situations. As vacant, the highest and best use is for industrial/office development.

The estimated unit value of the underlying land is $170,000/Acre, which is supported by land sales. All sales presented are within the subject’s market area. The sales indicate an unadjusted range of $105,377/Acre to $173,027/Acre.

There is one warranty deed acquisition identified as 22-WD and one utility easement identified as 22-U that will be acquired from the subject property. 22-WD contains 0.041 gross/0.041 net acres with 0.000 P.R.O. 22-U will encumber 0.022 acre. There is also one temporary construction easement needed from the subject property identified as 22-T that includes 0.087 acre. The temporary construction easement will encumber the site for 24 months. The site improvements that will be removed as part of the project are compensated for based on their estimated contributory value. Items within 22-U and 22-T that are not included in the estimated compensation due the owner will remain in place or be replaced in like-kind if disturbed during the construction of the project.

The subject property will have the same functional utility and highest and best use after the acquisition as before the acquisition. The residue will contain 1.588 gross acres/1.588 net acres. There is no apparent damage to the subject property.

Overall, the appraiser presents sufficient support for the estimate of compensation due the owner.

GAT, 09/21/18 Cert. #396169.

Administrative Review:

After diligent negotiations, the negotiator was able to arrive at a settlement of $20,000. This represents an increase of $3,613 over the FMVE. Cost of litigation and an updated appraisal report will far outweigh this increase. The settlement is considered fair, reasonable and in the best interest of all parties concerned.

Tammy Boring, Real Estate Administrator
ODOT-District 6
STAFF MEMORANDUM
City Council Meeting – April 15, 2019

Date: April 3, 2019
To: Matthew H. Greeson, City Manager
From: R. Lee Brown, Director of Planning & Building
Subject: Ordinance No. 15-2019 – Building Code Amendments

EXECUTIVE SUMMARY
This Ordinance amends Chapter 13 of the City’s Codified Ordinances to adopt the new State of Ohio residential building code and to incorporate requirements for building demolition.

RECOMMENDATION
Introduce for Public Hearing on May 6, 2019

BACKGROUND/DESCRIPTION
The Planning & Building Department staff has been working on several updates to the Codified Ordinances, Part 13 – Building Code, for the City of Worthington related to the State of Ohio adopting a new residential building code effective July 1, 2019 that will also require some minor modifications to Part 11 – Planning & Zoning Code for the City of Worthington.

The 2019 Residential Code of Ohio, Ohio Administrative Code 4101:8 Board of Building Standards; Residential Code of Ohio is effective statewide on July 1, 2019. The state residential code does not address building demolition and the commercial code has minimal requirements, so staff has proposed regulations to handle these types of situations.

Staff is proposing to update Chapters 1301, 1305 and 1311 of the Codified Ordinances to coordinate with the new state building code and provide new requirements for building demolition for residential and commercial structures. The ordinance also includes lowering the barrier requirements for residential swimming pools to be the same height as most other jurisdictions in the United States and match code requirements for commercial swimming pools in Ohio. These changes will require some minor modifications of Chapters 1125, 1129 and 1173 to the Planning & Zoning Code.
Attached is a summary of the proposed changes in the ordinance including the changes from the 2009 to the 2018 International Property Maintenance Code.

Amendments to the Building Code are effective 20-days after approval and notification, however any change or modification to the Planning & Zoning Code requires 60-days after approval and notification before it is effective.

**ATTACHMENTS**
Ordinance No. 15-2019 - Amendments to Building Code – Chapters 1301, 1305 and 1311
Building Code Modifications Overview
Building Code Amendment with track changes
ORDINANCE NO. 15-2019

To Amend Sections 1301.05, 1301.06, 1305.01, 1305.06, 1305.07, 1305.08, 1305.09, 1311.01, 1311.02, 1311.07, 1301.05, and 1301.06; and Enacting Section 1301.07 of the Codified Ordinances of the City of Worthington Related to the Coordination with the State of Ohio Building Codes, the Establishment of Demolition Standards, Modifying Pool Barrier Requirements, and Adjusting Fees.

WHEREAS, the City Council is certified by the State of Ohio to enforce the state building codes; and,

WHEREAS, the City Council wishes to amend provisions of the City’s Codified Ordinances to coordinate with the state building codes; and,

WHEREAS, the City Council wishes to adopt additional requirements for the demolition of buildings.

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

SECTION 1. That Sections 1301.05 and 1301.06 of the Codified Ordinances be amended, and Section 1301.07 be added, and the same is hereby enacted to read as follows:

1301.05 COMPLIANCE WITH ORDINANCES.

(a) A permit is the document issued by the Division of Building Regulation authorizing work as shown on the application and/or the construction documents when the proposed work is in compliance with the Ohio Building Code and not in violation of the Codified Ordinances.

(b) The permit authorizing the work as shown on the approved construction documents is invalid if the work is not completed within eighteen months of the issuance of the permit.

Exception: A permit for the demolition of a structure is invalid if the demolition and site restoration work is not completed within six months of the issuance of the permit.

(c) Before any work authorized by a permit may continue for which the permit is invalid, the owner of the property shall make application to the Board of Zoning Appeals for an extension of time as required under Chapter 1129 of the Planning and Zoning Code. Failure to complete work within time period or any additional time granted by the Board of Zoning Appeals shall constitute a violation of this code.
(d) No permit shall be issued unless the construction documents submitted are in accordance not only with the Ohio Building Code but also with the Zoning Ordinance and the Subdivision Regulations as set forth in these Codified Ordinances and amendments thereto, so far as they may be applicable.

(e) No permit for a lot adjacent or contiguous to the flood plain of the Olentangy River shall be issued unless the application for the permit is accompanied by a certification by an Ohio registered surveyor or engineer that the finished grades at the building elevation comply with the minimum requirements set forth in Chapter 1105 of the Codified Ordinances.

(f) No permit shall be issued for any new building to which this Code is applicable, nor for any addition exceeding 1,000 square feet, nor for any parking lot, until the provisions therein for disposal of storm drainage have been reviewed and approved by the City Engineer.

(g) Lot grading and landscaping shall be completed in such a manner as to provide positive drainage away from building foundations. Grading and landscaping that will significantly alter existing drainage conditions to surrounding properties shall not be permitted unless it is demonstrated that the change is acceptable to the owners of the affected properties and the new drainage conditions shall not detrimentally affect the property or structures located thereon. Where possible, runoff shall be directed to public or private storm sewers or drainage ways. Lot grading shall be completed in such a manner as to be consistent with surrounding street, curb, parking area or lot grades. Grading that offers obstruction to natural drainage of storm water whether by sheet flow or in established open ditches shall not be permitted.

1301.06 FEES.
Fees required for permits relating to buildings being constructed, remodeled, changed in use, or demolished under the Ohio Building Code shall be determined according to the following schedule:

(a) New Construction and Additions:
(1) Processing Fee $300.00
(2) Area Fee $20.00 per 100 Square Feet Gross Floor Area

(b) Remodeling, Alteration, Change in Use, or Temporary Structures or Uses:
(1) Processing Fee $150.00
(2) Area Fee $10.00 per 100 Square Feet Gross Floor Area

(c) Change of Occupancy only, no work except cosmetic: $72.82

(d) Whenever the work is substantially complete but not in full compliance with the requirements of this chapter, and the building official is granting a Temporary or Partial Certificate of Occupancy of a new, expanded, or altered structure to allow beneficial use of the structure while the remaining work is completed, a fee of $150.00 shall be paid prior to the granting of such temporary or partial occupancy.
ORDINANCE NO. 15-2019

(e) Heating, Ventilating, Air Conditioning, Electrical, Fire Suppression:
(1) Area Fee $10.00 per 100 Square Feet for first 5000 Square Feet
    $2.00 per 100 Square Feet greater than 5000 Square Feet
(2) Minimum Fee $100.00

(f) Plumbing:
    First fixture $200.00
    Each additional fixture $20.00
    Hot water heater replacement $60.00

(g) Demolition or Moving Buildings: $200.00 per building

(h) Parking Lot:
    (1) Area Fee $5.00 per 1000 Square Feet
    (2) Minimum Fee $50.00

(i) Additional Inspection Fees:
    (1) When, for any reason, an inspection is desired outside the normal working hours of the Division of Building Regulation, an Overtime Inspection shall be applied for in writing during normal hours and accompanied by a fee of $150.00. Overtime inspections shall be performed only if approved by the Director of Engineering and if an inspector is available at the time required.
    (2) When the work requiring inspection does not comply with the requirements of this chapter, and the work requires a third or subsequent re-inspection to determine compliance, a fee of $75.00 shall be paid prior to the re-inspection being conducted.

(j) Refunds. No fee imposed by this section shall be considered refundable.

(k) Waiver of Fees. The City Manager is hereby empowered to order that fees be waived for charitable, philanthropic, governmental agencies or for construction or improvements yielding economic development benefits to the City in specific cases.

(l) Public Area Payment.
    (1) Multi-family developments: $250.00 per unit
    (2) Commercial and industrial developments: $100.00 per 1,000 gross square feet of new or expanded space.

(m) A credit shall be granted for any multi-family, commercial and industrial development constructed on a lot which previously contained a similar structure, but which structure was demolished on or after January 1, 1995. The credit shall be in an amount which would have been paid for such demolished structure in accordance with the provisions of subsection (l) hereof. In no event shall the credit granted be greater than the payment due in connection with the new development.
ORDINANCE NO. 15-2019

1301.07 DEMOLITION OR MOVING BUILDINGS

(a) The following are requirements when making application to completely demolish or move a building. In addition to a completed application on the prescribed form, the application shall be accompanied by 2 copies of documents containing the following information in addition to that required by the Ohio Building Code:

1. A site plan of the parcel of land indicating which structure or structures are being completely removed, including any walks, pavement, parking areas, fencings, poles, walls, sheds, driveways, etc.

2. A site restoration plan indicating how the site will be restored after any structure is removed. This plan shall include information on backfill, proposed landscaping, what structures will remain like foundations and subsurface slabs, and method of preventing voids and water accumulation.

Exceptions:

A. A site restoration plan is not required for detached accessory structures not over 120 square feet in area. The site must still be restored.

B. A site restoration plan is not required if an application for a permit to construct a replacement structure on the site is received within 60 days of receipt of the application for demolition, the application date is shown on the demolition schedule, and the permit application addresses the restoration of the site. Failure to receive such application for permit shall cause the permit for demolition to be invalid until a site restoration plan is submitted.

3. A schedule including: 1) when utilities are to be disconnected, 2) when demolition or movement of structures is to start, 3) the time duration of demolition or movement of structures, 4) when site restoration is to start, and 4) the time duration of site restoration. The entire schedule duration shall not exceed 90 days.

Exceptions:

A. A schedule is not required for detached accessory structures not over 120 square feet in area. The 90 day maximum time period still applies.

B. The schedule is not required to include the start date and time duration of site restoration if the application date for a replacement structure is shown on the schedule.

(b) Any substantive changes to the site plan, site restoration plan, or schedule shall be submitted for review and approval following the same process as the original application.
ORDINANCE NO. 15-2019

(c) The review of the application shall be completed within 30 days of receipt. Approval, denial, or modification of the application shall be in writing by the Chief Building Inspector and shall state the reasons for denial or modification.

