

To: Members of Dublin City Council
From: Dana L. McDaniel, City Manager
Date: August 10, 2021
Initiated By: Matt Earman, Director of Parks and Recreation
Re: Ordinance 44-21 through 53-21 – Authorizing the City Manager to Execute Easements along the Indian Run Meadows Planned Use Development Corridor for Landscape Maintenance

Background

Ordinances 44-21 through 53-21 are a series of Ordinances for securing landscape maintenance easements associated with the Greenway Corridor Program that was initiated by City Council last year for the properties adjoining Avery-Muirfield Drive in the Indian Run Meadows Subdivision. This program includes securing landscape easements from property owners along the corridor, allowing the City to take over maintenance of the appropriate tree and shrub screening as reflected in the Development Text. Attached are previous staff reports related to this Ordinance for reference and additional details regarding the required screening (Appendix A).

Staff has contacted each property owner along the Corridor requesting their participation in the program. Of the 29 private property owners that were contacted, 23 affirmed they are interested in participating, one owner declined to participate, one owner is undecided, and four were not responsive to the request. Staff will continue to communicate with those whom have not responded to ensure they are aware of the program.

The landscape easements included in the above referenced Ordinances are from property owners that have, thus far, submitted notarized documents affirming their desire to participate in the program. The easements consist of the following property interests from each of the named property owners, as depicted on the attached map (Appendix B).

Property Owner	Address	Auditor Parcel ID Number
Scott Carney	6861 Running Deer Place	273-002168-00
Tiffany Crosby	7348 Pueblo Court	273-004121-00
Charles and Carla Dearing	6941 Fallen Timbers Drive	273-002196-00
David Francis	6925 Fallen Timbers Drive	273-002194-00
Luan Huynh	7162 Mojave Street	273-004135-00
Michael and Sheri Kielian	7183 Mojave Street	273-004138-00
Stephen and Amy Lytle	6949 Fallen Timbers Drive	273-002197-00
Teri Myers	6997 Fallen Timbers Drive	273-003027-00
Thomas and Carrie Walters	6879 Running Deer Place	273-002170-00
Hayes Wilcox	6957 Fallen Timbers Drive	273-003022-00

As additional notarized documents are received, additional landscape easements will be brought forward for City Council's consideration in the future in efforts to secure landscape easements along the entire corridor.

Recommendation

In accordance with City Council's direction to implement the Greenway Corridor Program, staff recommends approval of Ordinances 44-21 through 53-21, authorizing the City Manager to execute easements along the Indian Run Meadows Planned Use Development Corridor for landscape maintenance. If council members have any questions related to these Ordinances, please contact Matt Earman or the City Manager directly.

RECORD OF ORDINANCES

Ordinance No. 46-21 Passed , 20

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE AN EASEMENT WITH PROPERTY OWNERS CHARLES AND CARLA DEARING ALONG THE INDIAN RUN MEADOWS PLANNED USE DEVELOPMENT CORRIDOR FOR LANDSCAPE MAINTENANCE

WHEREAS, the Indian Run Meadows Planned Unit Development was approved by the Dublin City Council with development text identifying this corridor as a prominent "gateway" through the community and including a roadway maintenance buffer requirement for all associated property owners; and

WHEREAS, the buffer extends nearly a mile, beginning just south of Valley Stream Drive to the northern edge of Scottish Corners Park, on both sides of Muirfield Drive; and

WHEREAS, the landscape treatment is applicable to residential, institutional, and commercial properties, and includes landscaping standards for the Muirfield Drive median which is already maintained by the City of Dublin; and

WHEREAS, Charles and Carla Dearing, (the "Grantor") owns the real property known as Franklin County Auditor's Parcel No 273-002196-00 (the "Grantor's Property"); and

WHEREAS, Grantor is responsible for all other maintenance associated with the easement, to include all lawn care such as mowing, fertilization, aeration and others to be consistent with the standards reflected in Dublin City Code; and

WHEREAS, an updated inventory was conducted in 2019, and it was determined that approximately 184 trees were needed to cure deficiencies in the buffer; and

