

RESOLUTION NO. 15.22

**A RESOLUTION AUTHORIZING THE WAIVER OF PARK FEES FOR THE DARBY STATION DEVELOPMENT, AND AUTHORIZING A REAL ESTATE TRANSFER FOR APPROXIMATELY 40 ACRES WITHIN THE M/I DEVELOPMENT**

**REAL ESTATE TRANSFER AND PARK FEE AGREEMENT**

Plain City, Ohio

June \_\_\_\_, 2022

**NOW COME** the Village of Plain City, Ohio (hereinafter the "Village"), and M/I Homes of Central Ohio, LLC (hereinafter 'M/I') (collectively, the "Parties"; singularly, a "Party") and agree as follows:

**WHEREAS**, M/I has undertaken to develop a certain multi-family, multi-unit residential community within the Village commonly known as Darby Station, upon and within an approximate 331+/- acres of vacant ground within the Village more partially identified within Exhibit "A" attached hereto (i.e., the ALTA/NSPS LAND TITLE SURVEY, Virginia Military Dist. Survey Numbers 3685, 3743 and 5128, Village of Plain City, Counties of Madison and Union, State of Ohio) (the "M/I Development"); and

**WHEREAS**, Section 1133.01(h) of the Codified Ordinances of the Village provides for the assessment of and payment to the Village, by M/I, the amount of One Thousand Dollars (\$1,000.00) per dwelling unit within the M/I Development for park fees of the Village (the "Park Fees Assessment");

**WHEREAS**, M/I wishes to donate to the Village approximately 40 +/- acres within the M/I Development to use as Village Parklands such property identified as:

- Madison County Parcel 04-00776-003 (attached hereto as Exhibit B); and
- Madison County Parcel 04-00776-004 (attached hereto as Exhibit C);

**WHEREAS**, the Village agrees to accept M/I's offer of approximately 40 +/- acres within the M/I Development to the Village for use by the Village as Village Parklands (the "Donation Land"); and

**WHEREAS**, in exchange for the donation of the Donation Land, the Village agrees to reduce the Park Fees Assessment against each dwelling unit within the M/I Development to Eight Hundred Dollars (\$800.00);

**WHEREAS**, the Village acknowledges that [portions of] the Donation Land are subject to that certain [Development Plan] approved by the Village by Ordinance 19-20 on November 23, 2020 (the "Development Plan"); and

**WHEREAS**, the Village acknowledges that M/I has undertaken to widen State Route 161 and install a traffic circle along the northern boundary of the Donation Land which may result in a reduction of the acreage of the Donation Land (the "Road Widening").

**NOW, THEREFORE**, it is agreed as follows:

Subject to a proper exercise of the Village's legislative authority and the passing of an appropriate Resolution by the Village Council of the Village of Plain City, Ohio approving this Agreement:

- 1) **DONATION OF LAND.** By not later than June 1, 2023, M/I shall donate and transfer by Limited Warranty Deed to the Village a total of 40 +/- acres located within the M/I Development identified as Madison County Parcels 04-00776.003 and 04-776.004 for use by the Village as Parklands. The area to be donated and transferred to the Village is designated within and upon the attached Exhibits B and C (**hereinafter collectively identified as "Parklands Parcels"**).
- 2) **PARK FEES ASSESSMENT.** In exchange for the donation and transfer of the real property identified in Section (1), above, the Village agrees to reduce the Park Fees Assessment relative to each dwelling unit within the M/I Development to Eight Hundred Dollars (\$800.00) effective upon the execution of this Agreement.
- 3) **TRANSACTION.** Each Party agrees this Agreement and the contemplated exchange has been negotiated fairly, at arms-length, with each Party's best interests in mind. Each Party further acknowledges and agrees that the land and other consideration exchanged represents the entire compensation due each Party for the respective land being conveyed, subject to the distribution of Closing (hereinafter defined) and surveying costs incurred under and as provided in this Agreement.
- 4) **EVIDENCE OF TITLE.** M/I shall at its sole cost and expense undertake to and obtain a survey of the Parklands Parcels, and at its sole expense shall obtain an Owner's Policy of Title Insurance in favor of both M/I and the Village in the amount One Hundred Thousand Dollars (\$100,000.00), such amount being the agreed, fair market values of the Parklands Parcels. M/I guarantees to the Village that in respect of the Parklands Parcels, the public records will show a marketable record title, as determined by the Ohio State Bar Association's Standards of Title Examination, in fee simple in the name of M/I, clear of all liens and encumbrances except: (a) those which may be created or assumed by the acquiring Party; (b) those specifically set forth in this Agreement including the Development Plan and Road Widening; (c) zoning ordinances; (d) legal highways; and (e) covenants, restrictions, conditions and easements of record which do not unreasonably interfere with its present lawful use.
- 5) **LOT SPLIT.** M/I shall obtain, at M/I's sole cost and expense, prior to Closing, approval from applicable governmental officials, to allow the Parklands Parcels to be split from the existing parent parcels such that such Parklands Parcels can be transferred by M/I to Buyer separate and apart from the existing parent parcels.
- 6) **TITLE OBJECTIONS.** The Village may object if the title commitment indicates that title to all or part of the Parklands Parcels to be acquired by the Village is or remains unmarketable, as determined by Ohio law with reference to the Ohio State Bar Association's Standards of Title Examination, or if the Village, in good faith, objects to defects, liens, encumbrances, easements, conditions, restrictions, conveyances or



