

**Ordinance No. 25-2022**

**AN ORDINANCE ESTABLISHING AND ENTERING INTO A COMMUNITY MONUMENT EASEMENT AND MAINTENANCE AGREEMENT FOR THE CLOCK TOWER PROPERTY AT 101 S CHILLICOTHE STREET**

**WHEREAS**, Grantor is the owner of certain real property located in Plain City, Madison County, Ohio, consisting of a parcel of land containing .33 acres, more or less, located at the intersection of Main Street and Chillicothe Street, and identified as Madison County parcels 04-00415.000 and 04-00416.000; and

**WHEREAS**, Grantee is the owner of the historic Plain City Clock Tower, currently situated atop of the Grantor Property; and

**WHEREAS**, Grantor has agreed to grant Grantee a perpetual, non-exclusive easement on, over, and through the Grantor Property for the improvement, maintenance, operation, reconstruction, repair, replacement and/or removal of the Community Monument upon the terms and conditions set forth herein.

**NOW THEREFORE BE IT ORDAINED** by the Council of the Village of Plain City, Ohio, a majority of the members elected or appointed thereto concurring, as follows:

**Section 1.** Grantor hereby grants to Grantee, its successors and assigns, a non-exclusive easement for the improvement, maintenance, operation of, provision of electricity to, reconstruction, repair, replacement, removal, as well as ingress, egress and access to the Community Monument. Grantee shall be responsible for the cost to operate, maintain, repair, replace, reconstruct, or remove the Community Monument, as well as maintaining, repairing, replacing or reconstructing the access way to and from the Community Monument located within the Community Monument Easement Area.

**Section 2.** Grantor, its successors, and assigns, reserves the right to use the Community Monument Easement Area (but not the portion of the same where the actual "Community Monument" is located) in any manner not inconsistent with the rights granted to Grantee herein, but no buildings, improvements and/or other structures shall be erected over any portion of the Community Monument Easement Area.

**Section 3.** Grantor grants to Grantee, and its successors and assigns, and its respective contactors and any public utility supplier, a temporary easement on, over, and across the Grantor Property to permit reasonable ingress, egress and access from time to time, for persons, vehicles, and equipment, for the purposes of Grantee or any utility provider to maintain, repair, inspect, remove, replace, install and construct, as the case may be, the Community Monument.

**Section 4.** Grantee shall be solely responsible for all maintenance and repairs, and all costs associated therewith, relative to the Community Monument and shall keep the Community Monument in good condition and repair, reasonable wear and tear excepted.

**Section 5.** That this resolution shall take effect and be in force from and after the earliest period allowed by law.

Passed: November 14, 2022.

Attest: *Justin Precier* Village Clerk      *Jody Corney* Mayor

First reading: November 2, 2022.      Vote: \_\_\_ yea \_\_\_ nay \_\_\_ abstain

Second reading: November 14, 2022.      Vote: 5 yea \_\_\_ nay \_\_\_ abstain

**Certificate of Publication**

The undersigned, being Village Fiscal Officer of the Village of Plain City, hereby certifies that the foregoing was published by posting for 15 days as required by law and in accordance with Section 123.01 of the Codified Ordinances. The posting was done from November 14, 2022 to November 29, 2022 at the Office of the Finance Director located at 800 Village Boulevard; being in the Village of Plain City, Ohio and the Village of Plain City Website at [www.plain-city.com](http://www.plain-city.com).

Date: November 14, 2022      *Renie Sonnett*  
Fiscal Officer

## COMMUNITY MONUMENT EASEMENT AND MAINTENANCE AGREEMENT

This Community Monument Easement and Maintenance Agreement (“Agreement”) is made and entered into as of November 23, 2022, by and between, **The Clock Tower by West Element, Ltd.**, an Ohio limited liability company, its successors and assigns (“Grantor”) whose address is 3523 Goldenrod Street, Hilliard, Ohio 43026 and **Village of Plain City, Ohio**, an Ohio municipal corporation, its successors and assigns (“Grantee”) whose address is 800 Village Boulevard, Plain City, Ohio 43064. For simplicity, Grantor and Grantee are sometimes individually referred to as a “Party” or collectively referred to as the “Parties.”