(d) All demolition and site restoration work shall be completed, inspected, and approved.

(e) Variances from the requirements of 1301.07 or an appeal of the denial or modification of the application shall be made to the Board of Zoning Appeals under Chapter 1129 of the Planning and Zoning Code.

SECTION 2. That Sections 1305.01, 1305.06, 1305.07, 1305.08, and 1305.09 of the Codified Ordinances be amended, and the same is hereby enacted to read as follows:

1305.01 ADOPTION OF RESIDENTIAL CODE OF OHIO.

(a) Pursuant to Ohio R.C. 731.231, there is hereby adopted by the Municipality, the Residential Code of Ohio (RCO) as adopted by the Ohio Board of Building Standards, Ohio Department of Commerce, and as published in Division 4101:8 of the Ohio Administrative Code (OAC) and as the same may be amended.

(b) The Municipality hereby adopts Appendix G Swimming Pools, Spas and Hot Tubs of the ICC International Residential Code/2012. Such codes are incorporated herein as fully as if set out at length.

1305.06 COMPLIANCE WITH ORDINANCES

(a) A permit is the document issued by the Division of Building Regulation authorizing work as shown on the application and/or the construction documents when the proposed work is in compliance with the Residential Code of Ohio and not in violation of the Codified Ordinances.

(b) The permit authorizing the work as shown on the approved construction documents is invalid if the work is not completed within eighteen months of the issuance of the permit.

Exception: A permit for the demolition of a structure is invalid if the demolition and site restoration work is not completed within six months of the issuance of the permit.

(c) Before any work authorized by a permit may continue for which the permit is invalid, the owner of the property shall make application to the Board of Zoning Appeals for an extension of time as required under Chapter 1129 of the Planning and Zoning Code. Failure to complete work within said time period or any additional time granted by the Board of Zoning Appeals shall constitute a violation of this code.

(d) No permit shall be issued unless the construction documents submitted are in accordance not only with the Residential Code of Ohio but also with the Zoning Ordinance and the Subdivision Regulations as set forth in these Codified Ordinances and amendments thereto, so far as they may be applicable.
ORDINANCE NO. 15-2019

(e) No permit for a lot adjacent or contiguous to the flood plain of the Olentangy River shall be issued unless the application for the permit is accompanied by a certification by an Ohio registered surveyor or engineer that the finished grades at the building elevation comply with the minimum requirements set forth in Chapter 1105 of the Codified Ordinances.

(f) No permit shall be issued for any new building to which this Code is applicable, nor for any addition exceeding 1,000 square feet, nor for any parking lot, until the provisions therein for disposal of storm drainage have been reviewed and approved by the City Engineer.

(g) Lot grading and landscaping shall be completed in such a manner as to provide positive drainage away from building foundations. Grading and landscaping that will significantly alter existing drainage conditions to surrounding properties shall not be permitted unless it is demonstrated that the change is acceptable to the owners of the affected properties and the new drainage conditions shall not detrimentally affect the property or structures located thereon.

1305.07 AMENDMENTS TO ADOPTED CODE.
These provisions shall be incorporated into the Residential Code of Ohio for One, Two, and Three- Family Dwellings and shall be cited as such and will be referred to herein as “this code.”

(a) Section 301, 301.2, Table 301.2(1) the following is inserted into the table as follows:

Ground Snow Load: 20 psf
Seismic Design Category: A
Frost line depth: 32”
Winter Design Temperature: 5°F
Flood Hazards: Chapter 1105 Minimum Elevations
Air Freezing Index: 1066
Mean Annual Temperature: 52.2°F

(b) Section AG101.1 General shall be modified as follows: The provisions of this appendix shall control the design, and construction of swimming pools, spas, and hot tubs installed in or on the lot of a one-, two-, or three-family dwelling.

(c) Section AG102 Definitions. The following definitions shall be amended to read as follows:

RESIDENTIAL. That which is situated on the premises of a detached one-, two-, or three-family dwelling or a one-family townhouse not more than three stories in height.

1305.08 FEES.
Fees for all permits required under this chapter shall be determined according to the following schedule:

(a) Construction of New Buildings or Additions to Existing Buildings, or Remodeling, Alteration, Change of Use or Reconstruction of Existing Buildings.
ORDINANCE NO. 15-2019

(1) Processing fee: $100.00
(2) Area fee: $10.00 per 100 square feet gross floor area.
(b) Construction of uncovered decks, detached storage buildings under 200 square feet in size, or other minor alterations such as moving or adding doors and windows, the permit fee shall be $70.00.

Exception: For work valued under $1,500, the permit fee shall be $50.00.
(c) Heating, Air Conditioning, Ventilating, Refrigeration Systems, Electrical, and Fire Suppression.
(1) Area Fee $8.00 per 100 square feet gross floor area
(2) Minimum fee $50.00
(d) Plumbing:
First fixture $60.00
Each additional fixture $15.00
(e) Fireplace Repair. For each fireplace: $40.00
(f) Demolition or Moving Buildings: $50.00 per building
(g) Special/Additional Inspections Fees. When, for any reason, an inspection is required outside the normal working hours of the Division of Building Regulation, an Overtime Inspection shall be applied for during normal hours, in writing, and accompanied by a fee of $75.00. Overtime inspections shall be performed only if approved by the Director of Planning and Building and if an inspector is available at the time required. When the work requiring inspection does not comply with the requirements of the Building Code, and the work requires a second or subsequent re-inspection to determine compliance, a fee of $75.00 shall be paid prior to the re-inspection being conducted.
(h) Refunds. No fee imposed by this section shall be considered refundable.
(i) Waiver of Fees. The City Manager is hereby empowered to order that fees be waived for charitable, philanthropic or governmental agencies, in specific cases.
(j) Public Area Payment.
(1) Multi-family developments: $250.00 per unit
(2) Single-family residences are subject to payment only when a new lot is created, in accordance with Section 1101.06.
(k) A credit shall be granted for any multi-family development constructed on a lot which previously contained a similar structure, but which structure was demolished on or after January 1, 1995. The credit shall be in an amount, which would have been paid for such demolished structure in accordance with the provisions of subsection (j) hereof. In no event shall the credit granted be greater than the payment due in connection with the new development.

1305.09 DEMOLITION OR MOVING BUILDINGS
(a) The following are requirements when making application to completely demolish or move a building. In addition to a completed application on the prescribed form, the application shall be accompanied with 2 copies of documents containing the following information:
ORDINANCE NO. 15-2019

(1) A site plan of the parcel of land indicating which structure or structures are being completely removed, including any walks, pavement, parking areas, fencings, poles, walls, sheds, driveways, etc.

(2) A site restoration plan indicating how the site will be restored after any structure is demolished. This plan shall include information on backfill, proposed landscaping, what structures will remain like foundations and subsurface slabs, and method of preventing voids and water accumulation.

Exceptions:

A. A site restoration plan is not required for detached accessory structures not over 200 square feet in area. The requirement that the site be restored is still required.

B. A site restoration plan is not required if an application for a permit to construct a replacement structure on the site is received within 60 days of receipt of the application for demolition, the application date is shown on the demolition schedule, and the permit application addresses the restoration of the site. Failure to receive such application for permit shall cause the permit for demolition or moving to be invalid until a site restoration plan is submitted.

(3) A schedule including: 1) when utilities are to be disconnected, 2) when demolition or movement of structures is to start, 3) the time duration of demolition or movement of structures, 4) when site restoration is to start, and 4) the time duration of site restoration. The entire schedule duration shall not exceed 90 days.

Exceptions:

A. A schedule is not required for detached accessory structures not over 200 square feet in area. The 90 day maximum time period still applies.

B. The schedule is not required to include the start date and time duration of site restoration if the application date for a replacement structure is shown on the schedule.

(b) Any substantive changes to the site plan, site restoration plan, or schedule shall be submitted for review and approval following the same process as the original application.

(c) The review of the application for demolition shall be completed within 30 days of receipt. Approval, denial, or modification of the application shall be in writing by the Chief Building Official and shall state the reasons for denial or modification.

(d) All demolition and site restoration work shall be completed, inspected, and approved.
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(e) Variances from the requirements of 1305.09 or an appeal of the denial or modification of the application shall be made to the Board of Zoning Appeals under Chapter 1129 of the Planning and Zoning Code.

SECTION 3. That Sections 1311.01, 1311.02, and 1311.07 of the Codified Ordinances be amended, and the same is hereby enacted to read as follows:

1311.01 ADOPTION OF ICC CODE.
The Municipality hereby adopts the ICC International Property Maintenance Code/2018 as published by the International Code Council, Inc., which hereinafter may be referred to as this code, and is incorporated herein as fully as if set out at length.

1311.02 INSPECTION COPY.
One copy of the ICC International Property Maintenance Code together with copies of ordinances amending same, shall be kept on file by the City Clerk in the Department of Planning and Building for public examination during usual business hours.

1311.07 AMENDMENTS TO ADOPTED CODE.
(a) Subsection 101.1 Title is amended to read as follows: These regulations shall be known as the Property Maintenance Code of the City of Worthington, hereinafter referred to as “this code.”
(b) Subsection 102.3 Application of other codes shall read as follows: Repairs, additions or alterations to a structure, or changes of occupancy, shall be completed in accordance with the procedures and provisions of Part Eleven Planning and Zoning and Part Thirteen Building Code of the Codified Ordinances.
(c) Section 103 Department of Property Maintenance Inspection is hereby deleted. It shall be the duty of the Building Inspector, or any other person designated by the City Manager, to enforce this code. The Building Inspector is also referred to as the “code official” throughout this code.
(d) Section 111 Means of Appeal is hereby deleted.
(e) Subsection 112.4 Failure to comply is hereby deleted.
(f) In Section 202, add new definitions as follows:
CONSTRUCTION MATERIAL. Material typically used in construction or maintenance of buildings, fences, and property including, doors, windows, concrete block, brick, lumber, shingles, gutters, cement board, tubing, conduit, fencing, downspouts, vinyl and aluminum siding, cement, concrete, nails, and fasteners or similar material including plastic material used in the same manner as other, traditional construction material.
EQUIPMENT. The implements used, whether motorized or non-motorized, in an operation or activity. Equipment may include lawn care, automotive repair, maintenance, and construction equipment.
FRONT YARD. That portion of the property between the right of way and the front of the principal structure including the required yard as defined in Chapter 1149 of the Planning and Zoning Code. For the purposes of this code, corner lots shall be considered to have two front yards.

LAWN CARE EQUIPMENT. Equipment used for the installation and maintenance of yards and landscaping including, but not limited to lawn mowers, spreaders, mulchers, trimmers, tillers, rollers, and edgers.

LAWN CARE MATERIAL. Material used for the installation, alteration or maintenance of yards and landscaping including, but not limited to dirt, topsoil, mulch, seeds, sprouts, shoots, starter pots, temporary pots, and unplanted material including bushes, trees and flowers, and similar material removed from the ground. For the purposes of this code, firewood shall be considered a lawn care material if it is split, neatly stacked, and protected for future use. Brush, limbs, twigs and other such rubbish not neatly stacked and protected for future use shall not be considered firewood.

