

**CITY OF SOUTH LEBANON, OHIO  
RESOLUTION NO. 2023-47**

**A RESOLUTION APPROVING AND FURTHER AUTHORIZING MAYOR TO EXECUTE A TAX INCREMENT FINANCING DEVELOPMENT AGREEMENT FOR THE DEVELOPMENT IN THE RIVER CREEK LOFTS TAX INCREMENT FINANCING AREA AND OTHER PUBLIC INFRASTRUCTURE IMPROVEMENTS, AND DECLARING AN EMERGENCY**

**WHEREAS**, River Creek Lofts, LLC (“the Developer”) has proposed to construct a 460-unit residential development on an approximately 30.5 acre site located at 1771 Mason-Morrow-Millgrove Road (“the Project”); and,

**WHEREAS**, the Developer has requested a tax increment financing (TIF) exemption to be established on the entire project site pursuant to Ohio Revised Code Section 5709.40(B) to assist in the construction of public improvements for the Project; and,

**WHEREAS**, the City and the Developer have previously executed a term sheet outlining the specifics and structure of the proposed TIF financing and the Project; and,

**WHEREAS**, the City has, by passage of Ordinance No. 2023-29 (the “TIF Ordinance”), each on September 26, 2023, declared the improvement of certain parcels of real property located within the City as identified in the TIF Ordinance to be a public purpose and exempt from taxation, required the owner of each parcel to make service payments in lieu of taxes (collectively for all parcels and including allocable property tax rollback payments, the “Service Payments”) to the Warren County Treasurer, has established the related municipal public improvement tax increment equivalent funds as specified in each TIF Ordinance (collectively, the “TIF Fund”) for the deposit of the Service Payments, and has specified public infrastructure improvements made or to be made that benefit or serve the parcels (the “Public Infrastructure Improvements”), all pursuant to and in accordance with Sections 5709.40, 5709.42, and 5709.43 of the Ohio Revised Code; and,

**WHEREAS**, the City desires to use the Service Payments to provide for the design and construction of certain public infrastructure improvements that will directly benefit the Parcels (collectively, the “Public Infrastructure Improvements”) by entering into a Tax Increment Financing Development Agreement (the “Development Agreement”) with the Developer; and,

**WHEREAS**, immediate action is required to expedite the preparation of the required documents and other actions required by Ohio Revised Code Section 5709.40(B), and such action is necessary in order to preserve the public peace, health, safety or welfare of the City.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of South Lebanon, Ohio, at least two-thirds of all members elected thereto concurring:

**Section 1.** The form of Development Agreement presently on file with the Clerk of this Council is hereby approved and authorized with changes therein and amendments thereto not inconsistent with this Resolution and not substantially adverse to this City and which shall be approved by the Mayor. The Mayor, for and in the name of this City, is hereby authorized to execute and deliver the Development Agreement in substantially that form along with any amendments thereto, provided that the approval of such changes and amendments thereto by the Mayor, and the character of those changes and amendments as not being substantially adverse to this City, shall be evidenced conclusively by the Mayor's execution thereof.

**Section 2.** That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

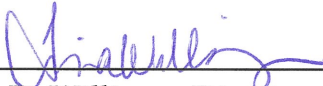
**Section 3.** The reimbursement obligation to the Developer for a portion of the costs of the design and construction of certain of the Public Infrastructure Improvements under the Development Agreement (the "Reimbursement Obligation") constitutes a special obligation of the City and is payable solely from Service Payments deposited into the TIF Fund. All such Service Payments hereafter deposited into the TIF Fund are pledged for payment of various obligations (including the Reimbursement Obligation) as set forth in the Development Agreement. No other funds are pledged for the payment of the Reimbursement Obligation, and neither the Developer nor any other beneficiary of the Reimbursement Obligation has a right to have taxes levied for the payment of the Reimbursement Obligation. All money hereafter deposited in that TIF Fund is hereby appropriated to pay the various obligations (including the Reimbursement Obligation) as set forth in the Development Agreement, and the Finance Director is hereby authorized to make payments in satisfaction of the Reimbursement Obligation to the Developer in accordance with the Development Agreement.

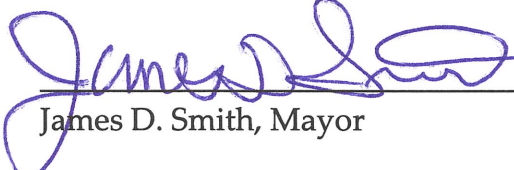
**Section 4.** This Council hereby authorizes the Mayor and the Finance Director or other appropriate officers of the City to prepare and sign all documents and to take any other actions as may be appropriate to implement this Resolution.

**Section 5.** That this Resolution is hereby declared to be an emergency measure in accordance with Ohio Rev. Code § 731.30 for the immediate preservation of the public peace, health, safety and general welfare; and, this Resolution shall be in full force and effective immediately upon its passage.

**Section 6.** That it is found and determined that all formal actions of the Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of Council in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Adopted this 13<sup>th</sup> of December, 2023.

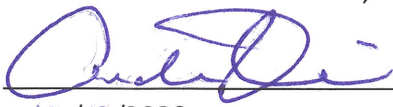
Attest:   
Petrina D. Williams, Director of Finance/Clerk

  
James D. Smith, Mayor

Rules Suspended: / /2023 (if applicable)	Effective Date - / /2023
Vote - ___ Yeas ___ Nays	
First Reading - <u>12/7/2023</u>	Effective Date - <u>12/13/2023</u>
Second Reading - <u>12/13/2023</u>	
Vote - <u>6</u> Yeas ___ Nays	

Prepared by and approved as to form:

ANDREW P. MEIER  
LAW DIRECTOR  
CITY OF SOUTH LEBANON, OHIO

By:   
Date: 12/13/2023

## DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") dated as of December 13, 2023, by and among the CITY OF SOUTH LEBANON, OHIO, a municipal corporation duly organized and validly existing under the Constitution and laws of the State of Ohio (the "City"), RIVER CREEK LOFTS, LLC, an Ohio limited liability company duly organized and validly existing under the laws of the State of Ohio, having its principal offices in Dayton, Ohio (the "Developer") and SREENIVASA R. ECHURI, an individual (the "Principal") (collectively, the "Parties" and each individually a "Party").

### WITNESSETH:

WHEREAS, the Developer owns certain parcels of real property in the City located at 1771 Mason-Morrow-Millgrove Road (as more fully described in Exhibit A attached hereto, the "Project Site", and as currently or subsequently configured, the "Parcels", with each individual parcel a "Parcel") on which it plans to develop a phased 460-unit multifamily residential development and related improvements (the "Project"); and

WHEREAS, the Parties have determined that certain public infrastructure improvements will need to be constructed to facilitate the development of the Project, including, but not necessarily limited to (a) water lines and sewer lines to the Project private improvements across the Project Site, (b) a sewer lift station, and (c) a public road over the Project Site, all as depicted on Exhibit A attached hereto (as more fully described in Exhibits F-1 and F-2 attached hereto, the "Public Infrastructure Improvements"); and

WHEREAS, in accordance with Sections 5709.40, 5709.42, 5709.43 and 5709.91 of the Ohio Revised Code (the "TIF Act") and pursuant to Ordinance No. 2023-29, adopted by the Council of the City on September 26, 2023, a copy of which is attached hereto as Exhibit B (the "TIF Ordinance"), the City found and determined that 75% of the increase in assessed value of each Parcel subsequent to the effective date of the TIF Ordinance (which increase in assessed value is hereinafter referred to as the "Improvement" as defined in Section 5709.40(A) of the Ohio Revised Code ("ORC")) to be a public purpose and will be exempt from taxation for a period commencing for each separate Parcel on the date an Improvement due to the construction of a new building or buildings on that Parcel first appears on the tax list and duplicate with an improved value (market) of at least \$15 million (\$15,000,000) were it not for the exemption granted by the TIF Ordinance and ending on the earlier of (a) 10 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Act (the "TIF Exemption"); and

WHEREAS, the City has further determined in the TIF Ordinance that it is necessary and appropriate and in the best interest of the City to provide for the owner of each Parcel (referred to herein individually as an "Owner" and collectively as the "Owners") to make annual service payments in lieu of taxes with respect to any Improvement allocable thereto (collectively for all Parcels, the "Service Payments") to the Office of the Treasurer of Warren County, Ohio (the "County Treasurer"), which Service Payments will be used, in part, to pay the costs of the Public

Infrastructure Improvements, all pursuant to and in accordance the TIF Act, the TIF Ordinance, and this Agreement; and,

WHEREAS, the Parties have previously entered into a Preliminary Term Sheet dated as of July 26, 2023 (the "Term Sheet"), to provide generally for reimbursement of the Developer for certain Public Infrastructure Improvements that will directly benefit of the Parcels; and

WHEREAS, as provided in the Term Sheet, the total amount of reimbursement payable to the Developer for the costs of such Public Infrastructure Improvements depends, in part, on the completion of private improvements (the "Phase I Private Improvements" and the "Phase II Private Improvements", as further described in Exhibit E attached hereto) by certain dates as specified in the Term Sheet; and

WHEREAS, the total estimated cost (including, without limitation, hard construction costs, soft costs, and acquisition costs) of (a) the Phase I Private Improvements is projected to be approximately \$44,361,198.80, and (b) the Phase II Private Improvements is projected to be approximately \$39,158,275.20, for an aggregate total estimated cost for the Private Improvements of approximately \$83,519,474.00; and

WHEREAS, the Developer has provided the City with an initial description of the estimated aggregate costs of the Public Infrastructure Improvements, attached hereto as Exhibit D (the "Initial Budget"), which Initial Budget may be revised from time to time upon agreement by the Developer and the City, and which Initial Budget remains subject to City approval for each phase of construction of the Public Infrastructure Improvements; and

WHEREAS, the City Council of the City has adopted Resolution No. 2023-47 on [December 13], 2023 (the "TIF Agreement Resolution") authorizing, among other things, the execution by the City of this Agreement; and

WHEREAS, the Parties desire to enter into this Agreement on the terms and conditions hereinafter set forth to provide for the construction of the Public Infrastructure Improvements, which made, to be made, or in the process of being made directly benefit or serve, or, once made, will benefit or serve the Parcels.

NOW, THEREFORE, in consideration of the premises and covenants contained herein and to induce the Developer to proceed with the construction of the Public Infrastructure Improvements, the Parties agree as follows:

Section 1. TIF Exemption and Agreements Related Thereto.

A. In connection with the construction of the Public Infrastructure Improvements, the City, through the TIF Ordinance, has granted, among other things, with respect to the Improvements, 75% of the Improvement will be exempt from taxation for a period commencing for each separate Parcel on the date at least \$15,000,000 (market value) of Improvement due to the construction of a new building or buildings on that Parcel would first appear on the tax list and duplicate were it not for the TIF Exemption granted by the TIF Ordinance and ending on the earlier of (a) 10 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Act. It is the

express intention of the Parties that each separate tax Parcel will have a separate 10-year exemption period.

B. The City shall perform such acts as are reasonably necessary or appropriate to affect, claim, reserve and maintain the exemptions from real property taxation granted under the TIF Ordinance and this Agreement, including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

Section 2. Obligation to Make Service Payments.

A. Service Payments. Each Owner shall be required to make the Service Payments due during its period of ownership of each Parcel, all pursuant to and in accordance with the requirements of the TIF Statutes, the TIF Ordinance, the provisions of Ohio law relating to real property tax collections, and any subsequent amendments or supplements thereto. Service Payments will be made in accordance with the requirements of the TIF Act and the TIF Ordinance and, for each Parcel, will be in the same amount as the real property taxes that would have been charged and payable against the Improvement to that Parcel (after credit for any other payments received by the City under ORC Sections 319.302, 321.24, 323.152 and 323.156, or any successor provisions thereto, as the same may be amended from time-to-time, with respect to each Parcel, with such payments referred to herein as the “Property Tax Rollback Payments”) if it were not exempt from taxation pursuant to the TIF Exemption, including any penalties and interest. The County Treasurer shall then distribute the remaining Service Payments to the City, which shall deposit all applicable Service Payments and Property Tax Rollback Payments made with respect to the Improvements to each Parcel that are payable to the City, together with any investment earnings on money, into the River Creek Lofts Municipal Public Improvement Tax Increment Equivalent Fund and referenced in Section 5 of the TIF Ordinance (the “TIF Fund”) and distribute such funds as follows:

- (1) For Service Payments and Property Tax Rollback Payments attributable to the Phase I Private Improvements (i.e., attributable to Parcel 1, as described in Exhibit A attached hereto) (the “Phase I Service Payments”):
  - a. FIRST, to the extent not deducted by the County Treasurer, to the City to pay applicable governmental fees (City and County), including City Costs (as defined hereinafter) and the City’s annual Administrative Fee (as defined hereinafter);
  - b. SECOND, to the Developer or its assignee to reimburse the Developer for amounts paid by the Developer for Costs of Public Infrastructure Improvements, as further described in this Agreement; and
  - c. THIRD, to the City, all remaining amounts for further deposit into the TIF Fund, to be expended by the City in its sole discretion for any lawful purpose.

- (2) For Service Payments and Property Tax Rollback Payments attributable to the Phase II Private Improvements (i.e., attributable to Parcel 2, as described in Exhibit A attached hereto) (the “Phase II Service Payments”): subject to the satisfaction of the uses requirements in subsections 2(A)(1)(a) and (b) above, the City will retain the Phase II Service Payments for deposit in the TIF Fund to be expended by the City in its sole discretion for any lawful purpose.

The Owner will not, under any circumstances, be required for any tax year to pay both real property taxes and Service Payments with respect to any portion of the Improvement to a Parcel, whether pursuant to ORC Section 5709.42 or this Agreement.

B. TIF Declaration; Priority of Lien. Subsequent to the execution of this Agreement, the Developer or its designee, as Owner, shall record a declaration of covenants and restrictions (the “TIF Declaration”), which shall bind Owners of the Parcels, their successors and assigns to the applicable terms of the TIF Ordinance, the TIF Declaration and this Agreement, including, but not limited to, the obligation to make Service Payments. The Developer or its designee, as Owner, for itself and any and all future Owners, shall acknowledge and agree in the TIF Declaration that the provisions of ORC Section 5709.91, which specify that the Service Payments for each Parcel will be treated in the same manner as taxes for all purposes of the lien described in ORC Section 323.11, including, but not limited to, the priority of the lien and the collection of Service Payments, will apply to this Agreement and to the Parcels and any Improvements thereon.

C. Failure to Make Payments. Should any Owner fail to make any payment required hereunder, the Owner shall pay, in addition to the Service Payments it is required to pay hereunder, such amount as is required to reimburse the City for any and all reasonably and actually incurred costs, expenses and amounts (including reasonable attorneys’ fees) required by the City to enforce the provisions of this Agreement against that Owner.

Section 3. Exemption Applications, Maintenance and Notice. In accordance with ORC Sections 5715.27 and 5709.911, the Developer or the City, at the Developer’s request, shall file or cause to be filed an application prepared by the Developer for an exemption from real property taxation (DTE Form 24 or its successor form) with the Warren County Auditor (the “County Auditor”) for the Improvements. The Developer and the City agree to cooperate with each other for this purpose, and to cooperate with the County Auditor, the Ohio Department of Taxation and other public officials and governmental agencies in the performance by the public officials and governmental agencies of their duties in connection with the TIF Ordinance and this Agreement.

Section 4. Completion Guaranty. Subsequent to the execution of this Agreement, and prior to the commencement of the construction of any phase of the Public Infrastructure Improvements, the Principal will execute a completion guaranty substantially in the form attached hereto as Exhibit C and otherwise reasonably acceptable to the City (the “Completion Guaranty”), pursuant to which the Principal shall guaranty completion of (a) the Phase I Private Improvements and the Phase II Private Improvements (collectively, the “Private Improvements”) by no later than December 31, 2027 and December 31, 2030 (the “Private Improvements Completion Dates”), respectively as described and depicted in Exhibit E attached hereto and (b) the Phase I Public Improvements as described and depicted in Exhibit F-1 and the Phase II Public Improvements as

described and depicted in Exhibits F-2, each as attached hereto (collectively, the “Public Infrastructure Improvements”) by no later than December 31, 2027 and December 31, 2029, respectively (the “Public Infrastructure Improvements Completion Dates”).

