

COOPERATIVE AGREEMENT

among

SUMMIT COUNTY DEVELOPMENTAL DISABILITIES BOARD

and

COUNTY OF SUMMIT, OHIO

and

CITY OF TALLMADGE, OHIO

\_\_\_\_\_

Dated as of

\_\_\_\_\_, 2020

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## COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT is made and entered into as of \_\_\_\_\_, 2020 ("Effective Date") by and among the SUMMIT COUNTY DEVELOPMENTAL DISABILITIES BOARD, a county board of developmental disabilities duly organized and validly existing under Chapter 5126 of the Ohio Revised Code (the "DD Board"), the COUNTY OF SUMMIT, OHIO, an Ohio county duly organized and validly existing under the laws of the State and its Charter (the "County"), and the CITY OF TALLMADGE, OHIO, an Ohio municipal corporation duly organized and validly existing under the laws of the State and its Charter (the "City"), under the circumstances summarized in the following recitals (the capitalized terms not defined in the recitals being used therein as defined in Article I hereof):

### Recitals:

A. The County is the owner of certain real property located in the City and identified as Parcel Number 6009947 in the Summit County Records, and more commonly known as 89 E. Howe Road, Tallmadge, OH 44278 ("Howe Road Parcel"), consisting of approximately 28.57 acres, which has generally been used for the last several decades by the DD Board for various operations, including, but not limited to educational, training, administrative and maintenance operations for the benefit of the Summit County residents served by the DD Board. Attached and incorporated by reference as Exhibit A is a map depicting the Howe Road Parcel; and

B. In accordance with its use of the Howe Road Parcel, the DD Board has invested substantial sums in the construction, operation and maintenance of certain improvements, structures and facilities thereon; and

C. The County is also the owner of certain real property located in the City and identified as Parcel Number 6009948 in the Summit County Records, and more commonly known as 730 North Avenue, Tallmadge, OH 44278 ("North Avenue Parcel"), consisting of approximately 14.03 acres, which is currently leased to the City pursuant to a certain lease agreement between the County and City dated April 15, 2009, and which is used by the City as soccer fields for its youth residents. The North Avenue Parcel is also depicted on Exhibit A; and

D. The County is also the owner of certain real property located in Bath Township and identified as Parcel Number 0403384 in the Summit County Records, and more commonly known as 340 N. Cleveland-Massillon Road, Akron, OH 44333 ("Bath Township Parcel"), consisting of approximately 7.92 acres, which was previously used as a facility by the DD Board to provide services to Summit County residents. Attached and incorporated by reference as Exhibit B is a map depicting the Bath Township Parcel; and

E. Due to changes in federal law, the DD Board no longer provides direct services to the Summit County residents it serves, and, as a result, the DD Board no longer uses the Bath Township Parcel, will no longer need to utilize the facilities located on the Howe Road Parcel for its operations, and intends to relocate all operations currently remaining on the Howe Road Parcel to other facilities within the County; and

F. As a result of the DD Board intending to no longer utilize the Howe Road Parcel for its operations, the Cooperative Parties desire to lot split the Howe Road Parcel into four separate parcels, all of which are depicted on Exhibit C attached and incorporated by reference and described as follows:

(i) the easternmost approximately \_\_\_ acres, consisting of a vehicle maintenance facility building, associated parking lot and drives, a portion of the driveway that provides access to the Summit County Fairgrounds, a parking lot located to the east of the aforementioned driveway, a stormwater drainage basin/retention pond that services the Howe Road Parcel, various other improvements and land (“Eastern Split Parcel”),

(ii) the westernmost approximately \_\_\_ acres, consisting of a former vocational workshop building, associated parking lot and drives, various other improvements and land (“Western Split Parcel”), and

(iii) approximately \_\_\_ acres consisting of a baseball field, drive and land (“Ballfield Split Parcel”); and

(iv) the remaining \_\_\_ acres, situated in the center of the Howe Road Parcel between the Eastern Split Parcel and the Western Split Parcel, and consisting of the building currently used for the DD Board administrative operations, and formerly for the DD Board’s educational operations, associated parking lots and drives, various other improvements and land (“Central Split Parcel”); and

G. Following the lot split of the Howe Road Parcel into the Eastern Split Parcel, Western Split Parcel, Ballfield Split Parcel and Central Split Parcel, the Cooperative Parties desire to undertake the following transactions:

(i) the County and DD Board will enter into an agreement whereby the County will retain possession of the Western Split Parcel and Eastern Split Parcel, and in exchange for the same, the County will pay as compensation to the DD Board the total amount for both parcels the sum of One Million Three Hundred Fifty Thousand Dollars (\$1,350,000) as set forth herein,

(ii) the County and DD Board will enter into an agreement whereby the County will agree to sell the Bath Township Parcel to a viable third party, through appropriate means authorized by the Codified Ordinances of the County, with the net proceeds of such sale being paid by the County to the DD Board as further set forth herein,

(iii) the County will enter into a real estate purchase agreement with the City to sell to the City the Central Split Parcel, the Ballfield Split Parcel and the North Avenue Parcel for the total sum of One Dollar (\$1.00) for all three parcels, which sale will close the earlier of December 31, 2022 or within thirty (30) days following the DD Board’s vacation of the Central Split Parcel,

(iv) the DD Board will receive no compensation for the Central Split Parcel, the Ballfield Split Parcel or the North Avenue Parcel.

H. Following the aforementioned transactions, it is the intention of the County to utilize the Eastern Split Parcel for a public safety storage and operations facility and to utilize the Western Split Parcel for a regional public safety dispatch and training center; and

I. It is the City's intention to use the Central Split Parcel for the purpose of economic development and job creation, and it is the City's intention to use the Ballfield Split Parcel and North Avenue Parcel for recreational purposes for its residents; and

J. The Cooperative Parties further desire and intend to undertake the transactions described in this Cooperative Agreement, subject to the terms and conditions of this Cooperative Agreement. The Cooperative Parties believe that the undertakings of each contemplated by this Agreement will support governmental functions, enhance and promote the public health, safety and welfare, and promote and support development in City and the County, and each of the Cooperative Parties has full right and lawful authority to enter into this Agreement and to perform and observe the provisions hereof on its respective part to be performed and observed.

NOW THEREFORE, in consideration of the premises and the mutual representations and agreements hereinafter contained, and subject to the terms and limitations of this Agreement, the Cooperative Parties agree as follows:

## ARTICLE I

### Definitions

Section 1.1 Use of Defined Terms. In addition to the words and terms defined elsewhere in this Agreement or by reference to another document, the words and terms set forth in Section 1.2 hereof shall have the meanings set forth therein unless the context or use clearly indicates another meaning or intent. Such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms defined therein.

Section 1.2 Definitions. As used herein:

“Agreement” or “Cooperative Agreement” means this Cooperative Agreement as amended and supplemented from time to time.

“Cooperative Parties” means, collectively, the DD Board, the County and the City.

“Legislative Authority” means, (i) as to the City, the Council of the City; and (ii) as to the County, the Council of the County.

“Notice Address” means:

as to the DD Board:

Summit County Board of  
Developmental Disabilities  
89 E. Howe Ave.  
Tallmadge, OH 44278  
Attn: John Trunk, Superintendent

with a copy to: Summit County Board of  
Developmental Disabilities  
89 E. Howe Ave.  
Tallmadge, OH 44278  
Attn: Lisa Kamlowky, Asst. Superintendent

as to the County: County of Summit, Ohio  
Ohio Building, 8th Floor  
175 South Main Street  
Akron, Ohio 44308  
Attn: Ilene Shapiro, County Executive

with a copy to: County of Summit, Ohio  
Ohio Building, 8th Floor  
175 South Main Street  
Akron, Ohio 44308  
Attn: Deborah S. Matz, Director of Law and  
Risk Management

as to the City: City of Tallmadge  
46 North Avenue  
Tallmadge, OH 44278  
Attn: David G. Kline, Mayor

with a copy to: City of Tallmadge  
46 North Avenue  
Tallmadge, OH 44278  
Attn: Megan Raber, Law Director

or such additional or different address, notice of which is given under Section 4.1 of this Agreement.

“Person” or words importing persons means firms, associations, partnerships (including without limitation general and limited partnerships), limited liability companies, joint ventures, societies, estates, trusts, corporations, public or other governmental bodies, other legal entities and natural persons.

“State” means State of Ohio.

Section 1.3 Interpretation. Any reference herein to the DD Board, the County, the City, or to a Legislative Authority or to any member or officer of the same includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

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 any other legislation 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 provision, if it constitutes in any way an impairment of the rights or obligations of the Cooperative Parties under this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" 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.

Section 1.4 Captions and Headings. The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

(End of Article I)

## ARTICLE II

### Representations and Covenants

Section 2.1 Representations of the DD Board. The DD Board represents that: (a) it is a county board of developmental disabilities duly organized and validly existing under Chapter 5126 of the Ohio Revised Code; (b) it is legally empowered to enter into and perform the transactions contemplated by this Agreement; (c) the execution, delivery and performance of this Agreement does not and will not violate or conflict with any provision of law applicable to the DD Board, and does not, and will not, conflict with or result in a default under any agreement or instrument to which the DD Board is a party or by which it is bound which would have an adverse effect on the DD Board's ability to perform its obligations under this Agreement (other than such adverse effect which is not material); (d) the DD Board has duly authorized the execution, delivery and performance of this Agreement; and (e) this Agreement, when executed and delivered by the DD Board, will constitute the legal, valid and binding obligations of the DD Board, enforceable against it in accordance with the respective terms thereof.

Section 2.2 Representations of the County. The County represents that: (a) it is a county duly organized and validly existing under the laws of the State and its Charter; (b) it is legally empowered to enter into and perform the transactions contemplated by this Agreement; (c) the execution, delivery and performance of this Agreement does not and will not violate or conflict with any provision of law applicable to the County, and does not, and will not, conflict with or result in a default under any agreement or instrument to which the County is a party or by which it is bound which would have an adverse effect on the County's ability to perform its obligations under this Agreement (other than such adverse effect which is not material); (d) its Legislative Authority has duly authorized the execution, delivery and performance of this Agreement; and (e) this Agreement, when executed and delivered by the County, will constitute the legal, valid and

binding obligations of the County, enforceable against it in accordance with the respective terms thereof.

Section 2.3 Representations of the City. The City represents that: (a) it is a municipal corporation duly organized and validly existing under the laws of the State and its Charter; (b) it is legally empowered to enter into and perform the transactions contemplated by this Agreement; (c) the execution, delivery and performance of this Agreement does not and will not violate or conflict with any provision of law applicable to the City, and does not, and will not, conflict with or result in a default under any agreement or instrument to which the City is a party or by which it is bound which would have an adverse effect on the City's ability to perform its obligations under this Agreement (other than such adverse effect which is not material); (d) its Legislative Authority has duly authorized the execution, delivery and performance of this Agreement; and (e) this Agreement, when executed and delivered by the City, will constitute the legal, valid and binding obligations of the City, enforceable against it in accordance with the respective terms thereof.

(End of Article II)

### ARTICLE III

#### Cooperative Arrangements

Section 3.1 Cooperative Arrangements. For the reasons set forth in the Recitals to this Agreement, the Cooperative Parties have determined to cooperate with one another in accordance with the terms of this Agreement.

Section 3.2 Split of Howe Road Parcel. Upon the execution of this Agreement, the County, at its sole cost and expense, shall undertake to effectuate a lot split of the Howe Road Parcel into the Eastern Split Parcel, Western Split Parcel, Ballfield Split Parcel and Central Split Parcel, consistent with the map attached hereto as Exhibit C, which shall include, but not be limited to, (i) contracting the services of a licensed surveyor to survey the Howe Road Parcel and prepare necessary documents, including all necessary legal descriptions, surveys and plats, (ii) preparing any deeds necessary to effectuate the splits, (iii) submitting the plats and any other necessary documents to the City for approval consistent with the City's applicable planning and zoning ordinances, (iv) following approval of the City, recording the surveys, plats and deeds necessary to effectuate the lot splits with the Summit County Fiscal Officer, and (v) obtaining the approval from the City for any conditional uses necessary for any of the parcels pursuant to the City's zoning code (collectively, when completed, the "Lot Split and Zoning Approval"). The DD Board and the City shall cooperate with the County's obligation to undertake the Lot Split and Zoning Approval, including the City using its best efforts to duly authorize the same pursuant to its planning and zoning ordinances.