encroachments that are disclosed in, or excepted by, such title commitment, including (without limitation) all matters identified within this Agreement. In such event, the Village shall notify M/I in writing of the objection(s) by ten (10) days after the Parties have received the title commitment (each an "Objection", collectively, the "Objections"). Upon receipt of the Village's notice as herein provided, M/I shall, within thirty (30) calendar days, remedy or remove such defects, liens, encumbrances, easements, conditions, restrictions, conveyances, or encroachments or obtain title insurance without exception for the Objections. The date of Closing shall be extended to the extent necessary to accommodate M/I's reasonable efforts to remedy or remove the Objections. The Village is not obligated to incur any expense in curing its Objections. In the event the cure of Objections will subject M/I to any additional cost or expense, M/I shall have the option to either cure the Objections at its sole cost and expense or terminate this Agreement by delivering a written notice of termination to the Village. Failure of M/I to correct any Objection shall enable the Village to go forward with this Agreement, or alternatively elect to terminate and rescind this Agreement. At closing, M/I shall sign an affidavit with respect to all off-record title matters in accordance with community custom. Notwithstanding anything herein to the contrary, the Village shall not be permitted to object to any of the Development Requirements as defined in Section 9 and shall take title to the Parklands Parcels subject to all of the Development Requirements.

- 7) DEED. Respecting the Parklands Parcels, M/I shall convey marketable title in fee simple by transferable and recordable Limited Warranty Deed (the "Deed") free and clear of all liens and encumbrances not excepted by this Agreement.
- 8) TAXES AND ASSESSMENTS. Respecting the Parklands Parcels, M/I shall credit or directly reimburse to the Village all delinquent taxes, including all penalties and interest, all assessments which are a lien on the Parklands Parcels as of the date of Closing, all agricultural use tax recoupments (if any) and all other unpaid real estate taxes and community development charges (if any) not yet due for all years prior to Closing and a portion of such taxes for the year of Closing prorated through date of Closing and based on a three hundred sixty five (365) day year, and if undetermined, on the most recently available tax rates and valuations. It is the intention of the Parties in making such tax proration to allow each Party a credit as close in amount as possible to that amount which the acquiring Party will be required to remit (if any) to the Madison County (Ohio) Treasurer for period of time through the date of closing, giving effect to all applicable exemptions, recently voted millage, change in valuation, etc., whether or not certified.
- 9) EXISTING DEVELOPMENT. As mentioned herein, the Village acknowledges that [certain portions of] the Parklands Parcels are subject to that certain Development Plan. As part of the Development Plan, the Parklands Parcels shall be subject to (1) the Road Widening; (2) that certain environmental covenant to be recorded with the Madison County Recorder's Office (the "Environmental Covenant"); (3) that certain walking path as shown on Exhibit D attached hereto; (4) that certain sewer and water easement to be recorded with the Madison County Recorder's Office and as shown in purple on Exhibit D ("the Sewer and Water Easement"); (5) that certain stream corridor impact protection zone as shown in green, yellow, and red hash marks on Exhibit D (collectively, the "Development

Requirements"). Upon recording of the Environmental Covenant and the Sewer and Water Easement, M/I will promptly provide recorded copies of each document to the Village.

