



**SANDUSKY CITY COMMISSION  
REGULAR SESSION AGENDA  
JUNE 28, 2021 AT 5 P.M.  
CITY HALL, 240 COLUMBUS AVENUE**

INVOCATION	Dennis Murray
PLEDGE OF ALLEGIANCE	
CALL TO ORDER	
ROLL CALL	W. Poole, B. Harris, D. Murray, D. Brady, N. Twine, M. Meinzer & D. Waddington
APPROVAL OF MINUTES	June 14, 2021
AUDIENCE PARTICIPATION	
INTRODUCTION OF NEW OFFICERS	
PRESENTATION	Justice Center: Aaron Klein & John Orzech
COMMUNICATIONS	Motion to accept all communications submitted below
CURRENT BUSINESS	

**CONSENT AGENDA ITEMS**

**ITEM A – Submitted by Jane Cullen, Project Engineer**

**PIER TRACK PUMP STATION AND FARWELL PUMP STATION IMPROVEMENTS PROJECT CHANGE ORDER FIRST & FINAL (DEDUCT)**

**Budgetary Information:** Change Order No. 1, a deduction in the amount of \$221,921.40 will revise the contract amount to \$2,530,522.60. The Charge Order also reflects the extension of the final completion date from July 17, 2020 to June 1, 2021.

The City of Sandusky obtained an Ohio Water Pollution Control Loan (WPCLF) to finance the cost of the construction activities that will be paid with Sewer Funds. This loan interest rate is 0% for a maximum term of twenty (20) years.

In addition to the WPCLF loan, the City will seek appropriate reimbursement from Erie County as per the terms of the existing Sewer Services Agreement and associated amendments. Currently Erie County's share is 55% for the Farwell Pump Station and 48% for the Pier Track Pump Station.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and directing the City Manager to approve the first & final change order for work performed by North Bay Construction, Inc. of Westlake, Ohio, for the Pier Track Pump Station and Farwell Pump Station Improvements Project; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM B – Submitted by McKenzie Spriggs, Commission Clerk**

**LIQUOR PERMIT TRANSFER TO SANDUSKY SALVAGE CENTER**

**Budgetary Information:** There is no budgetary impact.

The City is in receipt of a Notice to Legislative Authority from the Ohio Division of Liquor Control for a D1, D2 liquor permit (*beer only for on premises consumption or in original sealed containers for carry out only until 1AM, wine and mixed beverages for on premises consumption or in original sealed containers for carryout only until 1AM*) for Sandusky Salvage Center LLC, located at 2434 Monroe Street. It is requested the Commission Clerk be authorized to notify the Division of Liquor Control the City does not request a hearing on this matter.

**REGULAR AGENDA ITEMS**

**ITEM #1 – Submitted by Aaron Klein, Director of Public Works**

**REVOCABLE LICENSE AGREEMENT WITH SCOOTER DING DING, LLC**

**Budgetary Information:** If approved there would be no cost to the City. The City would receive \$50 per staging location for use of existing bike racks in the right of way or on city-owned public property.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and directing the City Manager to enter into a revocable license agreement with Scooter Ding Ding, LLC, of Sandusky, Ohio, for the use of public space for a scooter rental business; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM #2 – Submitted by Jane Cullen, Project Engineer**

**COMMERCIAL LICENSE AGREEMENT WITH AT&T OHIO FOR STRUCTURE ACCESS FOR BANNERS ALONG VENICE ROAD FOR THE SANDUSKY BAY PATHWAY**

**Budgetary Information:** The cost of the agreement is \$2,160 and will be paid with Capital Funds. This agreement is for a time period of five (5) years and will need to be renewed at that time.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and directing the City Manager to enter into a commercial license agreement for structure access with the Ohio Bell Telephone Company, dba AT&T Ohio for the placement of decorative banners along Venice Road for the Sandusky Bay

Pathway; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM #3 – Submitted by Aaron Klein, Director of Public Works**

**LICENSE AGREEMENT WITH CREATIVE OUTDOOR ADVERTISING OF AMERICA, INC FOR DOWNTOWN RECYCLING SERVICES**

**Budgetary Information:** If approved the cost would be \$500 per bin, per year. The annual cost for the bins and services is \$15,000, based upon a total of 30 bins, which is subject to change upon adjustments in the number of bins necessary to accommodate downtown. These costs will be paid with funds to be allocated in the Horticulture Division’s operating budget.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and directing the City Manager to enter into a five (5) year license agreement with Creative Outdoor Advertising of America, Inc. of Tampa, Florida, for the downtown recycling program; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM #4 – Submitted by Jane Cullen, Project Engineer**

**PERMISSION TO BID THE VAULT STRUCTURE AT BIG ISLAND WATER WORKS PROJECT**

**Budgetary Information:** The estimated cost of the project including engineering, inspection, advertising, construction, and miscellaneous costs is \$150,000 to be paid with Water Funds.

**RESOLUTION NO. \_\_\_\_\_:** It is requested a resolution be passed declaring the necessity for the City to proceed with the proposed Vault Structure at Big Island Water Works (BIWW) Project; approving the specifications and engineer’s estimate of cost thereof; and directing the City Manager to advertise for and receive bids in relation thereto; and declaring that this resolution shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM #5 – Submitted by Jason Werling, Recreation Superintendent & McKenzie Spriggs, Commission Clerk**

**AGREEMENT WITH ADVANTAGE ENTERTAINMENT FOR SUMMER CONCERT SERIES PRODUCTION**

**Budgetary Information:** The contract will not exceed \$182,500; with \$50,000 coming from the Lange Trust. Dollars will be disbursed from the Programming Fund.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing and directing the City Manager to enter into an agreement for special event producer for the summer concert series at the Jackson Street Pier; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM #6 – Submitted by Jonathan Holody, Community Development Director**

**DEVELOPMENT AGREEMENT REGARDING TAX INCREMENT FINANCING (TIF) FOR THE HOGREFE-COOKE BUILDING**

**Budgetary Information:** The developer is responsible for all costs associated with the conveyances, including land transfer and legal fees.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing a development agreement in connection with the development and redevelopment of certain real property in the City of Sandusky, Ohio, as part of a Tax Increment Financing (TIF) Program under Ohio Revised Code Section 5709.41; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**ITEM #7 – Submitted by Jonathan Holody, Community Development Director**

**LAND TRANSFERS FOR THE HOGREFE-COOKE BUILDING**

**Budgetary Information:** According to the Development Agreement, the developer is responsible for all costs associated with the agreement, including land transfer and legal fees.

**ORDINANCE NO. \_\_\_\_\_:** It is requested an ordinance be passed authorizing the acceptance of a conveyance of parcels of real property from Cooke Building LLC and approving a reconveyance to Cooke Building LLC as provided by Section 5709.41(B) of the Ohio Revised Code; and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

**CITY MANAGER’S REPORT**

**OLD BUSINESS**

**NEW BUSINESS**

**AUDIENCE PARTICIPATION:** Open discussion on any item (5 minute limit)

**EXECUTIVE SESSION(S)**

**ADJOURNMENT**

Online: [www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us) – Click “Play” 



## DEPARTMENT OF PUBLIC WORKS

### *Division of Engineering*

222 Meigs Street  
Sandusky, Ohio 44870  
419.627.5829  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

To: Eric Wobser, City Manager

From: Jane E. Cullen, P.E.

Date: June 15, 2021

**Subject: Commission Agenda Item – Pier Track Pump Station and Farwell Pump Station Improvements Project**

**ITEM FOR CONSIDERATION:** Requesting legislation for approval of Change Order No. 1 and Final, for the Pier Track Pump Station and Farwell Pump Station Improvements Project.

**BACKGROUND INFORMATION:** The project was awarded to North Bay Construction, Inc. at the April 8, 2019 city commission meeting per Ordinance No. 19-064 in the amount of \$2,752,444.00.

These improvement projects are required by the Ohio Environmental Protection Agency (EPA) per negotiations related to the CSO General Plan and detailed in the existing amendments to the City's NPDES permit.

The City of Sandusky operates a sewer pump station along the eastern side of Cedar Point Road between Cleveland Road and First Street in the eastern area of the City known as the Pier Track Pump Station. Improvements involved pump replacements, including a new generator, electrical and mechanical improvements and SCADA and control panel upgrades. The Pier Track Pump Station was originally built in the late 1950's.

The second sewer pump station is called Farwell and is located along Farwell Street between Second and First Streets. Improvements involved pump replacements, including electrical and mechanical improvements, SCADA and control panel upgrades. The original Farwell Pump Station was also built in the late 1950's.

Below is a summary of the change order items.

**BUDGETARY INFORMATION:** Change Order No. 1, a deduction in the amount of \$221,921.40 will revise the contract amount to \$2,530,522.60. Attached is a summary of the all the items completed in the field. Below is a summary of the additions and deductions to the contract with explanation of the major cost items. Item 118 Cleveland Road sewer extension could not be completed due to existing underground structures in conflict with the proposed new sanitary sewer. Item #7 was required to allow the Farwell Station and the supplemental station called Ginty to communicate more efficiently with each other and the wastewater treatment plant. Item #8 VFD by-pass was done for both stations in order to allow the stations to keep operating if the pump programing fails. Item #10 Farwell by-pass pump rental was additional days of by-pass because the generator at Farwell Station was experiencing electrical issues that was not due to work being done by the contractor. The Charge Order also reflects the extension of the final completion date from July 17, 2020 to June 1, 2021.

### SUMMARY OF CHANGE ORDER

CONTINGENCY		
111	Project Contingency	-\$228,297.00
ALLOWANCES		
112	Allowance For Electrical Work - Pier Track (Ohio Edison)	-\$6,000.00
113	Allowance For Electrical Work - Farwell (Ohio Edison)	-\$5,000.00
114	Allowance for System Integrator - Pier Track	-\$2,685.00
115	Allowance for System Integrator - Farwell	-\$2,025.00
116	Allowance for New SCADA System - Pier Track	-\$4,763.49
117	Allowance for New SCADA System - Farwell	-\$424.42
118	Allowance for Cleveland Road Sewer Extension	-\$85,000.00
EXTRA WORK ITEMS		
Item #1	Add handholes to Pier Track pump volutes	\$5,016.68
Item #2	Pier Track Switchable exterior light	\$879.46
Item #3	Pier Track add riser to bypass manhole	\$10,448.26
Item #4	Calibration and start-up of Farwell 24 inch flow meter	\$1,923.93
Item #5	6 ft. access gate @ Pier Track	\$1,417.93
Item #6	Furnish step-down regulators on generator and MUA at Pier Track	\$1,817.40
Item #7	Farwell Integrate Ginty Pump Station with SCADA system	\$33,061.45
Item #8	VFD Components for By-pass Capabilities	\$32,176.31
Item #9	Farwell Odor Control Canister	\$2,936.88
Item #10	Farwell by-pass pump rental	\$15,547.16
Item #11	Paint existing items-additional areas Pier Track/Farwell	\$1,934.11
Item #12	Replace Farwell suction gate valve handwheels	\$3,647.20
Item #13	Farwell Step down regulator, painted by NBC	\$1,466.74
Item #14	Time extension-final completion June 1, 2021	\$0.00
<b>TOTALS=</b>		<b>-\$221,921.40</b>

The City of Sandusky obtained an Ohio Water Pollution Control Loan (WPCLF) to finance the cost of the construction activities that will be paid with Sewer Funds. This loan interest rate is 0% for a maximum term of twenty (20) years.

In addition to the WPCLF loan, the City will seek appropriate reimbursement from Erie County as per the terms of the existing Sewer Services Agreement and associated amendments. Currently Erie County's share is 55% for the Farwell Pump Station and 48% for the Pier Track Pump Station.

**ACTION REQUESTED:** It is requested that legislation be prepared to allow for the approval of Change Order No. 1 for final quantities for the Pier Track Pump Station and Farwell Pump Station Improvements Project. It is further requested that this be passed in accordance with Section 14 of the City Charter so that the contractor can be paid for work already completed in the field and to close out the completed project.

I concur with this recommendation:

\_\_\_\_\_  
Eric Wobser  
City Manager

\_\_\_\_\_  
Aaron M. Klein  
Director

cc: M. Spriggs, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director



Contractor: North Bay Construction, Inc.  
25800 First Street Westlake, OH 44145

STREET OR LOCATON OF WORK: PIER TRACK AND FARWELL PUMP STATION IMPROVEMENTS

Order is hereby issued and accepted for the following additions to or deductions from the quantities as specified in the original contract.

ITEM NUMBER	PROPOSED SCHEDULE OF VALUE	ACTUAL SCHEDULE OF VALUE	DIFFERENCE IN QUANTITY	UNIT	DESCRIPTION	TOTAL PROPOSED SCHEDULE OF VALUE COST	TOTAL FINAL SCHEDULE OF VALUE COST	TOTAL ADD	TOTAL DEDUCT
001-Pier/Farwell	1	1	0	LS	Bonding	\$25,584.00	\$25,584.00		
002-Pier	1	1	0	LS	Mobilization - Pier Track Pump Station	\$36,125.00	\$36,125.00		
003-Farwell	1	1	0	LS	Mobilization - Farwell Pump Station	\$36,125.00	\$36,125.00		
004-Pier/Farwell	1	1	0	LS	Demobilization	\$12,750.00	\$12,750.00		
PIER TRACK-SITE WORK									
005-Pier	1	1	0	LS	Demo - Labor	\$13,976.00	\$13,976.00		
006-Pier	1	1	0	LS	Demo - Material	\$5,918.00	\$5,918.00		
007-Pier	1	1	0	LS	16" Force Main - Labor	\$41,370.00	\$41,370.00		
008-Pier	1	1	0	LS	16" Force Main - Material	\$63,408.00	\$63,408.00		
009-Pier	1	1	0	LS	Generator Foundation & Bollards - Labor	\$24,888.00	\$24,888.00		
010-Pier	1	1	0	LS	Generator Foundation & Bollards - Material	\$15,179.00	\$15,179.00		
011-Pier	1	1	0	LS	Driveway Aprons - Labor	\$12,188.00	\$12,188.00		
012-Pier	1	1	0	LS	Driveway Aprons - Material	\$10,629.00	\$10,629.00		
013-Pier	1	1	0	LS	Building Entrance Concrete Work - Labor	\$8,007.00	\$8,007.00		
014-Pier	1	1	0	LS	Building Entrance Concrete Work - Material	\$3,188.00	\$3,188.00		
015-Pier	1	1	0	LS	MAU Pad - Labor	\$1,662.00	\$1,662.00		
016-Pier	1	1	0	LS	MAU Pad - Material	\$1,051.00	\$1,051.00		
017-Pier	1	1	0	LS	SWP / Landscaping - Labor	\$6,259.00	\$6,259.00		
018-Pier	1	1	0	LS	SWP / Landscaping - Material	\$3,185.00	\$3,185.00		
019-Pier	1	1	0	LS	Fencing - Labor	\$20,387.00	\$20,387.00		
020-Pier	1	1	0	LS	Fencing - Material	\$19,855.00	\$19,855.00		
PIER TRACK-BUILDING IMPROVEMENTS									
021-Pier	1	1	0	LS	Demo - Labor	\$5,366.00	\$5,366.00		
022-Pier	1	1	0	LS	Demo - Material	\$3,367.00	\$3,367.00		
023-Pier	1	1	0	LS	Masonry Work - Labor	\$8,414.00	\$8,414.00		
024-Pier	1	1	0	LS	Masonry Work - Material	\$7,700.00	\$7,700.00		
025-Pier	1	1	0	LS	Roofing - Labor	\$13,914.00	\$13,914.00		
026-Pier	1	1	0	LS	Roofing - Material	\$13,200.00	\$13,200.00		
027-Pier	1	1	0	LS	Painting - Building Interior - Labor	\$5,983.00	\$5,983.00		
028-Pier	1	1	0	LS	Painting - Building Interior - Material	\$4,000.00	\$4,000.00		
029-Pier	1	1	0	LS	Painting - Piping & Equipment - Labor	\$5,462.00	\$5,462.00		
030-Pier	1	1	0	LS	Painting - Piping & Equipment - Material	\$4,000.00	\$4,000.00		
031-Pier	1	1	0	LS	Plumbing - Labor	\$6,169.00	\$6,169.00		
032-Pier	1	1	0	LS	Plumbing - Material	\$4,256.00	\$4,256.00		
033-Pier	1	1	0	LS	HVAC - Labor	\$8,418.00	\$8,418.00		
034-Pier	1	1	0	LS	HVAC - Material	\$22,541.00	\$22,541.00		
PIER TRACK-MISC METALS									
035-Pier	1	1	0	LS	Monorails & Hoists - Labor	\$5,007.00	\$5,007.00		
036-Pier	1	1	0	LS	Monorails & Hoists - Material	\$25,647.00	\$25,647.00		
037-Pier	1	1	0	LS	Floor Opening & Support Beam- Labor	\$4,243.00	\$4,243.00		
038-Pier	1	1	0	LS	Floor Opening & Support Beam- Material	\$5,299.00	\$5,299.00		
PIER TRACK-PROCESS PIPING & PUMPS									
039-Pier	1	1	0	LS	Demo - Labor	\$24,586.00	\$24,586.00		
040-Pier	1	1	0	LS	Demo - Material	\$8,000.00	\$8,000.00		
041-Pier	1	1	0	LS	Piping - Labor	\$40,002.00	\$40,002.00		
042-Pier	1	1	0	LS	Piping - Material	\$80,313.00	\$80,313.00		
043-Pier	1	1	0	LS	Valves - Labor	\$5,000.00	\$5,000.00		
044-Pier	1	1	0	LS	Valves - Material	\$40,839.00	\$40,839.00		
045-Pier	1	1	0	LS	Pumps - Labor	\$12,029.00	\$12,029.00		
046-Pier	1	1	0	LS	Pumps - Material	\$227,000.00	\$227,000.00		
047-Pier	1	1	0	LS	Pumps - Startup, Training, & O&M's	\$1,156.00	\$1,156.00		
PIER TRACK-BYPASS PUMPING									
048-Pier	1	1	0	LS	Bypass Pumping - Installation - Labor	\$15,000.00	\$15,000.00		
049-Pier	1	1	0	LS	Bypass Pumping - Installation - Material	\$12,000.00	\$12,000.00		
050-Pier	1	1	0	LS	Bypass Pumping - Operation & Maintenance - Labor	\$10,330.00	\$10,330.00		
051-Pier	1	1	0	LS	Bypass Pumping - Operation & Maintenance - Material	\$36,440.00	\$36,440.00		
052-Pier	1	1	0	LS	Bypass Pumping - Removal - Labor	\$15,000.00	\$15,000.00		
053-Pier	1	1	0	LS	Bypass Pumping - Removal - Material	\$12,000.00	\$12,000.00		
PIER TRACK-ELECTRICAL									
054-Pier	1	1	0	LS	General Lighting & Power - Labor	\$8,828.00	\$8,828.00		
055-Pier	1	1	0	LS	General Lighting & Power - Material	\$10,019.00	\$10,019.00		
056-Pier	1	1	0	LS	Electrical Gear - Labor	\$9,766.00	\$9,766.00		
057-Pier	1	1	0	LS	Electrical Gear - Material	\$22,382.00	\$22,382.00		
058-Pier	1	1	0	LS	Generator - Labor	\$4,600.00	\$4,600.00		
059-Pier	1	1	0	LS	Generator - Material	\$46,232.00	\$46,232.00		
060-Pier	1	1	0	LS	Control Panels - Labor	\$5,371.00	\$5,371.00		
061-Pier	1	1	0	LS	Control Panels - Material	\$29,093.00	\$29,093.00		
062-Pier	1	1	0	LS	Meters & Control Equipment - Labor	\$4,548.00	\$4,548.00		
063-Pier	1	1	0	LS	Meters & Control Equipment - Material	\$14,827.00	\$14,827.00		
FARWELL-SITE WORK									
064-Farwell	1	1	0	LS	Demo - Labor	\$2,461.00	\$2,461.00		
065-Farwell	1	1	0	LS	Demo - Material	\$905.00	\$905.00		
066-Farwell	1	1	0	LS	MAU Pad - Labor	\$6,219.00	\$6,219.00		
067-Farwell	1	1	0	LS	MAU Pad - Material	\$3,421.00	\$3,421.00		

ITEM NUMBER	PROPOSED SCHEDULE OF VALUE	ACTUAL SCHEDULE OF VALUE	DIFFERENCE IN QUANTITY	UNIT	DESCRIPTION	TOTAL PROPOSED SCHEDULE OF VALUE COST	TOTAL FINAL SCHEDULE OF VALUE COST	TOTAL ADD	TOTAL DEDUCT
068-Farwell	1	1	0	LS	Landscaping - Labor	\$2,131.00	\$2,131.00		
069-Farwell	1	1	0	LS	Landscaping - Material	\$586.00	\$586.00		
<b>FARWELL-BUILDING IMPROVEMENTS</b>									
070-Farwell	1	1	0	LS	Demo - Labor	\$5,527.00	\$5,527.00		
071-Farwell	1	1	0	LS	Demo - Material	\$1,660.00	\$1,660.00		
072-Farwell	1	1	0	LS	Masonry Work - Labor	\$17,763.00	\$17,763.00		
073-Farwell	1	1	0	LS	Masonry Work - Material	\$17,050.00	\$17,050.00		
074-Farwell	1	1	0	LS	Painting - Building Interior - Labor	\$6,000.00	\$6,000.00		
075-Farwell	1	1	0	LS	Painting - Building Interior - Material	\$5,000.00	\$5,000.00		
076-Farwell	1	1	0	LS	Painting - Piping & Equipment - Labor	\$5,913.00	\$5,913.00		
077-Farwell	1	1	0	LS	Painting - Piping & Equipment - Material	\$6,770.00	\$6,770.00		
078-Farwell	1	1	0	LS	Building Door - Labor	\$1,143.00	\$1,143.00		
079-Farwell	1	1	0	LS	Building Door - Material	\$8,625.00	\$8,625.00		
080-Farwell	1	1	0	LS	Plumbing - Labor	\$6,223.00	\$6,223.00		
081-Farwell	1	1	0	LS	Plumbing - Material	\$4,228.00	\$4,228.00		
082-Farwell	1	1	0	LS	HVAC - Labor	\$8,166.00	\$8,166.00		
083-Farwell	1	1	0	LS	HVAC - Material	\$22,351.00	\$22,351.00		
<b>FARWELL-MISCELLANEOUS METALS</b>									
084-Farwell	1	1	0	LS	Monorails & Hoists - Labor	\$5,138.00	\$5,138.00		
085-Farwell	1	1	0	LS	Monorails & Hoists - Material	\$34,647.00	\$34,647.00		
086-Farwell	1	1	0	LS	Floor Opening - Labor	\$1,427.00	\$1,427.00		
087-Farwell	1	1	0	LS	Floor Opening - Material	\$3,130.00	\$3,130.00		
<b>FARWELL-PROCESS PIPING &amp; PUMPS</b>									
088-Farwell	1	1	0	LS	Demo - Labor	\$25,159.00	\$25,159.00		
089-Farwell	1	1	0	LS	Demo - Material	\$7,560.00	\$7,560.00		
090-Farwell	1	1	0	LS	Piping - Labor	\$39,000.00	\$39,000.00		
091-Farwell	1	1	0	LS	Piping - Material	\$123,491.00	\$123,491.00		
092-Farwell	1	1	0	LS	Valves - Labor	\$6,426.00	\$6,426.00		
093-Farwell	1	1	0	LS	Valves - Material	\$93,909.00	\$93,909.00		
094-Farwell	1	1	0	LS	Pumps - Labor	\$18,393.00	\$18,393.00		
095-Farwell	1	1	0	LS	Pumps - Material	\$382,417.00	\$382,417.00		
096-Farwell	1	1	0	LS	Pumps - Startup, Training, & O&M's	\$1,156.00	\$1,156.00		
<b>FARWELL-BYPASS PUMPING</b>									
097-Farwell	1	1	0	LS	Bypass Pumping - Installation - Labor	\$19,000.00	\$19,000.00		
098-Farwell	1	1	0	LS	Bypass Pumping - Installation - Material	\$15,000.00	\$15,000.00		
099-Farwell	1	1	0	LS	Bypass Pumping - Operation & Maintenance - Labor	\$18,101.00	\$18,101.00		
					Bypass Pumping - Operation & Maintenance - Material	\$75,000.00	\$75,000.00		
100-Farwell	1	1	0	LS	Bypass Pumping - Removal - Labor	\$19,000.00	\$19,000.00		
101-Farwell	1	1	0	LS	Bypass Pumping - Removal - Material	\$15,000.00	\$15,000.00		
102-Farwell	1	1	0	LS	General Lighting & Power - Labor	\$9,320.00	\$9,320.00		
<b>FARWELL-ELECTRICAL</b>									
104-Farwell	1	1	0	LS	General Lighting & Power - Material	\$9,083.00	\$9,083.00		
105-Farwell	1	1	0	LS	Electrical Gear - Labor	\$10,156.00	\$10,156.00		
106-Farwell	1	1	0	LS	Electrical Gear - Material	\$21,104.00	\$21,104.00		
107-Farwell	1	1	0	LS	Control Panels - Labor	\$7,552.00	\$7,552.00		
108-Farwell	1	1	0	LS	Control Panels - Material	\$27,265.00	\$27,265.00		
109-Farwell	1	1	0	LS	Meters & Control Equipment - Labor	\$6,642.00	\$6,642.00		
110-Farwell	1	1	0	LS	Meters & Control Equipment - Material	\$15,138.00	\$15,138.00		
<b>CONTINGENCY</b>									
111	1	0.49		LS	Project Contingency-SEE ITEMS BELOW IN CONTINGENCY TOTAL=\$112,273.51	\$228,297.00			-\$228,297.00
<b>ALLOWANCES</b>									
112	1	0	-1	LS	Allowance For Electrical Work - Pier Track (Ohio Edison)	\$6,000.00	\$0.00		-\$6,000.00
113	1	0	-1	LS	Allowance For Electrical Work - Farwell (Ohio Edison)	\$5,000.00	\$0.00		-\$5,000.00
114	1	0.80	-0.20	LS	Allowance for System Integrator - Pier Track	\$13,685.00	\$11,000.00		-\$2,685.00
115	1	0.84	-0.16	LS	Allowance for System Integrator - Farwell	\$13,025.00	\$11,000.00		-\$2,025.00
116	1	0.81	-0.19	LS	Allowance for New SCADA System - Pier Track	\$25,000.00	\$20,236.51		-\$4,763.49
117	1	0.98	-0.02	LS	Allowance for New SCADA System - Farwell	\$25,000.00	\$24,575.58		-\$424.42
118	1	0	-1	LS	Allowance for Cleveland Road Sewer Extension	\$85,000.00	\$0.00		-\$85,000.00
<b>EXTRA WORK ITEMS</b>									
Item #1	0	1	1	LS	Add handholes to Pier Track pump volutes		\$5,016.68	\$5,016.68	
Item #2	0	1	1	LS	Pier Track Switchable exterior light		\$879.46	\$879.46	
Item #3	0	1	1	LS	Pier Track add riser to bypass manhole		\$10,448.26	\$10,448.26	
Item #4	0	1	1	LS	Calibration and start-up of Farwell 24 inch flow meter		\$1,923.93	\$1,923.93	
Item #5	0	1	1	LS	6 ft. access gate @ Pier Track		\$1,417.93	\$1,417.93	
Item #6	0	1	1	LS	Furnish step-down regulators on generator and MUA at Pier Track		\$1,817.40	\$1,817.40	
Item #7	0	1	1	LS	Farwell Integrate Ginty Pump Station with SCADA system		\$33,061.45	\$33,061.45	
Item #8	0	1	1	LS	VFD Components for By-pass Capabilities		\$32,176.31	\$32,176.31	
Item #9	0	1	1	LS	Farwell Odor Control Canister		\$2,936.88	\$2,936.88	
Item #10	0	1	1	LS	Farwell by-pass pump rental		\$15,547.16	\$15,547.16	
Item #11	0	1	1	LS	Paint existing items-additional areas Pier Track/Farwell		\$1,934.11	\$1,934.11	
Item #12	0	1	1	LS	Replace Farwell suction gate valve handwheels		\$3,647.20	\$3,647.20	
Item #13	0	1	1	LS	Farwell Step down regulator, painted by NBC		\$1,466.74	\$1,466.74	
Item #14					Time extension-final completion June 1, 2021		\$0.00		
<b>TOTALS=</b>						<b>\$2,530,522.60</b>	<b>\$112,273.51</b>	<b>-\$334,194.91</b>	

Explanation: Change order reflects work performed in the field.

ORIGINAL CONTRACT AMOUNT= \$2,752,444.00  
CHANGE IN CONTRACT= -\$221,921.40  
REVISED CONTRACT AMOUNT= \$2,530,522.60

Accepted:   
Contractor:

Date: JUNE 16<sup>TH</sup>, 2021

Accepted: \_\_\_\_\_  
Director of Public Works

Date: \_\_\_\_\_, 2021



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO APPROVE THE FIRST & FINAL CHANGE ORDER FOR WORK PERFORMED BY NORTH BAY CONSTRUCTION, INC. OF WESTLAKE, OHIO, FOR THE PIER TRACK PUMP STATION AND FARWELL PUMP STATION IMPROVEMENTS PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the Pier Track Pump Station and Farwell Pump Station Improvements Project involves the replacement of three (3) pumps and the generator at the Pier Track Pump Station located along the eastern side of Cedar Point Road between Cleveland Road and First Street and major improvements to the Farwell Pump Station located along Farwell Street between Second Street and First Street; and

**WHEREAS**, the improvements to the Pier Track and Farwell Pump Stations were required by the Ohio Environment Protection Agency (OEPA) pursuant to negotiations related to the CSO General Plan; and

**WHEREAS**, this City Commission approved an agreement for Professional Design Services with Jones & Henry Engineers, Ltd., of Toledo, Ohio, for the Pier Track Pump Station and Farwell Pump Station Improvements Project by Ordinance No. 17-228, passed on December 11, 2017, and subsequently approved an amendment to the agreement for additional services by Ordinance No. 18-195, passed on October 9, 2018; and

**WHEREAS**, this City Commission approved the filing of an application with the Ohio Environmental Protection Agency (OEPA) for a loan through the Water Pollution Control Loan Fund (WPCLF) Program for the design and construction of the Pier Track Pump Station and Farwell Pump Station Improvements Project by Resolution No. 048-18R, passed on October 22, 2018; and

**WHEREAS**, this City Commission declared the necessity to proceed with the proposed Pier Track Pump Station and Farwell Pump Station Improvements Project by Resolution No. 007-19R, passed on February 11, 2019; and

**WHEREAS**, this City Commission approved the awarding of the contract to North Bay Construction, Inc. of Westlake, Ohio, for the Pier Track Pump Station and Farwell Pump Station Improvements Project by Ordinance No. 19-064, passed on April 8, 2019; and

**WHEREAS**, this First & Final Change Order provides for an extension of the final completion date from July 17, 2020, to June 1, 2021, and reflects the additions and deductions to the contract as summarized below:

<b>CONTINGENCY</b>		
<b>111</b>	Project Contingency	-\$228,297.00
<b>ALLOWANCES</b>		
<b>112</b>	Allowance For Electrical Work - Pier Track (Ohio Edison)	-\$6,000.00
<b>113</b>	Allowance For Electrical Work - Farwell (Ohio Edison)	-\$5,000.00
<b>114</b>	Allowance for System Integrator - Pier Track	-\$2,685.00
<b>115</b>	Allowance for System Integrator - Farwell	-\$2,025.00
<b>116</b>	Allowance for New SCADA System - Pier Track	-\$4,763.49
<b>117</b>	Allowance for New SCADA System - Farwell	-\$424.42
<b>118</b>	Allowance for Cleveland Road Sewer Extension	-\$85,000.00
<b>EXTRA WORK ITEMS</b>		
Item #1	Add handholes to Pier Track pump volutes	\$5,016.68
Item #2	Pier Track Switchable exterior light	\$879.46
Item #3	Pier Track add riser to bypass manhole	\$10,448.26
Item #4	Calibration and start-up of Farwell 24 inch flow meter	\$1,923.93
Item #5	6 ft. access gate @ Pier Track	\$1,417.93
Item #6	Furnish step-down regulators on generator and MUA at Pier Track	\$1,817.40
Item #7	Farwell Integrate Ginty Pump Station with SCADA system	\$33,061.45
Item #8	VFD Components for By-pass Capabilities	\$32,176.31
Item #9	Farwell Odor Control Canister	\$2,936.88
Item #10	Farwell by-pass pump rental	\$15,547.16
Item #11	Paint existing items-additional areas Pier Track/Farwell	\$1,934.11
Item #12	Replace Farwell suction gate valve handwheels	\$3,647.20
Item #13	Farwell Step down regulator, painted by NBC	\$1,466.74
Item #14	Time extension-final completion June 1, 2021	\$0.00
<b>TOTAL</b>		<b>-\$221,921.40</b>

**WHEREAS**, the original contract with North Bay Construction, Inc., was \$2,752,444.00 and with the **deduction** of this First & Final Change Order in the amount of \$221,921.40, the final contract cost is \$2,530,522.60 that will be paid with a 0% interest Ohio Water Pollution Control Loan (WPCLF) which will be repaid with Sewer Funds and with partial reimbursement from Erie County pursuant to the Sewer Services Agreement and associated Amendments which is 55% for the Farewell Pump Station and 48% for the Pier Track Pump Station; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to make payment to contractor in a timely manner for work already performed and to close out the completed project; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,



BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is hereby authorized and directed to approve this First & Final Change Order for work performed for Pier Track Pump Station and Farwell Pump Station Improvements Project and to **deduct** from the contract amount the sum of Two Hundred Twenty One Thousand Nine Hundred Twenty One and 40/100 Dollars (\$221,921.40) resulting in the final contract cost of Two Million Five Hundred Thirty Thousand Five Hundred Twenty Two and 60/100 Dollars (\$2,530,522.60) with North Bay Construction, Inc. of Westlake, Ohio, and extending the final completion date from July 17, 2020 to June 1, 2021.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
MCKENZIE E. SPRIGGS  
CLERK OF THE CITY COMMISSION

Passed: June 28, 2021

NOTICE TO LEGISLATIVE  
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL  
6606 TUSSING ROAD, P.O. BOX 4005  
REYNOLDSBURG, OHIO 43068-9005  
(614)644-2360 FAX(614)644-3166

7730247		TFOL	TO	<b>SANDUSKY SALVAGE CENTER LLC</b> 2434 W MONROE ST SANDUSKY OH 44870	<b>RECEIVED</b>  JUN 18 REC'D  SANDUSKY CITY COMMISSION
PERMIT NUMBER		TYPE			
02	01	2019			
ISSUE DATE					
06	08	2021			
FILING DATE					
D1		D2			
PERMIT CLASSES					
22	077	B	F25448		
TAX DISTRICT			RECEIPT NO.		

FROM 06/10/2021 SAFEKEEPING

7099118			<b>BENJAMIN VITO PRUITT</b> DBA BENNY VITOS GRILL & BAR 902 W ADAMS ST UNIT B SANDUSKY OH 44870	
PERMIT NUMBER		TYPE		
02	01	2019		
ISSUE DATE				
06	08	2021		
FILING DATE				
D1		D2		
PERMIT CLASSES				
22	077			
TAX DISTRICT			RECEIPT NO.	



MAILED 06/10/2021 RESPONSES MUST BE POSTMARKED NO LATER THAN. 07/12/2021

**IMPORTANT NOTICE**

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL  
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.  
REFER TO THIS NUMBER IN ALL INQUIRIES **B TFOL 7730247**

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT  
THE HEARING BE HELD ☐ IN OUR COUNTY SEAT. ☐ IN COLUMBUS.

WE DO NOT REQUEST A HEARING. ☐

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)- ☐ Clerk of County Commissioner

(Date)

☐ Clerk of City Council

☐ Township Fiscal Officer

**CLERK OF SANDUSKY CITY COUNCIL**  
240 COLUMBUS AVE  
SANDUSKY OHIO 44870

## McKenzie Spriggs

---

**From:** Jonathan Holody  
**Sent:** Thursday, June 24, 2021 1:47 PM  
**To:** McKenzie Spriggs  
**Subject:** Re: liquor permit

No issues from Community Development.

Jonathan

Get [Outlook for Android](#)

---

**From:** Jared Oliver <joliver@ci.sandusky.oh.us>  
**Sent:** Thursday, June 24, 2021 11:22:50 AM  
**To:** McKenzie Spriggs <mspriggs@ci.sandusky.oh.us>; Jonathan Holody <jholody@ci.sandusky.oh.us>; Stephen Rucker <srucker@ci.sandusky.oh.us>  
**Subject:** RE: liquor permit

No issues from SPD.



