

DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS NATIONAL ROAD BUSINESS PARK

This Declaration of Protective Covenants for the National Road Business Park is made June 16, 2021 by the Zanesville Muskingum County Port Authority (ZMCPA), an Ohio intergovernmental agency and owner of the National Road Business Park (Property).

Background Information

- A. ZMCPA, a quasi-governmental economic development agency created, operating and existing under and by virtue of Ohio Revised Code Chapter 4582 currently holds legal title to 203.41 acres of real property located in Perry Township, Muskingum County which is more fully described in Article 1.01 as the "Property."
- B. The ZMCPA established the National Road Business Park on June 30, 2018 which currently consists of the Property, but may in the future include additional tracts of real property.
- C. Accordingly, in order to cause the Property to be made subject to development standards, the ZMCPA desires to subject the Property to certain protective covenants and restrictions (hereinafter generally referred to as "Development Standards") for the mutual benefit of the present and future owners, lessees, sub-lessees, and other occupants of the Property.

Statement of Restrictive Covenants And Development Standards

ZMCPA hereby acknowledges the accuracy of the above Background Information and declares that the Property, or any parcel thereof, shall be held, conveyed, sold, leased, subleased, or otherwise transferred subject to the Development Standards as hereinafter set forth:

ARTICLE I – DEFINITIONS OF CERTAIN TERMS

Unless otherwise specified herein to the contrary, each of the following defined terms or phrases shall have the following meanings when used in this Declaration:

1.01 Definition of Terms

1. "Building" means any structure that is located on the Property, having a roof supported by columns or by walls and intended for the shelter or enclosure of persons, materials, or equipment.
2. "Building Site" means (a) any contiguous parcel of real property located within the Property, established by legal description in the deed; (b) any parcel of land within the Property designated in writing as a building site by the ZMCPA, executed, acknowledged and recorded by the ZMCPA; (c) two or more contiguous building sites under common ownership if the Owner elects, by written notice to the ZMCPA, to treat them as a single building site during the Owner's ownership; (d) all Property, with the exception of common areas, owned by the ZMCPA.
3. "Common Areas" means those areas of or for the benefit of the Property (including any portions subject to an easement or right of way) together with appurtenant Improvements, devoted to the common use and enjoyment of the Owners, including, but not limited to: originally platted lakes, retention ponds, legal drains, parks, sidewalks, median strips, park signage areas, traffic controls, park entrances, park traffic signals/signage and drainage areas. Building Site Owners are responsible for payment of all taxes owed on property they own even if that property could be defined as "common area."

4. "Conforming Sign" means a Sign which complies with the requirements of these Development Standards.
5. "Display Surface" means the area of a Sign intended for display or advertising.
6. "Double Faced Sign" means any Sign having two-way Display Surfaces.
7. "Frontage" means all of the property abutting one side of a public street between two intersecting public streets (crossing or terminating), measured at the right-of-way line, or, if the public street is dead-ended, then all of the property abutting on one side between an intersecting public street and the dead end of such public street.
8. "Improvement" means structures and man-made changes to the natural condition of the land, whether above or below the surface of the land, including and without limitations, Buildings, out-buildings, driveways, sidewalks, walls, fencing, screening, parking areas, service areas, loading areas, Utilities, graphics, landscaping, exterior lighting, and all other structures and man-made changes to the natural condition of the land of every kind and type.
9. "Incidental Sign" means a Sign having an above-grade height of not more than twenty-four (24) inches or a total area of not more than eight (8) square feet containing no advertising and typically erected to identify entrances, exits, restrooms, hours of operation, operational instructions, public utility rooms, etc.
10. "Nonconforming Sign" means a Sign which is not properly erected under the provisions of or in compliance with these Development Standards.
11. "Off-Premises Sign" means a Sign located on property other than the property where the goods or services are sold or offered for sale.
12. "Owner(s)" means the fee owner or owners, as the context may require, of all or any part of the Property, including a Building Site.
13. "Produce Sign" means a Sign typically located in a window, advertising a product or service offered by a business, examples being foods offered by grocery or convenience stores.
14. "Projection Sign" means a sign, other than a Wall-Mounted Sign, suspended from or supported by a Building or structure or sign structure and projecting out from a Building.
15. "Property" means the 203.41 acre tract of real property located in Muskingum County, Ohio, more fully described on the legal description attached as Exhibit A and any property added pursuant to §7.01.
16. "Real Estate Sign" means any Sign advertising the sale, lease, rental or development of real property.
17. "Roof Sign" means any Sign located upon, against or directly above a parapet of a Building, including a Sign affixed to any structure erected upon a roof.
18. "Sign" means any device, structure, material or combination thereof intended to advertise or draw attention to a Building Site or Building, structure, product, or service sold or offered on or off such a Building Site.
19. "Single Faced Sign" means a Sign having one Display Surface.
20. "Site Plan" means the proposed plan for the development of the National Road Business Park, Exhibit B.
21. "Utilities" means all service lines, mains, cables, transmission pipe or conduit or other structures utilized to deliver utility services, including but not limited to water, sanitary sewer,

storm drainage, electric, steam, natural gas or other fuels, telephone, telecommunications or television signals.

22. "Wall-Mounted Sign" means any Sign attached to or erected against the inside or outside wall of a Building or wall-type structure or which is an integral part of such Building or structure and has the exposed Display Surface of the Sign in a plan parallel to the plane of the Building or structure.

ARTICLE II - PURPOSE AND GENERAL CHARACTER

2.01 Establishment of Covenants

ZMCPA does hereby declare that the Property shall be held, sold, transferred, conveyed and occupied subject to the Covenants contained herein, which shall be binding upon the Owners, jointly and severally, and their successors and assigns, and shall run with the title to every Building Site and every portion of the Property for the Term set forth in **Article VIII**. No portion of the Property may be developed or operated, nor any construction of improvements commenced, by any Owner except in accordance with the provisions of this Declaration. Any violation of the provisions hereof shall subject the Owner to the causes of action and remedies provided **Article VII**.

