

First Reading: July 19, 2012
Second Reading: dispensed

RESOLUTION NO. 2012 - 77

**A RESOLUTION APPROVING AND AUTHORIZING A SERVICE AGREEMENT
WITH KENWOOD TOWERS, LLC, DISPENSING WITH THE SECOND READING
AND DECLARING AN EMERGENCY**

WHEREAS, the Board of Township Trustees of Sycamore Township wishes to approve entering into a Service Agreement with KENWOOD TOWERS, LLC for the Greens of Kenwood Real Estate Development;

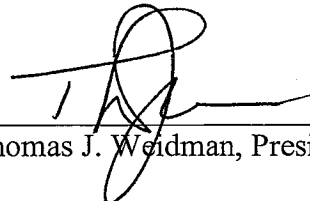
NOW THEREFORE, BE IT RESOLVED by the Board of Township Trustees of Sycamore Township, State of Ohio:

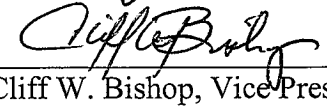
- SECTION 1.** That the Service Agreement, in substantially the same form as set forth on the attached Exhibit A, is hereby approved and the Township Administrator is hereby authorized and directed to execute the Service Agreement on behalf of the Board of Trustees. In the alternative, the President of the Board and the Fiscal Officer are also authorized to sign the Service Agreement
- SECTION 2.** That the Township Administrator is, or in the alternative, the President of the Board and the Fiscal Officer are, authorized and directed to execute all other documents necessary in order to fully implement the terms of the Service Agreement on behalf of the Board of Trustees.
- SECTION 3.** The Trustees of Sycamore Township upon a unanimous vote do hereby dispense with the requirement that this resolution be read on two separate days, and hereby authorize the adoption of this resolution upon its first reading.
- SECTION 4.** This resolution shall take effect on the earliest date allowed by law.
- SECTION 5.** Upon the unanimous vote of the Sycamore Township Trustees, this Resolution is hereby declared to be an emergency measure necessary for immediate preservation of the public peace, health, safety and welfare of Sycamore Township. The reason for the emergency is for a timely execution of the Service Agreement so that construction of necessary detention and retention of water basins can commence as soon as possible.


VOTE RECORD:

Mr. Bishop AYE Mr. Connor AYE Mr. Weidman AYE

Passed at a meeting of the Board of Township Trustees of Sycamore Township this 19th day of July, 2012.



Thomas J. Weidman, President


Cliff W. Bishop, Vice President

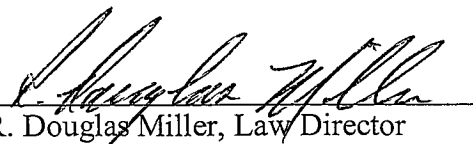

Dennis W. Connor, Trustee

AUTHENTICATION

This is to certify that this resolution was duly passed and filed with the Township Fiscal Officer of Sycamore Township this 19th day of July, 2012.


Robert C. Porter III, Fiscal Officer
Sycamore Township, Ohio

APPROVED AS TO FORM:


R. Douglas Miller, Law Director

SERVICE AGREEMENT

THIS SERVICE AGREEMENT (the “Agreement”), made and entered into as of the 19th day of July, 2012, between SYCAMORE TOWNSHIP, HAMILTON COUNTY, OHIO (the “Township”), a township and political subdivision organized and existing under the Constitution and the laws of the State of Ohio (the “State”), and KENWOOD TOWERS LLC an Ohio Limited Liability Company, and its successors and assigns as herein permitted (the “Developer”).

WITNESSETH:

WHEREAS, the Board of Township Trustees of the Township (the “Board”) pursuant to Section 5709.73(B) of the Ohio Revised Code will adopt a Township Resolution (the “Resolution”), declaring to be a public purpose certain commercial improvements, described in Exhibit “A” hereto (collectively, the “Improvements”), to a parcel or parcels of real property located within the boundaries of the Township, and designating as public improvements certain water detention/retention facilities and related improvements described in Exhibit “B” hereto (the “Public Improvements”), that will benefit the Improvements to be made on the Site, as defined below; and

WHEREAS, the Developer owns certain parcels of real property located within the boundaries of the Township and described in Exhibit “C” hereto (the “Site”), which Site contains a total of approximately 5.25 acres of which the Developer is the owner, which Site will be developed by the construction of the Improvements and the Public Improvements; and

WHEREAS, pursuant to Section 5709.74, Ohio Revised Code (“O.R.C.”), having declared the Improvements to be a public purpose, the Township shall require the Developer and the owners to agree, for itself and for all future owners of all or a portion of the Site (the owners of all or a portion of the Site, including the Developer so long as it owns all or a portion of the Site, are hereinafter referred to as the “Owners” and individually as an “Owner”), to pay annually to the Township an amount equal to the amount of real property taxes that would have been paid on the increased value of the land and Improvements had an exemption with respect thereto not been applied for and allowed under Section 5709.73(B), O.R.C. (such amount being hereinafter referred to as the “Statutory Service Payments”); and

WHEREAS, to further provide for the construction and acquisition of the Public Improvements, the Developer (in its capacity as Owner of the Site) has agreed to pay, if necessary, Minimum Service Payments (as defined in Section 3 hereof) and to subject the Site to a covenant running with the land binding future Owners to the payment of both the Statutory Service Payments and such Minimum Service Payments (the Statutory Service Payments, the Minimum Service Payments and the Mandatory Service Payments are collectively referred to herein as the “Service Payments”); and

WHEREAS, it is anticipated that the Owner of the approximately 1.5 acre tract which will comprise the site for a hotel (the “Hotel Site”) will enter into a separate Service Agreement in the future relating to the Hotel Site which will also contain a separate Minimum Service Payment provision relating to that property only; and

WHEREAS, since the exact boundaries of the Hotel Site have not yet been determined, it is anticipated that this Service Agreement will need to be amended contemporaneously with

the execution and delivery of the separate Service Agreement to clarify that the Hotel Site will only be subject to Minimum Service Payments under said separate Service Agreement; and

WHEREAS, it is acknowledged by the parties to this Agreement that one hundred percent (100%) of the assessed increased value of the land and the assessed value of the Improvements on the Site will be exempt from real property taxation; and

WHEREAS, the Board of Education of the Indian Hill Exempted Village School District (the "School District") and the Great Oaks Joint Vocational School District (the "Vocational School District") will be compensated for one hundred percent (100%) of the real property taxes that would have been paid to them but for the aforesaid exemption; and

WHEREAS, the Township is party to a separate Service Agreement with PH Cincinnati, LLC dated as of June 8, 2010, as amended (the "GSA Service Agreement"), which was filed for record on June 9, 2010, with the Hamilton County Recorder's office as Document #: 10-0063985, which generates certain revenues available to the Township for use on, among other things, projects such as the Public Improvements, as more fully set forth in Section 3(C) hereof; and

WHEREAS, the Township has decided to contract with the Developer to construct and acquire the Public Improvements for a total cost not to exceed the amount set forth in Section 2 hereof; and

WHEREAS, the Township will be reimbursed for its costs associated with the construction and acquisition of the Public Improvements from the excess revenues under the GSA Service Agreement and the Service Payments hereunder; and

WHEREAS, the Parties hereto have agreed that the obligation to make Service Payments hereunder will be borne by the respective Owners based upon the increased value of the land and the value of the Improvements constructed on the Site owned by each such Owner; and

WHEREAS, the Parties intend that this Agreement, as amended and supplemented from time to time, shall constitute the agreement contemplated by Section 5709.74, Ohio Revised Code, and shall define the obligation of the Owners with respect to the Service Payments.

NOW, THEREFORE, in consideration of the premises and mutual covenants hereinafter contained, the Township, the Developer and the Owners (except with respect to Minimum Service Payment obligations of the Owner of the Hotel Site which will be governed by a separate Service Agreement between the Township and such Owner) covenant, agree, and bind themselves as follows:

Section 1 Construction of Improvements. The Developer hereby agrees to construct or cause to be constructed the Improvements set forth on Exhibit A, attached hereto. All Improvements constructed on the Site shall be developed and re-developed in accordance with applicable zoning requirements and building codes, and shall be used principally for commercial purposes.

Section 2 Construction and Acquisition of Public Improvements.

A. In consideration of the agreements by the Township contained in this Agreement, the Developer has agreed and elected to construct the Public Improvements. The Developer agrees to complete the Public Improvements in conformance with the plans and

specifications as approved by the Township and by the Hamilton County, Ohio Engineer (the "Plans").

The costs of the construction and acquisition of the Public Improvements (the "Project Costs") are itemized in Exhibit B hereto (such Exhibit B being hereinafter known as the "Project Budget"). The Township hereby agrees to pay the Developer for the actual Project Costs incurred by the Developer in conformance with the Project Budget up to a maximum amount of \$1,000,000.00. All Project Costs in excess of \$1,000,000.00 shall be the responsibility of the Developer; provided, however, that the Developer is not obligated to construct any improvements not itemized on the Project Budget as set forth on Exhibit "B" hereto.

The Public Improvements shall be constructed in accordance with the Township's requirements for construction of public improvements. Such Public Improvements shall be constructed after the receipt of competitive bids (with bid bonds) solicited in accordance with the Township's requirements under the Ohio Revised Code. Prior to awarding contracts at the conclusion of such bidding process, the Developer shall obtain the approval of the Township of the parties to whom it plans to award such contracts. The Parties to this Agreement agree to work in close concert throughout the bidding and construction process to ensure compliance with applicable legal requirements.