REQUIRED YARD. A front, side, and rear yard as defined in Chapter 1149 of the Planning and Zoning Code.

STORE. To place equipment or material on property, either temporarily or permanently, while not in use for its intended purposes.

TRAILERS. Trailers are unpowered vehicles intended to be towed behind a powered vehicle. Trailers include boat trailers, campers, and utility trailers.

(g) Subsection 302.4 Weeds is deleted. Section 521.13 Noxious weeds of the Codified Ordinances shall apply.

(h) Add new subsection 302.10 as follows:

302.10 Miscellaneous equipment and material.
302.10.1 - General. Unless otherwise provided for in this code, no equipment or material shall be stored outdoors in any residential district.
302.10.2 - Lawn care equipment. Each property is permitted a maximum of two pieces of lawn care equipment to be stored on the property.

Exception: Lawn care equipment stored in an accessory structure and not visible from adjoining properties or the public way.

302.10.3 - Lawn care material. Lawn care material may be stored on residential property if neatly stacked and maintained free of weeds, insects, and rodents. Lawn care material delivered to a property may be placed in the front yard for a maximum period of 60 days.

302.10.4 - Construction material. Construction material is permitted on a property, visible from adjoining property or the public way if the material is associated with construction or maintenance activity, necessary permits have been secured, and the work is in progress, otherwise, the storage of construction material is not permitted.

(i) Subsection 304.14 shall be amended with the following dates: from April 1 to September 30.
ORDINANCE NO. 15-2019

(j) Add new subsection 308.4 as follows:

308.4 Container location. Containers for the purpose of placing rubbish per 308.2 or garbage per 308.3 in a residential district shall not be located in the front yard.

(k) Subsection 404.3 Minimum ceiling heights shall be amended with a new exception 4 as follows:

4. Where specifically allowed per Chapter 1305 Building Code for One, Two and Three-Family Dwellings.

(l) Add Subsection 507.02 as follows:

507.02 Regulation of storm drainage facilities. All storm drainage facilities including culverts, storm sewers, detention/retention facilities, energy dissipaters and flow restrictors shall be maintained in operating condition and clear of accumulations of silt, trash or debris.

All storm drainage facilities constructed as a requirement of the Codified Ordinances or regulations of the City shall not be modified or altered unless the modifications or alterations are approved by the City Engineer.

(m) Subsection 602.3 Heat supply shall be amended with the following dates: from October 1 to April 30.

(n) Subsection 602.4 Occupiable work spaces shall be amended with the following dates: from October 1 to April 30.

SECTION 4. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the first day of July, 2019.

Passed __________________

__________________________
President of Council

Attest:

__________________________
Clerk of Council
The following are a summary of the changes in Chapter 1301 of the Codified Ordinances of Worthington, Ohio.

1) 1301.05 Compliance with Ordinances. Subsection (b) is modified to add an exception for a permit for demolition to shorten its time period from 18 months to 6 months.

2) 1301.05 Compliance with Ordinances. Subsection (c) is modified to allow a variable time period.

3) 1301.05 Compliance with Ordinances. Subsection (f) is deleted. From a timing perspective, a driveway tends to be one of the later site work items. A literal application of this subsection could delay a construction project unreasonably. Section 903.09 requires a temporary driveway at construction sites.

4) 1301.05 Compliance with Ordinances. Subsection (g) is deleted. A public sewer being available to a building is a zoning code requirement and is redundant in the building code. Ohio allows private sewage disposal systems so if a zoning variance is granted, a corresponding building code variance would be redundant as well. This requirement conflicts with the Ohio Building Code so seeking a variance from the Ohio Board of Building Appeals is not appropriate and this provision becomes unenforceable.

5) 1301.06 Fees. Subsection (d) is modified. The document for occupancy is a Certificate of Occupancy.

6) 1301.06 Fees. Subsection (g) is modified to label the fee for demolition or moving a building and raising the fee from $50 to $200.

7) 1305.07 Demolition. A new section is added with specific additional requirements for the complete demolition or moving of a structure. The zoning code addresses if a structure can be demolished. This provides for additional information to be collected at the time of application. Staff has not experienced many issues with demolition but a recent project that went to litigation demonstrated a need to ensure water and sewer connection permits are issued. Without a schedule, it is difficult for Service and Engineering to monitor. Similarly, another owner was looking to remove a fire suppression system ahead of demolition. Without a schedule, it was not clear for how long the building was to remain unprotected and the Division of Fire was able to secure a schedule prior to granting the approval. A schedule would now be a requirement at time of application. Appeals to these requirements would be heard by the Board of Zoning Appeals.
Chapter 1305 Modifications

March 21, 2019

The following are a summary of the changes in Chapter 1305 of the Codified Ordinances of Worthington, Ohio.

1) 1305.01 Adoption of Residential Code of Ohio. Subsection (b) is modified to reference the 2012 edition of the International Residential Code (IRC) for Appendix G Swimming Pools, Spas and Hot Tubs, and delete Appendix H Patio Covers. Patio covers are adequately covered in Chapter 1 of the 2013 and 2019 Residential Code of Ohio and is a leftover provision when Worthington adopted the 2000 IRC in 2003. The 2018 IRC no longer has Appendix G, a 5 page document, which would force Worthington to adopt the 60 page 2018 International Swimming Pool and Spa Code. That code would encompass many more requirements including duplicate language found in the Ohio Building Code for public swimming pools.

2) 1305.06 Compliance with Ordinances. Subsection (b) is modified to add an exception for a permit for demolition to shorten its time period from 18 months to 6 months.

3) 1305.06 Compliance with Ordinances. Subsection (c) is modified to allow for a variable time period.

4) 1305.06 Compliance with Ordinances. Subsection (f) is deleted. From a timing perspective, a driveway tends to be one of the later site work items. A literal application of this subsection could delay a construction project unreasonably. Section 903.09 requires a temporary driveway at construction sites.

5) 1305.06 Compliance with Ordinances. Subsection (g) is deleted. A public sewer being available to a building is also a zoning code requirement and is redundant in the building code. Ohio allows private sewage disposal systems so if a zoning variance is granted, a corresponding building code variance would be redundant as well. This requirement conflicts with the Residential Code of Ohio so seeking a variance is not appropriate and this provision becomes unenforceable.

6) 1305.07 Amendments to Adopted Code. Subsection (a) is deleted. The purpose of this amendment was to ensure small sheds were being placed in compliance with the zoning code. A Certificate of Compliance is required by the zoning code so there is no effective change with this deletion excepting a reduction in permit fees collected by Chapter 1305. A fee increase in the zoning code is proposed to help offset some of this lost revenue.

7) 1305.07 Amendments to Adopted Code. Subsection (b) is modified to add the ground snow load for Worthington (it was inadvertently removed in 2013), and updates Table 301.2(1) using the same language as the 2019 RCO. The air freezing index and mean annual temperature are updated values from the National Oceanic and Atmospheric Administration.

8) 1305.07 Amendments to Adopted Code. Subsection (c) is modified to include three-family dwellings, and otherwise not change the remainder of AG101.1.

9) 1305.07 Amendments to Adopted Code. Subsection (d) definition of swimming pool modification is deleted since this will now not conflict with the zoning code requirement.
10) 1305.07 Amendments to Adopted Code. Subsection (d) the modification of the minimum barrier height is deleted since this will now not conflict with the zoning code requirement.

11) 1305.08 Fees. Subsection (f) is slightly modified.

12) 1305.09 Bed and Breakfast Establishments. This section is deleted. Effective with the August 1, 2018 revisions to the 2017 Ohio Building Code, these are now regulated like other places of accommodation, having these and additional requirements in place. Similarly, the 2017 Ohio Fire Code and Ohio Revised Code 3731 should allow the Division of Fire access for annual inspections. Additionally, this use is not allowed in most residential zones per the zoning code.

13) 1305.09 Demolition. A new section is added with specific requirements for the complete demolition of a structure. Partial demolition is already addressed in the building code. The zoning code already addresses if a structure can be demolished. This provides for additional information to be collected at the time of application. Staff has not experienced many issues with demolition but a recent project that went to litigation demonstrated a need to ensure water and sewer connection permits are issued. Without a schedule, it is difficult for Service and Engineering to monitor.
Chapter 1311 Modifications

March 21, 2019

This is a summary of the proposed changes to Chapter 1311 of the Codified Ordinances.

1) 1311.01 Adoption of ICC Code. The edition is changed from 2009 to 2018. A summary of the changes between the 2 documents are listed in item 4 below.

2) 1311.02 Inspection Copy. The edition is changed from the 2009 to the 2018.

3) 1311.07 Amendments To Adopted Code.
   a) New subsection (e) deleting the failure to comply provision. 1311.04 requires a person to comply and 1311.99 provides the penalty for not complying.
   b) Delete subsection (h) which amended the adopted code from 4’ to 6’ for a barrier around a pool. The intent of the barrier is to prevent unsupervised young children from wandering into a pool and who are not able to keep themselves from drowning. The vast majority of the jurisdictions of the United States have settled on the 4’ national standard.
   c) Delete subsection (o), which added an exception for smoke alarms for owner occupied dwellings. The new code section 704.6.1 Where required, now has an exception for buildings that were built before the current smoke alarm requirement are permitted to remain as previously approved.

4) The following are changes within the 2018 International Property Maintenance Code that differ from the 2009 International Property Maintenance Code:
   a) Chapter 1
      i. 102.2 Maintenance. Language was changed from owner’s designated agent to owner’s authorized agent.
      iii. 102.7 Referenced codes and standards. Additional clarifying language was added when conflicts arise between the code and referenced standards.
      iv. 103.4 Liability. This paragraph was restructured but the intent is substantially the same.
      v. 104.3 Right of entry. Added owner’s authorized agent or other person having charge or control of the property to gain entry.
      vi. 105.1 Modifications. Added owner’s authorized agent.
      vii. 105.2 Alternative materials, methods and equipment. Title was expanded to include design and method of construction. Additional clarification added on how to get seek alternative ways for compliance and the denial must be in writing stating the reasons for the denial.
      viii. 107.2 Form. The owner’s authorized agent was added.
      ix. 107.6 Transfer of ownership. The owner’s authorized agent was added.
x. 108.2 Closing of vacant structures. The owner’s authorized agent was added.

xi. 108.2.1 Authority to disconnect service utilities. The owner's authorized agent was added.

xii. 108.3 Notice. The owner's authorized agent was added.

xiii. 108.6 Abatement methods. The owner's authorized agent, operator, or occupant of a building was added.

xiv. 109.5 Costs of emergency repairs. The owner's authorized agent was added.

xv. 110.1 General. The owner's authorized agent was added.

xvi. 110.3 Failure to comply. The owner's authorized agent was added.

xvii. 112.2 Issuance. The owner's authorized agent was added.

b) Chapter 2


ii. Section 202. Approved was slightly modified.

iii. Section 202. Added a new definition Cost of Such Demolition or Emergency Repair. This is related to municipal abatement and the placing of liens on property.

iv. Section 202. Added a new definition of Historic Building. Buildings so designated can seek relief from some of the requirements.

v. Section 202. Labeled was slightly modified.

vi. Section 202. Public way was further clarified.

vii. Section 202. Structure was slightly modified.