**Jared Oliver | Chief of Police**  
SANDUSKY POLICE DEPARTMENT  
222 Meigs Street | Sandusky, OH 44870  
T: 419.627.5869 | F: 419.627.5862  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)



**From:** McKenzie Spriggs <mspriggs@ci.sandusky.oh.us>  
**Sent:** Tuesday, June 22, 2021 4:10 PM  
**To:** Jonathan Holody <jholody@ci.sandusky.oh.us>; Jared Oliver <joliver@ci.sandusky.oh.us>; Stephen Rucker <srucker@ci.sandusky.oh.us>  
**Subject:** RE: liquor permit

Attached! Thanks Jared.

Thanks,  
McKenzie

**From:** McKenzie Spriggs  
**Sent:** Tuesday, June 22, 2021 10:00 AM  
**To:** Jonathan Holody <jholody@ci.sandusky.oh.us>; Jared Oliver <joliver@ci.sandusky.oh.us>; Stephen Rucker <srucker@ci.sandusky.oh.us>  
**Subject:** liquor permit

## McKenzie Spriggs

---

**From:** Stephen Rucker  
**Sent:** Wednesday, June 23, 2021 7:59 AM  
**To:** McKenzie Spriggs; Jonathan Holody; Jared Oliver  
**Subject:** RE: liquor permit

No issues from my office. Thanks



Steve Rucker | *Fire Marshal*  
**SANDUSKY FIRE DEPARTMENT**  
600 W. Market Street | Sandusky, OH 44870  
T: 419.627.5823 | F: 419.627.5820  
srucker@ci.sandusky.oh.us  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

**From:** McKenzie Spriggs <mspriggs@ci.sandusky.oh.us>  
**Sent:** Tuesday, June 22, 2021 10:00 AM  
**To:** Jonathan Holody <jholody@ci.sandusky.oh.us>; Jared Oliver <joliver@ci.sandusky.oh.us>; Stephen Rucker <srucker@ci.sandusky.oh.us>  
**Subject:** liquor permit

Hi guys- this is a weird one (in my opinion) –  
Please see the liquor permit for 2434 W Monroe Street – Sandusky Salvage, and let me know if you have any questions.  
-McKenzie



**McKenzie Spriggs | Commission Clerk**  
**CITY COMMISSION**  
240 Columbus Avenue | Sandusky, OH 44870  
T: 419.627.5850  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)







## DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

To: Eric Wobser, City Manager

From: Aaron M. Klein, P.E.

Date: June 16, 2021

**Subject: Commission Agenda Item – Revocable License Agreement with Scooter Ding Ding, LLC.**

**ITEM FOR CONSIDERATION:** Legislation to enter into a Revocable License Agreement with Scooter Ding Ding, LLC of Sandusky, Ohio for use of public space related to their scooter rental services.

**BACKGROUND INFORMATION:** In May, staff granted a Temporary Encroachment of Public Right of Way For Purpose of 2021 Sidewalk Dining/Outdoor Sales to Scooter Ding Ding, LLC (Company) to utilize the space immediately adjacent to the property located at 215-217 East Water Street occupied by Boom Town Coffee, Zinc Brasserie, and Hearth Tavern.

The Company desires to stage these electric scooters for rent at bike racks along Shoreline Drive, Market Street, Water Street, and Columbus Avenue between Shoreline Drive and Washington Row. Therefore, since these locations are not contiguous with their property, they are required to obtain a Revocable License Agreement prior to utilizing these locations.

A few of the key features of this service is that the electric scooters can be tracked at all times by the owner through their cell phone app that uses geographical positioning system software connected to each piece of equipment. Company staff will collect all of the scooters and return them to a central charging station located in Boom Town Coffee when the batteries are low or at the end of each operating day, which runs from 8:00 am to 12:00 am (midnight). The user will be continuously charged the established rate until the scooter is returned to one of the staging locations mentioned above, which will minimize the possibility of users leaving scooters scattered all over the City. The Company will be responsible to ensure their users comply with all federal, state and local laws, including restrictions on speed limits of twenty (20) miles per hour and limiting their use to non-roadways.

The agreement expires on November 30, 2021 with two possible extensions from May 1 through November 30 in 2022 and 2023. However, staff from the City and the Company plan to review the contract and the scooter operations to recommend contractual changes, if any, prior to granting future extensions.

**BUDGETARY INFORMATION:** If approved there would be no cost to the City. The City would receive \$50 per staging location for use of existing bike racks in the right of way or on city-owned public property.

**ACTION REQUESTED:** It is recommended that proper legislation be approved to enter into a Revocable License Agreement with Scooter Ding Ding, LLC and that the necessary legislation be passed under suspension of the rules and in accordance with Section 14 of the City Charter in order to immediately execute the license agreement and allow the Company to quickly expand operations to the locations listed to provide additional recreational activities in the City.

I concur with this recommendation:

---

Eric Wobser  
City Manager

cc: M. Spriggs, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A REVOCABLE LICENSE AGREEMENT WITH SCOOTER DING DING, LLC, OF SANDUSKY, OHIO, FOR THE USE OF PUBLIC SPACE FOR A SCOOTER RENTAL BUSINESS; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, this past May, Staff granted a Temporary Encroachment of Public Right-of-Way for the purpose of Sidewalk Dining/Outdoor Sales to Scooter Ding Ding, LLC to utilize the space immediately adjacent to property located at 215-217 East Water Street occupied by Boom Town Coffee, Zinc Brasserie, and Hearth Tavern ; and

**WHEREAS**, Scooter Ding Ding, LLC, desires to stage their electric scooters for rent at bike racks along Shoreline Drive, Market Street, Water Street, and Columbus Avenue between Shoreline Drive and Washington Row and therefore, since these locations are not contiguous with their property, are required to obtain a license prior to utilizing these locations; and

**WHEREAS**, the agreement will expire on November 30, 2021, with the option to renew or renegotiate two (2) additional terms from May 1<sup>st</sup> through November 30<sup>th</sup> in 2022 and May 1<sup>st</sup> through November 30<sup>th</sup> in 2023; and

**WHEREAS**, if approved, the City will receive \$50.00 per staging location for use of existing bike racks in the right-of-way or on city-owned public property; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to immediately execute the license agreement and allow Scooter Ding Ding, LLC, to expand the staging locations of the scooters to City bike racks to provide additional recreational activities in the City; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into a Revocable License Agreement with Scooter Ding Ding, LLC, of Sandusky, Ohio, for the use of public space for a scooter rental business, substantially in the same

form as Exhibit "1", a copy of which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein, together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with carrying out the objectives of this Ordinance.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
MCKENZIE E. SPRIGGS  
CLERK OF THE CITY COMMISSION

Passed: June 28, 2021



## **REVOCABLE LICENSE AGREEMENT**

**THIS REVOCABLE LICENSE AGREEMENT** ("Agreement") made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2021 by and between **THE CITY OF SANDUSKY, OHIO**, an Ohio Municipal Corporation, hereinafter referred to as "City" and **SCOOTER DING DING, LLC**, an Ohio Limited Liability Company, hereinafter referred to as "Company."

### **WITNESSETH:**

**WHEREAS**, the City desires to provide amenities and attractions for the benefit of residents and visitors, and;

**WHEREAS**, Company has proposed an opportunity to the City which satisfies that goal, and;

**WHEREAS**, it is the purpose and intent of this document to set forth the agreements which have been reached by the parties concerning the above referenced matters and other matters.

**NOW, THEREFORE**, in consideration of the mutual promises of the parties and other good and valuable consideration of the mutual promises of the parties and other good and valuable consideration, the parties agree as follows:

1. **PURPOSE.** The Purpose of this Agreement is to establish a revocable license agreement between the City and the Company for the use of land consistent with Company's rental service, which license shall be fully revocable by City and any time and for any or no reason upon notice of same to Company.

1.1. Company will own and operate a rental service consisting of the rental of electric scooters. Company is expressly prohibited from any commercial activities which may be deemed in competition with City sponsored endeavors. Additionally, Company is expressly forbidden to engage in marketing or advertisement of any form identifying Company as being a partner, subsidiary or agent of the City. It is anticipated by the Parties that the rental of the electric scooters will commence on the 1<sup>st</sup> of May and conclude on the 30<sup>th</sup> of November of each calendar year subject to this Agreement. This Agreement is intended and shall convey from the City to Company a revocable license to permit such operations as outlined herein, which license shall be fully revocable by City and any time and for any or no reason upon notice of same to Company.

1.2. The City will allow the Company to store, place, and rent electric scooters from the bike racks on Shoreline Drive, Market Street, Water Street, and Columbus Avenue between Shoreline Drive and Washington Row in the City of Sandusky during the term of this Agreement, all at Company's sole cost and expense. The Company shall make use of the bike racks at the locations listed above. Company shall remove the electric scooters from the bike racks nightly. Company understands and affirms that the bike racks will not be monitored by the City, and Company assumes the risk of loss as to the electric scooters from any and all causes, including theft, loss, or mysterious disappearance of same. Company shall maintain

the bike racks and electric scooters in good repair and in an aesthetically pleasing appearance during the term of this Agreement.

1.3. Company shall limit the operations of the scooters to the hours of 8am – 12am (midnight). Company shall not allow scooters to be operated outside these hours. If the Company permits the operation of a scooter outside the permitted hours, Company shall pay a penalty of \$500 per violation of these terms.

1.4 Pursuant to Ohio Revised Code Section 4511.514, Company shall prohibit scooters to be operated at speeds greater than twenty miles per hour. Company shall pay a penalty of \$500 per violation of this term.

1.5. Company may affix advertisements to the bike racks at the locations listed in these agreements. Such advertisements must be approved in writing by the City prior to being placed upon or affixed to any City property. The City may without notice remove any advertisements that violate the terms of this provision or upon termination of this Agreement for any reason.

2. TERM. The term of this Agreement shall commence upon the execution of all parties and shall terminate promptly after November 30, 2021, subject to annual renewal periods as follows, unless written notice is provided by a party to the Agreement of an intent to terminate the Agreement pursuant to Section 4 or renegotiate the Agreement's terms within sixty (60) days prior to the expiration of the then existing term: (i) 1<sup>st</sup> of May thru 30th of November in the year 2022; and (ii) 1<sup>st</sup> of May thru 30th of November in the year 2023.

3. COSTS. In consideration of the grant by the City to Company of the revocable license to operate the electric scooter rental business and use the City's property for storage of the electric scooters, upon execution of the Agreement, and for the initial term of the Agreement and any and all renewals thereof, Company agrees to pay to City \$50 per location for the use of the bike racks and public right of way, payment is due within 30 days of the execution of this agreement by May 1 each subsequent year. Notwithstanding the termination provisions set forth in Section 4 below, the costs are non-refundable and shall not be prorated in the event of the early termination of the Agreement.

4. TERMINATION. Notwithstanding any contrary provision of this Agreement, the City shall have the absolute, unqualified right and option to terminate this Agreement and revoke the license at any time upon notice to Company in the City's sole and absolute discretion.

4.1. Should the City terminate this Agreement for reason other than an Event of Default (defined in Section 9 herein), all costs associated with this Agreement and paid to the City shall not be prorated.

4.2. Should Company terminate the Agreement prior to the expiration of the term, all costs associated with this Agreement and paid to the City shall not be prorated.

5. AMENDMENT. This Agreement may only be amended by written instrument executed by all parties.

6. ASSIGNABILITY AND TRANSFER. The rights and authority conveyed through this Agreement shall not be assignable or transferrable by either party. This Agreement shall not be recognized as valid for any sublease, subcontract or conveyance to another party regardless of whether said sublease, subcontract or conveyance is in exchange for compensation.

7. LIMITATION OF LIABILITY AND INDEMNIFICATION.

7.1 Company agrees to indemnify, defend, release, and hold the City (and City's officers, employees, and agents) harmless from any and all actual or threatened actions, causes of action, claims, costs, demands, fines, fees, suits, judgments, expenses, and losses for any alleged injury, disability, illness, death, or loss or damage to person or property, arising or claimed to arise by participants, customers, and any and all third parties arising directly or indirectly from Company's acts, omissions, gross negligence or willful misconduct in conducting the proposed activities authorized by this Agreement, including, but not limited to, the lease and use of electric scooters to third parties and the storage of the electric scooters on City property. This indemnification shall include all costs of defense, including reasonable attorneys' and expert witness fees, and shall also extend to use of the any City property by Company.

7.2 Company shall secure general liability insurance, at least in the amount of One Million Dollars (\$1,000,000), for bodily injury and death; One Hundred Thousand Dollars (\$100,000) property damage, which policies shall name City as an additional named insured by endorsement. Company shall furnish City with evidence that the required insurance has been obtained, with proof of payment of the premium for the duration of this Agreement, prior to the beginning of the term of this Agreement and any and all renewals thereof, and a copy of such shall herein be attached and incorporated as Exhibit A. Such policy shall include a 30-day cancellation clause.

7.3 Company understands that its proposed activities under this Agreement will expose it and its employees, agents, guests, contractors and other persons subject to its control to a risk of injury and illness (such as communicable diseases such as MRSA, influenza, and COVID-19), including the potential for permanent paralysis and death, and while particular rules, equipment, and personal discipline may reduce these risks, the risks of serious injury and illness do exist, and Company KNOWINGLY AND FREELY ASSUMES ALL SUCH RISKS, both known and unknown, EVEN IF ARISING FROM THE NEGLIGENCE OF THE CITY, and assumes full responsibility for any such risk which may occur during its proposed activities under this Agreement and the use of City property.

8. CHOICE OF LAW. This Agreement shall be governed and interpreted in accordance with the laws of the State of Ohio and the parties hereto agree that any dispute or other matter arising out of the

interpretation or operation of this Agreement shall be determined in a Court of competent jurisdiction located within the State of Ohio and County of Erie.

9. EVENTS OF DEFAULT. The following events are referred to, collectively, as “Event(s) of Default;”

9.1. Failure to provide due and timely payments. In the event that Company fails to provide timely payments as set forth in Section 3, the City shall provide written notice of the payment default. Such written notice shall permit the Company to rectify the payment delinquency within five (5) business days. Failure to do so shall result in an Event of Default of the Agreement. The City will not be required to provide any further written notice beyond the first notice; or,

9.2. Company vacates or abandons the electric scooters or other property, or Company’s cessation of the operation of its rental service set forth in Section 1.1; or,

9.3. Company purports to assign this Agreement, or sublet all or a portion of the storage racks, in violation of the terms set forth herein; or,

9.4. Company breaches any of the other agreements, terms, covenants, or conditions not in conflict with the terms included herein, and such breach continues for a period of five (5) days after written notice from the City to Company.

9.5 Notwithstanding any contrary provision of this Agreement, the license granted herein shall be fully revocable by City and any time and for any or no reason upon notice of same to Company.

10. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAW, ORDERS, GUIDANCE, RULES AND REGLATIONS. Company shall ensure that it and all employees, agents, contractors, customers, and any other persons subject to their direction and control shall **strictly** comply with all federal, state, and local laws, orders, instructions, requirements, guidance, and any other safeguards, including, but not limited to, those related to any and all communicable diseases, including COVID-19. Company agrees to be solely responsible for ensuring that the activities covered by this Agreement will be operated, run, managed, and conducted in a manner consistent with all applicable all federal, state, and local laws, orders, instructions, requirements, guidance, and any other safeguards, including those related to COVID-19, and will coordinate with the Erie County Department of Health to ensure the same.

11. REMEDIES OF DEFAULT. If any one or more Events of Default set forth in this Agreement occurs, or if the City exercises its unilateral and unqualified right to revoke the license grated herein, then the City has the right, at its election:

11.1. To terminate this Agreement, in which case Company’s right to use the bike racks within the City will cease. If this Agreement is terminated pursuant to this Section, the City will be entitled to recover from Company: (i) the unpaid costs that has been earned at the time of termination; (ii) if the termination is a result of Company’s default, the unpaid costs for the balance of the term of this Agreement.



11.2. Remedies Cumulative. The City's rights hereunder shall be in addition to, and not in lieu of, every other right or remedy provided for herein or now or hereafter existing at law or in equity by statute or otherwise, including, but not limited to injunctive relief, specific performance and damages. The exercise or beginning of exercise by the City of any one or more rights or remedies, provided herein or now or hereafter existing at law or in equity by statute or otherwise, shall not preclude the simultaneous or later exercise by the City of any or all other rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise. All such rights and remedies shall be considered cumulative and nonexclusive.

12. GENERAL TERMS AND CONDITIONS. This Agreement constitutes the entire Agreement between the parties and supersedes all prior or written agreements or understandings. Company shall comply with all Federal, State and Local laws and ordinances, in effect now or in the future. Company shall submit a completed Regional Income Tax Registration Form at the time of execution of this Agreement.

**IN WITNESS WHEREOF**, the parties have hereunto subscribed their names to duplicates hereof on the day and year last aforesaid.

**CITY OF SANDUSKY, OHIO**

**SCOOTER DING DING, LLC**

\_\_\_\_\_  
Eric Wobser, City Manager

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

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

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

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Brendan Heil, Law Director

*Notary Jurats Follow*

**ACKNOWLEDGEMENT**

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

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named City of Sandusky, Ohio, by Eric Wobser, its City Manager who acknowledged that he did sign the foregoing instrument in his capacity as City Manager and that the same is his free act and deed in such capacity. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to signer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at \_\_\_\_\_, Ohio, this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:\_\_\_\_\_

**ACKNOWLEDGEMENT**

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

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named Scooter Ding Ding LLC, by \_\_\_\_\_, its \_\_\_\_\_ who acknowledged that he did sign the foregoing instrument in his capacity as \_\_\_\_\_ and that the same is his free act and deed in such capacity. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to signer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at \_\_\_\_\_, Ohio, this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:\_\_\_\_\_



## DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

To: Eric Wobser, City Manager

From: Jane E. Cullen, P.E.

Date: June 15, 2021

Subject: Commission Agenda Item- AT& T agreement for decorative banners along Venice Road

**ITEM FOR CONSIDERATION:** Requesting legislation authorizing the City to sign into an agreement with AT&T, allowing the City to place Sandusky Bay Pathway banners on existing AT&T utility poles.

**BACKGROUND INFORMATION:** At the city commission meeting on January 13, 2020 per Ordinance no. 20-002 the Westside Utility and Connectivity Improvements Project was awarded to Speer Bros. in the amount of \$4,407,163.00. This project involved an owner's allowance for bike trail signage and wayfinding for the 10' asphalt path on the north side of Venice Road. Part of this allowance involves placing decorative banners on existing utility poles on the north side of Venice Road between Edgewater Drive and the Cold Creek Bridge. These poles are owned by AT&T and they require an agreement with the City of Sandusky in order to allow the placement of the banners on their poles.

**BUDGETARY INFORMATION:** The cost of the agreement is \$2,160.00 and will be paid with Capital Funds. This agreement is for a time period of five years and will need to be renewed at that time.

**ACTION REQUESTED:** It is recommended that the necessary legislation be passed under suspension of the rules and in accordance with Section 14 of the City Charter in order to in order for the city to sign into agreement with AT&T so that the banners can be placed by the Westside Utilities and Connectivity Project's contractor, Speer Bros while they are still under contract with the city.

I concur with this recommendation:

---

Eric Wobser  
City Manager

---

Aaron Klein, P.E.  
Director

cc: M. Spriggs, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director

## CERTIFICATE OF FUNDS

In the Matter of: AT&T Agreement- Venice Road Banners

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Contract have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to an appropriate fund, free from any previous encumbrances. This certificate is given compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Account # 431-3462-53000

By: Michelle Reeder

Michelle Reeder

Finance Director

Dated: 6/24/2021

## **COMMERCIAL LICENSE AGREEMENT FOR STRUCTURE ACCESS**

This Agreement, effective on the last date signed by a party (the "Effective Date"), is between The Ohio Bell Telephone Company, d/b/a AT&T Ohio ("AT&T"), and the City of Sandusky, Ohio ("Licensee"), an entity not expressly entitled, under federal or state law, to access poles, ducts, or conduit owned by AT&T.

### **1.0 INTRODUCTION AND SCOPE OF AGREEMENT**

- 1.1 The purpose of this Agreement is to set forth the basic rates, terms, conditions, and procedures under which Licensee shall have access to AT&T's Structure, identified on Attachment 1, as long as such Structure is owned or controlled solely by AT&T, or in part by AT&T, and only the particular Structure. Specifically, Licensee shall have access to 36 AT&T poles, which are located on the north side of Venice Road from Cold Creek Bridge to Edgewater Drive, in Sandusky, Ohio, to place banners, which will measure 12" by 48" and which will be attached to AT&T's Poles using Bannersaver bands (hereinafter referred to as "attachments" or "facilities"). The Parties agree that: (a) with regard to the Attachment from Cold Creek Bridge to east Thorpe Drive, the path is between the Poles and the road and the Attachments will be placed on the road side; and (b) with regard to the Attachments from Thorpe Drive east to Edgewater Drive, the path is north of the Poles, and the Attachments will be placed on the path side. Licensee agrees that it will not place any facilities on AT&T's Structure for the purpose of providing any wholesale or retail communications offering.
- 1.2 No Transfer of Property Rights to Licensee. Nothing contained in this Agreement, or any License subject to this Agreement, shall create or vest (or be construed as creating or vesting) in either Party any right, title, or interest in or to any real or personal property owned by the other.
- 1.3 No Effect on AT&T's Right to Abandon, Convey, or Transfer Structure and/or Enter into Other Agreements. Nothing contained in this Agreement, or any License subject to this Agreement, shall in any way affect AT&T's right to abandon, convey, or transfer to any other person or entity AT&T's interest in any of AT&T's Structure. AT&T shall give Licensee at least sixty (60) days' written notice prior to abandoning, conveying, or transferring the Structure to which Licensee has already attached its facilities. The notice shall identify the transferee, if any, to whom any such Structure is to be conveyed or transferred.
  - 1.3.1 Nothing herein contained shall be construed as a grant of any exclusive authorization, right, or privilege to Licensee. AT&T shall have the right to grant, renew, and extend rights and privileges to others not Parties to this Agreement, by contract or otherwise, to use any Structure covered by this Agreement and Licensee's rights hereunder.
- 1.4 Term. Unless sooner terminated as provided herein, the term of this Agreement shall run from the Effective Date for a period of five (5) years. Licensee shall remove its facilities within sixty (60) days after the termination of the License.

### **2.0 DEFINITIONS**

- 2.1. Definitions in General. As used in this Agreement, the terms defined in this Section shall have the meanings set forth below in Sections 2.2 to 2.8.
- 2.2. License. "License" refers to a written instrument granting Licensee permission to install its facilities in accordance with the AT&T-approved design on the AT&T Structure identified on Attachment 1.
- 2.3. Make-Ready Survey. "Make-Ready Survey" refers to AT&T's, or an AT&T authorized contractor's, engineering review of the Application Licensee submits to AT&T to identify any work necessary to make AT&T's Structure on Attachment 1 ready for Licensee's facilities. The review includes, but is not limited to, field review, records review, and validation against the standards referenced in Section 5.
- 2.4. Make-Ready Work. "Make-Ready Work" refers to all work performed, or to be performed, to prepare AT&T's Structure, and any existing related facilities, for the requested occupancy of Licensee's facilities.



- 2.5. Other User. "Other User" refers to an entity, other than Licensee, with facilities on AT&T's Structure to which Licensee has obtained access. Other Users may include, but are not limited to, other licensees, municipalities, governmental entities, and electric utilities.
- 2.6. Poles. "Poles" refers to the poles located at the locations indicated on Attachment 1.
- 2.7. Right(s)-of-Way. "Right(s)-of-Way" refers to a party's legal rights to pass over or through property owned by another party.
- 2.8. Structure. The term "Structure" refers collectively to Poles, Ducts, and Conduits.

### 3.0 GENERAL PROVISIONS

- 3.1. Entire Agreement. This Agreement sets forth the entire understanding and agreement of the Parties with respect to Licensee's access to the Structure for the locations described on Attachment 1.
- 3.2. Prior Agreements Superseded. This Agreement supersedes all prior agreements and understandings, whether written or oral, between Licensee and AT&T relating to the placement and maintenance of Licensee's facilities on AT&T's Structure.
- 3.3. Effect on Licenses Issued Under Prior Agreements. All currently effective Structure Licenses granted by AT&T to Licensee shall, on the Effective Date of this Agreement, be subject to the rates, terms, conditions, and procedures set forth in this Agreement.
- 3.4. Responsibilities of Licensee. Licensee is responsible for the contractor(s) it selects to install and maintain its facilities.
- 3.5. No Waiver. The failure by either Party to take action to enforce compliance with any of the terms or conditions of this Agreement, to give notice of any breach, or to terminate this Agreement or any License subject to this Agreement, shall not constitute a waiver or relinquishment of any term or condition of this Agreement, a waiver or relinquishment of the right to give notice of breach, or waiver or relinquishment of any right to terminate this Agreement.
- 3.6. Billing. Unless otherwise provided elsewhere in this Agreement, Licensee shall pay all rates and charges, as specified in this Agreement, within thirty (30) days from the invoice date.
- 3.7. Amendments Shall Be in Writing. The terms and conditions of this Agreement shall not be amended, changed, or altered except in writing and with approval by authorized representatives of both Parties.
- 3.8. Survival of Obligations. Any liabilities or obligations of either Party for acts or omissions prior to the termination of this Agreement, any obligations of either Party under provisions of this Agreement relating to indemnification, limitations of liability, and any other provisions of this Agreement, which, by their terms, are contemplated to survive (or be performed after) termination of this Agreement, will survive the termination of this Agreement through any applicable statute of limitations period.
- 3.9. Severability. If any Article, Section, subsection, or other provision or portion of this Agreement is or becomes invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of this Agreement as to either Party, the invalidity of such provision shall not render this entire Agreement unenforceable and this Agreement shall be administered as if it did not contain the invalid provision.
- 3.10. Choice of Law. Except to the extent that federal law controls any aspect of this Agreement, the validity of this Agreement, the construction and enforcement of its terms, and the interpretation of the rights and duties of the Parties will be governed by the laws of Ohio, applied without regard to the provisions of Ohio's laws relating to conflicts-of-laws.
- 3.11. Applicable Laws. The Parties shall at all times observe and comply with, and the provisions of this Agreement are subject to, all applicable federal, state, and local laws, ordinances, and regulations which in any manner affect the rights and obligations of the Parties, including but not limited to any safety requirements required by Occupational Safety and Health Administration ("Applicable Laws"). Licensee shall establish appropriate procedures and controls to ensure such compliance by all persons acting on Licensee's behalf.

- 3.11.1. AT&T makes no representations to Licensee, or personnel performing work on Licensee's behalf, that AT&T's Structure, or any specific portions thereof, will be free from environmental contaminants at any particular time. Licensee agrees to establish appropriate procedures and controls to ensure compliance with all applicable environmental laws and regulations including, but not limited to the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 *et seq*), the Toxic Substance Control Act (15 U.S.C. §§ 2601 *et seq*), the Clean Water Act (33 U.S.C. §§ 1251 *et seq*), and the Safe Drinking Water Act (42 U.S.C. §§ 300f- 300j).
- 3.12. No Third-Party Beneficiaries; Disclaimer of Agency. This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein expressed or implied shall create or be construed to create any third-party beneficiary rights hereunder. This Agreement shall not provide any person, not a Party hereto, with any remedy, claim, liability, reimbursement, cause of action, or other right in excess of those existing without reference hereto.
- 3.13. Subcontracting. If either Party retains or engages any contractor or subcontractor to perform any of that Party's obligations under this Agreement, each Party will remain fully responsible for the performance of this Agreement in accordance with its terms, including any obligations either Party performs through contractors or subcontractors. Each Party will be solely responsible for payments due that Party's contractors or subcontractors. No contractor or subcontractor will be deemed a third-party beneficiary for any purposes under this Agreement. No contract, subcontract, or other agreement entered into by either Party with any third party in connection with the provision of services hereunder will provide for any indemnity, guarantee, or assumption of liability by the other Party to this Agreement with respect to such arrangement, except as consented to in writing by the other Party. Licensee shall not permit any lien to be filed against AT&T's Structure for any labor or materials in connection with work of any character performed or claimed to have been performed in AT&T's Structure at Licensee's direction.
- 3.14. Authority. Each person whose signature (including e.g., an electronic signature) appears on the signature page represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement.
- 3.15. Counterparts. This Agreement may be executed in counterparts. Each counterpart shall be considered an original and such counterparts shall together constitute one and the same instrument.

#### 4.0 RIGHTS OF WAY/QUIET ENJOYMENT

- 4.1. Licensee shall be solely responsible for determining the necessity of and obtaining from private and/or public authority any necessary consent, easement, ROW, license, permit, permission, certification, or franchise to construct, operate, and/or maintain its facilities on private and public property at the location of the AT&T Structure on which Licensee seeks to place and attach its facilities and shall bear all expenses, including legal expenses, involved in making such determinations. The License granted under this Agreement authorizes Licensee to place facilities on AT&T's Structure at the locations identified on Attachment 1, but does not affect the rights of landowners to control the terms and conditions of access to their property. Licensee agrees that neither it or any person or entity acting on its behalf will engage in any conduct which damages property in the vicinity of AT&T's Structure, interferes in any way with the use or enjoyment of property, or creates a hazard or nuisance on such property.
- 4.2. Private Rights-of-Way Not Owned or Controlled by Either Party. Neither Party shall restrict or interfere with the other Party's access to or right to occupy property owned by third parties.

#### 5.0 SPECIFICATIONS

- 5.1. Compliance with Requirements, Specifications, and Standards. Licensee's facilities placed on AT&T's Structure shall be placed, constructed, maintained, repaired, and removed in full compliance with the current (as of the date when such work is performed) editions of the following publications:

- 5.1.1. the Blue Book Manual of Construction Procedures, Special Report SR-1421, published by Bell Communications Research, Inc. (Bellcore) or its successors, and sometimes referred to as the "Blue Book;"
  - 5.1.2. the National Electrical Safety Code (NESC), published by the Institute of Electrical and Electronic Engineers, Inc. (IEEE);
  - 5.1.3. the National Electrical Code (NEC), published by the National Fire Protection Association (NFPA); and
  - 5.1.4. the AT&T Structure Access Guidelines, which can be found at: [https://clec.att.com/clec\\_documents/unrestr/hb/13%20State/250/sa21/Structure-Access-Guidelines-10012015.pdf](https://clec.att.com/clec_documents/unrestr/hb/13%20State/250/sa21/Structure-Access-Guidelines-10012015.pdf).
- 5.2. Authorized Contractor. Licensee must use a contractor on the list of contractors provided by AT&T ("Authorized Contractor") to perform any Make-Ready Survey and Make-Ready Work on AT&T's Structure. The Parties agree that Licensee may use Speer Bros., Inc. to install the banners on AT&T's Structure. Licensee will maintain and/or remove the banners from AT&T's Structure. Licensee agrees on its own behalf, and on behalf of the contractor for the Westside Utility and Connectivity Project, that it will comply with the requirements, specifications, and standards set forth in Section 5.1, and with all other terms and conditions of this Agreement. The Parties agree that designation of an Authorized Contractor for a specific category of tasks shall not be deemed to be the designation of such person or entity as an Authorized Contractor for other purposes, nor shall identification of an Authorized Contractor within a single state constitute authorization of such Authorized Contractor for any other state. Licensee shall be solely responsible for paying for, and for directing, the activities of all persons, including Authorized Contractors, acting on Licensee's behalf while they are physically present on or near AT&T's Structure.
- 5.3. Licensee shall be responsible for ensuring that its Authorized Contractor has received the training necessary to safely perform any assigned work on or near AT&T's Structure. Licensee agrees that its facilities placed on AT&T's Structure shall be constructed, placed, maintained, and removed in accordance with Applicable Laws.
- 5.4. Replacement of Facilities/Routine Maintenance. Licensee may replace existing facilities with new facilities occupying the same AT&T Structure with notice to, and approval from, AT&T. The Parties agree that routine maintenance does not include the replacement or modification of Licensee's facilities in any manner.
- 5.5. Required Rearrangement/Transfer of Licensee's Facilities. Licensee agrees that it will cooperate with AT&T and Other Users in making rearrangements/transfers of Licensee's facilities on AT&T's Structure as may be necessary, and the costs incurred by Licensee in making such rearrangements/transfers shall be borne by the party requiring such rearrangements, in accordance with then Applicable Law, or Licensee in the case of maintenance of the associated Structure.
- 5.6. AT&T shall give Licensee prior written notice of the need to rearrange/transfer its facilities pursuant to Section 5.5. The notice shall state the date by which such rearrangements/transfers are to be completed. Licensee shall complete such rearrangements/transfers within the time prescribed in the notice. If Licensee does not complete the rearrangements/transfers within the noted time, AT&T may rearrange/transfer Licensee's facilities at Licensee's expense, and such costs will be assigned in accordance with Section 5.5. In no event shall AT&T be liable to Licensee or Other User for damages or other harm caused by, or in connection with, any such AT&T rearrangement/transfer, except to the extent caused by AT&T's gross negligence.
- 5.7. Responsibility for Emergency Repairs. In general, each Party is responsible for making and paying for emergency repairs to its own facilities and for formulating appropriate plans and practices enabling such Party to make such repairs. In the case of the need for an emergency repair, the party experiencing the need for an emergency repair will contact the other party, and the Parties agree to work cooperatively to ensure that the emergency repair is completed as soon as practical. AT&T shall have sole discretion regarding the order of precedence of work operations. Licensee shall provide AT&T with the emergency contact number of Licensee's designated point of contact for coordinating the handling of emergency repairs of Licensee's facilities and shall thereafter notify AT&T of any changes to such information.

- 5.8. Emergency Pole Replacement. When an emergency Pole replacement is required, AT&T shall promptly make a good faith effort to contact Licensee regarding the emergency and determine whether Licensee will respond to the emergency in a timely manner. AT&T and Licensee shall work cooperatively to determine whether Licensee's Authorized Contractor will transfer Licensee's facilities. If Licensee's Authorized Contractor is unable to do so immediately, Licensee shall so advise AT&T and thereby authorize AT&T or AT&T's contractor (or any Other User sharing the Pole with AT&T) to perform such emergency-necessitated transfers (and associated attachment rearrangements) on Licensee's behalf and at Licensee's expense.
- 5.9. Unserviceable Pole Replacements. AT&T shall give Licensee written notice of the need for Licensee to transfer its Attachments as the result of a Pole replacement. The notice shall state the date by which said transfer is to be completed. If Licensee does not complete such transfer within the time prescribed in the notice, AT&T or its contractor may complete those transfers at Licensee's expense. In no event shall AT&T be liable to Licensee for damages or other harm caused by or in connection with any such transfers completed by AT&T and/or its contractor.
- 5.10. When Licensee no longer intends to occupy space on AT&T's Structure, Licensee will provide written notice to AT&T that it wishes to terminate the License with respect to such space and will remove its facilities from the space described in the notice. Upon removal of Licensee's facilities, the License shall terminate, Licensee shall remove its facilities within sixty (60) days, and the space shall be available for reassignment. Licensee shall not abandon any of its facilities by leaving such facilities on AT&T's Structure. AT&T reserves the right to remove Licensee's facilities, at Licensee's expense, if Licensee's facilities are no longer in active use.
- 5.11. Identification of Personnel Authorized to Have Access to Licensee's Facilities. All personnel authorized to have access to Licensee's facilities shall, while working on or near AT&T's Structure, carry with them suitable identification and produce such identification upon the request of any AT&T employee or person acting on AT&T's behalf.

## 6.0 APPLICATIONS, SURVEYS, ESTIMATES, AND MAKE-READY WORK

- 6.1. Licenses Required. Prior to placing the initial facilities on the Structure covered by this Agreement, Licensee shall apply in writing for, and receive, a License through the Application process as set forth on CLEC Online: <https://clec.att.com/clec/hb/shell.cfm?section=2900&hb=185>.
- 6.2. Structure Access Request Form ("Application"). Licensee shall submit to AT&T the appropriate AT&T Application, including all information requested thereon, to place facilities on AT&T's Structure with prepayment of any estimated expenses, as identified on the Application. If an Application is withdrawn, Licensee shall still be responsible for all expenses incurred by AT&T, relative to that Application, prior to the withdrawal.
- 6.3. Make-Ready Survey ("Survey"). Upon receipt of the complete Application, AT&T shall schedule the Survey to:
- 6.3.1. determine whether and where attachment is feasible based on capacity, safety, reliability, and generally applicable engineering purposes;
  - 6.3.2. confirm or determine the Make-Ready Work, if any, necessary to accommodate Licensee's placement of facilities on AT&T Structure; and
  - 6.3.3. plan and engineer the Make-Ready Work, if any, required to prepare AT&T's Structure, and associated facilities for Licensee's proposed occupancy.
- 6.4. Selection of Space. AT&T will select the space Licensee will occupy on AT&T's Structure. Licensee's obligation to pay attachment fees will commence on the date the space assignment is made by AT&T to Licensee.
- 6.5. Estimate and Acceptance of Estimate. AT&T shall present to Licensee an estimate of charges directly associated with performing all necessary Make-Ready Work identified during the Survey and involving AT&T-owned facilities. In addition, AT&T shall provide a description of Make-Ready Work required of Other Users

to accommodate Licensee's proposed attachment(s). Licensee shall be responsible for negotiating methods and timing of payments to Other Users by Licensee, as identified in Section 6.6.3.