Subject to the provisions of paragraph (B) of this Section 2, payment by the Township to the Developer for such Project Costs shall be made within thirty (30) days after invoices evidencing the incurring of such costs by the Developer (the "Project Invoices") are submitted to the Township. The Developer may submit Project Invoices on a monthly basis

during the construction and acquisition of the Public Improvements. The Township may hold retainage from each Project Invoice in an amount not to exceed 10 percent (10%) of such invoice. All retainage shall be paid to the Developer upon completion and acceptance of the Public Improvements by the Township. Each payment of a Project Invoice hereunder constitutes a "Project Draw" for purposes of this Agreement.

B. The obligation of the Township to reimburse the Developer is expressly subject to the following conditions precedent, unless specifically waived in writing by the Township:

(i) The Developer shall have completed, in accordance with the Plans, the portion of the Public Improvements the Project Costs of which are the subject of the Project Invoice submitted for payment.

(ii) With each monthly submission of Project Invoices, the Developer shall have provided conditional lien waivers (covering all work through the period covered by the current submission) and final lien waivers (covering all work up through the period covered by the prior submission), together with affidavits and other documents as may be reasonably necessary to evidence that the work on the Public Improvements through the effective date of the lien waivers has been completed without the possibility of any liens being filed by contractors, subcontractors or materialmen providing work, services or materials for the Public Improvements.

(iii) With the final submission of Project Invoices, the Developer shall have provided such lien waivers and affidavits and other documents as may be reasonably necessary to evidence that Public Improvements have been completed without the possibility of any liens being filed by contractors, subcontractors or materialmen providing work, services or materials for the Public Improvements.

(iv) The Developer, in designing, constructing, completing, repairing, maintaining and conveying the Public Improvements shall have complied with all requirements with which the Township would have to comply regarding the construction of public improvements, under any applicable federal or state law, rule or resolution, including, but not limited to the public bidding of contracts, bonding provisions, and payment of prevailing wages, and including any private work that may be required. The Township shall consult with and advise the Developer as to such requirements from time to time upon the Developer's requests.

(v) The Developer has obtained approval from the Township before rendering any decision or taking any action pursuant to any section of the Ohio Revised Code regarding construction of public improvements which would require Township approval if the contract to construct and acquire the Public Improvements had been let by the Township (i.e. awarding the contract following submission of all bids).

C. The Developer hereby agrees to grant, at no cost to the Township, any and all land and easements necessary for the construction and acquisition of the Public Improvements including, without limitation, whatever easements may be required by the Hamilton County

Engineer or other officials or agencies having jurisdiction over the construction and acquisition of the Public Improvements (collectively, the "Easements"). The Developer shall be responsible for all repairs, maintenance, replacements and operation of the Public Improvements after construction and these responsibilities shall be assigned and assumed by any subsequent Owner of all or a portion of the Site in proportion to its ownership of the Site.

After the execution of this Agreement, and without invalidating this Agreement, the Developer and the Township by written agreement (a "Change Order") may agree to changes in the Public Improvements and/or the Plans. Changes in the Public Improvements and/or the Plans shall be performed under applicable provisions of this Agreement and the construction contracts and the Ohio Revised Code.

A Change Order shall be in the form of a written instrument signed by the Township and the Developer, stating their agreement upon (a) the change in the Public Improvements and/or the Plans, (b) any extension of the time for performance under this Agreement.

D. The Parties acknowledge and agree that the construction of the Public Improvements is subject to the prevailing wage requirements of Ohio Revised Code Chapter 4115 and all wages paid to laborers and mechanics employed in the construction of the Public Improvements shall be paid at not less than the prevailing rates of wages of laborers and mechanics for the classes of work called for to construct the Public Improvements, which wages shall be determined in accordance with the requirements of that Chapter 4115. The Developer shall require compliance by all contractors and shall require all contractors to require compliance by all subcontractors constructing the Public Improvements, with all applicable requirements of

that Chapter 4115. The Developer agrees that upon written request of the Township, the Developer shall promptly provide to the Township written evidence that the Developer and all subcontractors constructing the Public Improvements have complied in all respects with this provision.

E. The Developer agrees that in addition to the foregoing it shall also be bound by the additional construction related obligations and covenants found in Exhibit "E" hereto, which are incorporated herein and made a part hereof. Except for Sections 1, 7 and 9 of Exhibit E, the obligations and covenants found therein shall cease to apply to the Developer upon the acceptance by the Township of the Public Improvements.

Section 3 Obligation to Make Service Payments.

A. The parties hereby agree that one hundred percent (100%) of the increased assessed value of the land and the assessed value of the Improvements on the Site will be exempt from real property taxation under Section 5709.73(B) of the O.R.C.; therefore, the Statutory Service Payments to be made under this Agreement will equal that portion of the real property taxes that would have been payable had the exemptions described in this paragraph above not been granted with respect to each parcel identified in Exhibit "C" hereto. The Owners shall commence Statutory Service Payments on the first tax payment due date, as determined by the County Treasurer, of the collection year with respect to which any of the Improvements would first have been assessed for real property taxes had an exemption with respect to such Improvements not been applied for by the Developer, Owner or Township and allowed under Section 5709.73(B), O.R.C., and shall continue to make Statutory Service Payments on each tax

payment date, as the County Treasurer determines property taxes are due (“Payment Date”) thereafter until termination or expiration of the exemption. The responsibility for supplementing the Alternate Revenues (as hereinafter defined), the Statutory Service Payments and any Mandatory Service Payments (as hereinafer defined) in order to meet the Minimum Service Amount, if necessary, shall be borne by the Owners through Minimum Service Payments. It is agreed that any necessary supplements to the Alternate Revenues, the Statutory Service Payments and any Mandatory Service Payments to meet the Minimum Service Amount will be made from Minimum Service Payments to be paid by the Owners of the Site; provided, however, if the Owner of the Hotel Site enters into a separate Service Agreement with the Township which, among other things, provides therein for the payment of Minimum Service Payments and Mandatory Service Payments, then the Owner of the Hotel Site shall be relieved of any obligation to make Minimum Service Payments and Mandatory Service Payments under this Service Agreement and this Service Agreement will be amended so as to remove the lien for such Minimum Service Payments and Mandatory Service Payments from the Hotel Site.

Each Statutory Service Payment shall be in an amount equal to one-half ($\frac{1}{2}$) of the annual amount which would have been payable as real property taxes with respect to the increased value of the land and the Improvements for the real property tax year next preceding the calendar year of payment had an exemption with respect to the increased value of the land and the Improvements not been applied for and allowed as aforesaid. In the event that as of the date any Statutory Service Payment is due the real property taxes on the exempted increased value of the land and Improvements cannot be or have not been finally determined for the real property tax year next preceding the due date, the amount of such taxes shall be determined from the

Hamilton County Treasurer's tax duplicate if available, and, if said duplicate is not available, the same shall be estimated (even though such taxes may be subject to contest, later determination, or adjustment because of revaluation of the Site and Improvements) for such year. In the event that the sum of Statutory Service Payments so calculated and paid with respect to the Site in any year is subsequently determined not to be equal to the total amount of real property taxes which would have been paid with respect to the real property tax year next preceding such payments had an exemption not been applied for and allowed as aforesaid in the first clause of paragraph A of this Section 3, the Owners shall promptly pay the Township any deficiency, or the Township shall promptly repay the Owners any excess, as appropriate; provided, however, that nothing in this sentence shall be construed to require the Township to repay Minimum Service Payments required to be paid under this Agreement in any year. The Developer and Owners further agree that the obligation to make Service Payments will have the same priority as the obligation to pay real estate taxes in the event of any bankruptcy, foreclosure or similar proceeding instituted by or against any Owner.

B. There is hereby established the "Annual Debt Service Amount," which in any given year shall be the amount set forth for such year in Exhibit "D" hereto.

C. The GSA Service Agreement requires that the owners of property subject to that agreement pay certain statutory service payments in accordance with ORC Section 5709.74 (the "GSA Revenue"). The GSA Revenue is pledged: (i) to payment of debt service charges on \$2,000,000 principal amount Series 2010 Various Purpose LTGO Bonds, the proceeds of which were used to provide certain public infrastructure improvements described in the GSA Service Agreement (the "GSA Bonds"), (ii) to reimburse any owner of property subject to the GSA

Service Agreement who has made Minimum Service Payments thereunder, (iii) to make payments to the School District, and (iv) at the option of the Township, to reimburse the Township for unforeseen project costs under the GSA Service Agreement, or to pay down principal due on the GSA Bonds or to pay the cost of additional public improvements. To the extent that GSA Revenue (net of any fees due to the County Auditor and the County Treasurer) due and payable on any given Payment Date is in excess of the next payment of debt service charges on the GSA Bonds, any reimbursements due to property owners and amounts due to the School District, such excess amount shall be considered "Alternate Revenues" hereunder. The Township hereby exercises its option pursuant to Section 3.D.(iv) of the GSA Service Agreement to use any excess revenues received under the GSA Service Agreement for payment of additional public improvements and in that capacity designates such excess revenues as Alternate Revenues hereunder.