c) Chapter 3

i. 304.15 Doors. Operator systems was added to that to which must be maintained.

ii. 304.19 Gates. New subsection for gates, that also shall be maintained in good condition.

d) Chapter 4

i. 404.4.1 Room area. Added a requirement that every bedroom occupied by more than 1 person shall contain at least 50 sf for each person thereof.

ii. 404.5 Overcrowding. The current requirement leaves this as an interpretation of the code official. The new code added a table to provide specific space requirements. A living room of 120 sf for less than 6 occupants, or 150 sf if more than 6 occupants is now required. A dining room is required if more than 3 occupants. The dining room is to be at least 80 sf for 3 to 5 occupants, and at least 100 for 6 or more occupants. Combined use space is allow if the required combined areas are met.

iii. 404.6 Efficiency unit. Added a new minimum 120 sf requirement for a 1 person unit.
e) Chapter 5 - 506.3 Grease interceptors. New subsection requiring grease interceptors be maintained and require records be maintained by the owner/operator.

f) Chapter 6
   i. 602.2 Residential occupancies. Added a new prohibition using an unvented fuel-burning space heater as the means to provide the required heating.
   ii. 603.1 Mechanical appliances. Renames the subsection Mechanical equipment and appliances and added equipment to the list of items covered by the section.
   iii. 605.2 Receptacles. New requirement that receptacle outlets have a faceplate cover.
   iv. 605.3 Luminaries. New requirement that pool and spa luminaries over 15 volts have ground fault circuit interruption protection.
   v. 605.4 Wiring. A new subsection not allowing flexible cords to be used in place of permanent wiring, or for running through doors, windows, or cabinets; or concealed within walls, floors, and ceilings.

g) Chapter 7. Note, these new provisions are already enforceable under the Ohio Building Code or the Ohio Fire Code. The property maintenance code will likely not be used to ensure fire-resistance ratings and fire protection systems are maintained.
   i. 703.1 Fire-resistance-rated assemblies. The existing code references required assemblies be maintained. The revised subsection generally makes a statement that these assemblies are governed by this subsection.
   ii. 703.2 Opening protectives. The old subsection on opening protectives was moved to a new subsection 703.4. The new subsection language deems fire-resistance-rated assemblies not maintained are an unsafe condition requiring correction.
   iii. 703.3 Maintenance. New subsection on how fire-resistance-rated assemblies are to be maintained.
   iv. 703.3.1 Fire blocking and draft stopping. New subsection on the maintenance of fire blocking and draft stopping.
   v. 703.3.2 Smoke barriers and smoke partitions. New subsection on the maintenance of smoke barriers smoke partitions.
   vi. 703.3.3 Fire walls, fire barriers, and fire partitions. New subsection on the maintenance of fire walls, fire barriers, and fire partitions.
   vii. 703.4 Opening protectives. This subsection was renumbered and expanded to include specific performance requirements.
   viii. 703.4.1 Signs. New subsection authorizes the code official to require signs on fire doors required to be either normally open or normally closed.
   ix. 703.4.2 Hold-open devices and closer. New subsection requiring hold-open devices and door closers to be maintained.
x. 703.4.3 Door operation. New subsection requiring swinging doors to close and latch from the fully open position and partially open position.

xi. 703.5 Ceilings. New subsection prohibiting the hanging and display of salable goods and other decorative materials from an acoustical ceiling system that is part of a fire-resistance-rated horizontal assembly.

xii. 703.6 Testing. A new subsection requiring annual testing and record keeping for horizontal and vertical sliding and rolling fire doors.

xiii. 703.7 Vertical shafts. New subsection requiring shafts be maintained according to the fire and building codes.

xiv. 703.8 Opening protective closers. New subsection requiring the maintenance of closers and the replacement of fusible links are rated in excess of 135°F.

xv. 704.1 General. Was renamed Inspection, testing and maintenance and added the requirement that defective parts or systems be replaced or repaired.

xvi. 704.1.1 Automatic sprinkler systems. Was renamed Installation and now generally applies to all fire protection systems present in a building, their need to be maintained, and changes to those existing systems must follow a standard.

xvii. 704.1.2 Required fire protection systems. New subsection applicable to systems required by the building and/or fire code, requiring they be installed, repaired, operated, tested, and maintained.

xviii. 704.1.3 Fire protection systems. New subsection referencing each of the 16 fire protection systems to the appropriate section of the fire code.

xix. 704.2 Smoke alarms. The subsection on smoke alarms are renumbered and renamed 704.6 Single- and multiple-station smoke alarms. The renamed subsection adds a table of the 10 standards the 16 systems listed in 704.1.3 must adhere to.

xx. 704.2.1 Records. A new subsection requiring records of the inspections, tests, and maintenance required by the standards.

xxi. 704.2.2 Records information. Specific informational requirements for a new installation.

xxii. 704.3 Power source. This subsection was renumbered 704.6.3 and this subsection is renamed Systems out of service. New subsection requiring the fire code official to be notified of the outage and the building evacuated or a fire watch be provided.

xxiii. 704.3.1 Emergency impairments. New subsection directing the impairment coordinator to follow steps in the fire code.

xxiv. 704.4 Interconnection. This subsection was renumbered 704.6.2 and this subsection is renamed Removal of or tampering with equipment. New subsection prohibiting removal, tampering, or disturbing a system except for extinguishing a fire, training, recharging a system, or making repairs.
xxv. 704.4.1 Removal of or tampering with appurtenances. Prohibits locks, gates, doors, barricades, chains, enclosures, signs, tags, and seals required by the fire official from being removed, unlocked, destroyed, or tampered with.

xxvi. 704.4.2 Removal of existing occupant-use hose lines. New subsection allowing the fire official to authorize the removal of occupant-use hose lines, with conditions.

xxvii. 704.4.3 Termination of monitoring service. A new subsection requiring the fire official be notified in writing when the provider of the service is being terminated.

xxviii. 704.5 Fire department connection. New subsection requiring signage for fire department connections not readily visible by an approaching apparatus.

xxix. 704.5.1 Fire department connection access. A new subsection requiring access to the fire department connection be maintained.

xxx. 704.5.2 Clear space around connections. A new subsection requiring a minimum working space around a fire department connection.

xxxi. 704.6 Single- and multiple-station smoke alarms. Originally 704.2 Smoke alarms in the current code were required in specific locations in residential occupancies and occupancies required by the fire code. The revised subsection is shorten to include Groups I-1 and R occupancies in general terms with specifics to follow.

xxxi. 704.6.1 Where required. New subsection that gives the specific occupancies where smoke alarms are required, with exceptions if they were not required at the time of construction.

xxxiii. 704.6.1.1 Group R-1. New subsection for location requirements for smoke alarms for hotels/motels.

xxxiv. 704.6.1.2 Groups R-2, R-4, R-4, and I-1. New subsection that gives the specific location requirements for smoke alarms for multi-family and supervised institutional.

xxv. 704.6.1.3 Installation near cooking appliances. New subsection providing minimum distances from cooking appliances to avoid false alarms.

xxvi. 704.6.1.4 Installation near bathrooms. New subsection providing a minimum distance from a bathroom that has a bathtub or shower to avoid false alarms.

xxvii. 704.6.2 Interconnection. Was renumbered from 704.4 and the language was reorganized for clarity.

xxviii. 704.6.3 Power source. Was renumbered from 704.3 and the language was reorganized for clarity.

xxix. 704.6.4 Smoke detection system. New subsection for fire alarm systems, if installed.

xl. 704.7 Single- and multiple-station smoke alarms. New subsection requiring testing and maintenance of smoke alarms, and the replacement of smoke alarms after 10 years of manufacture in one- and two-family dwellings.
xli. 705.1 General. New subsection for carbon monoxide alarms as required by the fire code and residential code.
xlii. 705.2 Carbon monoxide alarms and detectors. New subsection requiring maintenance of carbon monoxide alarms.
ORDINANCE NO. XX-2013

To Amend Sections 1301.05, 1301.06, 1305.01, 1305.06, 1305.07, 1305.08, 1305.09, 1311.01, 1311.02, 1311.07, 1301.05, and 1301.06; and Enacting Section 1301.07 of the Codified Ordinances of the City of Worthington Related to the Coordination with the State of Ohio Building Codes, the Establishment of Demolition Standards, Modifying Pool Barrier Requirements, and Adjusting Fees.

WHEREAS, the City Council is certified by the State of Ohio to enforce the state building codes; and,

WHEREAS, the City Council wishes to amend provisions of the City’s Codified Ordinances to coordinate with the state building codes; and,

WHEREAS, the City Council wishes to adopt additional requirements for the demolition of buildings.

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

SECTION 1. That Sections 1301.05 and 1301.06 of the Codified Ordinances be amended, and Section 1301.07 be added, and the same is hereby enacted to read as follows:

1301.05 COMPLIANCE WITH ORDINANCES.

(a) A permit is the document issued by the Division of Building Regulation authorizing work as shown on the application and/or the construction documents when the proposed work is in compliance with the Ohio Building Code and not in violation of the Codified Ordinances.

(b) The permit authorizing the work as shown on the approved construction documents is invalid if the work is not completed within eighteen months of the issuance of the permit.

Exception: A permit for the demolition of a structure is invalid if the demolition and site restoration work is not completed within six months of the issuance of the permit.

(c) Before any work authorized by a permit may continue for which the permit is invalid, the owner of the property shall make application to the Board of Zoning Appeals for an extension of time as required under Chapter 1129 of the Planning and Zoning Code. Failure to complete work within said eighteen-month period or any additional time granted by the Board of Zoning Appeals shall constitute a violation of this code.

(d) No permit shall be issued unless the construction documents submitted are in accordance not only with the Ohio Building Code but also with the Zoning Ordinance.
and the Subdivision Regulations as set forth in these Codified Ordinances and amendments thereto, so far as they may be applicable.

(e) No permit for a lot adjacent or contiguous to the flood plain of the Olentangy River shall be issued unless the application for the permit is accompanied by a certification by an Ohio registered surveyor or engineer that the finished grades at the building elevation comply with the minimum requirements set forth in Chapter 1105 of the Codified Ordinances.

(f) No permit shall be issued in any district unless the applicant has been issued the driveway permit required by Section 903.08 of the Codified Ordinances.

(g) No permit shall be issued for any new building to which this Code is applicable unless a public sewer is available to the proposed building.

(h) No permit shall be issued for any new building to which this Code is applicable, nor for any addition exceeding 1,000 square feet, nor for any parking lot, until the provisions therein for disposal of storm drainage have been reviewed and approved by the City Engineer.

(i) Lot grading and landscaping shall be completed in such a manner as to provide positive drainage away from building foundations. Grading and landscaping that will significantly alter existing drainage conditions to surrounding properties shall not be permitted unless it is demonstrated that the change is acceptable to the owners of the affected properties and the new drainage conditions shall not detrimentally affect the property or structures located thereon. Where possible, runoff shall be directed to public or private storm sewers or drainage ways. Lot grading shall be completed in such a manner as to be consistent with surrounding street, curb, parking area or lot grades. Grading that offers obstruction to natural drainage of storm water whether by sheet flow or in established open ditches shall not be permitted.