Section 5. Construction of the Project; General Considerations. In consideration of Developer’s promise to cause the Private Improvements and the Public Infrastructure Improvements to be constructed, the City agrees to authorize disbursements from the TIF Fund to reimburse the Developer for Costs of the Public Infrastructure Improvements in accordance with this Agreement, but solely out of Phase I Service Payments deposited from time to time in the TIF Fund. The Developer will prepare the Project Site for construction of the Private Improvements by the Developer, which shall be designed and built in a manner that is consistent with the requirements of all applicable zoning, building and subdivision regulations. The Developer acknowledges that the City shall not bear any responsibility for any costs associated with the Private Improvements and shall be the sole obligation of the Developer and the Principal, and the City has no obligation to complete design and construction of the Private Improvements, nor any obligation to pay costs of designing and constructing the Private Improvements.

A. Construction of the Public Infrastructure Improvements. The Developer covenants and agrees that it will construct or cause to be constructed no later than the Public Infrastructure Improvements Completion Dates. The Parties agree to cooperate hereunder in order that the Public Infrastructure Improvements may be substantially complete by the Public Infrastructure Improvements Completion Date, provided that the City shall not be obligated to waive compliance by the Developer with any of the terms or conditions of this Agreement. The Parties further agree that the Public Infrastructure Improvements Completion Date may be extended by mutual written agreement of the Authorized City Representative and the Authorized Developer Representative.

“Authorized City Representative” means the City Administrator or Director of Finance of the City, or their respective authorized designees.

“Authorized Developer Representative” means initially Sreenivasa R. Echuri. Developer may from time to time provide a written certificate to the City signed on behalf of Developer by any authorized Developer official designating an alternate or alternates who shall have the same authority, duties and powers as the initial Authorized Developer Representative.

B. General Provisions Applicable to the Construction of the Public Infrastructure Improvements. The Developer warrants that it will construct or cause to be constructed the Public Infrastructure Improvements with the standard of care normally exercised by nationally recognized engineering and construction organizations engaged in performing comparable services. The Developer further warrants that all Public Infrastructure Improvements shall be free from defects in materials and workmanship (normal wear and tear excepted and without regard to the standard of care exercised in its performance) for a period of two (2) years after those Public Infrastructure Improvements have been accepted for public dedication pursuant to Section 4(C) hereof (the “Warranty Period”). The Developer shall at its own expense:

- (1) Correct or re-execute, or cause to be corrected or re-executed, any of the Public Infrastructure Improvements that fail to conform with City-approved Plans and Specifications;

- (2) Correct, or cause to be corrected, any defects in materials and workmanship of the Public Infrastructure Improvements (normal wear and tear excepted and without regard to the standard of care exercised in its performance) that appear during the Warranty Period or within such longer period of time as may be agreed to by the Authorized City Representative and the Authorized Developer Representative; and
- (3) Replace, repair, or restore, or cause replacement, repair or restoration of, any parts of the Public Infrastructure Improvements or other items placed therein that are injured or damaged as a consequence of any such failure or defect, or as a consequence of corrective action taken pursuant hereto.

Should the Developer fail to make, or cause to be made, corrections, re-executions, replacements, repairs or restorations required by this Section 4(D), then the City may do so at the expense of, and for, the Developer.

The completion date of any Public Infrastructure Improvements shall be specified to the City in a certificate signed by the Authorized Developer Representative, which certificate (a) shall describe all property acquired or installed as part of such Public Infrastructure Improvements to be reimbursed from monies deposited in the TIF Fund, (b) shall state the total Costs for such Public Infrastructure Improvements, and (c) shall state that:

- (i) the construction, improvement and equipping of such Public Infrastructure Improvements have been completed substantially in accordance with the related Construction Documents, all costs then due and payable in connection therewith have been paid, and all obligations, costs and expenses in connection with such and Public Infrastructure Improvements payable out of the TIF Fund or otherwise have been paid or discharged;
- (ii) all other facilities necessary in connection with such Public Infrastructure Improvements have been constructed, improved and equipped; and
- (iii) the construction, improvement and equipping of such Public Infrastructure Improvements have been accomplished in a manner which conforms to all then applicable governmental laws, rules and regulations.

The certificate also shall specify (a) the date by which the foregoing events shall have occurred, and (b) which costs and expenses, if any, are not yet due, or are being contested by the Developer. Notwithstanding the foregoing, the certificate shall state that it is given without prejudice to any rights against third parties which then exist or which may come into being subsequently.

C. Acceptance of Public Infrastructure Improvements. Acceptance by the City of the Public Infrastructure Improvements shall not relieve the Developer of its responsibility for defects in material or workmanship as set forth in this Agreement.

D. Conveyance to City of Interests in Portions of the Site. Subject to the terms of this Section 4(D), the City shall acquire from the Developer and the Developer shall convey to the City an estate or interest to the portions of the Project Site on which the Public Infrastructure Improvements are to be located, sufficient to permit the construction and dedication for public use of the Public Infrastructure Improvements. The Parties hereby agree to supplement this Agreement, in the future, in a mutually agreeable manner, as necessary in order to provide for the conveyance of interests in land within the Project Site sufficient to permit the construction and dedication for public use of the Public Infrastructure Improvements. Any conveyance shall be by an instrument in form and substance mutually satisfactory to the City and the Developer.

E. Construction Documents. The Developer covenants and agrees that the construction, improvement and equipping of the Public Infrastructure Improvements will be accomplished in accordance with the detailed construction documents for those Public Infrastructure Improvements including, without limitation, working drawings and the Plans and Specifications (as defined herein) therefor as approved by the Authorized City Representative (the "Construction Documents"), as those Construction Documents may be revised or supplemented from time to time, provided such revisions or supplements are approved by the Authorized City Representative.

F. Plans and Specifications and Budget. The Parties agree that the plans and specifications, including construction drawings, for the Public Infrastructure Improvements on file with and approved or to be approved by the Authorized City Representative on behalf of the City, as the same may be revised or supplemented from time to time with the approval of the Authorized City Representative (the "Plans and Specifications") have been or will be prepared by the Developer, and that construction of the Public Infrastructure Improvements will not commence until the City has approved such Plans and Specifications. Prior to commencing each phase of construction of the Public Infrastructure Improvements, the Developer shall submit to the Authorized City Representative for approval a final budget for such phase of the Public Infrastructure Improvements (each, a "Public Improvement Budget"). The Developer shall provide such back-up information for each Public Improvement Budget as the City shall reasonably request.

G. Traffic Control Requirements. The Developer shall be responsible for ensuring the provision, through contractors or otherwise, of all traffic control devices, flaggers and police officers required to properly and safely maintain traffic. All traffic control devices shall be furnished, erected, maintained and removed in accordance with the "Ohio Manual of Traffic Control Devices for Construction and Maintenance Operation."

H. Maintenance of Public Infrastructure Improvements. Following the acceptance by the City of the completed Public Infrastructure Improvements, and subject to Sections 5(C) and (I) hereof, the Developer shall not be responsible for any on-going maintenance of the Public Infrastructure Improvements.

I. Public Use. The Developer agrees that, upon satisfactory completion of each portion of the Public Infrastructure Improvements in accordance with this Agreement, including the delivery of a completion certificate in the form contemplated by Section 4(B) hereof, such Public Infrastructure Improvements shall be conveyed and dedicated to the City for public use,

and that the City shall, to the extent all conditions to the dedication of such Public Infrastructure Improvements have been satisfied, accept such Public Infrastructure Improvements in accordance with Ohio law.

J. Insurance Requirements. The Developer shall require all contractors, and shall require all contractors to require all subcontractors, to take out or cause to be taken out and maintained until such time as that contractor or subcontractor has completed its portion of the construction of any Public Infrastructure Improvements, insurance for the types of liabilities, claims and damages customarily taken out and maintained by contractors and subcontractors in connection with work similar to such work (which shall otherwise be satisfactory to the City as to the types thereof and coverage limits), and shall set forth the requirement for such insurance in the Construction Documents, which insurance shall protect both the City and the Developer. Such insurance policy or policies shall include the City and the Developer as additional named insured. Such insurance policies shall further provide that any attorney fees accruing or payable with respect to a claim under such policy shall be paid by the insurer and shall not count against the coverage limits of such policy. Prior to commencing each phase of construction of the Public Infrastructure Improvements by any contractor or subcontractor, the Developer shall obtain from such contractor or subcontractor, as the case may be, an original certificate of insurance as proof of such insurance coverage.

Such insurance shall remain in full force and effect during the Agreement term. Insurance may not be changed or canceled unless all insureds, including the Developer, are notified in writing not less than thirty days prior to such change or cancellation.

K. City Income Tax Withholdings. The Developer shall withhold and pay, shall require all contractors to withhold and pay, and shall require all contractors to require all subcontractors to withhold and pay, all City income taxes due or payable with respect to wages, salaries, commissions and any other income subject to the provisions of the City's municipal income tax code.

L. Compliance with Occupational Health and Safety Act of 1970. The Developer and all contractors and subcontractors shall be solely responsible for their respective compliance with the Occupational Safety and Health Act of 1970 under this Agreement.

M. Provision of Security for Mechanic's Liens. To the extent any materialman, contractor, or subcontractor files and records a mechanic's lien against the Public Infrastructure Improvements, the Developer shall, or shall require the appropriate contractor to, provide any security required by ORC Section 1311.311 to cause that mechanic's lien to be released of record with respect to the Public Infrastructure Improvements.

#### Section 6. Reimbursements to the Developer from TIF Fund.

A. Costs; Maximum Amount. Subject to the distribution of funds pursuant to Section 2(A) hereof, the City shall use the Phase I Service Payments in the TIF Fund to reimburse the Developer or its designee for the cost to the Developer or its designee of constructing or providing financial assistance for the Public Infrastructure Improvements in accordance with the applicable Public Improvement Budget (with the costs collectively referred to hereinafter as the "Costs"). The Costs include but are not necessarily limited to: (i) cash paid by the Developer for Public

Infrastructure Improvements; (ii) review and inspection fees incurred in connection with the construction of the Public Infrastructure Improvements; (iii) professional fees; (iv) any and all fees and direct or indirect costs incurred in connection with the Developer obtaining and maintaining a letter of credit or depositing funds into escrow related to the construction of the Public Infrastructure Improvements, whether incurred by the Developer or by one or more other parties on behalf of the Developer, including, but not limited to, any and all costs, fees or other charges attributable to the Developer's reimbursement of the letter of credit provider for any draws against the letter of credit or escrow account and any and all costs, fees or other charge relating thereto; and (v) construction management and supervisory costs and fees.

For purposes of this Agreement, "Costs" of the Public Infrastructure Improvements includable in the Costs include the items of "costs of permanent improvements" set forth in ORC Section 133.15(B) and incurred by the Developer directly or indirectly with respect to the Public Infrastructure Improvements and as further described in Exhibit D.

Notwithstanding anything to the contrary in this Agreement, the City and the Developer agree that the Costs of the Public Infrastructure Improvements which the Developer is authorized to incur and for which the Developer may be reimbursed out of the TIF Fund pursuant to this Agreement shall not exceed Five Million Nine Hundred Sixty Thousand One Hundred Twenty Dollars and Zero Cents (\$5,960,120.00) (subject to Section 5.C. hereof, the "Maximum Amount"), plus Interest Carry (as applicable) and the City shall have no obligation to pay or reimburse the Developer out of the TIF Fund or otherwise for any amount in excess of said sum in accordance with this Agreement.

B. Certified Statements. From time to time after commencement of construction of the Public Infrastructure Improvements, the Developer shall provide a certified statement to the City in a form substantially similar to Exhibit G attached hereto setting forth and providing reasonable evidence concerning costs of the Public Infrastructure Improvements (each a "Certified Statement", and collectively, the "Certified Statements"). Upon receipt of each Certified Statement, the City shall review the costs evidenced in the Certified Statement to determine whether each of the costs constitutes Costs of Public Infrastructure Improvements eligible to be reimbursed out of the TIF Fund under this Agreement. Within twenty (20) business days of the City's receipt of each Certified Statement, the City shall certify to the Developer the portion of the Costs evidenced in the Certified Statement which has been approved by the City for reimbursement out of the TIF Fund pursuant to this Agreement, which approval shall not be unreasonably withheld.

Interest on the unpaid portion of the Costs ("Interest Carry") will accrue at the Interest Rate from the date on which the City certifies to the Developer or its designee the portion of the costs evidenced in the Certified Statement which has been approved by the City for reimbursement out of the TIF Fund pursuant to this Agreement; provided, that if the City shall fail to certify such approved portion of the costs within twenty (20) days of its receipt of a Certified Statement (as required under this Agreement) interest shall accrue from the date which is twenty (20) days following the City's receipt of a Certified Statement. As used in this Agreement, "Interest Rate" means six and twenty five hundredths percent (6.25%) per annum. Interest Carry shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

C. Completion of Private Improvements. Notwithstanding anything in this Agreement to the contrary, (a) if, subject to Force Majeure, the Phase I Private Improvements are not completed by December 31, 2027, the Maximum Amount will be reduced to Four Million Eight Hundred Twenty Three Thousand Five Hundred Fifty Four Dollars and Zero Cents (\$4,823,554.00), plus Interest Carry, (b) if, subject to Force Majeure, the Phase II Private Improvements are not completed by December 31, 2030, the Maximum Amount will be Five Million Nine Hundred Sixty Thousand One Hundred Twenty Dollars and Zero Cents (\$5,960,120.00), but with no Interest Carry to be included in the calculation of the total reimbursement to the Developer.

D. Payment Date. The City shall pay the approved Costs (plus Interest Carry, as applicable) of the Public Infrastructure Improvements as shown in the Certified Statements out of the funds at that time on deposit in the TIF Fund to or as directed by the Developer or its assignee on or before the date which is forty five (45) days after each semi-annual date on which the Warren County Auditor settles real property taxes with the City (each, a "Payment Date") until the Costs, plus Interest Carry as applicable) have been paid in full.

All payments to the Developer hereunder on each Payment Date must be made pursuant to written instructions provided by the Developer, to the extent allowed by law and in a manner consistent with the City's customary payment practices.

E. Limitation of Liability. Notwithstanding any other provision of this Agreement, the City's payment obligations hereunder are limited to the monies in the TIF Fund and do not constitute an indebtedness of the City, the State of Ohio, or any other political subdivision thereof, within the provisions and limitations of the laws and the Constitution of the State of Ohio, and the Developer does not have the right to have taxes or excises levied by the City, the State of Ohio, or any other political subdivision thereof for the payment of the Costs and Interest Carry (if any). To the extent the Phase I Service Payments are insufficient to reimburse the Developer for the Costs of the Public Infrastructure Improvements, the Developer will be solely responsible for the shortfall.

Section 7. Conditions Precedent to Reimbursement of Developer. The City's obligation to make payments to the Developer under Section 6 for the Public Infrastructure Improvements commences when all of the following conditions (i)-(v) identified in this Section have been met for the Public Infrastructure Improvements:

- (i) The Developer or its assignee has provided to the City one or more completed Cost Certificates for the applicable Public Infrastructure Improvements in a form substantially similar to Exhibit G substantiating the Costs for which reimbursement is requested. The Developer may submit one Cost Certificate per month for the Public Infrastructure Improvements. Each submission shall include a detailed summary of all Costs of the Public Infrastructure Improvements included with the Cost Certificate, along with associated labor hours, prevailing wages rates paid, and updated schedules of values, proof of payment of costs included in prior Cost Certificates, and such other materials as the City may reasonably request to substantiate the costs included in the Cost Certificate and completion progress for the Public Infrastructure Improvements. Each Cost Certificate is subject to review

and approval by the City's Administrator and Finance Director as properly payable under the TIF Ordinance and this Agreement, which approval shall not be unreasonably withheld, conditioned or delayed.

(ii) The Developer has substantially completed, or caused to be substantially completed, all work associated with the Public Infrastructure Improvements in accordance with this Agreement and in material conformance with the plans and specifications for the Public Infrastructure Improvements as approved by the City and all applicable City codes.