Section 3.3 Agreement for Compensation Regarding the Bath Township Parcel. Contemporaneous with the execution of this Cooperative Agreement, the County and DD Board shall execute and deliver to each other an agreement for compensation regarding the Bath Township Parcel in the form attached hereto as Exhibit D, ("Agreement for Compensation – Bath"). In accordance with the terms and conditions set forth in the Agreement for Compensation—Bath: (i) the DD Board shall acknowledge and agree that the County is the owner

of the Bath Township Parcel, which is the land and the improvements located thereon, which includes the structures, fixtures, equipment, HVAC, plumbing, electrical, alarm, sprinkler system and landscaping; (ii) the County shall acknowledge that the DD Board has constructed and maintained, at its sole cost and expense, certain improvements to the Bath Township Parcel; (iii) as consideration for the improvements that the DD Board has constructed and maintained on the Bath Township Parcel, the County shall agree to sell the Bath Township Parcel, (iv) the County shall list the same for sale with a commercial real estate broker at all times until such sale or until the DD Board and the County reach an alternative agreement regarding disposition of the property, and (v) the County shall deduct from the sale proceeds any transaction costs incurred by the County including but not limited to broker commissions, any unpaid liens, encumbrances and closing costs including but not limited to title commitment, title insurance policy, escrow fees, conveyance fees, transfer taxes, prorated real estate taxes, assessments and utilities (“Net Proceeds”). The parties shall pay their own legal fees; and (vi) the County shall deposit, within 30 days of receipt, the Net Proceeds into an account for the sole use and benefit of the DD Board, provided, that, pursuant to Ohio law, such net proceeds shall be used by the DD Board to fund permanent improvements used by the DD Board.

Pursuant to the Agreement for Compensation – Bath, the DD Board will retain possession of the Bath Township Property and shall continue to remain obligated for the ongoing maintenance, repair and operation of the same including all costs until the date of deed transfer. The DD Board shall cooperate fully with the sale and not disturb, interfere nor prohibit entrance for sale showings and inspections of the Bath Township Parcel.

The terms of the Agreement for Compensation – Bath shall supersede and void any prior agreement or memorandum of understanding between the County and the DD board regarding the possession or use by either the County or the DD Board of the Bath Township Parcel and the improvements thereon.

Section 3.4 Agreement for Compensation Regarding the Western Split Parcel and Eastern Split Parcel. Within thirty (30) days following the completion of the Lot Split and Zoning Approval, as set forth in Section 3.2 of this Agreement, the County and DD Board shall execute and deliver to each other an agreement for compensation in the form attached hereto as Exhibit E, (“Agreement for Compensation – Western & Eastern”). In accordance with the terms and conditions set forth in the Agreement for Compensation—Western & Eastern: (i) the DD Board shall acknowledge and agree that the County is the owner of the Western Split Parcel and Eastern Split Parcel, which is the land and the improvements located thereon, which includes the structures, fixtures, equipment, HVAC, plumbing, electrical, alarm, sprinkler system and landscaping; (ii) the County shall acknowledge that the DD Board has constructed and maintained, at its sole cost and expense, certain improvements to the Western Split Parcel and Eastern Split Parcel; (iii) as consideration for the improvements that the DD Board has constructed and maintained on the Western Split Parcel and Eastern Split Parcel, the County shall pay as compensation to the DD Board the total amount for both parcels the sum of One Million Three Hundred Fifty Thousand Dollars (\$1,350,000) (“Split Parcels Compensation Price”); and (iv) the Split Parcels Compensation Price shall be paid by interfund transfer in the County’s financial accounting system in ten (10) equal annual installments of One Hundred Thirty-five Thousand Dollars (\$135,000) and no interest, with the first payment being paid within ten (10) days of the execution of the Agreement for Compensation – Western & Eastern, and the remaining nine payments being paid

annually by December 31<sup>st</sup> commencing on December 31, 2021 and the last payment on December 31, 2029.

Pursuant to the Agreement for Compensation – Western & Eastern, effective as of the date of the first payment of \$135,000 of the Split Parcels Compensation Price, the County will assume exclusive possession of the Western Split Parcel and Eastern Split Parcel, in As-Is condition, and shall assume the ongoing maintenance, repair and operation of the same.

The terms of the Agreement for Compensation – Western & Eastern shall supersede and void any prior agreement or memorandum of understanding between the County and the DD Board regarding the possession or use by either the County or the DD Board of the Western Split Parcel and Eastern Split Parcel, and the improvements thereon.

Section 3.5 Easement for Drainage onto Eastern Split Parcel. Concurrently with the execution of the Agreement for Compensation – Western & Eastern and the Agreement for Compensation – Bath, the County shall execute and record with the Summit County Fiscal Officer a drainage easement (“Drainage Easement”) encumbering the Eastern Split Parcel wherein the County grants to itself, as the owner of the Western Split Parcel, the Ballfield Parcel, and the Central Split Parcel, and all successors in interest thereto, a non-exclusive right to discharge storm and surface water into the stormwater drainage basin/retention pond located on the Eastern Split Parcel. The Drainage Easement shall give the County, and its successors in interest, as the owners of the Eastern Split Parcel, the obligation to maintain, repair and keep clear as reasonable and necessary, said stormwater basin/retention pond. The Drainage Easement shall further give the County, and its successors in interest, as the owner of the Central Split Parcel, the Ballfield Parcel, and the Western Split Parcel, the obligation to discharge only surface water and/or storm water that naturally accumulates, runs through or runs onto the Central Split Parcel, the Ballfield Parcel, and the Western Split Parcel into the stormwater drainage basin/retention pond located on the Eastern Split Parcel. The Drainage Easement shall be in a form attached hereto as Exhibit F. The County shall survey, at its sole cost and expense, the stormwater drainage facility/retention pond and shall set forth in the Drainage Easement the legal description of the area where the stormwater drainage facility/retention pond is located. The County shall bear all other costs in preparing and recording the Drainage Easement.

Section 3.6 Purchase of the Central Split Parcel the Ballfield Split Parcel, and the North Avenue Parcel. Within thirty (30) days following the completion of the Lot Split and Zoning Approval, as set forth in Section 3.2 of this Agreement, the County and City shall execute and deliver to each other a real estate purchase agreement in the form attached hereto as Exhibit G, (“Purchase Agreement”) whereby the County shall sell to the City the Central Split Parcel, Ballfield Split Parcel and North Avenue Parcel for the total sum of One Dollar (\$1.00) for all three parcels. As further provided in the Purchase Agreement, following the expiration of any inspection and title examination periods, and the release of any associated contingencies, the County will execute and deliver to the escrow agent identified therein a Quit-Claim Deed transferring the Central Split Parcel, Ballfield Split Parcel and North Avenue Parcel to the City. Said escrow agent shall hold said Quit-Claim Deed in escrow until the earlier of (i) December 31, 2022, or (ii) the vacation, by the DD Board, of the Central Split Parcel. In the event that the DD Board vacates the Central Split Parcel prior to December 31, 2022, then the County shall notify the escrow agent, within thirty (30) days of said vacation, to file said Quit-Claim Deed with the Summit County

Fiscal Officer, otherwise, the Quit-Claim Deed shall be filed on December 31, 2022. The Purchase Agreement shall provide the City with the right, during an inspection period, to enter upon the Central Split Parcel, Ballfield Split Parcel and North Avenue Parcel and conduct any necessary inspections thereon, but shall repair and pay for any damage made during the inspection and release the County and DD Board from any arising claims or liabilities. The Purchase Agreement shall require the City to pay all costs, fees and expenses related to the purchase of the sale of the Central Split Parcel, Ballfield Split Parcel and North Avenue Parcel, including, but not limited to title examination fees, title insurance, escrow fees, recording fees, conveyance fees and taxes, and its own attorney fees, and excluding therefrom the attorney fees of the County and DD Board. Assessments, taxes and utilities, if any, shall be prorated as of the date of the closing of the sale. Further terms and conditions of the Purchase Agreement shall be set forth in the attached Exhibit G.

Section 3.7 Storage Provided by County to DD Board. As additional consideration for the transactions contemplated herein, the County shall enter into a lease agreement to provide the DD Board at least 4,000 square feet of storage space in the vehicle maintenance facility building located on the Eastern Split Parcel. The lease agreement shall be consistent with leases entered into by the County and other governmental and non-profit entities, which shall include, at a minimum, rent of no more than One Dollar (\$1) per year and no additional rent for utilities, taxes, insurance or maintenance. Said lease agreement shall be for a period of no less than 20 years, and shall further contain a provision requiring the County to provide comparable space at the same financial terms and conditions during that 20-year term in the event the County elects to no longer provide space within the vehicle maintenance facility building on the Eastern Split Parcel to the DD Board.

Section 3.8 Environmental Matters. To the best of its knowledge, the DD Board represents and warrants that the Howe Road Parcel, and the Bath Township Parcel (collectively the "Properties") are not in violation of any environmental laws and the DD Board has no knowledge of (i) the presence on or about the Properties of any hazardous materials, other than the possible existence of asbestos within building materials generally consistent with the type and nature of building materials and buildings of similar vintage; (ii) any release or threatened release of any hazardous materials on or affecting the Properties; or (iii) the existence of any underground storage tanks on or about the Properties. The DD Board has received no notice of any investigation or proceeding by any governmental agency concerning the presence or alleged presence, release or threatened release of hazardous materials on the Properties. The City and DD Board acknowledge receipt from the County of the Phase I Environmental Site Assessment prepared by HZW Environmental, dated May 13, 2020, for the property located at 630 North Avenue, Tallmadge, which is part of Parcel Number 6009947, together with subsequent PCB testing conducted at the former site of two former transformers by the Cardinal Group, dated September 30, 2020 (the latter found no instances of environmental hazards). The City may obtain an environmental Phase I, environmental Phase II or asbestos abatement for the Ballfield Split Property, the Central Split Parcel and North Avenue Parcel at its sole cost as further provided in the real estate Purchase Agreement. The City shall agree to release the County and DD Board for any liabilities and financial obligations in any action or proceeding pertaining to the condition of the Ballfield Split Property, the Central Split Parcel and the North Avenue Parcel including the existence of hazardous substances in violation of any environmental laws. Following any sale of the Bath Township Parcel, in the event that any proceedings, liabilities or financial obligations

arise pertaining to the condition of the Bath Township Parcel, including the existence of hazardous substances in violation of any environmental laws, the County and DD Board will use their best efforts to resolve amongst each other the cost of the same.

Section 3.9 Consideration. In consideration for the compensation provided by the County under the Agreement for Compensation – Western & Eastern, and the receipt of the compensation under the Agreement for Compensation –Bath, the DD Board agrees to abandon, forfeit and terminate its real property interests including any and all rights of any kind in law and/or in equity the DD Board may have in the Howe Road Parcel, and the Bath Township Parcel, respectively, as of the date of the receipt of such compensation.

(End of Article III)

#### ARTICLE IV

##### Miscellaneous

Section 4.1 Notices. All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, or delivered by overnight courier service, and addressed to the appropriate Notice Address. A duplicate copy of each notice, certificate, request or other communication given hereunder to any Cooperative Party shall also be given to the other Cooperative Parties. The Cooperative Parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent. If, because of the suspension of delivery of certified or registered mail or for any other reason, notice, certificates or requests or other communications are unable to be given by the required class of mail or courier service, any notice required to be mailed or delivered by courier service by the provisions of this Agreement shall be given in such other manner as in the judgment of the Cooperative Party shall most effectively approximate mailing thereof or delivery by courier service, and the giving of that notice in that manner for all purposes of this Agreement shall be deemed to be in compliance with the requirement for delivery under this Section. Except as otherwise provided herein, the mailing of any notice shall be deemed complete upon deposit of that notice in the mail and the giving of any notice by any other means of delivery shall be deemed complete upon receipt of the notice by the delivery service.