- 6.6. Make-Ready Work. Upon receipt of payment(s) specified in Section 6.5, AT&T shall notify immediately and in writing Licensee and all known Other Users that may be affected by the Make-Ready Work required for Licensee's attachment(s).
- 6.6.1. The notice shall specify the location and type of Make-Ready Work to be performed and state the name, telephone number, and e-mail address of a person to contact for more information about the Make-Ready Work procedure.
- 6.6.2. Any proposed deviations from the Make-Ready Work design provided by AT&T must be approved and authorized in writing by AT&T prior to implementation. Licensee shall not conduct any work in a manner which degrades the integrity of AT&T's Structure or interferes with any existing use of AT&T's facilities or the facilities of any Other User.
- 6.6.3. Payments to Others for Expenses Incurred in Transferring or Arranging Their Facilities. While AT&T shall be responsible for notifying Other Users pursuant to this Section, Licensee shall make arrangements with Other Users regarding reimbursement for any expenses incurred by Other Users to accommodate the placement of Licensee's facilities on AT&T's Structure.
- 6.7. License and Attachment. After all required Make-Ready Work is completed, AT&T will issue a License confirming that Licensee may place specified facilities on AT&T's Structure. In the absence of any Make-Ready Work requirements, the License shall be issued upon approval of the Application, which is coincident with completion of the Survey. Licensee shall be solely responsible for the actual placement of its facilities on AT&T's Structure and shall be solely responsible for all costs and expenses incurred on its behalf in connection with such activities.
- 6.8. Each License issued pursuant to this Agreement shall incorporate all terms and conditions of this Agreement, whether or not such terms or conditions are expressly incorporated by reference on the face of the License itself.
- 6.9. Licensee shall provide written notice to AT&T indicating the completion of construction of its facilities in accordance with the AT&T-approved Application within twenty (20) calendar days of Licensee's construction completion date.

## **7.0 AT&T INSPECTION OF LICENSEE'S FACILITIES AND NOTICE OF NON-COMPLIANCE**

- 7.1. Right to Make Inspections. AT&T shall have the discretionary right, but not the obligation, to make inspections, at Licensee's expense, of Licensee facilities placed on AT&T's Structure to help ensure compliance with the standards identified in Section 5.
- 7.2. Notice of Noncompliance/Bringing Facilities into Compliance. If, pursuant to an inspection, AT&T determines that Licensee's facilities or any part thereof have not been placed or maintained or are not being used in accordance with the requirements of this Agreement, AT&T may send notice to Licensee specifying the alleged noncompliance. Licensee will acknowledge receipt of the notice as soon as practicable and shall bring its noncompliant facilities into compliance within such time mutually agreed upon in writing by AT&T and Licensee. If the violation creates a hazardous condition, Licensee must bring its facilities into compliance upon notification. Licensee shall notify AT&T when the facilities have been brought into compliance.
- 7.3. No Liability on AT&T. Neither the act of inspection by AT&T of Licensee's facilities nor any failure to inspect such facilities shall operate to impose on AT&T any liability of any kind whatsoever or to relieve Licensee of any responsibility, obligation, or liability under this Section or otherwise existing.
- 7.4. Failure to Bring Facilities into Compliance. If Licensee has not brought the facilities into compliance within the agreed upon timeframe, AT&T may, at its option and Licensee's expense, take such steps as may be required to bring Licensee's facilities into compliance, including but not limited to correcting any conditions which do not meet the specifications of this Agreement.

- 7.5. Unauthorized Facilities. Attachment fees shall continue to accrue for the entire period any of Licensee's unauthorized facilities are attached to AT&T's Structure. In addition, Licensee shall submit an Application in accordance with Section 6.2 and consequently rearrange or remove its unauthorized facilities at AT&T's request to comply with applicable placement standards, shall remove its facilities from any space occupied by or assigned to AT&T or Other User, and shall pay AT&T for all costs incurred by AT&T in connection with any rearrangements, modifications, or replacements necessitated as a result of the presence of Licensee's unauthorized facilities. In addition to any other fees or payments required as the result of the requirements of this Section and any other term of this Agreement, Licensee shall pay an unauthorized facility fee of \$500 for each unauthorized attachment to any single Pole or Conduit within a Manhole. If Licensee fails to remove its unauthorized facilities within time prescribed by AT&T, AT&T may remove such facilities and store them at Licensee's expense in a public warehouse or elsewhere without being deemed guilty of trespass or conversion and without becoming liable to Licensee for any injury, loss, or damage resulting from such actions. Moreover, Licensee shall reimburse AT&T for its costs in connection with such removal, storage, delivery, or other disposition of the removed facilities.

## 8.0 FEES

- 8.1. Notwithstanding any other fees due under the other terms of this Agreement, Licensee agrees to pay AT&T \$2,160.000 as a one-time fee, associated with Licensee's access to AT&T's Structure, as outlined in this Agreement. Licensee shall tender payment up-front upon execution of this Agreement.
- 8.2. Late Fees. Licensee agrees that in the event Licensee fails to pay an amount due and payable within the period of time set forth for payment in this Agreement, interest shall accrue on the unpaid balance thereof at the rate of 1 ½% or the maximum interest rate permitted by law, whichever is the lesser amount per month, for each month from the expiration of such period until payment is received by AT&T.

## 9.0 NOTICES

- 9.1. AT&T: Region/state-specific contact information is available in an online document found at the following URL: <https://clec.att.com/clec/hb/shell.cfm?section=2921>.

### NOTICE CONTACT

Licensee

NAME/TITLE

STREET ADDRESS

CITY, STATE, ZIP CODE

TELEPHONE NUMBER

E-MAIL ADDRESS

FACSIMILE NUMBER

- 9.2. Either Party may unilaterally change its designated contact name, address, email address, and/or facsimile number for the receipt of notices by giving written notice to the other Party.
- 9.3. Notices under this Agreement shall be in writing and be delivered by: (a) mail, return receipt requested via overnight mail with tracking; (b) by electronic mail (email); or (c) by facsimile. Notice will be deemed given as of the earliest the date of delivery or, in the case of electronic mail or facsimile, the date sent.

## 10.0 DISCLAIMER OF WARRANTIES

AT&T MAKES NO REPRESENTATIONS AND DISCLAIMS ANY WARRANTIES, EXPRESSED OR IMPLIED, THAT AT&T'S STRUCTURE IS SUITABLE FOR LICENSEE'S INTENDED USES OR IS FREE FROM DEFECTS. LICENSEE SHALL, IN EVERY INSTANCE, BE RESPONSIBLE TO DETERMINE THE ADEQUACY OF AT&T'S STRUCTURE FOR LICENSEE'S INTENDED USE.



## 11.0 NONPAYMENT

- 11.1. Failure to pay charges shall be grounds for removal of Licensee's Attachments from AT&T's Structure. AT&T's exercise of this option will not relieve Licensee's obligation to pay all charges on each and every invoice on or before the applicable due date.

## 12.0 INDEMNIFICATION

- 12.1. Definitions. The following terms shall have the described meanings when used in Section 12:

- 12.1.1. "AT&T" shall mean AT&T, as defined in the opening paragraph immediately preceding Section 1, its parents, subsidiaries, affiliates, agents, directors, and employees.
- 12.1.2. "Claims" shall mean any allegation, claim, demand, or lawsuit, of any kind and character, including but not limited to claims for property damage, personal injury, including sickness and disease, and/or death.
- 12.1.3. "Liability" shall mean any and all loss, damage, liability, settlement amount, judgment, order, award, cost, fee, fine, penalty, or expense, of every kind and character, including but not limited to costs of defense and attorneys' fees.

- 12.2. Licensee's Indemnification Obligations to AT&T: To the extent permitted by law, Licensee agrees that it will indemnify, hold harmless, and, on request, defend AT&T, at the sole expense of Licensee, from any Claim or Liability, arising out of Licensee's work near or on AT&T's Structure and/or Licensee's access to or use of AT&T's Structure, including any claims arising from the negligence of AT&T. Further, Licensee agrees to waive any claim of damage against AT&T which may arise for any damage caused to Licensee's facilities while affixed to AT&T's Structure.

- 12.3. AT&T's Indemnification Obligations to Licensee: AT&T agrees that it will indemnify, hold harmless, and, on request defend Licensee from any Claim or Liability, if such Claim and/or Liability arises out of AT&T's work on or in the vicinity of AT&T's Structure and/or AT&T's access to or use of AT&T's Structure, except to the extent caused by the willful or intentional misconduct, or gross negligence, of Licensee.

- 12.4. The Indemnification Obligations Identified in Sections 12.2 and 12.3 shall include, but not be limited to the following types of Claims and/or Liabilities: (a) workplace Claims and/or Liabilities from employees, agents, contractors, subcontractors, or any other person or entity acting directly or indirectly on Licensee's or AT&T's behalf; (b) Claims and/or Liabilities brought by Licensee's or AT&T's vendors, suppliers, and customers; (c) claims brought by third parties; (d) environmental Claims and/or Liabilities arising out of or in connection with: (i) an alleged violation or breach by Licensee or AT&T, its employees, agents, contractors, subcontractors, or any other person or entity acting directly or indirectly on Licensee's or AT&T's behalf of any federal, state, or local environmental statute, rule, regulation, ordinance, or other law and/or any provision or requirement of this Agreement dealing with hazardous substances or protection of the environment; (ii) the release or discharge, onto any public or private property of any hazardous substances, regardless of the source of such hazardous substances, by any of Licensee's or AT&T's employees, agents, contractors, subcontractors, or any other person or person or entity acting directly or indirectly on Licensee's or AT&T's behalf; and/or (iii) the removal, disposal, storage, processing or other handling of any hazardous substances by any of Licensee's or AT&T's employees, agents, contractors, subcontractors, or any other person or entity acting directly or indirectly on Licensee's or AT&T's behalf from the site of any AT&T Structure; (d) Claims and/or Liabilities for taxes, municipal fees, franchise fees, right-to-use fees, and other special charges assessed on AT&T or Licensee due to the placement or presence of Licensee's or AT&T's facilities and/or attachments on or in AT&T's Structure; (e) Claims and/or Liabilities based on Licensee's or AT&T's, or any person or entity acting directly or indirectly on Licensee's or AT&T's behalf, alleged violation of any third-party's intellectual property rights, including but not limited to Claims and/or Liabilities for copyright infringement, patent infringement, unauthorized use or transmission of television or radio broadcast programs or other material, unauthorized use of any apparatus, appliances, equipment, or parts thereof furnished, installed, and/or utilized by Licensee or AT&T; (f) Claims and/or Liabilities based on Licensee's or AT&T's, and/or any person or entity acting directly

or indirectly on Licensee's or AT&T's behalf, furnishing, performance, or use of any material supplied or any product Claims or Liabilities relating to any material supplied; (g) Claims or Liabilities based on Licensee's or AT&T's, or any person or entity acting directly or indirectly on Licensee's or AT&T's behalf, to comply with any term of this Agreement or any applicable local, state, or federal statute, rule, regulation, ordinance or other law, including but not limited to OSHA; and (h) any Claims and/or Liabilities for economic damages that may arise, including damages for delay or other related economic damages that Licensee or AT&T may suffer or allegedly suffer as a result of the performance or failure to perform work by Licensee or AT&T.

- 12.5. With respect to Licensee's obligation to procure insurance naming AT&T as an additional insured, as set forth in Section 14, it shall be Licensee's obligation to request and confirm issuance of a "waiver of subrogation clause" in favor of AT&T.

### 13. LIABILITIES AND LIMITATIONS OF LIABILITY

- 13.1 AT&T Not Liable to Licensee for Acts of Third Parties or Acts of Nature. By affording Licensee access to AT&T's Structure, AT&T does not warrant, guarantee, or ensure the uninterrupted use of such Structure by Licensee. Except as specifically provided in Section 13.3 of this Agreement, Licensee assumes all risks of injury, loss, or damage (and the consequences of any such injury, loss, or damage) to Licensee's facilities placed on AT&T's Structure, and AT&T shall not be liable to Licensee for any damages to Licensee's facilities other than as provided in Section 13.3. In no event shall AT&T be liable to Licensee under this Agreement for any death of person or injury, loss, or damage resulting from the acts or omissions of: (1) any Other User or any person acting on behalf of an Other User; (2) any governmental body or governmental employee; (3) any third-party property owner or persons acting on behalf of such property owner; or (4) any permittee, invitee, trespasser, or other person present at the site or in the vicinity of any AT&T Structure in any capacity other than as an AT&T employee or person acting on AT&T's behalf. Except for payment of amounts due, neither party will be liable for any delay, failure in performance of any part of this Agreement caused by a Force Majeure condition, including acts of the United States of America or any state, territory, or political subdivision thereof, acts of nature, loss or damage due to fire, explosion, cable cuts, power blackout, earthquake, volcanic action, abnormal weather conditions and preparations therefor, flood, strike, freight embargo, labor disruptions, acts of civil or military authority, war, civil disturbances, terrorism, acts of God, acts of public enemy, acts or omissions of carriers or suppliers, acts of regulatory or governmental agencies, or other causes beyond the reasonable control of the Party claiming excusable delay or other failure to perform. If any Force Majeure condition occurs, the Party whose performance fails or is delayed because of such Force Majeure condition will give prompt notice to the other Party, and, upon cessation of such Force Majeure condition, will give notice and commence performance hereunder as promptly as reasonably practicable.
- 13.2. Damage to Facilities. Each Party shall exercise due care to avoid damaging the facilities of the other or of Other Users and hereby assumes all responsibility for any and all loss from damage caused by the Party and persons acting on the Party's behalf. A Party shall make an immediate report to the other of the occurrence of any damage and hereby agrees to reimburse the other Party, and/or Other Users for any property damage caused by the Party or persons acting on the Party's behalf.
- 13.3. No Limitations of Liability in Contravention of Federal or State Law. Nothing contained in this Section shall be construed as exempting either Party from any liability, or limiting such Party's liability, in contravention of Applicable Law.
- 13.4. EXCLUSION OF LIABILITY FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, RELIANCE, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO NON-ECONOMIC LOSS, DAMAGES FOR INCREASED COST OF OPERATIONS, LOSS OF ANTICIPATED PROFITS OR REVENUE OR OTHER ECONOMIC LOSS IN CONNECTION WITH OR ARISING FROM ANY ACT OR FAILURE TO ACT PURSUANT TO THIS AGREEMENT, EVEN IF THE OTHER PARTY HAS ADVISED SUCH PARTY OF THE POSSIBILITY OF SUCH DAMAGES.

## 14.0 INSURANCE

- 14.1. At all times in which Licensee has facilities on AT&T Structure, Licensee shall keep and maintain in force, at its own expense, the minimum insurance coverage and limits set forth below. Licensee shall require that all contractors, subcontractors, and/or any other person acting on Licensee's behalf maintain coverage, requirements and limits at least as broad as those listed below and, with respect to any maintained on a "claims made" basis, for two (2) years thereafter. Licensee must procure the required insurance from an insurance company eligible to do business in Ohio and having and maintaining a minimum rating of "A:-VII" from A.M. Best Key Rating Guide.
- 14.1.1. Workers' Compensation insurance with benefits afforded under the laws of each state covered by this Agreement and Employers Liability insurance with minimum limits of \$1,000,000 for Bodily Injury-each accident, \$1,000,000 for Bodily Injury by disease-policy limits, and \$1,000,000 for Bodily Injury by disease-each employee. To the fullest extent allowable by law, the policy must include a waiver of subrogation in favor of AT&T, its affiliates, and their directors, officers, and employees.
- 14.1.2. Commercial General Liability insurance with minimum limits of: \$2,000,000 General Aggregate limit; \$1,000,000 each occurrence limit for all bodily injury or property damage incurred in any one occurrence; \$1,000,000 each occurrence limit for Personal Injury and Advertising; \$2,000,000 Products/Completed Operations Aggregate limit; and Fire Legal Liability/Damage to Premises Rented sub-limits of a minimum of \$1,000,000 is also required. AT&T, its affiliates, officers, agents, and employees shall be endorsed as additional insureds on the Commercial General Liability policy. A waiver of subrogation shall be in favor of AT&T. The liability policies shall be primary and non-contributory from any insurance that is maintained by AT&T.
- 14.1.3. Umbrella/Excess Liability insurance with limits of at least \$5,000,000 each occurrence with terms and conditions at least as broad as the underlying Commercial General Liability, Business Automobile Liability, and Employers Liability policies. Umbrella/Excess Liability limits will be primary and non-contributory with respect to any insurance or self-insurance that is maintained by AT&T.
- 14.1.4. Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits per occurrence for bodily injury and property damage, with coverage extending to all owned, hired, and non-owned vehicles. AT&T, its affiliates, officers, agents, and employees shall be endorsed as additional insureds.
- 14.2. Licensee agrees to provide AT&T and/or its AT&T's third-party administrator certificates of insurance stating the types of insurance and policy limits.
- 14.3. AT&T agrees to accept Licensee's program of self-insurance in lieu of insurance coverage if certain requirements are met. These requirements are as follows:
- 14.3.1. Workers' Compensation and Employers Liability: Licensee shall submit to AT&T its Certificate of Authority to Self-Insure its Workers' Compensation obligations issued by Ohio or the employer's state of hire, supply such Certificate annually, and obtain Worker's Compensation immediately if the state rescinds the Certificate of Authority to self-insure; and
- 14.3.2. Automobile Liability: Licensee shall submit to AT&T a copy of the state-issued letter approving self-insurance for automobile liability issued by Ohio, supply such letter annually, and obtain Automobile Liability insurance immediately if the state rescinds the authority to self-insure; and
- 14.3.3. General Liability: Licensee shall provide annually a copy of its most recent audited financial statement with an unqualified opinion from the auditor along with evidence acceptable to AT&T that it maintains at least an investment grade (e.g., B+ or higher) debt or credit rating as determined by a nationally recognized debt or credit rating agency such as Moody's or Standard and Poor's, or a current Dunn and Bradstreet report with a composite credit appraisal of '1' or '2.' Licensee must obtain Commercial General Liability insurance immediately if it is unable to comply with the financial strength requirements above.

- 14.4. All insurance required in accordance with this Section must be in effect before AT&T will issue any Licenses under this Agreement. Licensee will provide renewal Certificates of Insurance prior to expiration of any policy.
- 14.5. Licensee agrees to provide AT&T with at least thirty (30) calendar days' advance written notice of cancellation, material reduction, or non-renewal of any of the insurance policies required herein that are not replaced.
- 14.6. The Parties agree that:
- 14.6.1. the failure of AT&T to demand certificates of insurance or failure of AT&T to identify a deficiency will not be construed as a waiver of Licensee's obligation to maintain the insurance required;
- 14.6.2. the insurance required does not represent that coverage and limits will necessarily be adequate to protect Licensee, nor shall it be deemed as a limitation on Licensee's liability to AT&T;
- 14.6.3. Licensee may meet the required insurance coverage and limits with any combination of primary and umbrella/excess liability insurance; and
- 14.6.4. Licensee is responsible for payment of any deductible or self-insured retention.

## 15.0 ASSIGNMENT OF RIGHTS

- 15.1. Sub-Permits. Nothing contained in this Agreement shall be construed as granting Licensee the right to sublease, sublicense, or otherwise transfer any rights under this Agreement or License subject to this Agreement to any third party. Except as otherwise expressly permitted in this Agreement, Licensee shall not allow any third party to place facilities on AT&T's Structure assigned to Licensee or to utilize such space.
- 15.2. Assignment Permitted. Licensee may not assign, or otherwise transfer its rights or obligations, under this Agreement. AT&T may assign its rights, delegate its benefits, and delegate its duties under this Agreement, without Licensee's consent, to any entity.

## 16.0 TERMINATION OF AGREEMENT OR LICENSES; REMEDIES FOR BREACHES

- 16.1. Subject to notice and the opportunity to cure as provided in Section 16.3 below, at AT&T's sole discretion, the License subject to this Agreement shall terminate if: (a) Licensee ceases to make active use of the applicable portion of AT&T's Structure; (b) Licensee ceases to utilize the facilities on AT&T's Structure; or (c) Licensee's permission to use or have access to AT&T's Structure has been revoked, denied, or terminated by local governmental authority or third-party property owner having authority to revoke, deny, or terminate such use or access.
- 16.2. Limitation, Termination, or Refusal of Access for Certain Material Breaches. Licensee's access to AT&T's Structure shall not materially interfere with or impair service over any facilities of AT&T or any Other User, cause material damage to AT&T's plant or the plant of any Other User, impair the privacy of communications carried over the facilities of AT&T or any Other User, or create serious hazards to the health or safety of any persons working on or near AT&T's Structure, or to the public. Upon reasonable notice and opportunity to cure, AT&T may limit, terminate, or refuse access if Licensee violates this provision.
- 16.3. Notice and Opportunity to Cure Breach. In the event of any claimed breach of this Agreement by either Party, the aggrieved Party may give written notice of such claimed breach.
- 16.3.1 The complaining Party shall not be entitled to pursue any remedies available under this Agreement or relevant law unless such notice is given; and
- 16.3.2 the breaching Party fails to cure the breach within thirty (30) days of such notice, if the breach is one which can be cured within thirty (30) days; or
- 16.3.3 if the breach is one that cannot be cured within thirty (30) days, such other period of time as prescribed by AT&T, in writing, at its sole discretion.
- 16.4. Remedies for Breach. Subject to the provisions of this Section, either Party may terminate this Agreement in the event of a material breach by the other Party or exercise any other legal or equitable right, which such Party may have to enforce the provisions of this Agreement. In the event that Licensee fails to timely comply with the obligations under Section 16, and fails to cure the breach within thirty (30) days of AT&T's written

notice (or such other period of time as prescribed by AT&T in writing), demanding that Licensee cure such breach, then AT&T will be entitled to pursue any and all rights and remedies to enforce the terms of this Agreement regarding such breach and Licensee agrees to pay AT&T's costs of such suit, including attorneys' fees.

- 16.5. Elective Termination. Either Party may terminate this Agreement by giving the other Party at least six (6) months prior written notice as provided in this Section. The notice of termination shall state the effective date of termination, which date shall be no earlier than: (a) the last day of the current term of this Agreement; or (b) six (6) months after the date the notice is given.
- 16.6. Effect of Elective Termination. Elective termination of this Agreement by either Party, as permitted under this Agreement, shall not affect either Party's liabilities and obligations incurred under this Agreement prior to the effective date of termination and shall not entitle Licensee to the refund of any advance payment made to AT&T under this Agreement.
- 16.7. Required Termination by AT&T. AT&T may terminate this Agreement at any time if, in its sole discretion, such action is required. In the event of required termination by AT&T, Licensee will remove its facilities within sixty (60) days or such other time as required by AT&T. In the event of required termination, AT&T shall reimburse Licensee the pro-rata portion of the Agreement Term Fee from the effective date of termination through the expiration date of this Agreement.

**City of Sandusky, Ohio**

**AT&T by AT&T Services, Inc., its  
authorized agent**

Signature:

Signature:

Name:

Name:

(Print or Type)

(Print or Type)

Title:

Title:

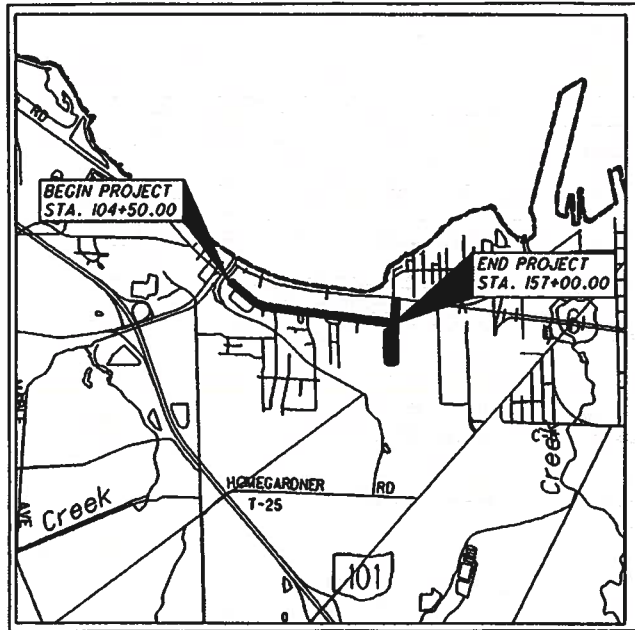
(Print or Type)

(Print or Type)

Date:

Date:

m:\PROJ\1822\6001 - sandusky west side utilities\Drawings\Roadway\Sheets\GT001.dwg Oct-19 9:55 AM



LOCATION MAP

LATITUDE: 41° 26' 30" N LONGITUDE: 82° 45' 05" W



PORTION TO BE IMPROVED -----  
FEDERAL, STATE, COUNTY, & TOWNSHIP ROADS -----  
RAILROAD -----  
SANDUSKY CORPORATION LIMITS -----

DESIGN DESIGNATION

	VENICE RD	VENICE RD TRAIL
CURRENT ADT (2019)	9531	N/A
DESIGN YEAR ADT (2039)	11630	N/A
DESIGN HOURLY VOLUME (2039)	1047	N/A
DIRECTIONAL DISTRIBUTION	60%	N/A
TRUCKS (24 HOUR B&C)	6%	NONE
DESIGN SPEED	35 MPH	18 MPH
LEGAL SPEED	35 MPH	NONE
DESIGN FUNCTIONAL CLASSIFICATION	URBAN PRINCIPAL ARTERIAL	BIKEWAY
NHS PROJECT	NO	

DESIGN EXCEPTIONS

NONE



Click, Call or Tap Before You Dig

OUPS TELEPHONE NUMBER (800) 362-2764

PLAN PREPARED BY:



# CITY OF SANDUSKY WEST SIDE UTILITIES AND CONNECTIVITY IMPROVEMENTS

## ERIE COUNTY STATE OF OHIO

INDEX OF SHEETS:

TITLE SHEET	1
KEY PLAN	2
SCHEMATIC PLAN AND SURVEY CONTROL	3 - 6
TYPICAL SECTIONS	7 - 12
GENERAL NOTES	13 - 16, 15A
MAINTENANCE OF TRAFFIC	17 - 19
GENERAL SUMMARY	20 - 22
PLAN AND PROFILE VENICE ROAD	23 - 34
WATER AND SEWER PLAN SHEETS: EDGEWATER AVENUE, SAGAMORE STREET, ELWOOD COURT, WUERTZ STREET, LINDEN STREET	35 - 38
CROSS SECTIONS	39 - 56
DRIVE PROFILES	57 - 62
STORM SEWER PROFILES	63 - 67
STANDARD DRAWINGS AND SPECIAL DETAILS	68, 68A, 69
WATER WORK	70 - 93
SIGNING AND PAVEMENT MARKING PLAN	93A, 94 - 99
STORM WATER POLLUTION PREVENTION PLAN	100 - 116

ENGINEERS SEAL:	
ROADWAY & DRAINAGE	
SIGNED: <i>Chad S. Rundle</i>	DATE: 10/3/19
ENGINEERS SEAL:	
WATER	
SIGNED: <i>Edward O. Strubula</i>	DATE: Oct. 3 2019

OHIO DEPARTMENT OF TRANSPORTATION STANDARD CONSTRUCTION DRAWINGS						SUPPLEMENTAL SPECIFICATIONS	SPECIAL PROVISIONS
BP-3.1	7/18/14	MT-95.31	7/21/17			800	4/19/19
BP-4.1	7/19/13	MT-97.10	7/18/14			821	4/20/12
BP-7.1	7/20/18	MT-105.10	7/19/13			832	10/19/18
DM-1.2	1/18/13						
DM-4.4	1/15/16						
TC-41.20	10/18/13						
TC-52.10	10/18/13						
TC-52.20	7/20/18						
TC-71.10	1/19/18						
TC-82.10	1/18/19						

PROJECT DESCRIPTION

THIS PROJECT INVOLVES THE REPLACEMENT OF APPROXIMATELY 5,500' OF WATER MAIN ON VENICE ROAD, 2800' OF WATER MAIN IN THE SAGAMORE ST, LINDEN ST, WUERTZ ST, ELWOOD CT, AND EDGEWATER AVE AREA, STORMWATER IMPROVEMENTS, A SHARED-USE PATH AND SIDEWALK ON VENICE ROAD BETWEEN FREMONT AVENUE AND EDGEWATER AVENUE, NEW DRIVE APRONS, AND SIGNING AND PAVEMENT MARKINGS.

PROJECT EARTH DISTURBED AREA: 4.1 ACRES  
ESTIMATED CONTRACTOR EARTH DISTURBED AREA: 0 ACRES  
NOTICE OF INTENT EARTH DISTURBED AREA: 4.1 ACRES

2019 SPECIFICATIONS

THE STANDARD SPECIFICATIONS OF THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION, INCLUDING SUPPLEMENTAL SPECIFICATIONS LISTED IN THE PLANS, THE CITY OF SANDUSKY STANDARD DETAILS AND THE CITY OF SANDUSKY WATER SPECIFICATIONS, SHALL GOVERN THIS PLAN.

I HEREBY APPROVE THESE PLANS AND DECLARE THAT THE MAKING OF THIS IMPROVEMENT WILL REQUIRE THE PARTIAL CLOSING TO TRAFFIC OF THE ROADWAY AND THAT PROVISIONS FOR THE MAINTENANCE AND SAFETY OF TRAFFIC WILL BE AS SET FORTH ON THE PLANS.

APPROVED *Aaron M. Klein*  
DATE 10-9-19  
CITY OF SANDUSKY  
DIRECTOR OF PUBLIC WORKS



FEDERAL PROJECT NO.	N/A
PID NO.	N/A
CONSTRUCTION PROJECT NO.	N/A
RAILROAD INVOLVEMENT	NONE
CITY OF SANDUSKY WEST SIDE UTILITIES & CONNECTIVITY IMPROVEMENTS	1 116



m:\PROJ\1822\6001- sandusky west side utilities\Drawings\Roadway\Sheets\1822600100GB007.dwg 06-Nov-19 11:29 AM

## SURVEY BASELINE CONTROL POINTS

### VENICE ROAD

POINT NO.	STA.	NORTHING	EASTING	DESCRIPTION
0	10+00.00	648460.3986	1894198.991	PI - MAG NAIL SET
1	12+00.00	648328.4201	1894349.263	PI - MAG NAIL SET
2	19+99.94	647814.9208	1894962.622	PI - MAG NAIL SET
3	26+47.38	647398.1054	1895458.045	PC - MAG NAIL SET
4	30+65.41	647232.8299	1895835.784	PI - MAG NAIL SET
5	33+08.21	647202.4510	1896076.677	PI - MAG NAIL SET
6	42+60.44	647083.3104	1897021.417	PI - MONUMENT BOX

## BENCHMARK DESCRIPTIONS

### VENICE ROAD

ID	ELEVATION	DESCRIPTION
BM A	582.51	SPIKE IN NORTH FACE TELEPHONE POLE 475C2
BM B	586.07	HYDRANT - "X" CHISELED ON SOUTH BOLT IN FRONT OF HOUSE NUMBER 4517 ON VENICE RD.
BM C	590.08	HYDRANT - "X" CHISELED ON SOUTH BOLT OPPOSITE HOUSE NUMBER 4408 ON VENICE RD.
BM D	590.855	HYDRANT - "X" CHISELED ON SOUTH BOLT OPPOSITE COLD CREEK RD.
BM E	593.15	HYDRANT - "X" CHISELED ON SOUTH BOLT OPPOSITE HOUSE NUMBER 3904 ON VENICE RD.

### UTILITY NOTE

SUBSURFACE UTILITIES SHOWN ARE BASED UPON OUPS, AND THE CITY OF SANDUSKY UTILITY RECORD INFORMATION AND MAY NOT SHOW ALL UTILITIES SUBJECT TO THE PROJECT LIMITS.

#### UTILITY MEMBERS:

BCV =BUCKEYE CATV  
ECE =ERIE COUNTY ENGINEERS  
OBFP =AT&T - OHIO  
QSTP =CTLQN - CENTURYLINK (FORMER QW)  
SADTR =SANDUSKY - CITY OF (TRAFFIC)

CGI =COLUMBIA GAS OF OHIO-NORWALK  
ERC =BUCKEYE CABLE SYSTEM  
OED =OHIO EDISON - (USIC)  
SADS =SANDUSKY - CITY OF (SEWER)  
SADW =SANDUSKY - CITY OF (WATER)

PLANS OR EMAIL RESPONSES PER THE OUPS REQUEST WERE RECEIVED FROM OED, ERC, QSTP, CGI, SADS, AND SADW.

ALL SUBSURFACE INFORMATION SHALL BE FIELD VERIFIED PRIOR TO ANY CONSTRUCTION. THE SURVEYOR MAKES NO GUARANTEE AS TO THE ACCURACY OF THE UTILITY DATA AS SHOWN, BUT DOES CERTIFY THAT THE INFORMATION SHOWN IS CORRECT TO THE BEST OF THEIR KNOWLEDGE BASED ON INFORMATION AVAILABLE AT THE TIME OF SUBMISSION OF THIS DRAWING.

CONTOURS HAVE BEEN DEVELOPED PER A UAV FLIGHT PERFORMED APRIL 2018. THE SURFACE POINT CLOUD CREATED FROM THE UAV HAS BEEN CLASSIFIED HOWEVER CONTOURS OUTSIDE OF THE WORK LIMITS HAVE NOT BEEN EDITED TO REFLECT THE ACTUAL SURFACE.

### DATUMS & BASIS OF BEARING:

ALL HORIZONTAL COORDINATES AND BEARINGS AS SHOWN ARE BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, AND REFERENCE THE NORTH AMERICAN DATUM OF 1983 AND THE 2011 ADJUSTMENT (NAD 83(2011)).

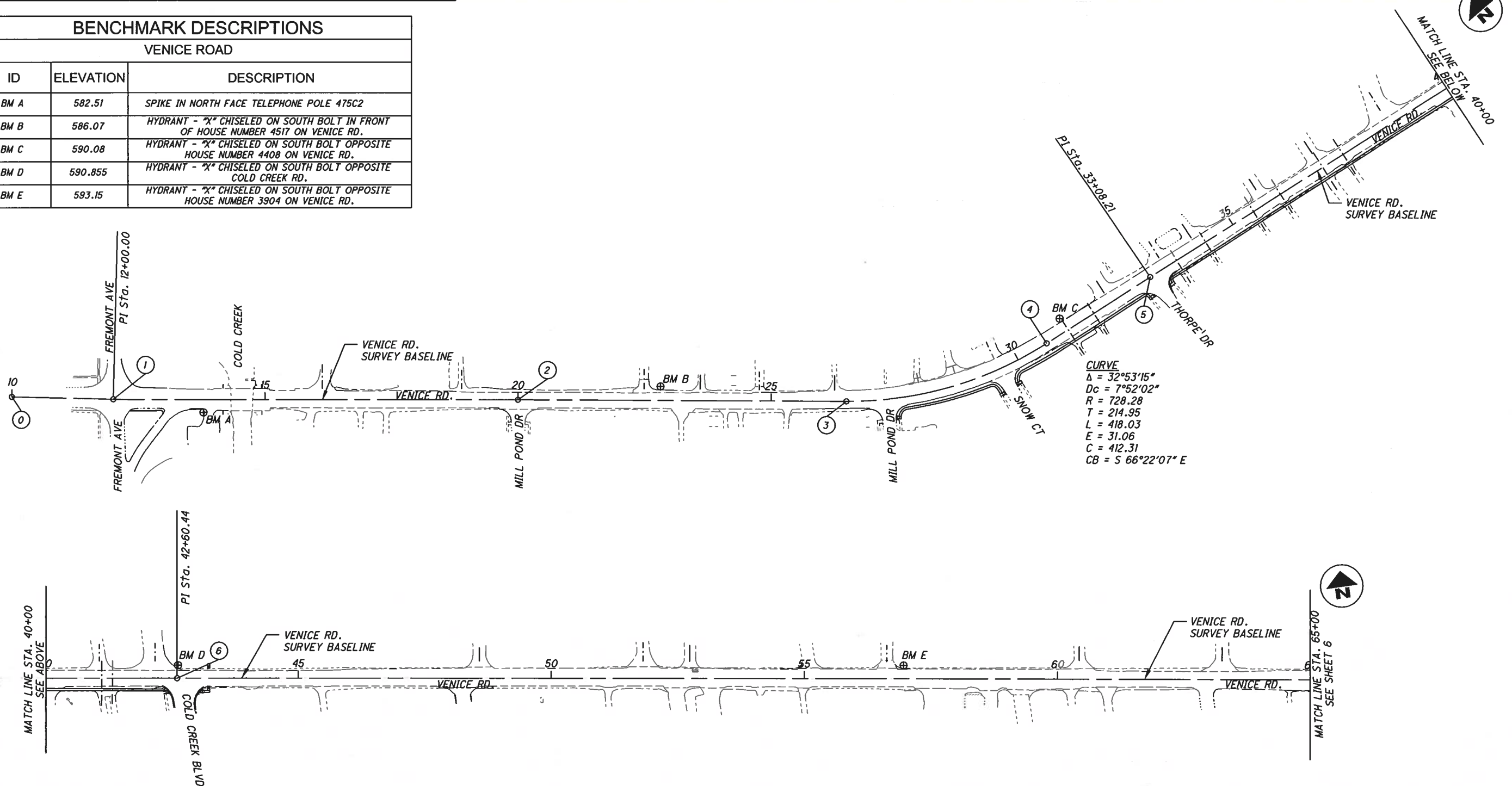
ALL ELEVATIONS SHOWN ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).