2.02 Purpose

The purpose of these Development Standards is to ensure the proper use and appropriate development of Building Sites on the Property and to protect property values. It is the intent of these Development Standards to: (a) insure a business park with quality improvements; (b) protect Building sites against improper and undesirable use of surrounding portions of the Property; (c) prevent construction or erection of improvements built with Improper or unsuitable materials or design; (d) prevent haphazard and inharmonious development of the Property; (e) provide for the appropriate location and character of Improvements on the Building Site, including without limitation setbacks, parking areas, landscaping, graphics, and exterior lighting; and (f) establish a consistent design and character of development along US 40/East Pike and Hicks Road, and any other major arterial which may be established within the Property.

2.03 Acceptance of Covenants

The Covenants and Design guidelines, having been in place at purchase, are recognized by the Owners and as such the Owners, by the acceptance of title to any Building Site or part thereof, accept these Covenants and Design Guidelines. This Article shall be utilized by the Port Authority Board of Directors in interpreting and applying the remaining provisions of these Development Standards, including without limitation the approval of plans and specifications and the proposed use of a Building Site and the granting of variances from the general design standards.

2.04 Owner Responsibility

Each Owner, notwithstanding any third party occupancy or possession of a Building Site, shall be responsible for the enforcement of and compliance with these Covenants and the Design Guidelines.

ARTICLE III – PORT AUTHORITY BOARD OF DIRECTORS

3.01 Establishment of Port Authority Board of Directors:

The five (5) member Port Authority Board of Directors (Port Board) consists of two members appointed by the Muskingum County Commissioners, two members appointed by the City of Zanesville, and one member who is a joint appointee of the Commissioners and the City. Members of the Board of Directors serve four year terms.

3.02 Authority of the Port Board:

No Improvement shall be erected, constructed, placed, maintained, permitted, altered or removed on any Building Site until its proposed use has been approved by the Port Board and until plans and specifications, in such form as provided in §3.03 shall have been submitted to and approved in writing by the Port Board. In addition, no trees may be removed from any Building Site without the prior written approval of the Port Authority Board of Directors. The Port Board has sole interpretation authority of the Design Guidelines.

3.03 Port Board Approval

The Port Authority Board of Director's approval or disapproval shall be based, among other things, upon:

- a) The adequacy of the Building Site dimensions;
- b) The intended operations and uses;
- c) The conformity and harmony of exterior design and material with neighboring improvements;
- d) The effect of locations and use of proposed improvements on neighboring Building Sites;
- e) The relation of the proposed improvements with the topography;
- f) The grade and finished ground elevation of the Building site with neighboring Building Sites;
- g) Proper facing of main elevation with respect to adjacent and nearby streets; and,
- h) The conformity of the plans and specifications with the provisions of these Development Standards, including without limitation the general design standards set forth in **Article V**.
- i) Approval by Port Board of plans and specifications shall not constitute a recommendation, certification or other verification of the worthiness, suitability or integrity of the plans and specifications.

3.04 Approval/Disapproval Procedures

The Port Board may employ professional consultants to assist in performing its duties under this section and may designate authorized agents and representatives to perform certain duties, including without limitation any necessary inspection of a Building Site. Any person submitting plans and specifications which are disapproved may appeal the decision of the ZMCPA Board of Directors by delivering written notice, stating in substance that it desires to appeal such decision. Such notice must be delivered to the Port Board within ten (10) days after such party's receipt of the Port Board's approval or disapproval of such plans and specifications.

If plans and specifications submitted for approval are incomplete or otherwise inadequate, then the Port Board may reject such plans and specifications as being inadequate or it may approve a portion of such plans and specifications, conditionally or unconditionally, and reject the remainder. All costs and expenses incurred by or on behalf of the Port Board, including without limitation compensation for Port Board members and the payment for services of professional consultants, shall be the obligation of and shall be paid by ZMCPA and must first be authorized by the ZMCPA Board of Directors.

3.03 Content of Plans and Specifications: The Port Authority Board of Directors, and its authorized agents and representatives, shall at reasonable times make themselves available to the responsible persons or entities which have an interest in Developing a Building Site. The purpose of any such initial meeting may include a review of these Development Standards, any sketches and other documents such prospective developer may have prepared relating to the development of a Building Site, and such prospective developer's proposed use of a Building Site.

The Port Board, or its authorized agents and representatives, shall at reasonable times make themselves available to the person or entity which submitted the plans and specifications. The purpose of any such meeting shall be the review such plans and specifications in order to

discuss or suggest any necessary changes or modifications which may need to be made to such plans and specifications.

Plans and specifications to be submitted for approval shall include the following:

- a) Building Site plan, which shall include Building location, dimension, elevation, setbacks and the location of parking areas and driveways, loading and service areas, and future expansion areas;
- b) Building Site grading plan;
- c) Building Site Utilities plan;
- d) Building floor plans and exterior elevations indicating colors and materials;
- e) Landscaping and screening plan, which shall include as to the screening plan types of materials and installations sizes;
- f) Exterior lighting plan;
- g) Exterior graphics plan.
- h) Any other items at the discretion of the Port Board.

At least thirty (30) days prior to the commencement of the construction of any Improvement pursuant to plans and specifications approved by the Port Board, the responsible person or entity which submitted such approved plans and specifications shall deliver to the Port Board a written certification (in form and substance reasonably satisfactory to the Port Board) stating in substance that such construction shall be in conformance with such approved plans and specifications.

3.04 Failure of Port Authority Board of Directors to Act

If the Port Authority Board of Directors (Port Board) fails to make any kind of response either approving or disapproving such plans and specifications (including resubmission of disapproved plans and specifications which have been revised) within sixty (60) days after the same have been last submitted to it, it shall be conclusively presumed that said plans and specifications have been approved. The Port Board shall make every reasonable effort to respond in a shorter period of time when so requested.