Section 4.2 Extent of Covenants; No Personal Liability. All covenants, obligations and agreements of the Cooperative Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future officer, official, employee or agent of the DD Board, the City, the County or their respective Legislative Authorities, in other than its official capacity, and neither the members of any board or Legislative Authorities nor any official executing this Agreement shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the covenants, obligations or agreements of the DD Board, the City or the County contained in this Agreement.

Section 4.3 Binding Effect. This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Cooperative Parties and their respective permitted

successors and assigns. This Agreement may be enforced only by the Cooperative Parties, their assignees and others who may, by law, stand in their respective places.

Section 4.4 Amendments and Supplements. Except as otherwise expressly provided in this Agreement, no provision of this Agreement may be effectively amended, changed, modified, altered or terminated unless set forth in a writing signed by all of the Cooperative Parties.

Section 4.5 Execution Counterparts/PDF. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument. Copies of signatures sent or provided electronically in portable document format (PDF) shall be deemed to be originals for purposes of execution and proof of this Agreement.

Section 4.6 Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 4.7 Limitation of Rights. With the exception of rights conferred expressly in this Agreement, nothing expressed or mentioned in or to be implied from this Agreement is intended or shall be construed to give to any Person other than the Cooperative Parties any legal or equitable right, remedy, power or claim under or with respect to this Agreement or any covenants, agreements, conditions and provisions contained herein. This Agreement and all of those covenants, agreements, conditions and provisions are intended to be, and are, for the sole and exclusive benefit of the Cooperative Parties, as provided herein.

Section 4.8 Governing Law. This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in a State court sitting in the County.

Section 4.9 Entire Agreement. This Cooperative Agreement, and the agreements contemplated herein, constitute the entire agreement between the parties and supersedes all prior understandings or agreements regarding the Howe Road Parcel, the North Avenue Parcel and the Bath Township Parcel. There are no conditions or inducements relied upon by the parties prior to the execution of this Compensation Agreement.

Section 4.10 Time is of the Essence. All of the following shall have been completed and fully executed in accordance with the dates set forth herein and no later than March 31, 2021 otherwise this Cooperative Agreement shall terminate and the parties shall have no obligations to each other except for damage claims related to inspections shall survive the termination of this Cooperative Agreement.

(End of Article IV)

IN WITNESS WHEREOF, the Cooperative Parties have caused this Agreement to be duly executed in their respective names, all as of the date first hereinbefore written.

**SUMMIT COUNTY BOARD OF DEVELOPMENTAL DISABILITIES**

By: \_\_\_\_\_  
John Trunk, Superintendent

Approved as to form and correctness:

\_\_\_\_\_  
Lisa Kamlowky, Assistant Superintendent

**COUNTY OF SUMMIT, OHIO**

By: \_\_\_\_\_  
Ilene Shapiro, Executive

Approved as to form and correctness:

\_\_\_\_\_  
Deborah Matz, Director  
Department of Law and Risk Management

**CITY OF TALLMADGE**

By: \_\_\_\_\_  
David G. Kline, Mayor

Approved as to form and correctness:

\_\_\_\_\_  
Megan Raber, Director of Law

FISCAL OFFICER'S CERTIFICATE  
CITY OF TALLMADGE, OHIO

The undersigned, Finance Director of the City of Tallmadge, Ohio, hereby certifies that the moneys required to meet the obligations of the City during the year 2020 under the Agreement have been lawfully appropriated by the Legislative Authority 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.

\_\_\_\_\_  
Finance Director  
City of Tallmadge, Ohio

Dated: \_\_\_\_\_, 2020

FISCAL OFFICER'S CERTIFICATE  
COUNTY OF SUMMIT, OHIO

The undersigned, Fiscal Officer of the County of Summit, Ohio, hereby certifies that the moneys required to meet the obligations of the County during the year 2020 under the Agreement have been lawfully appropriated by the Legislative Authority of the County for such purposes and are in the treasury of the County 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.

\_\_\_\_\_  
Fiscal Officer  
County of Summit, Ohio

Dated: \_\_\_\_\_, 2020

EXHIBIT A

MAP OF HOWE ROAD PARCEL AND NORTH AVENUE PARCEL

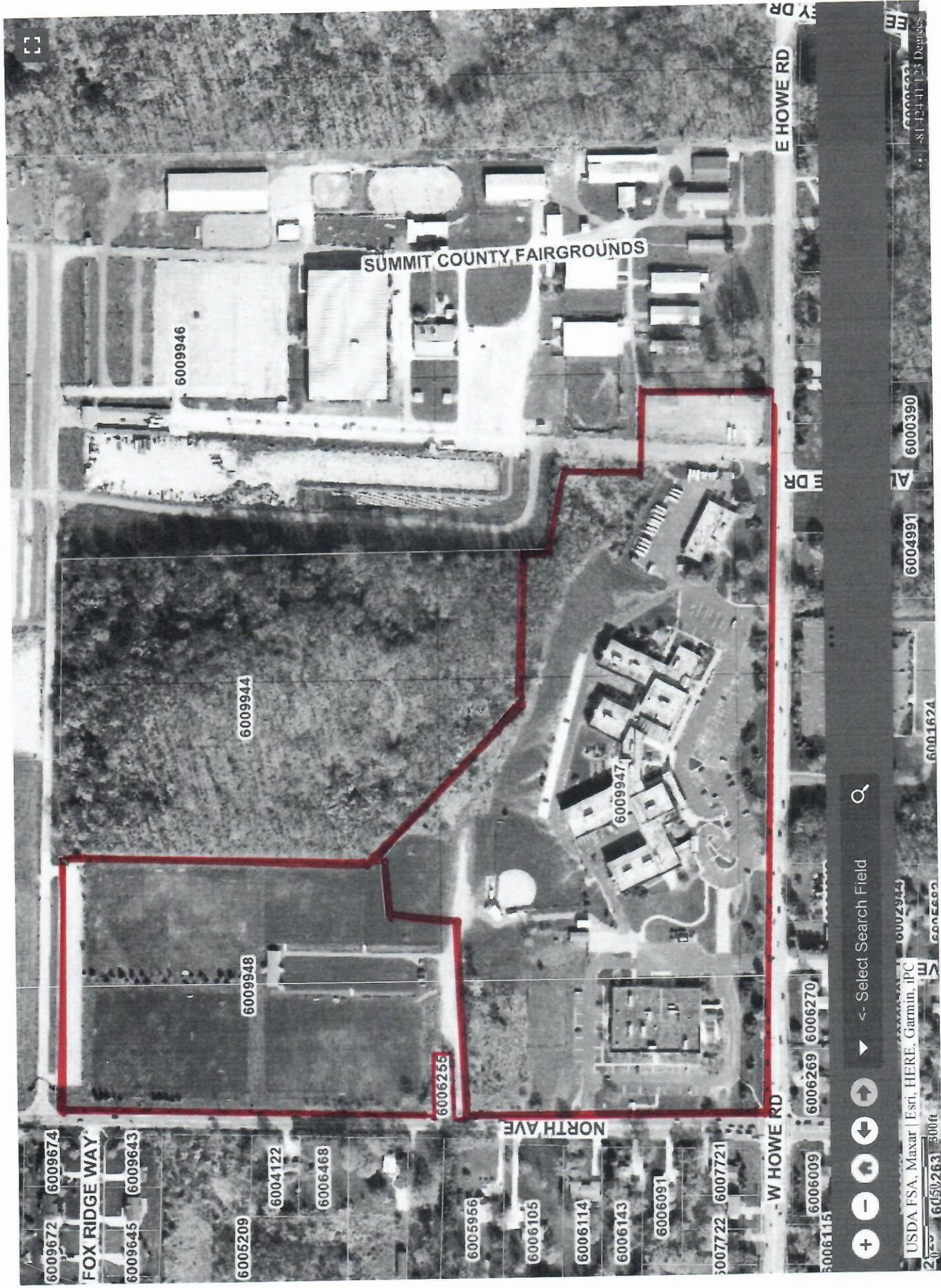


EXHIBIT B

MAP OF BATH TOWNSHIP PARCEL

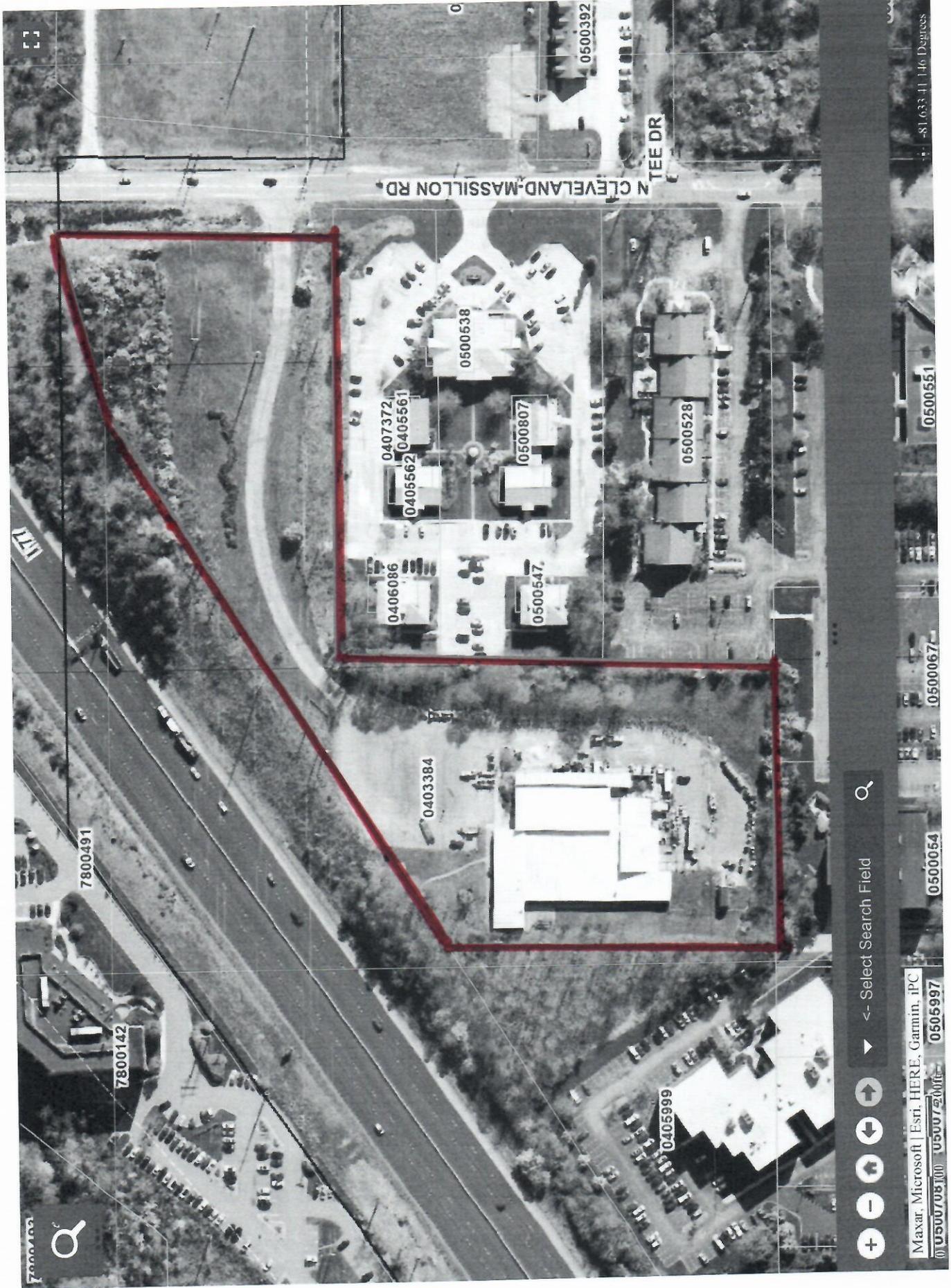


EXHIBIT C

MAP OF HOWE ROAD PARCEL SPLIT INTO EASTERN SPLIT PARCEL,  
WESTERN SPLIT PARCEL, CENTRAL SPLIT PARCEL, AND BALLFIELD SPLIT PARCEL