### PROPERTY NOTE

PUBLIC RIGHTS-OF-WAY ALONG MAJOR ROADS HAVE BEEN RESOLVED PER RECORDS RESEARCH INFORMATION AND PHYSICAL MONUMENTS THAT WERE FIELD LOCATED.

PROPERTY LINES ARE FROM A TAX MAP OVERLAY. NO BOUNDARY SURVEY'S HAVE BEEN PERFORMED.

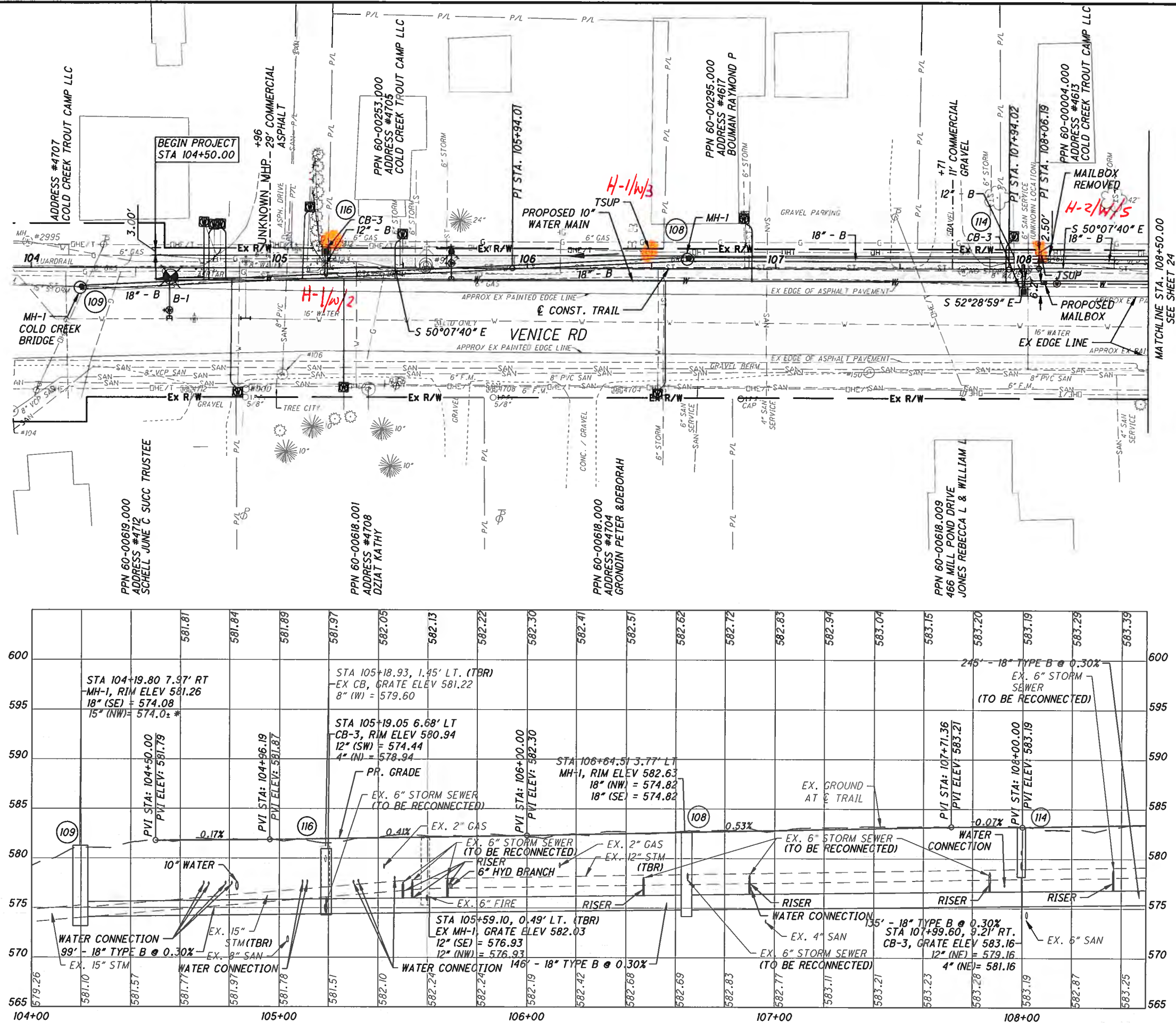
THIS SURVEY HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS NOT INTENDED TO REFLECT ALL EASEMENTS, ENCUMBRANCES, OR CIRCUMSTANCES AFFECTING THE TITLE TO THE PROPERTIES OR RIGHT-OF-WAYS SHOWN HEREON.



SURVEY BASELINE CONTROL  
VENICE ROAD

CITY OF SANDUSKY  
WEST SIDE UTILITIES &  
CONNECTIVITY IMPROVEMENTS

5  
116

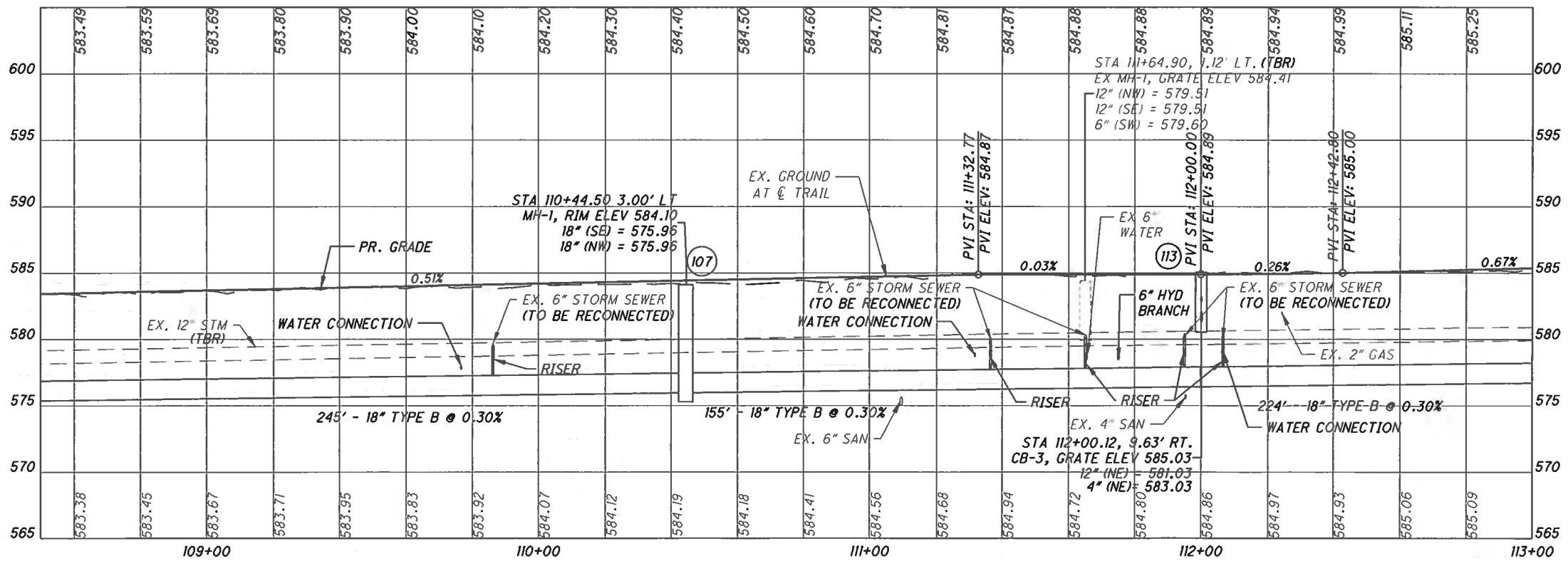
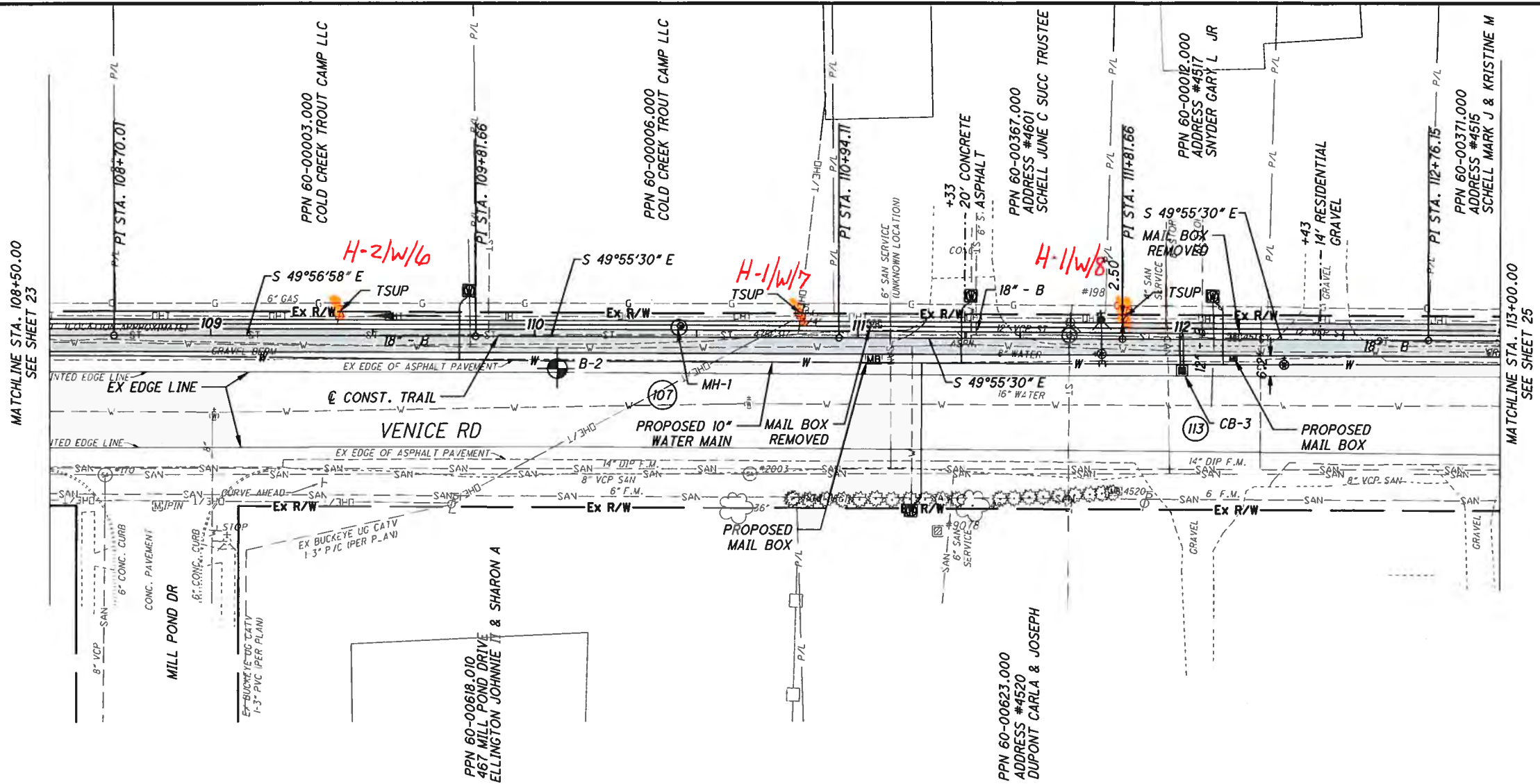


CROSS REFERENCES	
CROSS SECTIONS	39 - 40
DRIVE PROFILES	57
STORM SEWER PROFILES	65
WATER PLAN AND PROFILE	73

- #104 (SANITARY MANHOLE)  
STA. 103+92.69  
RIM EL=580.62  
INV 8" RCP W=563.82  
INV 8" VCP E (TO #2022)=563.82
- #106 (SANITARY MANHOLE)  
STA. 105+01.30  
RIM EL=582.08  
INV 8" PVC SE (TO #150)=571.33  
INV 8" PVC NE=571.18  
INV 8" VCP NW (TO #2022)=?
- #123 (SQUARE CATCH BASIN) (REMOVE)  
STA. 105+18.93  
RIM EL=581.22  
INV 8" VCP NW=579.60
- #972 (ROUND CATCH BASIN)  
STA. 105+59.10  
RIM EL=592.23  
INV 6" PVC W (TO #907)=586.73  
QUESTIONABLE SIZE; QUESTIONABLE MATERIAL;  
QUESTIONABLE CONNECTION  
INV 8" PVC S=587.88  
INV 4" PVC S=589.13  
INV 4" CPP S=589.13
- #150 (SANITARY MANHOLE)  
STA. 107+37.86  
RIM EL=582.50  
INV 8" PVC NW (TO #106)=572.10  
INV 8" PVC SE (TO #170)=572.20

\* CONTRACTOR TO VERIFY  
EXISTING STORM ELEVATION  
AT THE PROPOSED LOCATION



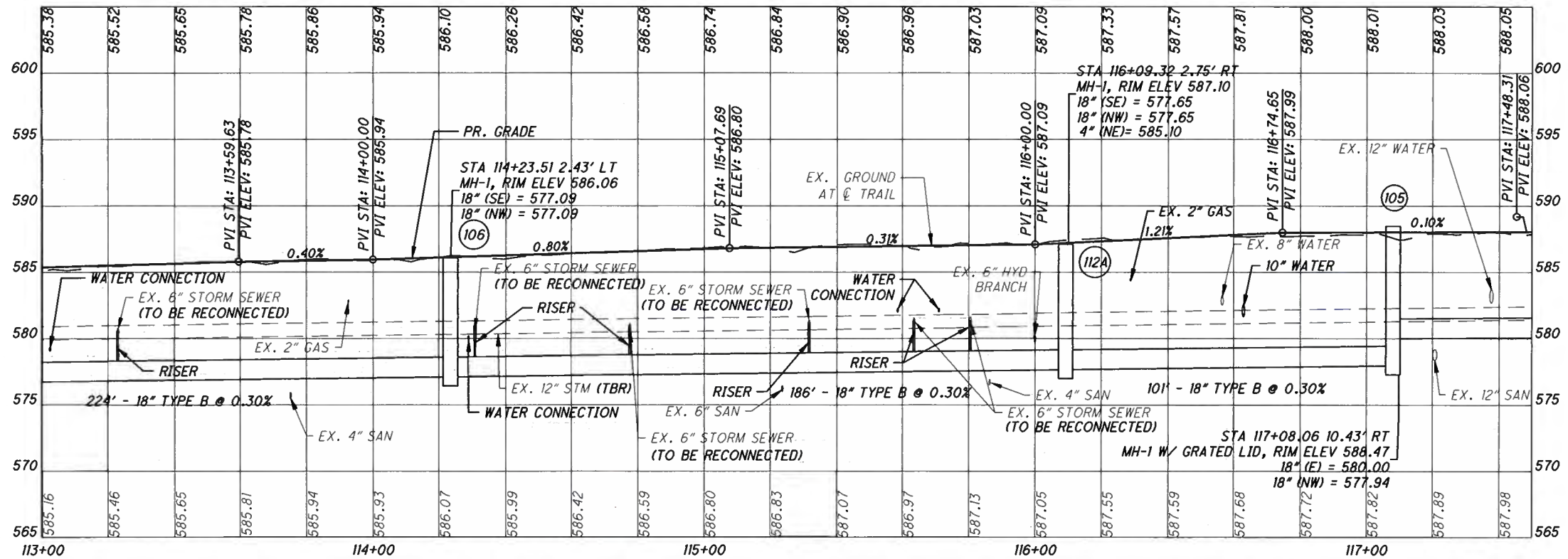
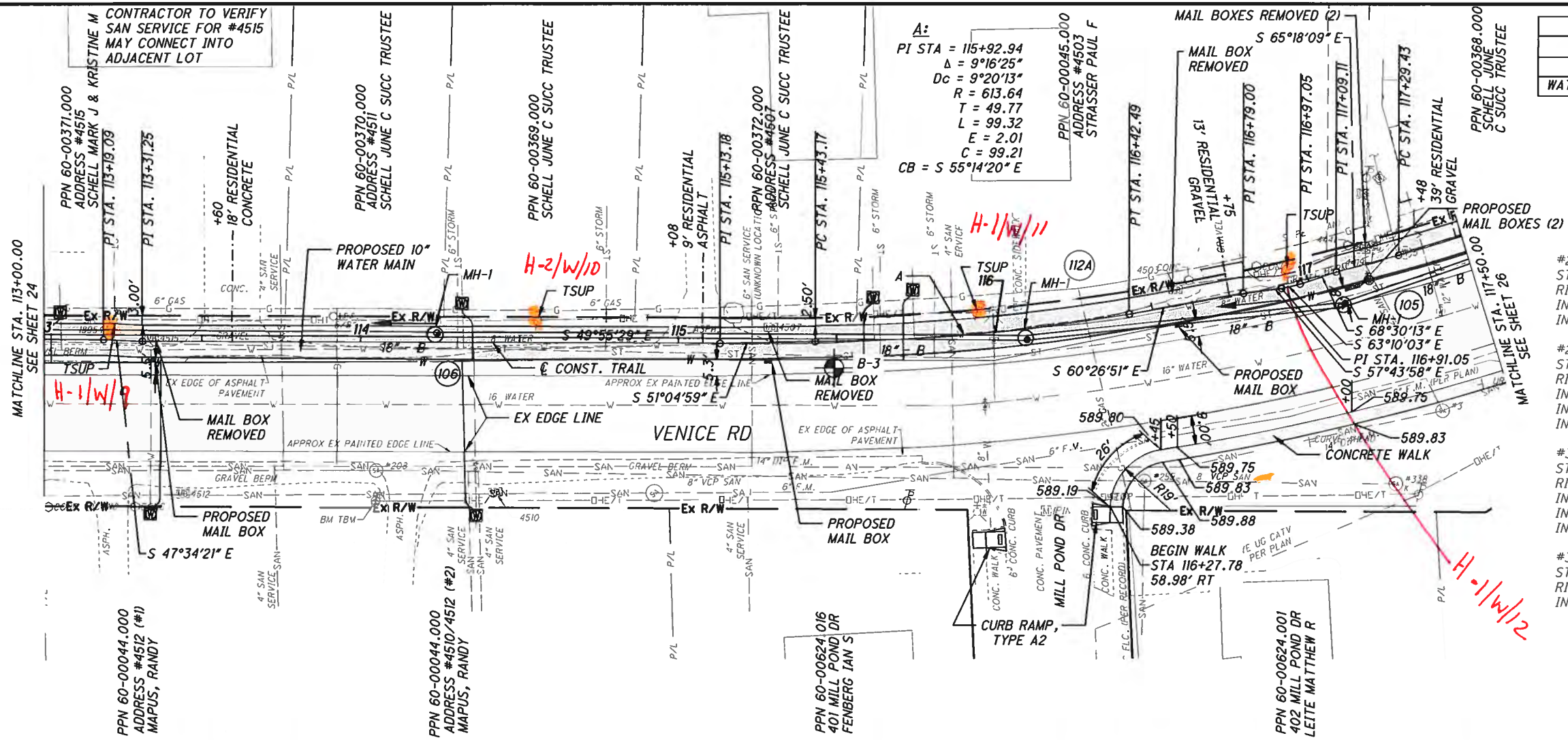


CROSS REFERENCES	
CROSS SECTIONS	40 - 42
DRIVE PROFILES	57
WATER PLAN AND PROFILE	74

#170 (SANITARY MANHOLE)  
STA. 108+67.09  
RIM EL=583.30  
INV 8" PVC NW (TO #150)=572.40  
INV 8" VCP SW (TO #227)=572.85

#198 (STORM MANHOLE)(REMOVE)  
STA. III+64.90  
RIM EL=584.41  
CONTAINS WATER SHUT OFF VALVE  
INV 12" VCP NW=579.46  
CONNECTION NOT FOUND  
INV 12" VCP SE=579.51  
CONNECTION NOT FOUND

#2003 (SANITARY MANHOLE)  
STA. 110+66.53  
RIM EL=583.90  
INV 8" VCP NW (TO #170)=573.40  
INV 8" VCP SE (TO #208)=573.50



CROSS REFERENCES	
CROSS SECTIONS	42 - 43
DRIVE PROFILES	57 - 58
WATER PLAN AND PROFILE	75

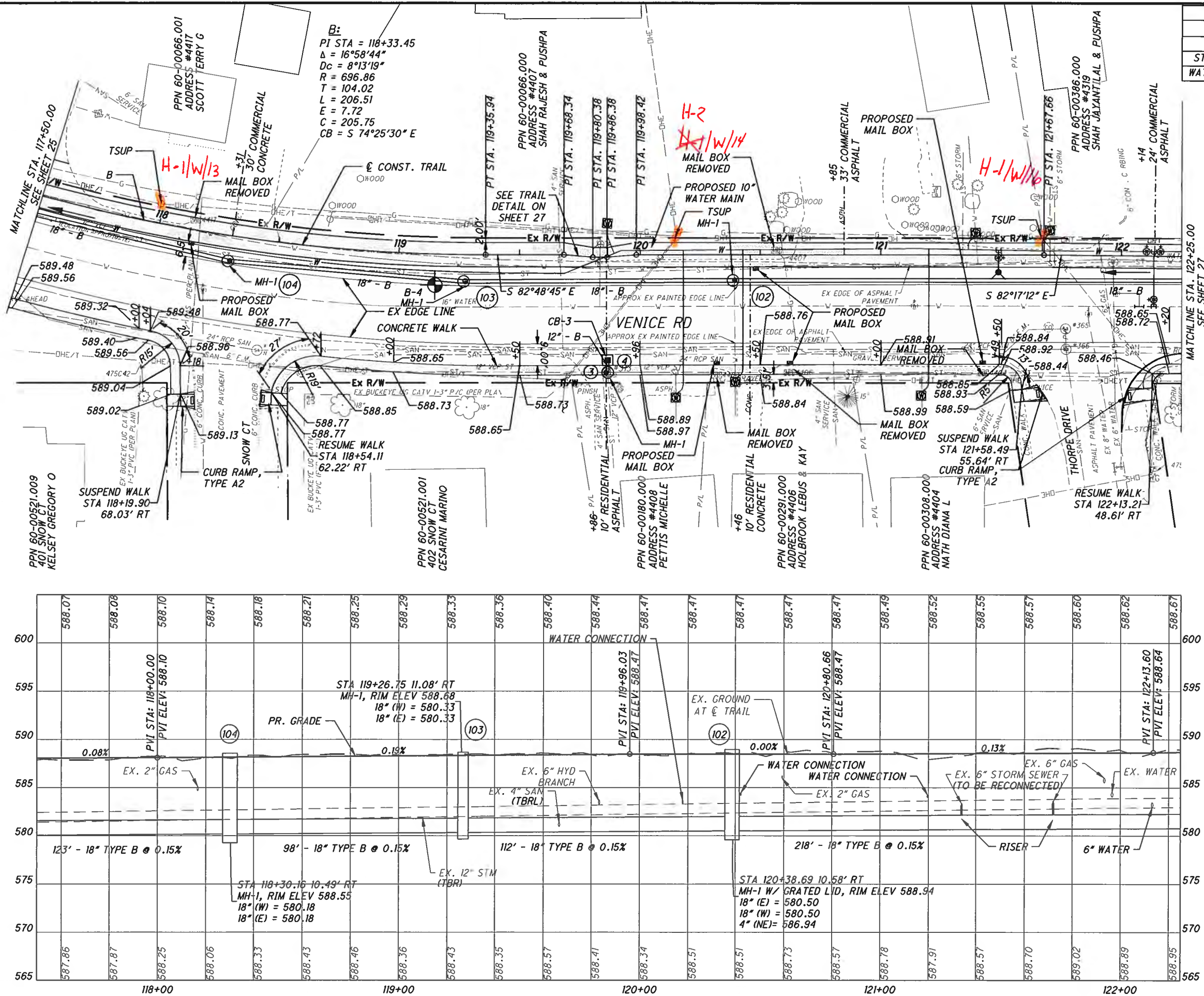
#208 (SANITARY MANHOLE)  
STA. 114+05.05  
RIM EL=586.13  
INV 8" VCP NW (TO #2003)=574.68  
INV 8" VCP SE (TO #259)=574.83

#259 (SANITARY MANHOLE)  
STA. 116+38.77  
RIM EL=589.48  
INV 8" VCP SW (TO #252)=575.93  
INV 8" VCP NW (TO #208)=575.53  
INV 8" VCP SE (TO #338)=575.53

#337 (SANITARY MANHOLE)  
STA. 117+29.51  
RIM EL=589.29  
INV 14" STEEL NW=579.19  
INV 24" RCP E (TO #323)=577.99  
INV 12" VCP NE (TO #295)=578.29

#338 (SANITARY MANHOLE)  
STA. I17+06.22  
RIM EL=588.15  
INV 8" VCP NW (TO #259)=576.15





CROSS REFERENCES	
CROSS SECTIONS	43 - 45
DRIVE PROFILES	58 AND 61
STORM SEWER PROFILES	65
WATER PLAN AND PROFILE	76 - 77

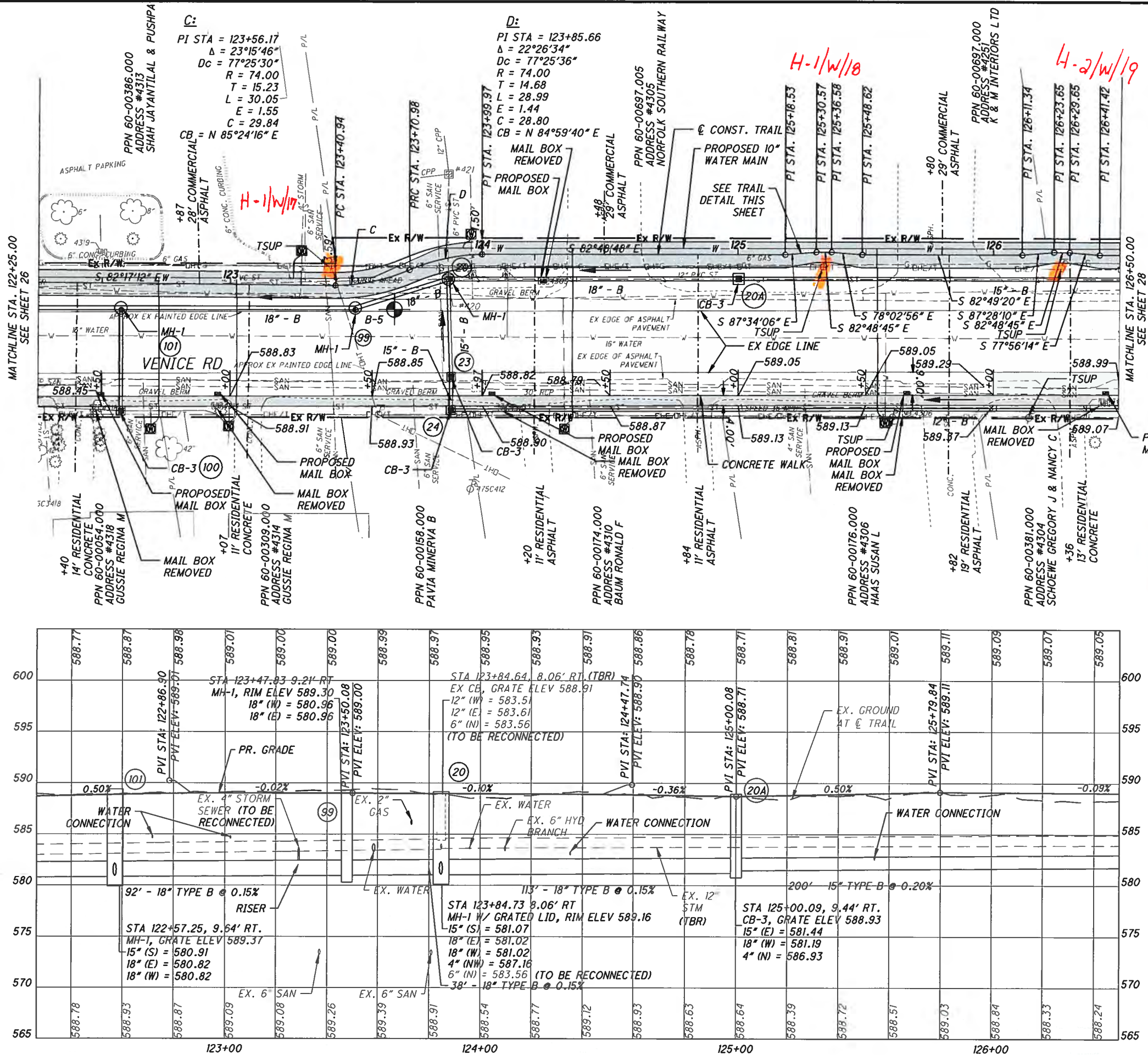
#313 (SQUARE CATCH BASIN)(REMOVE)  
STA. 119+86.56  
RIM EL=588.96  
INV 12" VCP W=582.46  
CONNECTION NOT FOUND  
INV 12" VCP E=582.36  
CONNECTION NOT FOUND  
INV 12" VCP S=583.66

#323 (SANITARY MANHOLE)  
STA. 118+46.59  
RIM EL=589.96  
INV 24" RCP W (TO #337)=578.06  
INV 24" RCP E (TO #366)=578.06

#365 (SANITARY MANHOLE)  
STA. 121+76.90  
RIM EL=589.26  
SLUDGE PUMP IN IT  
INV 12" PVC S (TO #366)=580.26

#366 (SANITARY MANHOLE)  
STA. 121+77.18  
RIM EL=589.23  
INV 24" RCP W (TO #323)=577.43  
INV 30" RCP E (TO #504)=577.38  
INV 12" PVC N (TO #365)=579.63  
DEPTH READING IS APPROXIMATE  
INV 15" RCP S (TO #369)=577.83  
RECESSED PIPE; DEPTH READING IS  
APPROXIMATE

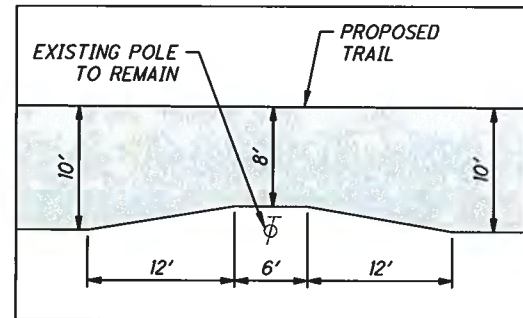




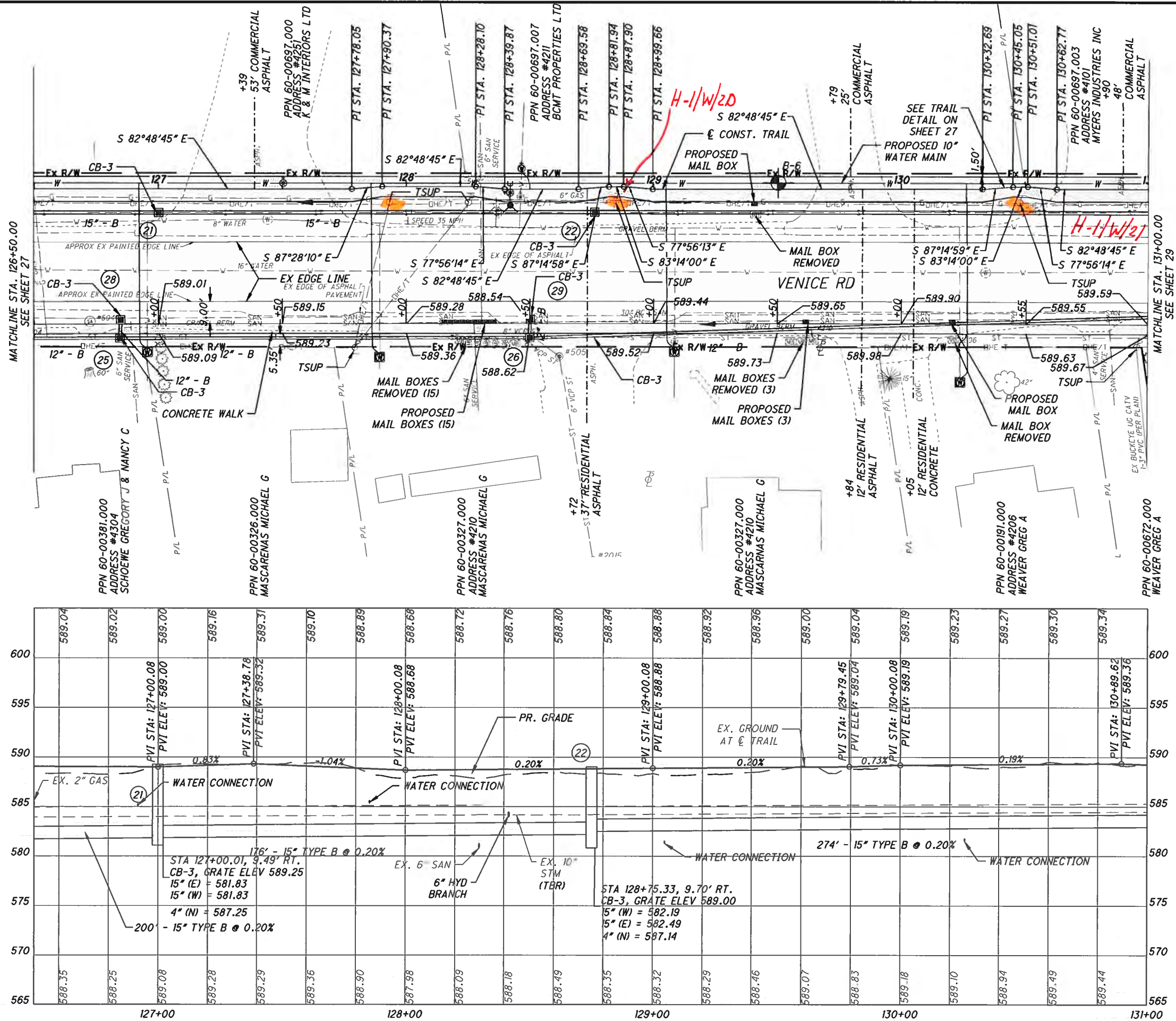
CROSS REFERENCES	
CROSS SECTIONS	45 - 46
DRIVE PROFILES	58 - 59 AND 61 - 62
STORM SEWER PROFILES	63
WATER PLAN AND PROFILE	77 - 78

#420 (SQUARE CATCH BASIN) (REMOVE)  
STA. 123+84.64  
RIM EL=588.91  
INV 6" PVC N (TO #421)=583.56  
INV 12" PVC W=583.51  
INV 12" PVC E=583.61

#421 (SQUARE CATCH BASIN)  
STA. 123+91.02  
RIM EL=585.80  
INV 6" PVC S (TO #420)=584.05  
INV 12" CPP W=584.15  
INV 12" CPP N=584.20