If the Port Board requests additional information as provided in §3.03, then the Port Board shall have sixty (60) days from the receipt of the additional information to approve or disapprove the plans and specifications. It will be provided that such plans and specifications shall be conclusively presumed to have been approved if the Port Board fails to reject in writing such plans and specifications within such sixty (60) day period.

3.05 Public Approvals:

In addition to the approval of the Port Authority Board of Directors as provided in this Article, plans and specifications for the erection, construction, placement, alteration, removal, or maintenance of an Improvement on a Building Site may also be subject to and In Compliance with all zoning, building, and other applicable regulations, now existing or hereafter established, including any required permits of Perry Township, Muskingum County, the State of Ohio, or any other political subdivision which may hereafter acquire jurisdiction over such Building Site. Plans and specifications shall also be subject to and must be in compliance with all applicable regulations, rules, orders, and other requirements now existing or hereafter established by the FAA, including without limitation the following requirements: Building height, exterior lighting to ensure safe flight operations at the Airfield; and any applicable electrical, electronic, radio wave, or other similar emissions which may Interfere with aircraft navigational operation or radio communication at the Zanesville Municipal Airport.

IN ANY SITUATION IN WHICH THESE DEVELOPMENT STANDARDS ARE AT VARIANCE WITH ANY ZONING, BUILDING, OR OTHER APPLICABLE REGULATIONS OR WITH THE APPLICABLE REGULATIONS OF THE FAA, THE MOST RESTRICTIVE OF ANY SUCH PROVISIONS SHALL BE CONTROLLING.

3.06 Port Board Non-Liability:

Neither the Port Authority Board of Directors nor ZMCPA employees nor their respective successors or assigns shall be liable for damages to anyone submitting plans or other data to them for approval, nor to any affected Owner by reason of mistake in judgment, negligence or nonfeasance by the Port Board or any of its members, arising out of or in connection with the approval or disapproval or failure to approve any plans, specifications, application or request. Each Owner, by its acceptance of title to a Building Site, releases the Port Authority Board from any liability to it, its successors and assigns, growing out of any loss or damage sustained as the result of the performance or nonperformance of Port Board's duties hereunder, and agrees to indemnify Port Board and its members, both jointly and severally, without limit as to time or amount, against any such liability, regardless of by whom asserted, including all costs of defense and attorney's fees.

ARTICLE IV - PERMITTED AND PROHIBITED USES

4.01 Permitted Uses:

Any Building Site may be used for office, warehouse, industrial, transportation, or supportive commercial or institutional purposes; provided that such use has been approved by the Port Authority Board of Directors (Port Board) in advance and in writing. Further, such use shall be in compliance with all laws, regulations, orders, and requirements of all federal, state, and local governments, courts, or other authorities, which now or at any time hereafter may apply, including but not limited to applicable zoning regulations.

Any permitted use under this section shall be primarily performed or carried out within a Building that is designed and constructed such that the permitted use does not cause or produce any of the following, discernable at any property line or affecting any adjacent Building Site or street, as determined in the Port Board's sole discretion:

- a) Hazardous Activities;
- b) Excessive or unusual noise, vibration, or shock;
- c) Excessive smoke, dust, dirt fly ash, or other form of air pollutant;
- d) Noxious, toxic, or corrosive odors, fumes, or gases;
- e) Excessive or unusual heat, glare, or illumination;
- f) Electrical, electronic or radio communication interference;
- g) Liquid or solid refuse or waste; or,
- h) Any other dangerous, injurious, noxious, or otherwise objectionable condition.

4.02 Prohibited Uses: The following uses shall not be permitted on any Building Site;

- a) Residential;
- b) Mobile home parks or trailer courts, either temporary or permanent;
- c) Junkyard;
- d) Vehicle or equipment disassembly, provided that vehicle service and maintenance performed primarily in an enclosed building shall not be prohibited;
- e) Mining or drilling for and/or removal of coal, oil, gas, or other minerals;
- f) Commercial excavation of building or construction materials or quarrying of any material;
- g) Distillation of bones;
- h) Composting;
- i) Dumping, disposal, incineration, or reduction of garbage, sewage, offal, dead animals, or other refuse;
- j) Fat rendering;
- k) Stockyard or slaughter of animals;
- l) Refining of petroleum or any petroleum products;
- m) Smelting of iron, tin zinc, or other ores;
- n) Hog raising, cattle fattening, chicken farming, or similar uses;
- o) Auctions to the general public;

- p) Adults only entertainment establishments;
- q) Manufacturing or storage of ammunition or ordinance;
- r) Food trucks.

4.03 Other Uses

Any proposed use of a Building Site which is not specifically prohibited under §4.02 and which is not permitted under §4.01 may be permitted in a specific case if a description of the intended operation and use is submitted to and approved in writing by the Port Board.

Approval or disapproval of such description of intended operation and use shall be based upon the effect of such proposed use on surrounding Building Sites. If the Port Board fails to either approve or disapprove such description of the intended operation and use within sixty (60) days after being submitted, then it shall be conclusively presumed that such plans and specifications have been disapproved.

ARTICLE V – GENERAL DESIGN STANDARDS

5.01 General: No Improvement shall be erected, constructed, placed, maintained, permitted, altered, removed or shall exist on any Building Site until its proposed use has been approved by the Port Board as provided in **Article IV** and plans and specifications have been submitted to and approved by the Port Board as provided In **Article III**. All necessary public approvals shall also be obtained as provided in §3.05, including without limitation applicable zoning, building, FM regulations, and other requirements now existing or hereafter established.

5.02 Variance from the General Design Standards: Any variance from the general design standards of this Article granted pursuant to §3.02 must be approved in writing by the Port Board and conform to any applicable zoning, building, and other requirements now existing or hereafter established.