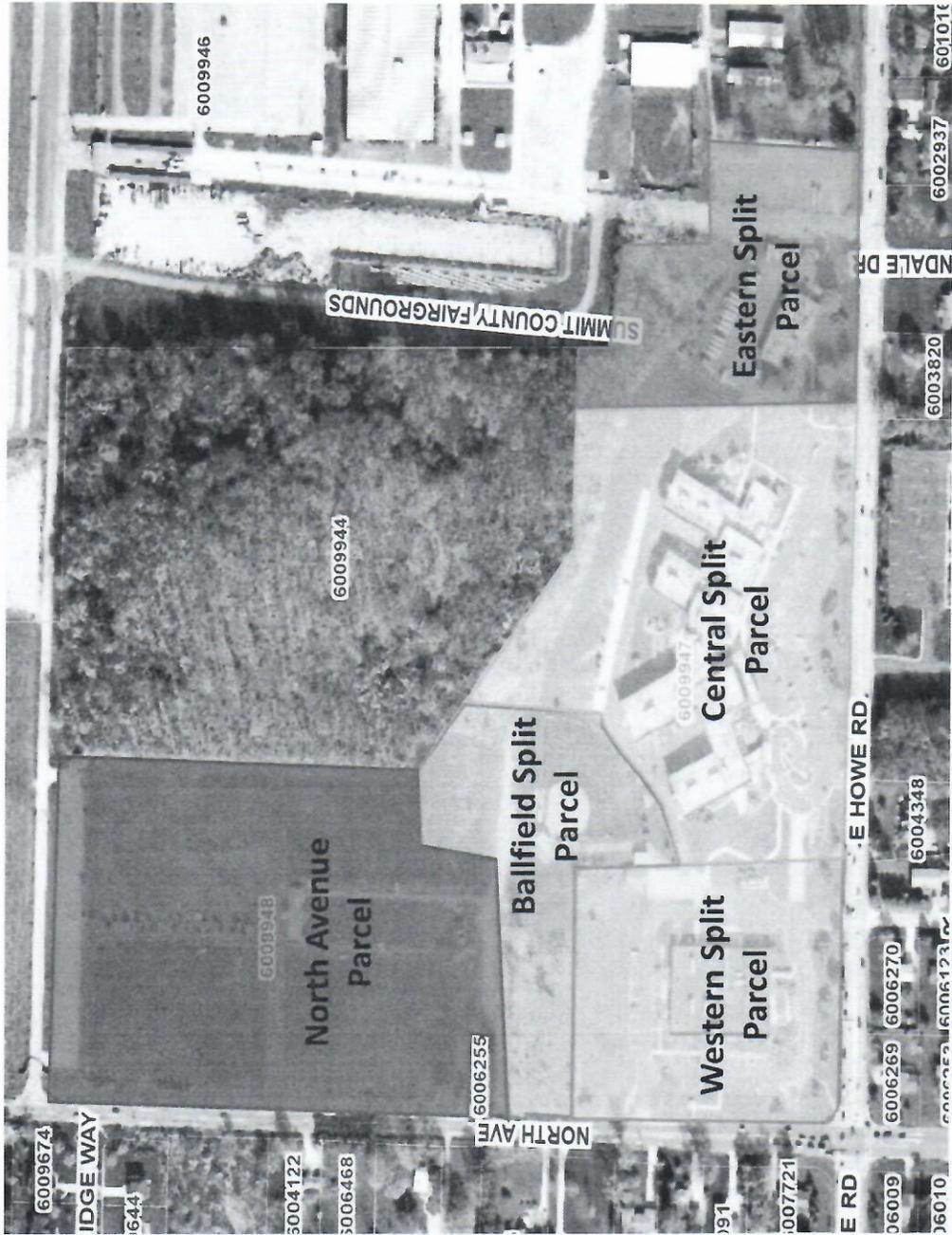


EXHIBIT D

AGREEMENT FOR COMPENSATION  
BATH

AGREEMENT FOR COMPENSATION  
(Bath)

This Agreement for Compensation (“Compensation Agreement”) is made and entered into as of \_\_\_\_\_, 2020 (“Effective Date”) by and between the SUMMIT COUNTY DEVELOPMENTAL DISABILITIES BOARD, a county board of developmental disabilities duly organized and validly existing under Chapter 5126 of the Ohio Revised Code (the “DD Board”) and the COUNTY OF SUMMIT, OHIO, an Ohio county duly organized and validly existing under the laws of the State and its Charter (the “County”). Capitalized terms not defined herein shall have the same meaning as set forth in the Cooperative Agreement entered into by and between the DD Board, the County and the City of Tallmadge on the same date herein.

**Recitals:**

A. The County is the owner of a certain parcel of real property located in Bath Township and identified as Parcel Number 0403384 in the Summit County Records, and more commonly known as 340 N. Cleveland-Massillon Road, Akron, OH, 44333 (the “Bath Township Parcel”);

B. The Bath Township Parcel was previously used by the DD Board to provide services to Summit County residents served by the DD Board;

C. In accordance with its use of the Bath Township Parcel, the DD Board has invested substantial sums in the construction, operation and maintenance of certain improvements, structures and facilities thereon;

D. The DD Board is no longer using the Bath Township Parcel for its operations;

E. The DD Board and the County each desire that the County sell the Bath Township Parcel; and

F. The County and the DD Board desire to enter into this Compensation Agreement whereby the County will sell the Bath Township Parcel, and, as compensation for the prior investments that the DD Board has made in the Bath Township Parcel, deliver the net proceeds of the sale of the Bath Township Parcel to the DD Board in accordance with the terms herein.

NOW THEREFORE, in consideration of the premises and the mutual representations and agreements hereinafter contained, and subject to the terms and conditions of this Compensation Agreement, the County and DD Board agree as follows:

Section 1. Cooperative Agreement. Contemporaneous with the execution of this Compensation Agreement, the County, DD Board and City of Tallmadge shall execute and deliver to each other the Cooperative Agreement (“Cooperative Agreement”).

Section 2. Representations of the DD Board. The DD Board represents that: (a) it is a county board of developmental disabilities duly organized and validly existing under Chapter 5126 of the Ohio Revised Code; (b) it is legally empowered to enter into and perform the transactions contemplated by this Compensation Agreement; (c) the execution, delivery and performance of this Compensation Agreement does not and will not violate or conflict with any provision of law applicable to the DD Board, and does not, and will not, conflict with or result in a default under any agreement or instrument to which the DD Board is a party or by which it is bound which would have an adverse effect on the DD Board's ability to perform its obligations under this Compensation Agreement (other than such adverse effect which is not material); (d) the DD Board has duly authorized the execution, delivery and performance of this Compensation Agreement; and (e) this Compensation Agreement, when executed and delivered by the DD Board, will constitute the legal, valid and binding obligations of the DD Board, enforceable against it in accordance with the respective terms thereof.

Section 3. Representations of the County. The County represents that: (a) it is a county duly organized and validly existing under the laws of the State and its Charter; (b) it is legally empowered to enter into and perform the transactions contemplated by this Compensation Agreement; (c) the execution, delivery and performance of this Compensation Agreement does not and will not violate or conflict with any provision of law applicable to the County, and does not, and will not, conflict with or result in a default under any agreement or instrument to which the County is a party or by which it is bound which would have an adverse effect on the County's ability to perform its obligations under this Compensation Agreement (other than such adverse effect which is not material); (d) its Legislative Authority has duly authorized the execution, delivery and performance of this Compensation Agreement; and (e) this Compensation Agreement, when executed and delivered by the County, will constitute the legal, valid and binding obligations of the County, enforceable against it in accordance with the respective terms thereof.

Section 4. Bath Township Parcel. The DD Board acknowledges and agrees that the County is the owner of the Bath Township Parcel which is approximately 7.92 acres of land and the improvements located thereon, which includes the structures, fixtures, equipment, HVAC, plumbing, electrical, alarm, sprinkler system, landscaping and as further described in the legal description attached and incorporated herein by reference as Exhibit A.

Section 5. Sale of Bath Township Parcel; Compensation to the DD Board.

The County acknowledges that the DD Board has constructed and maintained, at its sole cost and expense, certain improvements to the Bath Township Parcel. In consideration of those improvements, the County shall agree to sell the Bath Township Parcel to a third party and provide the DD Board with certain compensation in accordance with the terms of this Compensation Agreement.

A. Broker. Immediately upon execution of this Compensation Agreement, if not prior to the same, the County shall list the Bath Township Parcel for sale with a licensed commercial real estate broker mutually agreeable to the DD Board for a period of at least six (6) months for an initial list price of One Million, Three Hundred Ninety Nine Thousand Dollars (\$1,399,000) ("List Purchase Price"). Thereafter, if the Bath Township Parcel does not sell in the initial six (6) month

term, the County shall, at all times until the Bath Township Parcel is sold, continue to list the same for sale with a licensed commercial real estate broker that is mutually agreeable to the DD Board, provided that the County, with the consent of the DD Board, may utilize different brokers than the initial broker, and further provided that the County will be afforded a reasonable time between brokers wherein the Bath Township Parcel may not be listed until such time as the new broker may list the same.

In addition to listing the Bath Township Parcel with a commercial real estate broker, the County will use reasonable and appropriate measures to market the property through its economic development efforts in similar nature to other County-owned property. The County will further comply with all provisions of the Codified Ordinances of the County in selling the Bath Township Parcel.

B. Acceptance of Offer to Purchase. Upon receipt of all offers to purchase the Bath Township Property, the County shall consult with the DD Board and no offer shall be accepted until the County and DD Board mutually agree to sell at the offered price. The County and DD Board shall also cooperate to counter offers and negotiate as they deem appropriate, provided, however, that they must mutually agree to make any counter offers, or accept any subsequent offers.

C. Net Proceeds. Upon agreement to sell, and subsequent sale of the Bath Township Parcel, the County shall receive the sale proceeds and shall deduct all transaction costs incurred by the County, including but not limited to broker fees and commissions marketing expenses, any unpaid liens, encumbrances and closing costs including but not limited to title commitment, title insurance policy, escrow fees, conveyance fees, transfer taxes, prorated real estate taxes, assessments and utilities ("Net Proceeds"). The parties shall pay their own legal fees. Within thirty (30) days of receipt of the Net Proceeds, the County shall deposit the Net Proceeds into an account for the sole use and benefit of the DD Board, provided that pursuant to Ohio law, the Net Proceeds shall be used by the DD Board to fund permanent improvements used by the DD Board in accordance with Ohio Revised Code Chapter 5126. Said payment of the Net Proceeds of the sale of the Bath Township Parcel to the DD Board shall constitute the entire compensation for the investments that the DD Board has made in the Bath Township Parcel.

D. Alternative Solutions. The County and DD Board agree that they may, at any time during the term of this Agreement, mutually agree to sell, lease, transfer, use, or otherwise dispose of the Bath Township Parcel in a manner other than that contemplated and set forth above, and will further amend this Agreement to accomplish such outcome upon the mutual agreement of each party.

Section 6. Possession Until Closing. The DD Board will retain possession of the Bath Township Property and shall continue to remain obligated for the ongoing maintenance, repair and operation of the same including all costs until the date of deed transfer. The DD Board shall cooperate fully with the sale and not disturb, interfere nor prohibit entrance for sale showings and inspections of the Bath Township Parcel.

