

NOTICE OF SPECIAL COUNCIL MEETING

Pursuant to Section 7.09 of the Charter of the Village of Oakwood, notice is hereby given of the calling of a Special Council Meeting by Johnnie Warren, Eloise Hardin, and Patricia Rogers to be held on Thursday, February 11, 2021 at 6:00 p.m. via remote access utilizing Webex to consider the following matter(s): (See attached Agenda for further information)

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| <p>Ord 2021-12
Introduced 1-29-2021 by
Mayor & Council as a whole
Tabled 2-9-2021.</p> | AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PROJECT DEVELOPMENT AGREEMENT WITH INTERSTATE-MCBEE LLC AND DECLARING AN EMERGENCY |
| <p>Ord 2021-17
Introduced 2-11-2021 by
Mayor & Council as a whole
1ST Reading</p> | AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH <u>JOSEPH FOUCHE</u> TO SELL VILLAGE LAND DESIGNATED ON THE RECORDS OF THE CUYAHOGA FISCAL OFFICER AS PERMANENT PARCEL NOS. 795-07-104 AND 795-04-105 |
| <p>Ord 2021-18
Introduced 2-11-2021 by
Mayor & Council as a whole
1ST Reading</p> | AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH PREMIER COMMERCIAL REALTY, LLC AND PREMIER OAKWOOD, LLC TO TRANSFER AND RE-TRANSFER TITLE TO CERTAIN REAL PROPERTY IN THE VICINITY OF THE INTERSECTIONS OF ALEXANDER AND MACEDONIA ROADS AND ALEXANDER AND FAIR OAKS ROADS IN THE VILLAGE |
| <p>Res 2021-19
Introduced 1-29-2021 by
Mayor & Council as a whole
1ST Reading</p> | A RESOLUTION REFERRING AN ORDINANCE VACATING SOUTH LANE TO THE PLANNING COMMISSION IN ACCORDANCE WITH THE CHARTER OF THE VILLAGE OF OAKWOOD |

In accordance with the provisions contained in the Village Charter no other matters will be considered by Village Council other than those listed herein.

Debra L Hladky

Debra L. Hladky
Clerk of Council - Village of Oakwood

**VILLAGE OF OAKWOOD
COUNCIL - SPECIAL MEETING
February 11, 2021
6:00 P.M.
AGENDA**



Scan to view
Agenda on line

Pursuant to Section 7.09 of the Charter of the Village of Oakwood, the Mayor is hereby calling a Special Meeting of Village Council to consider the following items:

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- 1. Call meeting to order**
- 2. Pledge of Allegiance**
- 3. Roll Call**

Mayor	~ Gary V. Gottschalk
Law Director	~ Jim Climer
Finance Director	~ Brian Thompson
Council President	~ Johnnie Warren
Council At Large	~ Elaine Gaither
Councilman	~ Chris Callender
Councilperson	~ Eloise Hardin
Councilperson	~ Melanie Sanders
Councilperson	~ Patricia Rogers
Councilperson	~ Candace Williams

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Adjournment

AMENDED ORDINANCE NO. 2021 – 12

INTRODUCED BY MAYOR AND COUNCIL AS A WHOLE

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A
PROJECT DEVELOPMENT AGREEMENT WITH OAKWOOD
CENTER, LLC AND DECLARING AN EMERGENCY**

WHEREAS, the Village Oakwood (hereinafter “Oakwood”) and Oakwood Center, LLC, an Ohio Limited Liability Company (hereinafter “Developer”) deem it advantageous to each of them to develop property located off of Oak Leaf Road in the Village as more fully described in the Project Development Agreement (hereinafter “Agreement”) attached hereto and incorporated herein as Exhibit “A”; and,

WHEREAS, Oakwood and Developer have agreed in principle to the terms of said Agreement;

NOW THEREFORE, BE IT RESOLVED by the Council of the Village of Oakwood, County of Cuyahoga, and State of Ohio that:

SECTION 1. The Mayor be and is hereby authorized to enter into the Agreement, a copy which is attached hereto and expressly made a part hereof by reference and marked Exhibit "A".

SECTION 2. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the Village, the reason for the emergency being that the Agreement permits the Village to take advantage of time-sensitive development opportunities for the economic well-being of the Village and its residents which opportunities are imperiled by undue delay and, therefore, provided it receives two-thirds ($\frac{2}{3}$) of the vote of all members of Council elected thereto, said Ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED: _____

Johnnie A. Warren, President of Council

Debra L. Hladky, Clerk of Council

Presented to the
Mayor _____

Approved: _____

Mayor, Gary V. Gottschalk

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Amended Ordinance No. 2021 - 12 was duly and regularly passed by this Council at the meeting held on the _____ day of _____, 2021.

Debra L. Hladky, Clerk of Council

POSTING CERTIFICATE

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that Amended Ordinance No. 2021 - 12 was duly posted on the _____ day of _____, 2021, and will remain posted for a period of fifteen (15) days thereafter as provided by the Village Charter and as determined by the Council of the said Village.

Debra L. Hladky, Clerk of Council

DATED: _____

Exhibit "A"
PROJECT DEVELOPMENT AGREEMENT

by and between

THE VILLAGE OF OAKWOOD, OHIO

and

OAKWOOD CENTER, LLC
an Ohio limited liability company

as the Owner

Dated

as of

the Effective Date (as hereinafter defined)

PROJECT DEVELOPMENT AGREEMENT
Village of Oakwood – Oakwood Center, LLC

THIS PROJECT DEVELOPMENT AGREEMENT ("Agreement") is made effective and entered into by and between THE VILLAGE OF OAKWOOD, OHIO (the "Village"), a political subdivision organized and existing under the laws of the State of Ohio, and OAKWOOD CENTER, LLC, an Ohio limited liability company (the "Owner"), and shall become effective only upon the occurrence of the timely satisfaction of the Conditions of Effectiveness (as hereinafter defined).

RECITALS

A. The Village has previously acquired property consisting of approximately 3.027 acres of land located and situated in the Village, as further described on Exhibit A-1 attached hereto and incorporated herein (the "Village Land") and Owner owns or will acquire the real property located and situated in the Village consisting of approximately 25.699 acres of land, as further described on Exhibit A-2 attached hereto and incorporated herein ("Owner Properties"). Owner also intends to purchase additional land adjoining or contiguous to the land described in Exhibits A-1 and A-2 or contiguous to such additional land so purchased ("Additional Property-Not Owned or Under Contract") (all such real property whether identified in Exhibits A-1 through A-2 and Additional Property-Not Owned or Under Contract to the extent subsequently acquired by Owner, collectively referred to herein as the "Project Site").

B. The Owner intends to improve the Project Site following its acquisition of all the parcels comprising the Project Site by constructing or causing to be constructed a commercial real estate project (the "Improvements"), consisting of buildings and other commercial real estate components consistent with the applicable zoning code, along with related landscaping and improvements, as further described on Exhibit B. The improvement of the Project Site with the Improvements is referred to herein as the "Development".

C. The Village has determined that the construction of the Improvements to support and enable the Development of the Project Site, and the fulfillment generally of this Agreement and the Development of the Project Site, are in the best interests of the Village and necessary for economic development purposes and the health, safety and welfare of its residents, and are necessary for the purpose of enhancing the availability of adequate commercial space, parking, creating jobs and employment opportunities, and improving the economic welfare of the people of the Village.

D. The Village has created a "Community Reinvestment Area" or "CRA" pursuant to R.C. 3735.65 et. seq., known as Oakwood Community Reinvestment Area No. 1, which encompasses the Project Site and which has been determined to be in the best interests of the Village and necessary for economic development purposes, and the health, safety and welfare of its residents.

E. Pursuant to Ohio Revised Code Sections 5709.41 et. seq., the Village Council (the "Council") intends to adopt an ordinance and, as the same may be further amended or expanded

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from time to time, to exempt from real property taxation the incremental increase in assessed value of the Project Site resulting from the Development (the "TIF Ordinance") and providing: (1) that the Development is a public purpose necessary for the economic development of the Project Site; (2) for the payment of service payments in lieu of taxes (the "Service Payments") by the Owner of the Project Site (initially the Owner) and any successors in interest to any portion of the Project Site (collectively, the "Owners"), as obligations running with the land for the duration of the Covenant Period (as hereinafter defined), with respect to "Improvements" (as defined in ORC 5709.41 and the TIF Ordinance) to the parcels of real property comprising the Project Site; and (3) for the use of the Service Payments to pay for a portion of the costs of the Development.

F. In consideration of the foregoing Recitals and as an inducement to and in consideration of the conditions and covenants contained in this Agreement, the parties agree as follows:

(a)

Development of the Project Site

- a. Transfer/Sale of Village Land. The Village hereby agrees to sell to the Owner, and the Owner agrees to purchase from the Village, the Village Land for the sum of One and 00/100 Dollar (\$1.00) and other good and valuable consideration (the "Purchase Price"). Title to the Village Land shall be transferred by the Village to the Owner [or its designee] pursuant to a Limited Warranty Deed upon payment to the Village of the Purchase Price.

Section 1.02 Transfer/Sale of Land other than Village Land. The parties further recognize that it is advisable for the Owner to transfer title to the Village and for the Village to transfer title back to the Owner all or portions of the Project Site other than the Village Land in order to enact the TIF Ordinance or to amend and expand the property which is the subject of the TIF Ordinance and the parties agree to cooperate in that regard.

Section 1.03 Improvements. Following acquisition of the Village Land, Owner agrees to construct or cause to be constructed the Improvements on the Project Site including, but not limited to a 200,000 square foot office/warehouse facility (expandable to 300,000 square feet) ("Phase 1") and a potential second 100,000 square foot manufacturing facility ("Phase 2") both of which are to be located off Oak Leaf Road on property known as Permanent Parcel Nos., 795-50-014, 795-50-013, 795-49-010, 795-15-048; 795-50-012, 795-50-011, 795-49-005, 795-49-006 and 795-49-007 within the Village's Community Reinvestment Area No. 1. In addition, Owner may construct or cause the construction of additional buildings as part of the Development, to the extent deemed economically viable by Owner and determined by the Village to be in compliance with the Village codes, rules and regulations.

Section 1.04 Improvements. The parties acknowledge that the Improvements identified in Exhibit B on and adjacent to the Project Site are necessary for the Development and will directly benefit the Project Site and the surrounding area. The Owner shall cause the construction of and pay for the Improvements as described on Exhibit B except as otherwise provided therein. Provided that Owner has secured the prior written consent of the Village, which shall not be

unreasonably withheld, Owner shall have the right to revise the Plans and Specifications relating to Improvements located on the Project Site and the provisions of Exhibit B with respect thereto from time to time based upon economic circumstances subject to (a) compliance with the Village codes, rules and regulations, and (b) the Village's reasonable determination that the Improvements as so revised directly benefit the Project Site and the surrounding area and are consistent with the TIF Ordinance, and this Agreement shall be automatically and without further action of the Village and the Owner deemed amended so as to reflect the revisions provided in the permits and plats so approved. Owner acknowledges that any revisions to Improvements which are not located on the Project Site (the "Off-Site Improvements") are subject to the reasonable approval of the Village Council and other permitting authorities, and such approval by the Village Council and all necessary permitting authorities shall automatically and without further action of the Village and the Owner be deemed to amend this Agreement so as to reflect the said revisions.