1301.06 FEES.

Fees required for permits relating to buildings being constructed, remodeled, changed in use, or demolished under the Ohio Building Code shall be determined according to the following schedule:

(a) New Construction and Additions:
   (1) Processing Fee $300.00
   (2) Area Fee $20.00 per 100 Square Feet Gross Floor Area

(b) Remodeling, Alteration, Change in Use, or Temporary Structures or Uses:
   (1) Processing Fee $150.00
   (2) Area Fee $10.00 per 100 Square Feet Gross Floor Area

(c) Change of Occupancy only, no work except cosmetic: $72.82

(d) Whenever the work is substantially complete but not in full compliance with the requirements of this chapter, and the building official is granting a Temporary or Partial Certificate of Occupancy Certificate of a new, expanded, or altered structure to allow beneficial use of the structure while the remaining work is completed, a fee of $150.00 shall be paid prior to the granting of such temporary or partial occupancy.

(e) Heating, Ventilating, Air Conditioning, Electrical, Fire Suppression:
   (1) Area Fee
$10.00 per 100 Square Feet for first 5000 Square Feet
$2.00 per 100 Square Feet greater than 5000 Square Feet

(2) Minimum Fee $100.00

(f) Plumbing:
First fixture $200.00
Each additional fixture $20.00
Hot water heater replacement $60.00

(g) Wrecking or Demolition Fee for Buildings: $5020.00 per building

(h) Parking Lot:
(1) Area Fee $5.00 per 1000 Square Feet
(2) Minimum Fee $50.00

(i) Additional Inspection Fees:
(1) When, for any reason, an inspection is desired outside the normal working hours of the Division of Building Regulation, an Overtime Inspection shall be applied for in writing during normal hours and accompanied by a fee of $150.00. Overtime inspections shall be performed only if approved by the Director of Engineering and if an inspector is available at the time required.
(2) When the work requiring inspection does not comply with the requirements of this chapter, and the work requires a third or subsequent re-inspection to determine compliance, a fee of $75.00 shall be paid prior to the re-inspection being conducted.

(j) Refunds. No fee imposed by this section shall be considered refundable.

(k) Waiver of Fees. The City Manager is hereby empowered to order that fees be waived for charitable, philanthropic, governmental agencies or for construction or improvements yielding economic development benefits to the City in specific cases.

(l) Public Area Payment.
(1) Multi-family developments: $250.00 per unit
(2) Commercial and industrial developments: $100.00 per 1,000 gross square feet of new or expanded space.

(m) A credit shall be granted for any multi-family, commercial and industrial development constructed on a lot which previously contained a similar structure, but which structure was demolished on or after January 1, 1995. The credit shall be in an amount which would have been paid for such demolished structure in accordance with the provisions of subsection (l) hereof. In no event shall the credit granted be greater than the payment due in connection with the new development.

1301.07 DEMOLITION OR MOVING BUILDINGS

(a) The following are requirements when making application to completely demolish or move a building. In addition to a completed application on the prescribed form, the application shall be accompanied by 2 copies of documents containing the following information in addition to that required by the Ohio Building Code:

(1) A site plan of the parcel of land indicating which structure or structures are being completely removed, including any walks, pavement, parking areas, fencings, poles, walls, sheds, driveways, etc.
(2) A site restoration plan indicating how the site will be restored after any structure is removed. This plan shall include information on backfill, proposed landscaping, what structures will remain like foundations and subsurface slabs, and method of preventing voids and water accumulation.

Exceptions:

1. A site restoration plan is not required for detached accessory structures not over 120 square feet in area. The site must still be restored.
2. A site restoration plan is not required if an application for a permit to construct a replacement structure on the site is received within 60 days of receipt of the application for demolition, the application date is shown on the demolition schedule, and the permit application addresses the restoration of the site. Failure to receive such application for permit shall cause the permit for demolition to be invalid until a site restoration plan is submitted.

(3) A schedule including: 1) when utilities are to be disconnected, 2) when demolition or movement of structures is to start, 3) the time duration of demolition or movement of structures, 4) when site restoration is to start, and 4) the time duration of site restoration. The entire schedule duration shall not exceed 90 days.

Exceptions:

1. A schedule is not required for detached accessory structures not over 120 square feet in area. The 90 day maximum time period still applies.
2. The schedule is not required to include the start date and time duration of site restoration if the application date for a replacement structure is shown on the schedule.

(b) Any substantive changes to the site plan, site restoration plan, or schedule shall be submitted for review and approval following the same process as the original application.

(c) The review of the application shall be completed within 30 days of receipt. Approval, denial, or modification of the application shall be in writing by the Chief Building Inspector and shall state the reasons for denial or modification.

(d) All demolition and site restoration work shall be completed, inspected, and approved.

(e) Variances from the requirements of 1301.07 or an appeal of the denial or modification of the application shall be made to the Board of Zoning Appeals under Chapter 1129 of the Planning and Zoning Code.

SECTION 2. That Sections 1305.01, 1305.06, 1305.07, 1305.08, and 1305.09 of the Codified Ordinances be amended, and the same is hereby enacted to read as follows:

1305.01 ADOPTION OF RESIDENTIAL CODE OF OHIO.

(a) Pursuant to Ohio R.C. 731.231, there is hereby adopted by the Municipality, the Residential Code of Ohio (RCO) as adopted by the Ohio Board of Building
Standards, Ohio Department of Commerce, and as published in Division 4101:8 of the Ohio Administrative Code (OAC) and as the same may be amended.

(b) The Municipality hereby adopts Appendix G Swimming Pools, Spas and Hot Tubs and Appendix H Patio Covers of the ICC International Residential Code/2009/2012. Such codes are incorporated herein as fully as if set out at length.

1305.06 COMPLIANCE WITH ORDINANCES

(a) A permit is the document issued by the Division of Building Regulation authorizing work as shown on the application and/or the construction documents when the proposed work is in compliance with the Residential Code of Ohio and not in violation of the Codified Ordinances.

(b) The permit authorizing the work as shown on the approved construction documents is invalid if the work is not completed within eighteen months of the issuance of the permit.

Exception: A permit for the demolition of a structure is invalid if the demolition and site restoration work is not completed within six months of the issuance of the permit.

(c) Before any work authorized by a permit may continue for which the permit is invalid, the owner of the property shall make application to the Board of Zoning Appeals for an extension of time as required under Chapter 1129 of the Planning and Zoning Code. Failure to complete work within said eighteen-month period or any additional time granted by the Board of Zoning Appeals shall constitute a violation of this code.

(d) No permit shall be issued unless the construction documents submitted are in accordance not only with the Residential Code of Ohio but also with the Zoning Ordinance and the Subdivision Regulations as set forth in these Codified Ordinances and amendments thereto, so far as they may be applicable.

(e) No permit for a lot adjacent or contiguous to the flood plain of the Olentangy River shall be issued unless the application for the permit is accompanied by a certification by an Ohio registered surveyor or engineer that the finished grades at the building elevation comply with the minimum requirements set forth in Chapter 1105 of the Codified Ordinances.

(f) No permit shall be issued in any district unless the applicant has been issued the driveway permit required by Section 903.08 of the Codified Ordinances.

(g) No permit shall be issued for any new building to which this Code is applicable unless a public sewer is available to the proposed building.

(h) No permit shall be issued for any new building to which this Code is applicable, nor for any addition exceeding 1,000 square feet, nor for any parking lot, until the provisions therein for disposal of storm drainage have been reviewed and approved by the City Engineer.

(lg) Lot grading and landscaping shall be completed in such a manner as to provide positive drainage away from building foundations. Grading and landscaping that will significantly alter existing drainage conditions to surrounding properties shall not be permitted unless it is demonstrated that the change is acceptable to the
owners of the affected properties and the new drainage conditions shall not
detrimentally affect the property or structures located thereon.

1305.07 AMENDMENTS TO ADOPTED CODE.
These provisions shall be incorporated into the Residential Code of Ohio for One,
Two, and Three-Family Dwellings and shall be cited as such and will be referred to
herein as “this code.”

(a) Work Not Exempt from Permitting. The following shall require a permit:
(1) One-story detached accessory structures (excluding playhouses or
other play structures), provided the floor area does not exceed 200 square feet
(18.58 m²).
(2) Water tanks supported directly upon grade if the capacity does not
exceed 5,000 gallons (18,927 L) and the ratio of the height to diameter or
width does not exceed 2 to 1.
(ba) Section R301, R301.2, Table 301.2(1) the following is inserted into the table
as follows:

<table>
<thead>
<tr>
<th>Ground Snow Load: 20 psf</th>
</tr>
</thead>
<tbody>
<tr>
<td>Topographic effects: No.</td>
</tr>
<tr>
<td>Seismic Design Category: A</td>
</tr>
<tr>
<td>Subject to damage from frost line depth: 32”</td>
</tr>
<tr>
<td>Winter Design Temperature: 5°F</td>
</tr>
<tr>
<td>Flood Hazards: Chapter 1105 Minimum Elevations</td>
</tr>
<tr>
<td>Air Freezing Index: 14001066</td>
</tr>
<tr>
<td>Mean Annual Temperature: 50±52.2°F</td>
</tr>
</tbody>
</table>

(c) Section AG101.1 General shall be modified as follows: The provisions of this
appendix shall control the design, and construction, and maintenance of swimming
pools, spas, and hot tubs installed in or on the lot of a one-, two-, or three-family
dwelling.

(d) Section AG102 Definitions. The following definitions shall be amended to
read as follows:

(1) RESIDENTIAL. That which is situated on the premises of a detached
one-, two-, or three-family dwelling or a one-family townhouse not more than
three stories in height.

(2) SWIMMING POOL. Any structure intended for swimming or
recreational bathing that includes water over 30 inches (762 mm) deep. This
includes in-ground, above-ground, and on-ground swimming pools, hot tubs, and
spas.

(d) Section AG105.2(1). The first sentence shall be modified as follows: The top
of the barrier shall be at least 72 inches (1829 mm) above grade measured on the side
of the barrier which faces away from the swimming pool.

1305.08 FEES.
Fees for all permits required under this chapter shall be determined according to
the following schedule:
(a) Construction of New Buildings or Additions to Existing Buildings, or Remodeling, Alteration, Change of Use or Reconstruction of Existing Buildings.
   (1) Processing fee: $100.00
   (2) Area fee: $10.00 per 100 square feet gross floor area.

(b) Construction of uncovered decks, detached storage buildings under 200 square feet in size, or other minor alterations such as moving or adding doors and windows, the permit fee shall be $70.00.
   Exception: For work valued under $1,500, the permit fee shall be $50.00.

(c) Heating, Air Conditioning, Ventilating, Refrigeration Systems, Electrical, and Fire Suppression.
   (1) Area Fee $8.00 per 100 square feet gross floor area
   (2) Minimum fee $50.00

(d) Plumbing:
   First fixture $60.00
   Each additional fixture $15.00

(e) Fireplace Repair. For each fireplace: $40.00

(f) Wrecking (Demolition of) or Moving Buildings: $50.00 per building

(g) Special/Additional Inspections Fees. When, for any reason, an inspection is required outside the normal working hours of the Division of Building Regulation, an Overtime Inspection shall be applied for during normal hours, in writing, and accompanied by a fee of $75.00. Overtime inspections shall be performed only if approved by the Director of Planning and Building and if an inspector is available at the time required.