Section 7. Consideration. In consideration for the compensation provided by the County under this Compensation Agreement, the DD Board agrees to abandon, forfeit and terminate its real property interests including any and all rights of any kind in law and/or in equity the DD Board may have in the Bath Township Parcel upon the sale of the same and the receipt of the Net Proceeds.

Section 8. Environmental Matters. To the best of its knowledge, the DD Board represents and warrants that the Bath Township Parcel is not in violation of any environmental laws and the DD Board has no knowledge of (i) the presence on or about the Bath Township Parcel of any hazardous materials other than the possible existence of asbestos within building materials generally consistent with the type and nature of building materials and buildings of similar vintage; (ii) any release or threatened release of any hazardous materials on or affecting the Bath Township Parcel; or (iii) the existence of any underground storage tanks on or about the Bath Township Parcel. The DD Board has received no notice of any investigation or proceeding by any governmental agency concerning the presence or alleged presence, release or threatened release of hazardous materials on the Bath Township Parcel. The DD Board shall allow a potential purchaser to conduct an environmental phase I and environmental phase II inspection, at the potential purchaser's sole cost, as further provided in the real estate purchase agreement. Following any sale of the Bath Township Parcel, in the event that any proceedings, liabilities or financial obligations arise pertaining to the condition of the Bath Township Parcel, including the existence of hazardous substances in violation of any environmental laws, the County and DD Board will use their best efforts to resolve amongst each other the cost of the same.

Section 9. Miscellaneous.

A. Notices. All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, or delivered by overnight courier service, and addressed to the appropriate Notice Address. Either party, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent. If, because of the suspension of delivery of certified or registered mail or for any other reason, notice, certificates or requests or other communications are unable to be given by the required class of mail or courier service, any notice required to be mailed or delivered by courier service by the provisions of this Compensation Agreement shall be given in such other manner as in the judgment of that party shall most effectively approximate mailing thereof or delivery by courier service, and the giving of that notice in that manner for all purposes of this Compensation Agreement shall be deemed to be in compliance with the requirement for delivery under this Section. Except as otherwise provided herein, the mailing of any notice shall be deemed complete upon deposit of that notice in the mail and the giving of any notice by any other means of delivery shall be deemed complete upon receipt of the notice by the delivery service.

B. Extent of Covenants; No Personal Liability. All covenants, obligations and agreements of the County and DD Board contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future officer, official, employee or agent of the County, or its Legislative Authority, or the DD Board, in other than its

official capacity, and neither the members of the DD Board or the County's Legislative Authority nor any official executing this Compensation Agreement shall be liable personally under this Compensation Agreement or be subject to any personal liability or accountability by reason of the covenants, obligations or agreements of the DD Board or County contained in this Compensation Agreement.

C. Binding Effect. This Compensation Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon each party and their respective permitted successors and assigns. This Compensation Agreement may be enforced only by the parties, their assignees and others who may, by law, stand in their respective places.

D. Amendments and Supplements. Except as otherwise expressly provided in this Compensation Agreement, no provision of this Compensation Agreement may be effectively amended, changed, modified, altered or terminated unless set forth in a writing signed by all of the parties hereto.

E. Entire Agreement. This Compensation Agreement, the Cooperative Agreement entered into by and between the DD Board, the County and the City of Tallmadge on the same date herein, and any other agreements set forth therein constitute the entire agreement between the parties and supersedes all prior understandings or agreements regarding the Bath Township Parcel. There are no conditions or inducements relied upon by the parties prior to the execution of this Compensation Agreement.

F. Execution Counterparts/PDF. This Compensation Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument. Copies of signatures sent or provided electronically in portable document format (PDF) shall be deemed to be originals for purposes of execution and proof of this Compensation Agreement.

G. Severability. If any provision of this Compensation Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

H. Limitation of Rights. With the exception of rights conferred expressly in this Compensation Agreement, nothing expressed or mentioned in or to be implied from this Compensation Agreement is intended or shall be construed to give to any Person other than the parties hereto any legal or equitable right, remedy, power or claim under or with respect to this Compensation Agreement or any covenants, agreements, conditions and provisions contained herein. This Compensation Agreement and all of those covenants, agreements, conditions and provisions are intended to be, and are, for the sole and exclusive benefit of the parties hereto, as provided herein.

I. Governing Law. This Compensation Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State. Any legal suit, action or proceeding arising out of or relating to this Compensation Agreement shall be instituted in a State court sitting in the County.

[Balance of page left intentionally blank.]

IN WITNESS WHEREOF, the parties have caused this Compensation Agreement to be duly executed in their respective names, all as of the date first hereinbefore written.

**SUMMIT COUNTY BOARD OF  
DEVELOPMENTAL DISABILITIES**

By: \_\_\_\_\_  
John Trunk, Superintendent

Approved as to form and correctness:

\_\_\_\_\_  
Lisa Kamlowsky, Assistant Superintendent

**COUNTY OF SUMMIT, OHIO**

By: \_\_\_\_\_  
Ilene Shapiro, Executive

Approved as to form and correctness:

\_\_\_\_\_  
Deborah Matz, Director  
Department of Law and Risk Management

EXHIBIT A

Description of Bath Township Parcel

EXHIBIT E

AGREEMENT FOR COMPENSATION  
WESTERN & EASTERN

AGREEMENT FOR COMPENSATION  
(Western and Eastern)

This Agreement for Compensation (“Compensation Agreement”) is made and entered into as of \_\_\_\_\_, 2020 (“Effective Date”) by and among the SUMMIT COUNTY DEVELOPMENTAL DISABILITIES BOARD, a county board of developmental disabilities duly organized and validly existing under Chapter 5126 of the Ohio Revised Code (the “DD Board”) and the COUNTY OF SUMMIT, OHIO, an Ohio county duly organized and validly existing under the laws of the State and its Charter (the “County”). Capitalized terms not defined herein shall have the same meaning as set forth in the Cooperative Agreement entered into by and between the DD Board, the County and the City of Tallmadge on \_\_\_\_\_, 2020.

**Recitals:**

A. The County is the owner of a certain parcel of real property located in the City of Tallmadge and identified as parcel number \_\_\_\_\_ in the Summit County Records, consisting of approximately \_\_\_ acres, and which is more fully depicted as set forth on Exhibit A (the “Eastern Parcel”); and

B. The County is also the owner of a certain parcel of real property located in the City of Tallmadge and identified as parcel number \_\_\_\_\_ in the Summit County Records, consisting of approximately \_\_\_ acres, and which is more fully depicted as set forth on Exhibit A (the “Western Parcel”); and

C. The Eastern Parcel and Western Parcel were previously part of a larger parcel of property which has generally been used for the last several decades by the DD Board for various operations, including, but not limited to educational, training, administrative and maintenance operations for the benefit of the Summit County residents served by the DD Board, and the Eastern Parcel and Western Parcel was recently split therefrom; and

D. In accordance with its use of the Eastern Parcel and Western Parcel, the DD Board has invested substantial sums in the construction, operation and maintenance of certain improvements, structures and facilities thereon; and

E. The DD Board is no longer using the Eastern Parcel or Western Parcel for its operations; and

F. The County desires to utilize the Western Parcel as a regional public safety dispatch and training facility and the Eastern Parcel as a public safety storage and operations facility; and

G. The County further desires to compensate the DD Board for its prior investments in the Eastern Parcel and Western Parcel; and

H. The County and the DD Board desire to enter into this Compensation Agreement for the County to pay to the DD Board the sum of One Million Three Hundred Fifty Thousand Dollars (\$1,350,000) as the compensation for the DD Board's prior investments in the Eastern Parcel and Western Parcel pursuant to the terms herein.

NOW THEREFORE, in consideration of the premises and the mutual representations and agreements hereinafter contained, and subject to the terms and limitations of this Compensation Agreement, the County and DD Board agree as follows:

Section 1. Representations of the DD Board. The DD Board represents that: (a) it is a county board of developmental disabilities duly organized and validly existing under Chapter 5126 of the Ohio Revised Code; (b) it is legally empowered to enter into and perform the transactions contemplated by this Compensation Agreement; (c) the execution, delivery and performance of this Compensation Agreement does not and will not violate or conflict with any provision of law applicable to the DD Board, and does not, and will not, conflict with or result in a default under any agreement or instrument to which the DD Board is a party or by which it is bound which would have an adverse effect on the DD Board's ability to perform its obligations under this Compensation Agreement (other than such adverse effect which is not material); (d) the DD Board has duly authorized the execution, delivery and performance of this Compensation Agreement; and (e) this Compensation Agreement, when executed and delivered by the DD Board, will constitute the legal, valid and binding obligations of the DD Board, enforceable against it in accordance with the respective terms thereof.

Section 2. Representations of the County. The County represents that: (a) it is a county duly organized and validly existing under the laws of the State and its Charter; (b) it is legally empowered to enter into and perform the transactions contemplated by this Compensation Agreement; (c) the execution, delivery and performance of this Compensation Agreement does not and will not violate or conflict with any provision of law applicable to the County, and does not, and will not, conflict with or result in a default under any agreement or instrument to which the County is a party or by which it is bound which would have an adverse effect on the County's ability to perform its obligations under this Compensation Agreement (other than such adverse effect which is not material); (d) its Legislative Authority has duly authorized the execution, delivery and performance of this Compensation Agreement; and (e) this Compensation Agreement, when executed and delivered by the County, will constitute the legal, valid and binding obligations of the County, enforceable against it in accordance with the respective terms thereof.

Section 3. DD Board's Investment in the Parcel. The County hereby acknowledges the DD Board's significant investment in the Eastern Parcel and Western Parcel during the time of its use, including, but not limited to the construction, operation and maintenance of certain improvements, structures and facilities thereon. Additionally, both the County and the DD Board acknowledge that the compensation paid by the County to the DD Board under Section 4 of this Agreement represents full, fair and adequate compensation to the DD Board for the sums it has invested in the Eastern Parcel and Western Parcel during the DD Board's use. Upon receipt of the compensation set forth in Section 4 of this Agreement, the DD Board forever releases and discharges the County from any claim that the DD Board may have now or in the future regarding reimbursement, compensation or contribution from the County for the sums the DD Board has invested in the Eastern Parcel and Western Parcel.

Section 4. Payment of Compensation to the DD Board. The County shall pay to the DD Board the sum of One Million Three Hundred Fifty Thousand Dollars (\$1,350,000) (the "Compensation Payment"), which shall be paid to the DD Board by the County by interfund transfer in the County's financial accounting system in ten (10) equal installments of One Hundred Thirty-five Thousand Dollars (\$135,000) and no interest, with the first payment being paid within ten (10) days of the execution of this Compensation Agreement, and the remaining nine (9) payments being paid annually by December 31<sup>st</sup> commencing on December 31, 2021 and the last payment on December 31, 2029. Funds shall be transferred into the name of the DD Board to the following fund: Permanent Improvement Fund.

Section 5. Transfer of Possession; Pro-ration of Taxes, Assessments and Utilities. Upon receipt of the first payment of \$135,000 of the Compensation Payment, the DD Board shall transfer possession of the Eastern Parcel and Western Parcel to the County by vacating the same and providing the County keys to all buildings or structures thereon. Any utilities not currently in the name of the County shall be transferred from the DD Board to the County, and the County shall assume payment of all utilities as of the date of the payment of the Compensation Payment. Furthermore, any and all taxes, assessments and utilities shall be pro-rated as of the date of the payment of the Compensation Payment, with the DD Board responsible for paying all costs of the same that were incurred prior to the payment of the Compensation Payment, and the County assuming the payment of the same commencing upon the payment of the Compensation Payment.