Section 1.05 Off-Site Improvements. The Village agrees that, in connection with any Off-Site Improvements, it shall undertake such action as may be necessary or desirable to obtain title to such real property as is necessary for the construction of the Off-Site Improvements, with such acquisition to be at the lowest cost, in light of the schedule for construction of such Off-Site Improvements, as reasonably determined by the Village Council. The Village agrees to consult with the Owner in connection with such costs and to work cooperatively to control the cost of such acquisition.

Section 1.06 Construction. Construction of the Phase 1 Improvements shall be completed no later than December 31, 2022 ("Completion Date") provided that this Agreement is executed and delivered and the TIF Ordinance and Tax Abatement Package is finalized no later than January 31, 2021, otherwise the Completion Date shall be as early as commercially practicable as weather permits in 2023. The Owner and the Village agree to work in good faith to amend the Project Schedule as necessary to account for delays occasioned by economic and other ramifications, complications and hindrances constituting "Force Majeure", including those arising due to the COVID-19 international pandemic.

Section 1.07 Compliance with Laws, Rules and Regulations. The Owner and its respective officers, agents, employees and any other persons over whom the Owner has control, shall comply with all applicable present and future laws and ordinances of the Village as well as Federal, State and other local governmental bodies applicable to or affecting directly or indirectly (a) the Owner or its operations and activities on or in connection with the construction and operation of the Development; (b) which govern, control, or are required in connection with construction of the Improvements; and (c) which are otherwise applicable to or affect the construction or operation of the Development (collectively, the "Legal Requirements").

Section 1.08 Insurance. In connection with the construction of the Improvements, the Owner shall maintain or cause to be maintained insurance for protection from claims under Workers' Compensation acts and other employee benefit acts which are applicable, claims for damages because of bodily injury, including death, and claims for damages to property which may arise out of or result from operations and completed operations under this Agreement, whether such operations be by the Owner or by a subcontractor, agent, or anyone directly or indirectly employed by any of them. This insurance shall be written for not less than limits of liability specified in this Agreement or required by law, whichever coverage is greater, and with a company

or companies lawfully authorized to do business in the state of Ohio and having an AM Best rating of A+ or the equivalent. Each policy shall contain a provision that the policy will not be canceled or allowed to expire until at least 10 days' prior written notice has been given to the Village. The Owner shall cause the commercial liability coverage required by this Agreement to include the Village as an additional insured for claims caused in whole or in part by the Village, any of the Owner's acts or omissions, and/or any acts or omissions of any subcontractor, agent, or other person or entity directly or indirectly employed by any of them arising out of or relating to the construction of the Improvements.

The insurance required by this Agreement shall be written for not less than the following limits, or greater if required by law:

- (i) Workers' Compensation limits shall be those required by statute.
- (ii) Commercial General Liability insurance including liability on this project and blanket coverage, which insures against bodily injury, personal and property damage claims arising from work conducted, services provided, and/or materials supplied by the Village, by Owner, or any of their subcontractors or agents with limits of at least One Million Dollars (\$1,000,000) combined single limit each occurrence; Two Million Dollars (\$2,000,000) general aggregate; and Two Million Dollars (\$2,000,000) products/completed operations aggregate.
- (iii) Employer's Liability insurance with minimum limits of Five Hundred Thousand Dollars (\$500,000) for bodily injury.
- (iv) Commercial/Business Automobile Liability insurance with minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence (bodily injury and property damage liability). Coverage shall be for liability arising out of the use or operation of owned, hired, leased, and non-owned vehicles.
- (v) Umbrella liability coverage of Five Million Dollars (\$5,000,000) above the policies referred to in Items (ii), (iii) and (iv).

The liability insurance required by this Agreement shall: (1) provide that it is primary and non-contributory to any other insurance or self-insurance that the Village may have, (2) obligate Owner to pay any deductible or self-insured retention associated with any claim that is made under the policy, including any claim that may be made by an additional insured, (3) contain waivers of subrogation against the Village, if available, and (4) provide that the insurer(s) has/have a duty to defend against potentially covered claims and that the payment of defense costs by the insurer(s) shall not reduce or deplete the limits of liability under the policy(ies). The Owner shall deliver to the Village Certificates of Insurance acceptable to all parties evidencing the insurance coverage required by this Agreement.

The Owner may satisfy some or all of the foregoing requirements through an agreement with any general contractor specifying that it shall procure insurance that satisfies some or all of the foregoing requirements.

Article I
CRA; Tax Increment Financing

Section 2.01. CRA; Tax Increment Financing. The Village has established the Oakwood Community Reinvestment Area No. 1 and pursuant thereto, has agreed to provide each of the several phases of the Development on the Project Site with a Community Reinvestment Act ("CRA") tax exemption applicable to 75% of the dollar amounts by which the Improvements increase the market value of the Project Site for a period of 10 years (the "CRA Exemption"). The CRA Exemption shall be granted separately for each structure described in Section 1.03 hereinabove that constitutes part of the Development so that the exemption period will commence upon completion of each such structure. The Village and the Owner acknowledge that, to the extent possible, the CRA Exemption shall be granted upon separate identified parcels of property such that the occupants have both the benefit and risk of the CRA Exemption as to those specific parcels. In addition, the Village intends to adopt the TIF Ordinance to provide for exemption of 100% of the Improvements for a period of thirty (30) years ("TIF Exemption"). The Owner acknowledges that the adoption of the TIF Ordinance and granting of the TIF Exemption upon such terms requires action by the Board of Education of the Bedford City School District ("School District"). The Village shall, at no cost to Owner, other than as provided for in this Agreement including but not limited to the donations to be made by Owner referenced in Schedule II, negotiate any required compensation agreement with the School District and shall be responsible for payment of all costs and expenses associated with obtaining the consent of the School District to the TIF Exemption. The TIF Ordinance shall: (a) declare the Improvements (as defined in Section 5709.41 of the Revised Code) to be a public purpose for purposes of Section 5709.41 of the Revised Code; (b) require the Owner, its successors or assigns, and any current or future owners of the Project Site and any current or future lessors, lessees, or owners of the Project Site (hereinafter collectively referred to as the "Owners" and individually as an "Owner") of each of the parcels comprising the Project Site to make Service Payments to the County Treasurer; and (c) establish the Oakwood Center Urban Redevelopment Tax Increment Equivalent Fund (the "TIF Fund").

Section 2.02. Cleveland JEDZ Agreement. The parties hereby acknowledge that the Village is a party to a certain Joint Economic Development Zone Agreement ("JEDZ") with the City of Cleveland dated October 24, 2007 under which the Village is obligated, with certain exceptions, to share with Cleveland, for a period of five (5) years, fifty percent (50%) of income taxes derived from Owner's payroll as it existed immediately prior to Owner's relocation to the Village less sums earmarked for the local school district by ordinance (in this case fifteen percent (15%)) or a present estimated amount of Fifty-two thousand five hundred Dollars (\$52,500.00) per year based on approximately one hundred forty (140) employees and \$6,000,000 of annual payroll upon the completion of Phase 1. The parties hereby agree that, in the event Cleveland demands to collect its share of the said income taxes, the Owner and the Village shall pay respective shares of the sum actually paid to Cleveland based on the proportion the following sums bear to the foregoing present estimated amount:

Village: 45,000 (86 percent)

Owner: 7,500 (14 percent)



(b)

Plans and Specifications; Reviews, Approvals and Permits; Maintenance Obligations

Section 3.01. Improvement Plans. The Owner shall submit to the applicable Village bodies for review and approval its plans, drawings, and other materials in connection with the Development (the "Plans and Specifications"). The Village's review shall be consistent with the applicable Village requirements. The Plans and Specifications shall include, but not be limited to, a site plan, building layout, elevations of structures, parking, landscaping, signage, and any other planning materials that reasonably are required by the applicable Village bodies. The Village shall cause timely review of all Plans and Specifications and shall issue its decisions not later than thirty (30) days after application for permits have been made by Owner. Seventy-five per cent (75%) of the tap-in, permit and review fees, as well as the abatement application fee, shall be waived for the construction of these facilities and items related thereto, as and for additional economic incentives to Owner and/or Interstate- McBee, for the Project.

Section 3.02 Maintenance of Development and Improvements. Village and Owner agree that, following completion of the Improvements, (a) Owner shall maintain all improvements located on the Project Site, (b) Owner shall maintain utility connections to such parcels, (c) Village shall maintain or cause to be maintained any constructed, reconstructed or improved areas of Fair Oaks and Oak Leaf Roads located outside the property lines of the Project Site.

(c)

Indemnification

In addition to the obligations of the Owner, as set forth in this Agreement, except to the extent caused by the willful misconduct of Village or its agents, employees or officials, the Owner shall indemnify, defend and hold harmless the Village and its agents, employees and public officials from and against any and all suits, claims, damages, losses, costs or expenses (including reasonable attorney fees) arising out of, or resulting from (i) the construction and financing of the Improvements, (ii) claims, suits or actions of every kind and description when such suits or actions are caused by negligent, intentional, willful and/or wanton acts, and/or errors or omissions of the Owner, its officers, agents, employees, consultants, sub-consultants, contractors and/or subcontractors; and (iii) injury or damages received or sustained by any party because of the negligent, intentional, willful and/or wanton acts of the Owner, its officers, agents or employees, consultants, sub-consultants, contractors and/or subcontractors.

(d)

Events of Default

A party shall be deemed to be in default of this Agreement if that party or its successors or assigns fails to materially comply with any term, provision, or covenant of this Agreement and fails, within sixty (60) days after written demand, to remedy such failure unless such failure cannot be cured within such time period, in which case the time for remedying the failure shall be extended so long as the defaulting party is diligently pursuing a remedy to said failure and continues to pursue such cure to completion.

(e)

Remedies

Any delay by the Village or the Owner in asserting its rights under this Agreement shall not operate as a waiver of those rights or deprive the party of or otherwise limit those rights in any way. It is the intention of the parties that they shall not be constrained, so as to avoid the risk of being deprived or limited in the exercise of the remedies provided in this Agreement because of concepts of waiver, laches, or otherwise. The parties may exercise any remedy at a time when the parties may still hope to resolve the problems created by an Event of Default. No waiver in fact made by a party with respect to any specific default under this Agreement may be considered or treated as a waiver of the rights of a party with respect to any other defaults by the other party under this Agreement, or with respect to the particular default, except to the extent specifically waived in writing.

(f)

Force Majeure

Except as otherwise provided, neither the Village nor the Owner will be considered in default of its obligations under this Agreement, if a delay in performance is due to a Force Majeure Event, to the extent such Force Majeure Event materially affects the performance of such party. As used herein "Force Majeure Event" means acts of God; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; strikes; labor disputes; insurrections, civil disturbances; riots; epidemics; pandemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; storms; droughts; other weather conditions; floods; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities or machinery; partial or entire failure of utilities; acts of terrorism or threats of terrorism; and unavailability of labor or materials due to the occurrence of any of the foregoing events.

It is the intent of the parties that, in the event of the occurrence of any Force Majeure Event, the time or times for performance shall be extended for the period of such Force Majeure Event. However, the parties seeking the benefit of the provisions of this Article VII must, within fifteen (15) days after the later of the beginning of the Force Majeure Event or after reasonably recognizing that a Force Majeure Event has occurred, notify the other party in writing of the cause and, if possible at the time of notice, the expected duration of the delay caused by the Force Majeure Event.