### RECITALS

A. Grantor is the owner of certain real property located in Plain City, Madison County, Ohio, consisting of a parcel of land containing .33 acres, more or less, located at the intersection of Main Street and Chillicothe Street, and identified as Madison County parcels 04-00415.000 and 04-00416.000 as more particularly described in Exhibit A attached hereto and made a part hereof (the “Grantor Property”).

B. Grantee is the owner of the historic Plain City Clock Tower, currently situated atop of the Grantor Property, as more particularly described in Exhibit B attached hereto and made a part hereof (the “Community Monument”).

C. Grantor has agreed to grant Grantee a perpetual, non-exclusive easement on, over, and through the Grantor Property for the improvement, maintenance, operation, reconstruction, repair, replacement and/or removal of the Community Monument upon the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration issued to Grantor by Grantee, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

#### 1. Grant of Easements.

1.1 Community Monument Easement. Grantor hereby grants to Grantee, its successors and assigns, a non-exclusive easement for the improvement, maintenance, operation of, provision of electricity to, reconstruction, repair, replacement, removal, as well as ingress, egress and access to the Community Monument, located on that portion of the Grantor Property more particularly described in Exhibit C attached hereto and incorporated herein by reference (the “Community Monument Easement Area”). Grantee shall be responsible for the cost to operate, maintain, repair, replace, reconstruct, or remove the Community Monument, as well as maintaining, repairing, replacing or reconstructing the access way to and from the Community Monument located within the Community Monument Easement Area. Electric service is provided to the Community Monument by separate meter and Grantee is responsible for and will pay for the electric service provided to the Community Monument through the dedicated separate meter.

1.2 Reservation of Rights. Grantor, its successors, and assigns, reserves the right to use the Community Monument Easement Area (but not the portion of the same where the actual “Community Monument” is located) in any manner not inconsistent with the rights granted to Grantee herein, but no buildings, improvements and/or other structures shall be erected over any portion of the Community Monument Easement Area.

1.3 Temporary, Periodic Construction Access Easement. Grantor grants to Grantee, and its successors and assigns, and its respective contactors and any public utility supplier, a temporary easement on, over, and across the Grantor Property to permit reasonable ingress, egress and access from time to time, for persons, vehicles, and equipment, for the purposes of Grantee or any utility provider to maintain, repair, inspect, remove, replace, install and construct, as the case may be, the Community Monument. Grantee hereby agrees: (i) to repair any damage to the Grantor Property caused by Grantee's actions on said Grantor Property made in connection with this paragraph 1.3 and to return the Grantor Property to the condition existing prior to such actions reasonable wear and tear excepted; and (ii) to indemnify and hold harmless Grantor against liability for damages to property and injury or death to persons, including, all costs and expenses caused by acts or omissions related to this paragraph 1.3.

2. Allocation of Maintenance and Repair Obligations. Grantee shall be solely responsible for all maintenance and repairs, and all costs associated therewith, relative to the Community Monument and shall keep the Community Monument in good condition and repair, reasonable wear and tear excepted.

3. Insurance and Indemnification.

3.1 Grantee. Grantee shall comply with all applicable laws, rules, regulations and requirements of all governmental authorities. Grantee hereby agrees to indemnify, defend and hold Grantor, its agents, contractors, employees, successors and assigns (as the case may be) (the "Grantor Parties"), harmless from and against all claims, demands, losses, damages, liabilities and expenses and all suits, actions and judgments for injury or damage to persons or property (including, but not limited to, all costs and reasonable attorneys' fees) arising out of or occurring as a result of acts or omission of Grantee, its successors or assigns, or their respective contractors, agents, employees, invitees, licensees with respect to the easement areas or matters covered by this Agreement. Grantee shall maintain customary levels of property and liability insurance.