(iii) All Public Infrastructure Improvements have been accepted by the City through issuance of an Acceptance of Public Improvements letter by the City with or without conditions.

(iv) For any Costs associated with payment for the right of way dedication and public access easements, and subject to Section 5.I. hereof, the Developer has dedicated to the City all right of way owned by it and required for all applicable Public Infrastructure Improvements and recorded the easements necessary to allow for the dedication of the Public Infrastructure Improvements, and the City receives verification that the right of way has been properly conveyed to the City as recorded with the Warren County Auditor.

(v) No mechanics liens remain outstanding and unbonded, and the Developer has provided unconditional lien waivers and releases from all contractors, subcontractors and suppliers for the Public Infrastructure Improvements with contract amounts greater than \$25,000.

Section 8. Ohio Department of Transportation Fees. The Developer hereby agrees to pay all Ohio Department of Transportation administrative fees associated with the Public Infrastructure Improvements and acknowledges that the City's granting of the TIF Exemption is contingent upon such payment by the Developer.

Section 9. Representations of the Parties. The Developer hereby represents that it has full power and authority to enter into this Agreement and carry out its terms. The Principal hereby represents that he has full power to enter into this Agreement and carry out its terms. The City hereby represents that (i) the TIF Ordinance was passed by the City Council on September 26, 2023 and the TIF Agreement Resolution was passed by City Council on [December 13], 2023; (ii) each of the TIF Ordinance and the TIF Agreement Resolution remains in full force and effect; (iii) this Agreement is authorized by the TIF Agreement Resolution; and (iv) the City has full power and authority to enter into this Agreement, to carry out its terms and to perform its obligations hereunder and thereunder. The City further represents and warrants that it shall not take action which would result in a reduction in the period of the TIF Exemption, the percentage of the TIF Exemption, or the amount of Phase I Service Payments to be received and made available to pay the Costs of the Public Infrastructure Improvements unless such action shall be permitted by law and not inconsistent with the City's obligations under this Agreement.

Section 10. Provision of Information. The Developer, as long as it is an Owner, agrees to (i) cooperate in all reasonable ways with, and provide necessary and reasonable information to, the designated tax incentive review council to enable that tax incentive review council to review and determine annually during the term of this Agreement the compliance of the Owners with the terms of this Agreement; and (ii) to cooperate in all reasonable ways with, and provide necessary and reasonable information to the City to enable the City to submit the status report required by ORC Section 5709.40(I) to the Director of the Ohio Department of Development on or before March 31 of each year, or as may be amended.

Section 11. Nondiscriminatory Hiring Policy. The Developer agrees to comply with the City's nondiscriminatory hiring policy adopted pursuant to ORC Section 5709.832 to ensure that recipients of tax exemptions practice nondiscriminatory hiring in their operations. The City will provide a copy of that policy and any updates to that policy to the Developer. In furtherance of that policy, the Developer agrees that it will not deny any individual employment solely on the basis of race, religion, sex, disability, color, national origin or ancestry.

Section 12. Prevailing Wage. The Developer and the City acknowledge and agree that the construction of Public Infrastructure Improvements owned or to be owned by the City or another "public authority" (as defined in ORC Section 4115.03(A)) are subject to the prevailing wage requirements of ORC Chapter 4115, and all wages paid to laborers and mechanics employed to construct the Public Infrastructure Improvements must be paid at not less than the prevailing rates of wages of laborers and mechanics for the classes of work called for by the Public Infrastructure Improvements, which wages must be determined in accordance with the requirements of that Chapter 4115.

The City and the Developer have or will comply, and the Developer has or will require compliance by all contractors working on any Public Infrastructure Improvements owned or to be owned by the City or another public authority, with all applicable requirements of that Chapter 4115, including, without limitation, (i) obtaining the determination required by that Chapter 4115 of the prevailing rates of wages to be paid for all classes of work called for by the Public Infrastructure Improvements, (ii) obtaining the designation of a prevailing wage coordinator for the Public Infrastructure Improvements, and (iii) insuring that all subcontractors receive notification of changes in prevailing wage rates as required by that Chapter 4115. Notwithstanding anything to the contrary above, the Developer and the City recognize and acknowledge that the Ohio Department of Transportation ("ODOT") retains sole responsibility for satisfying the prevailing wage requirements of ORC Chapter 4115 for the construction of all ODOT Improvements.

Section 13. Tap-In Fees. The tap-in fee payable by the Developer to the City with respect to the Project will be \$2,400.00 per sewer permit and \$2,400.00 per water tap permit (collectively, the "Tap-In Fees") as provided for in the City ordinances and regulations, except that the Tap-In Fees will be payable by the Developer within thirty (30) days following the issuance of a building permit for the Project.

Section 14. City Costs; Administrative Fee.

A. City Costs. The Parties acknowledge that the City has incurred and will continue

incur, directly or indirectly, certain costs and expenses associated with its obligations under this Agreement, including, but not necessarily limited to, legal and financial advisory fees (collectively, the “City Costs”). Upon execution of this Agreement, Developer and Principal shall reimburse the City for its City Costs incurred through the date hereof, as certified by the City to the Developer and Principal as of that date. Thereafter, upon written demand by the City, Developer and Principal shall reimburse the City from time to time, and no later than thirty (30) days following a written demand by the City, for any additional City Costs incurred by the City, provided that, in any year that there are available Phase I Service Payments, the City may deduct such additional City Costs from the Phase I Service Payments prior to payments made to Developer pursuant to Section 5 hereof. To the extent that the Developer directly pays any City Costs subsequent to the City Costs paid upon the execution of this Agreement, the Developer may request the City to reimburse the Developer for such City Costs from available Phase I Service Payments prior to payments made to the Developer pursuant to Section 5 hereof. Any such reimbursed City Costs shall not be considered in the calculation of the Maximum Amount available to be reimbursed to the Developer pursuant to such Section 5 hereof.

B. Administrative Fee. In addition, the Developer and Principal agree to pay to the City an annual administrative fee in the amount of \$2,500.00 in connection with the City’s implementation and monitoring of the TIF Exemption (the “Administrative Fee”). Such fee shall be paid by the Developer and Principal annually in advance, commencing on the date of the execution of this Agreement and thereafter on August 1 of each calendar year, provided that, in any year that there are available Phase I Service Payments, the City may deduct the annual Administrative Fee from the Phase I Service Payments prior to payments made to the Developer pursuant to Section 5 hereof.

Section 15. Estoppel Certificate. Within thirty (30) days after a request from the Developer or any Owner of a Parcel, the City will execute and deliver to the Developer or Owner or any proposed purchaser, mortgagee or lessee of that Parcel, a certificate stating that, with respect to that Parcel, if the same is true: (i) this Agreement is in full force and effect; (ii) the requesting Developer or Owner is not in default under any of the terms, covenants or conditions of this Agreement, or, if the Developer or Owner is in default, specifying same; and (iii) such other matters as the Developer or Owner reasonably requests.

Section 16. Notices. Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder must be in writing and will be deemed sufficiently given if actually received or if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other party at the address set forth in this Agreement or any addendum to or counterpart of this Agreement, or to such other address as the recipient has previously notified the sender of in writing, and will be deemed received upon actual receipt, unless sent by certified mail, in which event such notice will be deemed to have been received when the return receipt is signed or refused. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications must be sent. The present addresses of the parties follow:

(a) To the Developer at: River Creek Lofts, LLC  
C/o Sam Echuri  
1941 Alda Ct.  
Dayton Ohio 45459

With a copy to: Schroeder Maundrell Barbieri & Powers  
5300 Socialville Foster Rd. Suite 200  
Mason, Ohio 45040  
Attn: Lawrence Barbieri

(b) To the City at: City of South Lebanon, Ohio  
10 North High Street  
South Lebanon, OH 45065  
Attn: City Administrator

With a copy to: Thompson Hine LLP  
10050 Innovation Drive, #400  
Dayton, OH 45342  
Attn: Arik A. Sherk, Esq.

Section 17. Successors; Assignment; Amendments; City Consents. This Agreement will be binding upon the parties hereto and their successors and assigns. Each Owner's obligations under this Agreement, including, without limitation, its obligation to make Service Payments with respect to each Parcel it owns, are absolute and unconditional covenants running with the land and are enforceable by the City. Each Owner further agrees that all covenants herein, including, without limitation, its obligation to make Service Payments, whether or not these covenants are included by any Owner of any Parcel in any deed or instrument of conveyance to that Owner's successors and assigns, are binding upon each subsequent owner and are enforceable by the City. Any future Owner of any Parcel, or any successors or assigns of such Owner, will be treated as an Owner for all purposes of this Agreement.

The Parties may only assign this Agreement with the consent of all parties hereto, which consent shall not be unreasonably withheld, provided that (a) prior to the completion of the Phase I Private Improvements and the Phase II Private Improvements, the Developer may, with the written consent of the City (which shall not be unreasonably withheld), assign all of its rights and obligations under this Agreement to an affiliate of the Developer, provided that the Developer delivers to the City a written instrument designating to the City that such assignee has assumed all of the obligations of the Developer under this Agreement (or, if applicable, with respect to a phase of the development of the Parcel) and is entitled to its benefits, which instrument shall describe in reasonable detail how such assignee is affiliated with the Developer (which affiliate shall share at least 50% direct or indirect ownership with the Developer) and (b) following the completion of the Phase I Private Improvements and the Phase II Private Improvements, the Developer may,

without the consent of the City, assign all of its rights and obligations under this Agreement to a third party;

In addition, the Developer may assign its right to receive Phase I Service Payments under Section 5 of this Agreement to the holder of any indebtedness incurred by the Developer to pay all or any portion of the Costs of the Public Infrastructure Improvements. Furthermore, nothing in this Agreement prevents an Owner from transferring any or all of its interest in the Parcels to another person or entity; provided, however, that the Developer may not transfer its ownership in the Phase I Private Improvements separately from the Phase II Private Improvements without the prior written consent of the City.

This Agreement may only be amended by written instrument executed by all parties to this Agreement. Any consent of the City to be given under this Agreement may be given by the City Administrator and must be given in writing.

Section 18. Indemnification. The Developer and the Principal hereby agree to jointly and severally indemnify the City and its officers, council members, employees and agents (collectively, the “Indemnified Parties”) from and against any and all actions, suits, claims, losses, costs (including without limitation reasonable attorneys’ fees), demands, judgments, liability and damages suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from (a) the construction, ownership and operation of the Project, including, without limitation, damages or injury to persons or property, (b) until public dedication of the Public Infrastructure Improvements, the construction, ownership and operation of the Public Infrastructure Improvements, including, without limitation, damages or injury to persons or property, (c) the performance by the City of its obligations under this Agreement without gross negligence or willful misconduct, (d) any default by the Developer or Principal in its and/or his obligations under this Agreement or the Completion Guaranty, or (e) the environmental condition of the Project Site. In addition, the Developer shall at all times add the City as an additional insured in the Developer’s liability policy and, upon demand of the City, provide the City with a certificate of insurance or other proof of such insurance acceptable to the City.

Section 19. Extent of Covenants; No Personal Liability. All covenants, stipulations, obligations and agreements of the parties contained in this Agreement are effective and enforceable to the extent authorized and permitted by applicable law. The obligations of the City may be enforced to the extent permitted by law by mandamus or any suit or proceeding in law or equity. No such covenant, stipulation, obligation or agreement will be deemed a covenant, stipulation, obligation or agreement of any present or future member, officer, agent or employee of any of the parties hereto in their individual capacity, and neither the members of the Commission nor any City official executing this Agreement, or any individual person executing this Agreement on behalf of the Developer, will be liable personally by reason of the covenants, stipulations, obligations or agreements of the City, the Principal or the Developer contained in this Agreement. The obligation to perform and observe the agreements contained herein on the part of the Developer shall be binding and enforceable by the City against the Developer with respect to (and only to) the Developer’s interest in its portion of the Parcels and the Improvements, or any parts thereof or any interest therein.

Section 20. Events of Default and Remedies.

A. Any one or more of the following constitutes an “Event of Default” under this Agreement:

(i) The Developer, the Principal or the City fails to perform or observe any material obligation punctually and as due under this Agreement, provided that if a Force Majeure (as such term is defined below) event causes the failure, the Developer, the Principal or City may receive an additional period of time as is reasonably necessary to perform or observe the material obligation in light of the event if it notifies the other of the potential event and the extent of the delay promptly after becoming aware of the event;

(ii) The Developer, the Principal or the City makes a representation or warranty in this Agreement that is materially false or misleading at the time it is made;

(iii) The Developer and/or the Principal files a petition for the appointment of a receiver or a trustee with respect to it or any of its/his property;

(iv) The Developer and/or the Principal makes a general assignment for the benefit of creditors;

(v) A court enters an order for relief pursuant to any Chapter of Title 11 of the U.S. Code, as the same may be amended from time to time, with the Developer or the Principal as debtor; or;

(vi) The Developer and/or the Principal files an insolvency proceeding with respect to itself or any proceeding with respect to itself for compromise, adjustment or other relief under the laws of any country or state relating to the relief of debtors.

As used in this Section, “Force Majeure” means any event that is not within the control of a party or its affiliates, employees, contractors, subcontractors or material suppliers that delays performance of any obligation under this Agreement including, but not limited to, the following acts: acts of God; fires; epidemics; landslides; floods; strikes; lockouts or other industrial disturbances; acts of public enemies; acts or orders of any kind of any governmental authority; insurrections; riots; civil disturbances; arrests; explosions; breakage or malfunctions of or accidents to machinery, transmission pipes or canals; partial or entire failures of utilities; shortages of labor, materials, supplies or transportation; lightning, earthquakes, hurricanes, tornadoes, storms or droughts; periods of unusually inclement weather or excessive precipitation; or orders or restraints of any kind of the government of the United States or of the State (and in the case of a Force Majeure claim by the Developer, the Principal, the City or any departments, agencies, political subdivisions or officials that are not in response to a violation of law or regulations.

B. General Right to Cure. In the event of any Event of Default in or breach of this Agreement, or any of its terms or conditions, by any party hereto, the defaulting party will, upon written notice from the other, proceed, as soon as reasonably possible, to cure or remedy such Event of Default or breach, and, in any event, within thirty (30) days after receipt of such notice. In the event such Event of Default or breach is of such nature that it cannot be cured or remedied within said thirty (30) day period, then in such event the defaulting party will upon written notice from the other commence its actions to cure or remedy said breach within said thirty (30) day period, and proceed diligently thereafter to cure or remedy said breach.

C. Remedies. If a defaulting party fails to cure any Event of Default pursuant to paragraph (B) of this Section, a party may institute such proceedings against the defaulting party as may be necessary or desirable in its opinion to cure and remedy such default or breach. Such remedies include, but are not limited to: (i) instituting proceedings to compel specific performance by the defaulting party, (ii) suspending or terminating the obligations of the non-defaulting party under this Agreement, provided the aggrieved party must provide thirty (30) days' notice of any termination to the defaulting party and provided further that the aggrieved party must rescind the termination notice and not terminate the Agreement if the defaulting party cures all Events of Default within a reasonable time thereafter, and (iii) any other rights and remedies available at law, in equity or otherwise to collect all amounts then becoming due or to enforce the performance of any obligation under this Agreement. The obligations of the City may be enforced to the extent permitted by law by mandamus or any suit or proceeding in law or equity.

Section 21. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, said provision will be fully severable. This Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible that is and will be legal, valid and enforceable.

Section 22. Separate Counterparts; Captions. This Agreement may be executed by the parties hereto in one or more counterparts or duplicate signature pages, each of which when so executed and delivered will be an original, with the same force and effect as if all required signatures were contained in a single original instrument. Any one or more of such counterparts or duplicate signature pages may be removed from any one or more original copies of this Agreement and annexed to other counterparts or duplicate signature pages to form a completely executed original instrument. Captions have been provided herein for the convenience of the reader and shall not affect the construction of this Agreement.

Section 23. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the matters covered herein and supersedes prior agreements and understandings between the parties.