(g)

Further Assurances; Full Disclosure; Good Faith and Fair Dealing

The Village and the Owner agree to execute such other and further documents as may be necessary or required to consummate or more fully confirm the transactions contemplated hereby. Each respective party covenants that no representation or warranty of such representing party contained herein contains any untrue statement of any material fact as of the time such representation or warranty is made and, to the knowledge of such representing party, no such representation or warranty omits or will omit to state a material fact necessary in order to make such representing party's representations and warranties contained herein or therein not

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misleading. From and after the date hereof, the Village and the Owner agree to cooperate with one another in good faith, and to deal fairly with one another, so as to effect the consummation of the transactions contemplated hereby, and to resolve unforeseen conditions arising subsequent to the execution of this Agreement.

(h)
Miscellaneous

- a. Notices. Any notice or demand required or permitted to be given by or to either of the parties hereto and every alleged breach of a warranty or representation contained in this Agreement shall be made in writing and shall be deemed to have been given or delivered, as the case may be, when delivered by: (a) hand delivery; (b) express overnight delivery service; or (c) certified or registered mail, return receipt requested, and shall be deemed to have been delivered upon: (i) receipt, if hand delivered; (ii) the next business day, if delivered by express overnight delivery service; or (iii) the third business day following the day of deposit of such notice with the United States Postal Service, if sent by certified or registered mail, return receipt requested. Notices shall be provided to the parties and addresses (or facsimile numbers, as applicable) specified below:

If to Village: Village of Oakwood
24800 Broadway Avenue
Oakwood, OH 44146
Attention: Mayor Gary V. Gottschalk

With a Copy to: Mazanec, Raskin & Ryder Co., LPA
100 Franklin's Row
34305 Solon Road
Cleveland, Ohio 44139
Attention: James A. Climer, Esq.

If to Owner: Oakwood Center, LLC
5300 Lakeside Ave.
Cleveland, OH 44114
Attn: Brad Buescher

With a Copy to: McCarthy, Lebit, Crystal & Liffman LPA
101 W Lakeside Ave., Ste. 1800
Cleveland, OH 44115
Attn: David A. Lum, Esq.

Each party may designate, by written notice, another person or address to whom any communication may be sent.



- b. Enforceability of Obligations. Unless otherwise terminated in accordance with the terms of this Agreement, the obligation to perform and observe the agreements contained herein on the part of the Owner, the Village or any successor or assign of either shall be binding and enforceable by the parties against one another or any successor or assign of either.
- c. Non-Waiver. Neither the waiver by either party to this Agreement of any breach of any agreement, condition or provision of this Agreement, nor the failure of either party to seek redress for violation of, or to insist upon strict performance of any agreement, condition or provision, shall be considered to be a waiver of any agreement, condition or provision that is not specifically waived or of any subsequent breach of any agreement, condition or provision. No provision of this Agreement may be waived except by written agreement of the party to be charged.
- d. Paragraph Headings. The paragraph headings contained herein are merely for convenience and reference, and are not intended to be a part of this Agreement, or in any matter to limit or describe the scope or intent of this Agreement or the particular paragraphs to which they refer.
- e. Assignments. Neither party shall assign its rights or obligations under this Agreement without the express written consent of the other party, which consent shall not be unreasonably withheld.
- f. Relationship of the Parties. Nothing contained herein shall make, or be deemed to make, the Village and the Owner a partner of one another and this Agreement shall not be construed as creating a partnership between the parties. Nothing in this Agreement shall be deemed to create or establish a relationship of employment, agency, or representation between the Village and Owner, its officers, employees, agents, contractors or representatives; and neither party shall have the authority, whether express, implied, apparent or otherwise, to bind or obligate the other party with respect to any third parties.
- g. Singular and Plural. Wherever the context shall so require, the singular shall include the plural and the plural shall include the singular.
- h. Binding Effect on Successors and Assigns. This Agreement and all of the covenants hereof shall inure to the benefit of and be binding upon the Village and the Owner respectively and their respective partners, successors, assigns and legal representatives.
- i. Governing Law. This Agreement shall be governed by the laws of the State of Ohio. All disputes arising under this Agreement shall be litigated in the Cuyahoga County Court of Common Pleas or the Federal

Court for the Northern District of Ohio and the parties consent to submit themselves to the jurisdiction and venue of that court.

- j. Severability. If any provision of this Agreement is for any reason held to be illegal or invalid, it shall not affect any other provision of this Agreement.
- k. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one and the same instrument.
- l. Amendments. This Agreement shall not be amended, supplemented or modified except by an instrument in writing executed by the Village and the Owner.

Section 9.13 Consent not to be Unreasonably Withheld. Whenever the phrase, consent not to be unreasonably withheld or a similar phrase is used in this Agreement, it shall mean not unreasonably withheld, conditioned or delayed.

Section 9.14 Conditions of Effectiveness. This Agreement is executed by the Mayor of the Village subject to the approval of the Oakwood Village Council and shall become fully effective on the first date upon which all of the following have occurred: a) the effective date of legislation signifying approval by Oakwood Village Council of this Agreement b) the effective date of legislation passed by Oakwood Village Council and all other necessary governmental approvals of Tax Increment Financing provided for in this Agreement and c) the effective date of legislation passed by Oakwood Village Council and all other necessary governmental approvals of Community Reinvestment Act tax credits and/or abatements provided for in this Agreement.

[BALANCE OF PAGE INTENTIONALLY BLANK; SIGNATURES FOLLOW.]



IN WITNESS WHEREOF, the Village and the Owner have caused this Agreement to be executed by their duly authorized officers as of the Effective Date.

“Village”

THE VILLAGE OF OAKWOOD, CUYAHOGA COUNTY, OHIO,
a body politic and corporate duly existing under
the laws of the State of Ohio

By: _____
Gary V. Gottschalk, Mayor

Dated: _____, 2020

Approved as to form
James A. Climer, Law Director

Dated: _____, 2020

FISCAL OFFICER'S CERTIFICATE

The undersigned Fiscal Officer of Oakwood Village, Ohio, hereby certifies that the money required to meet the obligations of Oakwood Village under the attached agreement during the year 2020 has been lawfully appropriated by Oakwood Village for those purposes and is in the treasury of Oakwood Village or in the process of collection to the credit of the appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Ohio Revised Code Section 5705.41.

Dated: _____, 2020

_____, Fiscal Officer

Oakwood Village, Ohio

“Owner”

OAKWOOD CENTER, LLC, an Ohio limited liability company

By: *B. Buacher, Treasurer*
(Title)

Dated: *2/5/2021*, ~~2020~~

SCHEDULE I

PAYMENT OF SERVICE PAYMENTS PURSUANT TO TIF

1. During the first fifteen (15) years of the distribution of payments arising from service payments ("PILOTS") under the TIF, seventy-five percent (75%) of PILOTS shall be payable to the Owner and twenty-five percent (25%) of PILOTS are payable to the Village during any year in which the annual payroll generated from businesses and/or operations at the Project Site reportable as payroll taxable within the Village ("Payroll") is less than Ten million and 00/100 Dollars (\$10,000,000.00). During any year in which annual Payroll is Ten million and 00/100 Dollars (\$10,000,000.00) or more, then one hundred percent (100%) of PILOTS are payable to Owner and zero percent (0%) to the Village.

2. During the second fifteen (15) years of the distribution of payments arising from PILOTS under the TIF, if the annual Payroll is Ten million and 00/100 Dollars (\$10,000,000.00) or more by the end of calendar year 2027, then one hundred percent (100%) of PILOTS shall be payable to Owner and zero percent (0%) to the Village; otherwise fifty percent (50%) of PILOTS shall be payable to Owner and fifty percent (50%) to the Village.

BB

SCHEDULE II

DONATIONS

Janice Kenney Summer Youth Program

Twenty thousand and 00/100 Dollars (\$20,000.00) per year to the Village commencing in 2024 and continuing thereafter for a total of ten (10) years of donations for the Janice Kenney Summer Youth Program.

Board of Education of the Bedford City School District

Twelve thousand and 00/100 Dollars (\$12,000.00) per year for the year commencing with the Owner's receipt of the second year of abatements and continuing thereafter for a total of 15 years of donations.

EXHIBIT A-1

VILLAGE LAND

Permanent Parcel Numbers	795-50-012
	795-50-011
	795-49-005
	795-49-006
	795-49-007

EXHIBIT A-2

OWNER LAND

Permanent Parcel Numbers 795-50-014

795-50-013

795-49-010

795-15-048

BB

EXHIBIT B

IMPROVEMENTS

The Project shall include but not be limited to:

- Construction of the buildings upon the Project Site, replacement thereof and repairs thereto;
- The provision of utilities and utility connections to the Project Site (to be constructed and paid for by the Village) and within the Project Site (to be constructed and paid for by Owner) including but not limited to storm water drainage/detention/retention improvements and measures, sanitary sewerage, water mains and connections, fire hydrants, gas, telecommunications and all trenching and conduits for public utilities;
- Environmental remediation including but not limited to wetlands mitigation for the Project Site;
- Relocation of a stream running through the Project Site which has been determined by the Army Corps of Engineers to be a regulated waterway;
- Stabilization of the subsoil for building pads and other purposes which geotechnical evaluations have determined to be unstable due to previous fill activities;
- Land acquisition including, but not limited to, the possible purchase of two rezoned properties on North Lane including screening and beautification;
- Demolition, abatement and other rehabilitation expenses related to existing buildings and structures;
- Construction of an access road onto the Project Site from Oak Leaf Road as well as screening and beautification of same;
- Mounding, screening and landscaping of the adjacent Waste Management facility which periodically emits noxious odors and is unsightly;
- The maintenance of all screening and landscaping;
- Permitting and other fees and costs;
- Reconstruction of Fair Oaks Road and Oak Leaf Road and installation of smart traffic lights at the intersections of Oak Leaf Road and Alexander and Fair Oaks Road and Alexander, all to be constructed and paid for by the Village;
- Financing and other carrying costs associated with the Project;
- Professional services and other soft costs associated with the Project including, but not limited to, engineering, legal and consulting services;
- Professional services associated with the establishment and administration of tax increment financing (TIF) arrangements;
- Donations, Payments in Lieu of Taxes (PILOTS) and similar arrangements with the Board of Education of the Bedford City School District and/or other public entities associated with the TIF or otherwise;
- Donations to the Board of Education of the Bedford City School District and Oakwood Village for agreeing to development incentives.

-AMENDED ORDINANCE NO. 2021 – 12

INTRODUCED BY MAYOR AND COUNCIL AS A WHOLE

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A
PROJECT DEVELOPMENT AGREEMENT WITH OAKWOOD
CENTER, LLC AND DECLARING AN EMERGENCY**

WHEREAS, the Village Oakwood (hereinafter “Oakwood”) and Oakwood Center, LLC, an Ohio Limited Liability Company (hereinafter “Developer”) deem it advantageous to each of them to develop property located off of Oak Leaf Road in the Village as more fully described in the Project Development Agreement (hereinafter “Agreement”) attached hereto and incorporated herein as Exhibit “A”; and,

WHEREAS, Oakwood and Developer have agreed in principle to the terms of said Agreement;

NOW THEREFORE, BE IT RESOLVED by the Council of the Village of Oakwood, County of Cuyahoga, and State of Ohio that:

SECTION 1. The Mayor be and is hereby authorized to enter into the Agreement, a copy which is attached hereto and expressly made a part hereof by reference and marked Exhibit "A".