WHEREAS, the Dublin City Council has created the "Greenway Corridor Pilot Program" (the "Program") designed to assist property owners with their responsibilities related to the buffer by ensuring appropriate screening with the necessary tree scape and maintenance at no cost to the property owners; and

WHEREAS, the City desires a landscape easement over those portions of the Grantor's Property legally described on the attached Exhibit A and depicted on the attached Exhibit B (the "Easement Area") for the purpose of installing and maintaining certain trees as part of the Program; and

WHEREAS, Grantor desires to grant a landscape easement over the Easement Area for the benefit of the City at no cost upon the terms and conditions set forth in this Landscape Easement.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Dublin, Delaware, Franklin, and Union Counties, State of Ohio, of its elected members concurring that:

Section 1. The City Manager is hereby authorized to execute and accept all necessary documents with the Grantor for the acquisition of a landscape easement, a copy of which is attached as Exhibit C, necessary to provide landscape maintenance of 0.037 acres, more or less, with changes not inconsistent with this Ordinance and not substantially adverse to the City.

Section 2. Council further hereby authorizes and directs the City Manager, the Director of Law, the Director of Finance, the Clerk of Council, or other appropriate officers of the City to take any other actions as may be appropriate to implement this Ordinance without further legislation being required.

Section 3. This Ordinance shall take effect in accordance with 4.04(b) of the Dublin Revised Charter.

RECORD OF ORDINANCES

Ordinance No. 46-21 *Passed* Page 2, 20

Passed this _____ day of _____, 2021.

Mayor - Presiding Officer

ATTEST:

Clerk of Council



City of Dublin

Office of the City Manager

5555 Perimeter Drive • Dublin, OH 43017-1090

Phone: 614-410-4400 • Fax: 614-410-4490

Memo

To: Members of Dublin City Council

From: Dana L. McDaniel, City Manager

Date: November 10, 2020

Initiated By: Matt Earman, Director of Parks and Recreation

Re: Greenway Corridor Pilot Program Update - Avery-Muirfield Landscape Buffer

Background

You will recall earlier this year, City Council initiated the "Greenway Corridor Pilot Program" along the Avery-Muirfield Drive corridor. As per the Indian Run Meadows Planned Unit Development approved by City Council in 1978, the development text identifies this corridor as a prominent "gateway" through the community and includes a roadway maintenance buffer requirement for all associated property owners. The buffer extends nearly a mile, beginning just south of Valley Stream Drive to the northern edge of Scottish Corners Park, on both sides of Muirfield Drive. The landscape treatment is applicable to residential, institutional and commercial properties, and includes landscaping standards for the Muirfield Drive median which is maintained by the City.

The landscape edge and median treatments identified in the zoning requirements depict an explicit quantity of deciduous, evergreen and ornamental trees as follows:

Edge Treatment – Plant Material (Per 300' of Planting Segment per Side)

7 Shade Trees	2" – 2 ½" Caliper
15 Evergreen Trees	6' – 7' Height
6 Ornamentals	1 ¾" – 2" Caliper

Median Treatment – Plant Material (Per 300' of Planting Segment)

6 Shade Trees	2" – 2 ½" Caliper
6 Evergreens	6' – 7' Height
3 Ornamentals	1 ¾" – 2" Caliper

Over the course of the spring and summer months this year, staff completed the planting of 30 evergreens and ornamentals along the corridor's median in order to make certain the City was compliant with the median treatment requirements. Minimum expectations for each property along the east and west edges of the corridor have also been identified to ensure compliance with the required treatments noted above.

In mid-November staff will be sending letters to all residents whose properties abut the edge of the corridor to explain the program and seek their willingness to participate in the program by establishing landscape easements along the back edge of each property. The letter will explain the intent of the program and inform the residents that the City will take responsibility of maintaining

the trees in perpetuity once the easements have been established. For those who do not wish to participate, or do not respond to the letter, the letter will also explain that the property owner will be responsible to meet the minimal expectations established for their property at the cost of the property owner. The response deadline of this letter will be December 31, 2020. For those who do not respond, staff will make every effort to contact them prior to the deadline to avoid any issues if the responsibility and cost to maintain remains with the resident. The letter template is attached to this memo for Council's reference.