Section 6. Assumption of Responsibility to Operate, Repair and Maintain; Release. Upon payment of the first payment of \$135,000 of the Compensation Payment, the County shall assume responsibility for all operations, repair and maintenance of the Eastern Parcel and Western Parcel, which shall be an ongoing obligation. Additionally, the County will take possession of the Eastern Parcel and Western Parcel in their As-Is condition, and upon the payment of the first payment of \$135,000 of the Compensation Payment, the County forever releases and discharges the DD Board from any claim that the County may have now or in the future regarding the condition of the Eastern Parcel and Western Parcel or any failure, intentional or otherwise, of the DD Board to repair or maintain the Eastern Parcel and Western Parcel in any condition whatsoever.

Section 7. Environmental Conditions. Upon making the first payment of \$135,000 of the Compensation Payment, the County agrees to hold the DD Board harmless from and against any and all claims, notices, actions, proceedings, judgments, causes of action, liabilities (whether fixed, absolute, accrued, contingent or otherwise and whether direct or indirect, primary or secondary, known or unknown), losses, demands, costs, assessments, damages, (including without limitation exemplary, special, consequential, punitive, multiple, natural resources and other damages), interest, penalties and expenses, court filing fees, court costs, arbitration fees or costs, witness fees, costs and reasonable fees and disbursements of legal counsel, investigators, expert witnesses, consultants, accountants and other professionals incurred by or asserted against the DD Board as a result of the presence or suspected presence of any Environmental Condition.

"Environmental Condition" shall mean any condition, contamination, constituent(s) or set of circumstances in, on, under, around or related to the Eastern Parcel and Western Parcel that is present on or prior to the date of the payment of the first payment of \$135,000 of the Compensation

Payment that constitutes or may constitute a threat to or endangerment of health, safety, property or the environment, or otherwise gives rise to liability under any Environmental Law, including without limitation the presence or release, or threatened release, of any Hazardous Material into, on or under the air, soil, surface water, groundwater or other media.

“Environmental Laws” means any and all past, present and/or future laws relating to health, safety or pollution or protection of the environment, including, without limitation, those relating to emissions, discharges, spills or other releases or threatened releases of Hazardous Materials into or impacting the environment or natural resources (including, without limitation, ambient air, surface water, groundwater or land), or otherwise relating to the manufacture, processing, distribution, use, treatment, recycling, storage, disposal, transport, sale, offer for sale, distribution or handling of Hazardous Materials, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq. (“CERCLA”), the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., and the Occupational Safety and Health Act, 29 U.S.C. §§ 651 et seq., any amendments or successor statutes to any of the foregoing, and the rules, regulation, permits orders and decrees implementing the same and all analogous state and local laws, rules regulations, permits, orders and decrees and common law, including without limitation, principles of nuisance, negligence, trespass and strict liability.

“Hazardous Materials” means all substances, whether waste materials, raw materials, finished products, co-products, byproducts or any other materials or articles, which (from use, handling, processing, storage, emission, disposal, spill, release or any other activity or for any other reason) are regulated by, form the basis of liability under, or are defined as hazardous, extremely hazardous or toxic under, any Environmental Laws, including, without limitation, petroleum or any byproducts or fractions thereof, any form of natural gas, asbestos, polychlorinated biphenyls, radon or other radioactive substances, infectious, carcinogenic, mutagenic or etiologic agents, pesticides, defoliants, explosives, flammables, corrosives, urea formaldehyde, alcohols, chemical solvents, pollutants or contaminants, or any other material or substance which constitutes a health, safety or environmental hazard to any person, property or natural resource.

## Section 8. Miscellaneous.

A. Notices. All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, or delivered by overnight courier service, and addressed to the appropriate Notice Address. Either party, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent. If, because of the suspension of delivery of certified or registered mail or for any other reason, notice, certificates or requests or other communications are unable to be given by the required class of mail or courier service, any notice required to be mailed or delivered by courier service by the provisions of this Compensation Agreement shall be given in such other manner as in the judgment of that party shall most effectively approximate mailing thereof or delivery by courier service, and the giving of that notice in that manner for all purposes of this Compensation Agreement shall be deemed to be in compliance with the requirement for delivery under this Section. Except as

otherwise provided herein, the mailing of any notice shall be deemed complete upon deposit of that notice in the mail and the giving of any notice by any other means of delivery shall be deemed complete upon receipt of the notice by the delivery service.

B. Extent of Covenants; No Personal Liability. All covenants, obligations and agreements of the County and DD Board contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future officer, official, employee or agent of the County, or its Legislative Authority, or the DD Board, in other than its official capacity, and neither the members of the DD Board or the County's Legislative Authority nor any official executing this Compensation Agreement shall be liable personally on this Compensation Agreement or be subject to any personal liability or accountability by reason of the covenants, obligations or agreements of the DD Board or County contained in this Compensation Agreement.

C. Binding Effect. This Compensation Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon each party and their respective permitted successors and assigns. This Compensation Agreement may be enforced only by the parties, their assignees and others who may, by law, stand in their respective places.

D. Amendments and Supplements. Except as otherwise expressly provided in this Compensation Agreement, no provision of this Compensation Agreement may be effectively amended, changed, modified, altered or terminated unless set forth in a writing signed by all of the parties hereto.

E. Execution Counterparts/PDF. This Compensation Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument. Copies of signatures sent or provided electronically in portable document format (PDF) shall be deemed to be originals for purposes of execution and proof of this Compensation Agreement.

F. Severability. If any provision of this Compensation Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

G. Limitation of Rights. With the exception of rights conferred expressly in this Compensation Agreement, nothing expressed or mentioned in or to be implied from this Cooperative Agreement is intended or shall be construed to give to any Person other than the parties hereto any legal or equitable right, remedy, power or claim under or with respect to this Compensation Agreement or any covenants, agreements, conditions and provisions contained herein. This Compensation Agreement and all of those covenants, agreements, conditions and

provisions are intended to be, and are, for the sole and exclusive benefit of the parties hereto, as provided herein.

H. Governing Law. This Compensation Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State. Any legal suit, action or proceeding arising out of or relating to this Compensation Agreement shall be instituted in a State court sitting in the County.

[Balance of page left intentionally blank.]

IN WITNESS WHEREOF, the parties have caused this Compensation Agreement to be duly executed in their respective names, all as of the date first hereinbefore written.

**SUMMIT COUNTY BOARD OF  
DEVELOPMENTAL DISABILITIES**

By: \_\_\_\_\_  
John Trunk, Superintendent

Approved as to form and correctness:

\_\_\_\_\_  
Lisa Kamlowsky, Assistant Superintendent

**COUNTY OF SUMMIT, OHIO**

By: \_\_\_\_\_  
Ilene Shapiro, Executive

Approved as to form and correctness:

\_\_\_\_\_  
Deborah Matz, Director  
Department of Law and Risk Management

Exhibit A

Description of Eastern Parcel

Description of Western Parcel

EXHIBIT F

DRAINAGE EASEMENT

**EASEMENT AGREEMENT**

**THIS EASEMENT AGREEMENT** ("Easement") is made effective as of the date signed, by and between the **COUNTY OF SUMMIT, OHIO, as Grantor and Grantee**, an Ohio political subdivision, with its principal place of business located at 175 South Main Street, 8<sup>th</sup> Floor, Akron, Ohio 44308 ("County").

Grantor is the owner of the real property identified in the Summit County Fiscal Office Records as Permanent Parcel Number \_\_\_\_\_, further described in the legal description which is attached and incorporated as Exhibit A (hereinafter the "Property").

Grantor, for good and valuable consideration, the receipt and sufficiency is hereby acknowledged, grants to itself, its successor, assigns and all subsequent owners of the real properties identified in the Summit County Fiscal Office Records as Permanent Parcel Number \_\_\_\_\_, Permanent Parcel Number \_\_\_\_\_ and Permanent Parcel Number \_\_\_\_\_, further described in the legal descriptions which are attached and incorporated as Exhibit B (hereinafter collectively the "Grantee Properties"), a non-exclusive, permanent easement and perpetual right to discharge only storm water and surface water drainage that naturally accumulates, runs through or runs onto the Grantee Properties into the storm water drainage basin/retention pond located on the Property, which easement is further described in the legal description and plat which is attached and incorporated as Exhibit C (hereinafter the "Easement Area").

Grantor, its successor, assigns and all subsequent owners of the Property, has the obligation to maintain, repair and keep clear, as reasonable and necessary, the storm water drainage basin/retention pond in the Easement Area.

Upon the County's deed transfer of its ownership in the Grantee Properties, the successor, assigns and all subsequent owners of the Grantee Properties will release, forfeit any rights and will not bring any causes of action against the County, its successor, assigns and all subsequent owners of the Property for any liabilities, claims for damage to persons or property, or any costs and expenses related to or arising from the storm water drainage basin/retention pond. The Easement shall run with the land and be binding upon the successors, assigns and all subsequent owners of the Grantor and Grantee.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[Signatures on Next Page]

Exhibit A  
Legal Description  
Eastern Split Parcel

Exhibit B  
Legal Description  
Western Split Parcel, Ballfield Split Parcel and Central Split Parcel

Exhibit C  
Legal Description and Plat for Drainage Retention Pond

EXHIBIT G

REAL ESTATE PURCHASE AGREEMENT

**REAL ESTATE PURCHASE AGREEMENT**

**COUNTY OF SUMMIT, as Seller**

and

**CITY OF TALLMADGE, as Buyer**  
**(Ballfield Split and Central Split from the Howe Road Parcel**  
**and North Avenue Parcel)**

**THIS REAL ESTATE PURCHASE AGREEMENT** ("Agreement") is made on \_\_\_\_\_, 2020 ("Effective Date"), by and between the **County of Summit, Ohio** ("County" or "Seller"), an Ohio political subdivision, with its principal place of business at 175 South Main Street, 8<sup>th</sup> Floor, Akron, Ohio 44308 and the **City of Tallmadge, Ohio**, an Ohio municipal corporation duly organized and validly existing under the laws of the State and its Charter ("City" or "Purchaser"), with its principal place of business located at 46 North Avenue, Tallmadge, Ohio 44278. The Seller and Purchaser shall collectively be known as the Parties.

WHEREAS, the County currently owns the Properties (herein defined) and desires to sell the Properties;

WHEREAS, the Purchaser desires to purchase the Properties;

WHEREAS, the County agrees to sell the Properties to the Purchaser pursuant to the terms and conditions provided in this Agreement and as authorized by the County of Summit Council Resolution No. 20-\_\_\_\_ dated \_\_\_\_\_; and

WHEREAS, the Purchaser agrees to purchase the Properties from the County pursuant to the terms and conditions provided in this Agreement and as authorized by the City of Tallmadge Council Ordinance No. \_\_\_\_\_ dated \_\_\_\_\_.

NOW THEREFORE, IN CONSIDERATION of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**SECTION 1. DESCRIPTION OF PROPERTIES;  
AGREEMENT OF PURCHASE AND SALE**

1.1 Purchase and Sale; Properties. In exchange for the consideration described in Section 2.1 herein and pursuant to the terms and conditions of this Agreement, the County agrees to convey to Purchaser the following:

- (a) Approximately 14.03 acres of vacant land, recorded as Summit County Fiscal Office Permanent Parcel No. 6009948, also known as 730 North Avenue, Tallmadge, Ohio 44278, as further described in the legal description which is

attached hereto and incorporated herein by reference as **Exhibit A** ("North Avenue Parcel");

- (b) Approximately {3.25 acres} of vacant land, including a storage shed, recorded as Summit County Fiscal Office Permanent Parcel No. \_\_\_\_\_, as further described in the legal description which is attached hereto and incorporated herein by reference as **Exhibit B** ("Ballfield Split Parcel"); and
- (c) Approximately {11.90 acres} of land, including structures and improvements, recorded as Summit County Fiscal Office Permanent Parcel No. \_\_\_\_\_, as further described in the legal description which is attached hereto and incorporated herein by reference as **Exhibit C** ("Central Split Parcel").