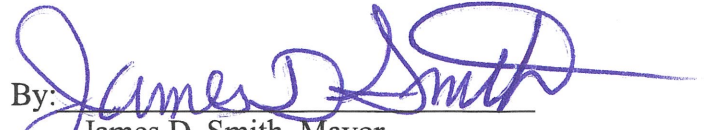
Section 24. Governing Law and Choice of Forum. This Agreement will be governed by and construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question among the City, its employees, contractors, subcontractors and agents, the Developer, its employees, contractors, subcontractors and agents arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within the County of Montgomery, State of Ohio.

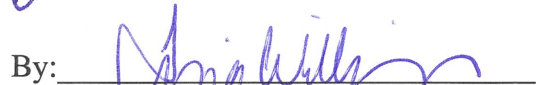
Section 25. Additional Documents. The City, the Developer, and their respective successors, assigns and transferees agree to execute any further agreements, documents, or instruments as may be reasonably necessary to fully effectuate the purpose and intent of this Agreement.

**[The Remainder of This Page Intentionally Left Blank]**

**IN WITNESS WHEREOF**, the City and the Developer have caused this Agreement to be executed in their respective names by their duly authorized officers or representatives, as of the date hereinabove written.

CITY OF SOUTH LEBANON, OHIO


By:   
James D. Smith, Mayor

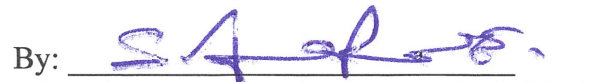
By:   
Petrina D. Williams, Fiscal Officer

Approved as to Form:

By:   
Andrew P. Meier, City Solicitor

RIVER CREEK LOFTS, LLC

By:   
Name: Sreenivasa R. Echuri  
Title: Principal

By:   
Sreenivasa R. Echuri, an individual  
as Principal

**FISCAL OFFICER'S CERTIFICATE**

As fiscal officer for the City of South Lebanon, I hereby certify that funds sufficient to meet the obligations of the City in this Agreement have been lawfully appropriated for the purposes thereof and are available in the treasury, and/or are in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This certificate is given in compliance with ORC Sections 5705.41 et seq.

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Director of Finance  
City of South Lebanon

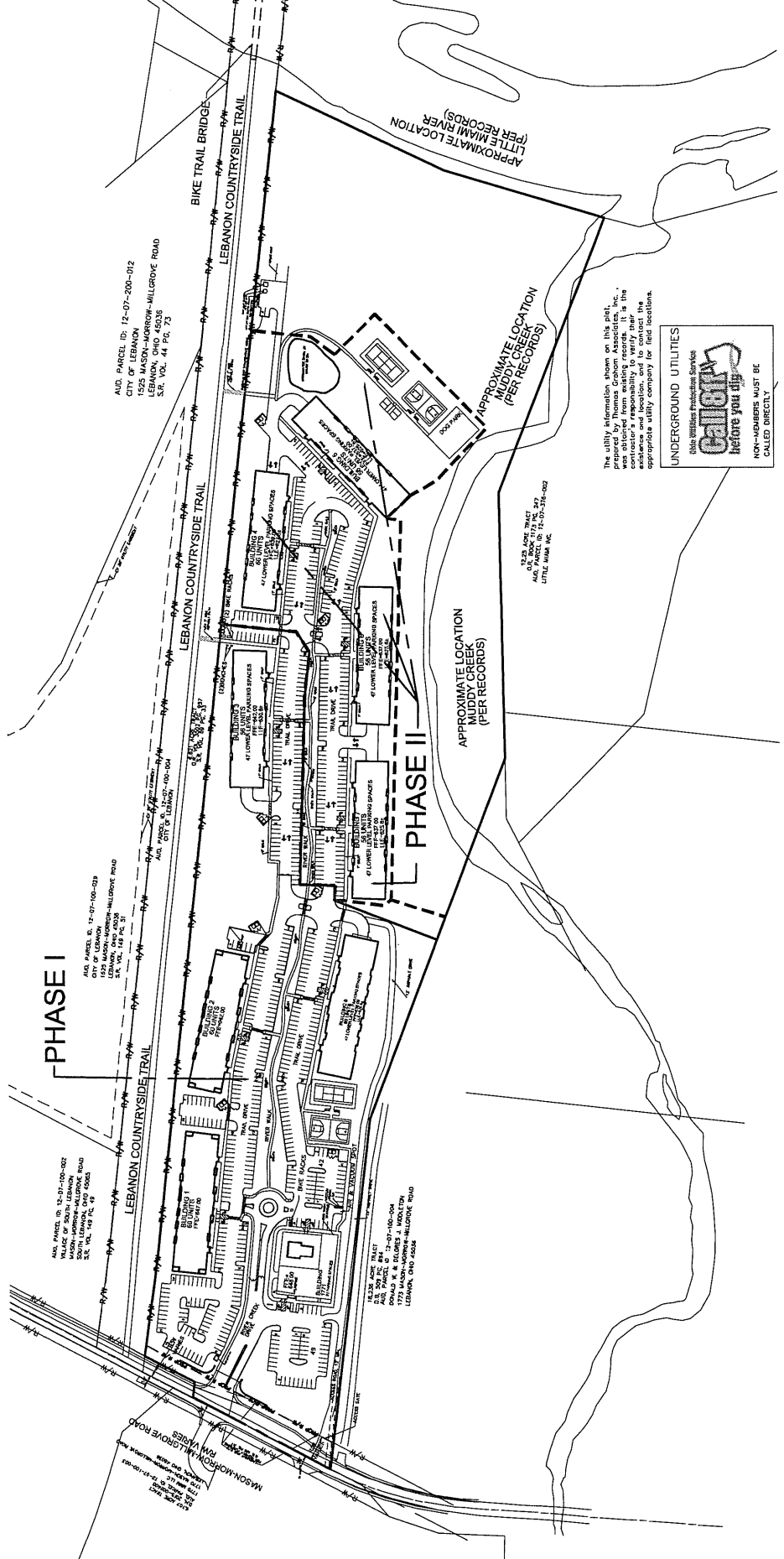
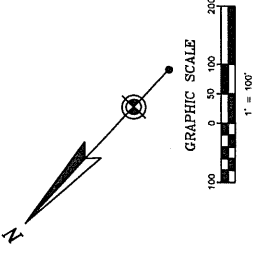
**EXHIBIT A**

**PROJECT SITE**

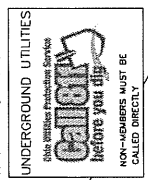
(Description and Depiction to be attached)

# EXHIBIT A

ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
 SOUTH LEBANON, OHIO 45065  
 WARREN COUNTY  
 STATE OF OHIO



The utility information shown on this plan, prepared by Thomas Graham Associates, Inc., is for informational purposes only. It is the contractor's responsibility to verify their utility locations and depths with an appropriate utility company for field locations.



**tga**  
 THOMAS  
 GRAHAM  
 ASSOCIATES, INC.  
 • Engineers  
 • Surveyors  
 803 Compton Road  
 Cincinnati, Ohio 45231  
 Tel. # 513-263-2439  
 Fax # 513-263-2439

Date: NOV. 7, 2023  
 Scale: 1" = 100'  
 Job No.: 82071

No.	Revisions	Date

ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
 SOUTH LEBANON, OHIO 45065  
 WARREN COUNTY  
 STATE OF OHIO

Drawn By: LUKATZBERGER  
 Job No: 82071

**EXHIBIT B**

**TIF ORDINANCE**

(To be attached)

**CITY OF SOUTH LEBANON, OHIO  
ORDINANCE NO. 2023-29**

**DECLARING THE IMPROVEMENT TO CERTAIN PARCELS WITHIN THE CITY  
TO BE A PUBLIC PURPOSE AND EXEMPT FROM TAXATION PURSUANT TO ORC  
5709.40(B); PROVIDING FOR THE COLLECTION AND DEPOSIT OF SERVICE  
PAYMENTS AND SPECIFYING THE PURPOSES FOR WHICH THOSE SERVICE  
PAYMENTS MAY BE EXPENDED.**

**WHEREAS**, Ohio Revised Code (“ORC”) 5709.40, 5709.42, and 5709.43 (collectively, the “TIF Act”) authorize this Council, by ordinance, to declare the improvement to parcels of real property located within the City to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, establish a municipal public improvement tax increment equivalent fund for the deposit of those service payments, and specify the purposes for which money in that fund will be expended; and

**WHEREAS**, River Creek Lofts, LLC (the “Developer”) has proposed to construct an approximately 460-unit multifamily development on the Parcels (as defined in Section 1 hereof), which development requires construction of certain public infrastructure improvements;

**WHEREAS**, the City desires to implement a tax increment financing program on the Parcels (as defined in Section 1 hereof) pursuant to the TIF Act to enable the City to make or cause to be made certain public infrastructure improvements that will directly benefit the Parcels; and

**WHEREAS**, the Boards of Education of the Kings Local School District (the “Kings Local School District”) and the Warren County Career Center (the “Warren County Career Center”) have each received notice of this ordinance for purposes of ORC 5709.40 and 5709.83;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of South Lebanon, State of Ohio, at least a majority of all members elected thereto concurring:

**SECTION 1. Parcels.** The real property subject to this ordinance is identified and depicted on Exhibit A (as currently or subsequently configured, the “Parcels”, with each individual parcel a “Parcel”).

**SECTION 2. Public Infrastructure Improvements.** This Council hereby designates the public infrastructure improvements, as further described in Exhibit B hereto, together with any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made or in the process of being made by or on behalf of the City that directly benefit, or that once made will directly benefit, the Parcels (the “Public Infrastructure Improvements”). The costs of the Public Infrastructure Improvements include, but are not limited to, those costs listed in ORC Section 133.15(B).

**SECTION 3. Exemption.** This Council hereby finds and determines that 75% of the increase in assessed value of each Parcel subsequent to the effective date of this ordinance (which increase in assessed value is hereinafter referred to as the “Improvement” as defined in ORC 5709.40(A)) is declared to be a public purpose and will be exempt from taxation for a period commencing for each separate Parcel on the date at least \$15 million (\$15,000,000) (market value) of Improvement due to the construction of a new building or buildings on that Parcel would first appear on the tax list and duplicate were it not for the exemption granted by this ordinance and ending on the earlier of (a) 10 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Act. It is the express intention of Council that each separate tax Parcel will have a separate 10-year exemption period. The exemption granted by this Section 3 is senior to any exemptions granted pursuant to ORC 3735.65 et. seq. (CRA abatements) or ORC 5709.61 et. seq. (Enterprise Zone abatements).

**SECTION 4. Service Payments.** As provided in ORC 5709.42, the owner of each Parcel is hereby required to make service payments in lieu of taxes with respect to the Improvement allocable to each Parcel to the Warren County Treasurer on or before the final dates for payment of real property taxes. The service payments in lieu of taxes will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and collected against that Improvement if it were not exempt from taxation pursuant to Section 3 of this ordinance, including any penalties and interest (collectively, the “Service Payments”). The Service Payments, and any other payments with respect to the Improvement to each Parcel that are received in connection with the reduction required by ORC 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the “Property Tax Rollback Payments”), will be deposited and distributed in accordance with Section 6 of this ordinance.

**SECTION 5. TIF Fund.** This Council establishes, pursuant to and in accordance with the provisions of ORC 5709.43, the River Creek Lofts Municipal Public Improvement Tax Increment Equivalent Fund (the “TIF Fund”), into which the Service Payments and Property Tax Rollback Payments collected with respect to the Parcels will be deposited. The TIF Fund will be maintained in the custody of the City. The City may use amounts deposited into the TIF Fund only for the purposes authorized in the TIF Act and this ordinance (as it may be amended). The TIF Fund will remain in existence so long as the Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund will be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with ORC 5709.43.

**SECTION 6. Distributions: Payment of Costs.** Pursuant to the TIF Act, the County Treasurer is requested to distribute the Service Payments and Property Tax Rollback Payments to the City for deposit into the TIF Fund, for application in accordance with the TIF Act, including to finance the Public Infrastructure Improvements pursuant to any tax increment financing agreement made between the City and the Developer.

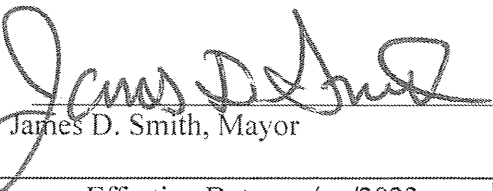
All distributions required under this Section are requested to be made at the same time and in the same manner as real property tax distributions. The City shall make any distributions to the extent not made by the County Treasurer.

SECTION 7. Further Authorizations. This Council hereby authorizes and directs the City Administrator, the Director of Finance, the City Law Director, the Clerk of Council, or other appropriate officers of the City to deliver a copy of this ordinance to the Director of Development of the State of Ohio and to make such arrangements as are necessary and proper for collection of the Service Payments. This Council further authorizes the City Administrator, the Director of Finance, the City Law Director, the Clerk of Council, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this ordinance.

SECTION 8. Open Meetings. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including ORC 121.22.

Adopted this 26<sup>th</sup> day of September, 2023.

Attest:   
Petrina D. Williams, Director of Finance/Clerk

  
James D. Smith, Mayor


Rules Suspended:	(if applicable)	Effective Date - / /2023
Vote - ___ Yeas		
___ Nays		
First Reading - <u>9/21/2023</u>		Effective Date - <u>10/26/2023</u>
Second Reading - <u>9/26/2023</u>		
Vote - <u>6</u> Yeas		
___ Nays		

Ordinance No. 2023-29

Page 4


Prepared by and approved as to form:

ANDREW P. MEIER  
LAW DIRECTOR  
CITY OF SOUTH LEBANON, OHIO

By:   
Date: 9/26/2023

CERTIFICATE

I, Petrina D. Williams, Clerk of Council, City of South Lebanon, Ohio do hereby certify the foregoing to be a true and correct copy of Ordinance No. - 29 as passed by Council of said City on the 24<sup>th</sup> day of September, 2023 and as recorded in the Record of Proceedings of said Council.

  
Petrina D. Williams, Council Clerk

Filed with Mayor: \_\_\_\_\_

Published: \_\_\_\_\_

EXHIBIT A

IDENTIFICATION AND MAP OF THE PARCELS

The following map specifically identifies and depicts the Parcels and constitutes part of this Exhibit A.