SECTION 2. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the Village, the reason for the emergency being that the Agreement permits the Village to take advantage of time-sensitive development opportunities for the economic well-being of the Village and its residents which opportunities are imperiled by undue delay and, therefore, provided it receives two-thirds ($\frac{2}{3}$) of the vote of all members of Council elected thereto, said Ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED: _____
Johnnie A. Warren, President of Council

Debra L. Hladky, Clerk of Council

Presented to the
Mayor _____

Approved: _____

Mayor, Gary V. Gottschalk

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Deleted: INTERSTATE- McBEE

Deleted: Interstate-McBee, LLC

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Amended Ordinance No. 2021 - 12, was duly and regularly passed by this Council at the meeting held on the ____ day of _____, 2021.

Deleted:

Debra L. Hladky, Clerk of Council

POSTING CERTIFICATE

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that Amended Ordinance No. 2021 - 12, was duly posted on the ____ day of _____, 2021, and will remain posted for a period of fifteen (15) days thereafter as provided by the Village Charter and as determined by the Council of the said Village.

Deleted:

Debra L. Hladky, Clerk of Council

DATED: _____

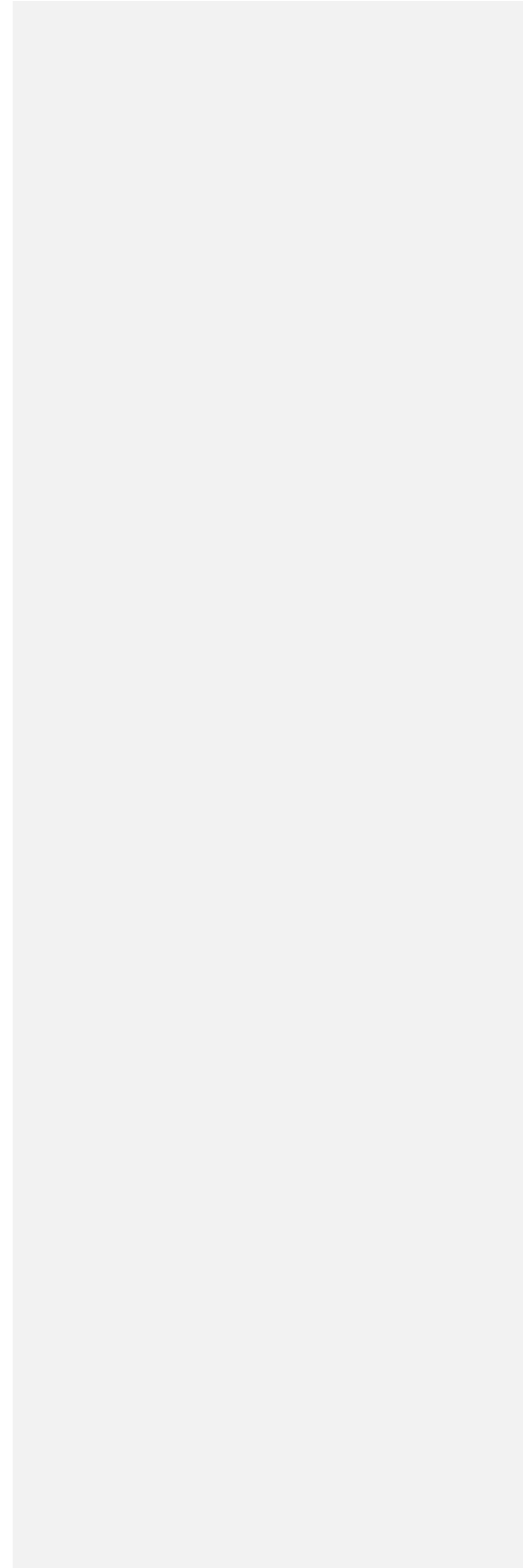


EXHIBIT “A”

PROJECT DEVELOPMENT AGREEMENT

by and between

THE VILLAGE OF OAKWOOD, OHIO

and

OAKWOOD CENTER, LLC
an Ohio limited liability company

as the Owner

Dated

as of

the Effective Date (as hereinafter defined)

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PROJECT DEVELOPMENT AGREEMENT
Village of Oakwood – Oakwood Center, LLC

THIS PROJECT DEVELOPMENT AGREEMENT (“Agreement”) is made effective and entered into by and between THE VILLAGE OF OAKWOOD, OHIO (the “Village”), a political subdivision organized and existing under the laws of the State of Ohio, and OAKWOOD CENTER, LLC, an Ohio limited liability company (the “Owner”), and shall become effective only upon the occurrence of the timely satisfaction of the Conditions of Effectiveness (as hereinafter defined).

Deleted: Interstate-McBee

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RECITALS

A. The Village has previously acquired property consisting of approximately 3.027 acres of land located and situated in the Village, as further described on Exhibit A-1 attached hereto and incorporated herein (the “Village Land”) and Owner owns or will acquire the real property located and situated in the Village consisting of approximately 25.699 acres of land, as further described on Exhibit A-2 attached hereto and incorporated herein (“Owner Properties”). Owner also intends to purchase additional land adjoining or contiguous to the land described in Exhibits A-1 and A-2 or contiguous to such additional land so purchased (“Additional Property-Not Owned or Under Contract”) (all such real property whether identified in Exhibits A-1 through A-2 and Additional Property-Not Owned or Under Contract to the extent subsequently acquired by Owner, collectively referred to herein as the “Project Site”).

B. The Owner intends to improve the Project Site following its acquisition of all the parcels comprising the Project Site by constructing or causing to be constructed a commercial real estate project (the “Improvements”), consisting of buildings and other commercial real estate components consistent with the applicable zoning code, along with related landscaping and improvements, as further described on Exhibit B. The improvement of the Project Site with the Improvements is referred to herein as the “Development”.

C. The Village has determined that the construction of the Improvements to support and enable the Development of the Project Site, and the fulfillment generally of this Agreement and the Development of the Project Site, are in the best interests of the Village and necessary for economic development purposes and the health, safety and welfare of its residents, and are necessary for the purpose of enhancing the availability of adequate commercial space, parking, creating jobs and employment opportunities, and improving the economic welfare of the people of the Village.

D. The Village has created a “Community Reinvestment Area” or “CRA” pursuant to R.C. 3735.65 et. seq., known as Oakwood Community Reinvestment Area No. 1, which encompasses the Project Site and which has been determined to be in the best interests of the Village and necessary for economic development purposes, and the health, safety and welfare of its residents.

E. Pursuant to Ohio Revised Code Sections 5709.41 et. seq., the Village Council (the “Council”) intends to adopt an ordinance and, as the same may be further amended or expanded

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from time to time, to exempt from real property taxation the incremental increase in assessed value of the Project Site resulting from the Development (the “TIF Ordinance”) and providing: (1) that the Development is a public purpose necessary for the economic development of the Project Site; (2) for the payment of service payments in lieu of taxes (the “Service Payments”) by the Owner of the Project Site (initially the Owner) and any successors in interest to any portion of the Project Site (collectively, the “Owners”), as obligations running with the land for the duration of the Covenant Period (as hereinafter defined), with respect to “Improvements” (as defined in ORC 5709.41 and the TIF Ordinance) to the parcels of real property comprising the Project Site; and (3) for the use of the Service Payments to pay for a portion of the costs of the Development.

F. In consideration of the foregoing Recitals and as an inducement to and in consideration of the conditions and covenants contained in this Agreement, the parties agree as follows:

Article I Development of the Project Site

Section 1.01 Transfer/Sale of Village Land. The Village hereby agrees to sell to the Owner, and the Owner agrees to purchase from the Village, the Village Land for the sum of One and 00/100 Dollar (\$1.00) and other good and valuable consideration (the “Purchase Price”). Title to the Village Land shall be transferred by the Village to the Owner [or its designee] pursuant to a Limited Warranty Deed upon payment to the Village of the Purchase Price.

Section 1.02 Transfer/Sale of Land other than Village Land. The parties further recognize that it is advisable for the Owner to transfer title to the Village and for the Village to transfer title back to the Owner all or portions of the Project Site other than the Village Land in order to enact the TIF Ordinance or to amend and expand the property which is the subject of the TIF Ordinance and the parties agree to cooperate in that regard.

Section 1.03 Improvements. Following acquisition of the Village Land, Owner agrees to construct or cause to be constructed the Improvements on the Project Site including, but not limited to, a 200,000 square foot office/warehouse facility (expandable to 300,000 square feet) (“Phase 1”) and a potential second, 100,000 square foot manufacturing facility (“Phase 2”) both of which are to be located off Oak Leaf Road on property known as Permanent Parcel Nos., 795-50-014, 795-50-013, 795-49-010, 795-15-048; 795-50-012, 795-50-011, 795-49-005, 795-49-006 and 795-49-007 within the Village’s Community Reinvestment Area No. 1. In addition, Owner may construct or cause the construction of additional buildings as part of the Development, to the extent deemed economically viable by Owner and determined by the Village to be in compliance with the Village codes, rules and regulations.

Section 1.04 Improvements. The parties acknowledge that the Improvements identified in Exhibit B on and adjacent to the Project Site are necessary for the Development and will directly benefit the Project Site and the surrounding area. The Owner shall cause the construction of and pay for the Improvements as described on Exhibit B except as otherwise provided therein. Provided that Owner has secured the prior written consent of the Village, which shall not be unreasonably withheld, Owner shall have the right to revise the Plans and Specifications relating to Improvements located on the Project Site and the provisions of Exhibit B with respect thereto

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from time to time based upon economic circumstances subject to (a) compliance with the Village codes, rules and regulations, and (b) the Village's reasonable determination that the Improvements as so revised directly benefit the Project Site and the surrounding area and are consistent with the TIF Ordinance, and this Agreement shall be automatically and without further action of the Village and the Owner deemed amended so as to reflect the revisions provided in the permits and plats so approved. Owner acknowledges that any revisions to Improvements which are not located on the Project Site (the "Off-Site Improvements") are subject to the reasonable approval of the Village Council and other permitting authorities, and such approval by the Village Council and all necessary permitting authorities shall automatically and without further action of the Village and the Owner be deemed to amend this Agreement so as to reflect the said revisions.

Section 1.05 Off-Site Improvements. The Village agrees that, in connection with any Off-Site Improvements, it shall undertake such action as may be necessary or desirable to obtain title to such real property as is necessary for the construction of the Off-Site Improvements, with such acquisition to be at the lowest cost, in light of the schedule for construction of such Off-Site Improvements, as reasonably determined by the Village Council. The Village agrees to consult with the Owner in connection with such costs and to work cooperatively to control the cost of such acquisition.

Section 1.06 Construction. Construction of the Phase 1 Improvements shall be completed no later than December 31, 2022 ("Completion Date") provided that this Agreement is executed and delivered and the TIF Ordinance and Tax Abatement Package is finalized no later than January 31, 2021, otherwise the Completion Date shall be as early as commercially practicable as weather permits in 2023. The Owner and the Village agree to work in good faith to amend the Project Schedule as necessary to account for delays occasioned by economic and other ramifications, complications and hindrances constituting "Force Majeure", including those arising due to the COVID-19 international pandemic.

Section 1.07 Compliance with Laws, Rules and Regulations. The Owner and its respective officers, agents, employees and any other persons over whom the Owner has control, shall comply with all applicable present and future laws and ordinances of the Village as well as Federal, State and other local governmental bodies applicable to or affecting directly or indirectly (a) the Owner or its operations and activities on or in connection with the construction and operation of the Development; (b) which govern, control, or are required in connection with construction of the Improvements; and (c) which are otherwise applicable to or affect the construction or operation of the Development (collectively, the "Legal Requirements").