Once staff has determined the number of easements to execute, each property easement will then be brought forward to City Council for approval by way of City Ordinance. Staff is hopeful to have this completed in time for the spring 2021 planting season.

Recommendation

This memo serves as information only.



City of Dublin

Office of the City Manager

5200 Emerald Parkway • Dublin, OH 43017-1090

Phone: 614-410-4400 • Fax: 614-410-4490

To: Members of Dublin City Council
From: Dana L. McDaniel, City Manager
Date: February 9, 2021
Initiated By: Matt Earman, Director of Parks and Recreation
Re: Greenway Corridor Pilot Program Update – Avery/Muirfield Screening

Summary

You will recall last year, City Council initiated the "Greenway Corridor Pilot Program" along the Avery-Muirfield Drive corridor. As per the Indian Run Meadows Planned Unit Development approved by City Council in 1978, the development text identifies this corridor as a prominent "gateway" through the community and includes a roadway maintenance buffer requirement for all associated property owners. The buffer extends nearly a mile, beginning just south of Valley Stream Drive to the northern edge of Scottish Corners Park, on both sides of Muirfield Drive. The landscape treatment is applicable to residential, institutional and commercial properties, and includes landscaping standards for the Muirfield Drive median which is maintained by the City.

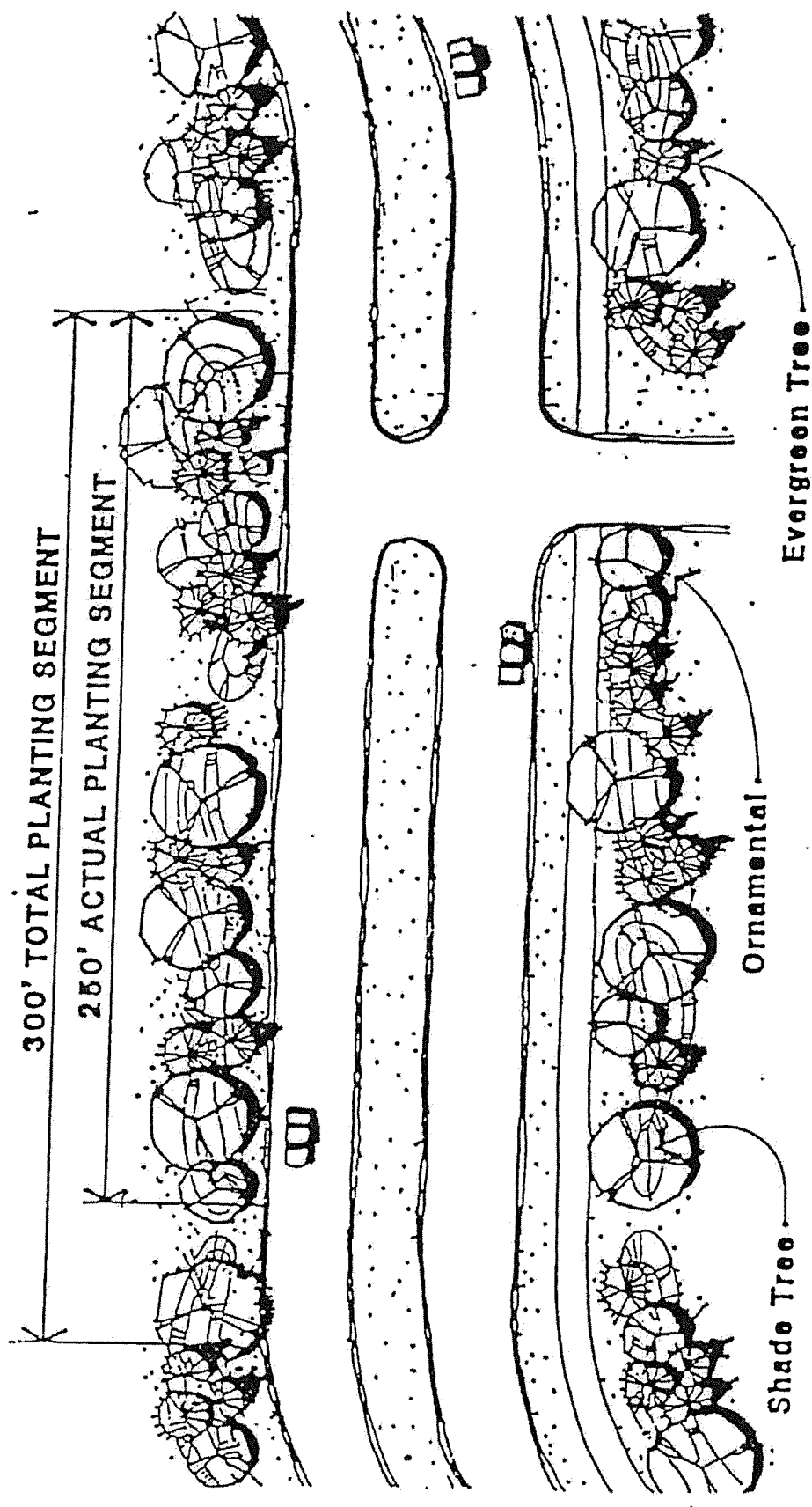
Last fall, staff completed the planting of trees in the median which is now in compliance with the treatment requirements. November through December of last year staff sent a series of three letters to residents explaining the program and to seek their participation in establishing landscape easements along the back edge of each property that will result in the transfer of responsibility of the property owner over to the City. Each of these easements will be approximately 25 feet from the sidewalk which includes a 10 foot utility easement. The balance of area remaining will provide ample space to accommodate the number trees and ornamentals consistent with the minimum requirements.