Purchaser shall simultaneously purchase the North Avenue Parcel, the Ballfield Split Parcel and the Central Split Parcel which shall collectively be referred to as the "Properties" in accordance with the terms of this Agreement.

1.2 Condition Precedent. The Purchaser shall purchase the Properties on the condition precedent that prior to the date of the Closing (herein defined), the following events shall be completed:

- A. Lot Split of Howe Road Parcel (Creating the Ballfield Split Parcel and Central Split Parcel). The County-owned parcel, Summit County Fiscal Office Permanent Parcel No. 6009947, also known as 89 E. Howe Road, Tallmadge, Ohio ("Howe Road Parcel"), shall be lot split into the following four (4) parcels and the plat shall be recorded with the Summit County Fiscal Office as depicted on **Exhibit D** which is attached and incorporated herein by reference:
  - (i) Permanent Parcel No. \_\_\_\_\_, being approximately {7 acres} ("Western Split Parcel") which shall remain owned by the County;
  - (ii) Permanent Parcel No. \_\_\_\_\_, being approximately {6 acres} ("Eastern Split Parcel") which shall remain owned by the County;
  - (iii) Permanent Parcel No. \_\_\_\_\_, being approximately {3.25 acres} which is the Ballfield Split Parcel; and
  - (iv) Permanent Parcel No. \_\_\_\_\_, being approximately {11.90 acres} which is the Central Split Parcel.
- B. Legal Descriptions and Surveys. The County shall select the vendors and pay all costs to effectuate the lot split of the Howe Road Parcel into the Eastern Split Parcel, Western Split Parcel, Ballfield Split Parcel and Central Split Parcel, consistent with **Exhibit D**, which shall include, but not be limited to: (i) contracting the services of a licensed surveyor to survey the Howe Road Parcel and prepare the necessary documents, including all legal descriptions, surveys and plat; (ii) preparing any deeds necessary to effectuate the lot split; (iii) submitting the plat and any other necessary documents to the City for approval consistent with the City's

applicable planning and zoning ordinances; and (iv) following approval of the City, recording the surveys, plat and deeds necessary to effectuate the lot split with the Summit County Fiscal Office. The City shall cooperate with the County's obligation to undertake the lot split of the Howe Road Parcel as described herein, including the City using its best efforts to duly authorize the lot split in accordance with the City's planning and zoning ordinances.

- C. Easement for Drainage onto Eastern Split Parcel. The County shall execute and record with the Summit County Fiscal Office a drainage easement ("Drainage Easement") encumbering the Eastern Split Parcel wherein the County, as owner, grants to itself and all subsequent owners of the Western Split Parcel, the Ballfield Parcel and the Central Split Parcel, a non-exclusive right to discharge storm and surface water into the stormwater drainage basin/retention pond located on the Eastern Split Parcel. The Drainage Easement shall give the County, as owner, and all subsequent owners of the Eastern Split Parcel, the obligation to maintain, repair and keep clear as reasonable and necessary, the stormwater basin/retention pond. The Drainage Easement shall further give the County, as owner, and all subsequent owners of the Central Split Parcel, the Ballfield Split Parcel, and the Western Split Parcel, the obligation to discharge only surface water and/or storm water that naturally accumulates, runs through or runs onto the Central Split Parcel, the Ballfield Split Parcel, and the Western Split Parcel into the stormwater drainage basin/retention pond located on the Eastern Split Parcel. The County, as owner, and all subsequent owners of the Eastern Split Parcel, shall have the right to relocate the stormwater drainage basin/retention pond on the Eastern Split Parcel. Upon the County's deed transfer of its ownership, all subsequent owners of the Central Split Parcel, Ballfield Split Parcel and Western Split Parcel will release, forfeit any rights and will not bring any causes of action against the County or subsequent owners of the Eastern Split Parcel for any liabilities, claims for damage to persons or property, or any costs and expenses related to or arising from the stormwater drainage basin/retention pond. The County, at its sole cost and expense, shall prepare and record the Drainage Easement which shall include obtaining the survey and legal description. A form of the easement is attached hereto and incorporated herein by reference as **Exhibit E** and is acceptable to the County and Purchaser.

## SECTION 2. PURCHASE PRICE

- 2.1 Purchase Price. The total purchase price for the North Avenue Parcel, Ballfield Split Parcel and Central Split Parcel shall be \$1.00 for all three parcels that comprise the Properties ("Purchase Price") payable at the Closing.

## SECTION 3. TITLE AND SURVEY; INSPECTION

- 3.1 Title. County shall, at Closing, convey to the Purchaser title to the Properties by quit claim deeds.

3.2 Title Commitment. Within sixty (60) days after the Effective Date, Purchaser shall have the option, at Purchaser's sole cost, to obtain a commitment ("Title Commitment") for an Owner's Policy of Title Insurance for the Properties issued by a title company ("Title Company") setting forth the condition of title to the Properties. Purchaser shall have ten (10) days after receipt of the Title Commitment ("Title Review Period") to review the condition of title to the Properties. If during the Title Review Period the Purchaser determines that there is any matter or condition in the Title Commitment which, in Purchaser's reasonable opinion, renders the Properties unfit for its intended use, Purchaser shall provide written notice to County on or before the expiration of the Title Review Period of any such matter or condition ("Purchaser's Title Objection Notice"). County shall have no obligation to correct or cure such objections, but may at its sole option, elect to cure or correct such objections. Within fourteen (14) days after receipt of Purchaser's Title Objection Notice, County shall advise Purchaser in writing whether or not County will correct or cure such matter or condition ("Seller's Response"). If County elects to correct or cure such matter or condition, County shall commence such cure with due diligence and shall have the right to extend the Closing for a reasonable period of time to complete such cure. If County elects not to correct or cure such matter or condition, Purchaser shall have the right, upon written notice to County within fourteen (14) days after receipt of Seller's Response, to either (a) agree to waive any objection to such matter or condition and proceed to Closing without any cure of such matter or condition and without any reduction in the Purchase Price; or (b) elect to terminate this Agreement for all Properties since all Properties are being sold collectively, in which event, the parties shall have no further obligations except as specifically provided in this Agreement. Purchaser's failure to deliver Purchaser's Title Objection Notice on or before the expiration of the Title Review Period shall constitute a waiver by Purchaser of any right to object to any matter or condition relating to the Title Commitment or the condition of title to the Properties and any right to terminate this Agreement based upon the same, with all such matters or conditions becoming a Permitted Encumbrance.

3.3 Due Diligence. For a period commencing upon the execution of this Agreement and continuing until February 28, 2021 ("Inspection Period"), Purchaser together with Purchaser's agents, employees and authorized representatives ("Purchaser's Agents"), shall have the right, at Purchaser's sole cost, to enter upon the Properties to conduct such inspections and other tests as Purchaser may desire and to determine the condition of the Properties, the suitability for intended use, whether the Properties are in compliance with all applicable federal, state, or local laws, rules, ordinances, regulations, and codes, and any other matters which Purchaser desires to inspect ("Inspections").

(a) During the Inspection Period and upon reasonable notice, the County grants to Purchaser and Purchaser's Agents, the right and permission to enter upon the Properties to conduct Inspections and related tests; provided that (a) such Inspections and tests shall not cause any material damage the Properties; (b) such Inspections and tests shall be conducted at Purchaser's cost and expense; and (c) Purchaser shall release, forfeit and not bring any causes of action against the County for any liabilities, claims for damage to persons or property, or any costs and expenses related to or arising from the Inspections and tests.

(b) If during the Inspection Period the Purchaser determines from the Inspections that there is any matter or condition which, in Purchaser's reasonable opinion, renders the Properties unfit for its intended use, Purchaser shall provide written notice to the County on or

before the expiration of the Inspection Period of any such matter or condition, together with a copy of any applicable report or survey describing such matter ("Purchaser's Objection Notice"). County shall have no obligation to correct or cure such objections, but may at its sole option, elect to cure or correct such objections. Within fourteen (14) days after receipt of Purchaser's Objection Notice, County shall advise Purchaser in writing whether or not County will correct or cure such matter or condition ("Seller's Response"). If County elects to correct or cure such matter or condition, County shall commence such cure with due diligence and shall have the right to extend the Closing for a reasonable period of time to complete such cure. If County elects not to correct or cure such matter or condition, Purchaser shall have the right, upon written notice to County within fourteen (14) days after receipt of Seller's Response, to either (a) agree to waive any objection to such matter or condition and proceed to Closing without any cure of such matter or condition and without any reduction in the Purchase Price; or (b) elect to terminate this Agreement for all Properties since all Properties are being sold collectively, in which event, Purchaser shall deliver to County all originals and copies of any tests, surveys, or written reports generated as a result of the Inspections, and the parties shall have no further obligations hereunder, except as specifically provided in this Agreement. Purchaser's failure to deliver Purchaser's Objection Notice on or before the expiration of the Inspection Period shall constitute a waiver by Purchaser of any right to object to any matter or condition of the Properties and any right to terminate this Agreement based upon the same, with any such matter or condition becoming a Permitted Encumbrance.

3.4 Reports. Purchaser acknowledges and agrees that any tests, surveys, reports, or other documents relating to the Inspections or otherwise delivered by County to Purchaser or its agents ("Reports") are confidential and Purchaser or its agents shall not disclose or reveal the Reports to any other person, entity, governmental authority or other association without the prior written consent of County, except as may be required by law or in a court of competent jurisdiction. In the event this Agreement is terminated for any reason, Purchaser or its agents shall promptly return to County all originals and copies of the Reports. Purchaser acknowledges receipt of the Phase I Environmental Site Assessment conducted HZW Environmental Consultants, dated May 13, 2020 and the Sampling of Soil from Transformer Area conducted by the Cardinal Group, dated September 30, 2020.

**3.5 PURCHASER ACKNOWLEDGES AND AGREES THAT THE SALE OF THE PROPERTIES PURSUANT TO THIS AGREEMENT IS AND SHALL BE MADE ON AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" BASIS, WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE BY COUNTY, INCLUDING WITHOUT LIMITATION THE CONDITION OR VALUE OF THE PROPERTIES OR THE SUITABILITY OF THE PROPERTIES FOR PURCHASER'S INTENDED USE. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT COUNTY HAS AFFORDED PURCHASER THE OPPORTUNITY FOR FULL AND COMPLETE INVESTIGATIONS, EXAMINATIONS AND INSPECTIONS OF THE PROPERTIES AND THAT PURCHASER SHALL ACQUIRE THE PROPERTIES SOLELY ON THE BASIS OF PURCHASER'S OWN REVIEW AND INSPECTION OF THE PROPERTIES. BY EXECUTING THIS AGREEMENT, PURCHASER EXPRESSLY ACKNOWLEDGES AND AGREES TO THE FOREGOING PROVISIONS OF THIS PARAGRAPH, WHICH ARE MATERIAL, NEGOTIATED TERMS OF THIS AGREEMENT WITHOUT WHICH COUNTY WOULD NOT ENTER INTO THIS AGREEMENT WITH PURCHASER.**

#### SECTION 4. CONDITIONS TO CLOSING

4.1 Conditions. The obligations of the parties to close the transaction contemplated by this Agreement are subject to the following conditions:

(a) The representations and warranties of the parties contained in Section 5 of this Agreement shall be true on the date of Closing as though those representations and warranties were made on that date.

(b) Neither Purchaser nor County shall have breached any affirmative covenant contained in this Agreement to be performed by them on or before to the date of Closing.

(c) Purchaser approves and finds satisfactory all of the matters set forth in Section 3 including Purchaser's right to obtain a title report setting forth the condition of title to the Properties and Purchaser's right to enter upon the Properties to conduct inspections and other tests as Purchaser may desire to determine the condition of the Properties. In the event the Purchaser has delivered written objections prior to the Closing in the manner and within the time period provided in this Agreement or if County has not remedied Purchaser's objections prior to Closing, then Purchaser waives all objections and County has no obligations under Section 3 herein.

(d) County shall have timely delivered to Purchaser in satisfactory form the documents and all other items referred to in Section 6 below.