5.03 Building Site as Single Unit: Once a Building Site has been purchased, leased, or otherwise acquired, such Building Site shall be considered a single unit and, thereafter, such Building Site shall only be conveyed, sold, leased, or otherwise transferred as a single unit; provided that any Building on such Building Site may be leased to more than one tenant. Such Building Site shall not be subdivided and no portion of such Building Site shall be conveyed, sold, leased, or otherwise transferred unless prior written approval is granted by the Port Board.

5.04 Setback Requirements: No Improvement shall be erected or placed within the minimum setback areas as required by rights of way and by easements, current building codes, unless otherwise provided in these Development Standards. Notwithstanding anything in this section the minimum required setback areas set forth in this section shall not be applicable to any driveways necessary to provide ingress and egress, steps, walks, and landscaping.

5.05 Off-Street Parking Areas: Each Building Site shall provide for adequate off-street parking for employee, visitor, and business vehicular traffic sufficient to serve the business to be conducted on the Building Site and with driveways sufficient to provide ingress and egress to such parking areas. Parking shall not be permitted on any public street, private driveway, or any place other than a designated parking area. All parking areas shall be covered with an asphalt or concrete and have proper drainage.

5.06 Loading Areas: Each Building Site shall provide for adequate loading facilities sufficient to serve the business to be conducted on the Building Site. Such loading facilities shall provide an area sufficient to accommodate loading movement, including turnarounds, entirely off of public streets. No loading activities on public streets shall be permitted. Loading facilities shall be located and screened so as to minimize visibility from public streets.

5.07 Driveways: Ingress and Egress driveways on a Building Site shall be covered with an asphalt or concrete surface and have proper drainage.

5.08 Curbs and Curb Cuts: All curbing of driveways, loading areas, and parking areas shall include appropriate curb and gutter combinations. The location of all curb cuts shall be approved by the Port Board and applicable Governmental Entities and coordinated with other Building Sites as applicable.

5.09 Storage, Service and Refuse Areas: No materials, supplies, or equipment (excluding trucks and trailers owned or operated by or permitted to be operated by the owner, lessee, sub lessee, or other occupant of a Building Site), service or maintenance activities, or refuse including dumpsters shall be permitted on a Building Site unless conducted and located inside a Building or behind a visual barrier screening such areas from both neighboring Building Sites and public streets. Such screening shall consist of walls, fencing, landscaping, and/or other suitable material.

In addition, to the extent reasonably practical in connection with the design and orientation of the Building or Buildings to be located on a Building Site, such areas shall be located on a side or to the rear of the Building or Buildings on such Building Site which does not face a public street. Notwithstanding anything in this section to the contrary, all vehicle service and maintenance must be performed within an enclosed Building located on such Building Site.

5.10 Landscaping: Each Building Site shall be landscaped in accordance with these design standards and a plan shall be submitted to and approved in writing by the Port Authority Board of Directors. Such landscaping plan shall include information regarding the type of sodding, seeding, trees, hedges, shrubs, and any additional information regarding other customary landscape treatment, including earth mounding, walls, fencing, and screening. The landscaping, as provided for in the landscaping plan approved by the Port Board, shall be installed within ninety (90) days after substantial completion of the Building to be constructed on the Building Site. All land area on a Building Site that is planned for future Building expansion or other purpose shall be sodded, seeded, or covered as approved by the Port Board, maintained as set forth in §6.01, and kept free of rubbish and debris.

The perimeter of each Building site which faces a public street shall be landscaped in accordance with the following requirements:

- a) All shrubs and trees shall be located and placed in such a manner as not to limit or restrict the visibility of any street signs or signals, sight distance for vehicular ingress and egress to a Building Site, and sight distance for vehicular circulation; and
- b) All entries onto a Building Site and all entries to parking areas on a Building Site shall be landscaped using a combination of ornamental trees and evergreen shrubs.

5.11 Exterior Graphics: All Signs on a Building Site shall be designed, erected, altered, reconstructed, illuminated, located, moved, and maintained in accordance with all other applicable zoning codes, ordinances, and regulations, and the following general provisions:

Height: No part of any free standing Sign shall exceed an above grade height of six feet.

Movement: No Sign shall incorporate movement or the illusion of movement. Flashing signs shall not be permitted.

Illumination: Internally illuminated Signs shall be constructed so as to allow the illumination of letters, numbers, or other identifying symbols on the Display Surface. Only minimal light shall pass through the background. Internal illuminated Signs shall not exceed 800 mille-ampere fluorescent tubes mounted not closer than twelve inches on center. External illumination shall be installed so that the light source is not visible and reflects away from adjoining Building Sites. No external light source shall be located or arranged so as to cause confusion or a hazard to traffic or conflict with traffic control signals. No light shall pass through the background of signs using external illumination.

Changeable Copy: Changeable copy shall be prohibited.

Construction: Total Display Surface area for Signs used to advertise the erection of a Building including information identifying the Building contractor, engineer, etc., shall not exceed thirty-two square feet and shall be permitted for a period of not more than thirty (30) days plus the construction period or a maximum of one year, whichever is more. Such Signs may be erected after a prospective Building Site owner enters into an agreement to purchase a Building Site. There shall be only one (1) such Sign per Project. Such Signs shall not be closer than fifteen (15) feet to any public right-of-way.

For Sale or Lease: Signs not exceeding thirty-two (32) square feet in total Display Surface area advertising the sale or lease of a Building Site may be located only on the Building Site for sale or lease, and not more than one such Sign shall be permitted on a Building Site. Signs advertising the sale or lease of a Building Site shall not remain longer than three (3) days following the closing on such Building Site.

Incidental Signs: Incidental Signs (ie: hours of operation, entrance direction, parking locations, etc.) shall not exceed twenty (20) square feet in total area for all such Signs. Placement of public utility location signs shall be held to a minimum.

Pennants, Streamers, Banners, and Temporary Signs: These shall be permitted for periods not to exceed thirty (30) days.

Roof Signs: Roof Signs shall not be permitted.

Traffic Visibility: No Sign shall be erected in any manner which would interfere with vehicular or pedestrian safety.