D. Notwithstanding anything to the contrary set forth in this Agreement, if the Developer, and/or Owner, their heirs, successors, assigns, or transferees causes any Improvement or portion thereof once constructed to be voluntarily removed from the Site or demolished prior to the date that the Township has received Service Payments and Alternate Revenues in an aggregate amount at least equal to the sum of all Annual Debt Service Amounts set forth in Exhibit D hereto (the "Full Reimbursement Amount"), together with amounts due to the School District and the Vocational School District and any Auditor or Treasurer fees or other costs of collection, then, until the later of (A) the date such Service Payments and Alternate Revenues received equal an amount at least equal to the Full Reimbursement Amount, together with amounts due to the School District and the Vocational School District and any Auditor or

Treasurer fees or other costs of collection; or (B) the Improvement is replaced at an equal or greater value to what it was prior to demolition or removal, the Owner causing the Improvement, or portion thereof, to be removed or demolished, shall be required to make payments with respect to the portion of the Site upon which such Improvement or portion thereof was removed or demolished in the same amounts and on the same dates as the Statutory Service Payments which were due and payable with respect to that portion of the Site upon which such Improvement or portion thereof was removed or demolished in the year immediately preceding the removal or demolition, said payments to be the "Mandatory Service Payments".

E. If and to the extent that on any Payment Date the sum of (i) the then applicable Alternate Revenues and (ii) the Statutory Service Payments payable with respect to the Site, and (iii) any Mandatory Service Payments then due and payable is less than the Minimum Service Amount for the year in which such Payment Date occurs (the "Required Payment"), the difference between such Payment and the applicable Required Payment shall be paid by the Developer to the Township (such payment being a "Minimum Service Payment"). The Minimum Service Payments must be paid even in the event that the Statutory Service Payments, as described in paragraph A of this Section 3, never come due or are not paid and even if for any reason the real property tax policy in the State of Ohio or Hamilton County should change such that real property taxes and/or Statutory Service Payments are significantly reduced or eliminated.

The responsibility for the payment of any Minimum Service Payments shall be borne by the Owners of the Site, except as may be provided to the contrary herein and in any separate Service Agreement with respect to the Owner of the Hotel Site.

F. After the first Payment Date on which the then applicable Payment (being the Service Payments and the Alternate Revenues) exceeds the then applicable Required Payment, and continuing for each successive Payment Date thereafter on which the then applicable Payment exceeds the then applicable Required Payment, such excess amount shall be used to pay the cost of additional public improvements that directly or indirectly benefit the Site up to a maximum amount of \$7,000,000.00 less any amounts paid to date for road construction, engineering fees and land acquisition for the Ronald Reagan Blvd. Project (collectively, the "Prior Costs") and thereafter to pay for other additional public improvements as determined by the Township. It is understood and agreed by the parties that since the total amount of the Prior Costs is unknown at this time, this Section will be amended as soon as practicable to reflect the remaining maximum amount once the Prior Costs are known.

G. Notwithstanding anything to the contrary set forth in this Agreement neither the Developer nor the Township, nor their respective heirs, successors, assigns or transferees shall take any action which may endanger the status of or cause the revocation of the exemption approved and granted by the State of Ohio (as described in Section 13 below).

H. Should any Owner fail to make any payment required hereunder, such Owner shall pay, in addition to the Statutory Service Payments, Mandatory Service Payments and Minimum Service Payments such Owner was required to pay hereunder, an amount sufficient to

reimburse the Township for any and all reasonably and actually incurred costs, expenses and amounts (including reasonable attorneys' fees) expended by the Township to enforce the provisions of this Agreement against such Owner or the real property owned by such Owner in the Site.

Section 4 Additional Obligations.

A. The Developer shall cause this Agreement to be recorded in the Hamilton County, Ohio real estate records, and the Developer and each subsequent Owner shall cause all instruments of conveyance of interests in the Improvements and Site (or portions thereof), to subsequent successors, assigns or transferees (except leases of space in the Improvements) to be subject to this Agreement.

In the event that Developer or any subsequent Owner transfers to a third party any portion (less than all) of the property owned by Developer or such Owner within the Site, then the Statutory Service Payments, Minimum Service Payments (except as otherwise provided herein with respect to the Owner of the Hotel Site), and Mandatory Service Payments required by Section 3 shall be allocated between the property conveyed (the "Transferred Portion") and the property retained by Developer or such owner (the "Retained Portion"). The allocation shall be based upon the relative values of the Retained Portion and the Transferred Portion (including improvements thereon), as assessed from time to time on the records of the Hamilton County, Ohio Auditor, without reference to any exemption under Section 5709.73, O.R.C. Prior to the date that such separate assessment appears of record, the relative values of the Retained Portion and the Transferred Portion shall be determined by a qualified real estate appraiser selected by

the Owner making the transfer and approved by the Township, or by another method mutually agreed to by such Owner and the Township.

B. From and after the date that any person or entity transfers to any third party all or any portion of the Site, then such third party (i.e., the new Owner) shall be solely responsible for payment of all Statutory Service Payments, Minimum Service Payments (except as otherwise provided herein with respect to the Owner of the Hotel Site), and Mandatory Service Payments with respect to the portion of the Site so transferred and the Township shall have no cause or right of action against the person or entity making the transfer with respect to any future Service Payments attributable to the portion of the Site so transferred; provided that the transferor shall be responsible for the payment of Service Payments pro rated within the year of transfer between it and the transferee, with the transferee being responsible for the payment of Service Payments for the balance of the year following the date of transfer.

Section 5 Calculating the Annual Minimum Service Amount.

A. The Parties hereto anticipate that the Township will be reimbursed from Service Payments and Alternate Revenues for all Project Draws. The parties agree that the total of the Project Draws (not to exceed \$1,000,000) plus interest at three percent (3.00%) per annum will be reimbursed to the Township from the sources described herein pursuant to the payment schedule attached hereto as Exhibit "D". Each payment date indicated thereon shall be known as the "Payment Date". It is understood and agreed by the parties that interest payable to the Township shall accrue during the years 2012, 2013, and 2014 and such amounts shall be termed the "Accrued Interest". The Accrued Interest shall be payable in installments on the Payment Date beginning with January 15, 2015, such annual installments being equally divided over the

amortization period as described in Exhibit "D" hereto. In the event that there are Alternate Revenues and Service Payments collected in 2013 and 2014, the parties agree that those collected funds may be used to pay all or a portion of the Accrued Interest in advance of January, 2015, in which case the amortization schedule set forth in Exhibit "D" will be revised accordingly.

B. The Minimum Service Amount for any given Payment Date shall be an amount equal to the sum of (i) the Annual Debt Service Amount payable through such Payment Date, plus (ii) the amount due on such Payment Date to the School District and the Vocational School District, plus (iii) the amount due on such Payment Date to the Hamilton County Auditor or Treasurer for fees or other costs of collection related to the Service Payments. Notwithstanding the foregoing, the Minimum Service Amount shall at no time be less than zero.

C. The Reimbursement Payments shall be paid from the following sources in the following order:

- (1) Statutory Service Payments;
- (2) Alternate Revenues; and
- (3) Minimum Service Payments

Section 6 Binding Nature of Obligations; Security for Payment. The obligations of the Owners to pay the Statutory Service Payments, Minimum Service Payments, if any, and Mandatory Service Payments, if any, and to perform and observe the other agreements on their part contained herein shall be absolute and unconditional, and shall be covenants running with

the land, and shall be binding and enforceable by the Township against the Owners (as the same exist from time to time) with respect to their respective interests in the Site and Improvements, or any parts thereof or any interest therein, subject to the provisions set forth in Section 4(A) of this Agreement with respect to the allocation of the Statutory Service Payments, the Minimum Service Payments, if any, and the Mandatory Service Payments.

Except to the extent otherwise provided in this Agreement, the obligations of the Developer under this Agreement will not be terminated for any cause, including, without limiting the generality of the foregoing, but by way of example, failure to complete the Improvements; any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Improvements; commercial frustration of purpose; any change in the constitution, tax or other laws or judicial decision or administrative rulings of or administrative action by or under authority of the United States of America, or of the State or any political subdivision thereof; or any failure of the Township to perform and observe any agreement whether expressed or implied, or any duty, liability or obligation arising out of or connected with this Agreement; provided that in the event the tax exemption sought for the Site is not obtained, Owners shall not be liable or responsible for the Statutory Service Payments (provided that nothing contained in this Section shall relieve the Owners from the obligation to pay the Minimum Service Payments, except as provided herein with respect to the Owner of the Hotel Site, or Mandatory Service Payments as applicable).

Failure to use or to occupy the Improvements shall not relieve Owners of their obligations to make Service Payments as required hereunder. The obligations of any person or entity that is or becomes an Owner hereunder shall apply during such period, and only during

such period, that such person or entity owns real property or Improvements which are a part of or which are located on any portion of the Site. The obligation incurred while an Owner is an Owner of all or any portion of the Site shall not be relieved by the conveyance of the Site or portion thereof.

Nothing contained in this Agreement shall be construed to release any Owner from the performance of any of the agreements or obligations on its part contained in this Agreement other than a transfer of the portion of the Site owned by such Owner to a third party which shall release the transferring Owner from all further obligations hereunder, including the obligation to make Statutory Service Payments hereunder (except that the obligation to make Service Payments shall be pro-rated between transferors and transferees within the year of transfer), except in the case of the Developer with respect to its obligations to construct the Public Improvements.

Section 7 Payment of Taxes; Contests.