CROSS REFERENCES	
CROSS SECTIONS	46 - 48
DRIVE PROFILES	59 AND 62
STORM SEWER PROFILES	63 - 64
WATER PLAN AND PROFILE	78

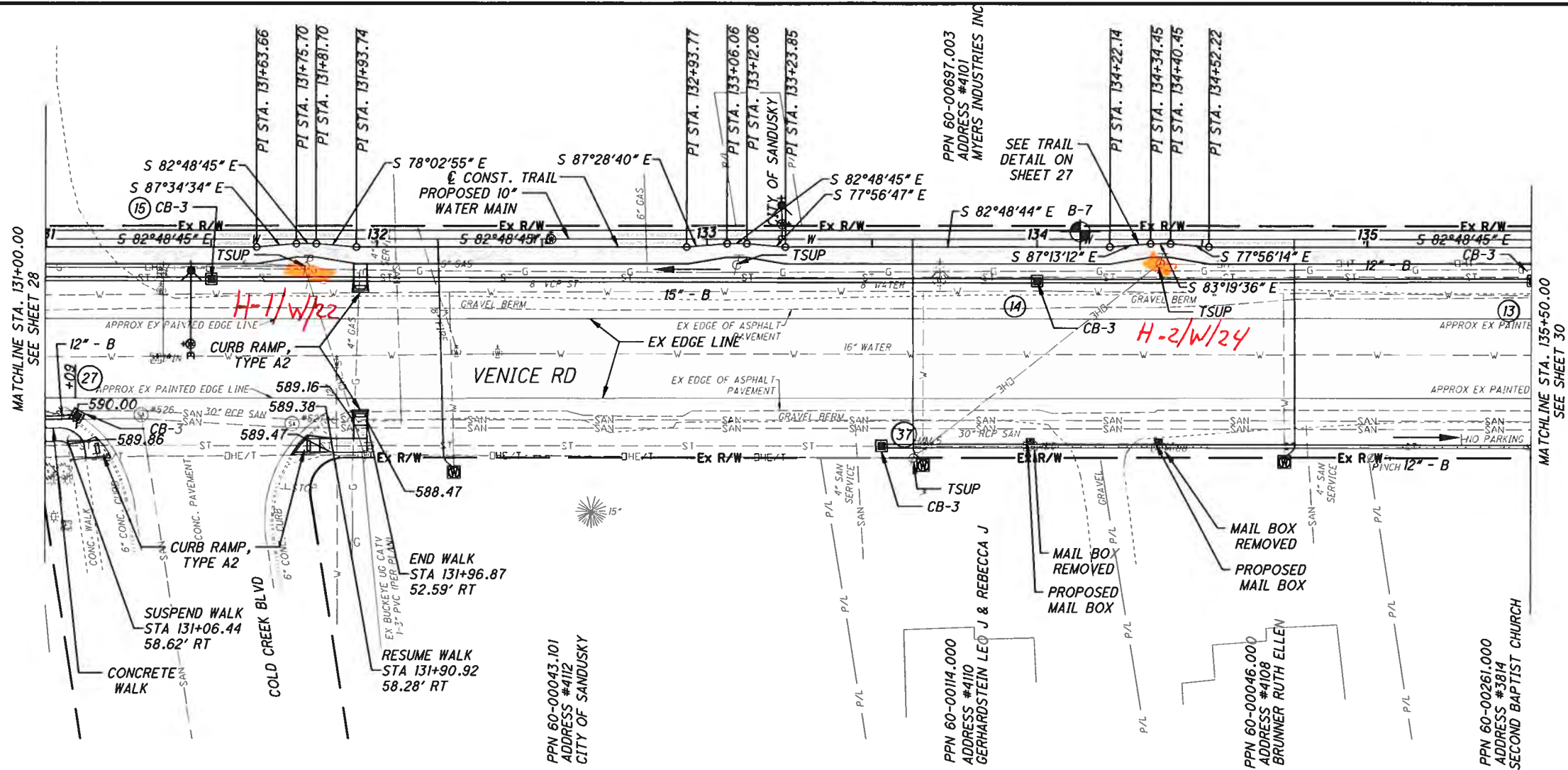
#504 (SANITARY MANHOLE)  
STA. 126+72.20  
RIM EL=589.68  
INV 30" RCP W (TO #366)=577.23  
INV 30" RCP E (TO #526)=577.20

#505 (ROUND CATCH BASIN)  
STA. 128+61.83  
RIM EL=588.91  
INV 6" VCP S (TO #2015)=585.06  
INV 6" VCP W=585.01  
CONNECTION NOT FOUND

PLAN AND PROFILE VENICE RD  
STA. 126+50 TO STA. 131+00

CITY OF SANDUSKY  
WEST SIDE UTILITIES &  
CONNECTIVITY IMPROVEMENTS

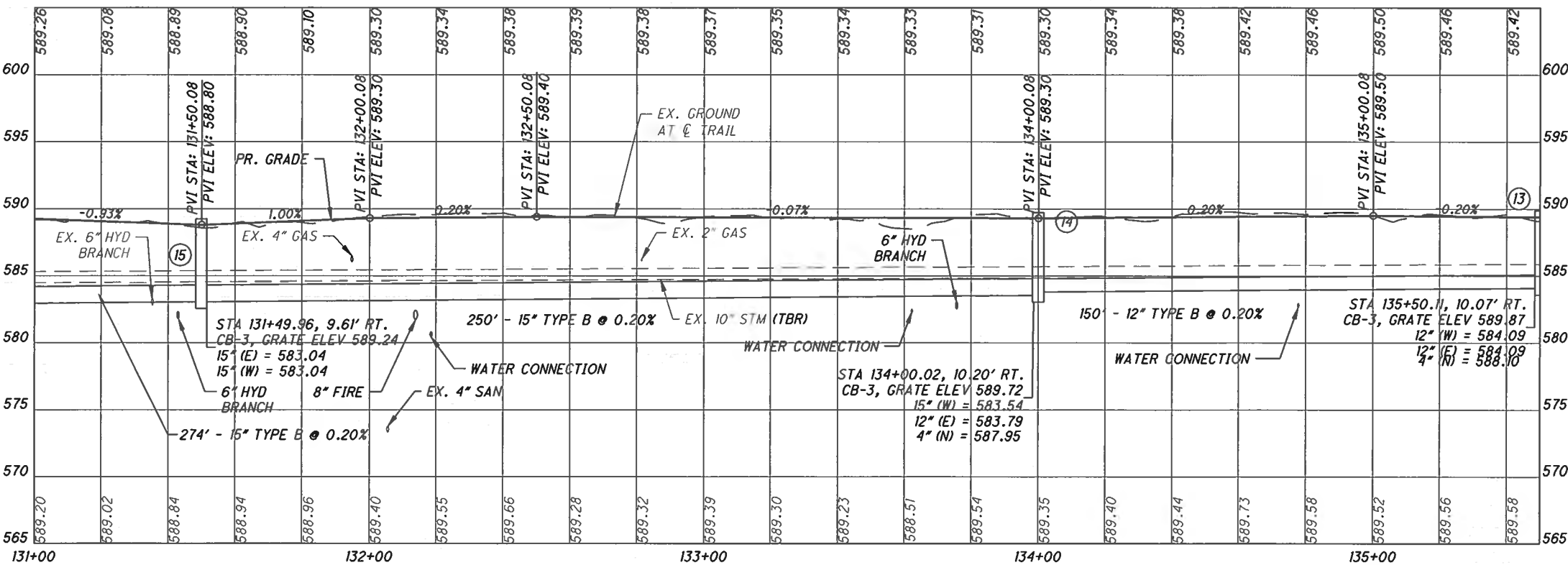




CROSS REFERENCES	
CROSS SECTIONS	48 - 49
DRIVE PROFILES	59
STORM SEWER PROFILES	63
WATER PLAN AND PROFILE	79 - 80

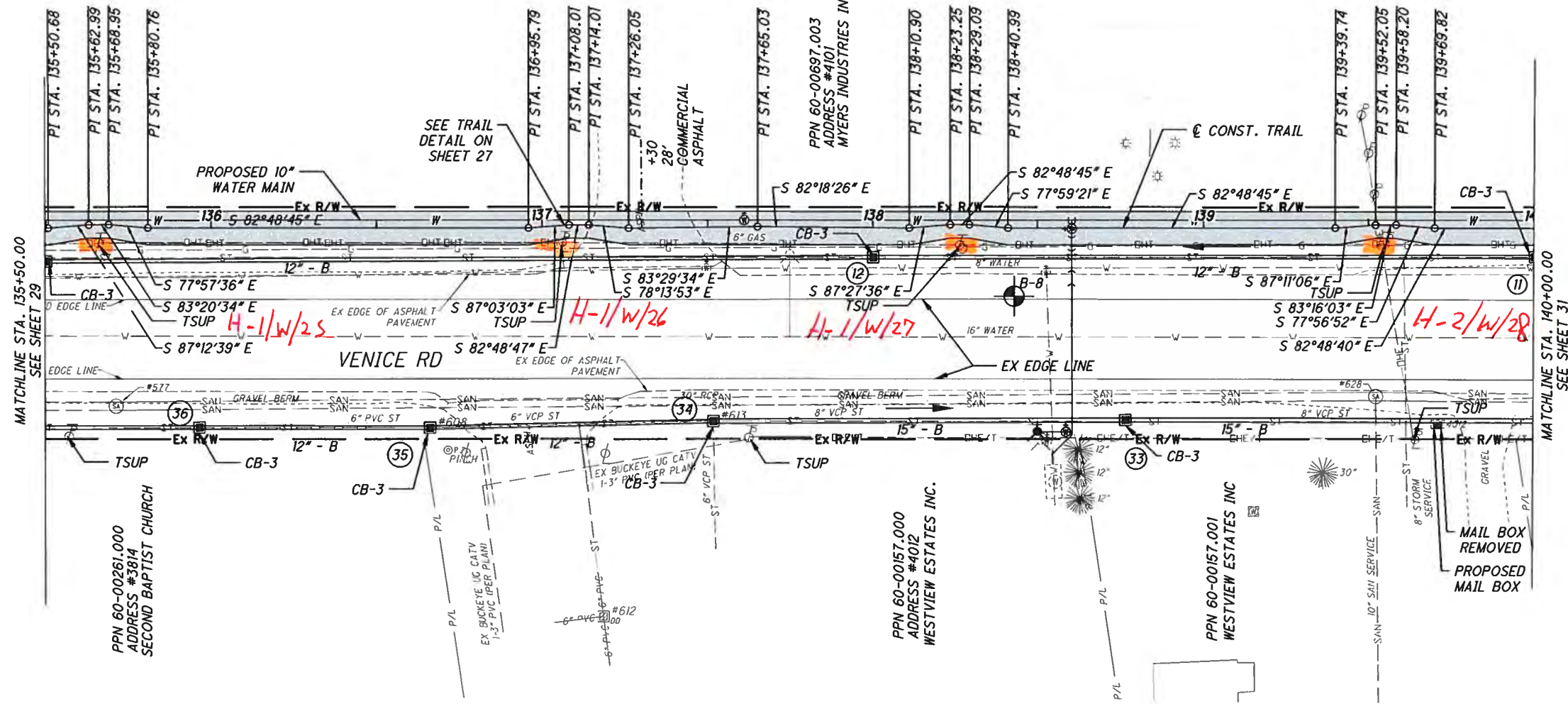
#526 (SANITARY MANHOLE)  
STA. 131+28.69  
RIM EL=590.26  
INV 30" RCP W (TO #504)=576.88  
INV 30" RCP E (TO #527)=576.86  
INV 15" RCP S (TO #566)=578.46

#527 (SANITARY MANHOLE)  
STA. 131+69.83  
RIM EL=590.36  
INV 30" RCP W (TO #526)=576.82  
INV 30" RCP E (TO #577)=576.81



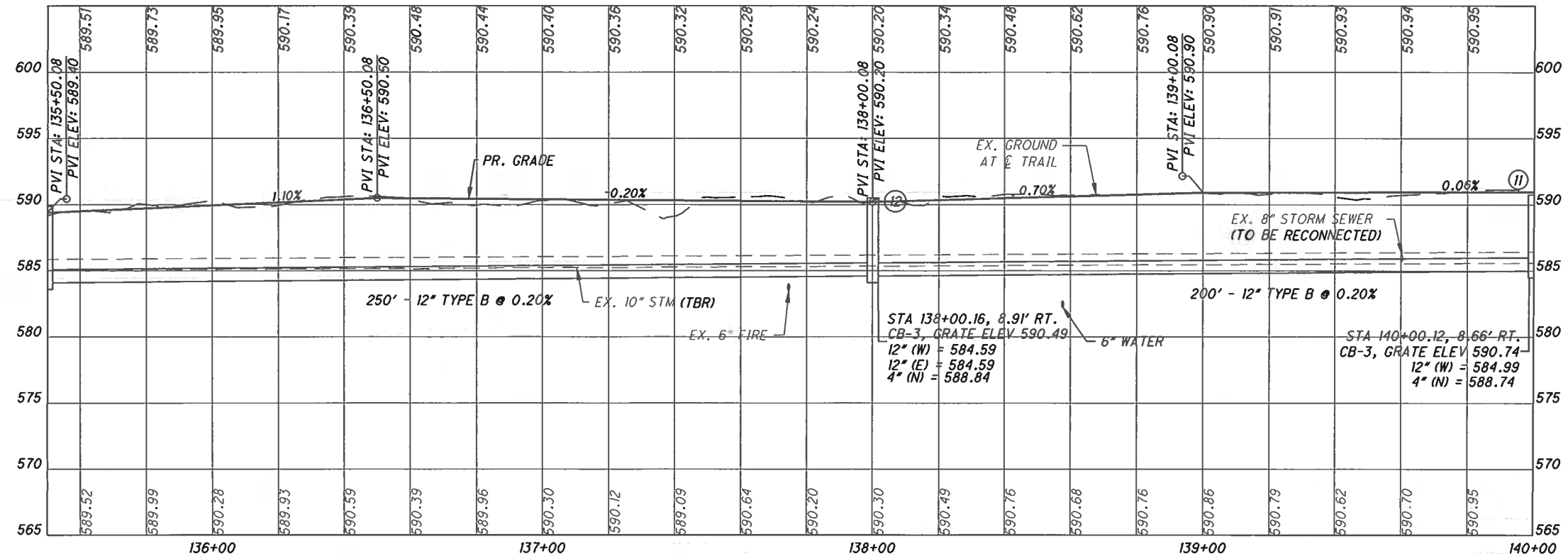
PLAN AND PROFILE VENICE RD  
STA. 131+00 TO STA. 135+50

CITY OF SANDUSKY  
WEST SIDE UTILITIES &  
CONNECTIVITY IMPROVEMENTS

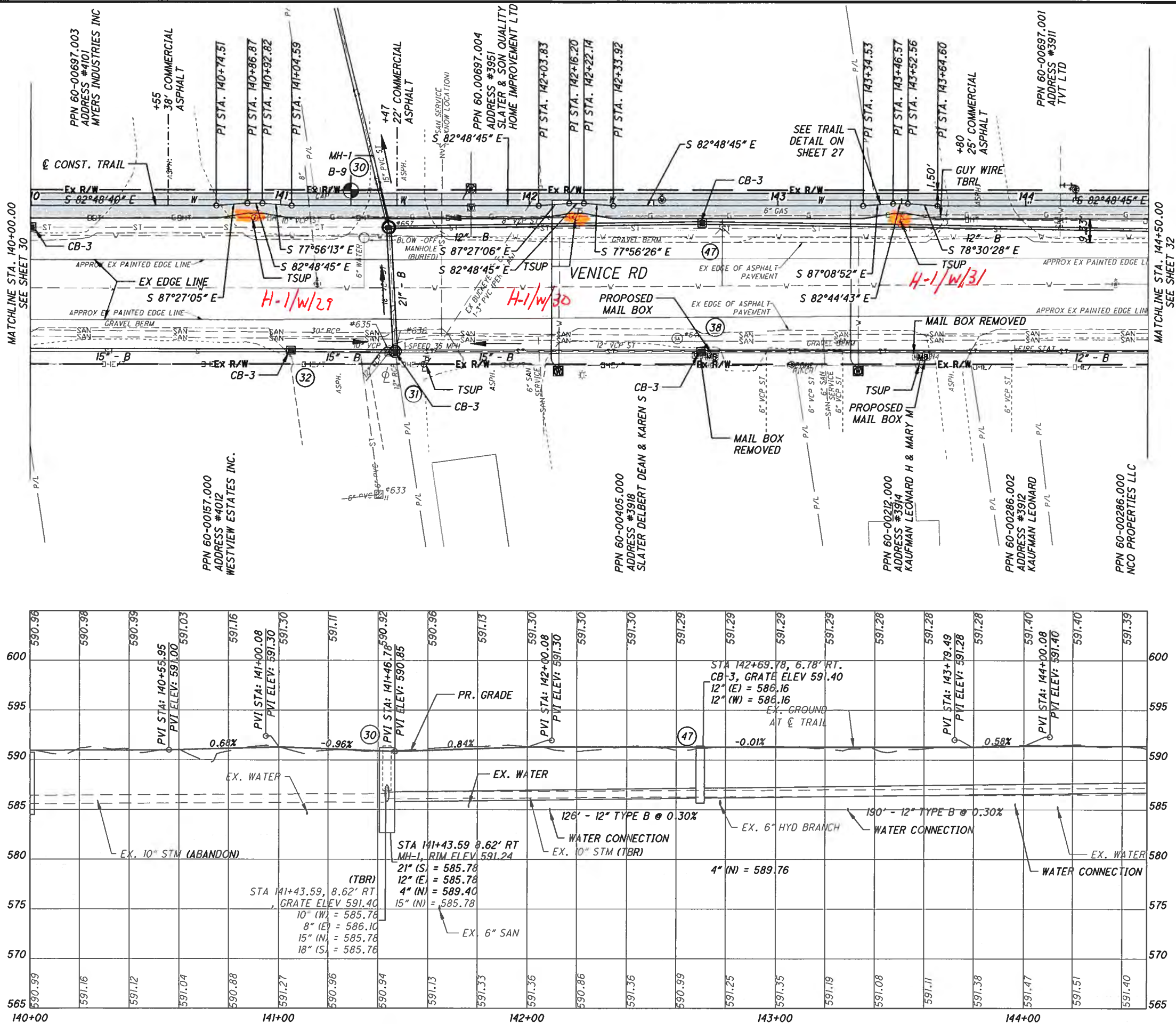


CROSS REFERENCES	
CROSS SECTIONS	49 - 51
DRIVE PROFILES	59
STORM SEWER PROFILES	63
WATER PLAN AND PROFILE	80

- #577 (SANITARY MANHOLE)  
STA. 135+75.47  
RIM EL=590.42  
INV 30" RCP W (TO #527)=576.80  
INV 30" RCP E (TO #628)=576.62
- #608 (SQUARE CATCH BASIN)(REMOVE)  
STA. 136+65.98  
RIM EL=589.51  
INV 6" PVC W=586.26  
INV 6" VCP E (TO #613)=586.26
- #613 (SQUARE CATCH BASIN)(REMOVE)  
STA. 137+50.95  
RIM EL=589.96  
INV 6" VCP W (TO #608)=586.06  
INV 8" VCP E (TO #635)=586.06  
INV 6" VCP S=586.11
- #628 (SANITARY MANHOLE)  
STA. 139+48.00  
RIM EL=591.21  
INV 30" RCP W (TO #577)=576.41  
INV 30" RCP E (TO #641)=576.36  
INV 12" RCP S (TO #2016)=577.11







CROSS REFERENCES	
CROSS SECTIONS	51 - 52
DRIVE PROFILES	59 - 60
STORM SEWER PROFILES	63 - 64
WATER PLAN AND PROFILE	81 - 82

#633 (SQUARE CATCH BASIN)  
STA. 141+40.00  
RIM EL=590.15  
CHANGE OF MATERIAL  
INV 6" PVC N=587.20  
INV 6" PVC W=587.20

#635 (SQUARE CATCH BASIN) (REMOVE)  
STA. 141+43.72  
RIM EL=590.70  
INV 12" VCP SW=586.18  
INV 8" VCP W (TO #613)=586.00  
INV 10" VCP E (TO #636)=586.00

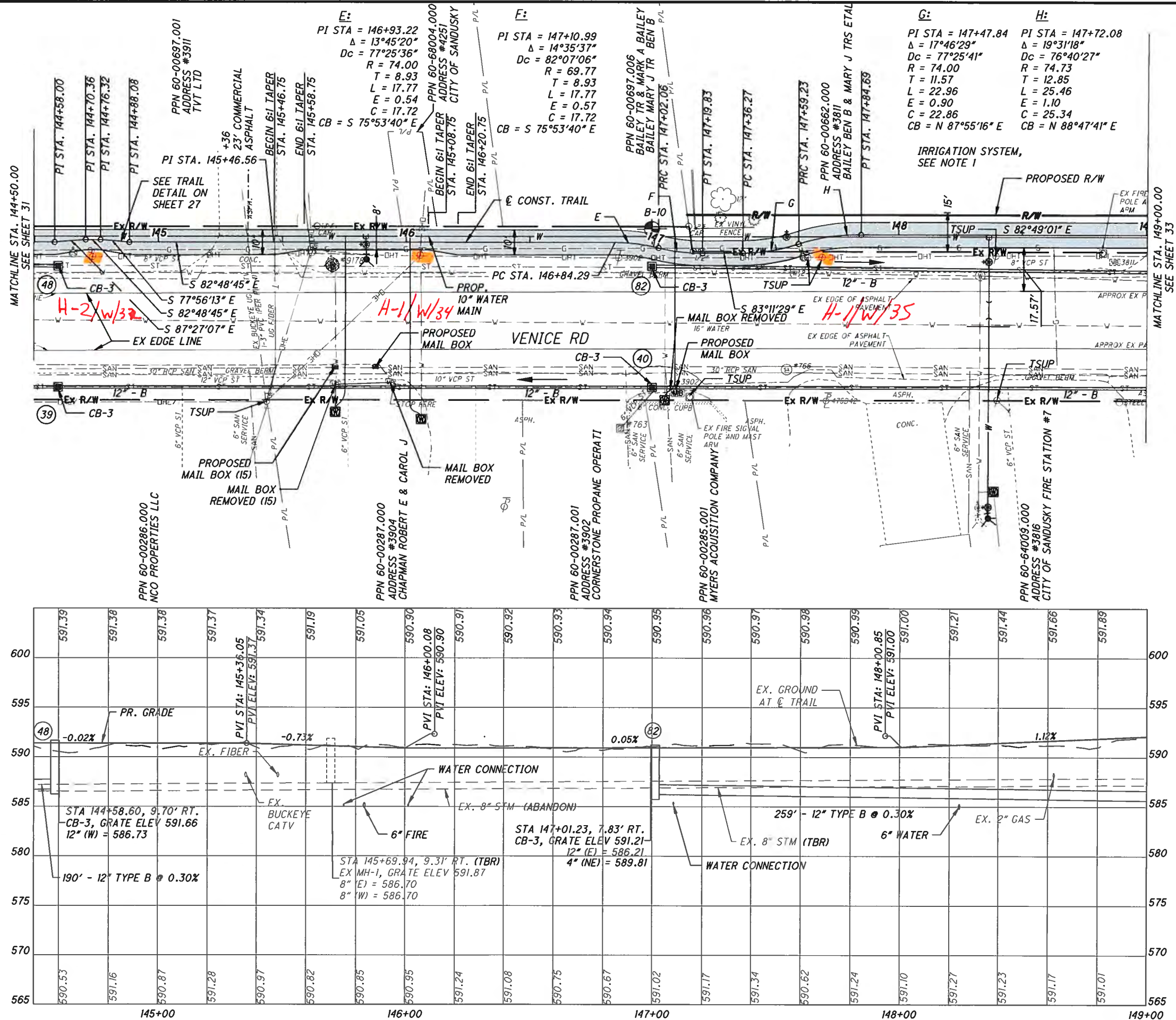
#636 (SQUARE CATCH BASIN) (REMOVE)  
STA. 141+46.20  
RIM EL=590.74  
INV 10" VCP W (TO #635)=586.04  
INV 10" VCP E (TO #752)=586.04  
INV 12" RCP S=585.99  
QUESTIONABLE MATERIAL  
INV 18" VCP N (TO #657)=585.84

#641 (SANITARY MANHOLE)  
STA. 142+59.58  
RIM EL=591.71  
INV 30" RCP W (TO #628)=576.23  
INV 30" RCP E (TO #766)=576.21

#657 (STORM MANHOLE) (REMOVE)  
STA. 141+43.22  
RIM EL=591.41  
INV 18" VCP S (TO #636)=585.76  
INV 15" PVC N (TO #663)=585.78  
INV 10" VCP W=586.08  
CONNECTION NOT FOUND  
INV 10" VCP E=586.10  
CONNECTION NOT FOUND

PLAN AND PROFILE VENICE RD  
STA. 140+00 TO STA. 144+50

CITY OF SANDUSKY  
WEST SIDE UTILITIES &  
CONNECTIVITY IMPROVEMENTS



NOTE:

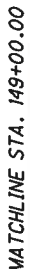
1. THE CONTRACTOR SHALL RELOCATE THE EXISTING IRRIGATION SYSTEM FOR THE BAILEY PROPERTY AT 3811 VENICE ROAD. THE CONTRACTOR SHALL FIELD LOCATE THE EXISTING IRRIGATION SYSTEM WITHIN THE PROPOSED RIGHT OF WAY AND PROVIDE THE PROPERTY OWNER WITH A PROPOSED DESIGN FOR THE RELOCATED IRRIGATED SYSTEM FOR THE PROPERTY OWNER'S APPROVAL PRIOR TO ANY REMOVAL OR PROPOSED INSTALLATION. ALL COSTS TO PREPARE THIS WORK, INCLUDING THE REMOVAL OF THE EXISTING IRRIGATION SYSTEM, PERMITS, AND THE INSTALLATION OF A PROPOSED IRRIGATION SYSTEM APPROVED BY THE PROPERTY OWNER, SHALL BE INCLUDED IN THE LUMP SUM BID PRICE FOR ITEM 202 REMOVAL MISC.: IRRIGATION SYSTEM

CROSS REFERENCES	
CROSS SECTIONS	52 - 54
DRIVE PROFILES	60
STORM SEWER PROFILES	64
WATER PLAN AND PROFILE	82 - 83

#763 (SQUARE CATCH BASIN)  
STA. 147+03.54  
RIM EL=591.65  
INV 6" VCP E=590.35

#766 (SANITARY MANHOLE)  
STA. 147+46.76  
RIM EL=592.23  
INV 30" RCP W (TO #641)=576.08  
INV 30" RCP E (TO #815)=576.08





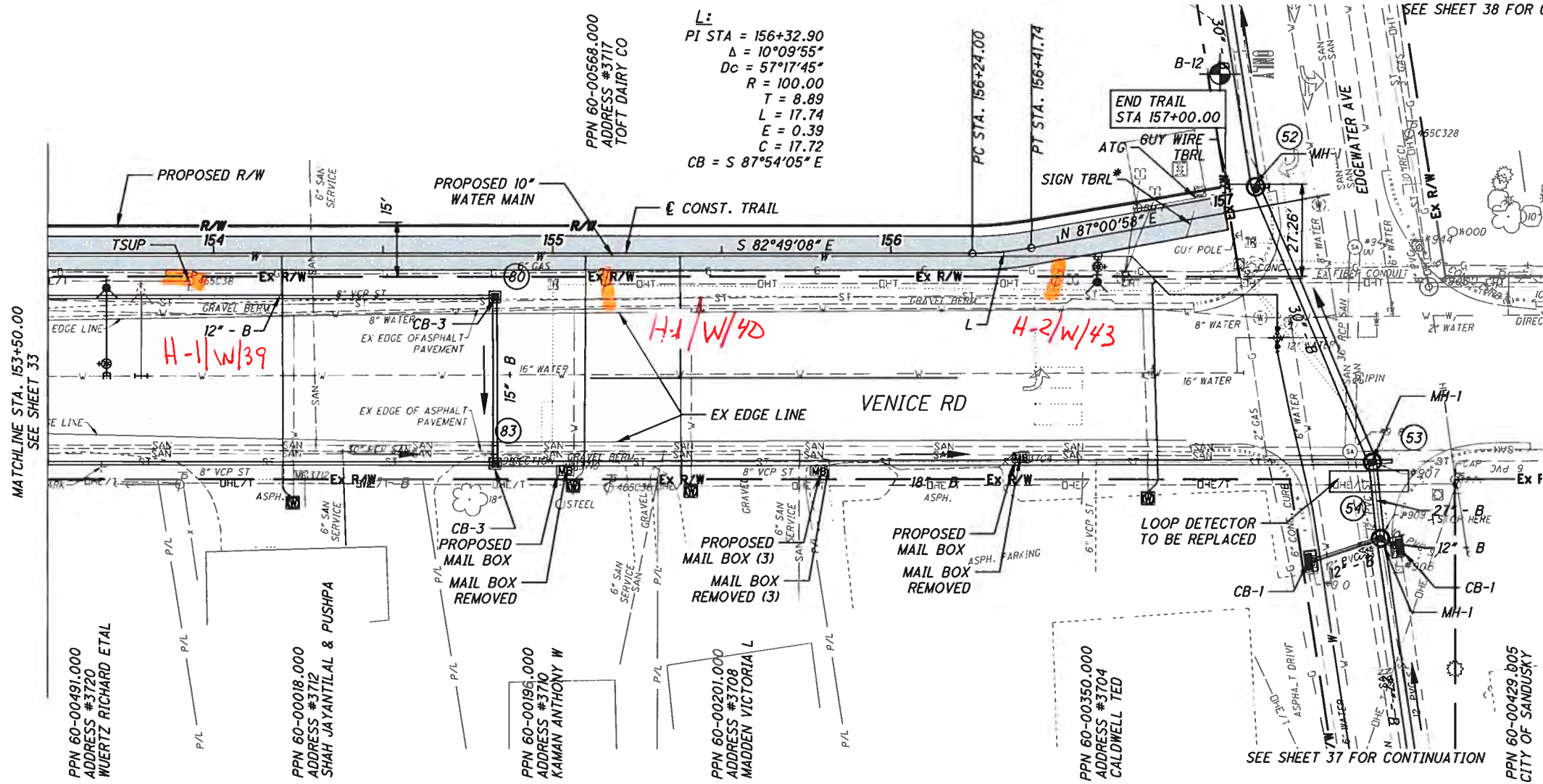
#752 (SQUARE CATCH BASIN) (REMOVE)  
STA. 150+48.44  
RIM EL=589.88  
INV 10" VCP W (TO #636)=587.53  
INV 8" VCP E=587.48  
CONNECTION NOT FOUND  
INV 6" VCP S=587.93

#815 (SANITARY MANHOLE)  
STA. 152+42.00  
RIM EL=592.21  
INV 30" RCP W (TO #766)=575.71  
INV 30" RCP E (TO #908)=575.69

NOTE:

1. THE CONTRACTOR SHALL RELOCATE THE EXISTING IRRIGATION SYSTEM FOR THE BAILEY PROPERTY AT 3811 VENICE ROAD. THE CONTRACTOR SHALL FIELD LOCATE THE EXISTING IRRIGATION SYSTEM WITHIN THE PROPOSED RIGHT OF WAY AND PROVIDE THE PROPERTY OWNER WITH A PROPOSED DESIGN FOR THE RELOCATED IRRIGATED SYSTEM FOR THE PROPERTY OWNER'S APPROVAL PRIOR TO ANY REMOVAL OR PROPOSED INSTALLATION. ALL COSTS TO PREPARE THIS WORK, INCLUDING THE REMOVAL OF THE EXISTING IRRIGATION SYSTEM, PERMITS, AND THE INSTALLATION OF A PROPOSED IRRIGATION SYSTEM APPROVED BY THE PROPERTY OWNER, SHALL BE INCLUDED IN THE LUMP SUM BID PRICE FOR

ITEM 202 REMOVAL MISC.: IRRIGATION SYSTEM



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A COMMERCIAL LICENSE AGREEMENT FOR STRUCTURE ACCESS WITH THE OHIO BELL TELEPHONE COMPANY, D.B.A. AT&T OHIO FOR THE PLACEMENT OF DECORATIVE BANNERS ALONG VENICE ROAD FOR THE SANDUSKY BAY PATHWAY; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the City Commission previously approved a contract with Speer Bros., Inc., of Sandusky, Ohio, for the West Side Utility & Connectivity Improvements Project by Ordinance No. 20-002, passed on January 13, 2020; and

**WHEREAS**, the project included an allowance for bike trail signage and wayfinding for the ten (10) foot asphalt path on the north side of Venice Road that involves placing decorative banners on the existing utility poles on the north side of Venice Road between Edgewater Drive and the Cold Creek Bridge for designating the Sandusky Bay Pathway; and

**WHEREAS**, AT&T owns the poles and requires the City to execute an agreement to allow access to their poles and provides conditions and procedures for the placement and maintenance of the Sandusky Bay Pathway banners; and

**WHEREAS**, the total cost for the access and use of AT&T's poles for a period of five (5) years is a one-time fee of \$2,160.00 due upon execution of the agreement; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to allow the contractor to place the banners on the poles while under contract for the West Side Utility & Connectivity Improvements Project; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into a Commercial License Agreement for Structure Access with The Ohio Bell Telephone Company, d.b.a. AT&T for the placement of decorative banners along Venice Road for the Sandusky Bay Pathway, substantially in the same form as contained in Exhibit "A", which is attached to this Ordinance and is specifically incorporated if fully rewritten herein, together with any revisions or additions as are approved by the Law Director as not being substantially adverse to the City and consistent with

carrying out the City’s public purpose.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
MCKENZIE E. SPRIGGS  
CLERK OF THE CITY COMMISSION

Passed: June 28, 2021





## DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

To: Eric Wobser, City Manager

From: Aaron M. Klein, P.E.

Date: June 16, 2021

Subject: **Commission Agenda Item – License Agreement with Creative Outdoor Advertising of America, Inc.**

**ITEM FOR CONSIDERATION:** Legislation to enter into a License Agreement with Creative Outdoor Advertising of America, Inc. of Tampa Florida for services related to downtown recycling.

**BACKGROUND INFORMATION:** On July 8, 2011, the City entered into an exclusive 10-year Public Space Recycling Agreement with Greener Corners, LLC (GC) of New Jersey. During the term of the contract, Greener Corners, LLC was purchased by Creative Outdoor Advertising of America, Inc. (COA) and assumed responsibility of all aspects the contract.

In 2011, the profitability of the recycling industry resulted in no out-of-pocket costs to the City of Sandusky and actually allowed for small profits related to graphics secured by GC that were advertised on the 30 bins placed mostly throughout downtown. Due to national and worldwide influences over the past 4 years, recycling of various types of materials is no longer a profitable business. Therefore, when notified by COA of cost increases, staff has investigated several different options to minimize costs related to downtown recycling. The options have included 1) purchasing the existing or new bins and providing labor by hiring part time staff, 2) purchasing new bins, contracting with Republic for the remainder of 2021 and then bidding the service with future trash collection contracts, 3) eliminating the service entirely and directing people to the Service Center, 4) providing one designated location downtown, 5) adjusting the program to only include cardboard since that is the only profitable recyclable, and 6) renegotiating the contract with COA.

In the end, staff understands the importance of providing recycling, especially convenient recycling for pedestrians because of the number of visitors that frequent downtown and the potential increase in plastic cups with the impending DORA. Considering this, as well as capital costs, maintenance costs, annual labor costs, and weekly landfill tipping fees, options 1 through 5 were not very good options.

The contract will be for \$500 per unit per year for a term of five years with an option to extend for five additional one-year terms. The shorter term allows the City the flexibility to adapt to market fluctuations within the recycling industry that will likely become more understood over that time period. There are no additional capital costs, labor costs, or tipping fees for the City and maintenance is the responsibility of COA. Also, the quantity of bins can be reduced from 30 if both sides agree. Hence, COA intends to work with the City to relocate bins to mutually agreed upon locations since the downtown landscape

has changed dramatically since 2011. For example, it probably makes sense to provide this service near the downtown transit stop on Wayne Street.

**BUDGETARY INFORMATION:** If approved the cost would be \$500.00 per bin per year. The annual cost for the bins and services is \$15,000, based upon a total of 30 bins, which is subject to change upon adjustments in the number of bins necessary to accommodate downtown. These costs will be paid with funds to be allocated in the Horticulture Division's operating budget.

**ACTION REQUESTED:** It is recommended that proper legislation be approved to enter into a License Agreement with Creative Outdoor Advertising of America, Inc. and that the necessary legislation be passed under suspension of the rules and in accordance with Section 14 of the City Charter to allow for continued recycling services since the expiration date of the current contract is July 7, 2021.