- 10) **DAMAGE OR DESTRUCTION OF PROPERTY.** Risk of loss to the Parklands Parcels and appurtenances thereto shall be borne by M/I up to and through the date of Closing, provided that if the Parklands Parcels shall be substantially damaged or destroyed before this transaction is closed, the Village may elect either to: (a) proceed with this Agreement and close on the transaction and be entitled to all insurance proceeds and monies, if any, payable to M/I under all policies of insurance covering the transferred Parklands Parcels, or (b) rescind this Agreement, and thereby release all Parties to this Agreement from any liability under this Agreement, by giving written notice to M/I within ten (10) calendar days following that date on which the Village has received M/I's written notice of such damage or destruction.
- 11) **SETTLEMENT FEES.** In respect of the transfer of the Parklands Parcels, M/I shall pay and remain solely responsible for the following: (a) all escrow and closing fees and costs, (b) M/I's attorneys' fees and costs, (c) the preparation and filing of the Deed and other documents or record, (d) all conveyance fees paid to the Madison County (Ohio) Auditor, and (e) all title search and title insurance fees and costs. The Village shall pay and remain solely responsible for the Village's attorneys' fees and costs and any endorsements requested for the Owner's Policy of Title Insurance.
- 12) **CLOSING.** This Agreement shall be performed, and this transaction closed on or before the first day of June, 2023, unless the Parties agree in writing to an extension (the "Closing"). The Village shall take possession of the Parklands Parcel transferred to it on the date of Closing.
- 13) **ENTIRE AGREEMENT.** This document constitutes the entire agreement between the parties and supersedes all prior or contemporaneous discussions, representations or agreements relating to the subject matter. No amendments, modifications or additions to this Agreement shall be made or be binding on any party unless made in writing and signed by each party.
- 14) **SEVERABILITY OF PROVISIONS.** This Agreement shall be construed in accordance with the laws of the State of Ohio. If any part of this Agreement is held to be invalid or unenforceable for any reason, the remainder of this Agreement shall continue in full force and effect.
- 15) **HEADINGS AND PRONOUNS.** The headings to the Sections hereof have been inserted for convenience of reference only and shall in no way modify or restrict any provision hereof or be used to construe any such provisions. Any pronoun used herein shall include all other numbers and genders, as the context or the number and gender of its antecedent may require.
- 16) **COUNTERPART EXECUTION.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which taken



together shall constitute one and the same instrument. Electronic signatures shall be considered to be, and will be accepted by each party as, the equivalent of original signatures.

- 17) DATES. Whenever a date or deadline for any action to be taken is not a business day, the relevant date or deadline shall be the next business day. A business day is defined as a weekday that is not a government observed holiday by the Recorder's Office of Madison County, Ohio.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**SIGNED:**

For: M/I Homes of Central Ohio, LLC

\_\_\_\_\_ (s)

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

Its: \_\_\_\_\_

Address: \_\_\_\_\_

Tele No.: \_\_\_\_\_

Date: \_\_\_\_\_

For: Village of Plain City, Ohio

Renée Sonnett (s)

By: Renée Sonnett

Its: Finance Director

Address: \_\_\_\_\_  
\_\_\_\_\_  
Tele No.: \_\_\_\_\_  
Date: \_\_\_\_\_

Passed: August 22, 2022.

Attest: Renee Sonnett  
Village Clerk

Jody Carney by: Renee Sonnett  
Mayor

First reading: August 8, 2022. Vote: \_\_\_\_ yea \_\_\_\_ nay \_\_\_\_ abstain

Second reading: August 22, 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 \_\_\_\_\_, 2021 to \_\_\_\_\_, 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.pain-city.com](http://www.pain-city.com).

Date: August 23, 2022

Renee Sonnett  
Village Clerk

Exhibit A

**Exhibit B**



Exhibit C

Exhibit D

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Plain City, Ohio

June \_\_\_\_\_, 2022

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- 10) DAMAGE OR DESTRUCTION OF PROPERTY. Risk of loss to the Parklands Parcels and appurtenances thereto shall be borne by M/I up to and through the date of Closing, provided that if the Parklands Parcels shall be substantially damaged or destroyed before this transaction is closed, the Village may elect either to: (a) proceed with this Agreement



and close on the transaction and be entitled to all insurance proceeds and monies, if any, payable to M/I under all policies of insurance covering the transferred Parklands Parcels, or (b) rescind this Agreement, and thereby release all Parties to this Agreement from any liability under this Agreement, by giving written notice to M/I within ten (10) calendar days following that date on which the Village has received M/I's written notice of such damage or destruction.

- 11) **SETTLEMENT FEES.** In respect of the transfer of the Parklands Parcels, M/I shall pay and remain solely responsible for the following: (a) all escrow and closing fees and costs, (b) M/I's attorneys' fees and costs, (c) the preparation and filing of the Deed and other documents or record, (d) all conveyance fees paid to the Madison County (Ohio) Auditor, and (e) all title search and title insurance fees and costs. The Village shall pay and remain solely responsible for the Village's attorneys' fees and costs and any endorsements requested for the Owner's Policy of Title Insurance.
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- 16) **COUNTERPART EXECUTION.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument. Electronic signatures shall be considered to be, and will be accepted by each party as, the equivalent of original signatures.
- 17) **DATES.** Whenever a date or deadline for any action to be taken is not a business day, the relevant date or deadline shall be the next business day. A business day is defined as a weekday that is not a government observed holiday by the Recorder's Office of Madison County, Ohio.



Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**SIGNED:**

For: M/I Homes of Central Ohio, LLC

\_\_\_\_\_ (s)

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

Its: \_\_\_\_\_

Address: \_\_\_\_\_

Tele No.: \_\_\_\_\_

Date: \_\_\_\_\_

For: Village of Plain City, Ohio

Renée Sonnett (s)

By: Renée Sonnett

Its: Finance Director

Address: 800 Village Blvd  
Plain City, Oh 43064

Tele No.: 614 873-3527

Date: \_\_\_\_\_

Exhibit A

Exhibit A

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**Exhibit B**



Exhibit C

**Exhibit D**

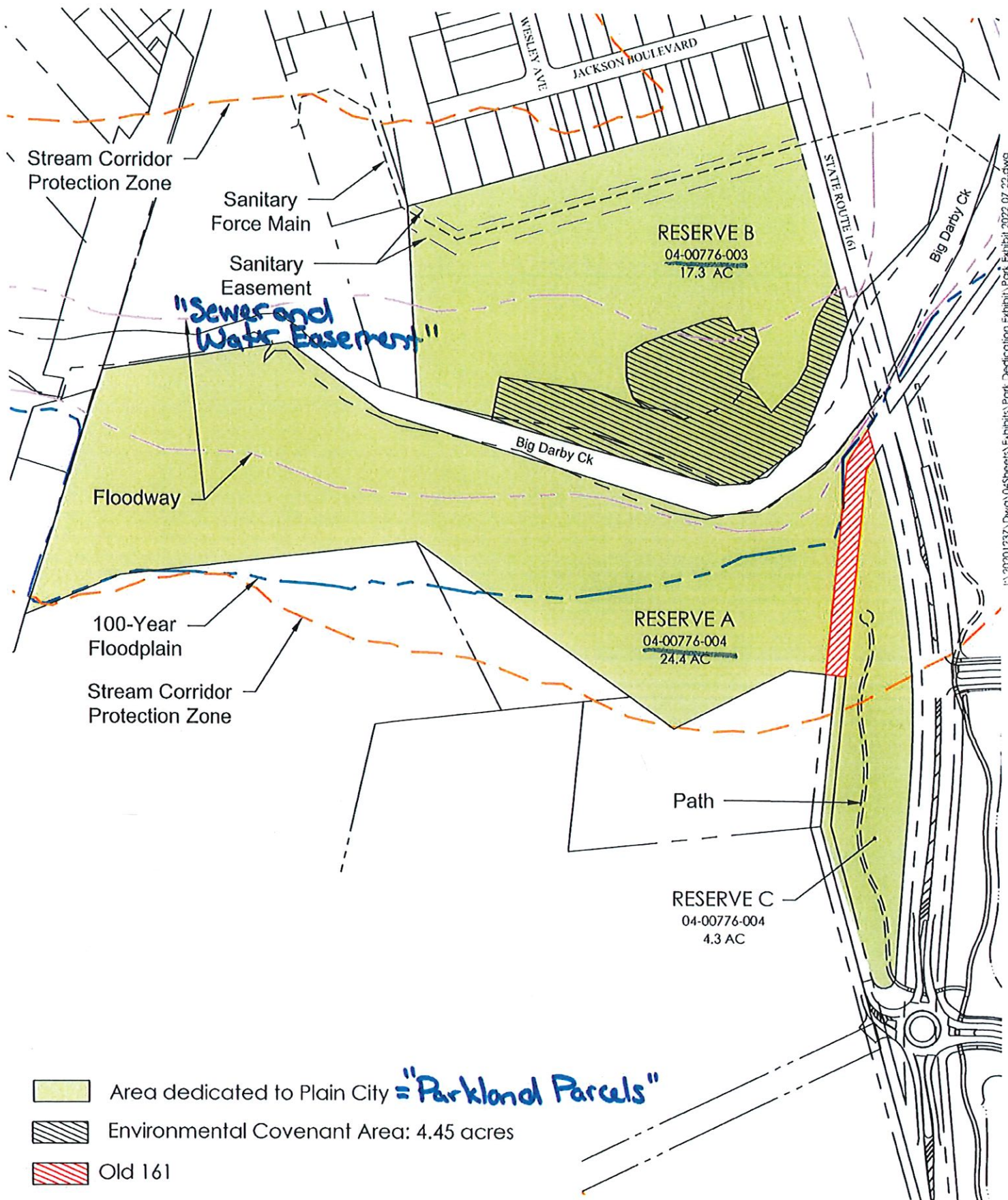












## EXHIBIT B

Darby Station  
July 22, 2022