Section 1.08 Insurance. In connection with the construction of the Improvements, the Owner shall maintain or cause to be maintained insurance for protection from claims under Workers' Compensation acts and other employee benefit acts which are applicable, claims for damages because of bodily injury, including death, and claims for damages to property which may arise out of or result from operations and completed operations under this Agreement, whether such operations be by the Owner or by a subcontractor, agent, or anyone directly or indirectly employed by any of them. This insurance shall be written for not less than limits of liability specified in this Agreement or required by law, whichever coverage is greater, and with a company or companies lawfully authorized to do business in the state of Ohio and having an AM Best rating of A+ or the equivalent. Each policy shall contain a provision that the policy will not be canceled

or allowed to expire until at least 10 days' prior written notice has been given to the Village. The Owner shall cause the commercial liability coverage required by this Agreement to include the Village as an additional insured for claims caused in whole or in part by the Village, any of the Owner's acts or omissions, and/or any acts or omissions of any subcontractor, agent, or other person or entity directly or indirectly employed by any of them arising out of or relating to the construction of the Improvements.

The insurance required by this Agreement shall be written for not less than the following limits, or greater if required by law:

(i) Workers' Compensation limits shall be those required by statute.

(ii) Commercial General Liability insurance including liability on this project and blanket coverage, which insures against bodily injury, personal and property damage claims arising from work conducted, services provided, and/or materials supplied by the Village, by Owner, or any of their subcontractors or agents with limits of at least One Million Dollars (\$1,000,000) combined single limit each occurrence; Two Million Dollars (\$2,000,000) general aggregate; and Two Million Dollars (\$2,000,000) products/completed operations aggregate.

(iii) Employer's Liability insurance with minimum limits of Five Hundred Thousand Dollars (\$500,000) for bodily injury.

(iv) Commercial/Business Automobile Liability insurance with minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence (bodily injury and property damage liability). Coverage shall be for liability arising out of the use or operation of owned, hired, leased, and non-owned vehicles.

(v) Umbrella liability coverage of Five Million Dollars (\$5,000,000) above the policies referred to in Items (ii), (iii) and (iv).

The liability insurance required by this Agreement shall: (1) provide that it is primary and non-contributory to any other insurance or self-insurance that the Village may have, (2) obligate Owner to pay any deductible or self-insured retention associated with any claim that is made under the policy, including any claim that may be made by an additional insured, (3) contain waivers of subrogation against the Village, if available, and (4) provide that the insurer(s) has/have a duty to defend against potentially covered claims and that the payment of defense costs by the insurer(s) shall not reduce or deplete the limits of liability under the policy(ies). The Owner shall deliver to the Village Certificates of Insurance acceptable to all parties evidencing the insurance coverage required by this Agreement.

The Owner may satisfy some or all of the foregoing requirements through an agreement with any general contractor specifying that it shall procure insurance that satisfies some or all of the foregoing requirements.

Article II

CRA; Tax Increment Financing

Section 2.01. CRA; Tax Increment Financing. The Village has established the Oakwood Community Reinvestment Area No. 1 and pursuant thereto, has agreed to provide each of the several phases of the Development on the Project Site with a Community Reinvestment Act (“CRA”) tax exemption applicable to 75% of the dollar amounts by which the Improvements increase the market value of the Project Site for a period of 10 years (the “CRA Exemption”). The CRA Exemption shall be granted separately for each structure described in Section 1.03 hereinabove that constitutes part of the Development so that the exemption period will commence upon completion of each such structure. The Village and the Owner acknowledge that, to the extent possible, the CRA Exemption shall be granted upon separate identified parcels of property such that the occupants have both the benefit and risk of the CRA Exemption as to those specific parcels. In addition, the Village intends to adopt the TIF Ordinance to provide for exemption of 100% of the Improvements for a period of thirty (30) years (“TIF Exemption”). The Owner acknowledges that the adoption of the TIF Ordinance and granting of the TIF Exemption upon such terms requires action by the Board of Education of the Bedford City School District (“School District”). The Village shall, at no cost to Owner, other than as provided for in this Agreement including but not limited to the donations to be made by Owner referenced in Schedule II, negotiate any required compensation agreement with the School District and shall be responsible for payment of all costs and expenses associated with obtaining the consent of the School District to the TIF Exemption. The TIF Ordinance shall: (a) declare the Improvements (as defined in Section 5709.41 of the Revised Code) to be a public purpose for purposes of Section 5709.41 of the Revised Code; (b) require the Owner, its successors or assigns, and any current or future owners of the Project Site and any current or future lessors, lessees, or owners of the Project Site (hereinafter collectively referred to as the “Owners” and individually as an “Owner”) of each of the parcels comprising the Project Site to make Service Payments to the County Treasurer; and (c) establish the Oakwood Center Urban Redevelopment Tax Increment Equivalent Fund (the “TIF Fund”).

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Section 2.02. Cleveland JEDZ Agreement. The parties hereby acknowledge that the Village is a party to a certain Joint Economic Development Zone Agreement (“JEDZ”) with the City of Cleveland dated October 24, 2007 under which the Village is obligated, with certain exceptions, to share with Cleveland, for a period of five (5) years, fifty percent (50%) of income taxes derived from Owner’s payroll as it existed immediately prior to Owner’s relocation to the Village less sums earmarked for the local school district by ordinance (in this case fifteen percent (15%)) or a present estimated amount of Fifty-two thousand five hundred Dollars (\$52,500.00) per year based on approximately one hundred forty (140) employees and \$6,000,000 of annual payroll upon the completion of Phase 1. The parties hereby agree that, in the event Cleveland demands to collect its share of the said income taxes, the Owner and the Village shall pay respective shares of the sum actually paid to Cleveland based on the proportion the following sums bear to the foregoing present estimated amount:

Village: 45,000 (86 percent)

Owner: 7,500 (14 percent)

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Article III
Plans and Specifications; Reviews, Approvals and Permits; Maintenance Obligations

Section 3.01. Improvement Plans. The Owner shall submit to the applicable Village bodies for review and approval its plans, drawings, and other materials in connection with the Development (the “Plans and Specifications”). The Village’s review shall be consistent with the applicable Village requirements. The Plans and Specifications shall include, but not be limited to, a site plan, building layout, elevations of structures, parking, landscaping, signage, and any other planning materials that reasonably are required by the applicable Village bodies. The Village shall cause timely review of all Plans and Specifications and shall issue its decisions not later than thirty (30) days after application for permits have been made by Owner. Seventy-five per cent (75%) of the tap-in, permit and review fees, as well as the abatement application fee, shall be waived for the construction of these facilities and items related thereto, as and for additional economic incentives to Owner and/or Interstate- McBee, for the Project.

Section 3.02 Maintenance of Development and Improvements. Village and Owner agree that, following completion of the Improvements, (a) Owner shall maintain all improvements located on the Project Site, (b) Owner shall maintain utility connections to such parcels, (c) Village shall maintain or cause to be maintained any constructed, reconstructed or improved areas of Fair Oaks and Oak Leaf Roads located outside the property lines of the Project Site.

Article IV
Indemnification

In addition to the obligations of the Owner, as set forth in this Agreement, except to the extent caused by the willful misconduct of Village or its agents, employees or officials, the Owner shall indemnify, defend and hold harmless the Village and its agents, employees and public officials from and against any and all suits, claims, damages, losses, costs or expenses (including reasonable attorney fees) arising out of, or resulting from (i) the construction and financing of the Improvements, (ii) claims, suits or actions of every kind and description when such suits or actions are caused by negligent, intentional, willful and/or wanton acts, and/or errors or omissions of the Owner, its officers, agents, employees, consultants, sub-consultants, contractors and/or subcontractors; and (iii) injury or damages received or sustained by any party because of the negligent, intentional, willful and/or wanton acts of the Owner, its officers, agents or employees, consultants, sub-consultants, contractors and/or subcontractors.

Article V
Events of Default

A party shall be deemed to be in default of this Agreement if that party or its successors or assigns fails to materially comply with any term, provision, or covenant of this Agreement and fails, within sixty (60) days after written demand, to remedy such failure unless such failure cannot be cured within such time period, in which case the time for remedying the failure shall be extended so long as the defaulting party is diligently pursuing a remedy to said failure and continues to pursue such cure to completion.

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Article VI Remedies

Any delay by the Village or the Owner in asserting its rights under this Agreement shall not operate as a waiver of those rights or deprive the party of or otherwise limit those rights in any way. It is the intention of the parties that they shall not be constrained, so as to avoid the risk of being deprived or limited in the exercise of the remedies provided in this Agreement because of concepts of waiver, laches, or otherwise. The parties may exercise any remedy at a time when the parties may still hope to resolve the problems created by an Event of Default. No waiver in fact made by a party with respect to any specific default under this Agreement may be considered or treated as a waiver of the rights of a party with respect to any other defaults by the other party under this Agreement, or with respect to the particular default, except to the extent specifically waived in writing.

Article VII Force Majeure

Except as otherwise provided, neither the Village nor the Owner will be considered in default of its obligations under this Agreement, if a delay in performance is due to a Force Majeure Event, to the extent such Force Majeure Event materially affects the performance of such party. As used herein "Force Majeure Event" means acts of God; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; strikes; labor disputes; insurrections, civil disturbances; riots; epidemics; pandemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; storms; droughts; other weather conditions; floods; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities or machinery; partial or entire failure of utilities; acts of terrorism or threats of terrorism; and unavailability of labor or materials due to the occurrence of any of the foregoing events.

It is the intent of the parties that, in the event of the occurrence of any Force Majeure Event, the time or times for performance shall be extended for the period of such Force Majeure Event. However, the parties seeking the benefit of the provisions of this Article VII must, within fifteen (15) days after the later of the beginning of the Force Majeure Event or after reasonably recognizing that a Force Majeure Event has occurred, notify the other party in writing of the cause and, if possible at the time of notice, the expected duration of the delay caused by the Force Majeure Event.

Article VIII Further Assurances; Full Disclosure; Good Faith and Fair Dealing

The Village and the Owner agree to execute such other and further documents as may be necessary or required to consummate or more fully confirm the transactions contemplated hereby. Each respective party covenants that no representation or warranty of such representing party contained herein contains any untrue statement of any material fact as of the time such representation or warranty is made and, to the knowledge of such representing party, no such representation or warranty omits or will omit to state a material fact necessary in order to make such representing party's representations and warranties contained herein or therein not

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misleading. From and after the date hereof, the Village and the Owner agree to cooperate with one another in good faith, and to deal fairly with one another, so as to effect the consummation of the transactions contemplated hereby, and to resolve unforeseen conditions arising subsequent to the execution of this Agreement.

Article IX
Miscellaneous

Section 9.01 Notices. Any notice or demand required or permitted to be given by or to either of the parties hereto and every alleged breach of a warranty or representation contained in this Agreement shall be made in writing and shall be deemed to have been given or delivered, as the case may be, when delivered by: (a) hand delivery; (b) express overnight delivery service; or (c) certified or registered mail, return receipt requested, and shall be deemed to have been delivered upon: (i) receipt, if hand delivered; (ii) the next business day, if delivered by express overnight delivery service; or (iii) the third business day following the day of deposit of such notice with the United States Postal Service, if sent by certified or registered mail, return receipt requested. Notices shall be provided to the parties and addresses (or facsimile numbers, as applicable) specified below:

If to Village: Village of Oakwood
24800 Broadway Avenue
Oakwood, OH 44146
Attention: Mayor Gary V. Gottschalk

With a Copy to: Mazanec, Raskin & Ryder Co., LPA
100 Franklin's Row
34305 Solon Road
Cleveland, Ohio 44139
Attention: James A. Climer, Esq.