A. The Owners shall pay or cause to be paid, as the same become due, all taxes, assessments, whether general or special, and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against, or with respect to, the property of such Owners which is a part of the Site or the Improvements or any personal property or fixtures of such Owners installed or brought therein or thereon (including, without limiting the generality of the foregoing, but by way of example, any taxes levied against such Owners with respect to the Improvements, receipts, income or profits from the operations of such Owners at the Site and Improvements, which, if not paid, may become or be made a lien on all or a portion of the Site or the Improvements) and all utility and other charges incurred by such Owners in the operation,

maintenance, use, occupancy and upkeep of that portion of the Site and the Improvements owned by such Owners, respectively; provided, however, that nothing herein is intended to prevent such Owners, at their respective expense and in good faith, from contesting any such taxes, assessments or other charges, and in the event of any such contest, the Owners pursuing such contest may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Township shall notify such Owners that, in the opinion of independent counsel selected by the Township and paid for by such Owner, by non-payment of such items, the interest of such Owner in the Improvements and the Site shall be materially endangered or subject to loss or forfeiture, in which event such items shall be paid by such Owners in a timely manner, but without prejudice to the rights of such Owners to contest the same. No special tax shall be imposed upon any Owner due to a sale of such Owner's property to another party. Nothing in this paragraph shall be construed to relieve the Owners of the duty to make Minimum Service Payments or Mandatory Service Payments as may be required by this Agreement.

B. Except for real property taxes and Statutory Service Payments, nothing in this Agreement shall require the Owners to pay or reimburse the payment by Township of any federal, state or local tax of any kind or character (whether based on gross or net income, gross receipts, or otherwise) which is imposed or levied on the Township.

Section 8 Insurance Coverage and Proceeds.

A. The Owners shall provide and maintain, or cause to be provided and maintained:

- (1) Insurance coverage on the Improvements owned by such Owner and other improvements on the Site, or any replacements or substitutions therefor, against loss by fire and extended coverage perils, and against loss by such other insurable hazards, all as reasonably determined by such Owner.
- (2) Comprehensive commercial general liability insurance covering bodily injury or death to persons in the minimum amounts as reasonably determined by such Owner.

B. Prior to the acceptance of the Public Improvements by the Township, in addition to the foregoing insurance required in paragraph (A) hereof, the Developer shall provide and maintain, or cause to be provided and maintained

- (1) A commercial general liability insurance in a minimum amount of \$1,000,000.00 for each occurrence; \$2,000,000.00 general aggregate.
- (2) Automobile liability minimum limit \$1,000,000.00 combined single limit each accident.
- (3) Appropriate levels of Workers Compensation insurance.

The Developer shall name the Township, its officers, employees, and agents as additional insureds on the above policies. The Developer will submit one certified complete copy of those portions of the insurance policy in which Sycamore Township, its officers, employees, and agents are named as additional insureds.

In the event the Developer, the Township, or any of its officers, employees, or agents is named in litigation related to this Agreement, the Developer also agrees to provide to the Township, within ten (10) business days of the Developer receiving a copy of a complaint or other evidence of the existence of a lawsuit, one complete certified copy of each of the above referenced insurance policies and associated endorsements.

C. From time to time, upon request by the Township, each of the Owners shall furnish such evidence or confirmation of the insurance required under this Section 8 as the Township may reasonably request. The proceeds of any insurance claim which is the result of substantial damage to the Site or the Improvements shall, unless otherwise agreed to between any Owner and such Owner's mortgagee, be used first, to pay the principal amount and all other sums owed to all mortgage lenders holding loans for the Site and Improvements; second, for the purpose of restoring the Site and Improvements to substantially the same condition as they existed prior to such damage or destruction; and third, any excess over the amounts required for such purposes shall be the property of, and shall be paid to the Owner. The Owners agree that in each case they will use their best efforts to negotiate with or require, as the case may be, applicable mortgagees to use insurance proceeds for the purpose of restoring the Site and Improvements to substantially the same condition as they existed prior to such damage or destruction.

Section 9 **Condemnation.** The Owners agree that in the event any portion of the Site or Improvements shall be taken as a result of the exercise of eminent domain by any governmental entity or other person, association or corporation possessing the right to exercise

the power of eminent domain, the proceeds shall be applied in the same manner as casualty insurance proceeds in Section 8 hereof. Any excess condemnation proceeds over the amounts required for the above purposes shall be the property of, and shall be paid to the Owner. The Owners agree that in each case they will use their best efforts to negotiate or require, as the case may be, applicable mortgagees to use condemnation proceeds for the purpose, if practicable, of restoring the balance of the Site and the Improvements to substantially the same condition as they existed prior to such condemnation.

The term "condemnation" as used in this Agreement shall be deemed to include any voluntary or involuntary transfer of the Site, or any parcel therein, or any portion thereof or interest therein, by private sale to the condemning authority upon threat of condemnation or by petition for appropriation in accordance with Ohio condemnation law.

Section 10 Notices. All notices, designations, certificates, requests or other communications under this Agreement (including Construction Default Notices, defined *infra*) shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, addressed to the Township at 8540 Kenwood Road, Cincinnati, Ohio 45236, Attn: Township Administrator; to the Developer at Kenwood Towers, LLC 2135, Dana Avenue, #200, Cincinnati, OH 45207, and to any other Owner at the tax mailing address for the property owned by such Owner in the Site. The Township, the Developer and any other Owner may, by notice given under this Agreement, designate any further or different addresses to which subsequent notices, designations, certification, requests or other communications shall be sent.

Section 11 **Representation and Warranties.** The Developer represents and warrants that Developer is a duly organized and existing Ohio limited liability company, is in good standing under the laws of the State of Ohio and is qualified to do business in the state.

Section 12 **Exemption Application.** Developer shall have primary responsibility to prepare and execute at the appropriate time after this Agreement is signed such applications, documents and other information with the appropriate officials of the State, County of Hamilton , Ohio, or other public body as may be required to effect the exemption from real property taxation described in Section 5709.73, O.R.C. for the entire Site. Developer will use best efforts to get any subsequent Owner to sign any necessary DTE applications if subsequent applications are required by the State. The Township shall cooperate in such preparation by Developer, including, without limitation, executing such applications and documents as may be appropriate in assisting the Developer in obtaining such exemption. The Township will effect the actual filing with the consent of the Developer at the appropriate time. Township and Developer intend that such exemption from real property taxation will apply to the 2012 tax year for at least a portion of the property, and shall use due diligence and best efforts to that end. Both parties agree to use due diligence to cause the application for exemption from real property taxation to be filed with the appropriate officials. The Developer shall continuously use due diligence and employ their best efforts to keep such exemption in force, not permitting the same to lapse or be suspended or revoked for any reason within Developer's control. In the event that the exemption with respect to the Improvements contemplated by Section 5709.73(B) O.R.C. is not allowed, or in the event that subsequent to allowance of such exemption, the same is at any time revoked or

suspended, the Owners are nonetheless required to pay the Minimum Service Payments that shall be levied on the Site in accordance with this Agreement.

Section 13 **Duration of Agreement.** This Agreement shall become effective on the date that it is executed and delivered, by the parties, and unless sooner terminated, shall expire on the earlier to occur of (1) the full payment of the Unreimbursed Project Costs or (2) December 31, 2042.

Section 14 **Application of Payment.** Service Payments shall initially be made by the Developer and/or Owners, as appropriate, to the Hamilton County Treasurer on or before the respective dates required in this Agreement. Upon distribution of such Service Payments to the Township, such Service Payments shall be deposited in the appropriate Sycamore Township Improvement Tax Increment Equivalent Fund established by the Resolution.

Section 15 **Reporting Requirements.** On or before January 31 of each year during which the tax exemption granted pursuant to O.R.C. 5709.73 remains in effect, Developer and it's successors, assigns and transferees, including any Owner, shall provide a report to the Township regarding the progress of the Improvements. Such report shall include a summary of the Service Payments made in lieu of taxes along with any other information that may be required to be reported to the State of Ohio and a quantitative summary of change in employment and private investment resulting from the project. In the event the Developer or its successors, assigns and transferees rent or lease all or a portion of the Improvements to third parties, the Developer and its successors, assigns and transferees shall include in such rental agreement or lease, a provision requiring such information from its renters or lessees or their subrenters or

sublessees. The parties acknowledge that a failure to provide such information could result in a loss of the tax exemption under O.R.C. 5709.73 and failure to comply with the requirements of this Section would constitute a breach of this Agreement.

Section 16 **Defaults and Remedies.** The following shall be events of default under this Agreement:

- (1) the failure of any Owner, to pay, when due, any Statutory Service Payment, Minimum Service Payment, or Mandatory Service Payment or any installment thereof, including any applicable late payment charges; and
- (2) the failure of the Developer, its successors, assigns or transferees, including any Owner, to provide the information required under Section 16 herein; which failure shall continue for more than thirty (30) days following written notice thereof by the Township; provided that such thirty (30) day period may be extended for a reasonable period of time necessary (but in no event later than March 15th) to cure such default provided the defaulting party is diligently pursuing such cure; and
- (3) the failure by the Township to make any payments required by Section 2 of this Agreement when and as due.
- (4) the failure by the Developer to follow all requirements for the construction of the Public Improvements as provided in Section 2(B)(i), (iv) and (v)

and such failure continues for a period of ten (10) days after written notice from the Township specifying the requirement(s) which the Developer has failed to follow and the required cure (a "Construction Default Notice").

- (5) the failure of the Developer, its successors, assigns or transferees including any Owner, to perform or observe any other covenant made by it in this Agreement, which failure shall continue for more than thirty (30) days following written notice thereof by the Township; provided that such thirty (30) day period may be extended for a reasonable period of time necessary to cure such default provided the defaulting party is diligently pursuing such cure.

Upon the occurrence and continuation of an event of default under (1), (2), or (5), the Township shall be entitled to exercise any and all remedies available to it to compel performance of the defaulting Owner's or Developer's obligations, or to recover against the defaulting party damages for non-performance. Waiver by the Township of any event of default shall not be deemed to extend to any subsequent or other event of default under this Agreement.