Street Numbers: All Building Sites shall display street numbers in a clear and consistent manner.

Exemptions: Public notice by governmental bodies and traffic control Signs are exempt from the provisions of this section.

Abandoned Signage: If any Sign becomes abandoned then such Sign shall be removed.

Materials: All Sign materials must be similar or complimentary with the Building and must be approved by the Port Board.

The Port Authority Board of Directors, and its authorized agents or representatives, or the public entity to which any portion of the Property has been or shall be dedicated for use as a public street, shall have the right to install or cause to be installed traffic and directional signage and street furniture in the portion of any real property which has been or shall be dedicated for use as a public street.

5.12 Height of Buildings: No Building or any other Improvement shall be permitted on a Building Site which exceeds the height requirements set forth in *14 C.F.R. Part 77 - Safe, Efficient Use, and Preservation of the Navigable Airspace*, as amended, and any similar regulations which may hereafter become applicable to the Property.

5.13 Utility Connections: All Utility services on or adjacent to the Building Site, including without limitation any telephone or electrical lines or connections, shall be located underground.

5.14 Exterior Lighting: Exterior lighting on a Building Site shall be limited to lighting of Signs as permitted in §5.11, security and safety illumination of adjacent public streets, parking areas, loading areas, service areas, access private drives, walkways, Building entrances, and exterior lighting of overall Building surfaces. Such lighting shall not produce any excessive glare or reflection onto any portion of any adjacent public street or Building Site, or into the path of any oncoming or passing vehicles. Any exterior lighting adjacent to residential properties shall be directed away from residential properties. No flashing, animated, or intermittent lighting shall be visible from the exterior of any Building. All lighting on the Building Site must be approved in writing by the Port Board.

5.15 Architectural Requirements: It is the Port Authority Board of Director's intention to permit a relatively wide variety of architectural designs and use of materials for the construction of Buildings on a Building Site; provided that such variety shall not be permitted or approved to the extent that the Building would detract from the overall attractiveness and use of surrounding Building Sites or portions of the Property. It is the purpose of the requirements set forth in this section to provide general, but not limiting, consistency between Building types to blend and provide a harmonious character throughout the different Building Sites established within the Property.

Types of materials and colors should be coordinated to blend with other Improvements on surrounding Building Sites and portions of the Property. Buildings should be designed to be seen from all angles. Thus, the back sides of Buildings and the sides of Buildings which face public streets shall be of a similar design and use similar materials as the front of such Building. The building design on a Building Site shall be approved in writing by the Port Board

5.16 Storm Water Detention: All Building Sites shall provide the necessary means to assure complete drainage in and immediately adjacent to the Building Site and provide adequate storm water control facilities.

ARTICLE VI - MAINTENANCE

6.01 The owner or lessee of a Building Site shall, jointly and severally, have the duty and responsibility, at their sole cost and expense, to keep and maintain, or cause any other occupant of a Building Site to keep and maintain, such Building Site, together with all Improvements thereon, in a well-maintained, safe, clean, and attractive condition at all times. Such maintenance shall include without limitation the following:

- a) Prompt removal of all litter, trash, refuse, and other wastes;
- b) Mowing of grass areas no less often than when such grass reaches a height of five inches;
- c) Pruning of trees and shrubbery and periodic removal of weeds from other landscaped areas;
- d) Maintaining exterior lighting, Signs, service areas, loading areas, and other outside facilities in a good and clean condition and in working order
- e) Maintaining all parking areas, private drives, and other concrete or asphalt areas in reasonably good condition and repair, including without limitation, striping of parking areas, sealing of all asphalt surfaces, repair of any damaged concrete or asphalt, and overall resurfacing when necessary;
- f) Maintaining all exterior surfaces of any Buildings in good condition and repair, including without limitation painting of all exterior painted surfaces at least every five years, unless otherwise permitted in writing by the Port Authority Board of Directors;
- g) Repairing exterior damage to any improvement;
- h) Maintenance of all detention areas and ditches, including weed and algae control, and mowing of detention area if dry; and,
- i) Replacement of all dead or damaged landscape material.

An owner's or lessee's failure to perform, or cause any other occupant of a Building Site to perform its maintenance responsibilities as provided in this section shall be deemed a material breach of these Development Standards and upon any such material breach, the Port Authority Board of Directors may take such actions as it deems necessary or appropriate as provided in **§7.01**.

ARTICLE VII - ENFORCEMENT

7.01 Violation or Breach: Failure by an owner or lessee of a Building site to observe any condition, covenant, or restriction under these Development Standards will be notified in writing by the Port Authority Board of Directors. Failure by owner or lessee to correct or commence such failure within thirty (30) days after the Port Board gives owner or lessee notice to do so or, shall be a material breach of these Development Standards.

Immediately upon the occurrence of a material breach as described in the preceding paragraph, or at any time thereafter, unless such material breach has theretofore been cured with the written consent of the Port Board or expressly waived by it in writing, the Port Board, and its authorized agent or representative may at the Port Board's exclusive option:

- a) In the event of a material breach resulting from a failure to perform the maintenance responsibilities set forth in Article VI, Subsections (a) and (b), enter upon the Building Site and perform such maintenance without any liability to the owner, lessee, sub lessee, or any other occupant of the Building Site. The expense of such maintenance work shall be the joint and several obligation of the owner, lessee, sub lessee, and any other occupant of such Building Site. If the Port Board is not reimbursed for such expense within thirty (30) days after delivery of a statement for such maintenance of work to the occupant, then in possession of the Building Site and to the owner or lessee of such Building Site, then such expense, together with interest thereon at the prime rate plus four percentage (4%) points from the delivery of such statement, shall become a lien on such Building Site. To evidence such lien, a notice signed by an authorized agent or representative of the Port Board setting forth the amount of such unpaid expenses and the owner or lessee of record of the Building Site may be filed in the Recorder's Office, Muskingum County, Ohio. The lien for such unpaid expenses shall attach from the date of the recording of such notice.
- b) In the event of any material breach of the Development Standards, including a material breach described in subsection (a) above, bring an action, suit, or proceeding, at law or in equity, against such owner or lessee and any other occupant of such Building Site which may be responsible for such material breach. In any such action, suit or proceeding, the Port Board shall be entitled to: (i) recover any losses, damages, injuries, costs and expenses that may have occurred or arisen, directly or indirectly, from or out of such material breach; (ii) seek specific performance of such owner's or lessee's failure to perform or observe, or cause the performance or observance of, such required condition, covenant, or restriction of these Development Standards; and (iii) recover an costs or expenses incurred or paid by the Port Board, and its authorized agents and representatives, in connection with the foregoing, including without limitation reasonable attorneys' fees and other costs and expenses in prosecuting any of the foregoing, whether litigated or unlitigated.