Of the 30 private properties subjected to the program, 23 affirmed they will participate, one owner declined to participate, one owner is undecided and four were not responsive to the letter. For those property owners who do not participate in this program, they will be required to maintain their respective landscapes, and they will not be maintained by the City. If property owners eventually decide to participate in the future, additional easements will be established accordingly.

Going forward, staff will continue to reach out to those who were not responsive in an effort to garner their participation. The process of preparing the easements for those participating in the program are currently in progress. Once these are finalized, staff will bring them forward for Council approval in hopes to have planting completed spring, or at the latest, fall of this year.

Recommendation

This memo is for information only. If you have any questions, please feel free to contact Matt Earman or me directly.



NOTE: Mounding (typ.) 130'-150' length; 20'-25' width;
 average height 4' above curb.
 • Mounding along both sides shall be sodded.

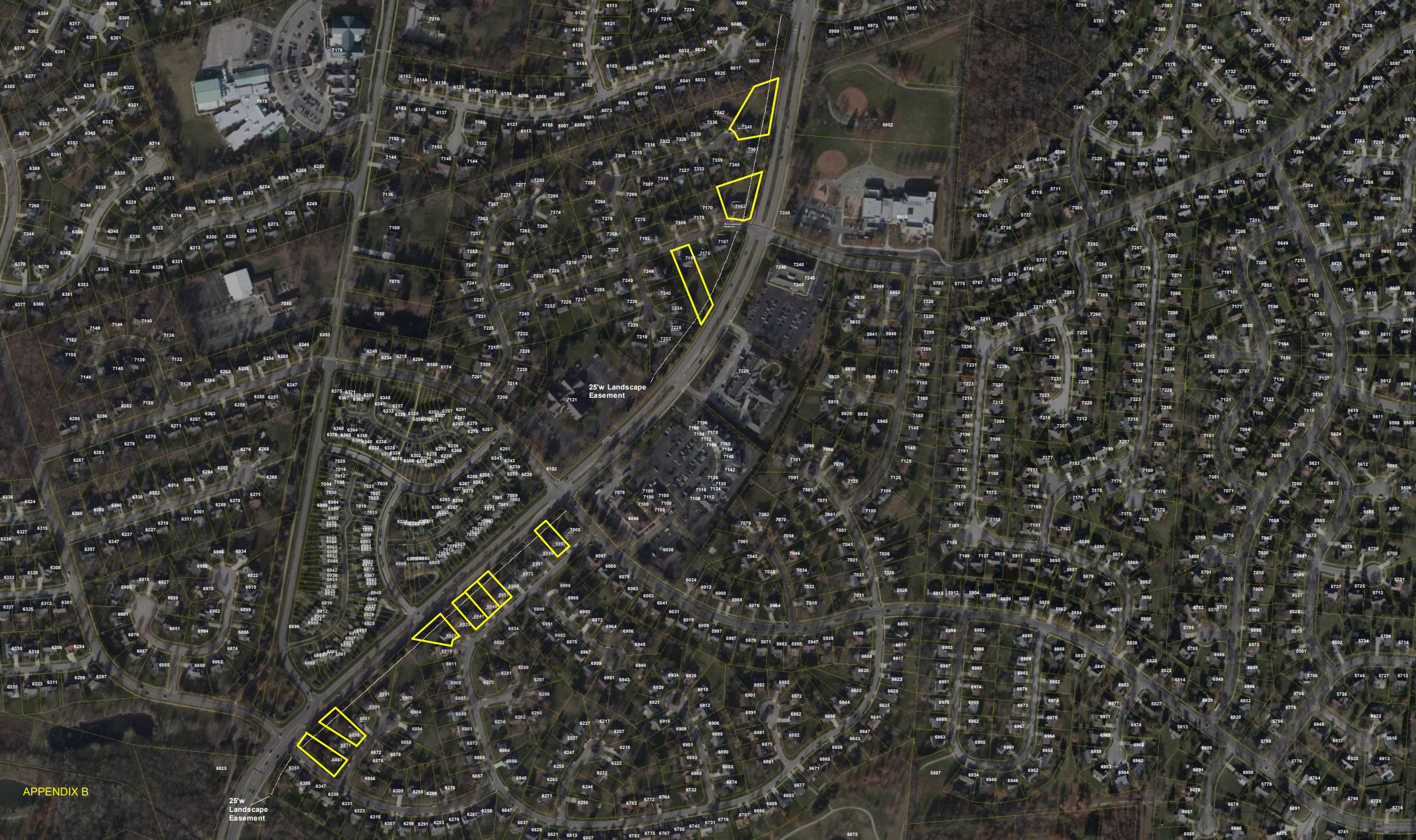
PLANT MATERIAL (Per 300' Planting Segment/Per Side)

7 Shade Trees	2"-2 1/2" CAL.
15 Evergreen Trees	6-7' HT.
6 Ornamentals	1 3/4"-2" CAL.

NOTE: Total length of Boulevard-4200 L.F.

PLAN

Mulrfield Boulevard