Upon the occurrence and continuation of an event of default under (3) the Developer shall be entitled to exercise any and all remedies available to it at law or in equity and to compel performance the Township's obligations. Waiver by the Developer of any event of default shall not be deemed to extend to any subsequent or other event of default under this Agreement.

Upon the occurrence and continuation of an event of default under (4) above, the Township shall be entitled to suspend payments to the Developer under Section 2 hereof until

such default is cured. If the default is not cured within forty-five (45) days after the Construction Default Notice has been given, the Township shall be relieved of any and all obligations to pay any further amounts to the Developer under Section 2 hereof. In addition to the foregoing, the Township shall also be entitled to exercise any and all remedies available to it to compel performance of the Developer's obligations, or to recover against the Developer damages for non-performance. Waiver by the Township of any event of default shall not be deemed to extend to any subsequent or other event of default under this Agreement

Section 17 **Counterparts; Captions.** This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same Agreement. Captions have been provided herein for the convenience of the reader and shall not affect the construction of this Agreement.

Section 18 **Severability.** In case any section or provision of this Agreement, or any covenant, agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, or any application thereof, is held to be illegal or invalid for any reason, or is inoperable at any time, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Agreement or any other covenant, agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, all of which shall be construed and enforced at the time as if the illegal, invalid or inoperable portion were not contained therein.

All illegality, invalidity or inoperability shall not affect any legal, valid and operable section, provision, covenant, agreement, stipulation, obligation, act, action, part or application, all of which shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law from time to time.

Section 19 **Additional Documents; Amendment.** The Township and the Developer, and their respective successors, assigns and transferees, agree to execute any further agreements, documents or instruments as may be reasonably necessary to fully effectuate the purpose and intent of this Agreement. To the extent permitted by this Agreement, and in compliance with all laws and ordinances controlling this Agreement, the Township and the Developer, and their respective successors, assigns and transferees, agree that any amendment to this Agreement must be in writing and signed by all parties.

The remainder of this page is intentionally left blank

IN WITNESS WHEREOF, the Township and the Developer have caused this Agreement to be executed in their respective names by their duly authorized officers, all as of the date hereinbefore written.

THE TOWNSHIP
Sycamore Township, Hamilton County,
Ohio

By: _____
Bruce A. Raabe, Township Administrator

DEVELOPER
Kenwood Towers LLC

By: _____
Name: _____
Its: _____

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

On this ____ day of _____, 2012, personally appeared before me, a Notary Public in and for the State of Ohio, Sycamore Township, Hamilton County, Ohio, by Bruce A. Raabe, known and known to be the Township Administrator of said Township and duly authorized in the premises, who acknowledged the signing and sealing of the said Service Agreement for himself and on behalf of said Township, to be his voluntary act and deed, and the voluntary act and deed of said Township.

Notary Public

My commission expires: _____

[NOTARY SEAL]

STATE OF OHIO)
) ss:
COUNTY OF _____)

On this _____ day of _____, 2012, personally appeared before me, a Notary Public in and for the State of Ohio, Kenwood Towers, LLC, by _____, known and known to be the _____ of said limited liability company and duly authorized in the premises, who acknowledged the signing of the said Service Agreement for himself and on behalf of said limited liability company, to be his voluntary act and deed, and the voluntary act and deed of said limited liability company.

Notary Public

My commission expires: _____

[NOTARY SEAL]

EXHIBIT "A"

COMMERCIAL IMPROVEMENTS

EXHIBIT "B"

THE "PUBLIC IMPROVEMENTS"

The Public Improvements consist of the certain water detention/retention facilities:

[describe project]

PROJECT BUDGET

[itemize budget]

EXHIBIT "C"
THE SITE

LEGAL DESCRIPTION OF THE SITE

EXHIBIT "D"
SCHEDULE OF ANNUAL DEBT SERVICE AMOUNTS

(To be provided)

EXHIBIT "E"
ADDITIONAL CONSTRUCTION COVENANTS

The Developer hereby agrees to be bound by the following construction related obligations and covenants.

Section 1 Retention of Records and Audit Responsibility. All records relating to the construction and acquisition of the Public Improvements and the supporting documentation for Project Invoices submitted to the Township by the Developer shall be retained and made available by the Developer for audit by the Township or its designee for a minimum of three (3) years after final payment under this Agreement. If an audit is initiated during this time period, the Developer shall retain such records until the audit is concluded and all issues resolved. The Developer agrees to accept responsibility for receiving, replying to and/or complying with any audit exception by any appropriate federal, state, or local audit related to the provisions of services under this Agreement.

Section 2 Disclosure. The Developer hereby covenants that it has disclosed any information that it possesses about any business relationship or financial interest that Developer has with the Township or any Township employee, employee's business, or any business relationship or financial interests that the Township or an employee or officer has with the Developer or the Developer's business. The Developer further warrants that it is aware of no improper personal, financial or other beneficial interest on the part of any member, employee, or officer of the Township involved in the development of the specifications, negotiation or performance of this Agreement. The Developer has no knowledge of any situation that would constitute a conflict of interest. It is understood that a conflict of interest occurs when an employee or officer will gain financially or receive personal benefit as a result of the procuring, signing, negotiation or implementation of this Agreement. The Developer will report the discovery of any potential conflict of interest to the Township.

Section 3 Assignment. The parties expressly agree that with respect to the obligations of the Township and the Developer in this Agreement regarding the construction and acquisition of the Public Improvements, such portions of this Agreement may be assigned/sublet/subcontracted by the Developer without the prior written approval of the Township. All assignments/sublets/subcontracts shall be subject to the same terms, conditions and covenants contained within this Agreement. The Developer shall at all times remain primarily responsible for the construction and acquisition of the Public Improvements and shall cause all work performed thereon by the approved subcontractor to be performed in accordance with this Agreement. Nothing contained in this paragraph shall preclude the Developer from contracting the actual work on the Public Improvements to be performed under this Agreement with third parties.

Section 4 Compliance. The Developer certifies that the Developer and all subcontractors who will provide work on the Public Improvements will comply with all requirements of federal laws and regulations, applicable OMB circulars, state statutes and Ohio

Administrative Code Rules in the conduct of this Agreement. The Developer accepts full responsibility for payment of any and all unemployment compensation premiums, all income tax deductions, pension deductions, and any and all other taxes or payroll deductions related to the Developer's employees required as a result of the construction and acquisition of the Public Improvements hereunder.

Section 5 Non-Discrimination. The Developer certifies that it is an equal opportunity employer and shall remain in compliance with state and federal civil rights and nondiscrimination laws and regulations including, but not limited to, Title VI and Title VII of the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination Act of 1975, the Age Discrimination and Employment Act, and the Ohio Civil Rights Law.

The Developer will not discriminate against any employee, contract worker or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, Vietnam-era veteran status, age, political belief, or place of birth. The Developer will take affirmative action to insure that during employment all employees are treated without regard to race, color, religion, sex, national origin, ancestry, disability, Vietnam-era veteran status, age, political belief, or place of birth. These provisions apply also to any contract workers. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff, or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Developer agrees to posting in conspicuous places, available to employees and applicants for employment, notices stating that the Developer complies with all applicable federal and state non-discrimination laws. The Developer and any person claiming through the Developer agrees not to establish or knowingly permit any such practice or practices or discrimination or segregation.

Section 6 Relationship. Nothing in this Agreement is intended to, nor shall it be deemed to constitute a partnership, association, or joint venture with the Developer in the conduct of the provisions of this Agreement. The Developer and its employees are expected to perform the services under this contract without the benefit of direct day-to-day control from the Township. The Developer will exercise its own discretion and professional judgment in constructing and acquiring the Public Improvements hereunder, and the Developer's employees and subcontractors will perform work and labor under supervision of the Developer and not the Township. The Developer shall at all times have the status of an independent contractor in performing its obligations with regard to the Public Improvements under this Agreement.

Section 7 Indemnification. The Developer shall save, protect, defend, indemnify and hold harmless, the Board of Township Trustees of Sycamore Township, Ohio, the Hamilton County Engineer, the Township, its officers, employees, and agents from and against any and all liabilities, penalties, damages, settlements, or costs of every other kind and character, including legal fees, arising in any way out of or in connection with (a) the negligent acts, errors, or omissions, or intentional misconduct of the Developer, its employees, officers, agents, independent contractors, or subcontractors, which are related directly to the construction or acquisition of the Public Improvements or (b) Developer's breach of any term of this Agreement related to the construction or

acquisition of the Public Improvements which continues beyond any applicable grace or cure period. The Developer agrees to pay all damages, costs and expenses, including legal fees, of the Board of Township Trustees of Sycamore Township, Ohio, the Hamilton County Engineer, the Township, and its officers, employees, and agents in defending any action arising out of the aforementioned negligent acts, errors, or omissions or intentional misconduct. The parties expressly agree that this provision shall survive the acceptance by the Township of the Public Improvements and the termination or expiration of this Agreement.

Section 8 Drug Free Workplace. The Developer certifies and affirms that Developer will comply with all applicable state and federal laws regarding a drug free workplace. The Developer will make a good faith effort to insure that all employees and subcontractors performing duties or responsibilities under this Agreement, while working on Township or private property, will not purchase, transfer, use or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

Section 9 Illegal Immigration. In the event the Developer is found to be using any illegal immigrant as defined in Sycamore Township Resolution 2007-40 on the construction and/or acquisition Public Improvements, or in the event any subcontractor employed by Developer is found to be using any illegal immigrant on the construction and/or acquisition of the Public Improvements, the Developer shall pay a penalty to Sycamore Township in the amount of \$100,000.00.