   When the work requiring inspection does not comply with the requirements of the Building Code, and the work requires a second or subsequent re-inspection to determine compliance, a fee of $75.00 shall be paid prior to the re-inspection being conducted.

   (h) Refunds. No fee imposed by this section shall be considered refundable.

   (i) Waiver of Fees. The City Manager is hereby empowered to order that fees be waived for charitable, philanthropic or governmental agencies, in specific cases.

   (j) Public Area Payment.
   (1) Multi-family developments: $250.00 per unit
   (2) Single-family residences are subject to payment only when a new lot is created, in accordance with Section 1101.06.

   (k) A credit shall be granted for any multi-family development constructed on a lot which previously contained a similar structure, but which structure was demolished on or after January 1, 1995. The credit shall be in an amount, which would have been paid for such demolished structure in accordance with the provisions of subsection (j) hereof. In no event shall the credit granted be greater than the payment due in connection with the new development.

1305.09 BED AND BREAKFAST ESTABLISHMENTS.

Any dwelling unit regulated by this chapter, which is used as a bed and breakfast as defined in Section 1123.085 of the Planning and Zoning Code shall comply with the following requirements:
(a) Each sleeping room used by lodgers shall have posted in a conspicuous location an approved exit plan.

(b) An operable fire extinguisher shall be provided in all kitchen areas.

(c) The Worthington Fire Department may conduct periodic fire inspections to determine compliance with applicable Fire and Building Codes.

1305.09 DEMOLITION OR MOVING BUILDINGS

(a) The following are requirements when making application to completely demolish or move a building. In addition to a completed application on the prescribed form, the application shall be accompanied with 2 copies of documents containing the following information:

1. A site plan of the parcel of land indicating which structure or structures are being completely removed, including any walks, pavement, parking areas, fencings, poles, walls, sheds, driveways, etc.

2. A site restoration plan indicating how the site will be restored after any structure is demolished. This plan shall include information on backfill, proposed landscaping, what structures will remain like foundations and subsurface slabs, and method of preventing voids and water accumulation.

Exceptions:

1. A site restoration plan is not required for detached accessory structures not over 200 square feet in area. The requirement that the site be restored is still required.

2. A site restoration plan is not required if an application for a permit to construct a replacement structure on the site is received within 60 days of receipt of the application for demolition, the application date is shown on the demolition schedule, and the permit application addresses the restoration of the site. Failure to receive such application for permit shall cause the permit for demolition or moving to be invalid until a site restoration plan is submitted.

3. A schedule including: 1) when utilities are to be disconnected, 2) when demolition or movement of structures is to start, 3) the time duration of demolition or movement of structures, 4) when site restoration is to start, and 4) the time duration of site restoration. The entire schedule duration shall not exceed 90 days.

Exceptions:

1. A schedule is not required for detached accessory structures not over 200 square feet in area. The 90 day maximum time period still applies.

2. The schedule is not required to include the start date and time duration of site restoration if the application date for a replacement structure is shown on the schedule.

(b) Any substantive changes to the site plan, site restoration plan, or schedule shall be submitted for review and approval following the same process as the original application.

(c) The review of the application for demolition shall be completed within 30 days of receipt. Approval, denial, or modification of the application shall be in
writing by the Chief Building Official and shall state the reasons for denial or modification.

(d) All demolition and site restoration work shall be completed, inspected, and approved.

(e) Variances from the requirements of 1305.09 or an appeal of the denial or modification of the application shall be made to the Board of Zoning Appeals under Chapter 1129 of the Planning and Zoning Code.

SECTION 3. That Sections 1311.01, 1311.02, and 1311.07 of the Codified Ordinances be amended, and the same is hereby enacted to read as follows:

1311.01 ADOPTION OF ICC CODE.
The Municipality hereby adopts the ICC International Property Maintenance Code/2009-2018 as published by the International Code Council, Inc., which hereinafter may be referred to as this code, and is incorporated herein as fully as if set out at length.

1311.02 INSPECTION COPY.
One copy of the ICC International Property Maintenance Code/2009, together with copies of ordinances amending same, shall be kept on file by the City Clerk in the Department of Planning and Building for public examination during usual business hours.

1311.07 AMENDMENTS TO ADOPTED CODE.
(a) Subsection 101.1 Title is amended to read as follows: These regulations shall be known as the Property Maintenance Code of the City of Worthington, hereinafter referred to as “this code.”

(b) Subsection 102.3 Application of other codes shall read as follows: Repairs, additions or alterations to a structure, or changes of occupancy, shall be completed in accordance with the procedures and provisions of Part Eleven Planning and Zoning and Part Thirteen Building Code of the Codified Ordinances.

(c) Section 103 Department of Property Maintenance Inspection is hereby deleted. It shall be the duty of the Building Inspector, or any other person designated by the City Manager, to enforce this code. The Building Inspector is also referred to as the “code official” throughout this code.

(d) Section 111 Means of Appeal is hereby deleted.

(e) Subsection 112.4 Failure to comply is hereby deleted.

(f) In Section 202, add new definitions as follows:

CONSTRUCTION MATERIAL. Material typically used in construction or maintenance of buildings, fences, and property including, doors, windows, concrete block, brick, lumber, shingles, gutters, cement board, tubing, conduit, fencing, downspouts, vinyl and aluminum siding, cement, concrete, nails, and fasteners or similar material including plastic material used in the same manner as other, traditional construction material.
EQUIPMENT. The implements used, whether motorized or non-motorized, in an operation or activity. Equipment may include lawn care, automotive repair, maintenance, and construction equipment.

FRONT YARD. That portion of the property between the right of way and the front of the principal structure including the required yard as defined in Chapter 1149 of the Planning and Zoning Code. For the purposes of this code, corner lots shall be considered to have two front yards.

LAWN CARE EQUIPMENT. Equipment used for the installation and maintenance of yards and landscaping including, but not limited to lawn mowers, spreaders, mulchers, trimmers, tillers, rollers, and edgers.

LAWN CARE MATERIAL. Material used for the installation, alteration or maintenance of yards and landscaping including, but not limited to dirt, topsoil, mulch, seeds, sprouts, shoots, starter pots, temporary pots, and unplanted material including bushes, trees and flowers, and similar material removed from the ground. For the purposes of this code, firewood shall be considered a lawn care material if it is split, neatly stacked, and protected for future use. Brush, limbs, twigs and other such rubbish not neatly stacked and protected for future use shall not be considered firewood.

REQUIRED YARD. A front, side, and rear yard as defined in Chapter 1149 of the Planning and Zoning Code.

STORE. To place equipment or material on property, either temporarily or permanently, while not in use for its intended purposes.

TRAILERS. Trailers are unpowered vehicles intended to be towed behind a powered vehicle. Trailers include boat trailers, campers, and utility trailers.

(fg) Subsection 302.4 Weeds is deleted. Section 521.13 Noxious weeds of the Codified Ordinances shall apply.

(gh) Add new subsection 302.10 as follows:

302.10 Miscellaneous equipment and material.
302.10.1 - General. Unless otherwise provided for in this code, no equipment or material shall be stored outdoors in any residential district.

302.10.2 - Lawn care equipment. Each property is permitted a maximum of two pieces of lawn care equipment to be stored on the property.

   Exception: Lawn care equipment stored in an accessory structure and not visible from adjoining properties or the public way.

302.10.3 - Lawn care material. Lawn care material may be stored on residential property if neatly stacked and maintained free of weeds, insects, and rodents. Lawn care material delivered to a property may be placed in the front yard for a maximum period of 60 days.

302.10.4 - Construction material. Construction material is permitted on a property, visible from adjoining property or the public way if the material is associated with construction or maintenance activity, necessary permits have been secured, and the work is in progress, otherwise, the storage of construction material is not permitted.

(h) Subsection 303.2 Enclosures, the first sentence shall be amended as follows: Private swimming pools, hot tubs and spas, containing water more than 30 inches in
depth shall be completely surrounded by a fence or barrier at least 6 feet in height above the finished ground level measured on the side of the barrier away from the pool.

(i) Subsection 304.14 shall be amended with the following dates: from April 1 to September 30.

(j) Add new subsection 308.4 as follows: 308.4 Container location. Containers for the purpose of placing rubbish per 308.2 or garbage per 308.3 in a residential district shall not be located in the front yard.

(k) Subsection 404.3 Minimum ceiling heights shall be amended with a new exception 4 as follows:

4. Where specifically allowed per Chapter 1305 Building Code for One, Two and Three-Family Dwellings.

(l) Add Subsection 507.02 as follows:

507.02 Regulation of storm drainage facilities. All storm drainage facilities including culverts, storm sewers, detention/retention facilities, energy dissipaters and flow restrictors shall be maintained in operating condition and clear of accumulations of silt, trash or debris.

All storm drainage facilities constructed as a requirement of the Codified Ordinances or regulations of the City shall not be modified or altered unless the modifications or alterations are approved by the City Engineer.

(m) Subsection 602.3 Heat supply shall be amended with the following dates: from October 1 to April 30.

(n) Subsection 602.4 Occupiable work spaces shall be amended with the following dates: from October 1 to April 30.

(o) Subsection 704.2 Smoke alarms is amended with a new exception as follows:

Exception: Any existing dwelling occupied solely by its owner.

All other existing structures, including hotels, motels, rental properties and other structures occupied by persons other than the owner must comply with the requirements as specified.

SECTION 4. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the first day of July, 2019.
Passed _________________

President of Council

Attest:

_____________________________
Clerk of Council
STAFF MEMORANDUM
City Council Meeting – April 15, 2019

Date: April 3, 2019
To: Matthew H. Greeson, City Manager
From: R. Lee Brown, Director of Planning & Building
Subject: Ordinance No. 16-2019 - Amending Chapters 1125, 1129 and 1173 to the Planning & Zoning Code

EXECUTIVE SUMMARY
This Ordinance amends Chapter 11 of the City's Codified Ordinances to incorporate changes related to the State of Ohio Building Codes, demolition standards, pool barrier requirements and fees.

RECOMMENDATION
Introduce for Public Hearing on May 6, 2019

BACKGROUND/DESCRIPTION
Staff is proposing to update Chapters 1301, 1305 and 1311 of the Codified Ordinances to coordinate with the new state building code and provide new requirements for building demolition for residential and commercial structures. The ordinance also includes lowering the barrier requirements for residential swimming pools to be the same height as most other jurisdictions in the United States and match code requirements for commercial swimming pools in Ohio. These changes will require some minor modifications of Chapters 1125, 1129 and 1173 to the Planning & Zoning Code.

Modification to the Planning & Zoning Code requires 60-days after approval and notification before it is effective.

ATTACHMENTS
Ordinance No. 16-2019
Planning & Zoning Code Modifications Overview
Planning & Zoning Code Ordinance with track changes
ORDINANCE NO. 16-2019

To Amend Sections 1125.02, 1129.05, and 1173.05 of the Codified Ordinances of the City of Worthington Related to the Coordination with the State of Ohio Building Codes, the Establishment of Demolition Standards, Modifying Pool Barrier Requirements, and Adjusting Fees.