 Landscape Edge
 Treatment



LANDSCAPE EASEMENT
0.040 ACRE

Situated in the State of Ohio, County of Franklin, City of Dublin, located in Virginia Military Survey No. 3010, being on, over and across Lot 29 of that subdivision entitled "Indian Run Meadows Section No. 1 Part 1", of record in Plat Book 61, Page 53, conveyed to Charles H. Dearing Jr. by deed of record in Official Record 6642G15, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) being described as follows:

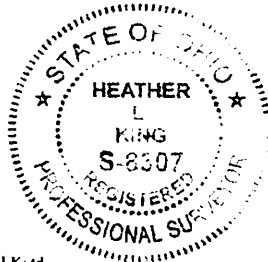
BEGINNING in the southeasterly right-of-way line of Muirfield Drive (100'), of record in Plat Book 62, Page 90, at the northerly common corner of said Lot 29 and Lot 28 of said "Indian Run Meadows Section No. 1 Part 1";

Thence North 47° 18' 26" East, with said southeasterly right-of-way line, the northwesterly line of said Lot 29, a distance of 70.00 feet to the northerly common corner of said Lot 29 and Lot 30 of said "Indian Run Meadows Section No. 1 Part 1";

Thence South 42° 41' 34" East, with the line common to said Lots 29 and 30, a distance of 25.00 feet to a point;

Thence South 47° 18' 26" West, across said Lot 29, a distance of 70.00 feet to a line common to said Lot 29 and said Lot 28;

Thence North 42° 41' 34" West, with the line common to said Lots 29 and 28, a distance of 25.00 feet to the POINT OF BEGINNING, containing 0.040 acre, more or less.