In addition to all of the foregoing, every material breach of these Development Standards shall be deemed to constitute a nuisance and every remedy, whether public or private, available as a result of such nuisance shall be available to the Port Board.

7.02 Access to Cure Breach and for Inspection: For purposes of curing a material breach of these Development Standards as described in §7.01(a), the Port Board, and its authorized agents and representatives, shall have the right, after reasonable notice to the occupant in possession of a Building site and the owner or lessee of such Building Site, to enter upon such Building Site during reasonable hours. In addition, the Port Board, and its authorized agents and representatives, shall have the right, after reasonable notice to the occupant in possession of any Building Site and the owner or lessee of such Building Site, to enter on and inspect such Building Site for any purpose associated with these Development Standards during reasonable hours; provided that the owner, lessee, sub lessee, or other occupant of such Building site may reasonably restrict access to any Building or other improvements on such building site in order to protect confidential information or tradesecrets.

7.03 Indemnification: The owner and lessee of a Building Site shall, jointly and severally, indemnify and hold the Port Authority Board of Directors, and its authorized agents and representatives, harmless from all liabilities, losses, damages, injuries, costs, and expenses, including attorneys' fees, caused by or in any way related to the Port Board, or its authorized agents and representatives, actions or failure to act pursuant to the provisions of §7.01; provided that the Port Board, and its authorized agents and representatives shall not be indemnified for any such actions or failure to act involving bad faith and intentional misconduct or a knowing violation of the law.

7.04 Enforcement by an Owner or Lessee of a Building Site: It is the intent of this Article VII, and each owner and lessee of a Building site hereby acknowledges by virtue of acquiring such right, title, and interest in a Building Site, that the Port Board shall act as the authorized

agent and representative of all Building Site owners for purposes of enforcing these Development Standards, as provided in §7.01, upon the occurrence of a material breach. Accordingly, an owner or lessee of a Building Site shall give the Port Board notice of any failure by another owner or lessee of a building Site to perform or observe, or to cause any other occupant of such Building Site to perform or observe, any condition, covenant, or restriction required to be performed by such owner or lessee under these Development Standards. If the Port Board, or its authorized agent or representative, fails to take any action within 60 days of receipt of such notice, then the owner or lessee which gave the Port Board such notice may, at its sole cost and expense, bring an action, suit, or proceeding which it deems appropriate to cure such material breach. Any action taken by the Port Board, or its authorized agent or representative, in connection with such notice shall be deemed final, conclusive, and binding upon the owner or lessee giving such notice.

ARTICLE VIII – MISCELLANEOUS

8.01 Term: These Development Standards shall continue in full force and effect for a period of 40 years from the date that they are properly recorded in the Official Records of Muskingum County, Ohio. Thereafter, these Development Standards shall be deemed automatically renewed for successive 10-year periods unless and until terminated as provided in §8.02.

8.02 Termination and Modification: These Development Standards may be terminated, modified, or amended, as to all or any portion of the Property, with the written consent of the ZMCPA, including any additional real property added to the Property pursuant to §7.01, based upon the amount of acreage owned by such owners as compared to the total acreage of all of the real property constituting the Property. No such termination, modification, or amendment shall be effective until properly recorded in the Official records of Muskingum County, Ohio. No such termination, modification, or amendment shall affect any use of a building site previously approved by the Port Board, any plans and specifications previously approved by the Port Board pursuant to Article III, or the construction of any Improvements pursuant to such approved use and plans and specifications.

8.03 Assignment: Any or all of ZMCPA rights, powers, duties, or obligations under these Development Standards may be assigned to any person or entity, public or private. Any such assignment shall be to a person or entity which is reasonably capable of carrying out ZMCPA's rights, powers, duties, and obligations under these Development Standards and which is generally regarded in Ohio as responsible and law abiding. Any such assignment shall be in writing and shall be accepted in writing by the assignee. Any such assignment shall be effective upon its proper recording in the Official Records of Muskingum County, Ohio. If at any time ZMCPA ceases to exist and has not made an assignment as described above prior to the cessation of its existence, then a successor to ZMCPA may be appointed in the same manner as these Development Standards may be terminated, modified, or amended pursuant to §8.02.

8.04 Reciprocity; Covenant Running with Land: These Development Standards; (a) are for the mutual benefit of all Building Sites and other real property constituting the Property in favor of every other Building Site and other real property constituting the Property; (b) shall create reciprocal rights and obligations between all Building Site owners and owners of other real property constituting the Property; and (c) shall, as to each owner of a Building Site or owner of other real property constituting the Property, operate as covenants running with the land for the benefit of all other Building Sites and other real property constituting the Property.

8.05 Constructive Notice and Acceptance: Every person or entity which may hereafter become an owner or otherwise acquire any right, title, or interest in or to a Building Site, or any portion of a Building Site, or any other real property constituting the Property is and shall be conclusively deemed to have consented and agreed to and accepted every condition, covenant, restriction, reservation, and easement set forth in these Development Standards, whether or not any reference to these development Standards is set forth in the deed or other instrument by which such person or entity acquired such ownership or other right, title, or interest.