WHEREAS, the City Council is certified by the State of Ohio to enforce the state building codes; and,

WHEREAS, the City Council wishes to amend provisions of the City’s Codified Ordinances to coordinate with the state building codes; and,

WHEREAS, the City Council wishes to adopt additional requirements for the demolition of buildings.

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

SECTION 1. That Sections 1125.02, 1129.05, 1173.05 of the Planning and Zoning Code of the City of Worthington be and the same is hereby amended to read as follows:

1125.02 CERTIFICATE OF COMPLIANCE.
(a) A Certificate of Compliance shall be required for any of the following:
   (1) Any occupancy and use of a building hereinafter erected or structurally altered;
   (2) Any occupancy and use of vacant land;
   (3) Any change in the use of a nonconforming use;
   (4) Any change in the use of land to a use of a different district classification;
   (5) Any nonconforming use existing on or after the effective date of this Zoning Ordinance; and,
   (6) Any change in use of an existing building to a use of a different district classification.

No occupancy, use or change of use shall take place until a Certificate of Compliance therefor shall have been issued by the Building Inspector or a person designated by the City Manager.

(b) The Building Inspector or the person designated by the City Manager shall not issue a Certificate of Compliance for any application requiring prior review by the Municipal Planning Commission or Council until such review has been finally concluded.
ORDINANCE NO. 16-2019

(c) Written application for a Certificate of Compliance for a new building or for the alteration of an existing building shall be made within ten days after the completion of such construction or alteration. Such Certificate shall be issued by the Building Inspector or a person designated by the City Manager within ten days after the filing of such application. Issuance of the Certificate of Compliance for the erection or alteration of such building or part thereof shall be dependent upon the completion of such erection or alteration in conformity with the building and zoning laws of this City.

(d) Written application for a Certificate of Compliance for the use of vacant land, for a change in the use of land or of a building for a nonconforming use, or for a change in a nonconforming use, as herein provided, shall be made to the Building Inspector, or a person designated by the City Manager; if the proposed use is in conformity with the provisions of this Zoning Ordinance, the Certificate of Compliance shall be issued within ten days after the application for the same has been made.

(e) A fee of fifty dollars ($50.00) shall accompany each application for a Certificate of Compliance for commercial, industrial or apartment structures or use of land. A fee of twenty-five dollars ($25.00) shall accompany all other applications for a Certificate of Compliance.

(f) A record of all Certificates of Compliance shall be kept on file in the Worthington City offices, and copies shall be furnished on request and with the payment of a copying fee of one dollar ($1.00) for each copy to any person having proprietary or tenancy interest in the building or land affected.

1129.05 POWERS AND DUTIES.

(a) Generally. The Board of Zoning Appeals shall have the following powers, and it shall be its duty to: hear and decide appeals where it is alleged there is an error of interpretation made by the Building Inspector in the enforcement of this Zoning Ordinance, the Building Code, or the Property Maintenance Code, or any amendment thereto.

(b) Exceptions. In hearing and deciding appeals, the Board shall have the power to grant an exception in the following instances:

1. Interpretation of Zoning Ordinance and Zoning Maps. Where the street layout actually on the ground varies from the street layout as shown on the Zoning District Map, the Board may interpret provisions of this Zoning Ordinance.

2. Reconstruction on nonconforming structure or use. Where a nonconforming structure or a structure occupied by a nonconforming use has been damaged to an extent of more than fifty percent (50%) of its fair market value, the Board may permit reconstruction where it finds an owner would incur undue hardship requiring a continuance of the nonconforming structure or use.
ORDINANCE NO. 16-2019

(3) Performance Requirements. Where a decision is needed as to whether an industry should be permitted within the “I-1” or “I-2” Industrial District because of the methods by which it would be operated and because of its effect upon uses within surrounding zoning districts. (Pertains to performance requirements only.)
   A. The Board shall have the power to authorize issuance of a Certificate of Compliance for uses that are subject to performance requirements as set forth in this Zoning Ordinance in Section 1175.03 provided they are accompanied by: a plan of proposed construction of development; a description of the proposed machinery, processes and products; and specifications for the mechanisms and techniques to be used in meeting the performance requirements.
   B. The Board may require the applicant to furnish the expert opinion of consultants qualified to advise as to whether a proposed use will conform to the performance requirements. A copy of such reports shall be furnished to the Board.

(4) Changes in nonconforming uses. The Board may authorize substituting a nonconforming use for another nonconforming use provided no structural alterations except those required by law or ordinance are made. However, in an “R” or “AR” District, no change shall be authorized by the Board to any use which is not a permitted or conditional use in any “R” or “AR” District, and in a “C” District no changes shall be authorized to any use which is not a permitted or conditional use in any “C” District.

(5) Temporary use permits. A temporary use permit may be granted where the temporary use of a structure or premises in any district where such temporary use shall be for a period of more than ninety days is proposed for a purpose or use that does not conform to the regulations prescribed elsewhere in this Zoning Ordinance for the district in which it is located, provided that such use be of a temporary nature and does not involve the erection of a substantial structure. A temporary use permit for such use shall be granted in the form of a temporary and revocable permit, for not more than a six-month period, subject to a six months’ renewal and such conditions as will safeguard the public health, safety, convenience and general welfare. (Ord. 19-2005. Passed 6-6-05.)

(6) Extension and construction completion periods. The Board may authorize, for good cause shown, extension of the time period provided for the completion of structures in the Building Code. However, the Board may not authorize extension of the period for
ORDINANCE NO. 16-2019

greater than a one-year extension of time subject to one-year renewals and such conditions as well safeguard the public health, safety, convenience and general welfare.

(c) Area Variances. The Board shall have the power to hear and decide appeals and authorize variances from the provisions or requirements of this Zoning Ordinance. In authorizing a variance, the Board may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objective of this Zoning Ordinance. The Board may grant a variance in the application of the provisions of the Zoning Ordinance when it is determined that practical difficulty exists based on the following factors:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
2. Whether the variance is substantial;
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
4. Whether the variance would adversely affect the delivery of governmental services (e.g. water, sewer, garbage);
5. Whether the property owner purchased the property with knowledge of the zoning restriction;
6. Whether the property owner’s predicament feasibly can be obviated through some method other than a variance; and,
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

(d) Interpretation of District Map. In case of any questions as to the location of any boundary line between zoning districts, a request for interpretation of the Zoning District Map may be made to the Board which shall interpret the Map in such a way as to carry out the intent and purpose of this Zoning Ordinance.

(e) Extension of Nonconforming Use. The Board shall have the authority to grant an extension of a building or the expansion of the use of a lot devoted to a nonconforming use upon a lot occupied by such building or use, or on a lot adjoining, provided that such lot was under the same ownership as the lot in question on the date such building or use became nonconforming, and where such extension is necessary and incidental to the existing use of such building or lot. However, the floor areas or lot areas of such extensions shall not exceed, in all, 100 percent (100%) of the area of the existing building or lot devoted to a nonconforming use.

(f) Variances to the Building Code. The Board shall have the power to hear and decide appeals and authorize such variances from the provisions or requirements of the Building Code, Chapter 1305 of the Codified Ordinances for one, two and three family dwellings, and Section 1301.07 Demolition or Moving Buildings, as will not be contrary to the public interest. In authorizing a variance, the Board may attach conditions.
ORDINANCE NO. 16-2019

and require such guarantee or bond as it may deem necessary to assure compliance with the objective of the Building Code. The Board may grant a variance in the application of the provisions of the Building Code for one, two and three family dwellings after hearing expert independent testimony on the application only if all of the following findings are made:

(1) There are unique circumstances or conditions present by which strict conformity to the provisions of the Building Code would create significant hardship for the property owner or contractor performing services for the property owner;

(2) The unique circumstances or conditions were not created by the property owner or contractor performing services for the property owner; and,

(3) The variance, if authorized, shall not, in any way endanger the health, safety or welfare of the building occupants or the general public. Such determination shall be based on independent expert testimony.

(g) Variances to the Property Maintenance Code. The Board shall have the power to hear and decide appeals and authorize such variances from the provisions or requirements of the Property Maintenance Code, Chapter 1311 of the Codified Ordinances. Variances may be granted only when the Board determines that strict scrutiny to the provisions of the Property Maintenance Code would create significant hardship for the property owner, and the variance, if authorized, would not endanger the health, safety or welfare of the general public. Variances to the Property Maintenance Code, if authorized, are applicant specific and do not pass to future property owners or occupants.

1173.05 PORTABLE AND NONPORTABLE SWIMMING POOLS.

(a) For the purposes of this section, the following terms are defined as follows:

"Portable swimming pool" means a container which is designed or used for wading purposes; which will not permit filling with water to a depth greater than 24 inches; and which may be dismantled, stored or moved from one place to another without the use of tools other than those normally found in a household workshop.

"Nonportable swimming pool" means any artificial body of water, whether inground or above-ground which conforms to the following criteria.

(1) It is supplied with water from a controlled water source.

(2) It is not enclosed within a building.

(3) The depth of water exceeds 24 inches at any point.

(b) Portable swimming pools shall be considered as a conforming use in any "R" or "AR" District.
ORDINANCE NO. 16-2019

(c) Nonportable swimming pools may be allowed as an accessory use only in "R" and "AR" Districts provided that they comply with the following conditions and requirements:

(1) The pool is intended and used solely for the enjoyment of the occupants of the principal use of the property on which it is located.

(2) The pool may not be located, including any walks or paved areas or accessory structures adjacent thereto, closer than ten feet to any property line of the property on which it is located.

(3) The swimming pool or the property as hereinafter defined on which it is located, shall have a barrier as required by Chapter 1305 to prevent uncontrolled access by children or other persons from the street or other adjacent properties.

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

Passed ____________________

________________________________
President of Council

Attest:

________________________________
Clerk of Council
Part 11 - Overview Modifications

March 21, 2019

1) Section 1125.02 Certificate of Compliance. Subsection (e) is modified to raise the certificate fee from $10 to $50 for commercial, institutional, and apartment structures, and from $5 to $25 for all other applications.

2) Section 1129.05 Power and Duties. Subsection (g) is modified to add a new power to the Board of Zoning Appeals to hear appeals and authorize variances to the new Section 1301.07 Demolition or Moving Buildings. Typically, hearings and appeals of the Ohio Building Code must go to the Ohio Board of Building Appeals but these local demolition requirements are outside the scope of the Ohio Building Code.

3) Section 1173.05 Portable and Nonportable Swimming Pools. Subsection (a) is modified from 2'-6" (30") to 24" of water depth, to correspond with general United States requirements for barriers to protect the general public.

4) Section 1173.05 Portable and Nonportable Swimming Pools. Subsection (c) is modified to reference the barrier requirement of Chapter 1305. The existing requirement presupposes a wall or fence is the only option, but nationally, motorized pool covers are an option. Repealed Chapter 1325 Swimming Pools once had an exception for a cover but Chapter 1173 was not updated to resolve that conflict. Lastly, a 6' tall fence is typically not approved by the Architectural Review Board, so this change eliminates that potential conflict.
ORDINANCE NO. XX-2013

To Amend Sections 1125.02, 1129.05, and 1173.05 of the Codified Ordinances of the City of Worthington Related to the Coordination with the State of Ohio Building Codes, the Establishment of Demolition Standards, Modifying Pool Barrier Requirements, and Adjusting Fees.