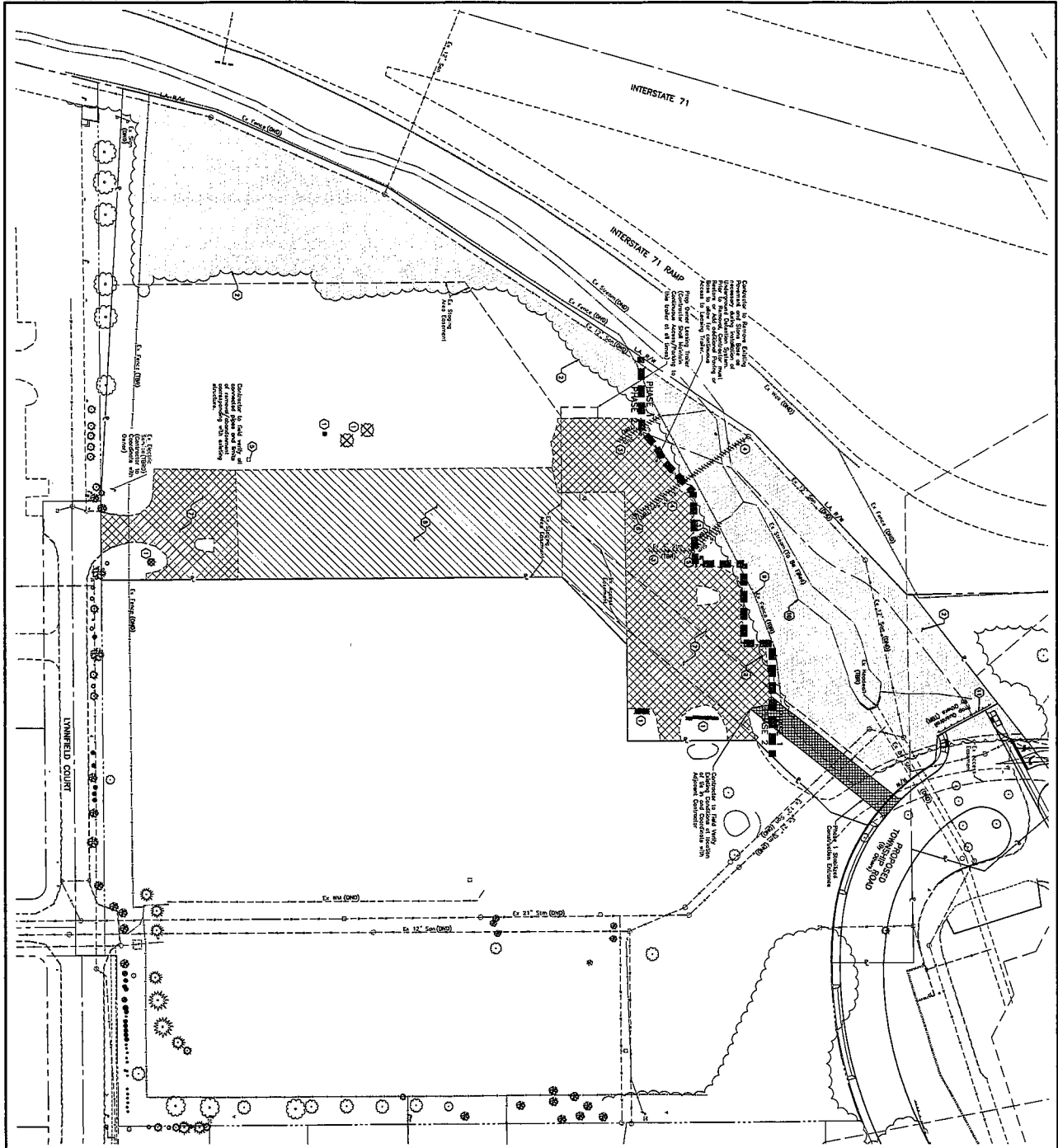
EXHIBIT "A"

COMMERCIAL IMPROVEMENTS

Up to a 160 room hotel and approximately 200,000 square feet of office space.

EXHIBIT "B"

THE "PUBLIC IMPROVEMENTS"

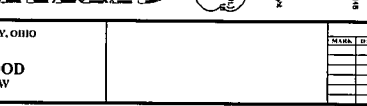
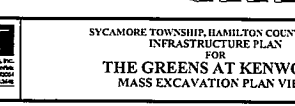
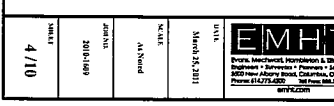
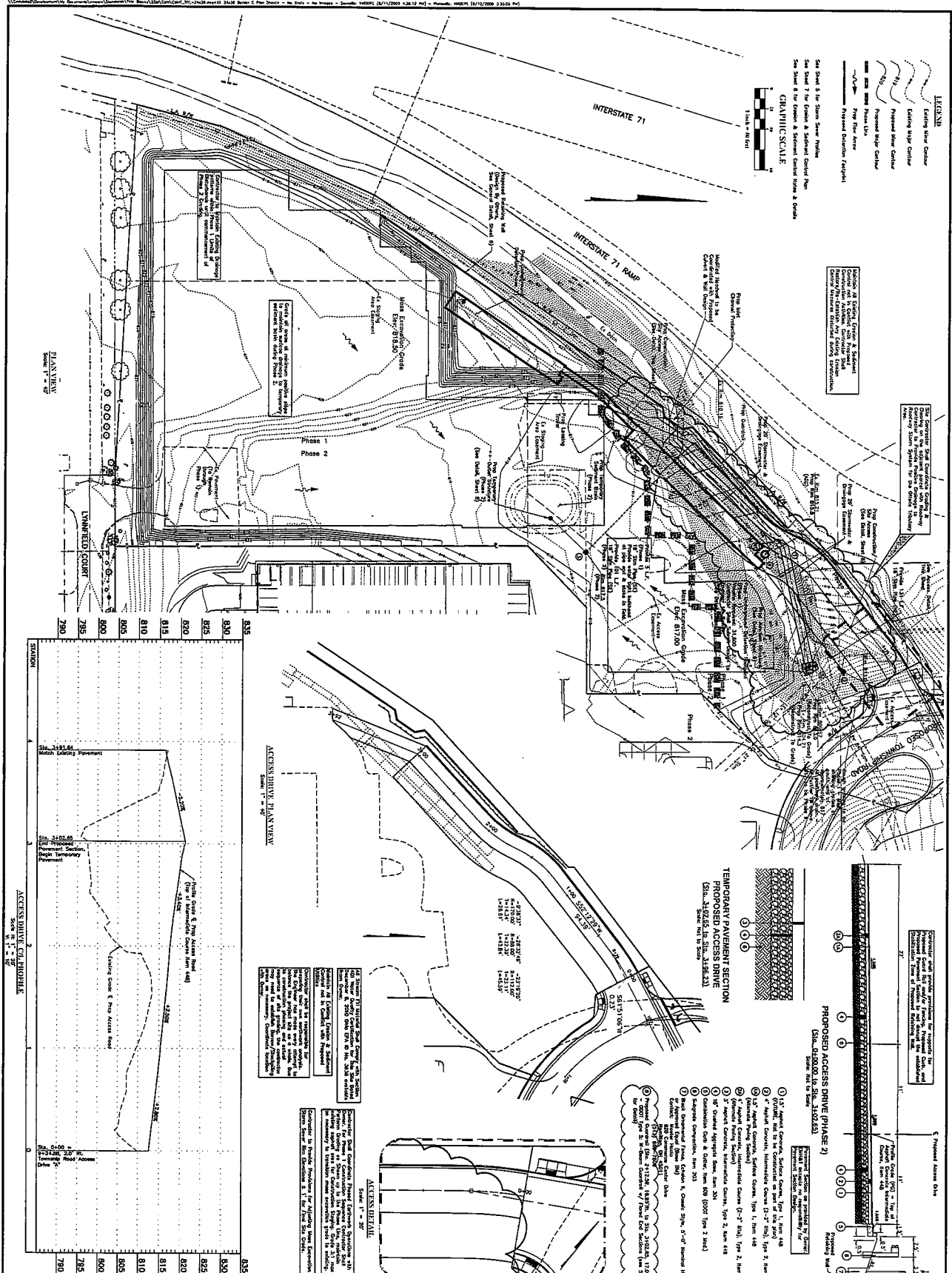


LEGEND

- ① Existing Structure to be Demolished - PHASE 2
- ② Existing Structure to be Demolished - PHASE 1
- ③ Existing Structure to be Demolished - PHASE 1
- ④ Existing Structure to be Demolished - PHASE 1
- ⑤ Existing Structure to be Demolished - PHASE 1
- ⑥ Existing Structure to be Demolished - PHASE 1
- ⑦ Existing Structure to be Demolished - PHASE 1
- ⑧ Existing Structure to be Demolished - PHASE 1
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- ㊿ Existing Structure to be Demolished - PHASE 1

CONSTRUCTION NOTES:

1. The existing structure shown on this plan is to be demolished in accordance with the provisions of the contract documents.
2. The contractor shall be responsible for obtaining all necessary permits and approvals for the demolition work.
3. The contractor shall be responsible for the safe removal and disposal of all debris and materials.
4. The contractor shall be responsible for the protection of all existing utilities and structures.
5. The contractor shall be responsible for the maintenance of all access and egress points.
6. The contractor shall be responsible for the maintenance of all safety and security measures.
7. The contractor shall be responsible for the maintenance of all environmental and noise control measures.
8. The contractor shall be responsible for the maintenance of all traffic and pedestrian safety measures.
9. The contractor shall be responsible for the maintenance of all site access and parking areas.
10. The contractor shall be responsible for the maintenance of all site security and access control measures.