8.06 General Release of Liability of Members of the Port Authority Board of Directors: The Port Authority Board of Directors (Port Board) shall not be liable to any person or entity which has submitted plans and specifications or description of intended operation and use, or to any

owner, lessee, sub lessee, or any other occupant of a Building site, as the result of or arising out of any mistake in judgment, negligence, or failure to act in connection with these Development Standards, including without limitation any approval or disapproval of any plans and specifications or description of intended operation and use. Every person or entity that submits plans and specifications or description of intended operation and use to the Port Board for approval agrees, by the submission of such plans and specifications or description of intended operation and use and every owner, lessee, sub lessee, or any other occupant of a Building Site agrees, by acquiring such right, title, or interest, that they will not bring any action or suit against any member of the Port Board for damages or otherwise resulting from a mistake in judgment, negligence, or failure to act on the part of an Port Board member in connection with these Development Standards, including without limitation the approval, disapproval, or rejection of such plans and specifications or description of intended operation and use.

Notwithstanding anything in this section to the contrary, an action may be brought against an Port Board member and such member may be held liable for acts or omissions in the performance of such member's duties and responsibilities under these Development Standards not taken in good faith, that involves intentional misconduct or a knowing violation of law, or that involves any transaction from which such member derived an improper personal benefit.

8.07 Rights of Mortgagees: Any lien on a Building Site established pursuant to §8.01 shall be subject to and subordinate to any mortgage, or similar security interest, granted in any Building Site and recorded prior to notice of such lien being filed with the Recorder's Office, Muskingum County, Ohio, or the date of a certificate of judgment for such lien against a defaulting Building Site owner or lessee, whichever is the first to occur. These Development Standards shall not reduce the security of or affect the validity of any such mortgage. Notwithstanding anything in this section to the contrary, if a building Site is sold pursuant to a foreclosure proceeding under any such mortgage, or similar security interest, then the purchaser of such Building Site shall acquire such Building Site subject to all of the conditions, covenants, restrictions, reservations, and easements set forth in these Development Standards.

8.08 Notices: Any notice or other communication required or desired to be given to any party under these Development Standards shall be in writing and shall be deemed given when: (a) deposited in the United States mail, certified, postage prepaid, addressed to that party at the address specified for that party in this section below; or (b) delivered to the address stated for that party in this section below by any express mail or other over-night delivery service. The address for the Port Authority Board of Directors shall be as set forth below, or at any other address hereafter designated by the Port Board in notice theretofore given to all other necessary parties:

Zanesville Muskingum County Port Authority
Attn: Board of Directors
205 N. 5th Street
Zanesville, OH, 43701

The address for any owner, lessee, sub lessee, or any other occupant of a building Site shall be the address specified in the real estate purchase agreement, lease, sublease, or other agreement for such Building Site until the Building and other Improvements are constructed on such Building site; thereafter the address shall be the address of the Building on such Building Site.

8.09 Nonwaiver: The failure or delay of any party to enforce any provision or exercise any right under these Development Standards shall not be construed as a waiver of such provision or right and shall not affect the validity of any provision of these Development Standards, or the right of such party thereafter to enforce such provision or to exercise such right. No waiver of any violation of these Development Standards shall be held to be a waiver of any other violation of these Development Standards.

8.10 Captions: The captions of the various sections of these Development Standards are not part of their context, but are only labels to assist in locating those sections and shall be ignored in construing these Development Standards.

8.11 Exhibits: Each exhibit referred to in these Development Standards hereby is incorporated herein by reference.

8.12 Governing Law: All questions concerning the validity or meaning of these Development Standards or relating to the rights, obligations, and duties of the parties with respect to performance under these Development Standards shall be construed and resolved under the laws of Ohio.

8.13 Severability: It is the intention of the ZMCPA that these Development Standards comply fully with all applicable laws and these Development Standards shall be construed consistently with all such laws to the extent possible. If and to the extent that any court of competent jurisdiction is unable to so construe part or all of any provision of these Development Standards, and holds part or all of that provision to be invalid, then such invalidity shall not affect the remainder of that provision or the remaining provisions of these Development Standards, which shall remain in full force and effect.

8.14 Genders and Numbers: When the context of these Development Standards permits, each pronoun used includes pronouns of the same person in other genders or numbers and each noun used includes the same noun indifferent numbers.

Prepared and Acknowledged By:

Approved By:

Zanesville Muskingum County Board of
Directors Resolution 2021-15

Matt Abbott
Executive Director
Zanesville Muskingum County Port Authority.

STATE OF OHIO
COUNTY OF MUSKINGUM, SS:

The foregoing instrument was acknowledged before me this _____ day of _____,
20__ by _____ (name) _____,
_____ (title) _____ of _____ (company) _____,
an Ohio limited liability company, on behalf of said company.

Notary Public



Jeff Robert Beam & Jack W. McClelland, Co-Trustees
OR 2513-625
+/-203.41 Acres

Situated in the State of Ohio, County of Muskingum, Township of Perry and a part of Quarter Township 3, Township 1 North, Range 6 West and being all of Tracts Four, Five, Six, Seven and Twelve and part of Tract Two of the lands of Jeff Robert Beam & Jack W. McClelland, Co-Trustees (OR 2513-625) as recorded in the Muskingum County Recorders Office and more particularly described as follows.