# RIVER CREEK LOFTS SUBDIVISION REVISION 1

**RE-PLAT OF LOT #1  
PLAT BOOK 102, PAGE 62  
SITUATE IN  
SEC. 7 TOWN 4, RANGE 3  
CITY OF SOUTH LEBANON  
UNION TOWNSHIP  
WARREN COUNTY  
STATE OF OHIO  
AUGUST, 2023**

**REFERENCE SURVEYS**  
 RECORD PLAT FOR KINGS RIVER FARM, INC. SUBDIVISION  
 PREPARED BY JOHN R. SANSALONE & CO.  
 DATED JUNE, 1979  
 PLAT BOOK 102, PAGE 85  
 WARREN COUNTY, OHIO RECORDS

PLAT OF SURVEY BY WOOLBERT CONSULTANTS  
 VOLUME 44 PLAT NO. 73 DATED APRIL, 1979  
 WARREN COUNTY, OHIO RECORDS

PLAT OF SURVEY BY B.L. PAYNE & ASSOCIATES, INC.  
 VOLUME 59 PLAT NO. 33 DATED 6/6/1985  
 WARREN COUNTY, OHIO RECORDS

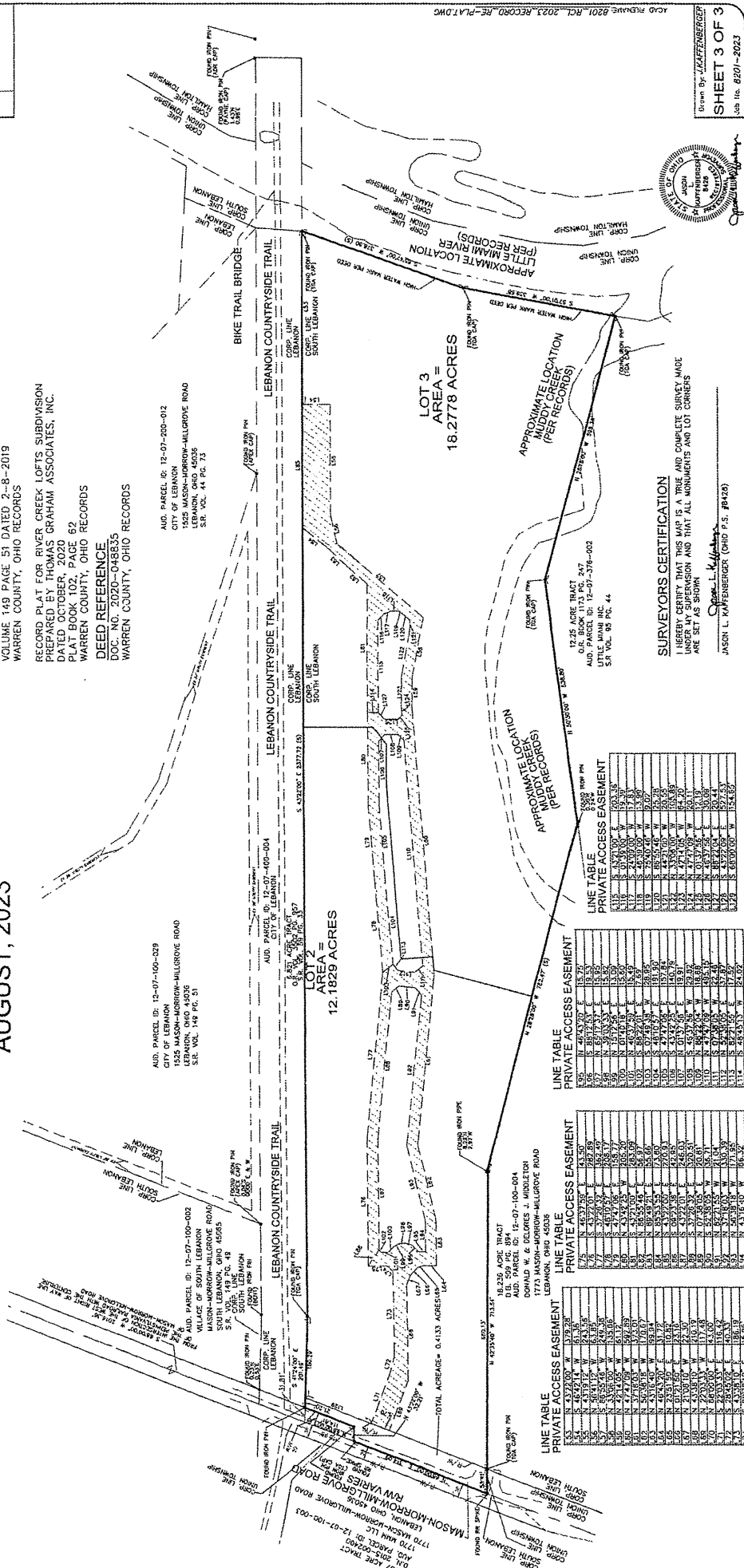
PLAT OF SURVEY BY HENDERSON & BODWELL  
 VOLUME 95 PLAT NO. 44 DATED 12-20-1995  
 WARREN COUNTY, OHIO RECORDS

PLAT OF SURVEY BY APEX ENGINEERING & SURVEYING, INC.  
 VOLUME 149 PAGE 51 DATED 2-8-2019  
 WARREN COUNTY, OHIO RECORDS

RECORDS PLAT FOR RIVER CREEK LOFTS SUBDIVISION  
 PREPARED BY THOMAS GRAHAM ASSOCIATES, INC.  
 DATED OCTOBER, 2020  
 PLAT BOOK 102, PAGE 62  
 WARREN COUNTY, OHIO RECORDS

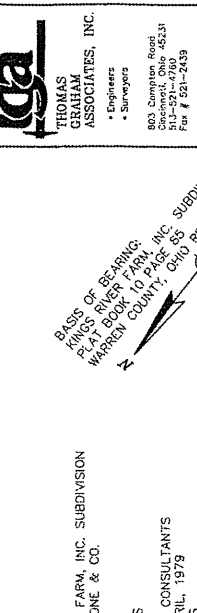
**DEED REFERENCE**  
 DEED NO. 2076-015835  
 WARREN COUNTY, OHIO RECORDS

- LEGEND**
- L.A. R/W INDICATES EXISTING LIMITED ACCESS RIGHT OF WAY
  - R/W INDICATES FULL RIGHT OF WAY
  - FOUND HIGH PILE (5/8" DIA. UNLESS OTHERWISE NOTED)
  - SETBACK WALL
  - SETBACK LINE
  - INDICATES MEASUREMENT PER SURVEY
- INDICATES PRIVATE ACCESS EASEMENT FOR THE BENEFIT OF THE CITY OF SOUTH LEBANON, UTILITY COMPANIES, LOT 2, AND LOT 3 TO BE CONSISTENT WITH THE AS-BUILT LOCATION OF THE DRIVES



**lga**  
 THOMAS  
 GRAHAM  
 ASSOCIATES, INC.  
 • Engineers  
 • Surveyors  
 889, Summit Road  
 Cincinnati, Ohio 45239  
 513-921-7700  
 Fax # 513-2439

Date: AUGUST 4, 2023  
 Scale: 1" = 100'  
 Job No.: 2207  
 Title: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



APPROXIMATE LOCATION  
 LITTLE MIAMI RIVER  
 (PER RECORDS)

APPROXIMATE LOCATION  
 MIDDY CREEK  
 (PER RECORDS)

APPROXIMATE LOCATION  
 MASON HERRON HILLGROVE ROAD  
 (PER RECORDS)

APPROXIMATE LOCATION  
 BIKE TRAIL BRIDGE  
 (PER RECORDS)

APPROXIMATE LOCATION  
 SOUTH LEBANON  
 (PER RECORDS)

AUD. PARCEL ID: 12-07-100-029  
 18.25 ACRE TRACT  
 DONALD W. & DELORES J. MIDDLETON  
 LEBANON, OHIO 43036  
 S.R. VOL. 149 PG. 51

AUD. PARCEL ID: 12-07-100-029  
 18.25 ACRE TRACT  
 DONALD W. & DELORES J. MIDDLETON  
 LEBANON, OHIO 43036  
 S.R. VOL. 149 PG. 51

AUD. PARCEL ID: 12-07-100-029  
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 DONALD W. & DELORES J. MIDDLETON  
 LEBANON, OHIO 43036  
 S.R. VOL. 149 PG. 51

**EXHIBIT B**

**Public Infrastructure Improvements**

“Public Infrastructure Improvements” include, but is not limited to, public roads and highways; water and sewer lines; the continued maintenance of those public roads and highways and water and sewer lines; environmental remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; the provision of gas, electric, and communications service facilities, including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes; the enhancement of public waterways through improvements that allow for greater public access; and off-street parking facilities, including those in which all or a portion of the parking spaces are reserved for specific uses when determined to be necessary for economic development purposes.

## EXHIBIT C

### FORM OF COMPLETION GUARANTY

#### COMPLETION GUARANTY

This Completion Guaranty ("**Guaranty**") is made as of the Effective Date (as defined on the signature page hereof) by **SREENIVASA R. ECHURI**, an individual and resident of the State of Ohio, whose address is [ \_\_\_\_\_ ] ("**Guarantor**") in favor of the **CITY OF SOUTH LEBANON**, an Ohio municipal corporation, the address of which is 801 Plum Street, South Lebanon, Ohio 45202 (the "**City**").

#### Recitals:

A. The City, River Creek Lofts, LLC, an Ohio limited liability company and the Guarantor, as "Principal" (jointly, "**Obligor**"), are parties to a *Development Agreement* dated [ \_\_\_\_\_ ], 2023 (the "**Agreement**"). Capitalized terms used, but not defined, herein shall have the meanings ascribed thereto in the Agreement.

B. Pursuant to the Agreement, among other things, Obligor is obligated to complete the Private Improvements and the Public Infrastructure Improvements (each as defined in the Agreement, and together the "**Project**").

C. It is a condition of the Agreement that Guarantor provide this Guaranty to the City with respect to the Project.

NOW, THEREFORE, for and in consideration of the City's execution of the Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby promises and agrees as follows:

1. Guaranty.

(A) Guarantor hereby absolutely, unconditionally, and irrevocably guarantees to the City the full and prompt performance by Obligor of Obligor's obligations under the Agreement to complete the Project in accordance with, and subject to, the terms and conditions of the Agreement, including payment to the City of any and all losses, damages and expenses (including, without limitation, attorneys' fees) suffered or incurred by the City and arising out of the failure by Obligor under the Agreement to do so, regardless of whether such losses, damages or expenses are expressly provided for under the Agreement or are then otherwise allowable by law (collectively, the "**Guaranteed Obligations**").

(B) If Obligor fails to fulfill one or more of the Guaranteed Obligations, resulting in a notice of default from the City to Obligor under the Agreement, the City may notify Guarantor thereof in writing, whereupon Guarantor, within ten (10) days after its receipt of such notice, shall take all steps necessary to cure the default (including, for example, providing additional funding for the Project if necessary). All rights and remedies of the City under this Guaranty are cumulative, and nothing in this Guaranty shall be construed as limiting the City's rights and remedies available under the Agreement or at law or in equity.

(C) The City may from time to time, in the exercise of its sole and absolute discretion and without providing notice to, or obtaining the consent of, Guarantor, and without in any way releasing, altering, or impairing any of Guarantor's obligations and liabilities to the City under this Guaranty: (i) waive compliance with, or any default occurring under, or grant any other indulgence with respect to, the Agreement; (ii) modify or supplement any of the provisions of the Agreement upon written agreement with Obligor; (iii) grant any extension or renewal of or with respect to the Agreement upon written agreement with Obligor and/or effect any release, compromise or settlement in connection therewith; and (iv) deal in all respects with Obligor as if this Guaranty were not in effect.

## 2. Liability of Guarantor.

(A) Guarantor's liability under this Guaranty (i) shall be primary, direct and immediate and is a guaranty of performance and completion and not of collection; (ii) shall not be conditioned or contingent upon the pursuit by Obligor of any remedy that it may have against its contractors, subcontractors or any other person with respect to the Project or at law or in equity; and (iii) shall be unconditional, irrespective of the genuineness, validity, regularity or enforceability of the Agreement, as the case may be, or of the adequacy of any consideration or security given therefor or in connection therewith, or of any other circumstance that might otherwise constitute a legal or equitable discharge of a surety or a guarantor under applicable law. Guarantor hereby waives any and all defenses at law or in equity that may be available to Guarantor by virtue of any such circumstance.

(B) Without limiting the generality of the foregoing provisions of this Section 2, the City shall not be required (i) to make any demand of Obligor or any other person; or (ii) otherwise to pursue or exhaust its remedies against Obligor or any other person or entity or against the Project, before, simultaneously with, or after enforcing any of its rights and remedies under this Guaranty against Guarantor. The City may bring one or more successive and/or concurrent actions against Guarantor, either as part of any action brought against Obligor or in one or more separate actions, as often as the City deems advisable in the exercise of its sole and absolute discretion.

(C) Guarantor's liability under this Guaranty shall continue after any assignment or transfer by the City or Obligor of any of their respective rights or interests under the Agreement or with respect to the Project until the satisfaction of all provisions contained in this Guaranty (but the foregoing shall not be deemed to be or constitute the consent by the City to any such assignment by Obligor, which shall continue to be governed by the terms of the Agreement). Guarantor's liability under this Guaranty shall not be affected by any bankruptcy, reorganization or insolvency of Obligor or any successor or assignee thereof or by any disaffirmance or abandonment by a trustee of Obligor.

(D) Guarantor hereby expressly waives: (i) presentment and demand for payment of any sum payable under the provisions of the Agreement, and protest of any nonpayment thereof; (ii) notice of acceptance of this Guaranty and of such presentment, demand and protest; (iii) notice of any default under this Guaranty or under the provisions of the Agreement, except as stated herein; (iv) demand for observance or performance, and enforcement, of any of the terms or conditions of this Guaranty, and/or of the Agreement, except as stated herein; (v) any and all other notices and demands that may otherwise be required by law to be given or made; and (vi) any and all rights that Guarantor may have to a trial by jury in any action brought on or with respect to this Guaranty, all rights and remedies accorded by applicable law to Guarantor, including, without limitation, any extension of time conferred by any law now or hereafter in

effect, and all rights of redemption, homestead, dower and other rights or exemptions of every kind, whether common law or statutory. In addition, Guarantor hereby expressly agrees that, if this Guaranty is enforced by suit or otherwise, or if the City exercises any of its rights or remedies under the provisions of the Agreement upon any default by Obligor in performing any of Obligor's obligations thereunder, Guarantor shall reimburse the City, upon demand, for any and all expenses, including without limitation attorneys' fees, that the City incurs in connection therewith, payable within ten (10) days after the City's written demand.

3. Subrogation. No payment by Guarantor under this Guaranty shall give Guarantor any right of subrogation to any rights or remedies of the City against Obligor under the Agreement. Until Obligor has paid and performed all of its obligations under the Agreement, Guarantor hereby waives all rights of contribution, indemnity or subrogation with respect to Obligor that might otherwise arise from Guarantor's performance under this Guaranty.

4. Effect of this Guaranty. Guarantor hereby warrants to the City that: (a) Guarantor (i) has a financial interest in the Project; (ii) is duly organized, validly existing and in good standing under the laws of the State of Ohio; (iii) has full power, authority and legal right to execute, acknowledge and deliver this Guaranty; and (iv) there are no actions, suits or proceedings pending or to the knowledge of Guarantor, threatened against Guarantor, at law or in equity, or before any governmental department, commission, board, bureau, agency or instrumentality which involve the possibility of any judgment or order that may result in any material adverse effect upon Guarantor; and (b) this Guaranty constitutes Guarantor's binding and enforceable legal obligation.

5. Notices. All notices or other written communications hereunder shall be deemed to have been properly given (a) upon delivery, if delivered in person; (b) upon receipt or refusal if delivered by overnight delivery with any reputable overnight courier service; or (c) upon receipt or refusal if sent by U.S. registered or certified mail, postage prepaid, return receipt requested, addressed to Guarantor and the City, as the case may be, at the addresses set forth in the introductory paragraph of this Guaranty or such other address as may be designated from time to time by notice given to the other party in the manner prescribed herein. Guarantor shall simultaneously send, by U.S. certified mail, a copy of each notice given by Guarantor to the City hereunder to: City of South Lebanon, Ohio, 10 North High Street, South Lebanon, OH 45065, Attn: City Administrator.

6. General Provisions.

(A) Amendment. This Guaranty may be amended or supplemented by, and only by, an instrument executed by the City and Guarantor.

(B) Waiver. Neither party hereto shall be deemed to have waived the exercise of any right that it holds under this Guaranty unless that waiver is made expressly and in writing (and no delay or omission by any party hereto in exercising any such right shall be deemed a waiver of its future exercise). No such waiver made as to any instance involving the exercise of any such right shall be deemed a waiver as to any other such instance, or any other such right.

(C) Applicable Law. This instrument shall be given effect and construed by application of the laws of the City of South Lebanon and the State of Ohio, and any action or proceeding arising under this Guaranty shall be brought only in the Warren County Court of Common Pleas. Guarantor hereto agrees

that the City shall have the right to join Obligor in any action or proceeding commenced by the City under this Guaranty.

(D) Time of Essence. Time shall be of the essence as to the performance of Guarantor's obligations pursuant to this Guaranty.

(E) Headings. The headings of the paragraphs and subparagraphs of this Guaranty are provided herein for and only for convenience of reference and shall not be considered in construing their contents.

(F) Construction. As used in this Guaranty, (i) the term "person" means a natural person, a trustee, a corporation, a partnership, a limited liability company, and any other form of legal entity; and (ii) all references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well, (c) to any paragraph or subparagraph shall, unless herein expressly indicated to the contrary, be deemed to have been made to such paragraph or subparagraph of this Guaranty, and (d) to Guarantor, the City, and Obligor shall be deemed to refer to each person hereinabove so named and their respective heirs, executors, personal representatives, successors and assigns.