If to Owner: Oakwood Center, LLC
5300 Lakeside Ave.
Cleveland, OH 44114
Attn: Brad Buescher

With a Copy to: McCarthy, Lebit, Crystal & Liffman LPA
101 W Lakeside Ave., Ste. 1800
Cleveland, OH 44115
Attn: David A. Lum, Esq.

Each party may designate, by written notice, another person or address to whom any communication may be sent.

Section 9.02 Enforceability of Obligations. Unless otherwise terminated in accordance with the terms of this Agreement, the obligation to perform and observe the agreements contained herein on the part of the Owner, the Village or any successor or assign of either shall be binding and enforceable by the parties against one another or any successor or assign of either.

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Section 9.03 Non-Waiver. Neither the waiver by either party to this Agreement of any breach of any agreement, condition or provision of this Agreement, nor the failure of either party to seek redress for violation of, or to insist upon strict performance of any agreement, condition or provision, shall be considered to be a waiver of any agreement, condition or provision that is not specifically waived or of any subsequent breach of any agreement, condition or provision. No provision of this Agreement may be waived except by written agreement of the party to be charged.

Section 9.04 Paragraph Headings. The paragraph headings contained herein are merely for convenience and reference, and are not intended to be a part of this Agreement, or in any matter to limit or describe the scope or intent of this Agreement or the particular paragraphs to which they refer.

Section 9.05 Assignments. Neither party shall assign its rights or obligations under this Agreement without the express written consent of the other party, which consent shall not be unreasonably withheld.

Section 9.06 Relationship of the Parties. Nothing contained herein shall make, or be deemed to make, the Village and the Owner a partner of one another and this Agreement shall not be construed as creating a partnership between the parties. Nothing in this Agreement shall be deemed to create or establish a relationship of employment, agency, or representation between the Village and Owner, its officers, employees, agents, contractors or representatives; and neither party shall have the authority, whether express, implied, apparent or otherwise, to bind or obligate the other party with respect to any third parties.

Section 9.07 Singular and Plural. Wherever the context shall so require, the singular shall include the plural and the plural shall include the singular.

Section 9.08 Binding Effect on Successors and Assigns. This Agreement and all of the covenants hereof shall inure to the benefit of and be binding upon the Village and the Owner respectively and their respective partners, successors, assigns and legal representatives.

Section 9.09 Governing Law. This Agreement shall be governed by the laws of the State of Ohio. All disputes arising under this Agreement shall be litigated in the Cuyahoga County Court of Common Pleas or the Federal Court for the Northern District of Ohio and the parties consent to submit themselves to the jurisdiction and venue of that court.

Section 9.10 Severability. If any provision of this Agreement is for any reason held to be illegal or invalid, it shall not affect any other provision of this Agreement.

Section 9.11 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one and the same instrument.

Section 9.12 Amendments. This Agreement shall not be amended, supplemented or modified except by an instrument in writing executed by the Village and the Owner.

Section 9.13 Consent not to be Unreasonably Withheld. Whenever the phrase, consent not to be unreasonably withheld or a similar phrase is used in this Agreement, it shall mean not unreasonably withheld, conditioned or delayed.

Section 9.14 Conditions of Effectiveness. This Agreement is executed by the Mayor of the Village subject to the approval of the Oakwood Village Council and shall become fully effective on the first date upon which all of the following have occurred: a) the effective date of legislation signifying approval by Oakwood Village Council of this Agreement b) the effective date of legislation passed by Oakwood Village Council and all other necessary governmental approvals of Tax Increment Financing provided for in this Agreement and c) the effective date of legislation passed by Oakwood Village Council and all other necessary governmental approvals of Community Reinvestment Act tax credits and/or abatements provided for in this Agreement.

[BALANCE OF PAGE INTENTIONALLY BLANK; SIGNATURES FOLLOW.]

IN WITNESS WHEREOF, the Village and the Owner have caused this Agreement to be executed by their duly authorized officers as of the Effective Date.

“Village”

THE VILLAGE OF OAKWOOD, CUYAHOGA COUNTY, OHIO,
a body politic and corporate duly existing under
the laws of the State of Ohio

By: _____
Gary V. Gottschalk, Mayor

Dated: _____, 2021

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Approved as to form
James A. Climer, Law Director

Dated: _____, 2021

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FISCAL OFFICER'S CERTIFICATE

The undersigned Fiscal Officer of Oakwood Village, Ohio, hereby certifies that the money required to meet the obligations of Oakwood Village under the attached agreement during the year 2020 has been lawfully appropriated by Oakwood Village for those purposes and is in the treasury of Oakwood Village or in the process of collection to the credit of the appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Ohio Revised Code Section 5705.41.

Dated: _____, 2021

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Brian Thompson, Fiscal Officer

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Oakwood Village, Ohio

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▲“Owner”

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▼OAKWOOD CENTER, LLC, an Ohio limited liability company

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By: _____
(Title)

Dated: _____, 2021▼

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SCHEDULE I

PAYMENT OF SERVICE PAYMENTS PURSUANT TO TIF

1. During the first fifteen (15) years of the distribution of payments arising from service payments (“PILOTS”) under the TIF, seventy-five percent (75%) of PILOTS shall be payable to the Owner and twenty-five percent (25%) of PILOTS are payable to the Village during any year in which the annual payroll generated from businesses and/or operations at the Project Site reportable as payroll taxable within the Village (“Payroll”) is less than Ten million and 00/100 Dollars (\$10,000,000.00). During any year in which annual Payroll is Ten million and 00/100 Dollars (\$10,000,000.00) or more, then one hundred percent (100%) of PILOTS are payable to Owner and zero percent (0%) to the Village.

2. During the second fifteen (15) years of the distribution of payments arising from PILOTS under the TIF, if the annual Payroll is Ten million and 00/100 Dollars (\$10,000,000.00) or more by the end of calendar year 2027, then one hundred percent (100%) of PILOTS shall be payable to Owner and zero percent (0%) to the Village; otherwise fifty percent (50%) of PILOTS shall be payable to Owner and fifty percent (50%) to the Village.

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SCHEDULE II

DONATIONS

Janice Kenney Summer Youth Program

Twenty thousand and 00/100 Dollars (\$20,000.00) per year to the Village commencing in 2024 and continuing thereafter for a total of ten (10) years of donations for the Janice Kenney Summer Youth Program.

Board of Education of the Bedford City School District

Twelve thousand and 00/100 Dollars (\$12,000.00) per year for the year commencing with the Owner's receipt of the second year of abatements and continuing thereafter for a total of 15 years of donations.

EXHIBIT A-1

VILLAGE LAND

Permanent Parcel Numbers 795-50-012
795-50-011
795-49-005
795-49-006
795-49-007

EXHIBIT A-2

OWNER LAND

Permanent Parcel Numbers 795-50-014
795-50-013
795-49-010
795-15-048

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EXHIBIT B
IMPROVEMENTS

The Project shall include but not be limited to:

- Construction of the buildings upon the Project Site, replacement thereof and repairs thereto;
- The provision of utilities and utility connections to the Project Site (to be constructed and paid for by the Village) and within the Project Site (to be constructed and paid for by Owner) including but not limited to storm water drainage/detention/retention improvements and measures, sanitary sewerage, water mains and connections, fire hydrants, gas, telecommunications and all trenching and conduits for public utilities;
- Environmental remediation including but not limited to wetlands mitigation for the Project Site;
- Relocation of a stream running through the Project Site which has been determined by the Army Corps of Engineers to be a regulated waterway;
- Stabilization of the subsoil for building pads and other purposes which geotechnical evaluations have determined to be unstable due to previous fill activities;
- Land acquisition including, but not limited to, the possible purchase of two rezoned properties on North Lane including screening and beautification;
- Demolition, abatement and other rehabilitation expenses related to existing buildings and structures;
- Construction of an access road onto the Project Site from Oak Leaf Road as well as screening and beautification of same;
- Mounding, screening and landscaping of the adjacent Waste Management facility which periodically emits noxious odors and is unsightly;
- The maintenance of all screening and landscaping;
- Permitting and other fees and costs;
- Reconstruction of Fair Oaks Road and Oak Leaf Road and installation of smart traffic lights at the intersections of Oak Leaf Road and Alexander and Fair Oaks Road and Alexander, all to be constructed and paid for by the Village;
- Financing and other carrying costs associated with the Project;
- Professional services and other soft costs associated with the Project including, but not limited to, engineering, legal and consulting services;
- Professional services associated with the establishment and administration of tax increment financing (TIF) arrangements;
- Donations, Payments in Lieu of Taxes (PILOTS) and similar arrangements with the Board of Education of the Bedford City School District and/or other public entities associated with the TIF or otherwise;
- Donations to the Board of Education of the Bedford City School District and Oakwood Village for agreeing to development incentives.

Deleted: <#>Screening of all adjacent properties not otherwise mentioned;¶

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ORDINANCE NO. 2021 – 17

INTRODUCED BY MAYOR AND COUNCIL AS A WHOLE

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH JOSEPH FOUCHE TO SELL VILLAGE LAND DESIGNATED ON THE RECORDS OF THE CUYAHOGA COUNTY FISCAL OFFICER AS PERMANENT PARCEL NOS. 795-07-104 AND 795-07-105

WHEREAS, the Village Oakwood owns certain real property designated on the records of the Cuyahoga County Fiscal Officer as Permanent Parcel Nos. 795-07-104 and 795-07-105 adjacent to a platted but unconstructed portion of Northam Drive and consisting of approximately .239 acres each (hereinafter the "Property"), which Property is presently undeveloped and for which the Village has no foreseeable development plans; and

WHEREAS, Oakwood and Purchaser deem it advantageous to each of them to sell the Property to Purchaser for consolidation with other property owned by Purchaser to be developed and maintained as a single family residence; and,

WHEREAS, Oakwood and Purchaser have reached an agreement in principle, as set forth in Exhibit "A" attached hereto and incorporated herein, for the sale of said Property to Purchaser;

NOW THEREFORE, BE IT RESOLVED by the Council of the Village of Oakwood, County of Cuyahoga, and State of Ohio that:

SECTION 1. The Mayor be and is hereby authorized to enter into the Purchase Agreement with Purchaser, a copy of which is attached hereto and expressly made a part hereof by reference and marked Exhibit "1".

SECTION 2. This Ordinance shall take effect from and after the earliest period allowed by law.

PASSED: _____

Johnnie A. Warren, President of Council

Debra L. Hladky, Clerk of Council

Presented to the
Mayor _____

Approved: _____

Mayor, Gary V. Gottschalk

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Ordinance No. 2021 - 17 was duly and regularly passed by this Council at the meeting held on the ____ day of _____, 2021.

Debra L. Hladky, Clerk of Council

POSTING CERTIFICATE

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that Ordinance No. 2021 - 17 was duly posted on the ____ day of _____, 2021, and will remain posted for a period of fifteen (15) days thereafter as provided by the Oakwood Village Charter.

Debra L. Hladky, Clerk of Council

DATED: _____

EXHIBIT "1"

PURCHASE AGREEMENT

THIS AGREEMENT is made and entered as of the last date of execution specified below, by and between The Village of Oakwood, Ohio hereinafter referred to as SELLER, and Joseph Fouche, hereinafter referred to as PURCHASER.

1. SELLER agrees to sell and PURCHASER agrees to purchase the following described real estate with appurtenances, located in the Village of Oakwood, County of Cuyahoga and State of Ohio: two vacant parcels of property designated by the Cuyahoga County Fiscal Officer as Permanent Parcel Nos. 795-07-104 and 795-07-105 adjacent to a platted but unconstructed portion of Northam Drive and consisting of approximately .239 acres each (hereinafter the "Property"). The Property shall include the land, all appurtenant rights, privileges and easements in their present condition "as is".