EVANS, MECHWART, HAMBLETON & TILTON, INC.

Heather L. King 5/7/21
Heather L. King
Professional Surveyor No. 8307



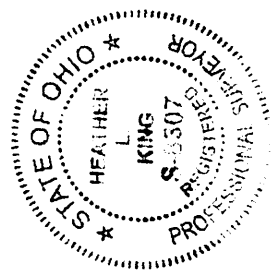
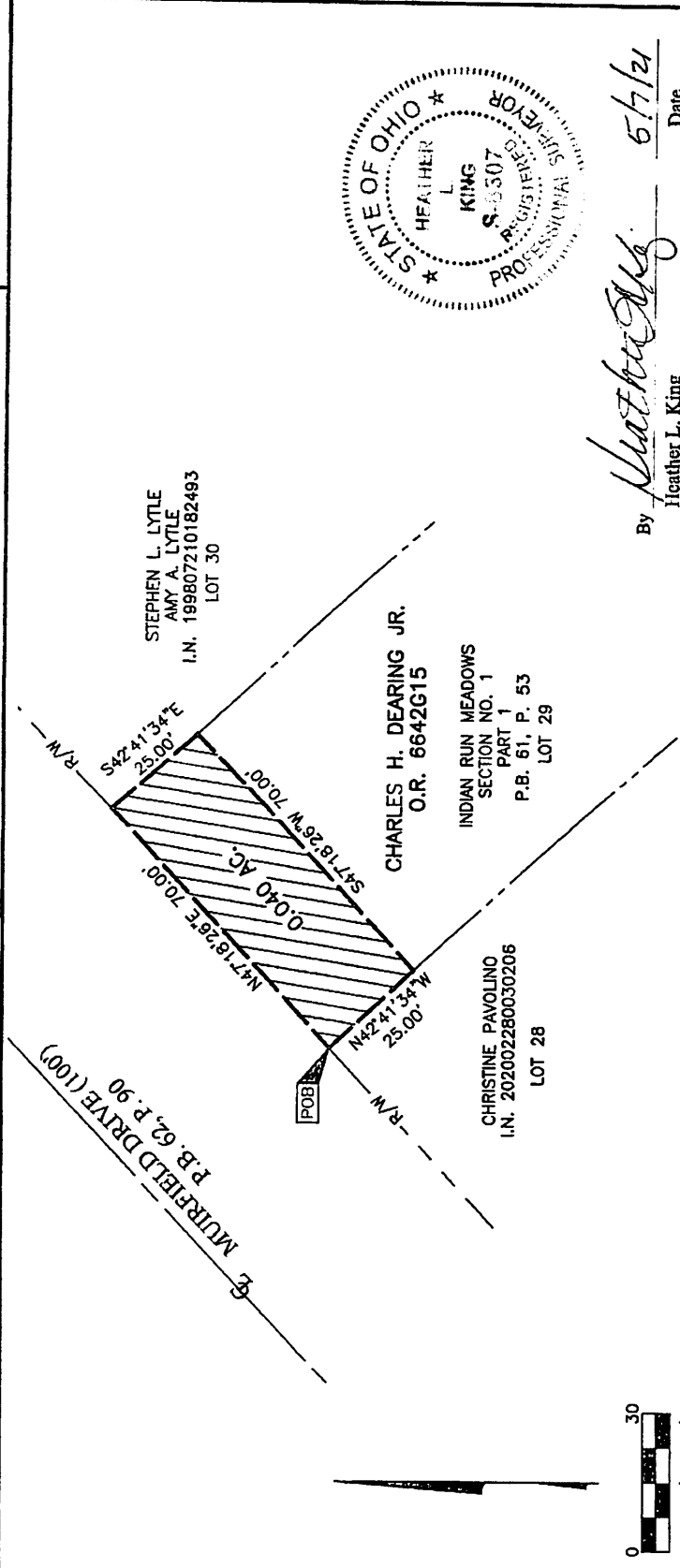
EMH&T
Peters, Mechwart, Hamblin & Tibbo, Inc.
Engineers • Surveyors • Planners • Scientists
3600 New Albany Road, Columbus, OH 43254
Phone: 614.773.6500 Toll Free: 866.773.6500