(G) Severability. No determination by any court or governmental body that any provision of this Guaranty or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of (i) any other such provision, or (ii) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with applicable law.

(H) Entire Agreement. This Guaranty represents the complete understanding between or among the parties hereto as to the subject matter hereof, and supersedes all prior negotiations, representations, warranties, statements or agreements, either written or oral, between or among the parties hereto as to the same.

(I) Term. This Guaranty shall be effective upon the execution hereof and shall remain in effect until such time as the Guaranteed Obligations are satisfied and discharged in full. At such time, Guarantor may request, and the City will endeavor to promptly provide, a written statement from the City acknowledging the same and confirming that Guarantor has no further obligations hereunder.

*[Signature Page Follows]*

Executed and effective as of \_\_\_\_\_, 2023 (the "Effective Date").

GUARANTOR:

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

Printed: Name: Sreenivasa R. Echuri

**EXHIBIT D**  
**INITIAL BUDGET**  
**[To be attached]**

# Exhibit D Phase I

PROJECT: River Creek Lofts Phase 1  
JOB No. 8201

Nov. 9, 2023

QUANTITIES ESTIMATE: INFRASTRUCTURE TIF

**\$4,823,554**

ITEM SPEC	DESCRIPTION	UNIT	QUANT	UNIT COST	TOTAL
<b>SITE ITEMS</b>					
201	CLEARING & GRUBBING	AC	20	8,000.00	160,000.00
201	TOP SOIL REMOVAL, STOCK PILE & RESPREAD	CY	16000	18.00	288,000.00
201	TREE REMOVAL	LS	1	10,000.00	10,000.00
202	BARN AND POOL REMOVED	EA	5	10,000.00	50,000.00
203	EXCAVATION, NOT INCLUDING EMBANKMENT	CY	50000	5.00	250,000.00
203	EMBANKMENT	CY	50000	5.00	250,000.00
204	SUBGRADE COMPACTION	SY	6000	3.00	18,000.00
400	HEAVY DUTY PAVEMENT	SY	6000	47.30	283,800.00
601	RCP OUTLET PROTECTION	CY	75	200.00	15,000.00
608	CONC. CURBS	F	1200	7.00	8,400.00
608	CONC. COMB. WALK & CURB	SF	1350	10.00	13,500.00
611	12" STORM	F	550	80.00	44,000.00
611	15" STORM	F	27	100.00	2,700.00
611	18" STORM	F	500	120.00	60,000.00
611	24" STORM	F	165	150.00	24,750.00
611	30" STORM	F	350	180.00	63,000.00
611	36" STORM	F	522	200.00	104,400.00
611	ODOT 2-2	EA	8	3,000.00	24,000.00
611	ODOT 2-3	EA	8	4,000.00	32,000.00
611	ODOT 2-4	EA	2	6,000.00	12,000.00
611	ODOT MH	EA	4	6,000.00	24,000.00
611	ODOT HW	EA	3	3,500.00	10,500.00
611	8" SANITARY	F	2320	125.00	290,000.00
611	SANITARY MH	EA	8	8,000.00	64,000.00
611	SANITARY CO	EA	9	1,200.00	10,800.00
611	SANITARY PUMP STATION	EA	1	475,000.00	475,000.00
611	SANITARY FORCE MAIN	EA	1	100,000.00	100,000.00
611	6" SANITARY	F	470	100.00	47,000.00
623	CONSTRUCTION LAYOUT STAKES AND SURVEYING	LUMP	1	120,000.00	120,000.00
625	ELECTRIC CONDUIT	F	3200	80.00	256,000.00
625	ELECTRIC BOX	EA	3	500.00	1,500.00
625	TRANSFORMER PAD	EA	7	1,500.00	10,500.00
638	8" WATER	F	2100	90.00	189,000.00
638	6" WATER	F	60	70.00	4,200.00
638	FIRE HYDRANTS	EA	5	8,500.00	42,500.00
638	WATER VALVES	EA	9	2,000.00	18,000.00
1125	EROSION CONTROL	LS	1	25,000.00	25,000.00
	<b>MMM ROADWAY IMPROVEMENTS (CHOICEONE)</b>	LS	1	774,687.00	774,687.00
	Contingency		10%		417,623.70
	Owner Management Fee		5%		229,693.04
	<b>SUBTOTAL FOR SITE WORK ITEMS</b>				<b>\$4,823,553.74</b>

## Exhibit D Phase II

PROJECT: River Creek Lofts Phase II

Nov. 9, 2023

JOB No. 8201

QUANTITIES ESTIMATE: INFRASTRUCTURE TIF

**\$1,136,566**

ITEM SPEC	DESCRIPTION	UNIT	QUANT	UNIT COST	TOTAL
<b>SITE ITEMS</b>					
202	HOUSE REMOVED	EA	1	10,000.00	10,000.00
203	EXCAVATION, NOT INCLUDING EMBANKMENT	CY	10000	5.00	50,000.00
203	EMBANKMENT	CY	10000	5.00	50,000.00
204	SUBGRADE COMPACTION	SY	6000	3.00	18,000.00
400	HEAVY DUTY PAVEMENT	SY	6000	47.30	283,800.00
601	RCP OUTLET PROTECTION	CY	5	200.00	1,000.00
608	CONC. CURBS	F	670	7.00	4,690.00
611	12" STORM	F	520	80.00	41,600.00
611	15" STORM	F	65	100.00	6,500.00
611	18" STORM	F	650	120.00	78,000.00
611	24" STORM	F	315	150.00	47,250.00
611	ODOT 2-2	EA	10	3,000.00	30,000.00
611	ODOT 2-3	EA	5	4,000.00	20,000.00
611	ODOT 2-4	EA	1	6,000.00	6,000.00
611	ODOT HW	EA	1	3,500.00	3,500.00
623	CONSTRUCTION LAYOUT STAKES AND SURVEYING	LUMP	1	30,000.00	30,000.00
625	ELECTRIC CONDUIT	F	1080	80.00	86,400.00
625	ELECTRIC BOX	EA	2	500.00	1,000.00
625	TRANSFORMER PAD	EA	3	1,500.00	4,500.00
638	8" WATER	F	1600	90.00	144,000.00
638	6" WATER	F	40	70.00	2,800.00
638	FIRE HYDRANTS	EA	4	8,500.00	34,000.00
638	WATER VALVES	EA	3	2,000.00	6,000.00
1125	EROSION CONTRIOL	LS	1	25,000.00	25,000.00
	<b>Contingency</b>		10%		98,404.00
	<b>Owner Management Fee</b>		0.05		54,122.20
	<b>SUBTOTAL FOR SITE WORK ITEMS</b>				<b>\$1,136,566.20</b>

EXHIBIT D  
TOTAL PUBLIC IMPROVEMENTS

Nov 9,2023

QUANTITIES ESTIMATE: INFRASTRUCTURE TIF Phase I	\$4,823,554
QUANTITIES ESTIMATE: INFRASTRUCTURE TIF Phase II	\$1,136,566

<b>TOTAL QUANTITIES ESTIMATE: INFRASTRUCTURE</b>	<b>\$ 5,960,120.</b>
--	----------------------

**EXHIBIT E**

**DESCRIPTION OF PHASE I AND PHASE II PRIVATE IMPROVEMENTS**

**[To be attached]**

Parcel ID # 1207326005

### Phase I Private Improvements

As depicted on the attached site plan depiction (page E-3), the Phase I Private Improvements will include the construction of 236 units of Class A luxury apartments and a Clubhouse (12,000 sq. ft with two floors, including a banquet hall, state-of-the-art fitness center, yoga studio, and infinity pool), Basketball, and Pickle Ball Courts. All parking spaces and drive aisles necessary to accommodate the residential units will also be created.

The site will be cleared and grubbed, and the barn and pool will be removed. The necessary water (including hydrants) and sanitary lines will be installed along with the pump station. Walkways with curb and gutter necessary for the first phase will be included. Electric service will be extended into and through the site.

Stormwater management features will be added. Improvements to Mason Morrow Millgrove Rd. will be completed to City and County Specifications.

Parcel ID # 1207326006

### Phase II Private Improvements

As depicted on the attached site plan depiction (page E-3), the Phase II Private Improvements will include constructing 224 units of Class A luxury apartments with approximately 7 acres of dedicated Park Space, Tennis Courts, additional Basketball, and, Pickle Ball courts and a Dog Park. All parking spaces and drive aisles necessary to accommodate the residential units will also be created.

The existing house on the site will be razed, the land will be prepared for the structure, and impervious surfaces will be extended. Stormwater management features will be added.

The stormwater connections necessary for this phase will be installed and operational. All utilities will be connected and finalized before the completion of this phase.

# EXHIBIT E3

ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
 SOUTH LEBANON, OHIO 45065  
 WARREN COUNTY  
 STATE OF OHIO

**THOMAS GRAHAM ASSOCIATES, INC.**  
 • Engineers  
 • Surveyors

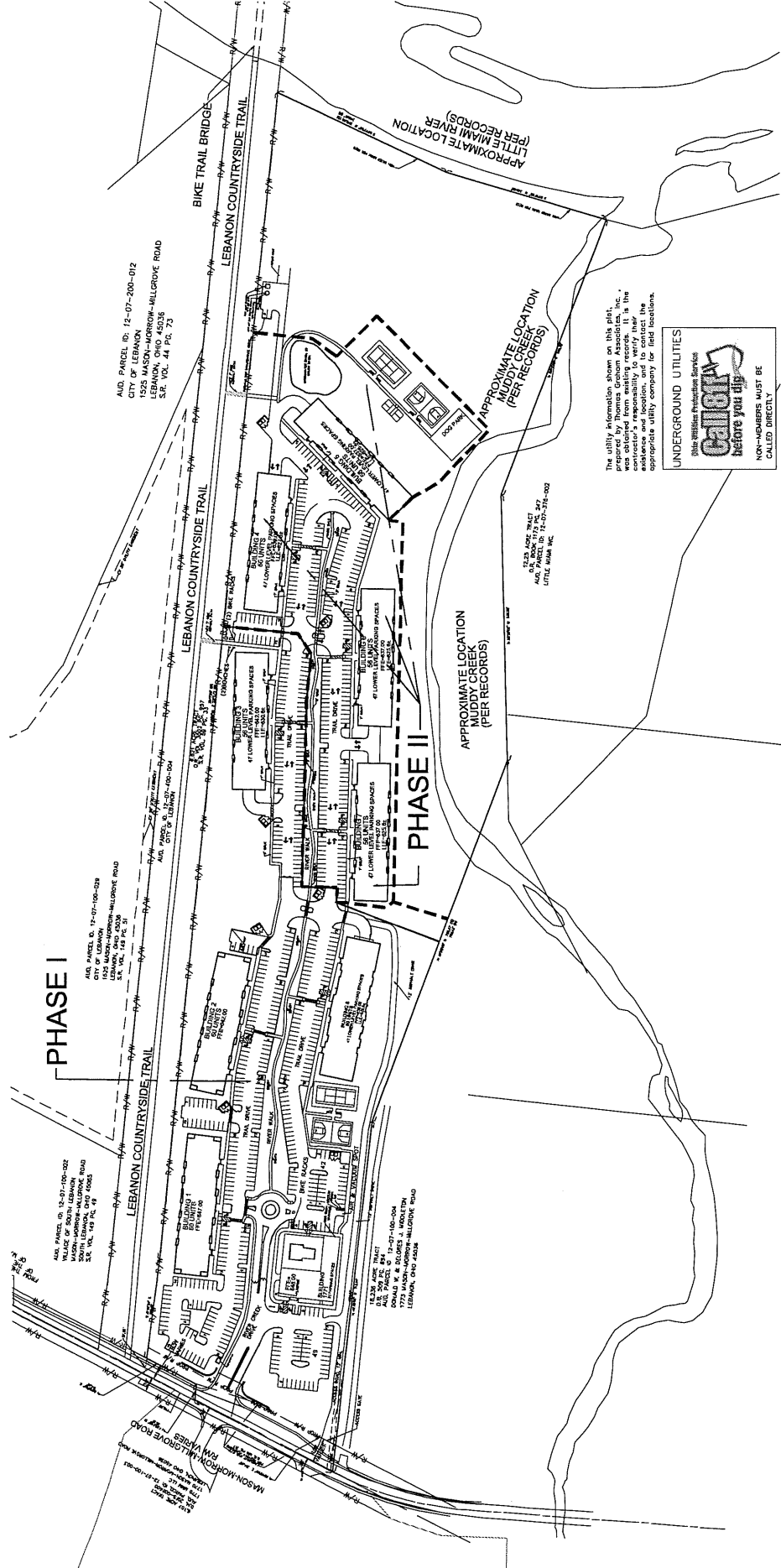
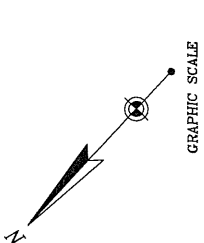
803 Completion Road  
 South Lebanon, Ohio 45231  
 513-991-4760  
 Fax # 513-243-2439

Date: NOV. 7, 2023  
 Scale: 1" = 100'  
 Job No.: B201

No.	Date

RIVER CREEK LOFTS  
 ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
 SOUTH LEBANON, OHIO 45065  
 WARREN COUNTY  
 STATE OF OHIO

ACAD FILENAME: B201\_RCL-10-15-2022\_SITPLAN\_BASE.dwg  
 Drawn By: JKAFFENBERGER  
 Job No.: B201



The utility information shown on this plan, including the location of all underground utilities, was obtained from existing records. It is the contractor's responsibility to verify the location of all underground utilities in the field before construction begins. An appropriate utility company for field locations.

UNDERGROUND UTILITIES  
 This Public Protection Service  
**CALLIOVA**  
 Before You Dig  
 NON-MEMBERS MUST BE CALLED DIRECTLY

**EXHIBIT F-1**

**DESCRIPTION OF PHASE I PUBLIC INFRASTRUCTURE IMPROVEMENTS**

**[To be attached]**

# EXHIBIT F-1 (PHASE I) PUBLIC IMPROVEMENTS

PARCEL ID: 1207326004


ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
SOUTH LEBANON, OHIO 45065

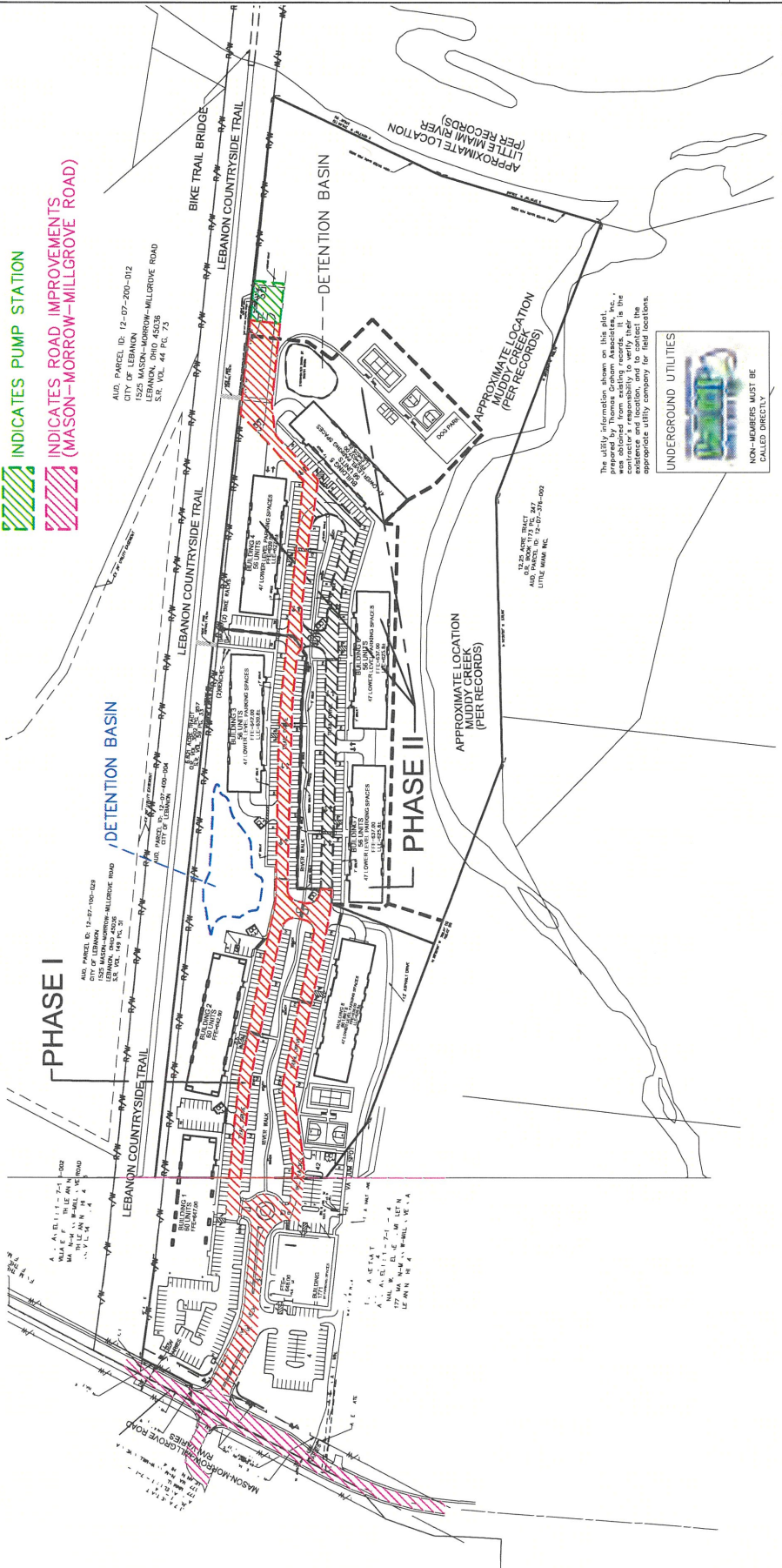
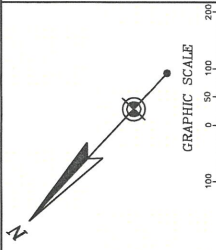
WARREN COUNTY  
STATE OF OHIO