2. PURCHASER agrees to pay for said Property the sum of _____ Dollars (\$_____).

3. SELLER shall furnish a Warranty Deed conveying to PURCHASER, or nominee, a marketable title to the Property, with dower rights, if any, released, free and clear of all liens and encumbrances whatsoever, except: (a) restrictions of record and any reservations and easements created in conjunction with such restrictions that do not materially adversely affect the use or value of the property; (b) zoning ordinances, if any; (c) taxes and assessments, both general and special, not yet due and payable, for the current half of the taxable year and thereafter and (d) the following deed restrictions:

1. As a condition of closing, Purchaser shall consolidate the Property with Permanent Parcel Numbers 795-07-106, 795-07-107, 795-07-108 and 795-07-109 (hereinafter the "Consolidated Property) and PURCHASER shall cause to be recorded a deed restriction, covenant or other appropriate instrument to be agreed upon by the parties limiting the entirety of the Consolidated Property to use solely for a single family residence in perpetuity and prohibiting PURCHASER or his successors in interest from seeking rezoning of the Consolidated Property to permit any use other than a single family residence.

2. SELLER shall grant to PURCHASER an easement, upon terms to be negotiated by the parties, from the dead end circle of Blackburn Road across Permanent Parcel No. 795-07-131 as well as the right of way for Northam Drive to serve the Consolidated Property. PURCHASER shall complete construction of said driveway within 1 year of the closing of the sale. In the event PURCHASER fails comply with this paragraph the Property shall revert, to SELLER without compensation to PURCHASER. If Northam Drive is extended at a future date to or beyond the Property, the said easement shall be extinguished and the driveway and appurtenances on it shall be removed at PURCHASER'S cost in a fashion which permits the construction of the foregoing extension.

5. PURCHASER shall complete the construction and obtain an occupancy permit for a single family dwelling of at least 2,500 square feet on the PROPERTY within 2 years of the closing of the sale and, in the event PURCHASER fails to comply with this paragraph, the Property shall revert, to SELLER without compensation to PURCHASER.

4. SELLER shall furnish a Title Guaranty in the amount of the purchase price, as evidence of assurance that there has been conveyed to PURCHASER, or nominee, the title required to be conveyed hereunder. Should PURCHASER desire, he may obtain a Fee Policy of Title Insurance, so long as it pays the increased premium due because of such additional coverage.

5. All general and special taxes, and all annual maintenance charges, if any, shall be prorated as of the date of filing the deed for record, on the basis of the latest available tax duplicate, provided, however, that the full amount of all installments on any special assessments, whenever payable, shall be prorated and assumed by PURCHASER.

6. All documents and funds necessary to the completion of this transaction shall be placed in escrow with Guardian Title, 1120 Chester Ave, Cleveland, OH 44114, on or February 26, 2021, subject to their standard conditions of escrow acceptance. If a defect in title appears, SELLER shall have thirty (30) days after notice to remove said defect.

7. The Escrow Agent shall charge to SELLER and pay out of the purchase price the following: (a) the cost of the title exam and Title Guaranty required hereunder; (b) amount due to discharge any lien encumbering the property and the cost of recording the cancellation thereof; (c) any amount due PURCHASER by reason of prorations; and (d) the amount of any special assessments payable by SELLER. SELLER shall also pay directly all utility charges to the date of filing the deed for record or date of possession, whichever is later. PURCHASER shall pay the following: (a) any real estate transfer tax; (b) attorney fees incurred to prepare the Warranty Deed; (c) the escrow fee; (d) all fees and costs incident to filing the deed; (e) costs of any inspections requested by PURCHASER; and (f) the additional premium cost for the Owner's Fee Title Insurance Policy, if desired;

8. SELLER shall deliver possession of the property to PURCHASER upon filing the deed for record.

9. The obligations of SELLER to consummate at the Closing of the transaction herein contemplated are subject to the following conditions:

- (a) PURCHASER shall have performed all agreements on their part required to be performed under this Agreement and shall not be in default under any of the provisions of this Agreement; and
- (b) PURCHASER shall have delivered the Purchase Price to the Escrow Agent as set forth in paragraph 2 hereof.

10. SELLER agrees that PURCHASER shall be permitted access to the Property at all reasonable times to inspect same.

11. PURCHASER stipulates that there have been no express or implied representations, warranties or statements concerning the condition of said premises, the value of same, the improvements thereon, the use that can be made of said premises, or anything concerning same other than what is included in this written Purchase Agreement.

12. Neither SELLER nor PURCHASER has retained any broker in connection with this transaction, and each party hereto agrees to defend, indemnify and hold the other harmless against any claim or claims of any broker or any other representative for commission, or finder's fee or expenses alleged by any third parties to be incurred by or on behalf of the indemnifying party.

21. This Agreement shall not be assigned by either party hereto without the express written consent of the other.

22. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

23. Any notices provided for herein to SELLER or PURCHASER shall be in writing and deemed to have been given when mailed, postage paid, by registered or certified mail, return receipt requested, as follows:

TO SELLER: Oakwood Village
c/o James A. Climer
Mazanec, Raskin & Ryder Co., LPA
34305 Solon Rd., Ste. 100
Cleveland, OH 44139
jclimer @mrrlaw.com

TO PURCHASER: Joseph Fouche
26232 Milburn Dr.
Oakwood Village, OH 44146

24. Upon execution of this Agreement, it shall become binding upon and accrue to the benefit of SELLER and PURCHASER and their respective heirs, executors, administrators and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

SELLER

VILLAGE OF OAKWOOD, OHIO

DATE

by: _____
Gary Gottschalk, Mayor

APPROVED AS TO LEGAL FORM

James A. Climer,
Law Director
Village of Oakwood, Ohio

PURCHASER

DATE

Joseph Fouche

ORDINANCE NO. 2021 – 18

INTRODUCED BY MAYOR AND COUNCIL AS A WHOLE

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH PREMIER COMMERCIAL REALTY, LLC AND PREMIER OAKWOOD, LLC TO TRANSFER AND RE-TRANSFER TITLE TO CERTAIN REAL PROPERTY IN THE VICINITY OF THE INTERSECTIONS OF ALEXANDER AND MACEDONIA ROADS AND ALEXANDER AND FAIR OAKS ROADS IN THE VILLAGE

WHEREAS, the Village of Oakwood and Premier Commercial Realty, LLC and Premier Oakwood, LLC (hereinafter collectively referred to as “Premier”) each own certain real property in the vicinity of the intersections of Alexander and Macedonia Roads and Alexander and Fair Oaks Roads in the Village; and

WHEREAS, Oakwood and Premier deem it advantageous to each of them to cooperate in the commercial development of those properties as evidenced by their entry into a certain Project Development Agreement (hereinafter “Agreement”) providing, among other things, for the extension of Tax Increment Financing pursuant to R.C. Sec. 5709.41 (TIF); and,

WHEREAS, the statutory requirements for the foregoing TIF dictate that Oakwood hold fee title to the property to which the TIF applies at some point prior to the passage of the TIF ordinance which property may then be conveyed to another party; and,

WHEREAS, Oakwood and Premier have reached an agreement in principle, as set forth in Exhibit "A" attached hereto and incorporated herein, for the transfer of certain property subject to the Agreement to Oakwood and transfer of said property back to Premier in order to qualify for said TIF;

NOW THEREFORE, BE IT RESOLVED by the Council of the Village of Oakwood, County of Cuyahoga, and State of Ohio that:

SECTION 1. The Mayor be and is hereby authorized to enter into the Agreement with Premier, a copy of which is attached hereto and expressly made a part hereof by reference and marked Exhibit "A".

SECTION 2. This Ordinance shall take effect from and after the earliest period allowed by law.

PASSED: _____

Johnnie A. Warren, President of Council

Debra L. Hladky, Clerk of Council

Presented to the
Mayor _____

Approved: _____

Mayor, Gary V. Gottschalk

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Ordinance No. 2021 - 18 was duly and regularly passed by this Council at the meeting held on the _____ day of _____, 2021.

Debra L. Hladky, Clerk of Council

POSTING CERTIFICATE

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that Ordinance No. 2021 - 18 was duly posted on the _____ day of _____, 2021, and will remain posted for a period of fifteen (15) days thereafter as provided by the Oakwood Village Charter.

Debra L. Hladky, Clerk of Council

DATED: _____

TRANSFER OF REAL ESTATE AGREEMENT

This Transfer of Real Estate Agreement (“Agreement”) is made this ____ day of January 2021 (the “Effective Date”) by and between the Village of Oakwood (hereinafter “Village”), and Premier Oakwood, LLC, an Ohio limited liability company (hereinafter “Premier Oakwood”) and Premier Commercial Realty, LLC, an Ohio limited liability company (hereinafter “Premier Commercial”).

WITNESSETH:

WHEREAS, the Village and Premier Oakwood shall enter into a certain Project Development Agreement - Village of Oakwood-Premier Oakwood, LLC Project (“Development Agreement”);

WHEREAS, the Village has previously acquired the land located at the following addresses: (i) 7574 Macedonia Road, Village of Oakwood, Ohio 44146, permanent parcel number 795-28-001; and (ii) 7544 Macedonia Road, Village of Oakwood, Ohio 44146, permanent parcel number 795-28-029 (collectively, the “Village Real Estate”); and

WHEREAS, Premier Oakwood owns the following real estate (collectively, the “Premier Oakwood Real Estate”):

- 23059 Alexander Road, Village of Oakwood, Ohio 44146, permanent parcel number 795-18-058
- 23061 Alexander Road, Village of Oakwood, Ohio 44146, permanent parcel number 795-18-034
- 23493 Alexander Road, Village of Oakwood, Ohio 44146, permanent parcel number 795-18-030
- 7640 Macedonia Road, Village of Oakwood, Ohio 44146, permanent parcel number 795-28-006
- 7644 Macedonia Road, Village of Oakwood, Ohio 44146, permanent parcel number 795-28-013
- 7648 Macedonia Road, Village of Oakwood, Ohio 44146, permanent parcel number 795-28-005; and

WHEREAS, Premier Commercial, an affiliate of Premier Oakwood, owns the land located at Alexander Road (per the Cuyahoga County Fiscal Officer, this property is located on Painter Road), Village of Oakwood, Ohio 44146, permanent parcel number 795-17-032 (“Premier Commercial Realty Real Estate” and attached as Exhibit A is an aerial depiction of the Premier Oakwood Real Estate and Premier Oakwood Real Estate); and

WHEREAS, Premier Oakwood has entered into three separate purchase agreements to purchase the rear portion of the following properties (collectively, the “Alexander Road Back Lots” and with the Village Real Estate, Premier Oakwood Real Estate, and the Premier Commercial Realty Real Estate, the “Initial Project Site”):

- 23275 Alexander Road, Village of Oakwood, Ohio 44146, permanent parcel number 795-18-033
- 23307 Alexander Road, Village of Oakwood, Ohio 44146, permanent parcel number 795-18-032
- 23355 Alexander Road, Village of Oakwood, Ohio 44146, permanent parcel number 795-18-031; and

WHEREAS, Premier Oakwood has entered into a purchase agreement to purchase the rear portion of the property located at 23163 Alexander Road, Village of Oakwood, Ohio 44146, permanent parcel number 795-18-057 (the “Trailing Alexander Road Back Lot” and with the Initial Project Site, the “Project Site”);