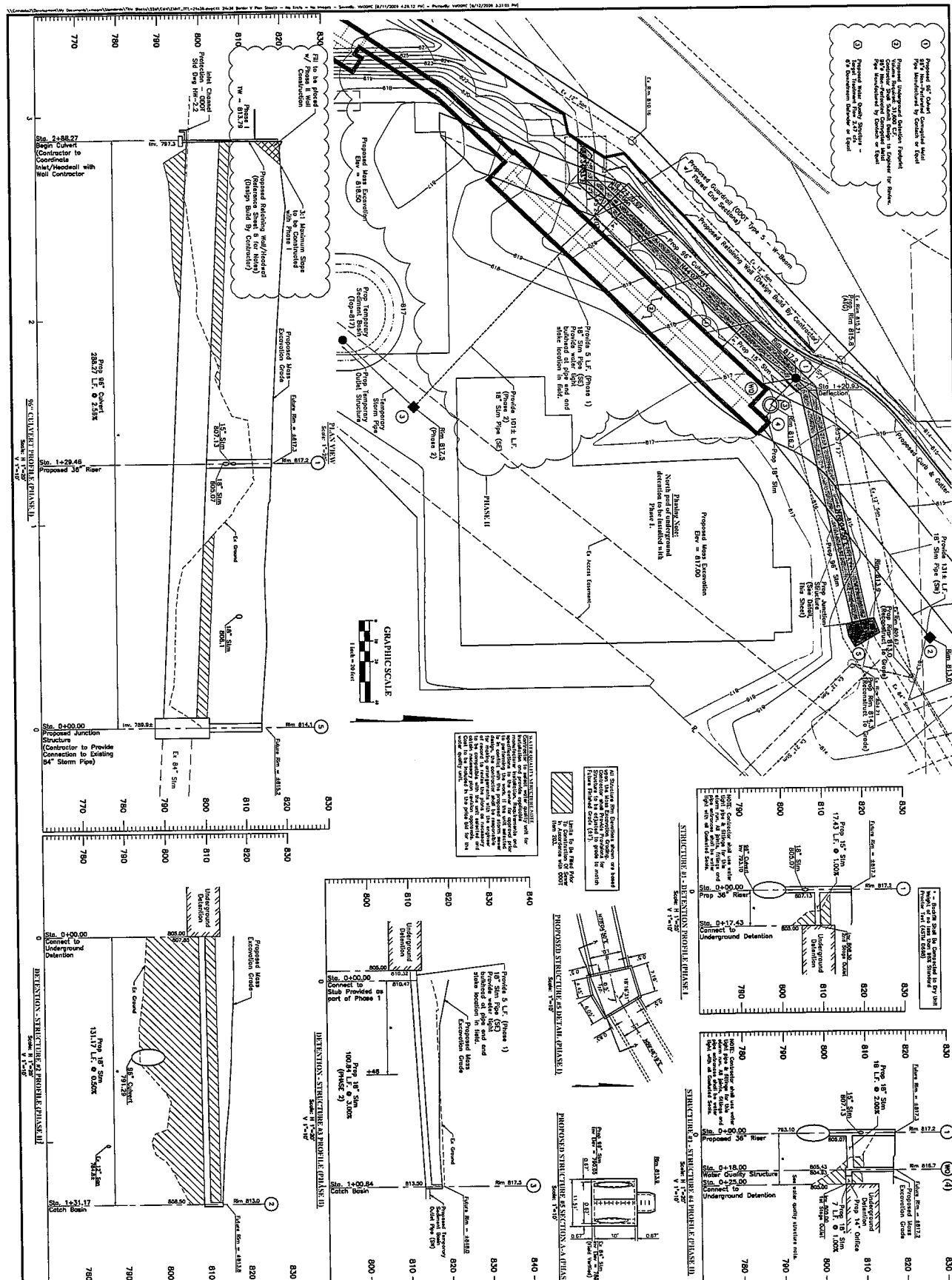
REVISIONS		
NO.	DATE	DESCRIPTION

EMHT
 2500 West Main Street, Suite 100
 Hamilton, OH 45011
 Phone: (513) 863-1111
 Fax: (513) 863-1112
 Website: www.emht.com

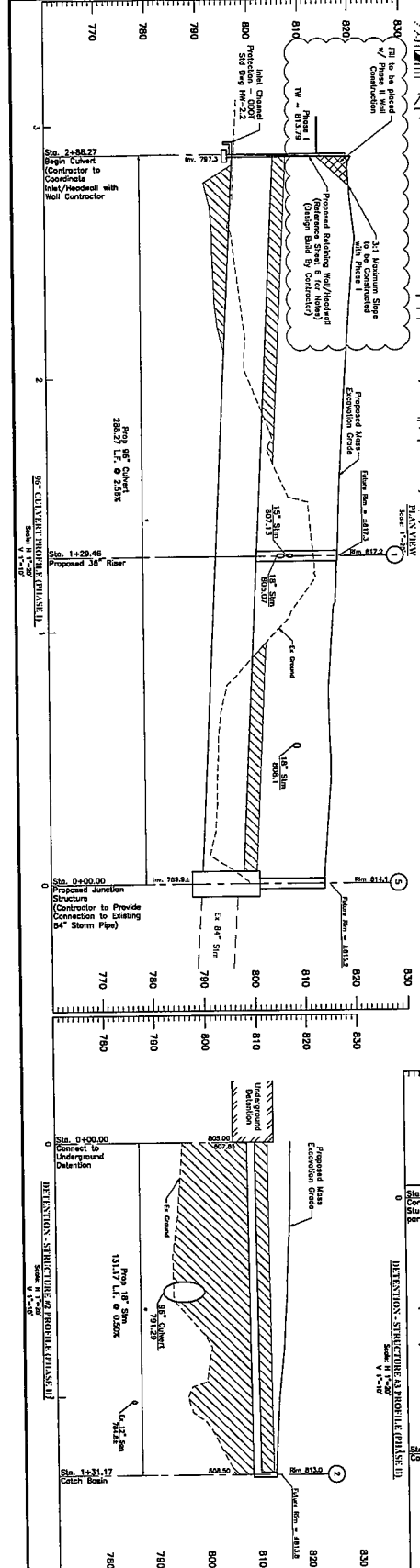
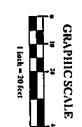
SYCAMORE TOWNSHIP, HAMILTON COUNTY, OHIO
 INFRASTRUCTURE PLAN
 FOR
 THE GREENS AT KENWOOD
 MASS EXCAVATION PLAN VIEW

DATE: March 25, 2013
 SCALE: As Shown
 SHEET: 4/10

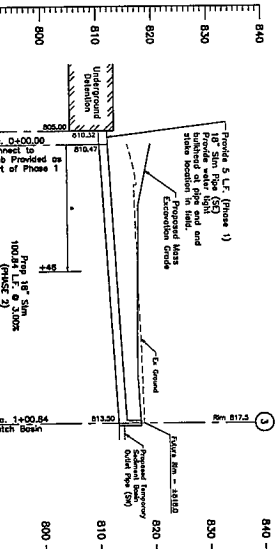
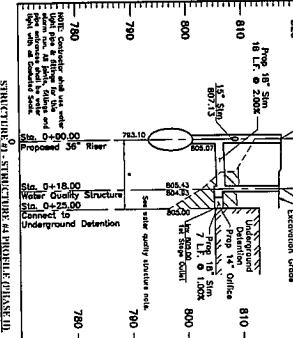
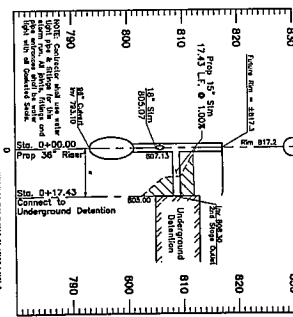
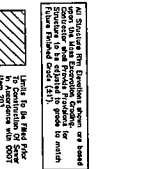
4/10



- ① Proposed 18" Storm Pipe Manufactured by Corus or Equal
- ② Proposed 18" Storm Pipe Manufactured by Corus or Equal
- ③ Proposed 18" Storm Pipe Manufactured by Corus or Equal
- ④ Proposed 18" Storm Pipe Manufactured by Corus or Equal
- ⑤ Proposed 18" Storm Pipe Manufactured by Corus or Equal
- ⑥ Proposed 18" Storm Pipe Manufactured by Corus or Equal
- ⑦ Proposed 18" Storm Pipe Manufactured by Corus or Equal
- ⑧ Proposed 18" Storm Pipe Manufactured by Corus or Equal
- ⑨ Proposed 18" Storm Pipe Manufactured by Corus or Equal
- ⑩ Proposed 18" Storm Pipe Manufactured by Corus or Equal



MATERIALS SPECIFICATIONS
 All materials shall be of the best quality and shall conform to the specifications of the American Society of Civil Engineers (ASCE) and the American Institute of Steel Construction (AISC). All materials shall be tested and certified by an independent testing agency. All materials shall be approved by the Engineer before construction begins.