(e) County shall have completed the lot split of the Howe Road Parcel and submitted it to the Summit County Fiscal Office as shown on Exhibit D.

(f) County shall have recorded the Drainage Easement as shown on Exhibit E.

#### SECTION 5. REPRESENTATIONS, WARRANTIES, RELEASE

5.1 Seller's Representations. County makes the following representations to Purchaser as of the date of this Agreement and the date of the Closing:

(a) County is a county and political subdivision duly organized and validly existing under the laws of the State of Ohio and its Charter and has all the necessary power and authority to enter into this Agreement and to consummate the transactions contemplated hereby.

(b) County has duly authorized the execution, delivery and performance of this Agreement.

(c) There are no suits, actions, or proceedings pending or to the best of County's knowledge, contemplated against or concerning the Properties.

(d) County's execution, delivery and performance of this Agreement shall not constitute a default under any agreement, lease, indenture, order or other instrument or document by which County or Properties may be bound.

5.2 Purchaser's Representations. Purchaser makes the following representations to the County as of the date of this Agreement and the date of the Closing:

(a) Purchaser is a municipal corporation duly organized and validly existing under the laws of the State of Ohio and its Charter and has all necessary power and authority to enter into this Agreement and to consummate the transactions contemplated hereby.

(b) Purchaser has duly authorized the execution, delivery and performance of this Agreement.

(c) There are no suits, actions, or proceedings pending or to the best of Purchaser's knowledge, contemplated against or concerning the Purchaser which would have a material and adverse impact upon Purchaser's ability to enter into and perform this Agreement.

(d) Purchaser's execution, delivery and performance of this Agreement shall not constitute a default under any agreement, lease, indenture, order or other instrument or document by which Purchaser may be bound.

5.3 Purchaser's Release for Environmental Matters. To the best of its knowledge, the County represents and warrants that the Properties are not in violation of any environmental laws and the County has no knowledge of (i) the presence on or about the Properties of any hazardous materials, other than the possible existence of asbestos within building materials generally consistent with the type and nature of building materials and buildings of similar vintage; (ii) any release or threatened release of any hazardous materials on or affecting the Properties; or (iii) the existence of any underground storage tanks on or about the Properties. The County has received no notice of any investigation or proceeding by any governmental agency concerning the presence or alleged presence, release or threatened release of hazardous materials on the Properties. The Purchaser acknowledges receipt from the County of the Phase I Environmental Site Assessment prepared by HZW Environmental, dated May 13, 2020, for the property located at 630 North Avenue, Tallmadge, which is part of Parcel Number 6009947, together with subsequent PCB testing conducted at the former site of two former transformers by the Cardinal Group, dated September 30, 2020 (the latter found no instances of environmental hazards). The Purchaser may obtain an environmental phase I, environmental phase II or asbestos abatement for the Ballfield Split Property, the Central Split Parcel and North Avenue Parcel at its sole cost. The Purchaser shall agree to release the County and Summit County Developmental Disabilities Board ("DD Board") for any liabilities and financial obligations in any action or proceeding pertaining to the condition of the Ballfield Split Property, the Central Split Parcel and the North Avenue Parcel including the existence of hazardous substances in violation of any environmental laws.

Purchaser (and its respective successors and assigns) shall release, forfeit any rights and will not bring any causes of actions against County and DD Board, and the respective directors, officers, agents, and employees (collectively the "Released Parties" and, individually, a "Released Party") for any and all claims, demands, causes of action, administrative proceedings

(formal or informal), losses, damages, expenses (including, without limitation, sums paid in settlement and reasonable fees for attorneys, consultants, experts and accountants), injuries, judgments, liabilities, penalties, fines or claims of any other kind or, foreseen or unforeseen, which may be imposed upon, incurred by or asserted against the Released Parties and brought with respect to the environmental condition of the Properties or the existence or release of any Hazardous Substances in violation of any Environmental Laws. "Environmental Laws" means any and all current and future federal, state, local, municipal or other applicable constitutions, laws, ordinances, principles of common law, regulations, statutes or treaties designed to regulate, minimize, prevent, punish or remedy the consequences of actions that damage or threaten the environment or public health and safety, including without limitation, all applicable federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, state and local governmental agencies and authorities with respect thereto, including, without limitation, RCRA, CERCLA, the Clean Water Act (33 U.S.C. §§ 1251, *et seq.*), the Clean Air Act (42 U.S.C. §§ 7401, *et seq.*), Chapters 3704, 3734 and 6111 of the Ohio Revised Code and the rules and regulations promulgated or adopted under any of the foregoing statutes. "Hazardous Substance" means, without limitation, any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials as defined in CERCLA, the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801, *et seq.*), as enacted and from time to time amended, RCRA, the Toxic Substance Control Act (15 U.S.C. §§ 2601, *et seq.*), as enacted and from time to time amended, or any other applicable Environmental Law and in the regulations adopted pursuant thereto now or in the future.

In case any action or proceeding is brought against a Released Party in respect of which payment or reimbursement may be sought hereunder, the Released Party seeking payment or reimbursement promptly shall give written notice of that action or proceeding to the Purchaser and the Purchaser upon receipt of that notice shall have the obligation and the right to assume the defense of the action or proceeding; provided, that failure to give that notice shall not relieve the Purchaser from any of its obligations under this section. At its own expense, a Released Party may employ separate counsel and participate in the defense.

5.4 Survival. Each of the covenants, warranties, representations, agreements and releases contained in this Agreement shall be made as of the date hereof and shall be deemed renewed on the date of Closing and shall survive the date of Closing, the payment of the Purchase Price, the filing of the deeds for record and shall not be merged into the deeds of any of the Properties.

## SECTION 6. CLOSING AND TRANSFER OF TITLE

6.1 Closing. Unless extended by written agreement of the parties and provided that all Conditions to Closing under Section 4 herein have been satisfied, the closing ("Closing") for the delivery of Seller's deed, payment of the Purchase Price, plus or minus Closing adjustments, and delivery of the other instruments provided for in this Agreement, shall be the earlier of (i) December 31, 2022 or (ii) within thirty (30) days after the vacation of the Central Split Parcel by

the DD Board. In the event that the DD Board vacates the Central Split Parcel prior to December 31, 2022, then the County shall promptly notify the Purchaser and record the Quit Claim deeds for the Properties within thirty (30) days after the DD Board vacates the Central Split Parcel.

6.2 Seller's Documents; Other Deliveries. At Closing, County shall execute and/or deliver the following:

(a) A Quit Claim Deed to the North Avenue Parcel, the Ballfield Split Parcel and the Central Split Parcel which comprise the Properties.

(b) Such other documents or instruments as may be reasonably requested by Purchaser, required by other provisions of this Agreement or reasonably necessary to effectuate the Closing. All of the documents and instruments to be delivered by County shall be in the form and substance reasonably satisfactory to counsel for Purchaser.

6.3 Purchaser's Documents; Other Deliveries. At Closing, Purchaser shall deliver to the County any documents and instruments necessary to consummate the sale and which shall be in form and substance reasonably satisfactory to counsel for the County.

## SECTION 7. POSSESSION

7.1 County shall deliver exclusive possession of the Properties to the Purchaser at Closing.

## SECTION 8. PRORATIONS AND EXPENSES

8.1 Real Estate Taxes and Assessments. Real property taxes (if any), general and special assessments and assessments for the Properties shall be prorated between County and Purchaser as of the date of Closing.

8.2. Closing Costs. Purchaser shall pay the following costs and expenses: (a) costs and fees for the Title Commitment and the Title Policy if obtained; (b) the real property transfer taxes and conveyance fees for the Properties, if any; (c) all recording fees for the Deeds; (d) all of the escrow fee; and (3) the costs and fees for the Inspections. At Closing, the parties shall execute and deliver to each other an agreed-upon closing statement which reflects the allocation of costs, adjustments due to credits or prorations, and disbursement of the Purchase Price, all as set forth more fully in this Agreement.

8.2 Utility Expenses. Charges for utilities for the Properties shall be prorated between County and Purchaser as of the date of Closing.

8.3 Legal Fees. Each party shall be responsible for the payment of its legal fees related to this Agreement.

## SECTION 9. NOTICES

All notices permitted or required under this Agreement shall be in writing and shall be deemed properly delivered immediately upon hand delivery or three business days after being deposited in the United States mail sent certified with return receipt requested, postage prepaid, addressed to the parties at their respective addresses set forth below or as they may otherwise specify by written notice delivered in accordance with this Section:

As to Seller: Ilene Shapiro  
Executive  
County of Summit  
175 S. Main St., 8<sup>th</sup> Floor  
Akron, Ohio 44308

with a copy to: Deborah S. Matz  
Director of Law and Risk Management  
County of Summit  
175 South Main Street, 8<sup>th</sup> Floor  
Akron, Ohio 44308

As to Purchaser: David G. Kline, Mayor  
City of Tallmadge  
46 North Avenue  
Tallmadge, OH 44278

with a copy to: Megan Raber, Law Director  
City of Tallmadge  
46 North Avenue  
Tallmadge, OH 44278

## SECTION 10. MISCELLANEOUS

10.1 Damage or Destruction. If any buildings or other improvements on the Properties are substantially damaged or destroyed prior to the Closing, Purchaser or Seller shall have the option within 10 days of notice to the other party: (a) to proceed with Closing without reduction of the Purchase Price; or (b) to immediately terminate this Agreement by providing written notice. If either party terminates this Agreement pursuant to clause (b), both parties shall be released from all further obligations under this Agreement except as specifically provided herein.

10.2 Entire Agreement. This Agreement constitutes the entire contract between the parties and supersedes all prior understandings, if any, there being no other oral or written promises, conditions, representations, understandings or terms of any kind as conditions or inducements to the execution of this Agreement and none have been relied upon by either party. Any subsequent conditions, representations, warranties or agreements shall not be valid and binding upon the parties unless in writing and signed by both parties.

10.3 Successor and Assigns; Assignment. This Agreement shall be binding and inure to the benefit of the successors, agents, representatives and assigns of the parties hereto, provided however that, neither party may assign its rights hereunder without the prior written consent of the other party.

10.4 Counterparts. This Agreement may be executed by all parties in counterparts, each of which shall be deemed an original, but all of such counterparts taken together shall constitute one and the same Agreement.

10.5 Governing Law. This Agreement shall be construed, and the rights and obligations of the parties shall be determined, in accordance with the laws of the State of Ohio.

10.6 Waiver. The waiver of or failure to enforce any provision of this Agreement shall not be a waiver of any further breach of such provision or of any other provision hereof.

10.7 Modifications. No change or addition to this Agreement or any part hereof shall be valid unless in writing and signed by each of the parties.

10.8 Headings. The headings in this Agreement are for convenience only and shall not be used to interpret this Agreement.

10.9 Time; Calculation of Time Periods. Time is of the essence in the performance of this Agreement. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday for national banks in the location where the Property is located, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. The last day of any period of time described herein shall be deemed to end at 5:00 p.m., Akron, Ohio time.

IN WITNESS WHEREOF, the parties below have executed this Agreement effective as of the date hereinabove.

**SELLER:**

COUNTY OF SUMMIT

By: \_\_\_\_\_  
Ilene Shapiro, Executive

Approved as to form:

By: \_\_\_\_\_  
Deborah S. Matz, Director  
Department of Law and Risk Management

**PURCHASER:**

CITY OF TALLMADGE, OHIO

By: \_\_\_\_\_  
David G. Kline, Mayor

Approved as to form:

By: \_\_\_\_\_  
Megan Raber, Law Director

**EXHIBIT A**

Legal Description

North Avenue Parcel

**EXHIBIT B**

Legal Description

Ballfield Split Parcel

**EXHIBIT C**

Legal Description

Central Split Parcel

**EXHIBIT D**

Howe Road Parcel

Lot Split Plat

**EXHIBIT E**

DRAINAGE EASEMENT