Beginning for reference at an iron pin found at the southwest corner of the northwest quarter of Quarter Township 3, thence going with the half-quarter township line, S87°34'10"E, a distance of 843.95 feet to an iron pin set at the southeast corner of the lands of R. Terry Dutro & Carolyn Sue Dutro (DR 738-343), also being the southwest corner of said Beam/McClelland's lands and the **principal place of beginning**;

thence with the west lines of tracts seven, two and five of said Beam/McClelland's lands, N39°32'13"E, a distance of 2715.50 feet to an iron pin found at the southeast corner of the lands now owned by John Downing & Justina Strohacker (OR 2729-749), passing a pipe found at 892.71 feet and a pipe found at 2532.67 feet, 0.70 right;

thence with the common line of said Downing/Strohacker and Beam/McClelland's lands, N40°11'42"W, a distance of 303.78 feet to a point in the center of East Pike (SR-22/US-40), passing an iron pin at 262.15 feet; thence with the center of said East Pike the following three (3) courses:

1. N60°42'53"E, a distance of 245.27 feet to a point;
2. with a curve turning to the right with an arc length of 477.23 feet, a radius of 2864.93 feet and a chord bearing of N65°29'12"E, 476.68 feet;
3. N71°41'31"E, a distance of 234.80 feet to a point at the northwest corner of the land now owned by Ulysses Wayne Clark (OR 2562-117), also being the northeast corner of tract five of said Beam/McClelland's lands;

thence leaving said center of East Pike and going with the east line of said tract five the following five (5) courses:

1. S02°44'54"W, a distance of 264.12 feet to an iron pin found, passing an iron pin found at 51.04 feet;
2. S02°46'45"W, a distance of 361.21 feet to an iron pin found;
3. S02°46'00"W, a distance of 436.82 feet to an iron pin found, passing an iron pin found at 25.75 feet;
4. S02°45'47"W, a distance of 75.47 feet to a pipe found;
5. S02°45'58"W, a distance of 532.48 feet to a pipe found at the southwest corner of the lands now owned by Derry G. Null & Connie S. Null, TOD (OR 2649-292), also being the southeast corner of said tract five and the northwest corner of the lands now owned by BGT Rentals, LLC (OR 2624-733);

thence with the common line of tract two of said Beam/McClelland's lands and said BGT Rentals, LLC's lands the following two (2) courses:

1. S01°13'22"W, a distance of 103.48 feet to an iron pin set;
2. S87°42'02"E, a distance of 250.20 feet to a point in the center of Hicks Road (CR-52), passing an axle found at 233.26 feet;

thence with the center of said Hicks Road and going through said tract two the following two (2) courses:

1. S00°52'11"W, a distance of 287.54 feet to a point;
2. S00°12'51"W, a distance of 509.63 feet to a point, said point being the northeast corner of tract three of said Beam/McClelland's lands;

thence continuing with the center of said Hicks Road, also being the east line of said tract three the following two (2) courses:

1. S04°26'52"W, a distance of 50.19 feet to a point;
 2. S16°30'33"W, a distance of 38.81 feet to a point at the northeast corner of the lands now owned by Howard M. Murhpy, Jr.;

thence leaving the center of said Hicks Road and going with the common line of said Beam/McClelland and Murphy, Jr. the following four (4) courses:

1. N84°06'40"W, a distance of 310.66 feet to an iron pin found, passing an iron pin found at 32.32 feet;

2. S32°08'30"W, a distance of 182.33 feet to an iron pin found;

3. S48°14'00"E, a distance of 100.76 feet to an iron pin found;

4. S81°07'00"E, a distance of 135.54 feet to a point in the center of said Hicks Road, passing an iron pin found at 88.99 feet;

thence with the center of said Hicks Road the following five (5) courses:

1. S55°56'21"W, a distance of 263.08 feet to a point;

2. S45°39'31"W, a distance of 91.57 feet to a point;

3. S30°18'19"W, a distance of 94.39 feet to a point;

4. S11°03'05"W, a distance of 97.06 feet to a point;

5. S02°25'24"W, a distance of 3239.52 feet to a point at the intersection of the center of said Hicks Road and the center of Old Wheeling Road (CR-42);

thence with the center of said Old Wheeling Road the following five (5) courses:

1. S83°34'55"W, a distance of 166.79 feet to point;

2. S87°22'34"W, a distance of 222.29 feet to a point;

3. S81°09'11"W, a distance of 132.71 feet to a point;

4. S77°36'56"W, a distance of 150.60 feet to a point;

5. S74°14'15"W, a distance of 140.49 feet to a point at the southeast corner of the lands now owned by Dale O. Hartberger (OR 2121-434), also being the southwest corner of tract twelve of said Beam/McClelland's lands;

thence leaving the center of said Old Wheeling Road and going with the common line of said Hartberger and Beam McClelland's lands the following two (2) courses:

1. N17°13'32"W, a distance of 170.91 feet to a pipe found, passing an iron pin set at 34.10 feet;

2. N57°12'08"W, a distance of 598.72 feet to an iron pin found on the southeast corner of the lands now owned by Scott A. Merry & Cynthia K. Merry (OR 1930-874);

thence with the common line of said Beam/McClelland and said Merry's lands the following two (2) courses:

1. N02°12'56"E, a distance of 3390.97 feet to an iron pin set on the half-quarter township line;

2. N87°34'10"W, a distance of 642.07 feet along said half-quarter township line to the place of beginning, containing 203.41 acres more or less, subject to all legal highways and easements of record.

All bearings described herein are based on the Ohio State Plane Grid Coordinates, NAD83, Ohio South per GPS Observation.

All iron pins set are 5/8 inch by 30 inch steel rebar with plastic identification caps marked MCPEEK PS8517.

The above described 203.41 acre parcel is based on a field survey made by Brian K. McPeek, PS 8517 of McPeek Land Surveying, LLC on September 5th, 2017.


 Brian Kelly McPeek, PS 8517

 10/18/17
 Date

Parcel No.

All of: 51-60-03-01-000 (+/- 2.55 Ac.)
All of: 51-62-01-62-000 (+/- 29.62 Ac.)
Part of: 51-62-01-41-000 (+/- 28.54 Ac.)
All of: 51-62-01-49-000 (+/- 4.29 Ac.)
All of: 51-62-01-50-000 (+/- 21.34 Ac.)
All of: 51-62-01-51-000 (+/- 0.82 Ac.)
All of: 51-70-03-13-000 (+/- 115.43 Ac.)
All of: 51-70-03-16-002 (+/- 0.82 Ac.)
Total +/- 203.41 Ac.