I concur with this recommendation:

---

Eric Wobser  
City Manager

cc: M. Spriggs, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director

## CERTIFICATE OF FUNDS

In the Matter of: Creative Outdoor Advertising of America

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Contract have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to an appropriate fund, free from any previous encumbrances. This certificate is given compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Account # 110-4850-53000

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



Michelle Reeder

Finance Director

Dated: 6/24/2021

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A FIVE (5) YEAR LICENSE AGREEMENT WITH CREATIVE OUTDOOR ADVERTISING OF AMERICA, INC. OF TAMPA, FLORIDA, FOR THE DOWNTOWN RECYCLING PROGRAM; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the City Commission previously approved a Public Space Recycling Agreement with Greener Corners, LLC, of Rutherford, New Jersey, for the implementation of a public space recycling program for a term of ten (10) years by Ordinance No. 11-048, passed on May 23, 2011, and this agreement will be expiring on July 7, 2021; and

**WHEREAS**, during the term of the agreement, Greener Corners, LLC, was purchased by Creative Outdoor Advertising of America, Inc. and assumed responsibility for all aspects of the contract; and

**WHEREAS**, since 2011, recycling has drastically changed and various types of material are no longer a profitable business and City Staff has investigated several options to minimize costs related to downtown recycling and has determined that Creative Outdoor Advertising of America, Inc. is the best option considering the number of visitors that frequent downtown and the potential increase in plastic cups with the impending DORA as well as capital costs, maintenance costs, annual labor costs, and weekly landfill tipping fees; and

**WHEREAS**, pursuant to the agreement, the City will pay \$500.00 per unit per year for the disposal of waste and recyclable materials from the waste receptacles for a period of five (5) years with the option to extend for successive one-year terms for an additional five (5) years; and

**WHEREAS**, the annual cost for the recycling bins and services is \$15,000.00, based on a total of thirty (30) bins, which is subject to change upon adjustments in the number of bins necessary to accommodate downtown, and these costs will be paid with funds to be allocated in the Horticulture Division's operating budget; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to allow for the continued recycling services in the downtown as the current contract expires on July 7, 2021; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take

immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into a five (5) year License Agreement with Creative Outdoor Advertising of America, Inc. of Tampa, Florida, for recycling bins for the continuation of a downtown recycling program, substantially in the same form as Exhibit "1", a copy of which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein, together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with carrying out the objectives of this Ordinance.

Section 2. The City Manager and/or Finance Director is authorized and directed to expend funds for the recycling bins at a cost of Five Hundred and 00/100 Dollars (\$500.00) per bin annually to Creative outdoor Advertising of America, Inc. of Tampa, Florida, and in an amount **not to exceed** Fifteen Thousand and 00/100 Dollars (\$15,000.00) for the first year based on a total of thirty (30) bins.

Section 3. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provids such holding shall not affect the validity of the remaining portions thereof.

Section 4. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 5. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its

adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
MCKENZIE E. SPRIGGS  
CLERK OF THE CITY COMMISSION

Passed: June 28, 2021

## LICENSE AGREEMENT

This License Agreement (the "Agreement") is made and entered into on this \_\_\_\_ day of \_\_\_\_ in the year \_\_\_\_, by and between the CITY OF SANDUSKY (hereinafter called "the City") and CREATIVE OUTDOOR ADVERTISING OF AMERICA, INC. (hereinafter called "COA").

**WHEREAS** COA is engaged in providing Streetscaping™ Amenities and related appurtenances and selling advertising space thereon for the purpose of advertising goods and services;

**AND WHEREAS** COA has asked The City of SANDUSKY for the privilege of placing such street amenities on untraveled portions of public highways and city-owned properties within the jurisdiction of THE CITY of SANDUSKY as shown on Exhibit A.

**NOW THEREFORE IN CONSIDERATION OF** the parties do hereby agree as follows:

### **DEFINITIONS**

1. For the purposes of this Agreement,

- 1.1. "**Street Furniture**" means the actual piece of functioning street furniture placed by COA within the City right of way such as the seating, recycling container, bus shelter, bike rack, trash can, or newspaper box organizer with integrated trash receptacles and/or recycling containers
- 1.2. "**Amenities**" means: MetroBin Units installed by COA, (where agreed upon), advertising faces, and; for maintenance purposes, an area of three feet surrounding all visible vertical sides of each piece of street furniture, except where the 3 feet surrounding encroaches upon a mounting pad or piece of street furniture provided or installed by a 3rd party. The parties agree that the style and design of the Amenities provided are to be approved by the CITY MANAGER.
- 1.3. "CITY " and "CITY (s)" means the incorporated municipal entity known as THE CITY of SANDUSKY.
- 1.4. "CITY MANAGER" means THE SANDUSKY CITY MANAGER or his or her designee.

### **TERM**

- 1.5. The term of this Agreement shall be five (5) years (the "Term") unless terminated earlier

pursuant to the terms of this Agreement.

- 1.6. The term length as set out in clause 1.5 will commence at COA's receipt of the municipal authorizations required to install the Amenities pursuant to this Agreement. The CITY will not count the wait period towards this Agreement term.
- 1.7. Providing that COA has met all of the contractual obligations hereinafter contained, COA and the City may agree to extend the term of the Agreement for successive one-year terms at the end of the original term of the contract up to an additional five (5) years.
- 1.8. The CITY MANAGER agrees to provide COA with notice, in writing, of the intent NOT to extend this agreement under the same terms and conditions, at ninety (90) days before the expiry of this agreement.

#### ***INSTALLATIONS & MAINTENANCE***

2. COA agrees during the construction or installation of the Amenities to keep each location in a clean and orderly condition and remove all waste and unusable material from each location upon completion of the construction or installation of each Amenity or as required by the CITY MANAGER.
3. COA shall be solely responsible for obtaining all authorizations and the like before any Amenity is installed and for any other work undertaken by COA pursuant to this Agreement. Any fees paid for such authorizations shall be deducted from revenue paid to the CITY.
4. THE CITY agrees to permit COA to install amenities on untraveled portions of public highways and city-owned properties within the jurisdiction of the SANDUSKY:
  - 4.1. COA agrees to install Amenities at locations described in Exhibit A that are agreed upon by COA and approved by THE CITY MANAGER.
  - 4.2. Amenities will be placed at locations within THE CITY as mutually determined by THE CITY Manager and COA. Both THE CITY MANAGER and COA may request sites anywhere in the THE CITY, but final approval of all sites rests with THE CITY MANAGER.
  - 4.3. Amenities cannot be placed within the traffic sight triangle.
5. Amenities must not interfere with the pedestrian right of way.
6. COA shall maintain all Amenities as defined herein in good repair and is solely responsible for ensuring the provision of normal maintenance to those amenities as follows:



- 6.1. to keep the grass trimmed,
- 6.2. to keep the area free of debris,
- 6.3. to keep the Amenities clean and free of graffiti, and
- 6.4. to inspect amenities for damage during regular maintenance and make arrangements for timely repair.

COA shall provide normal maintenance to the amenities once a month or as often as reasonably required, limited to a maximum of 1 visit per week. If an Amenity requires more than 2 visits per week, the contractor has the right to remove the Amenity or the CITY and Contractor may reach a mutually agreeable alternative solution.

- 7. COA agrees to continuously maintain all Amenities and keep them free from damage and to protect the property of THE CITY from injury or loss.
- 8. THE CITY during its regular removal of snow shall NOT leave or place accumulated snow on the COA Amenity and between the COA unit and the street. Nor shall THE CITY leave or place the accumulated snow on the approaching side of the COA Amenity . (We simply ask for best efforts).
  - 8.1. COA is NOT responsible for the removal of snow placed on or around the Amenity by THE CITY and/or private plows. In addition THE CITY agrees that it is responsible for the sanding and salting of the sidewalks and the area around the COA street furniture including the pad, when warranted.
- 9. The CITY agree to enforce applicable ordinances with regards to private plows pushing snow onto the COA pad and/or with regards to the placement of larger than casual volumes of trash or leaving household trash bags on COA pads.
- 10. COA undertakes to empty, remove and dispose of waste and recyclable material from the waste receptacles.
  - 10.1. THE CITY agrees to pay COA \$500 per Amenity ("Metro Bin unit") per year for COA to collect, remove, and dispose of waste and recyclable material from the Amenities.
  - 10.2. COA will utilize see-through collection bags during removal of waste and recycling materials from the amenities.
  - 10.3. COA will utilize a properly-licensed vehicle for the removal and disposal of waste and recyclable materials from the waste receptacles.

- 10.4. The CITY undertakes to approve and provide at no cost, the necessary licenses for COA to collect waste and recyclable material from the Amenities on behalf of the CITY.
11. It is acknowledged by the parties that, in the selection of each location, consideration will be given to the convenience of the public. It is further acknowledged that the placement of the Amenities shall be in such a manner so as not to obscure signs, transit stops or interfere with the visibility or effectiveness of advertising on transit shelters. The placement of all Amenities must be approved by the CITY MANAGER although COA has the right to refuse to install at any location. The CITY will permit 90 degrees installations provided space allows and the placement does not impede sidewalk traffic or otherwise create a danger to citizen
12. COA shall comply with all requirements of THE CITY with respect to parking and street occupancy during all installations and maintenance of Amenities.
13. COA will not service the amenities that are inaccessible by vehicle during special events due to road closures and other unforeseeable reasons, THE CITY and / or The Event Organizers must supplement our collection.

#### ***EMERGENCY REPAIR - MAINTENANCE***

14. THE CITY may provide written notice to COA when any Amenity requires regular maintenance or repair and COA, as soon as is reasonably possible, and not later than 48 hours after the receiving of such notice, shall undertake the maintenance or repair required at COA's sole expense. If the Amenity is damaged to the extent it cannot be repaired, the Amenity shall be replaced with a new style of the CITY's choosing.
15. THE CITY may provide written notice to COA when any Amenity requires emergency maintenance or repair if its condition is such that, in the CITY MANAGER's sole opinion, the condition renders a serious danger to the public. In such an event, COA as soon as possible and not later than 24 hours after the receiving of such notice, repair and make safe the Amenity at COA's sole expense and to the satisfaction of the CITY MANAGER.

#### ***REMOVAL AND RELOCATION***

16. COA acknowledges and agrees that THE CITY shall have the right to order the removal or relocation of any Amenity installed within the jurisdiction of THE CITY . COA agrees to remove or relocate any such Amenity within 48 hours of THE CITY giving notice to COA. COA shall restore the site from

which the Amenity was removed to the condition the site was in immediately prior to the installation of the Amenity and to the satisfaction of the CITY MANAGER. Such removal, relocation and restoration shall be at no expense to THE CITY and all such costs associated therewith shall be borne and paid by COA. Where COA fails to remove or relocate such Amenity within 48 hours or where COA fails to restore the site as required, THE CITY may arrange for such removal, relocation and restoration and COA shall be solely responsible for paying THE CITY all costs incurred by THE CITY for such work.

17. COA shall have the right to move and relocate the Amenity and relocate it to a location mutually agreed upon by both parties, if it is subjected to vandalism or otherwise incurs excessive damage. If either THE CITY or COA determines that any location presents a safety hazard, the parties shall promptly agree upon a new location for that amenity and COA shall relocate the amenity within two (2) business days.

- 17.1. If COA determines the original location lacks sufficient advertising interest, COA reserves the right to remove the amenity and will make best effort to find a suitable alternative location. THE CITY has the option to purchase the amenity from COA to keep the existing amenity in place. Should the amenity be sponsored at a later date, COA will share an annual revenue payment with the CITY.

#### **REVENUE**

18. COA shall not pay any revenue to the CITY for the duration of this agreement.

#### **EXCLUSIVITY**

19. COA shall have the exclusive right to supply advertising on the Advertising Amenities described under this Agreement during the Term provided the Agreement is in good standing.

#### **REGULATION OF ADVERTISING COPY/STANDARDS**

20. COA covenants and agrees that all sponsorship panels must be aesthetically pleasing and fit into the environments in which they are placed. Sponsorship panel copy and design must not contain any material, language, representation or image which discriminates on any prohibited grounds of discrimination as set out in the Human Rights Code, and all advertising copy and design must comply with Advertising Standards Codes and Guidelines including but not limited to the American Code of Advertising Standards and with all laws, city ordinances, and city policies. Advertisements shall not:

- 20.1. contain inaccurate or deceptive claims or statements;
  - 20.2. present products prohibited from Sale to minors in such a way as to appeal particularly to persons under legal age;
  - 20.3. present demeaning or derogatory portrayals of individuals or groups;
  - 20.4. take a stand on controversial societal issues;
  - 20.5. exploit violence or sexuality;
  - 20.6. promote tobacco products;
  - 20.7. interfere with the operation of equipment of the provision of programs and services; and
  - 20.8. violate or conflict with any existing THE CITY policies or any new policies which may be adopted.
21. COA shall remove any advertising that is deemed by the CITY MANAGER in his or her sole discretion not to comply with the provisions herein or is otherwise objectionable within 24 hours of THE CITY giving COA notice, failing which THE CITY may remove such a panel at the sole expense of COA.

#### ***PROVISION OF PROMOTION AMENITIES & TERMS***

22. COA agrees to make accessible to THE CITY (upon 30 days written notice), 10% of the unsold, available amenities of THE CITY under this Agreement during any month for use by THE CITY (or their agencies) free of charge for public service messages or advertising for municipal purposes. THE CITY will be responsible for the cost of designing, producing and supplying such public service messages or municipal advertising to COA. COA will be responsible for installation and removal of the advertising at COA's sole expense. COA will install THE CITY messaging on the 15<sup>th</sup> of the month following the date of receipt of a final copy of THE CITY messaging. COA will install all CITY promotional messaging as a part of its regular posting procedures. Signs will be installed and removed ONLY on the 15<sup>th</sup> of each month following the date of receipt of a finished copy of CITY messaging.

#### ***OWNERSHIP***

23. COA shall provide Amenities (where space requirements permit), and retain the full ownership. COA shall be solely responsible for the maintenance and repair of the Amenities provided.
24. It is agreed that Amenities provided under this Agreement will remain the property of COA and on

the termination of this Agreement shall be removed by COA or otherwise disposed of, unless otherwise agreed to by the parties in writing, and COA shall restore the sites to the condition they were in immediately prior to the installation of the Amenities, all at COA's sole expense.

#### **TERMINATION**

25. If COA neglects or fails to carry out or to comply with any of the terms, covenants, undertakings or conditions of this Agreement, the CITY MANAGER may, after having given written notice to COA of such default and which default was not corrected to the satisfaction of the CITY MANAGER within 30 days of the notice being given, terminate this Agreement by giving 90 days notice in writing to COA and this Agreement shall be deemed to be terminated on the day specified in the notice and on termination. Upon such notice having been so delivered or sent, COA shall forthwith at COA's entire expense remove all Amenities. The sites from which the Amenities were removed shall be restored at COA's expense to the condition they were in immediately prior to the installation of the Amenities and to the satisfaction of the CITY MANAGER.
26. Where COA fails to remove any Amenity or to restore any site as required by this Agreement at the termination of this Agreement or as otherwise required under this Agreement, THE CITY may arrange for the removal of all or any of the Amenities and the related site restoration and COA shall be solely responsible for paying to THE CITY all reasonable costs incurred by THE CITY for such work.
27. COA or THE CITY may terminate this Agreement for convenience at any time and for any reason. Either party shall give a minimum 60 days' notice in advance of the date of termination for convenience. The Agreement shall terminate and the parties shall have no further liability to each other except for obligations outstanding at the time of the effective date of the termination of this Agreement. The terms of this Agreement shall remain in effect until the date of termination.

#### **NOTICE**

28. The parties hereto further agree that all notices, demands and requests in writing may be sent by ordinary prepaid mail or by email to:

To: CITY of SANDUSKY  
Name / Title: Aaron Klein, P.E., Director of Public Works  
Address: 240 Columbus Ave  
SANDUSKY, OHIO, 44870  
Email: aklein@ci.sandusky.oh.us

COA: Creative Outdoor Advertising  
Municipal Affairs  
8875 Hidden River Parkway, Suite 300  
Tampa, Florida, 33637  
Email: Municipal@CreativeOutdoor.com

29. Service by mail shall be deemed effective the 3rd day after mailing and service by fax shall be deemed upon sending by fax. Each party shall ensure that the other party is notified in writing immediately of any changes in the contact information above.

#### ***ACTS OF GOD***

30. Any delays in or failures of performance by a party under this Agreement shall not be considered a breach of this Agreement if and to the extent caused by occurrences beyond control of the party affected, including but not limited to: acts of god, epidemics, changes in regulations or laws by any government, strikes or other concerted acts of workers, fires, floods, war, civil commotion, shortages of labor, materials or equipment; and any time for performance hereunder shall be extended by the actual time of delay caused by such occurrence.

#### ***INSOLVENCY***

31. It is further agreed that should COA become insolvent, bankrupt, unable to pay its debts, make an authorized assignment, or compromise to their creditors and be unable to perform their duties under this Agreement, THE CITY without prejudice to its other lawful rights and remedies may forthwith terminate this Agreement by written notice and the time limit set forth in Clause 27 of this Agreement shall be waived.

#### ***ASSIGNMENT***

32. COA may not assign their rights or obligations under this Agreement, or portions thereof without the written approval of THE CITY which not be unreasonably withheld.

#### ***INDEMNITY***

33. Notwithstanding anything else contained in this agreement and except as provided expressly below in this paragraph, COA will not be liable or obligated to THE CITY or any other person or entity with respect to any matter or thing relating, directly or indirectly, to this agreement under any contract, negligence, strict liability or other legal or equitable theory for any indirect, incidental, special or

consequential damages including, without limitation, any capital expenditures, reliance costs, lost profits, lost revenues or lost business opportunities even if the parties hereto had been advised of the possibility of such damages. Subject to the foregoing exclusions, COA aggregate liability in connection with or arising, directly or indirectly, out of or from this agreement and its performance or non-performance shall not exceed, under any circumstances whatsoever, in aggregate the greater of (a) the aggregate amount paid by COA to THE CITY pursuant to this agreement as of the date of any claim made against COA by THE CITY hereunder and (b) the stated face amount of any letter of credit, performance bond or similar instrument provided to THE CITY by COA (or provided to THE CITY by any financial institution or insurance or bonding company on behalf of COA) as security for the performance by COA to THE CITY of its obligations under this agreement.

34. COA shall be responsible for any and all damages, or claims for damages for injuries or accidents done or caused by it or its employees or contractors, or resulting from the prosecution of the work, or any of its operations, or caused by reason of the existence or location or condition of the work, or of any materials, paint or machinery used hereon or herein or which may happen by reason hereof, or arising from any failure, neglect or omission on their part, or on the part of any of their employees or contractors, to do or perform any or all of the several acts or things required to be done by it or them under and by this Agreement. COA covenants and agrees to hold THE CITY harmless and indemnified for all such damages and claims for damage; and in case COA's failure, neglect or omission to observe and perform faithfully and strictly, all the provisions of this Agreement, THE CITY may, 30 days after having given notice in writing of such failure, neglect or omission, take such steps, procure such material, items, trucks and workers and so such work or things as they may deem advisable toward carrying out and enforcing the same and may, to the extent of the costs thereof, charge these costs back to be paid by COA and may recover such costs in any court of competent jurisdiction as a debt due and owing by COA to THE CITY .
35. COA covenants and agrees to, from time to time and at all times hereafter, well and truly save, defend and keep harmless and fully indemnify THE CITY and their officers, servants or agents, from and against all actions, suits, claims, liens, and demands which may be brought against or made upon THE CITY , their officers, servants, or agents and of, from and against all loss, costs, charges, damages and expenses which may be paid, sustained or incurred by THE CITY , their officers, servants by reason of, or on account of or in consequence of the execution and performance of the contract work, or the non-execution or imperfect execution of the contract work or the supply or

non-supply of the work or otherwise by reason of or arising out of the right to occupy portions of the untraveled public highways hereby granted and COA will pay to THE CITY or any of their officers, servants or agents, on demand, as the case may be, which may be paid, sustained or insured by the suits, claims, liens, executions or demands and all monies paid or payable by THE CITY or such officers, servants, or agents in settlement or in discharge thereof or on account, thereof and that in default of such payment all loss, costs, changes, damages and expenses and all monies so paid or payable by THE CITY or such officers, servants, or agents may or may be recovered from COA in any Court of competent jurisdiction as monies paid at COA's request and COA hereby authorize and empower THE CITY or thereafter their solicitors for the time being to settle or compromise as THE CITY or their solicitors may deem expedient, any actions, suits, claims, liens, executions or demands which may be brought against or made upon THE CITY , their officers, servants, or agents by reason of, or on account of or in performance of the Agreement and the performance of the Agreement or the non-execution or imperfect execution of the contract work and the supply or non-supply of the contract work or otherwise by reason of or arising out of or as a result of this Agreement or the permission to occupy portions of the highways hereby given.

36. In addition to and without limiting any of the other indemnification obligations of COA pursuant to this Agreement, COA covenants to indemnify and save harmless THE CITY from any and all claims, liabilities, damages, costs, expenses, suits or actions, or other proceedings by whomsoever made, sustained, brought or prosecuted in any manner resulting from any claim relating to the placement or removal of advertisement(s) on any Amenities and to inventions, copyrights, trademarks, patents, industrial designs and rights thereto used in the work done or in the advertising placed on the Amenities, provided that COA shall have no obligation of indemnity hereunder with respect to any advertisement supplied to COA by THE CITY .

#### **INSURANCE**

37. COA agrees to procure and maintain for the duration of this agreement, liability insurance relative to each Amenity installed in which THE CITY is a named insured equal to or in excess of the following minimum requirements and COA further agrees to file with THE CITY and, a copy of the certificate of Liability Insurance evidencing such requirements. The Liability insurance policy shall:

- 37.1. Have a limit of liability of not less than FIVE MILLION DOLLARS (\$5,000,000.00) for any one occurrence and the amount of such liability insurance shall be increased at the request of THE CITY based on reasonable grounds acceptable to COA;



- 37.2. Be comprehensive Liability Insurance covering all operations and liability assumed under this Agreement;
- 37.3. Not contain any exclusions or limitations in respect of shoring, underpinning, razing or demolition of any building or structure, collapse of any structure or subsidence of any property, structure or land from any cause;
- 37.4. Contain a cross-liability clause;
- 37.5. COA shall be responsible for deductible amounts (which amounts shall be mutually satisfactory to COA and THE CITY ) under the policies.

#### **AGREEMENT DEFINITION**

- 38. No amendment of this Agreement shall be deemed valid unless effected by a written amendment signed by both parties and no waiver of rights of any kind under this Agreement shall be effective unless in writing by the party for whom they are a benefit.
- 39. This Agreement shall be subject to, and interpreted in accordance with the State of OHIO.
- 40. Clauses 36 to 39 shall survive termination or expiration of this Agreement, and shall continue in full force and effect subsequent to and notwithstanding such termination or expiration until or unless they are satisfied, by their very nature expire, or they are waived in writing by the party for whom they are a benefit.
- 41. This Agreement constitutes the entire Agreement between the parties to this Agreement and supersedes any prior agreements and understandings, oral or written.
- 42. The parties agree and expressly confirm that the CITY has conferred upon COA certain exclusive license rights to use municipal lands in connection, and solely in accordance, with the terms of this Agreement and COA has no leasehold and/or tenancy and/or other interests or rights of any nature or kind whatsoever in any real property of the CITY in connection with the execution, delivery and/or performance of this Agreement by the parties. Further, should the CITY or ANY agency on behalf of the CITY levy any form of occupancy or property tax of any kind on; or associated with; the product supplied under this agreement, the CITY shall be responsible for the payment of such taxes.
- 43. COA shall be responsible for all property taxes levied in association with any premises occupied by COA that are not located on CITY property.

44. Use of the word "will" or "shall" in this Agreement creates a mandatory obligation.
45. The insertion of headings is for convenience of reference only and shall not be construed so as to affect the interpretation or construction of this Agreement.
46. All contracts, whether of employment or otherwise, entered into by COA with respect to this Agreement, including without limiting the generality of the foregoing, agreements with a Third Party, shall be made by COA as principal and not as agent of the CITY and the CITY shall have no liability thereon.
47. Should any provision of this Agreement be void, voidable or unenforceable for any reason whatsoever, it shall be considered separate and severable from the remaining provisions of this Agreement, which shall remain in force and be binding as though the said provision had not been included.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

CITY of SANDUSKY

\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

CREATIVE OUTDOOR ADVERTISING

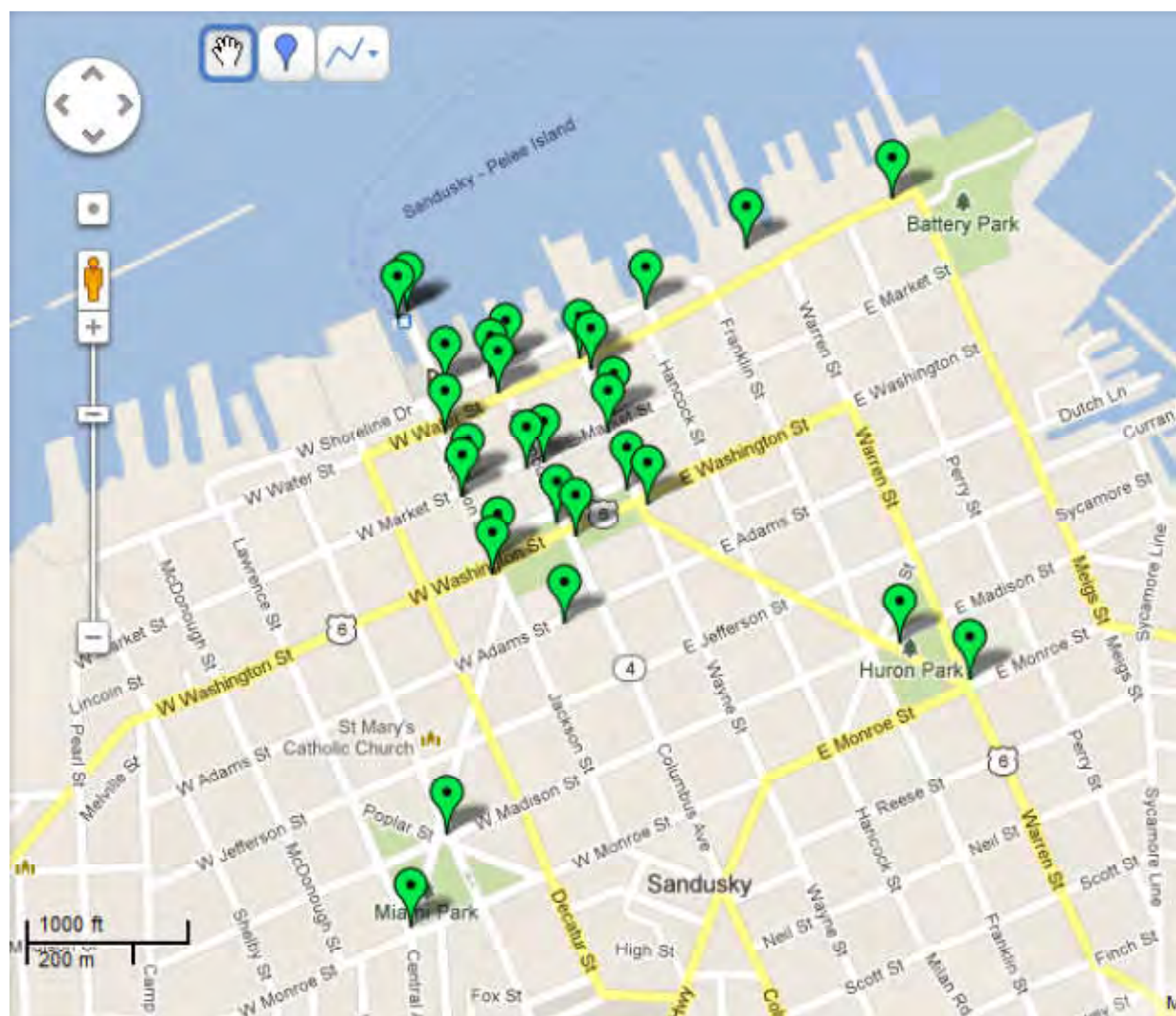
\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

I have the authority to bind the corporation

Approved as to Form:

\_\_\_\_\_  
Brendan L. Heil (#0091991)  
Law Director, City of Sandusky





## DEPARTMENT OF PUBLIC WORKS

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5829  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

To: Eric Wobser, City Manager

From: Jane E. Cullen, P.E.

Date: June 16, 2021

Subject: Commission Agenda Item- Permission to bid vault structure at Big Island Water Works (BIWW) Project

**ITEM FOR CONSIDERATION:** Requesting legislation authorizing the City to accept bids for the Vault Structure at Big Island Water Works (BIWW) Project.

**BACKGROUND INFORMATION:** There is an existing water valve for the main intake line located at Big Island Water Works in the gravel drive area in front of the screen building that requires access for maintenance. The approximate depth to the top of the water valve is nineteen (19) feet below grade and is accessible through an existing valve box that only allows staff to turn the valve to open and close. The valve box opening is less than twelve (12) inches in diameter. This project will provide for the installation of vault structure with an access hatch so maintenance personnel can climb down to physically access and maintain this valve. The valve seems to be malfunctioning, but the appropriate inspections can not be performed without access. City departments do not have the appropriate equipment, including safety devices, to perform excavations of this magnitude.

**BUDGETARY INFORMATION:** The estimated cost of the project including engineering, inspection, advertising, construction, and miscellaneous costs is \$150,000.00 to be paid with Water Funds.

**ACTION REQUESTED:** It is recommended that the proper legislation be approved accepting bids for the Vault Structure at Big Island Water Works (BIWW) Project under suspension of the rules and in accordance with Section 14 of the City Charter in order to bid the project, receive competitive prices and to complete the project in this year's construction season. Contractors are currently experiencing longer delivery times than normal for infrastructure items.

I concur with this recommendation:

---

Eric Wobser  
City Manager

---

Aaron Klein, P.E.  
Director of Public Works

cc: M. Spriggs, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director

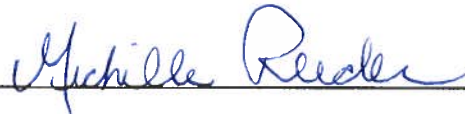
## CERTIFICATE OF FUNDS

In the Matter of: BIWW Vault Structure

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Contract have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to an appropriate fund, free from any previous encumbrances. This certificate is given compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Account # 612-5230-54090

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



Michelle Reeder

Finance Director

Dated: 6/24/2021

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION DECLARING THE NECESSITY FOR THE CITY TO PROCEED WITH THE PROPOSED VAULT STRUCTURE AT BIG ISLAND WATER WORKS (BIWW) PROJECT; APPROVING THE SPECIFICATIONS AND ENGINEER'S ESTIMATE OF COST THEREOF; AND DIRECTING THE CITY MANAGER TO ADVERTISE FOR AND RECEIVE BIDS IN RELATION THERETO; AND DECLARING THAT THIS RESOLUTION SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the water valve for the main intake line located at Big island Water Works needs to be accessed for maintenance and is approximately nineteen (19) feet below grade and accessible only through the existing valve box opening that is less than twelve (12) inches in diameter; and

**WHEREAS**, the water valve appears to be malfunctioning but the appropriate inspections cannot be performed without access and City departments do not have the appropriate equipment, including safety devices, to perform an excavation of this magnitude; and

**WHEREAS**, the Vault Structure at Big Island Water Works (BIWW) Project will provide for the installation of a vault structure with an access hatch so maintenance personnel can climb down to physically access and maintain this valve; and

**WHEREAS**, the total estimated cost of this project, including engineering, inspection, advertising, construction, and miscellaneous expenses is \$150,000.00 and will be paid with Water Funds; and

**WHEREAS**, this Resolution should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to bid the project, receive competitive prices and to allow the project to be completed this construction season as contractors are currently experiencing longer delivery times than normal for infrastructure items; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Resolution** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The specifications and estimates of cost as prepared by the Director of Public Works and submitted to this City Commission, and which are now on file in the offices of the Director of Public Works and the Clerk of the City Commission, for the proposed Vault Structure at Big Island Water Works (BIWW) Project, be and the same hereby are approved by this City Commission.

Section 2. This City Commission hereby declares it necessary to proceed with the proposed Vault Structure at Big Island Water Works (BIWW) Project at the earliest possible time.

Section 3. The City Manager is authorized and directed to advertise for and to receive bids in relation to the proposed Vault Structure at Big Island Water Works (BIWW) Project as required by law.

Section 4. If any section, phrase, sentence, or portion of this Resolution is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Resolution were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 6. That for the reasons set forth in the preamble hereto, this Resolution is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
MCKENZIE E. SPRIGGS  
CLERK OF THE CITY COMMISSION

Passed: June 28, 2021





## CITY COMMISSION OFFICE

240 Columbus Avenue  
Sandusky, Ohio 44870  
419.627.5850  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

TO: City Commission

FROM: McKenzie Spriggs, Commission Clerk  
Jason Werling, Recreation Superintendent

DATE: June 21, 2021

**Subject: Commission Agenda Item – Entertainment Partner Agreement with Advantage Entertainment**

**ITEMS FOR CONSIDERATION:** Legislation approving an agreement with Advantage Entertainment, LLC, of Sandusky, Ohio, for entertainment logistics and production for a summer concert series on the Jackson Street Pier.

**BACKGROUND INFORMATION:** In 2018, the City Commission passed legislation designating 10% of transient occupancy tax to go into a programming fund, designating dollars to create events that entertain residents and visitors. Then earlier this year, the City accepted funds from numerous partners to purchase amenities for the Jackson Street Pier, such as a stage and LED movie screen.

The goal is to produce a summer concert series dubbed “Party at the Pier” that elevates the previous downtown concert experience of Party at the Plaza. Utilizing the Erie County Community Foundation Stage and the revitalized Jackson Street Pier, the goal is to make Thursday nights vibrant and feel like a weekend evening.

An RFQ was issued in which two (2) submittals were received and evaluated by a selection committee. Advantage Entertainment was selected as the most qualified based upon their professional expertise, past experience, vision, availability, and their local expertise of the venue and musical experience. They will procure talent and produce every aspect of the Thursday night summer concert series. In addition, the Lange Trust of the Sandusky Library will be sponsoring four (4) cultural shows this summer. Advantage Entertainment will also produce those events at the request of the Trust. Consistent with the scope of services, Advantage Entertainment will manage every aspect of the concert series, including: sound and lighting, signing with talent, clean up of venue, rental of equipment, site management, etc.

**BUDGETARY IMPACT:** The contract will not exceed \$182,500; with \$50,000 coming from the Lange Trust. Dollars will be disbursed from the programming fund.

**ACTION REQUESTED:** It is requested that the proper legislation be prepared approving the entertainment partner contract with Advantage Entertainment, for the 2021 year. It is further requested that the legislation is to be passed under suspension of the rules in full accordance with Section 14 of the City Charter in order to allow Advantage Entertainment to immediately begin procuring talent and production vendors for the 2021 summer concert series beginning on July 8, 2021.

---

McKenzie Spriggs  
Commission Clerk

---

Jason Werling  
Recreation Superintendent

I concur with this recommendation:

---

Eric Wobser  
City Manager

cc: M. Spriggs, Commission Clerk; M. Reeder, Finance Director; B. Heil, Law Director

## CERTIFICATE OF FUNDS

In the Matter of: Advantage Entertainment Agreement

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Contract have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to an appropriate fund, free from any previous encumbrances. This certificate is given compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Account # 431-7021-53000

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



Michelle Reeder

Finance Director

Dated: 6/24/2021

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR SPECIAL EVENT PRODUCER FOR THE SUMMER CONCERT SERIES AT THE JACKSON STREET PIER; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the renovated Jackson Street Pier provides the City with the opportunity to program in high quality and innovative ways; and

**WHEREAS**, a Request for Qualifications (RFQ) was issued for an Event Producer & Operator for the 2021 Summer Concert Series at the Jackson Street Pier in which two (2) submittals were received and evaluated by a selection committee and based upon the firm's professional expertise, past experience, vision and availability, it was determined Advantage Entertainment, LLC, of Sandusky, Ohio, was the most qualified; and

**WHEREAS**, Advantage Entertainment, LLC, will be providing services to plan, conduct, manage, and product a summer concert series at the Jackson Street Pier as more fully described in the proposal, which is attached to this Ordinance and marked Exhibit "A" and specifically incorporated herein; and

**WHEREAS**, this City Commission approved a Sponsorship Agreement with the Library Association of Sandusky, Ohio, for programming events at the Jackson Street Pier by Ordinance No. 21-090, passed on June 14, 2021; and

**WHEREAS**, the cost for the services is not to exceed \$182,500.00 of which \$50,000.00 will be paid with The Norbert A. Lange and Marion Cleaveland Lange Trust funds through the Sponsorship Agreement with the Library Association of Sandusky, Ohio, and the remaining balance of \$132,500.00 will be paid with Programming Funds; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to allow Advantage Entertainment, LLC, to immediately begin procuring talent and production vendors for the 2021 Summer Concert Series beginning on July 8, 2021; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into an Agreement for Special Event Producer with Advantage Entertainment, LLC, of Sandusky, Ohio, for the Summer Concert Series at the Jackson Street Pier,

substantially in the same form as attached to this Ordinance, marked Exhibit "1", and specifically incorporated as if fully rewritten herein, together with any revisions or additions as are approved by the Law Director as not being substantially adverse to the City and consistent with carrying out the terms of this Ordinance, at an amount **not to exceed** One Hundred Eighty Two Thousand Five Hundred and 00/100 Dollars (\$182,500.00).