WHEREAS, the City Council is certified by the State of Ohio to enforce the state building codes; and,

WHEREAS, the City Council wishes to amend provisions of the City’s Codified Ordinances to coordinate with the state building codes; and,

WHEREAS, the City Council wishes to adopt additional requirements for the demolition of buildings.

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

SECTION 1. That Sections 1125.02, 1129.05, 1173.05 of the Planning and Zoning Code of the City of Worthington be and the same is hereby amended to read as follows:

1125.02 CERTIFICATE OF COMPLIANCE.

(a) A Certificate of Compliance shall be required for any of the following:

1. Any occupancy and use of a building hereinafter erected or structurally altered;
2. Any occupancy and use of vacant land;
3. Any change in the use of a nonconforming use;
4. Any change in the use of land to a use of a different district classification;
5. Any nonconforming use existing on or after the effective date of this Zoning Ordinance; and
6. Any change in use of an existing building to a use of a different district classification.

No occupancy, use or change of use shall take place until a Certificate of Compliance therefor shall have been issued by the Building Inspector or a person designated by the City Manager.

(b) The Building Inspector or the person designated by the City Manager shall not issue a Certificate of Compliance for any application requiring prior review by the Municipal Planning Commission or Council until such review has been finally concluded.

(c) Written application for a Certificate of Compliance for a new building or for the alteration of an existing building shall be made within ten days after the completion of such construction or alteration. Such Certificate shall be issued by the Building Inspector or a person designated by the City Manager within ten
days after the filing of such application. Issuance of the Certificate of Compliance for the erection or alteration of such building or part thereof shall be dependent upon the completion of such erection or alteration in conformity with the building and zoning laws of this City.

(d) Written application for a Certificate of Compliance for the use of vacant land, for a change in the use of land or of a building for a nonconforming use, or for a change in a nonconforming use, as herein provided, shall be made to the Building Inspector, or a person designated by the City Manager; if the proposed use is in conformity with the provisions of this Zoning Ordinance, the Certificate of Compliance shall be issued within ten days after the application for the same has been made.

(e) A fee of ten fifty dollars ($1050.00) shall accompany each application for a Certificate of Compliance for commercial, industrial or apartment structures or use of land. A fee of twenty-five dollars ($25.00) shall accompany all other applications for a Certificate of Compliance.

(f) A record of all Certificates of Compliance shall be kept on file in the Worthington City offices, and copies shall be furnished on request and with the payment of a copying fee of one dollar ($1.00) for each copy to any person having proprietary or tenancy interest in the building or land affected.

1129.05 POWERS AND DUTIES.

(a) Generally. The Board of Zoning Appeals shall have the following powers, and it shall be its duty to: hear and decide appeals where it is alleged there is an error of interpretation made by the Building Inspector in the enforcement of this Zoning Ordinance, the Building Code, or the Property Maintenance Code, or any amendment thereto.

(b) Exceptions. In hearing and deciding appeals, the Board shall have the power to grant an exception in the following instances:

(1) Interpretation of Zoning Ordinance and Zoning Maps. Where the street layout actually on the ground varies from the street layout as shown on the Zoning District Map, the Board may interpret provisions of this Zoning Ordinance.

(2) Reconstruction on nonconforming structure or use. Where a nonconforming structure or a structure occupied by a nonconforming use has been damaged to an extent of more than fifty percent (50%) of its fair market value, the Board may permit reconstruction where it finds an owner would incur undue hardship requiring a continuance of the nonconforming structure or use.

(3) Performance Requirements. Where a decision is needed as to whether an industry should be permitted within the “I-1” or “I-2” Industrial District because of the methods by which it would be operated and because of its effect upon uses within surrounding zoning districts. (Pertains to performance requirements only.)

A. The Board shall have the power to authorize issuance of a Certificate of Compliance for uses that are subject to performance requirements as set forth in this Zoning Ordinance in Section 1175.03 provided they are accompanied by: a plan of proposed construction of development; a
description of the proposed machinery, processes and products; and
specifications for the mechanisms and techniques to be used in meeting
the performance requirements.

B. The Board may require the applicant to furnish the expert opinion of
consultants qualified to advise as to whether a proposed use will conform
to the performance requirements. A copy of such reports shall be
furnished to the Board.

(4) Changes in nonconforming uses. The Board may authorize substituting a
nonconforming use for another nonconforming use provided no structural
alterations except those required by law or ordinance are made. However, in
an “R” or “AR” District, no change shall be authorized by the Board to any
use which is not a permitted or conditional use in any “R” or “AR” District,
and in a “C” District no changes shall be authorized to any use which is not a
permitted or conditional use in any “C” District.

(5) Temporary use permits. A temporary use permit may be granted where the
temporary use of a structure or premises in any district where such temporary
use shall be for a period of more than ninety days is proposed for a purpose or
use that does not conform to the regulations prescribed elsewhere in this
Zoning Ordinance for the district in which it is located, provided that such use
be of a temporary nature and does not involve the erection of a substantial
structure. A temporary use permit for such use shall be granted in the form of
a temporary and revocable permit, for not more than a six-month period,
subject to a six months’ renewal and such conditions as will safeguard the
public health, safety, convenience and general welfare. (Ord. 19-2005.
Passed 6-6-05.)

(6) Extension and construction completion periods. The Board may authorize, for
good cause shown, extension of the time period provided for the completion
of structures in the Building Code. However, the Board may not authorize
extension of the period for greater than a one-year extension of time subject to
one-year renewals and such conditions as well safeguard the public health,
ence and general welfare.

(c) Area Variances. The Board shall have the power to hear and decide appeals and
authorize variances from the provisions or requirements of this Zoning Ordinance.
In authorizing a variance, the Board may attach conditions and require such
guarantee or bond as it may deem necessary to assure compliance with the
objective of this Zoning Ordinance. The Board may grant a variance in the
application of the provisions of the Zoning Ordinance when it is determined that
practical difficulty exists based on the following factors:

(1) Whether the property in question will yield a reasonable return or whether
there can be any beneficial use of the property without the variance;

(2) Whether the variance is substantial;

(3) Whether the essential character of the neighborhood would be substantially
altered or whether adjoining properties would suffer a substantial detriment as
a result of the variance;
(4) Whether the variance would adversely affect the delivery of governmental services (e.g. water, sewer, garbage).

(5) Whether the property owner purchased the property with knowledge of the zoning restriction;

(6) Whether the property owner’s predicament feasibly can be obviated through some method other than a variance; and,

(7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

d) Interpretation of District Map. In case of any questions as to the location of any boundary line between zoning districts, a request for interpretation of the Zoning District Map may be made to the Board which shall interpret the Map in such a way as to carry out the intent and purpose of this Zoning Ordinance.

e) Extension of Nonconforming Use. The Board shall have the authority to grant an extension of a building or the expansion of the use of a lot devoted to a nonconforming use upon a lot occupied by such building or use, or on a lot adjoining, provided that such lot was under the same ownership as the lot in question on the date such building or use became nonconforming, and where such extension is necessary and incidental to the existing use of such building or lot. However, the floor areas or lot areas of such extensions shall not exceed, in all, 100 percent (100%) of the area of the existing building or lot devoted to a nonconforming use.

g) Variances to the Building Code. The Board shall have the power to hear and decide appeals and authorize such variances from the provisions or requirements of the Building Code, Chapter 1305 of the Codified Ordinances for one, two and three family dwellings, and Section 1301.07 Demolition or Moving Buildings, as will not be contrary to the public interest. In authorizing a variance, the Board may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objective of the Building Code. The Board may grant a variance in the application of the provisions of the Building Code for one, two and three family dwellings after hearing expert independent testimony on the application only if all of the following findings are made:

(1) There are unique circumstances or conditions present by which strict conformity to the provisions of the Building Code would create significant hardship for the property owner or contractor performing services for the property owner;

(2) The unique circumstances or conditions were not created by the property owner or contractor performing services for the property owner; and,

(3) The variance, if authorized, shall not, in any way endanger the health, safety or welfare of the building occupants or the general public. Such determination shall be based on independent expert testimony.

(h) Variances to the Property Maintenance Code. The Board shall have the power to hear and decide appeals and authorize such variances from the provisions or requirements of the Property Maintenance Code, Chapter 1311 of the Codified Ordinances. Variances may be granted only when the Board determines that strict scrutiny to the provisions of the Property Maintenance Code would create
significant hardship for the property owner, and the variance, if authorized, would not endanger the health, safety or welfare of the general public. Variances to the Property Maintenance Code, if authorized, are applicant specific and do not pass to future property owners or occupants.

1173.05 PORTABLE AND NONPORTABLE SWIMMING POOLS.
(a) For the purposes of this section, the following terms are defined as follows:

"Portable swimming pool" means a container which is designed or used for wading purposes; which will not permit filling with water to a depth greater than two and one-half feet ([24 inches]; and which may be disassembled, stored or moved from one place to another without the use of tools other than those normally found in a household workshop.

"Nonportable swimming pool" means any artificial body of water, whether inground or above-ground which conforms to the following criteria.
(1) It is supplied with water from a controlled water source.
(2) It is not enclosed within a building.
(3) The depth of water exceeds two feet, six ([24 inches] at any point.

(b) Portable swimming pools shall be considered as a conforming use in any "R" or "AR" District.
(c) Nonportable swimming pools may be allowed as an accessory use only in "R" and "AR" Districts provided that they comply with the following conditions and requirements:
(1) The pool is intended and used solely for the enjoyment of the occupants of the principal use of the property on which it is located.
(2) The pool may not be located, including any walks or paved areas or accessory structures adjacent thereto, closer than ten feet to any property line of the property on which it is located.
(3) The swimming pool or the property as hereinafter defined on which it is located, shall be have a barrier as required by Chapter 1305 so walled or fenced as to prevent uncontrolled access by children or other persons from the street or other adjacent properties except that the pool, wall, or fence may not penetrate the front yard setback as defined by City ordinance. The wall or fence may be separate from or part of the pool itself. The fence or wall shall be not less than six feet in height as measured from ground level at any point around the perimeter of the pool. Fences and walls may exceed six feet where topography forces such excess in order to achieve an agreeably aesthetic appearance. In such cases this section will take precedence over other sections which restrict fence or wall heights to a maximum of six feet.
(4) All barriers surrounding such pools shall be equipped with a gate and a lock which shall be installed and maintained in conformance with the provisions of Section 1325.01.
SECTION 5. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed ________________

________________________________
President of Council

Attest:

_____________________________
Clerk of Council
Date: April 10, 2019

To: Matthew H. Greeson, City Manager

From: Robyn Stewart, Assistant City Manager

Subject: Community Visioning

EXECUTIVE SUMMARY
This item provides time for City Council to discuss next steps for the community visioning process.

BACKGROUND/DESCRIPTION
We received 10 proposals in response to our Request for Proposals for facilitation services for the community visioning process. The proposals are being distributed separately to City Council.

We are also separately distributing to City Council the applications we have received to serve on the Community Visioning Committee. As of the writing of this memorandum, we have received 28 applications.

This agenda item provides time for City Council to discuss how they want to review and narrow the list of consultants and committee members.