3.2 Grantor. Grantor shall comply with all applicable laws, rules, regulations and requirements of all governmental authorities. Additionally, Grantor hereby agrees to indemnify, defend and hold Grantee, its agents, contractors, employees, successors and assigns (as the case may be) (the "Grantee Parties"), harmless from and against all claims, demands, losses, damages, liabilities and expenses and all suits, actions and judgments for injury or damage to persons or property (including, but not limited to, all costs and reasonable attorneys' fees) arising out of or occurring as a result of acts or omission of Grantor, its successors or assigns, or their respective contractors, agents, employees, invitees, licensees with respect to the easement areas or matters covered by this Agreement. Grantor shall maintain customary levels of property and liability insurance and shall name Grantee as an additional insured under its policies of insurance.

4. Miscellaneous.

4.1 Covenants Running With The Land. All provisions of this Agreement, including the benefits and burdens, shall touch, concern and run with the land and be binding upon and inure to the benefit of Grantee and Grantor, and their respective representatives, successors, transferees, licensees and assigns.

4.2 No Waiver. No restriction, condition, obligation or provision of this Agreement shall be deemed to have been abrogated or waived by reason of any failure to enforce the same.

4.3 Amendment. This Agreement shall not be modified except by a written instrument duly executed by all Parties.

4.4 Severability. Each provision of this Agreement is intended to be severable. If any term or provision of this Agreement shall be determined to be illegal or invalid for any reason whatsoever, such provision shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement.

4.5 Authority. Each Party represents and warrants that it has full power and authority to execute and deliver this Agreement, without notice to or the consent of any person or entity not a party to this Agreement, and that all persons that have executed this Agreement on its behalf are duly authorized to do so and to bind such party in accordance with its terms.

4.6 Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Ohio. Any claims, action and/or disputes relative to this Agreement shall be resolved in Madison County, Ohio.

4.7 Notices. Notices shall be in writing and shall be delivered by hand, be sent by registered or certified mail, postage prepaid, return receipt requested, be sent by nationally recognized commercial courier for next business day delivery, to the addresses set forth above, or to such other addresses as are specified by written notice. Notices delivered by hand shall be deemed given upon the date so delivered; those given by mailing shall be deemed given two (2) business days after the date of deposit in the United States Mail; or those given by commercial courier shall be deemed given one (1) business day after the date of deposit with the commercial courier. Any notice not received because of changed address of which no notice was given or because of refusal to accept delivery shall be deemed received.

4.8 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

[Signatures on following page]



STATE OF OHIO :  
 :  
 : SS.  
COUNTY OF \_\_\_\_\_ :

Before me, a Notary Public, in and for said county and state, personally appeared \_\_\_\_\_, who acknowledged that \_\_\_\_\_ signed the foregoing instrument and that the same is \_\_\_\_\_ free act and deed undertaken for the uses and purposes stated herein.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public

STATE OF OHIO :  
 :  
 : SS.  
COUNTY OF \_\_\_\_\_ :

Before me, a Notary Public, in and for said county and state, personally appeared \_\_\_\_\_, who acknowledged that \_\_\_\_\_ signed the foregoing instrument and that the same is \_\_\_\_\_ free act and deed undertaken for the uses and purposes stated herein.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public

This Instrument Prepared By:  
Paul-Michael La Fayette  
Freeman Mathis & Gary, LLP  
65 East State Street, Suite 2550  
Columbus, Ohio 43215  
*Law Director for the Village of Plain City*





**EXHIBIT A**

GRANTOR'S REAL PROPERTY

**EXHIBIT B**

GRANTEE'S COMMUNITY MONUMENT

**EXHIBIT C**  
EASEMENT AREA