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
MCKENZIE E. SPRIGGS  
CLERK OF THE CITY COMMISSION

Passed: June 28, 2021

## **AGREEMENT FOR SPECIAL EVENT PRODUCER**

This **EVENT PRODUCER AGREEMENT** made on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, between the **City of Sandusky**, a Municipal Corporation of the State of Ohio with its principal place of business at 240 Columbus Avenue, Sandusky, Ohio, 44870 (hereinafter "City") and **Advantage Entertainment, LLC**, with its principal place of business at 1402 Columbus Ave., Sandusky, OH 44870, (hereinafter "Advantage").

### **RECITALS**

WHEREAS, the City desires to have a Summer Concert Series at the Jackson Street Pier for the residents of Sandusky and Erie County; and

WHEREAS, Advantage has the experience and expertise required by the City to plan, conduct, manage and produce a concert series; and

WHEREAS, Advantage desires to accept such engagement, upon the terms and subject to the conditions set forth in this Agreement.

Now, therefore, in consideration of the sum to be paid to Advantage, and the terms and conditions contained in this Agreement, Advantage and City agree as follows:

### **SECTION ONE AUTHORIZATION**

Advantage shall manage, plan, conduct, oversee, direct, and produce the Summer Concert Series at the Jackson Street Pier, which includes the Lange Trust Concert Series and the City's Thursday night concert series (collectively "Events") and hereby accepts this authorization and agrees to conduct, oversee, direct and manage the Events on the terms and subject to the conditions described in this Agreement.

## **SECTION TWO SCOPE OF WORK**

Advantage shall perform and complete all of the duties and responsibilities specified in Advantage's proposal, a copy of which is marked Exhibit "A" and specifically incorporated into this Agreement, including the following:

- (a) There shall be no alcohol sales at the Events;
- (b) Advantage shall scout, book, manage, and compensate talent to perform at each concert, including ensuring that all hospitality riders are satisfied; and
- (c) Advantage shall oversee all aspects of the production of the Summer Concert Series and manage all personnel necessary to produce the event, including any load-in, load-out, crowd management, equipment operation, and any other necessary production duties.

In addition to the duties and responsibilities listed and incorporated herein, for the Lange Trust Concert Series, Advantage shall also comply with all of the terms and conditions required by the Agreement between the City and the Library Association of Sandusky, Ohio, which is attached as Exhibit "B" to this Agreement, including but not limited to the following:

- (d) Events sponsored by the Sandusky Library shall include the following language on all publicity: "This event/concert/project is made possible by the Lange Trust through the Sandusky Library"; and
- (e) Provide invoices for all expenses incurred by Advantage in the production of the Lange Trust Concert Series within thirty (30) days of the event.

### **SECTION THREE COMPENSATION**

City shall pay Advantage for the performance of the work specified in this Agreement, and Advantage shall accept as full compensation for its performance, the following sum for all work, payment to be made in the manner indicated: Forty-Five Thousand and Six Hundred and Twenty Five 00/100 Dollars (\$45,625) shall be paid upon execution of this Agreement. Thereafter, Advantage shall submit monthly invoices for costs associated to be paid within thirty (30) days from receipt of invoice. The total amount paid to Advantage under this Agreement **shall not exceed** One Hundred and Eighty-Two Thousand and Five Hundred 00/100 Dollars (\$182,500). Any cost overruns are the sole responsibility of Advantage and the City of Sandusky shall not be responsible for any costs above or beyond the maximum amount stated herein. Any additional services provided by Advantage and not contemplated in this Agreement, must be approved in advance in writing and signed by both Parties.

### **SECTION FOUR TERM**

The term of this Agreement shall be for the 2021 Summer Concert Series running from the effective date of this Agreement through September 30, 2021. On or before January 1 of the subsequent calendar year, the parties may renew this Agreement, for up to two (2) additional Summer Concert Series (June 1 through September 30), by mutual written agreement.

### **SECTION FIVE DATES**

Advantage shall produce four (4) Events in the Lange Trust Series to be held on July 30, August 13, September 10, and September 26 of 2021. Advantage shall produce up to another nine (9) events on Thursday evenings from July 8, 2021, through



September 5, 2021. The City at its discretion may reduce the number of concerts with adequate notice to Advantage.

## **SECTION SIX LIMITATION OF LIABILITY**

Advantage shall hold harmless, defend, and indemnify the City and its officers, officials, employees, and volunteers from and against all claims, damages, losses, and expenses including attorney fees arising out of the performance of work described herein, caused in whole or in part by any negligent act or omission of Advantage or anyone for whose acts Advantage may be liable for, except where caused by the gross negligence or willful misconduct of the City. All provisions of this Agreement regarding indemnification, warranty, liability, and limits thereon, and confidentiality and/or protection of proprietary rights and trade secrets shall survive the expiration or termination of this Agreement indefinitely.

## **SECTION SEVEN LIMITATION OF DAMAGES**

Advantage shall procure and maintain for the duration of the Agreement commercial general liability insurance, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of work under this Agreement. Unless otherwise approved by the City, the minimum limit of such insurance shall be \$1,000,000 per occurrence for bodily injury, personal injury, and property damage. The City its officers, officials, employees, and volunteers are to be named additional insureds under this coverage.

## **SECTION EIGHT TERMINATION OF AGREEMENT**

The City may terminate this Agreement upon thirty (30) days written notice for any reason. Either Party shall have the right to terminate this Agreement if either Party

defaults on their obligations pursuant to this Agreement. The City may seek reimbursement for any compensation paid prior to any termination.

#### **SECTION NINE INDEPENDENT CONTRACTOR**

Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of agent and principal between Advantage and the City or any employee of the City. Advantage shall operate as an independent contractor, and the City shall not be responsible for any of Advantage's acts or omissions.

#### **SECTION TEN GOVERNING LAW**

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

#### **SECTION ELEVEN ENTIRE AGREEMENT / MODIFICATION**

This Agreement supersedes any and all agreements, both oral and written, between the City and Advantage with respect to the subject matter of this Agreement, the Summer Concert Series, and contains all of the covenants and agreements between the City and Advantage. Each Party acknowledges that no representations, inducements, promises, or agreements, written or oral, have been made by either party, or by anyone acting on behalf of either party, that are not embodied in this Agreement. Any modification to this Agreement shall be effective only if it is in writing and signed by both the City and Advantage.

#### **SECTION TWELVE BINDING EFFECT**

All the terms and conditions of this Agreement shall be binding on City and Advantage, and their respective heirs, legal and personal representatives, successors and assigns.

### **SECTION THIRTEEN ASSIGNMENT**

The rights of each party to this Agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.

### **SECTION FOURTEEN WAIVER**

No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

### **SECTION FIFTEEN PRECEDENCE OF CONDITIONS**

Should any conflict exist between the terms and conditions set forth in this Agreement and the attached Exhibits, the terms and conditions set forth in this Agreement shall prevail, unless the Parties expressly agree otherwise in writing.

### **SECTION SIXTEEN COUNTERPARTS**

This Agreement may be executed in multiple counterparts and each such executed counterpart shall be deemed an original, but all of which together shall constitute a single instrument.

### **SECTION SEVENTEEN PARAGRAPH HEADINGS**

The titles to the paragraphs of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

In witness whereof, the Contractor and the City have executed this agreement form.

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

Advantage Entertainment, LLC:

By: \_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Print Name & Title)

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

City of Sandusky:

By: \_\_\_\_\_  
Eric L. Wobser  
City Manager

Approved as to form and correctness:

\_\_\_\_\_  
Brendan L. Heil (#0091991)  
Law Director  
City of Sandusky

**CERTIFICATE OF DIRECTOR OF FINANCE**

The undersigned, fiscal officer of the City of Sandusky, hereby certifies that the moneys required to meet the obligations of the City during the year 2021 under the Agreement have been lawfully appropriated by the Commission of the City for such purposes and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Michelle Reeder  
Director of Finance

\_\_\_\_\_  
Account Number

**ADVANTAGE ENTERTAINMENT, LLC**

1402 Columbus Ave.

Sandusky, Ohio 44870

440.346.3055

June 17, 2021

Re: Advantage Entertainment / City of Sandusky Special Event / Jackson Street Pier Concert Series

To whom it may concern:

Advantage Entertainment proposes to manage event planning, producing and operation, to undertake the 2021 Summer Concert Series at the Jackson Street Pier.

**Scope of Services**

- Research, Book, contract and rider agreements and pay for talent
- Contract with, oversee, install, tear down sound, lighting and production related items
- Execute and pay for all artist contract requirements
- Coordinate and pay all mutually agreed to sub-contracted labor
- Obtain and pay for General Liability Insurance coverage (\$1mm) and name city as additionally insured
- Provide Worker's compensation Certificate
- Site set-up
- Site Clean up
- Crowd Control barricade set-up, rental and storage

**Term:** This contract term is for one (1) Concert Season with two additional one (1) Concert Season renewals at the City's option subject to any amendments. The Contract shall be terminable by the City upon thirty (30) days' written notice.

**Sound and Lighting:** Jackson Street Pier will be equipped with an SL 100 stage and access to power. Advantage shall provide all labor, materials, and sound and lighting equipment sufficient for each musical act.

Advantage shall utilize a sound system that is capable of producing professional sound quality for open-air live music throughout the entire venue without creating excess noise pollution.

Advantage shall provide a supplemental lighting system capable of illuminating the performers sufficient for the attendees to view the performers in light or dark environments from a distance of 150 feet.

All sound and lighting equipment shall be state of the art or a reasonable equivalent, in good condition, and well maintained.

2.2.4 All equipment must be compatible or capable of modification to use the City's existing electrical system onsite. No additional electrical will be added for sound and lighting services.

On each concert day, all equipment will be set-up, ready and able to function no later than 4:30 p.m.

### **Entertainment**

Advantage shall scout, book, manage, and compensate talent to perform at each concert night. Talent must consist of at least one and up to two live musical act(s) and be approved by the City prior to booking.

Advantage shall ensure that all performers are ready, willing, and able to perform on each concert day or shall provide alternate talent of similar quality at no additional cost to the City.

Advantage shall ensure that any hospitality riders are met.

Provider shall compensate each performer in advance and shall provide receipt to the City upon payment.

### **Event Management.**

Advantage shall contract directly with any necessary personnel to produce the event.

Advantage shall coordinate and oversee all aspects of the concert and personnel including any load-in, load-out, crowd management, equipment operation, and other necessary production and staff.

The City shall have staff working in the morning hours on Saturday and Sunday's to check, stock and clean restrooms, as well as, the City has a contract with Republic Services who provides trash pick-up Monday thru Saturday to all park cans and services two dumpsters at the Pier on Monday & Friday. Additional trash service shall be the responsibility of Advantage, as well as, any litter clean-up or emptying overflowing cans after an event.

Advantage must clean concert area and Mylander Pavilion of the park at the end of every concert night.

Advantage shall come up with an inclement weather plan to be signed off on by the city that minimizes loss with bands and adequately notifies the public of any cancellations.

### **Vendors.**

Advantage may contract with outside vendors to provide food and non-alcoholic beverages during the concert. All vendors must have a valid business tax receipt with the City in order to operate during the Concert Season. A list of vendors shall be provided to the City within one (1) week of each concert. The City shall provide a map of approved vending locations. Solicitation or sales outside the vending area is strictly prohibited.

There are to be no alcohol sales during the event series by either party.

**Cost Overruns.**

The proposal accepted by the City of Sandusky will be the maximum amount to be charged paid by the City of Sandusky for the Summer Concert Series. Any cost overruns must be paid through vendor participation fees. The City of Sandusky shall not be liable for cost overruns.

**Sponsorship.**

There is to be no sponsorship sold for the 2021 concert series; including Lange Trust events.

**Payment.**

Advantage will receive payment of 25% of project budget at signing and will submit a monthly invoice to include receipts to be within 15 days.

**Medical and Security.**

The city is responsible at its discretion to provide police and EMS personnel.

**Schedule.**

There are to be 9 Thursday events from July 8, 2021 to Sept 5, 2021. In addition, four Lange Trust events to be held July 30, Aug. 13, Sept. 10 and Sept 26<sup>th</sup>.

**Projected Budget (Total not to exceed \$182,500)****LANGE TRUST**

\$ 44,500 Lange Trust Artist Fees (4 dates)

\$ 28,000 Lange Trust Production Expenses

**CITY CONCERT SERIES**

\$ 60,000 Sound and Light, Production and Project Management

\$ 50,000 Talent Fees

**EXPENSE TOTAL (NOT TO EXCEED) \$182,500**

**Compensation.**

Advantage will complete these services for a total of \$182,500

Advantage appreciates the opportunity to assist the City with this exciting project. If you have any comments, questions or concerns feel free to contact me at 440.346.3055

Respectfully submitted,

Stephen Ernst

Advantage Entertainment, llc



## **SPONSORSHIP AGREEMENT**

This Sponsorship Agreement (the "Agreement") is made and entered into on this 23<sup>rd</sup> day of June, 2021, by and between the **City of Sandusky** (the "City"), and **THE LIBRARY ASSOCIATION OF SANDUSKY, OHIO** (the "Sandusky Library") (collectively the "Parties").

**WHEREAS**, the City and Sandusky Library desire to provide cultural and educational programming events to benefit the citizens of the City of Sandusky and Erie County ("Programming Events");

**WHEREAS**, Sandusky Library is a beneficiary of The Norbert A. Lange and Marion Cleaveland Lange Trust (the "Lange Trust"). Under the terms of the trust instrument, income received by Sandusky Library must be used by it in the promotion of cultural and educational enterprises in the City of Sandusky, Ohio and the adjacent area within Erie County, Ohio. In addition, all cultural or educational enterprises sponsored in whole or in part by Lange Trust funds must be open and free to and for the public of Erie County. In addition, the Trust mandates that no part of trust funds available to the Sandusky Library be used in the promotion, assistance, or support of public or private schools, athletic groups or athletic events, or for the support of students or for student scholarships.

**WHEREAS**, the Parties wish to enter into a collaborative relationship to facilitate the presentment of Programming Events during the 2021 calendar year, in which the City will host the events and the Sandusky Library will, in part, sponsor the event by providing funding, through eligible Lange Trust income, for certain customary and reasonable expenses incurred in providing such cultural and educational programming.

**WHEREAS**, the City seeks to increase the economic vitality of downtown, activate the new Jackson Street Pier, and provide free educational and cultural programming for the Citizens of Sandusky ("Programming Events"); and

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises and covenants hereinafter set forth, the Parties hereby agree as follows:

1. For Programming Events approved by The Library as eligible for Lange Trust sponsorship under the terms of the trust, Sandusky Library agrees to expend (or reimburse the City for its expenditure) a total of Fifty Thousand Dollars (\$50,000), or such lesser amount as is the total of the Lange Trust fund eligible invoices tendered by the City ("Sponsorship Funds") for customary and reasonable costs specified in this Agreement that are incurred by the City in its presentment of Programming Events that take place during calendar year 2021.

2. Upon presentment of an invoice and supporting documentation by the City, Sandusky Library shall pay such portion of the following costs eligible for Lange Trust funding

under the terms of the trust, for Programming Events that take place during Calendar year 2021, until such time as the Sponsorship Funds are exhausted:

- a) Compensation of performers, artists, musicians, or their other entertainment staff.
- b) Advertisement of event(s),
- c) Rental of stage equipment,
- d) Local lodging and transportation expenses of performers; artists, musicians, or their other entertainment staff
- e) Catering services for performers.
- f) Such other expenses pre-approved in writing by Sandusky Library, through its Director, before the expense is incurred by the City;

In order to qualify for Sponsorship, the invoices for expenses incurred by the City for an event must be tendered to the Sandusky Library for payment on or before ninety (90) days after the date of performance of each such Programming Event.

3. For purposes of this Agreement, the educational or cultural entertainment performers listed in attached Exhibit A, if selected by the City, have been reviewed by the Norbert A. Lange and Marion Cleaveland Lange Trust Committee of the Sandusky Library, and are deemed to be approved by the Sandusky Library as eligible for Sandusky Library sponsorship through use of Lange Trust funds. All other cultural or entertainment performers selected by the City must be pre-approved in writing by the Director of the Sandusky Library before the City's selection(s) are deemed eligible for Sandusky Library sponsorship.

4. In exchange for the funds provided herein to the City, the City shall:

- a. Plan and host Programing Events that will take place in the calendar year 2021 that have approval of Sandusky Library for Lange Trust fund sponsorship, in whole or in part;
- b. The Programming Events sponsored by the Sandusky Library with use of Lange Trust funds shall have publicity for the event that includes the following language: "This event/concert/project is made possible by the Lange Trust through the Sandusky Library";
- c. The City shall be responsible for hosting the events described herein, including hiring any performers, musicians, artists, or other entertainment, procuring any necessary supplies, and providing the necessary facilities and staffing for said events;
- d. The City shall be responsible for the marketing and promotion of said events; and

e. The City shall secure, at its sole cost and expense, liability insurance that includes event liability coverage for the Program Events in an amount not less than \$1,000,000 per claim and \$3,000,000 in the aggregate and name "THE LIBRARY ASSOCIATION OF SANDUSKY, OHIO" as an additional insured for these events. The City will provide the Sandusky Library with proof of the insurance required by this Agreement in the form of a valid certificate of insurance and confirm the required coverage, on or before the commencement of this Agreement, and renewal replacements on or before the expiry of any such insurance.

f. The City shall be responsible for complying with all federal, state, and local law in its role as planner and host of the Programming Events, including, but not limited to, compliance with all existing public health executive orders issued in response to the Covid-19 Pandemic. The City's logistical plan shall include COVID-19 safety protocols to make it both possible and required for attendees at its Programming Events to comply with the requirements and restrictions of public health orders that are in place at the time of the event, such as mandatory mask requirements, social distancing, and placement of signage for Programming Events sponsored in whole or in part by the Sandusky Library in order to protect the well-being of attendees from the dangerous effect of COVID-19.

g. To assist Sandusky Library in its documentation of Lange Trust fund expenditures for accounting purposed, The City agrees to include with each such invoice submitted to Sandusky Library identification by performance date the specific event for which the financial obligation was incurred by the City, and shall attach any contract(s) between the City and any third party that support the debt evidence in the invoice, and include copies of receipts evidencing pre-payment by the City, if any,

4. The City shall plan the events and/or programming described herein in conjunction with the Sandusky Library. The Sandusky Library shall have the right to approve and/or reject any and all events that will be sponsored by the Sandusky Library with Lange Trust funds, including approving any performers, artists, musicians, or other entertainment.

5. All events and programming sponsored by the Lange Trust shall comply with the terms of the Trust document including, but not limited to the following conditions:

- a. The events must take place in Erie County;
- b. The events shall be free of charge and open to the entire public of Erie County;
- c. Tickets, if any, shall be distributed as agreed with the Lange Trust Committee; and

d. No alcohol may be sold at the Lange-Trust sponsored events.

6. This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.

7. All material changes or modifications to this Agreement, not including the selection of entertainment, shall be approved in writing by both Parties prior to such change or modification becoming effective. Any request by the City for any expenditure of Lange Trust funds by Sandusky Library over and above the \$50,000.00 Sponsorship Funds identified above, is deemed to be a material change or modification of this Agreement. Should the Parties consent to modification of the Agreement, then an amendment shall be drawn, approved, and executed in the same manner as this Agreement.

8. This Agreement shall be governed by the laws of the State of Ohio as to all matters, including but not limited to matters of validity, construction, effect and performance.

9. All actions regarding this Agreement shall be venued in a court of competent subject matter jurisdiction in Erie County, Ohio.

**IN WITNESS WHEREOF**, the parties hereto have caused this Sponsorship Agreement to be executed by their respective officers thereunto duly authorized on the day and year set forth above.

THE CITY:

SANDUSKY LIBRARY

By: 

By: 

Title: City Manager

Title: Executive Director  
Sandusky Library

Date: 06/23/21

Date: 6/23/21

Approved as to Form:



Brendan L. Heil (#0091991)

Law Director

City of Sandusky

## **EXHIBIT A**

**The Sandusky Library and its subcommittee, the Norbert A. Lange and Marion Cleaveland Lange Trust Committee has approved the following list of talent groups from BiCoastal Productions for events in the year 2021:**

**Naturally 7**

**The Great DuBois: Masters of Variety**

**The Drifters**

**Mojo and the Bayou Gypsies**

**Williamsburg Salsa Orchestra**

**One Night in Memphis**

**The Hit Men**



## DEPARTMENT OF COMMUNITY DEVELOPMENT

240 Columbus Ave  
Sandusky, Ohio 44870  
419.627.5707  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

**To:** Eric L. Wobser, City Manager

**From:** Jonathan Holody, Community Development Director

**Date:** June 15, 2021

**Subject:** Commission Agenda Item –Hogrefe-Cooke Building Land Transfer

**Items for Consideration:** Legislation authorizing the City to accept conveyance of the Hogrefe-Cooke Building development site (ppn 56-00527.000, 56-00528.000 and 56-00528.001) from Cooke Building LLC and to reconvey the property back to Cooke Building LLC.

**Background Information:** Cooke Building LLC is a real estate development and holding company owned by Richard and Meghan Hogrefe. The company plans to construct the Hogrefe-Cooke Building - a three story mixed-use building measuring approximately 30,000 square feet at 154 – 162 Columbus Avenue. The estimated total project cost is \$8.8M.

The City seeks to support the development project through the creation of a Tax Increment Financing (TIF) District pursuant to Ohio Revised Code Section 5709.41. In order to create the TIF district, the City must hold fee title to the property. The terms under which the City will accept conveyance of the Hogrefe-Cooke Building development site and reconvey the property back to Cooke Building LLC are outlined in a Development Agreement to be executed by the parties prior to the conveyances.

**Budgetary Information:** The developer is responsible for all costs associated with the conveyances, including land transfer and legal fees.

**Action Requested:** It is requested that the proper legislation be prepared authorizing the City to accept conveyance of the Hogrefe-Cooke Building development site (ppn 56-00527.000, 56-00528.000 and 56-00528.001) from Cooke Building LLC and to reconvey the property back to Cooke Building LLC. It is further requested that this legislation be passed in accordance with Section 14 of the City Charter to maintain the current development schedule and ensure the project is completed in a timely manner.

I concur with this recommendation:

---

Eric L. Wobser  
City Manager

---

Jonathan Holody  
Community Development Director

cc: Brendan Heil, Law Director  
Michelle Reeder, Finance Director  
McKenzie Spriggs, Clerk of the City Commission

ORDINANCE NO. \_\_\_\_\_

**AUTHORIZING A DEVELOPMENT AGREEMENT IN CONNECTION WITH THE DEVELOPMENT AND REDEVELOPMENT OF CERTAIN REAL PROPERTY IN THE CITY OF SANDUSKY, OHIO AS PART OF A TAX INCREMENT FINANCING (TIF) PROGRAM UNDER OHIO REVISED CODE SECTION 5709.41; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, Cooke Building LLC, an Ohio limited liability company (the “Developer”), or its affiliates, is actively pursuing the development and redevelopment of certain real property located at 154-162 Columbus Avenue in the City of Sandusky, Ohio (the “City”), which real property is more particularly described on Exhibit “A” attached to the Development Agreement hereto (the “Property”); and

**WHEREAS**, the Developer desires to develop and redevelop the Property for a mixed-use commercial and residential development (the “Project”), in accordance with the terms, conditions, covenants and warranties in the Development Agreement that has been negotiated by the Developer and City attached hereto as Exhibit “1”; and

**WHEREAS**, the Project will be in furtherance of the City’s urban redevelopment activities, and accordingly the City anticipates providing project-based tax increment financing for the Project, to be authorized by a separate ordinance pursuant to Ohio Revised Code (“R.C.”) Section 5709.41; and

**WHEREAS**, Section 13 of Article VIII of the Ohio Constitution provides that it is in the public interest and proper public purpose for the City to support economic development and improve the economic and general well-being of the people of the City to create or preserve jobs and employment opportunities; and

**WHEREAS**, approval to transfer land relating to the Development Agreement and the property located at 154-162 Columbus Avenue is being requested in companion legislation; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to maintain the current development schedule and ensure the project is completed in a timely manner; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Community Development, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. That the Development Agreement, substantially in the form attached hereto as Exhibit "1", which Development Agreement specifies, among other things, that (A) the plans for the Project be prepared and submitted to the City for approval in accordance with all customary City requirements, and (B) the Developer obtain all building permits, zoning approvals, and other governmental approvals required for the Project, is hereby authorized and approved, together with such revisions or additions thereto as approved by the City Manager and Law Director as are consistent with the objectives and requirements of this Ordinance and not otherwise materially adverse to the City. The City Manager, for and in the name of the City, with the approval of the Law Director, is hereby authorized to execute the Development Agreement and any amendments thereto deemed by the City Manager to be necessary. The approval of changes or amendments by the City Manager and the character of the changes or amendments as not being inconsistent with this Ordinance and not being substantially adverse to the City, shall be evidenced conclusively by the execution thereof by the City Manager, with the approval of the Law Director.

Section 2. The City Manager, Finance Director, Law Director, or any other officials of the City, as appropriate, are authorized and directed to sign any other documents, instruments or certificates and take such actions as are necessary or appropriate to consummate or implement the actions described in or contemplated by this Ordinance.

Section 3. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City's Commission and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

Section 5. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take



immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
MCKENZIE E. SPRIGGS  
CLERK OF THE CITY COMMISSION

Passed: June 28, 2021

## **DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT (the “*Agreement*”) is entered into as of April \_\_, 2021, by and between the CITY OF SANDUSKY (the “*City*”), a municipal corporation duly organized and validly existing under the laws of the State of Ohio and its Charter, having an address 240 Columbus Avenue, Sandusky, OH 44870 and COOKE BUILDING LLC, an Ohio limited liability company (the “*Developer*”), with its principal offices at [\_\_\_\_]. (The City and Developer are collectively referenced as “*Parties*.”)

WHEREAS, the Developer is pursuing the redevelopment of an approximately .0219-acre site currently identified as 154 – 162 Columbus Ave and as Parcel IDs 56-00527.000, 56-00528.000 and 56-00528.001, and more particularly described in Exhibit A, attached hereto and made a part hereof (the “*Development Site*”).

WHEREAS, the Developer has demolished certain existing structures on the Development Site and intends to develop it for commercial purposes, including office, retail, and multi-family residential housing (the “*Development*”); and

WHEREAS, certain private improvements and infrastructure improvements are necessary in order to ensure the success of the Development, including, without limitation, the construction of certain infrastructure improvements described in Exhibit B attached hereto and made a part hereof (the “*Project*”); and

WHEREAS, the City has determined that the construction of the Project, the creation of jobs at the Development Site in connection with the Development, and the mutual fulfillment of this Agreement are all in the vital and best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and regulation; and

WHEREAS, the City plans to establish a tax increment financing program pursuant to Ohio Revised Code Section 5709.41 with respect to the Development Site (the “*TIF*”). The TIF shall run for 30 years and provide a 100% exemption on the increase in assessed value of the Development Site, subject to certain conditions and limitations set forth herein. As described herein, the allocation of TIF revenue will be dependent on the continued compliance by the Developer and the Development with this Agreement; and

WHEREAS, in order to create a TIF for the Project under R.C. 5709.41, the City must have held fee title to the Property prior to the enactment of the TIF Ordinance. Accordingly, Cooke Building LLC will convey fee title to the Property to the City for \$1.00 within thirty (30) days following the date this Agreement is executed, and the City will re-convey the Property to Cooke Building LLC thereafter for the same amount, in each case on, and subject to, the terms of this Agreement; and

WHEREAS, the Developer has represented and agreed, and the City’s support for the Project is predicated on the understanding that, the Project will comply with the terms and provisions of this Agreement; and

WHEREAS, the City, by adoption of Ordinance No. 2021-[\_\_\_\_], duly adopted by the City Commission on April 12, 2021 (the “*Implementing Ordinance*”), has authorized the City Manager to enter into this Agreement for the development of the Development Site; and

WHEREAS, the Parties desire to place of record against the Development Site this Agreement and the agreed upon plan and schedule of development, including restrictions on use of the Development Site, with the intent that same shall be construed as covenants binding on the Parties and their successors in interest, and benefitting and running with the land, enforceable by the Parties hereto in accordance with the terms hereof.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and promises herein contained, the sufficiency of which are acknowledged by the Parties hereto, the City and the Developer hereby agree as follows:

## **I. INCORPORATION OF RECITALS; INTERPRETATION**

A. The recitals and “Whereas” clauses set forth above are fully incorporated in this Agreement and specifically made a part hereof, as if fully restated here.

B. Any reference herein to the City or the City Commission, or to any officer thereof, includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

C. Any reference to a section or provision of the Constitution of the State, or to a section, provision or chapter of the Ohio Revised Code, or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this paragraph, if it constitutes in any way an impairment of the rights or obligations of the City, the Developer, or any other party under this Agreement or any other instrument or document entered into in connection with any of the foregoing.

D. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa. The terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder,” “hereinafter” and similar terms refer to this Agreement; and the term “hereafter” means after, and the term “heretofore” means before, the date of this Agreement. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

## **II. DEVELOPER COVENANTS AND REPRESENTATIONS**

A. The Developer shall develop the Project in accordance with the plan and schedule of development submitted to the City and currently on file (“*Development Plan*”), the modification of which may be approved by the City consistent with and in compliance with the current rules and regulations of the City. Buildings constructed on the Property shall be of the general design as shown in the Development Plan.

B. The Developer agrees that the Project will be constructed in a manner which is consistent with generally accepted construction industry standards and guidelines applicable to similar projects and in conformity with installation guidelines as may be recommended by various manufacturers of the building materials. If any portion of the Project does not meet the requirements of the City's zoning regulations, then the Developer must obtain the applicable City approvals for the portion(s) of the Project through the appropriate reviewing body or reconstruct the noncomplying portion of the Project.

C. The Developer, and any successors and assigns who subsequently become subject to this Agreement in accordance with Section XX(D) hereof (an "*Assignee*"), shall comply with all regulations and provisions set forth in the City's zoning code, subject to any now existing or hereafter applicable variances. The Developer, and any Assignee, shall also comply with any applicable Federal, State and local regulations in addition to any of the requirements set forth in the zoning code.

D. The Developer further covenants and agrees that:

- (1) It is authorized to do business under the laws of the State of Ohio and is fully qualified to transact its business in the State of Ohio;
- (2) It is not in violation of or in conflict with any provisions of the laws of the United States of America or the State applicable to the Developer that would impair its ability to carry out its obligations contained in this Agreement;
- (3) This Agreement has, by proper action, been duly authorized, executed and delivered by the Developer, and all steps necessary to be taken by the Developer, have been taken to constitute this Agreement, and the covenants and agreements of the Developer contemplated herein and therein, are valid and binding obligations of the Developer, enforceable in accordance with their terms;
- (4) It has full power and authority to execute, deliver and perform this Agreement,
- (5) The execution, delivery and performance of this Agreement do not, and will not, violate any provision of law applicable to the Developer or the Developer's organizational or operating agreements, and neither the entering into this Agreement nor the performance thereof will constitute a violation or breach by the Developer of any contract, agreement, understanding or instrument to which the Developer is a party or by which the Developer is subject or bound, or of any judgment, order, writ, injunction or decree issued against or imposed upon them as of the time of execution hereof, or will result in the violation of any applicable law, order, rule or regulation of any governmental or quasi-governmental authority;
- (6) There is no pending litigation, investigation or claim which materially and adversely affects or which might materially and adversely affect the Developer's performance of this Agreement and to the best of the

Developer's knowledge, there is no threatened litigation, investigation or claim that materially and adversely affects or that might materially and adversely affect the Developer's performance of this Agreement; and

- (7) The representations and agreements of the Developer made in this Agreement are as of the date of the execution of this Agreement and such representations made by the Developer are made with the knowledge and expectation that such representations are to be treated as material to the City entering into this Agreement, and the Developer further represents that to its knowledge, as of the date of this Agreement, no representation set forth in this Agreement contains any untrue statement of material fact.

E. The Developer warrants, except as disclosed in writing to the City, that it has not employed or retained any company or person other than a bona fide employee working solely for the Developer to solicit or secure this Agreement, and that the Developer has not paid or has not agreed to pay any fee, commission, percentage, brokerage fee, or other consideration contingent upon or resulting from the award or making of this Agreement. The Developer warrants that it is not prohibited from contracting with the City by any provision of the Ohio Revised Code relating to conflicts of interest, illegal interest in government contracts, or any other ethical prohibition, and for breach or violation of this warranty, the City shall have the right to annul this Agreement with no further obligation or penalty.

### **III. CITY COVENANTS AND REPRESENTATIONS**

The City covenants and represents to the Developer as follows:

A. Neither the entering into this Agreement nor the performance thereof will constitute a violation or breach by the City of any contract, agreement, understanding or instrument to which the City is a party, or by which the City is subject or bound, of any judgment, order, writ, injunction or decree issued against or imposed upon them, or will result in the violation of any applicable law, order, rule or regulation of any governmental or quasi-governmental authority.

B. To the best of the City's knowledge, there is no pending or, threatened litigation, investigation or claim which affects or which might affect the anticipated TIF Ordinance or the City's performance of this Agreement.

C. Except for actions contemplated by this Agreement, as of the date of the execution of this Agreement, the City has no information or knowledge of any change contemplated in the applicable laws, ordinances or restrictions or any judicial or administrative action that would prevent, limit or impede the Developer's undertaking of the Development or the City's performance under, or the applicability and enforceability of, the anticipated TIF Ordinance.

D. .

#### **IV. COVENANTS RUNNING WITH THE LAND**

Upon execution of this Agreement, an original counterpart of this Agreement shall be recorded and shall be a covenant running with the land and shall be binding upon and inure to the benefit of the Parties and any successors and assigns of the Parties, including any future owners of the Development Site, who shall be subject to the provisions of this Agreement applicable to the Developer, to the fullest extent permitted by law and equity for the benefit of the City, whether or not such provision is included in any succeeding deed to the Developer's successors and assigns.

#### **V. DESCRIPTION OF THE PROJECT**

Developer shall construct, or cause to be constructed, a new multi-story mixed use commercial and residential development to be known as the Hogrefe-Cooke Building on the Development Site. The Project shall be generally consistent with the site plan attached hereto as Exhibit C (the "*Site Plan*") and include the following components:

- ~30,000 square foot mixed-use building including retail, office and residential uses
- ~10,000 square feet of retail located on the first floor
- ~10,000 square feet of commercial office space located on the second floor
- ~10,000 square feet of residential located on the third floor

The City must approve any revisions or changes to the aforementioned components.

#### **VI. CONVEYANCE OF THE DEVELOPMENT SITE**

Transfer by Cooke Building LLC of the title to the Parcels to the City (the "*Initial Conveyance*") shall take place within thirty days of execution of this Agreement, or such other date as the parties may agree upon (the "*Initial Conveyance Date*"); provided, however that the initial Conveyance shall occur prior to the passage of the TIF Ordinance. On the Initial Conveyance Date, Cooke Building LLC shall convey the Property to the City for \$1.00, by Limited Warranty Deed. Developer shall pay all customary closing costs relating to the Initial Conveyance. The City agrees to neither make, nor permit to be made, any material changes to the condition of the Property during the period in which it owns the Property. During the period in which City owns the Property, Developer, its employees, and its agents are permitted to enter upon the Property for the purpose of conducting activities associated with the Project at no cost to the City, provided that such entry shall be at the sole risk of developer, its employees, and its agents, and provided, further that the activities described in this Section VI are subject to the indemnification provision of Section XVIII of this Agreement.