emht.com

LANDSCAPE EASEMENT

VIRGINIA MILITARY SURVEY NO. 3010
CITY OF DUBLIN, COUNTY OF FRANKLIN, STATE OF OHIO

Date: May 7, 2021
Scale: 1" = 30'
Job No: 2021-0274
Sheet No: 1 of 1



By: *Heather L. King* Date: 5/7/21
Heather L. King
Professional Surveyor No. 8307
hking@emht.com



4/2021/0274\DWG\CASHEETS\EASEMENTS\20210274-VS-ESMT-LSCP-09.DWG plotted by KONG, HEATHER on 5/6/2021 10:02:39 PM last saved by HONG on 5/6/2021 10:02:37 PM

LANDSCAPE EASEMENT

THIS PERMANENT LANDSCAPE EASEMENT (the "Landscape Easement") is made and entered into this 26 day of July 2021, by and between Charles H Dearing Jr. & Carla S. Dearing, (the "Grantor") whose mailing address is 6941 Fallen Timbers Drive, Dublin, OH 43017, and the CITY OF DUBLIN, OHIO (the "Grantee"), an Ohio municipal corporation, whose tax mailing address is 5555 Perimeter Drive, Dublin, Ohio 43017. Grantor and Grantee may be collectively referred to as "Parties."

BACKGROUND INFORMATION

WHEREAS, Grantor owns the real property known as Franklin County Auditor's Parcel No. 273-002196-00 (the "Grantor's Property");

WHEREAS, the Indian Run Meadows Planned Unit Development was approved by the Dublin City Council with development text identifying this corridor as a prominent "gateway" through the community and including a roadway maintenance buffer requirement for all associated property owners;

WHEREAS, the buffer extends nearly a mile, beginning just south of Valley Stream Drive to the northern edge of Scottish Corners Park, on both sides of Muirfield Drive;

WHEREAS, the landscape treatment is applicable to residential, institutional, and commercial properties, and includes landscaping standards for the Muirfield Drive median which is already maintained by the City of Dublin;

WHEREAS, all other maintenance and associated costs are currently the responsibility of each property owner;

WHEREAS, an updated inventory was conducted in 2019, and it was determined that approximately 184 trees were needed to cure deficiencies in the buffer;

WHEREAS, the Dublin City Council has created the "Greenway Corridor Pilot Program" designed to assist property owners with their responsibilities related to the buffer by ensuring appropriate screening with the necessary tree scape and maintenance at no cost to the property owners;

WHEREAS, Grantee desires a landscape easement over those portions of the Grantor's Property legally described on the attached Exhibit A and depicted on the attached Exhibit B (the "Easement Area") for the purpose of installing and maintaining certain trees; and

WHEREAS, Grantor is responsible for all other maintenance associated with the easement, to include all lawn care such as mowing, fertilization, aeration and others to be consistent with the standards reflected in Dublin City Code; and

WHEREAS, Grantor desires to grant a landscape easement over the Easement Area for the benefit of Grantee upon the terms and conditions set forth in this Landscape Easement.

STATEMENT OF AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the foregoing Background Information and as follows:

1. Grant of Landscape Easement. Grantor, its successors, heirs, and assignees, grants to Grantee, its agents, employees, independent contractors, successors and assignees, a permanent, landscape easement in, through, over, and under the Easement Area for the purpose of installing, planting, maintaining, repairing, or replacing landscaping, which may include, but is not limited to, trees, bushes, and other vegetation at Grantee's discretion, as well as ingress and egress over those portions of Grantor's Property reasonably necessary to facilitate Grantee's use of the Easement Area. The designated Landscape Easement permits the construction, operation, and maintenance of landscaping. Upon mutual consent by the Parties, which such consent shall not be unreasonably withheld, placement of structures within the Easement Area may be permitted. All installation, planting, maintenance, repair, and/or replacement of the landscaping features is the responsibility of Grantee and Grantee will keep such landscaping in good condition and repair. Grantor hereby grants to Grantee a right of entry to other areas on Grantor's Property reasonably necessary to: (1) install and/or plant trees including shade, ornamental, and evergreen trees, bushes, and other vegetation in the Easement Area; (2) maintain, repair, and replace as necessary all of the landscape features within the Easement Area; and (3) the right to do all things necessary, proper, or incidental to the successful landscaping and maintenance of such landscaping is further reserved herein. No landscaping shall be removed from the Easement Area without the approval of the City of Dublin.