NOW THEREFORE, in consideration of the exchange of the mutual covenants expressed herein the parties hereto agree as follows:

1. Initial Transfer of Premier Oakwood Real Estate. Premier Oakwood shall transfer title to the Premier Oakwood Real Estate to the Village via separate limited warranty deeds.
2. Initial Transfer of Alexander Road Back Lots. Premier Oakwood shall arrange for the transfer of title from each respective owner of each Alexander Road Back Lots to the Village via separate limited warranty deeds.
3. Initial Transfer of Premier Commercial Realty Real Estate. Premier Commercial Realty, LLC shall transfer title to the Premier Commercial Realty Real Estate to the Village via a limited warranty deed. Nevertheless, the re-transfer of the Premier Commercial Realty Real Estate shall be to Premier Oakwood (and not to Premier Commercial).
4. Transfer Back of Initial Project Site to Premier Oakwood. After the Initial Project Site is transferred to the Village, a plat of lot split and consolidation will be submitted for review and approval to Cuyahoga County to consolidate the Initial Project Site into one permanent parcel lot (the "Consolidated Initial Project Site"). The Village shall transfer title to the Consolidated Initial Project Site to Premier Oakwood via a limited warranty deed upon the occurrence of the following (collectively, the "Transfer Conditions"): (i) approval by Cuyahoga County of the plat of lot split and consolidation; (ii) execution by all necessary parties of the plat of lot split and consolidation; and (iii) creation and implementation of a Tax Increment Financing program ("TIF") and a Community Reinvestment Act ("CRA") tax abatement upon the improvements on the Initial Project Site and, if possible, on the Project Site.
5. Transfer of Trailing Alexander Road Back Lot. At some future point in, Premier Oakwood shall transfer title to the Trailing Alexander Road Back Lot to the Village via a limited warranty deed. Thereafter, the Village shall promptly transfer title to the Alexander Road Back Lot to Premier Oakwood and ensure that the TIF and CRA will apply to the Alexander Road Back Lot.
6. Absolute Obligation to Transfer Back the Project Site. In the unlikely event that the Transfer Conditions are not satisfied by a date determined by Premier Oakwood at its sole discretion, the Village shall still have the absolute obligation to transfer each parcel of the Project Site back to Premier Oakwood, at no cost or expense to Premier Oakwood, which shall be completed in an inexpedient manner.
7. Absence of Payment; Filing and Recording Fees. The parties agree that no payment shall be made by one party to the other party for the transfers or re-transfers of the properties referenced in this Agreement. All filing and recording fees with respect to the transfers and re-transfers of the properties referenced in this Agreement shall be at the expense of Premier Oakwood.
8. Governing Law. This Agreement shall be governed by the laws of the State of Ohio. All disputes arising under this Agreement shall be litigated in the Cuyahoga County Court of Common Pleas or the Federal Court for the Northern District of Ohio and the parties consent to submit themselves to the jurisdiction and venue of that court.
9. Severability. If any provision of this Agreement is for any reason held to be illegal or invalid, it shall not affect any other provision of this Agreement.

10. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one and the same instrument.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Village and the Premier Oakwood have caused this Agreement to be executed by their duly authorized officers as of the Effective Date.

“Village”

THE VILLAGE OF OAKWOOD, CUYAHOGA COUNTY, OHIO,
a body politic and corporate duly existing under
the laws of the State of Ohio

By: _____
Gary V. Gottschalk, Mayor

Dated: January ____, 2021

APPROVED AS TO LEGAL FORM:

James A. Climer
Law Director, Village of Oakwood

[Signature page of The Village of Oakwood]

“Premier Oakwood”

PREMIER OAKWOOD, LLC, an Ohio limited liability company

By: Premier Managers II, its Manager

By: _____
Kevin R. Callahan, Manager

Dated: January ____2021

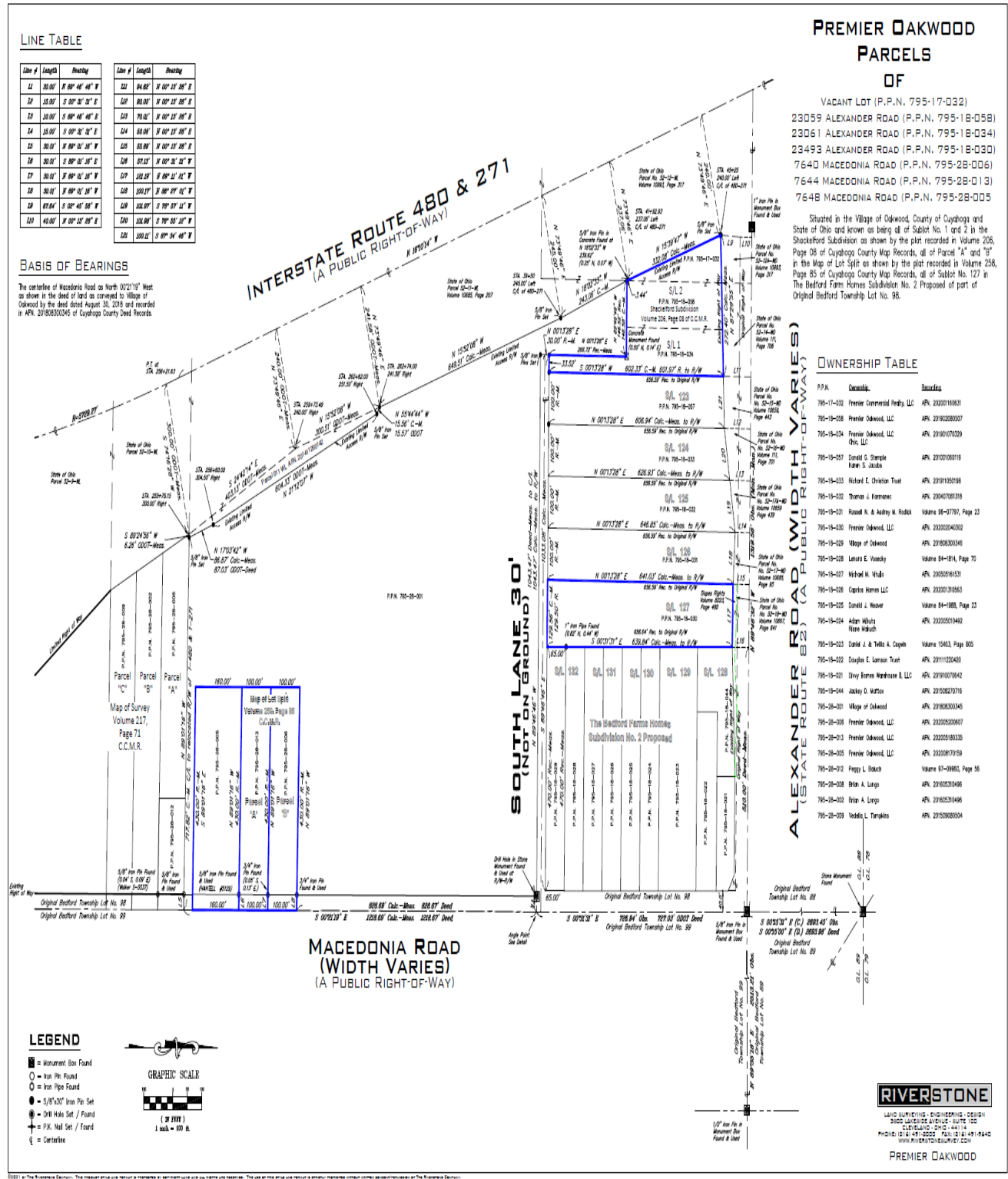
PREMIER COMMERCIAL REALTY, LLC, an Ohio limited liability company

By: _____
Kevin R. Callahan, Manager

Dated: January ____2021

[Signature Page of Premier Oakwood and Premier Commercial]

Exhibit A



ORDINANCE NO. 2021-19

INTRODUCED BY MAYOR AND COUNCIL AS A WHOLE

AN ORDINANCE VACATING SOUTH LANE, LOCATED SOUTH OF ALEXANDER ROAD AND EAST OF MACEDONIA ROAD

WHEREAS, South Lane is currently not in use as a travelled thoroughfare and separates several parcels of land; and,

WHEREAS, those parcels of land would be put to better economic use if they could be consolidated and used as one piece of property absent the existence of South Lane;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Oakwood, County of Cuyahoga, and State of Ohio that:

SECTION 1: Council finds that there is good cause for vacation of South Lane, that such vacation will not be detrimental to the general interests of the Village or its residents and that it ought to be made.

SECTION 2: South Lane, connecting to Macedonia Road to the East, and located to the south of Alexander Road, be and the same hereby is vacated.

SECTION 3: The City Engineer has prepared a vacation plat of said vacated street, which is attached hereto as Exhibit 1, and the Clerk of Council is instructed to endorse upon such plat, the action of this Council in vacating such street and to cause said plat to be recorded in the office of the Recorder of Cuyahoga County, Ohio.

SECTION 4: The Clerk of Council is directed to notify the Fiscal Officer of Cuyahoga County of the vacation, by sending him a copy of this ordinance.

SECTION 5: This Ordinance is to go into effect at the earliest time permitted by law.

PASSED: _____

Johnnie A Warren, President of Council

Deborah L. Hladky, Clerk of Council

Presented to the
Mayor: _____

Approved: _____

Mayor, Gary V. Gottschalk

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Ordinance No. 2021 -19 was duly and regularly passed
by this Council at the meeting held on the ____ day of _____, 2021.

Debra L. Hladky, Clerk of Council

POSTING CERTIFICATE

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that Ordinance No. 2021 - 19 was duly posted on the ____ day of _____, 2021, and will remain posted for a period of fifteen (15) days thereafter in accordance with the Oakwood Village Charter.

Debra L. Hladky, Clerk of Council

[illegible]

Line #	Frequency	Wavelength
111	94.62°	36° 00' 15" 20" S
112	90.90°	36° 00' 13" 20" S
113	79.01°	36° 00' 15" 20" S
114	50.00°	36° 00' 15" 20" S
115	55.00°	36° 00' 15" 20" S
116	57.5°	36° 00' 15" 20" S
117	48.75°	36° 00' 15" 20" S
118	43.00°	36° 00' 15" 20" S
119	40.10°	36° 00' 15" 20" S
120	38.10°	36° 00' 15" 20" S
121	35.00°	36° 00' 15" 20" S

The centerline of Macdonald Road at North 002119" West
is shown in the record at lots as conveyed to Village of
Oakland by the deed dated August 30, 2018 and recorded
in A/N. 201808100345 of Cuyahoga County Land Records.

This vacation of Swain Lane is accepted and approved by the Planning Commission for
 the year of _____
 Mayor of Orem, Utah this _____ day of _____, 2021

[illegible]

SOUTH LANE 30'
VILLAGE OF OAKWOOD
COUNTY OF CUYAHOGA

Situated in the Village of Oniwood, County of Cuyahoga and State of Ohio and known as being part of Original Bedford Township Lot No. 98.

[illegible]

ALEXANDER ROAD (WIDTH VARIES)
(STATE ROUTE 82) (A PUBLIC RIGHT-OF-WAY)

- Monument Base Found
- Iron Pin Found
- Iron Pipe Found
- — 5/8" x 10" Iron Pin Set
- ⊕ — Drill Hole Set / Found
- ⊕ — P.M. Nail Set / Found

[illegible]

Preliminary for Review

GRAPHIC SCALE:
(IN FOOT)