On the Initial Conveyance Date, or as early as is practicable following the Initial Conveyance Date, but in any event no later than two business days following the Initial Conveyance Date, the City shall re-convey the Property to Cooke Building LLC (the "*Re-conveyance*"), for \$1.00, by Quitclaim Deed.

Developer shall pay all fees and costs related to the Initial Conveyance and Re-conveyance.

## VII. CONTINGENCIES

The obligation of the City to provide the Project TIF Revenue, as defined in Section X (collectively, the “*Incentives*”) for the Project in accordance with the Service Agreement is contingent upon the satisfaction of all of the following contingencies with respect to the Project (collectively, the “*Incentive Contingencies*”). The Developer agrees to submit to the City for a review all plans, documents, requested modifications, zoning, or any other item which concerns the Project in accordance with the City’s current and generally applicable regulations. Each of the items required to be submitted to the City to satisfy the City shall be in form and substance acceptable to the City.

A. Plans. The Developer shall have caused the plans for the Project (the “*Project Plans*”) to be prepared and submitted to the City, and the Developer shall have addressed all open questions/concerns of the City regarding the Project, and the City shall have approved such plans. It is further agreed that prior to receiving all permits required to commence construction of the Project, the Developer shall deposit a non-refundable amount estimated to be necessary to pay the City’s cost of plan review. The Developer shall also pay for all inspection fees, and the Developer shall engage an engineering firm licensed in the State of Ohio to perform Construction Administration and Inspection and Testing Services. Independent of the City approvals for the Project Plans, the City is still requiring the Developer to apply for any conditional use permits per the City code, including but not limited to those related to outdoor dining.

B. Historic Building Requirements. The Developer shall consult and follow the City’s Landmark Preservation Ordinance, the Secretary of the Interior’s Standards for Rehabilitation, and the Sandusky Preservation Design Guidelines regarding the rehabilitation of historic structures that are part of the Project.

C. Project Budget. The Developer shall have prepared and submitted to the City, and the City shall have approved, the Project budget based on the approved Project Plans and other information then most currently available, itemizing and detailing the Project costs, including commercially reasonable contingency amounts, and with documentation satisfactory to the City (the “*Project Budget*”). Developer shall also have provided to the City evidence that Developer’s lenders for the Project have approved the Project Budget.

D. Environmental. Developer shall have submitted such environmental reports for the Development Site to City as have been as of the date thereof requested by City and evidencing that there are no hazardous materials located on the Development Site or violation of environmental laws that would prevent development of the Development Site in accordance with the Project Plans. Developer shall have delivered a reliance letter from the preparer of the environmental reports authorizing reliance on those reports by the City.

E. Utilities. To the extent that utility improvements are necessary to service the Project, the Developer at its cost, shall be responsible for the construction, reconstruction or installation of utility improvements (including any underground utilities), including, but not limited to, storm and sanitary sewers (including necessary site grading therefore) and

water lines, unless otherwise stated in any Easement or License Agreement between the parties.

F. Service Agreement. The Service Agreement shall be effective and shall also have been recorded against the Project Site.

The Parties will proceed diligently and in good faith to pursue the satisfaction of these items in a timely and coordinated manner intended to result in the timely development of the Project in accordance with the Development Plan.

## **VIII. CONSTRUCTION OF PROJECT**

At such time as Developer has obtained all building permits, zoning approvals, historic conservation approvals to the extent applicable, and other governmental approvals required for the Project, Developer shall promptly commence and thereafter complete the construction of the Project as reflected in the Project Plans, in compliance with all applicable laws, and in accordance with the terms set forth in the applicable construction agreement(s). Developer shall be responsible for acquiring and paying for all State, local, or Federal permits required for the Project.

The intent and understanding of the Parties is for the Developer to have items of the Project constructed and completed within two years following passage of Project permits. The Completion deadline shall occur for the purposes of this Agreement when the Project obtains the necessary City certificate of occupancy. The time for performance indicated immediately above is subject to any approved extensions by the City for delays beyond the reasonable control of the Developer that prevent the Developer from timely performing its obligations under this Agreement. A request for extension must be in writing and may be granted at the discretion and approval of the City. With respect to the Developer, delays or failures to perform due to lack of funds or the inability to procure labor or materials shall not be deemed unforeseeable delays beyond the reasonable control of the Developer. In the event that construction does not occur, or construction of the Project ceases to progress within 120 days of receiving the requisite permits, in addition to and not in limitation of any other remedies available to the City, the Developer shall comply with all City requirements relating to restoration of the Project Site until such time as construction shall begin or resume, as the case may be.

At all times during construction of the Project, the Developer shall have on-site a competent representative who is knowledgeable and familiar with the Project. The representative shall be capable of reading plans and specifications and shall have the authority to execute the plans and specifications and any alterations required by the City. The representative shall be replaced by the Developer when, in the opinion of the City, reasonably determined, his/her performance is deemed inadequate.

## **IX. USE AND DESIGN RESTRICTIONS**

Developer, for itself and its successors and assigns, and every successor in interest to any portion of the Development Site, agrees and covenants that Developer and its successors and assigns shall not permit the use of any portion of the Development Site for any of the uses set forth on Exhibit D attached hereto and incorporated herein (the “*Prohibited Uses*”).



Without intending to restrict the provisions of this Section, it is intended and agreed that the City and its successors, shall be deemed beneficiaries of the agreements, covenants, and restrictions provided in this Section both for and in their own right and also for the purposes of protecting the interests of the community. Such agreements, covenants, and restrictions shall run in favor of the City and its successors for the entire period during which same remain in effect, without regard to whether the City and its successors have at any time been, remain, or are an owner of any portion of the Development Site or interest therein to or in favor of which such agreements, covenants, and restrictions relate, the City and its successors shall have the right, in the event of any breach of any such agreement, covenant, or restriction, to exercise all rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce such agreements, covenants, and restrictions and to enforce the curing of any breach thereof.

## **X. TIF REIMBURSEMENT**

The Developer will pay statutory service payments generated from the Project (the “*Project TIF Revenue*”) to the Erie County Treasurer, pursuant to a service payment agreement entered into by and between the City and the Developer dated as of April \_\_, 2021 (the “*Service Agreement*”), in the same manner as if the TIF with respect to the Property had not been established in accordance with the Service Agreement. The Project TIF Revenue will be distributed by the Erie County Treasurer to an urban redevelopment tax increment equivalent fund (the “*TIF Fund*”). The Service Agreement will provide, among other things,

- A minimum \$200,000 payment in lieu of taxes by the Developer into the TIF Fund;
- 12.5% of the Project TIF Revenue to the Sandusky City School District pursuant to a school compensation agreement entered into between the City and the Sandusky City School District;
- The application of the Project TIF Revenue to the Developer in accordance with this Agreement and the Service Agreement in an amount not to exceed \$140,000; and
- The costs for which reimbursement is available.

## **XI. CITY LEGAL FEES PAID BY DEVELOPER**

The Developer shall pay the City’s fees for outside legal counsel incurred in connection with this Agreement and the planning and documenting of the Project. Upon execution of this Agreement the City shall provide an invoice to the Developer. Such amounts shall be paid by Developer within thirty (30) days of execution of this Agreement.

## **XII. MAINTENANCE**

Developer will maintain the Project in a first class manner, consistent with other high quality mixed-use developments in Northwest Ohio, including necessary building maintenance, mulching, grass cutting, pruning and watering.

### **XIII. DEFAULT; REMEDIES**

A. Developer Defaults. Any one or more of the following shall constitute a “Developer Default”:

- a. Default by the Developer in the due and punctual payment, performance, or observance of any material obligation of the Developer under this Agreement or any other agreement by and between the City and the Developer with respect to the Project (each a “Project Agreement”) as to which the City has given notice to the Developer, which default the Developer does not cure within the period of time specified in the notice;
- b. Any representation or warranty made by Developer in this Agreement or in any other Project Agreement is false or misleading in any material respect as of the time made;
- c. Any report, certificate, or other document furnished by the Developer to the City pursuant to this Agreement or any other Project Agreement is false or misleading in any material respect as of the time furnished and has been relied upon by the City to its material detriment prior to correction by the Developer;
- d. The filing by the Developer of a petition for the appointment of a receiver or trustee;
- e. The making by the Developer of a general assignment for the benefit of creditors;
- f. The entry of 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 as debtor;
- g. The filing by the Developer of an insolvency proceeding with respect to the Developer or any proceeding with respect to the Developer for compromise, adjustment, or other relief under the laws of any country or state relating to the relief of debtors;
- h. The occurrence of a default by the Developer under any of the loan documents or equity investment documents that is not either (i) cured within the applicable cure period, if any, provided therein or (ii) waived in writing by the Developer’s lenders or investors, as applicable; or

B. Remedies for Developer Default. At any time as of which a Developer Default exists, the City at its option, may, but shall not be obligated to, exercise any one or more of the following remedies:

- a. By written notice to the Developer, terminate this Agreement, provided that such termination shall not affect the obligations of the Developer that have then accrued, including the indemnification requirements of Developer hereunder
- b. By written notice to the Developer and the trustee, cease disbursements of proceeds from the TIF Fund;

- c. (i) recover from the Developer any sums of money that are due and payable by the Developer to or for the benefit of the City under this Agreement; (ii) commence an action for specific performance or other equitable relief against the Developer with respect to the defaulted obligations as provided in Section 8.6; and (iii) exercise the City's rights under Section 8.7 with respect to the Developer Default; and
- d. Enforce, or avail themselves of, any other remedies available to them at law or in equity.

C. City Default. Any one or more of the following shall constitute a "*City Default*":

- a. Default by City in the due and punctual payment, performance or observance of any obligation of City under this Agreement or any other Project Agreement, as to which the Developer has given a Default Notice, as defined herein, to the City, which default the City do not cure within the period of time specified for cure in the Default Notice;
- b. Any representation or warranty made by City in this Agreement or any other Project Agreement is false or misleading in any material respect as of the time made and has been relied upon by the recipient to its material detriment prior to correction by City; or
- c. Any report, certificate or other document furnished by City to the Developer pursuant to this Agreement or any other Project Agreement is false or misleading in any material respect as of the time made and has been relied upon by the recipient to its material detriment prior to correction by City.

D. Remedies for City Default. At any time as of which a City Default exists, the Developer, at its option, may, but shall not be obligated to, exercise any one of more of the following remedies;

- a. By written notice to the City, terminate this Agreement, provided that such termination shall not affect the obligations of the City that have then accrued;
- b. (i) except for obligations requiring The City Commission approval, commence an action for specific performance or other equitable relief against City with respect to the defaulted obligations; and (ii) exercise the Developer's rights under Section 8.7 with respect to the City Default; and
- c. Enforce, or avail itself of, any other remedies available to it at law or in equity.

E. Default Notices. At any time when there exists a default by the Developer in the due and punctual payment, performance or observance of any obligation of the Developer under this Agreement or any other Project Agreement, City may give the Developer a written notice, indicated as being a "Default Notice" under this Section, identifying the default and specifying a period of time for the cure of the default. At any time when there exists a default by City in the due and punctual payment, performance or observance of

any obligation of City under this Agreement or any other Project Agreement, the Developer may give the City a written notice, indicated as being a “Default Notice” under this Section, identifying such default and specifying a period of time for the cure of the default. Any notice given in accordance with this Section is called a “*Default Notice*.” The period of time for cure to be set forth in any Default Notice may be not shorter than such period of time as is reasonable in light of the nature of the default and the time reasonably required to cure the default.

F. Enforcement. As the remedy at law for the breach of any of the terms of this Agreement may be inadequate, each enforcing Party has a right of temporary and permanent injunction, specific performance, and other equitable relief that may be granted in any proceeding brought to enforce any provision hereof, without the necessity of proof of actual damage or inadequacy of any legal remedy.

G. Self-Help. Without limiting the provisions of this Section XIII, (i) should any defaulting Party fail to remedy any default identified in a Default Notice within the reasonable cure period specified in the Default Notice, or (ii) should any default under this Agreement exist which (A) constitutes or creates an immediate threat to health or safety or (B) constitutes or creates an immediate threat of damage to or destruction of property, then, in any such event, the non-defaulting Party has the right, but not the obligation, to enter upon the property of the defaulting Party to take such steps as the non-defaulting Party may elect to cure, or cause to be cured, the default or violation. If a non-defaulting Party cures, or causes to be cured, a default as provided above in this Section, then there will be due and payable by the defaulting Party to the non-defaulting Party upon demand the amount of the reasonable costs and expenses incurred by the non-defaulting Party in pursuing the cure, plus interest thereon from the date of demand at the rate set forth in (H) below.

H. Interest. Except as otherwise expressly provided herein, amounts that are due and payable by the Developer to City under this Agreement will bear interest if not paid when due, until paid, (a) at the prime rate published in the “Money Rates” section of the Wall Street Journal from time to time for the first 30 days after due and (b) at the higher of the rate provided for in clause (a) or 8% per annum beyond the first 30 days after due.

I. Costs of Enforcement. If an action is brought by the City for the enforcement of any provision of this Agreement, the Developer, and only to the extent that the Developer is found to be in default or breach of this Agreement or another Project Agreement, will pay to the City all costs and other expenses that become payable as a result thereof, including without limitation, reasonable attorneys’ fees and expenses.

Notwithstanding any other provision of this Agreement, the above-described notification and cure provisions shall not apply when (i) the City’s Building Official issues a stop work order for local, county or state code violations related to construction defects, or (ii) the City Engineer issues a stop work order for local, county or state construction code violations.

#### **XIV. COMMUNITY ENGAGEMENT**

Developer acknowledges that community engagement is a critical component of the Project and will cooperate with the City as part of the community outreach process and will specifically engage with property and business owners and organizations in the Downtown district, as well as residents on residential streets surrounding the Development Site throughout the Project. Developer shall maintain a social media presence for the Project throughout construction and utilize social media as one of many vehicles to provide communications to the community about the Project.

Developer and the City will agree to a mutually acceptable schedule of status updates and community meetings throughout the construction of the Project.

#### **XV. WAGE REQUIREMENT**

The Developer and the City acknowledge and agree that portions of the construction of the Project may be subject to the prevailing wage requirements of Ohio Revised Code Chapter 4115 and all wages paid to laborers and mechanics employed in constructing those portions of the Project shall be paid at not less than the prevailing rates of wages of laborers and mechanics for the classes of work called for by the Project, which wages shall be determined in accordance with the requirements of that Chapter 4115.

#### **XVI. INSURANCE**

During construction and until completion of the improvements on that portion of the Property being developed by it, Developer shall maintain insurance in such amounts and for such events as may be required by its lender or required by the City's existing rules and regulations applicable to all development and construction in the City, and as may be commonly maintained in connection with a development of the size and nature of the Project. In addition, the Developer shall maintain vibration damage insurance coverage in a policy reasonably satisfactory to the City. The Developer agrees, on behalf of itself and its agents, subcontractors, and subconsultants that the insurance policies required herein (excluding the professional liability insurance) shall require the insurer to name the City as an additional insured, and to provide the City with 30 days' prior written notice before the cancellation of a policy. All insurance shall be effected by valid enforceable policies issued by insurers authorized to do business in the State of Ohio.

Upon request, the Developer shall provide all insurance certificates to the City.

#### **XVII. WARRANTY**

The Developer warrants that all Infrastructure Improvements constructed by Developer will be in conformity with the Development Plans and free from defects in workmanship, materials and equipment, commencing on the date of the City Commission's formal acceptance of the dedication of the Infrastructure Improvements for a period of ten years. The guarantee provided in this Section shall be in addition to, and not in limitation of, any other guarantee, warranty or remedy provided by law.

Should defects in the Infrastructure Improvements become apparent, the City Engineer shall promptly notify the Developer and provide a copy of said notice to the Finance Director. Within ten (10) days of receipt of said notice, the Developer shall visit the Development in the company of the City Engineer to determine the extent of all defects and shall promptly repair or replace the defective work, including all adjacent work damaged as a result of such defects or as a result of remedying the defects, whether or not such adjacent work was originally provided by the Developer.

If the defective work is considered by the City Engineer to be an emergency, the City Engineer may require the Developer to visit the Development within one (1) day of receipt of said notice. The Developer shall be fully responsible for the cost of temporary materials or equipment required during the repair or replacement of the defective work.

If the Developer do not promptly repair or replace defective work, the City may repair or replace such defective work and charge the cost thereof to the Developer or the Developer's surety. Defective work that is repaired or replaced by the Developer shall be inspected by the City Engineer. The repaired or replaced work shall be guaranteed by the Developer pursuant to the terms of this Section XVII.

## **XVIII. INDEMNIFICATION**

Developer shall, at its cost and expense, defend, indemnify and hold the City and any officials, employees, agents and representatives of the City, its successors and assigns (collectively the "*Indemnified Parties*" and each an "*Indemnified Party*"), harmless from and against, and shall reimburse the Indemnified Party for, any and all loss, cost, claim, liability, damage, judgment, penalty, injunctive relief, expense or action (collectively the "*Liabilities*" and each a "*Liability*"), other than Excluded Liabilities, as defined below, whether or not the Indemnified Party shall also be indemnified as to any such claim by any other person, the basis of which claim (a) was caused by or results from the actions or failures to act of Developer or its affiliates, agents, employees, contractors, subcontractors and material suppliers while in possession or control of the Project, whether or not such action or inaction was negligent or reckless, or is in any way related to the construction of the Project or the selection of contractors, subcontractors or material suppliers relating thereto; (b) is based, in whole or in part upon failure or alleged failure of Developer or its affiliates to satisfy their obligations under this Agreement or another Project Agreement; (c) relates to fraud, misapplication of funds, illegal acts, or willful misconduct on the part of Developer or its affiliates; or (d) relates to the bankruptcy or insolvency of Developer or its affiliates. The indemnity provided for herein shall survive the expiration or termination of and shall be separate and independent from any remedy under any Project Agreement.

"*Excluded Liability*" means each Liability to the extent it is attributable to (i) the willful misconduct of any Indemnified Party or the failure of any Indemnified Party that is a third party beneficiary of this Agreement to perform any obligation required to be performed by the Indemnified Party as a condition to being indemnified hereunder, including without limitation, the settlement of any Liability without the consent of the Developer, or, to the extent the Developer's ability to defend a Liability is prejudiced materially, the failure of an Indemnified Party to give timely written notice to the Developer of the assertion of a Liability.

Upon notice of the assertion of any Liability, the Indemnified Party shall give prompt written notice of the same to the Developer. Upon receipt of written notice of the assertion of a Liability, the Developer shall have the duty to assume, and shall assume, the defense thereof, with power and authority to litigate, compromise or settle the same; provided that, the Indemnified Party shall have the right to approve any obligations imposed upon it by compromise or settlement of any Liability or in which it otherwise has a material interest, which approval may be withheld in its sole discretion.

At Developer's expense, an Indemnified Party may employ separate counsel and participate in the defense of any Liability; provided, however, that any such fees and expenses must be reasonable and necessary to protect the interests of the Indemnified Party. The Developer shall not be liable for any settlement of any Liability made without its written consent, but if settled with the written consent of the Developer, or if there is a final judgment for the plaintiff in an action, the Developer agrees to indemnify and hold harmless the Indemnified Party, except only to the extent of any Excluded Liability.

## **XIX. PROPERTY VALUE CONTESTS**

As a condition to the City's establishment of the TIF, the Developer agrees that the Developer and affiliate thereof, including any subsequent purchaser or lessee of all or a portion of the Project Site, shall not file a complaint (including, without limitation, a complaint filed in accordance with Ohio Revised Code Sections 5715.13 or 5717.19), unless the City gives written permission, that seeks to reduce the real property tax valuation of the Project Site or any portion thereof as such valuation is established by the Erie County Auditor (the "*Minimum Value*") until the date on which the TIF is no longer effective. The Developer shall enforce such obligations by including such obligations in any leases or any transfer instruments affecting the Project Site or any portion thereof.

## **XX. CONFIDENTIALITY**

Unless otherwise directed by court order, City will treat the loan documents, the equity investment documents, the commitments of any tenants or purchasers to the Project, the expected or actual tenant and ownership mix of the Project, any proformas, and any other information provided to the City and clearly marked "trade secret" as trade secrets and not as public records or information, and will not disclose such documents or information to any third party without the written consent of the Developer. The City will promptly notify the Developer of (a) any public records request made to it that seeks disclosure of such documents or information and (b) any court action filed against it to compel the disclosure of such documents or information. The City will reasonably cooperate with the Developer in defending any such court action. The Developer will defend City against any third party claim related to the Developer's designation of certain records as exempt from public disclosure, and will hold harmless the City for any liability or award to a plaintiff for damages, costs and reasonable attorney's fees, incurred by the City by reason of such claim.

## XXI. MISCELLANEOUS

A. Any notice of communication required or permitted to be given under this Agreement by either Party to the other shall be deemed sufficiently given if personally delivered, or mailed by certified United States mail, postage prepaid, and addressed as follows:

(1) If to the City: City of Sandusky  
240 Columbus Avenue  
Sandusky, OH 44870  
Attn: City Manager

With a copy to: City of Sandusky  
240 Columbus Avenue  
Sandusky, OH 44870  
Attn: Law Director

(2) Notice to Developer: [ ]

with a copy to: [ ]

Either Party may change its address for notice purposes by providing written notice of such change to the other Party.

B. Entire Agreement/No Third Party Beneficiary. This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respect to the Project and the Property to be completed in connection therewith, and contains all of the covenants, agreements, and other terms and conditions between the Parties hereto with respect to the same. No waivers, alterations or modifications of this Agreement or any agreements in connection therewith shall be valid unless in writing and duly executed by all Parties hereto.

Nothing contained in this Agreement shall be construed so as to confer upon any other person the rights of a third-party beneficiary.

C. Amendment.

- (a) Recognizing the likelihood of changing conditions (such as demand and supply factors; changes in tenants that are in (or likely to be in) the northwestern Ohio regional market area; and other needs and concerns of the City and the Developer), the Parties agree to review and consider amendments to this Agreement, as necessary. Any amendments to this Agreement shall be in writing executed by the Parties.
- (b) The City and the Developer acknowledge and agree that in the event either Party requests further amendment and/or modification of this Agreement, the affected Parties shall thereafter engage in good-faith discussion and negotiation, undertaking all efforts to resolve and address such issues as the



Parties may then raise in connection with this Agreement and such further amendment and modification thereof.

- (c) The Parties further acknowledge and agree that this Agreement, as initially executed, is intended to outline the goals and objectives of the Project, as among the Developer and the City, and governs the obligations of the Parties. All prior discussions and agreements of the Parties relating to the subject-matter of this Agreement are hereby incorporated into this Agreement, which shall supersede any such prior discussions and agreements, all of which are integrated herein.

D. Assignment. This Agreement shall be binding on the Parties hereto and their respective successors and assigns. This Agreement may not be assigned by any party hereto without the written consent of the other party, not to be unreasonably withheld. All representations and warranties of the Developer and the City herein shall survive the execution and delivery of this Agreement.

E. Exhibits. The Exhibits to this Agreement constitute an integral part of and are hereby incorporated by reference into this Agreement.

F. Counterparts. This Agreement may be signed in one or more counterparts or duplicate signature pages with the same force and effect as if all required signatures were contained in a single original instrument anyone or more 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.

G. Severability. The invalidity or unenforceability of anyone or more phrases, sentences, clauses, or sections in this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement, or any part thereof, and this Agreement shall be deemed amended to the extent required to make the provisions hereof lawful, valid and enforceable, giving maximum effect to the intent of the Parties as evidenced in this Agreement. The Parties agree to enter into a written instrument to evidence any such amendment.

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

I. Captions. The captions of the Articles and Sections of this Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Agreement or in any manner limit or define the terms of this Agreement.

J. Force Majeure. Except as expressly provided herein or with respect to any monetary obligation, if either Party is delayed or hindered in, or prevented from, the performance of any covenant or obligation hereunder, as a result of any cause or circumstance beyond the reasonable control of such Party, including, but not limited to, strikes, lockouts, pandemics, epidemics, shortages of labor, fuel or materials, acts of God, enemy act, riot, insurrection or other civil commotion, fire or other casualty or any orders

of any governmental agency, court, or tribunal with jurisdiction over the Project, Developer or the City, then the time for performance of such covenant or obligation shall be extended by a reasonable time to accommodate such delay or hindrance. The Party seeking the benefit of the provisions of this section shall, within thirty (30) days after the beginning of any such delay, notify the other Party thereof in writing, and the cause thereof, and provide information concerning the projected term of the delay.

K. Conflict of Interest: City's Representatives Not Individually Liable. No official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interest of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. No official or employee of the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City or for any amount or amounts which may become due to the Developer or any successor to the Developer or on any obligations under the terms and conditions of this Agreement.

L. Survival. The provisions of this Agreement shall survive any expiration or earlier termination of the Agreement to the extent necessary to carry out the intent and expectations of the Parties.

M. Non-Waiver. Failure of City or Developer to complain of any act or omission on the part of the other Party, however long the same may continue, shall not be deemed to be a waiver by said Party of any of its rights hereunder. No waiver by City or Developer at any time, express or implied, of any breach of any provision of this Agreement shall be deemed a waiver of a breach of any other provision of this Agreement or a consent to any subsequent breach of the same or any other provision.

N. Approvals by City. Any provision of this Agreement requiring the approval of the City, the satisfaction or evidence of satisfaction of the City, certificate or certification by the City or the opinion of the City shall be interpreted as requiring action by the City Manager of the City (or such other official as the City Manager of the City may from time to time designate) granting, authorizing or expressing such approval, satisfaction, certification or opinion, as the case may be, unless such provision expressly provides otherwise.

O. Municipal Power. Nothing in this Agreement shall be construed to be in derogation of the powers granted to the municipal corporations by Article XVIII of the Ohio Constitution, including the right to protect the health, safety and welfare of its citizens.

P. Further Assurances. The Developer shall take or cause to be taken any and all other or further actions necessary or required of the Developer in order to effectuate any of the terms and provisions herein.

Q. Good Faith. Whenever in this Agreement any Party is required or permitted to grant approval or consent, take any action or request any other Party to take any action, make decisions or otherwise exercise judgment as to a particular matter, arrangement or

term, the Party granting such approval or consent, taking or requesting such action, making decisions or otherwise exercising judgment shall act reasonably and in good faith and, in the case of approvals or consents, shall act with all deliberate speed in making its determination of whether or not to approve or consent to any particular matter and shall not impose conditions on the granting of such approval or consent that the approving or consenting Party does not believe are necessary in connection with such approval or consent.

(Signature Page Follows)

**IN WITNESS WHEREOF**, the City and Developer, each by a duly authorized representative, have caused this Agreement to be executed on this \_\_\_ day of \_\_\_\_\_, 2021.

CITY OF SANDUSKY

Cooke Building LLC

By:

By:

\_\_\_\_\_

\_\_\_\_\_

Its: City Manager

Its:

\_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Law Director, City of Sandusky

Exhibit A

Development Site

Permanent Parcel Nos: 56-00527.000, 56-00528.000 and 56-00528.001

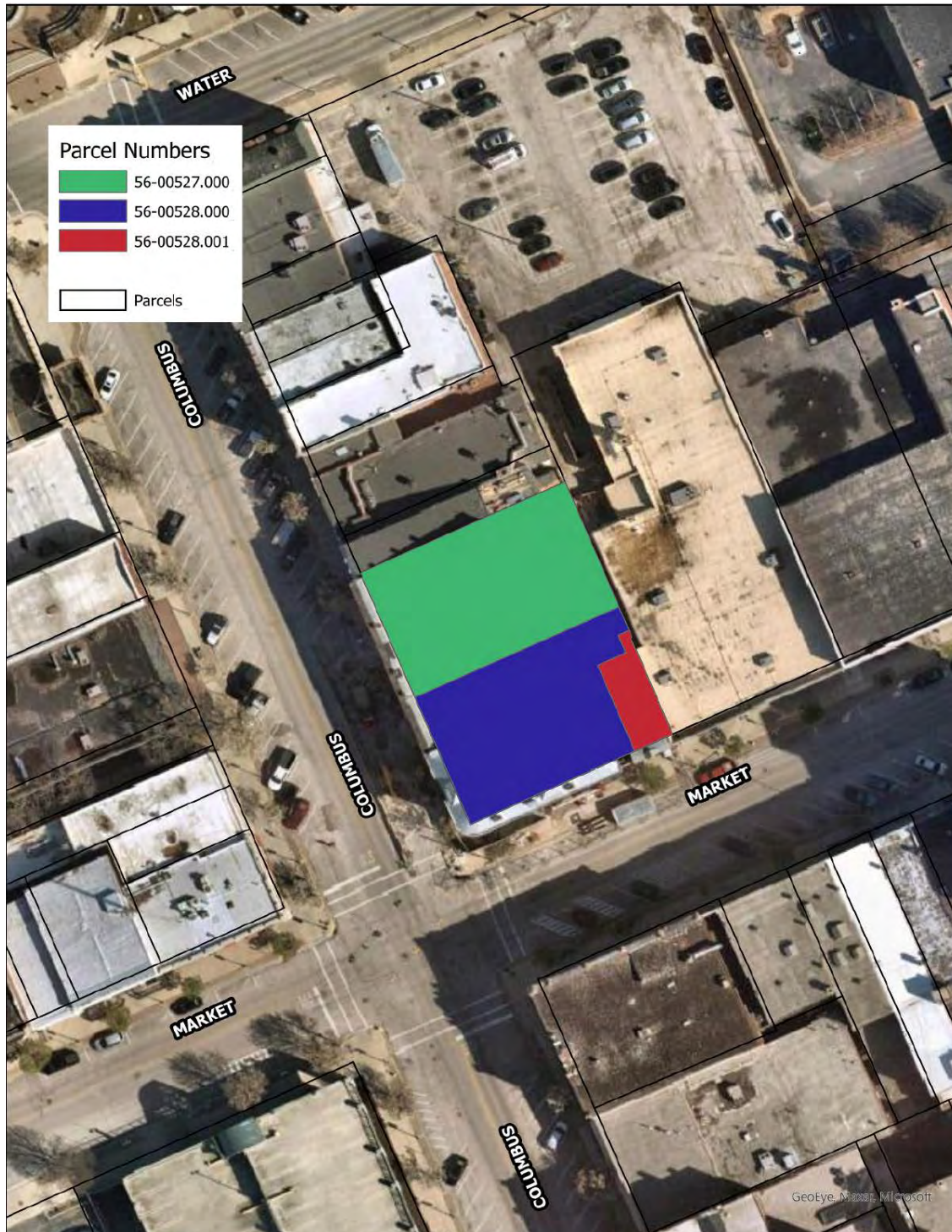


Exhibit B

**Improvements**

All improvements required under the Development Plan within the public right-of-way and to be conveyed at completion or otherwise owned by the City or another public entity, including but not limited to sidewalk construction and repair

Exhibit C

**Site Plan**

[ ]

## Exhibit D

### **Prohibited Uses**

The following restrictions shall be placed upon the Development Site and no portion of the Project shall be used for the following purposes or uses (collectively, the “Restricted Uses”):

1. Any establishment which stocks, displays, sells, rents, distributes, or offers for sale or rent any x-rated, pornographic, lewd, obscene or so-called “adult” newspaper, book, magazine, film, picture, video tape, video disc, material or other similar representation or merchandise of any kind;
2. Any establishment which stocks, displays, sells, rents, distributes, or offers for sale or rent any tobacco products (including but not limited to hookah or “vaping” products) or paraphernalia commonly used in the use or ingestion of marijuana or illicit drugs; or any merchandise or material commonly used or intended for use with or in consumption of any narcotic, dangerous drug or other controlled substance, including without limitation, any hashish pipe, waterpipe, bong, pipe screens, rolling papers, rolling devices, coke spoons or roach clips. This restriction shall not prohibit the inclusion of a medical marijuana dispensary.
3. Surface parking as primary use.





## DEPARTMENT OF COMMUNITY DEVELOPMENT

---

240 Columbus Ave  
Sandusky, Ohio 44870  
419.627.5707  
[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

**To:** Eric L. Wobser, City Manager

**From:** Jonathan Holody, Community Development Director

**Date:** June 15, 2021

**Subject:** Commission Agenda Item –Hogrefe-Cooke Building Development Agreement

**Items for Consideration:** Legislation authorizing the execution of a Development Agreement with Cooke Building LLC to support the development of the Hogrefe-Cooke Building at 154 – 162 Columbus Avenue and other public improvement projects.

**Background Information:** Cooke Building LLC is a real estate development and holding company owned by Richard and Meghan Hogrefe. The company plans to construct the Hogrefe-Cooke Building - a three story mixed-use building measuring approximately 30,000 square feet at 154 – 162 Columbus Avenue. The estimated total project cost is \$8.8M.

The City seeks to support the development project through the creation of a Tax Increment Financing (TIF) District pursuant to Ohio Revised Code Section 5709.41. In order to create the TIF district, the City must hold fee title to the property. The Development Agreement establishes, among other things, the terms under which the City will temporarily acquire the site and the method of distributing any TIF proceeds.

**Budgetary Information:** According to the Development Agreement, the developer is responsible for all costs associated with the agreement, including land transfer and legal fees.

**Action Requested:** It is requested that the proper legislation be prepared authorizing the execution of a Development Agreement with Cooke Building LLC. It is further requested that this legislation be passed in accordance with Section 14 of the City Charter to maintain the current development schedule and ensure the project is completed in a timely manner.

I concur with this recommendation:

---

Eric L. Wobser  
City Manager

---

Jonathan Holody  
Community Development Director

cc: Brendan Heil, Law Director  
Michelle Reeder, Finance Director  
McKenzie Spriggs, Clerk of the City Commission

ORDINANCE NO. \_\_\_\_\_

**AUTHORIZING THE ACCEPTANCE OF A CONVEYANCE OF PARCELS OF REAL PROPERTY FROM COOKE BUILDING LLC AND APPROVING A RECONVEYANCE TO COOKE BUILDING LLC AS PROVIDED BY SECTION 5709.41(B) OF THE OHIO REVISED CODE; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, Cooke Building LLC, an Ohio limited liability company (the “Developer”), or its affiliates, is actively pursuing the development and redevelopment of certain real property located at 154-162 Columbus Avenue in the City of Sandusky, Ohio (the “City”), which real property is more particularly described on Exhibit A attached hereto (the “Property”); and

**WHEREAS**, the Developer desires to develop and redevelop the Property for a mixed-use commercial and residential development (the “Project”), in accordance with the terms, conditions, covenants and warranties in the Development Agreement that has been previously authorized by the City; and

**WHEREAS**, the Project will be in furtherance of the City’s urban redevelopment activities, and accordingly the City anticipates providing project-based tax increment financing for the Project, to be authorized by a separate ordinance pursuant to Ohio Revised Code (“R.C.”) Section 5709.41; and

**WHEREAS**, in order to take the actions related to the tax-increment financing for the Project, the City must hold title to the Property prior to the adoption of the tax increment financing ordinance, pursuant to Ohio Revised Code Section 5709.41(B); and

**WHEREAS**, the City wishes to accept conveyance of the Property from Cooke Building LLC and to reconvey such Property to Cooke Building LLC; and

**WHEREAS**, the City has determined that it is necessary and appropriate and in the best interest of the City to accept such conveyance and to reconvey the Property as described above;

**WHEREAS**, Section 13 of Article VIII of the Ohio Constitution provides that it is in the public interest and proper public purpose for the City to support economic development and improve the economic and general well-being of the people of the City to create or preserve jobs and employment opportunities; and

**WHEREAS**, approval of a Development Agreement in connection with the transfer land and the property located at 154-162 Columbus Avenue is being requested in companion legislation; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to maintain the current development schedule and ensure the project is completed in a timely manner; and

**WHEREAS**, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Community Development, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. Pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.41(B), this City Commission hereby authorizes the acceptance of the conveyance of the Property to the City and approves the reconveyance of the Property to Cooke Building LLC.

Section 2. The City Manager is hereby authorized and directed, acting on behalf of the City, to accept the conveyance of the Property and to execute and deliver a quit claim deed reconveying the Parcels to Cooke Building LLC.

Section 3. The City Manager, Finance Director, Law Director, or any other officials of the City, as appropriate, are authorized and directed to sign any other documents, instruments or certificates and take such actions as are necessary or appropriate to consummate or implement the actions described in or contemplated by this Ordinance.

Section 4. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City's Commission and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

Section 6. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take

immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

\_\_\_\_\_  
RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
MCKENZIE E. SPRIGGS  
CLERK OF THE CITY COMMISSION

Passed: June 28, 2021

## EXHIBIT A

### DESCRIPTION OF PROPERTY

Permanent Parcel Nos: 56-00527.000, 56-00528.000 and 56-00528.001