- a. *Other Servitudes.* Should Grantor grant any future servitudes related to the Easement Area described herein, those agreements must include provisions that require any holders to exercise their rights in ways that do not unreasonably interfere with those of Grantee. In the event of some irreconcilable conflicts in use between Grantee and any future holders, priority in use rights are determined by priority in time of agreement. If Grantor, or any future holders of separate

servitudes, cause damage to any portion of the Easement Area or the landscaping therein, they shall pay for the repair of such entity as determined by Grantee in its sole and reasonable discretion.

- b. *Vegetation.* Grantee shall have the right to remove any and all vegetation growing within the Easement Area as is reasonably necessary to facilitate Grantee's use thereof as permitted by this Landscape Easement. Nothing about this specific right shall be interpreted as limiting other things Grantee may do in the Easement Area that are necessary, proper, or incidental to their use or enjoyment consistent with their rights under this Landscape Easement.

2. Relationship of the Parties. Nothing contained herein shall be deemed or construed by the Parties or by any third party as creating the relationship of principal and agent, of partnership, or of joint venture between the Parties, it being understood and agreed that no provision contained herein, or any act of the Parties hereto shall be deemed to create any relationship other than grantors and grantee of the rights and easements set forth herein.

3. Waiver. Except to the extent that a party may have otherwise agreed in writing, no waiver by such party of any breach of the other party of any of its obligations, agreements, or covenants hereunder shall be deemed to be a waiver of any subsequent breach of the same or of any other covenants, agreements, or obligations, nor shall any forbearance by a party to seek remedy for any breach by the other party be deemed a waiver of any rights or remedies with respect to such breach or any similar breach in the future.

4. Severability. In the event that any provision of this Landscape Easement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

5. Captions and Pronoun Usage. The captions and sections numbers in this Landscape Easement are for convenience only and shall not be deemed to be a part hereof. The pronouns used herein shall be considered as meaning the person, number, and gender appropriate under the circumstances at any given time.

6. Governing Law. This Landscape Easement shall be governed by and construed in accordance with the laws of the State of Ohio.

7. Modification. This Landscape Easement, or any easement or covenant set forth herein, may not be amended, terminated, rescinded, or otherwise modified, in whole or in part, except by a written instrument executed by the Parties hereto and recorded with the Recorder's Office, Franklin County, Ohio with reference made to this Landscape Easement.

8. Benefit. This Landscape Easement shall run with the land and inure to the benefit of and be binding upon the Parties hereto and their respective heirs, executors, representatives, successors, and assigns.

9. Authority. Grantor represents and warrants that it has the full right and authority to enter into this Landscape Easement and to grant the rights hereby conveyed to Grantee.

Executed this 26 day of July, 2021.

GRANTOR:

Charles H. Dearing Jr. *CD*
Charles H. Dearing Jr.

Carla S Dearing

Carla S Dearing

STATE OF OHIO)

COUNTY OF FRANKLIN)

SS:

BE IT REMEMBERED, that on this 26 day of July, 2021, before me, the subscriber, a Notary Public in and for such county and state personally came Charles H. Dearing Jr. who acknowledged the signing thereof to be his/her free act and deed. Carla S. Dearing

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the say and year last aforesaid.

Mary J. Keplar
Notary Public



MARJALINE J. KEPLAR
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Franklin County
My Comm. Exp. 3/18/2022

My Comm Exp 3/18/2025
Franklin County
Recorded in
STATE OF OHIO
NOTARY PUBLIC
MARLAINE J. KEPLAR