Date: NOV. 7, 2023  
Scale: 1" = 100'  
Job No.: 8201

No.	Revisions	Date

-  INDICATES PRIVATE ACCESS EASEMENT FOR THE BENEFIT OF THE CITY OF SOUTH LEBANON, UTILITY COMPANIES, LOT 2, AND LOT 3 TO BE CONSISTENT WITH THE AS-BUILT LOCATION OF THE DRIVES
-  INDICATES PUMP STATION
-  INDICATES ROAD IMPROVEMENTS (MASON-MORROW-MILLGROVE ROAD)



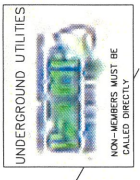
ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
SOUTH LEBANON, OHIO 45065  
WARREN COUNTY  
STATE OF OHIO

## RIVER CREEK LOFTS EXHIBIT A1 (PHASE I)

AAO PLANNO: 8201.RC1.11-6-2023.S1EPLN\_BASE.dwg

Drawn By: JKAFFENBERGER  
Job No: 8201

The utility information shown on this plan was obtained from existing records. It is the contractor's responsibility to verify that the approximate utility company for field locations.



# EXHIBIT F-1 (PHASE I) PUBLIC IMPROVEMENTS

PARCEL ID: 1207326004  
 ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
 SOUTH LEBANON, OHIO 45065  
 WARREN COUNTY  
 STATE OF OHIO



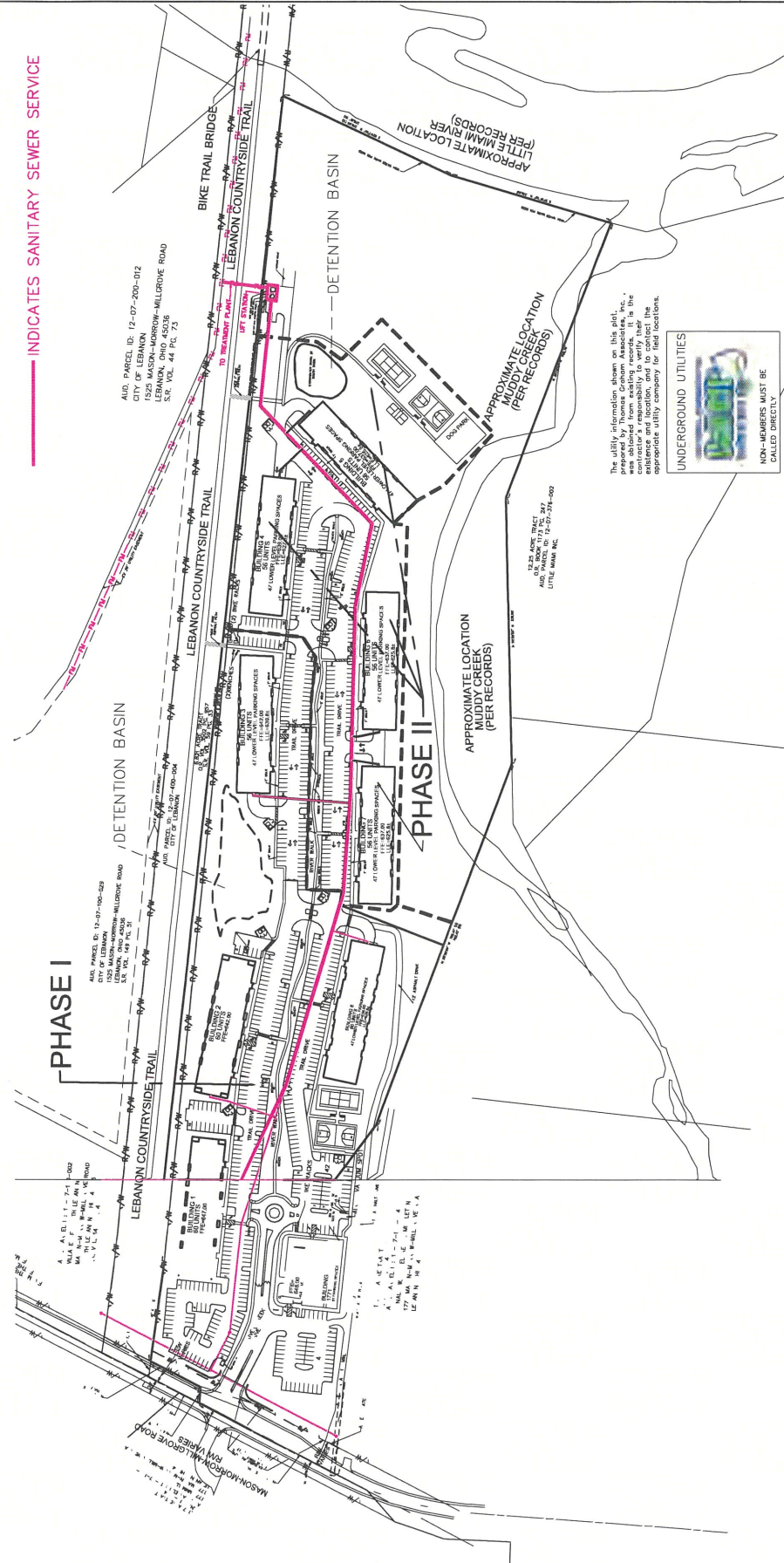
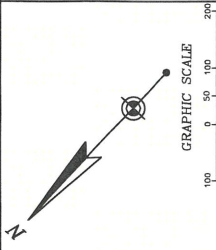
THOMAS  
 GRAMHAM  
 ASSOCIATES, INC.  
 • Engineers  
 • Surveyors  
 803 Campbell Road  
 Cincinnati, Ohio 45231  
 513-527-7777  
 Fax # 513-527-7839

Date: NOV. 7, 2023  
 Scale: 1" = 100'  
 Job No.: 8201

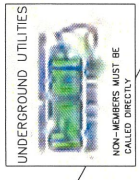
No.	Date	Revisions

ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
 SOUTH LEBANON, OHIO 45065  
 WARREN COUNTY  
 STATE OF OHIO

ACAD FILENAME: 8201\_RCI\_11-6-2023\_SITPLAN\_BASE.dwg  
 Drawn By: AKATZBERGER  
 Job No: 8201



The utility information shown on this plan, prepared by Thomas Gramham Associates, Inc., is based on records and field data. It is the contractor's responsibility to verify their utility locations and depths. We recommend the contractor hire an appropriate utility company for field locations.



# EXHIBIT F-1 (PHASE I) PUBLIC IMPROVEMENTS

PARCEL ID: 1207326004  
 ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
 SOUTH LEBANON, OHIO 45065  
 WARREN COUNTY  
 STATE OF OHIO

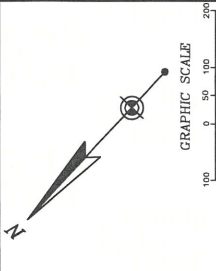


THOMAS  
GRAHAM  
ASSOCIATES, INC.  
• Engineers  
• Surveyors

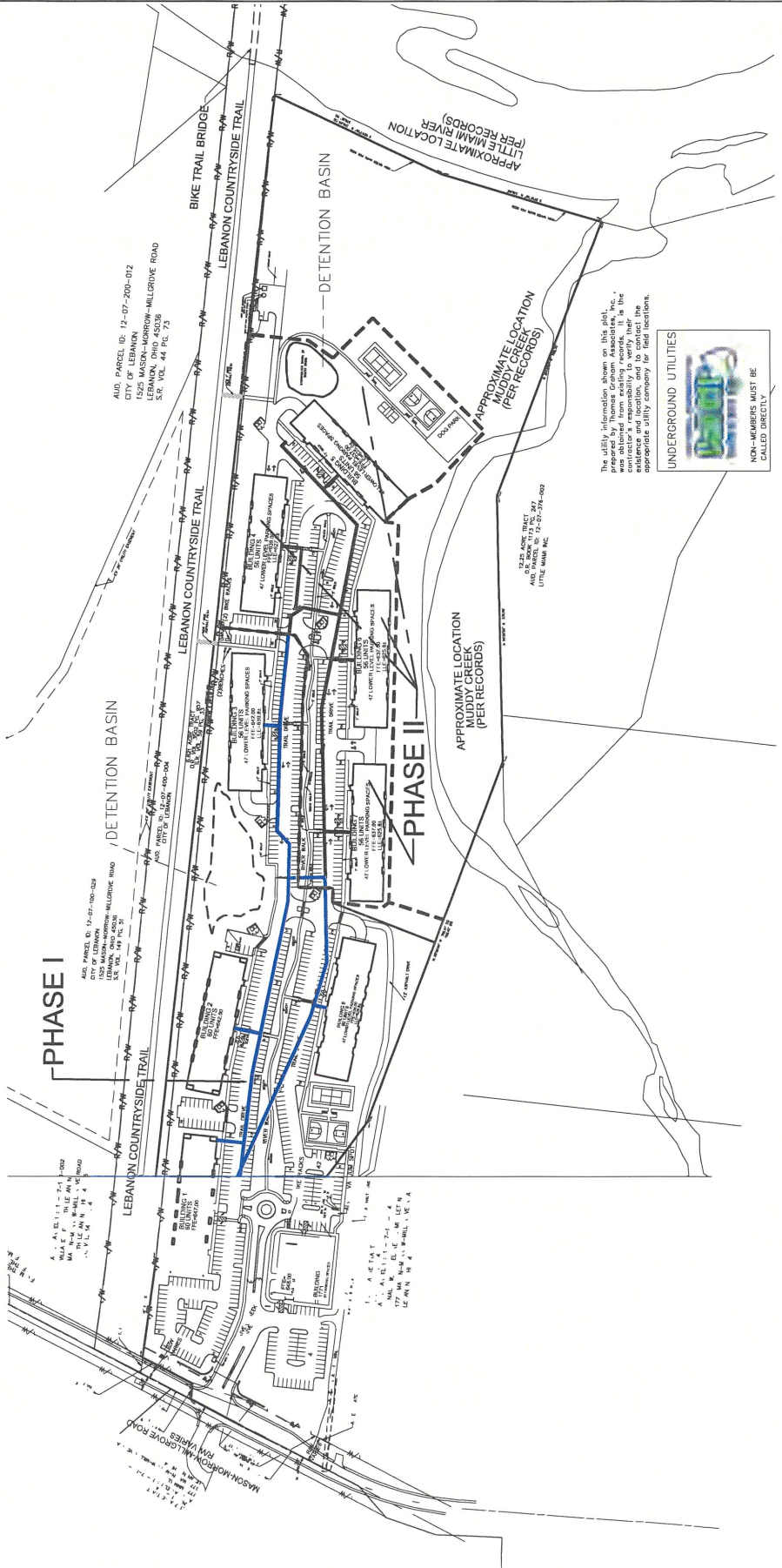
803 Compton Road  
Cincinnati, Ohio 45231  
Tel # 513-763-2200  
Fax # 513-763-2439

Date: NOV. 7, 2023  
 Scale: 1" = 100'  
 Job No.: 8201

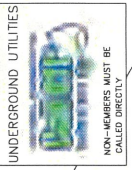
Revisions	
No.	Date



— INDICATES NEW WATER SERVICE



The utility information shown on this plan, including the location of underground utilities, was obtained from existing records. It is the contractor's responsibility to verify their location and depth by calling an appropriate utility company for field locations.



NON-MEMBERS MUST BE CALLED DIRECTLY

ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
 SOUTH LEBANON, OHIO 45065  
 WARREN COUNTY  
 STATE OF OHIO

EXHIBIT A3 (PHASE I)  
 RIVER CREEK LOFTS

ACAO PLAN No. 8201 RCL 11-5-2023 SITE PLAN BASE.dwg  
 Drawn By: JKAFFENBERGER  
 Job No: 8201

# EXHIBIT F-1 (PHASE I) PUBLIC IMPROVEMENTS

PARCEL ID: 1207326004  
 ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
 SOUTH LEBANON, OHIO 45065  
 WARREN COUNTY  
 STATE OF OHIO

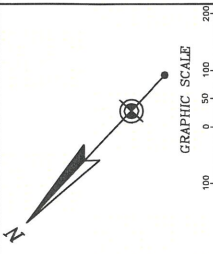
**tga**  
 THOMAS  
 GARDNER  
 ASSOCIATES, INC.  
 • Engineers  
 • Surveyors  
 803 Compton Road  
 Cincinnati, Ohio 45231  
 Tel # 513-763-1100  
 Fax # 513-763-2439

Date: NOV. 7, 2023  
 Scale: 1" = 100'  
 Job No.: 8201  
 Revisions

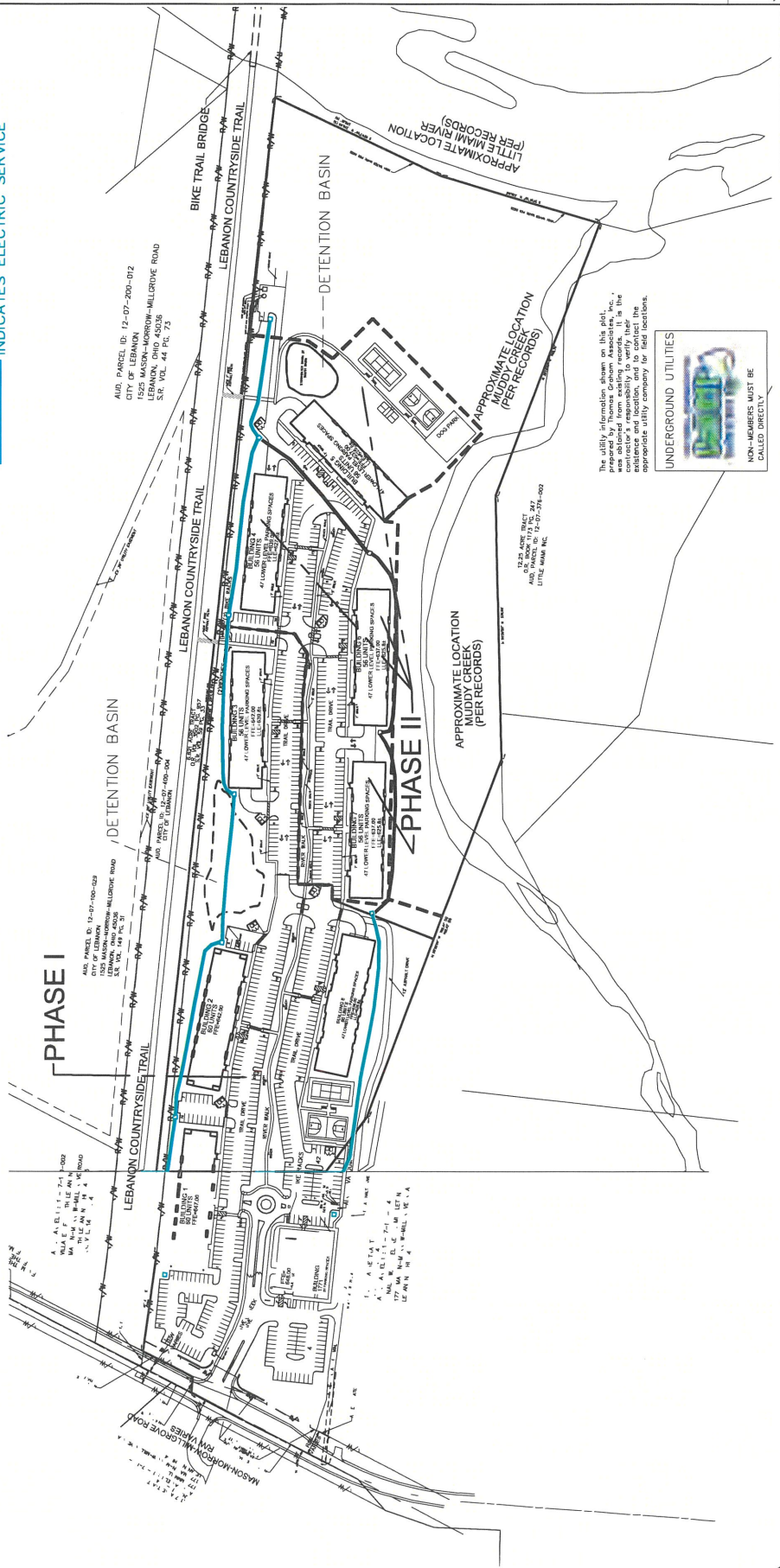
No. \_\_\_\_\_  
 Date \_\_\_\_\_

ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
 SOUTH LEBANON, OHIO 45065  
 WARREN COUNTY  
 STATE OF OHIO  
 RIVER CREEK LOFTS  
 EXHIBIT A4 (PHASE I)

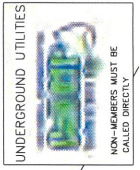
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 Drawn By: JKAFFENBERGER  
 Job No: 8201



INDICATES ELECTRIC SERVICE



The utility information shown on this plan... was obtained from existing records. It is the contractor's responsibility to verify their own appropriate utility company for field locations.



NON-MEMBERS MUST BE CALLED DIRECTLY

**EXHIBIT F-2**

**DESCRIPTION OF PHASE II PUBLIC INFRASTRUCTURE IMPROVEMENTS**

**[To be attached**



# EXHIBIT F-2 (PHASE II) PUBLIC IMPROVEMENTS

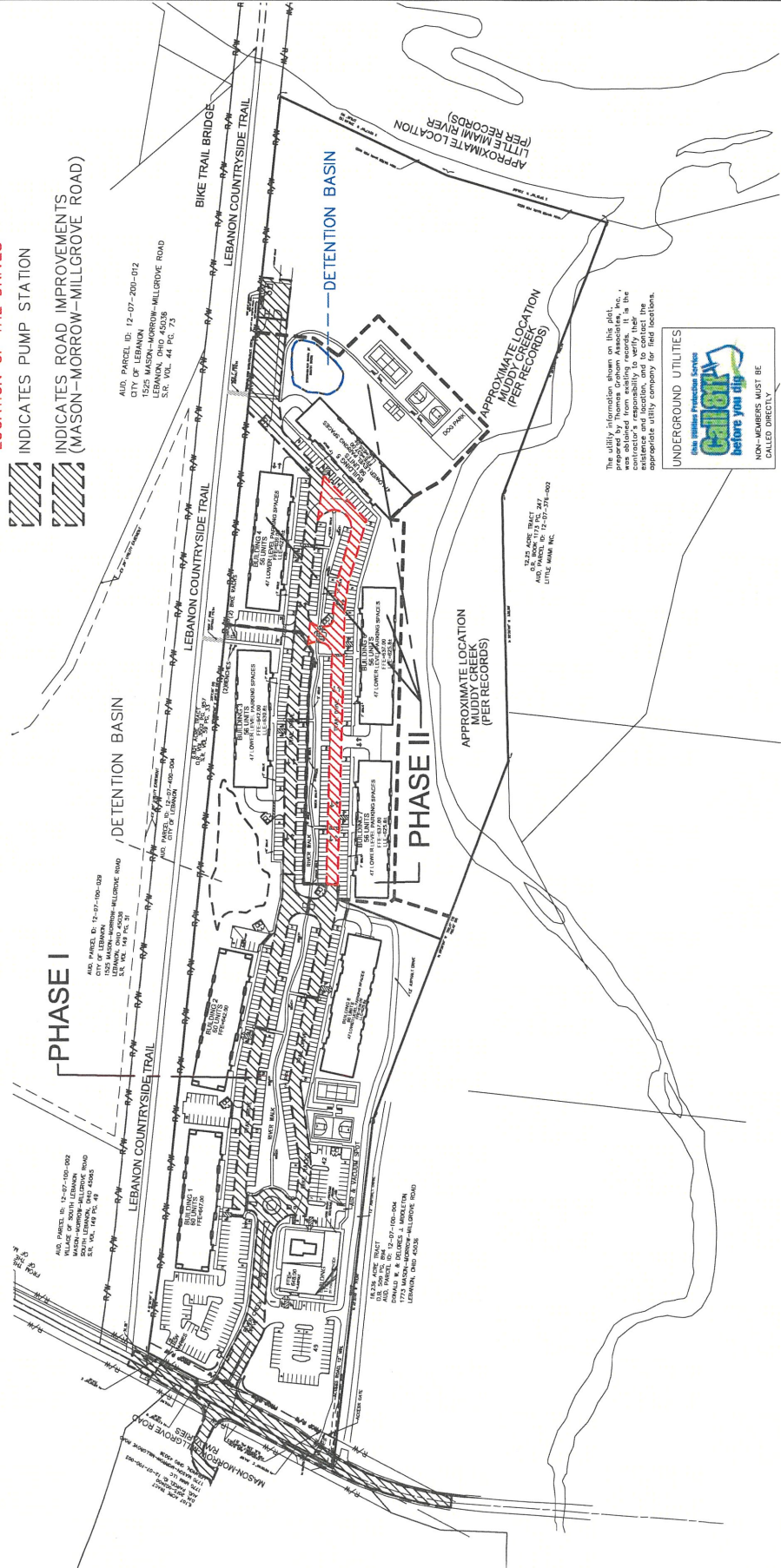
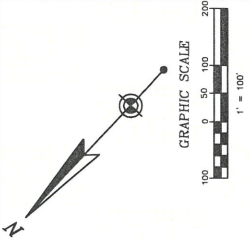
PARCEL ID: 1207326004  
 ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
 SOUTH LEBANON, OHIO 45065  
 WARREN COUNTY  
 STATE OF OHIO



Date: NOV. 7, 2023  
 Scale: 1" = 100'  
 Job No.: 8201

No.	Date	Revisions

-  INDICATES PRIVATE ACCESS EASEMENT FOR THE BENEFIT OF THE CITY OF SOUTH LEBANON, UTILITY COMPANIES, LOT 2, AND LOT 3 TO BE CONSISTENT WITH THE AS-BUILT LOCATION OF THE DRIVES
-  INDICATES PUMP STATION
-  INDICATES ROAD IMPROVEMENTS (MASON-MORROW-MILLGROVE ROAD)



ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
 SOUTH LEBANON, OHIO 45065  
 WARREN COUNTY  
 STATE OF OHIO

The utility information shown on this plan... was obtained from existing records. It is the contractor's responsibility to verify their utility locations and depths with the appropriate utility company for final locations.



Drawn By: JKAFFENBERGER  
 Job No.: 8201





THOMAS ASSOCIATES, INC.  
 • Engineers  
 • Surveyors  
 803 Compton Road  
 Cincinnati, Ohio 45231  
 Tel # 513-763-2339  
 Fax # 513-763-2439

Date: NOV. 7, 2023  
 Scale: 1" = 100'  
 Job No: 82071  
 Revisions  
 No. Date

No.	Date

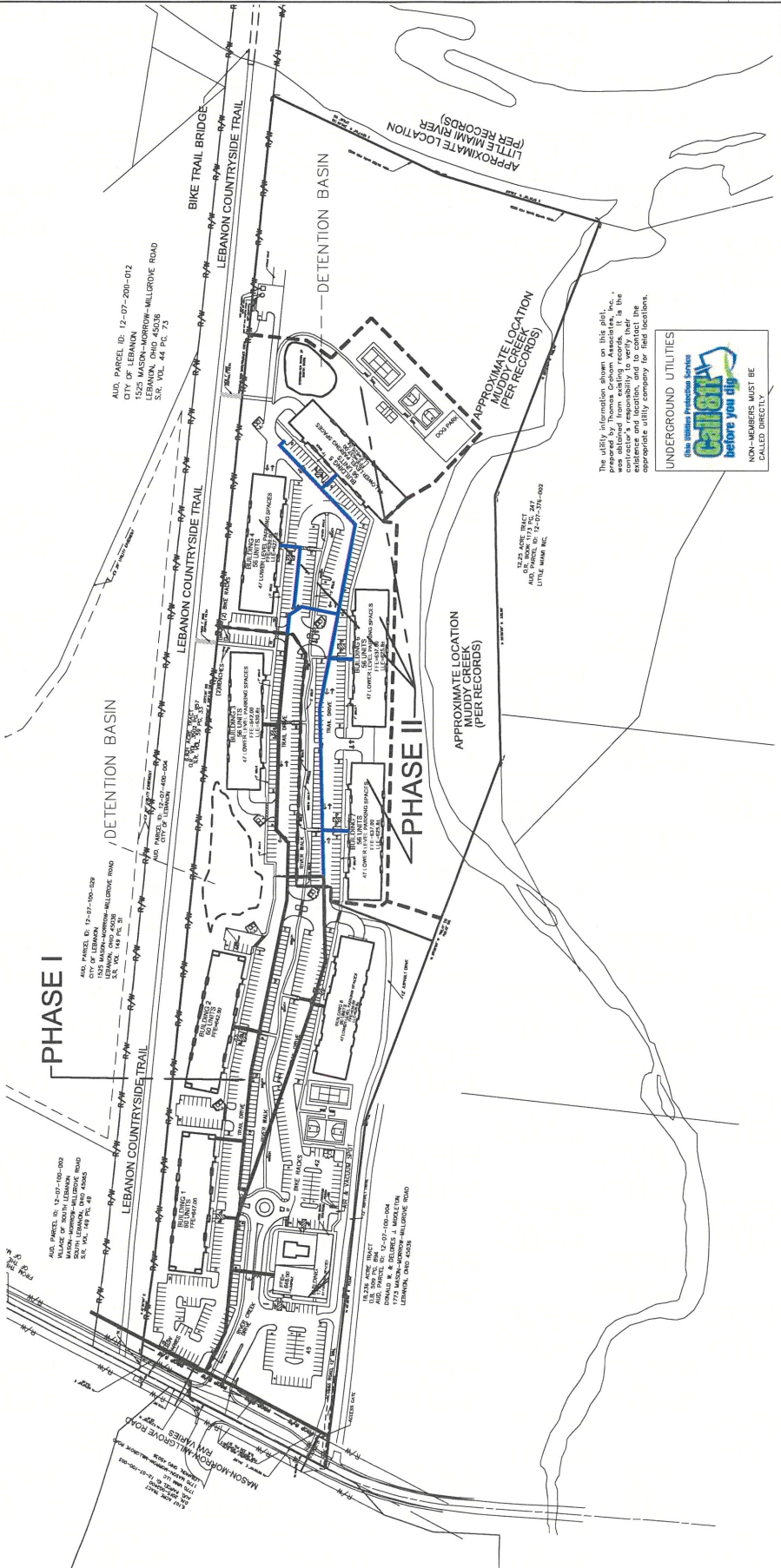
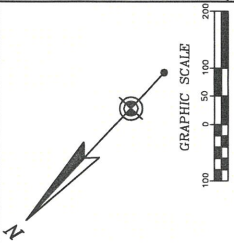
ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
 SOUTH LEBANON, OHIO 45065  
 EXHIBIT B3 (PHASE II)  
 RIVER CREEK LOFTS  
 WARREN COUNTY  
 STATE OF OHIO

Drawn By: JAKIFFENBERGER  
 Job No: 82071

# EXHIBIT F-2 (PHASE II) PUBLIC IMPROVEMENTS

PARCEL ID: 1207326004  
 ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD  
 SOUTH LEBANON, OHIO 45065  
 WARREN COUNTY  
 STATE OF OHIO

INDICATES NEW WATER SERVICE



The utility information shown on this plan... was obtained from existing records. It is the contractor's responsibility to verify their location and depth with the appropriate utility company for field locations.

**UNDERGROUND UTILITIES**  
 Call 811  
 before you dig  
 NON-MEMBERS MUST BE CALLED DIRECTLY



**EXHIBIT G**

**FORM OF COST CERTIFICATE**  
**(For Public Infrastructure Improvement Costs)**

To: City of South Lebanon, Ohio

Attention: City Administrator, City of South Lebanon

and

Finance Director, City of South Lebanon

Subject: Request for Reimbursement for Public Improvements pursuant to the terms of the Development Agreement dated as of \_\_\_\_\_, 2023 (the "Agreement") by and between the City of South Lebanon, Ohio and River Creek Lofts, LLC (the "Developer").

You are hereby requested to approve the amount of \$\_\_\_\_\_ as Costs for the Public Infrastructure Improvements. All capitalized terms used in this Cost Certificate have the meanings assigned to them in the Agreement unless the otherwise defined herein.

The undersigned authorized representative of the Developer does hereby certify on behalf of the Developer that:

- (i) I have read the Agreement and definitions relating thereto and have reviewed appropriate records and documents of the Developer relating to the matters covered by this Cost Certificate.
- (ii) The costs herein requested for approval as Costs of the Public Improvements are a proper charge as a Cost (as defined in the Agreement) paid by the Developer or its designee and have not been included in any previous Cost Certificate. The amount and nature of the portion of the Costs to be reimbursed, together with proof of payment are shown on a schedule attached hereto.
- (iii) The Developer is in material compliance with all provisions and requirements of the Agreement, including, but not limited to, all prevailing wage requirements (attached hereto are the required prevailing wage affidavits).
- (iv) The Costs included herein do not include any amount which is being retained under any holdbacks or retainages provided for in any applicable agreement.
- (v) The Developer or the appropriate parties on the Developer's behalf has or have asserted its entitlement to all available manufacturer's warranties to date upon acquisition of possession of or title to those Public Infrastructure Improvements or any part thereof, which warranties have vested in the City. Proof of all such warranties is attached hereto.

- (vi) There are no outstanding mechanic's or materialman's liens from any contractors, subcontractors and suppliers (which would not include sellers of machinery and equipment) who have provided services or materials for portion of the Public Improvements that are the subject of this Cost Certificate. Attached hereto are lien waivers from any materialmen, contractors and subcontractors with contracted amounts greater than \$25,000 who have provided services or materials to the Public Improvements that are the subject of this Cost Certificate.

EXECUTED this \_\_\_ day of \_\_\_\_\_, 202\_.

RIVER CREEK LOFTS, LLC

By: \_\_\_\_\_  
Name:  
Title:

APPROVED ON \_\_\_\_\_, 202\_.

\_\_\_\_\_  
City Administrator, City of South Lebanon

\_\_\_\_\_  
Finance Director, City of South Lebanon