NO.	DATE	DESCRIPTION

EMHT
 ENGINEERING, MECHANICAL, ARCHITECTURE & INTERIOR DESIGN, P.C.
 8800 New Albany Road, Columbus, OH 43250
 Phone: 614-277-7272
 FAX: 614-277-7273
 www.emht.com

SCALE: As Shown
 DATE: March 25, 2011
 DRAWN: ASH/MSD
 CHECKED: 10/8/10/09
 SHEET: S/10

SYCAMORE TOWNSHIP, HAMILTON COUNTY, OHIO
 INFRASTRUCTURE PLAN
THE GREENS AT KENWOOD
 CULVERT & STORM PROFILES

PROJECT BUDGET & PAY APPLICATION COVER SHEET

Project Name: The Greens at Kenwood Site / Infrastructure Improvements

Project Address: _____

Original Date: _____
 Application Number: _____
 Application Date: _____
 Period To: _____

A Item No	B Description of Work	C Scheduled Value	C1 Budget Adj. To date	C2 Adjusted Scheduled Values (C + C1)	D Work Completed		F Total Completed & Stored to Date (D + E)	G % Complete (F/C2)	H Balance to Finish (C2-F)	I Retainage 5%
					Previous Application	This Period				
1	Site Improvement Const.Docs	\$ 24,500.00		\$ 24,500.00	\$ -	\$ -	\$ -	0%	\$ 24,500.00	\$ -
2	Demolition and Mass Excavation	\$ 175,000.00		\$ 175,000.00	\$ -	\$ -	\$ -	0%	\$ 175,000.00	\$ -
3	Partial Wall Installation	\$ 165,000.00		\$ 165,000.00	\$ -	\$ -	\$ -	0%	\$ 165,000.00	\$ -
4	Additional Wall Install and Geopiers	\$ 400,000.00		\$ 400,000.00	\$ -	\$ -	\$ -	0%	\$ 400,000.00	\$ -
5	Stream relocation piping and headwall	\$ 205,000.00		\$ 205,000.00	\$ -	\$ -	\$ -	0%	\$ 205,000.00	\$ -
6	Underground detention and stormwater	\$ 265,000.00		\$ 265,000.00	\$ -	\$ -	\$ -	0%	\$ 265,000.00	\$ -
7	Access drive and guardrail	\$ 70,000.00		\$ 70,000.00	\$ -	\$ -	\$ -	0%	\$ 70,000.00	\$ -
8	Landscaping, traffic signage, and lighting	\$ 25,000.00		\$ 25,000.00	\$ -	\$ -	\$ -	0%	\$ 25,000.00	\$ -
9	Supervision	\$ 19,500.00		\$ 19,500.00	\$ -	\$ -	\$ -	0%	\$ 19,500.00	\$ -
10	Insurance and Bonding	\$ 8,000.00		\$ 8,000.00	\$ -	\$ -	\$ -	0%	\$ 8,000.00	\$ -
11	Reproduction, Shipping, Reimbursables	\$ 450.00		\$ 450.00	\$ -	\$ -	\$ -	0%	\$ 450.00	\$ -
12	Portable Toilets and Field Office	\$ 1,400.00		\$ 1,400.00	\$ -	\$ -	\$ -	0%	\$ 1,400.00	\$ -
13	Maintenance of Traffic and Safety	\$ 1,900.00		\$ 1,900.00	\$ -	\$ -	\$ -	0%	\$ 1,900.00	\$ -
14	Cleaning, Dumpster, and Trash Removal	\$ 750.00		\$ 750.00	\$ -	\$ -	\$ -	0%	\$ 750.00	\$ -
15	Legal, transaction, and zoning fees	\$ -		\$ -	\$ -	\$ -	\$ -	#DIV/0!	\$ -	\$ -
16	Army Corps and EPA permit requirements	\$ 30,000.00		\$ 30,000.00	\$ -	\$ -	\$ -	0%	\$ 30,000.00	\$ -
17	Construction Management (8%)	\$ 111,320.00		\$ 111,320.00	\$ -	\$ -	\$ -	0%	\$ 111,320.00	\$ -
TOTALS		\$ 1,502,820.00	\$ -	\$ 1,502,820.00	\$ -	\$ -	\$ -	0%	\$ 1,502,820.00	\$ -

1	Original Contract Sum	\$ 1,502,820.00
2	Net Change By Change Orders	\$ -
3	CONTRACT SUM TO DATE	\$ 1,502,820.00
4	TOTAL COMPLETED & STORED TO DATE	\$ -
5	Retainage	\$ -
6	Total Earned Less Retainage (Line 4 less Line 5)	\$ -
7	LESS PREVIOUS CERTIFICATES FOR PAYMENT	\$ -
8	CURRENT PAYMENT DUE (LINE 6 form prior Certificate)	\$ 1,502,820.00
9	BALANCE TO FINISH, PLUS RETAINAGE (Line 3 less Line 6)	\$ -

PROJECT MANAGER CERTIFICATION

The undersigned certifies that to the best of his knowledge, information and belief, the Work and Services covered by this Application for Payment have been completed in accordance with the Reimbursement Agreement, that all amounts have been paid by the project manager for Work and Services for which previous Certificates for payment were issued and funds received from Sycamore Township, that all previous payments are substantiated with paid receipts, subcontractor and supplier lien waivers, and that the current payment is now due.

PROJECT MANAGER

By: _____

Date: _____

State of: _____

County of: _____

Subscribed and sworn to before me this _____ day of _____

Notary Public: _____

EXHIBIT "C"
THE SITE

LEGAL DESCRIPTION OF THE SITE

SURVEY OF ACREAGE PARCEL
5.2404 ACRES

Situate in the State of Ohio, County of Hamilton, Township of Sycamore, lying in Section 7, Township 4, Entire Range 1, Symmes Purchase, being part of Hamilton County Auditor Parcel Number 0600-0080-_____, further being part of Registered Land No. 198702 of the Hamilton County, Ohio, Registered Land Records, and being out of the tract conveyed as Parcel I to Kenwood Towers, LLC by deed of record in Official Record 9327, Page 903, of the Hamilton County Recorder's Office, being more particularly described as follows:

Beginning, for reference, at the southwesterly corner of Lot 1 of the subdivision plat entitled "Kenwood Village Block 'H'" of record in Plat Book 25, Pages 41 & 42, of the Registered Land Records of Hamilton County, Ohio, and in Plat Book 151, Pages 23 & 24, of the Hamilton County Recorder's Office, being in the northerly right-of-way line of Lynnfield Court (60') of record in Plat Book 128, Page 55 of the Hamilton County Recorder's Office, and Plat Book 17, Page 19, of the Registered Land Records of Hamilton County, Ohio, reference a 1 inch iron pipe found 0.44 feet west;

thence with said northerly right-of-way line, the following courses and distances;

South 89° 35' 00" West, (passing at 0.44 feet a 1 inch iron pipe found) a total distance of 150.01 feet to 5/8 inch rebar capped "SMITH" found;

South 00° 25' 00" East, a distance of 10.00 feet to a magnetic nail set; and

South 89° 35' 00" West, a distance of 329.98 feet to an iron pin set at the TRUE POINT OF BEGINNING;

thence South 89° 35' 00" West, with said northerly right-of-way line, a distance of 70.02 feet to a 3/4 inch iron pipe capped "DETTMER" found;

thence North 86° 57' 40" West, with the northerly line of Parcel 1 conveyed to Kenwood Olde Towne, LLC by deed of record in Official Record 9489, Page 672, a distance of 363.45 feet to a point referenced by a 5/8 inch rebar capped "SMITH" found (0.59 feet West), being in an easterly line of that 12.19 acre tract conveyed as Parcel 8995-WL to State of Ohio by deed of record in Deed Book 3675, Page 269, being the easterly limited access right-of-way line of State Route 71;

thence with the easterly line of said Parcel 8995-WL, the easterly limited access right-of-way line of State Route 71, the following courses and distances:

North 14° 06' 35" East, a distance of 83.78 feet to a 1 inch iron pin found;

North 23° 55' 51" East, a distance of 164.83 feet to a point referenced by a 1 inch iron pin found (0.21 feet North and 0.31 feet West);

North 33° 55' 05" East, a distance of 386.04 feet to a point referenced by a 3/4 inch rebar found (0.68 feet North, 0.62 feet East);

North 46° 59' 03" East, a distance of 195.15 feet to a point referenced by a 1 inch iron pin found (0.21 feet South, 0.35 feet East);

North 01° 03' 14" West, a distance of 5.46 feet to a 5/8 inch rebar capped "SMITH" found at a southerly corner of that 1.4459 acre tract conveyed to 8020 Montgomery Cincinnati LLC by deed of record in Official Record 11260, Page 1046;

North 52° 12' 29" East, with the southeasterly line of said 1.4459 acre tract, a distance of 121.49 feet to a point;

thence across said Parcel I, the following courses and distances:

5.2404 ACRES

-2-

South 28° 08' 54" East, a distance of 60.42 feet to an iron pin set;

South 85° 40' 54" East, a distance of 21.16 feet to an iron pin set on the arc of a curve to the right;

with the arc of said curve to the right, having a central angle of 22° 38' 12", a radius of 20.00 feet, an arc length of 7.90 feet, a chord bearing and distance of South 43° 36' 30" East, 7.85 feet to an iron pin set at a point of reverse curvature;

with the arc of said curve to the left, having a central angle of 23° 49' 55", a radius of 181.50 feet, an arc length of 75.49 feet, a chord bearing and distance of South 44° 12' 21" East, 74.95 feet to an iron pin set;

South 19° 34' 07" West, a distance of 34.05 feet to an iron pin set;

South 44° 23' 43" West, a distance of 90.58 feet to an iron pin set;

South 00° 25' 07" East, a distance of 112.62 feet to an iron pin set;

South 89° 34' 53" West, a distance of 84.84 feet to an iron pin set;

South 46° 35' 28" West, a distance of 82.26 feet to an iron pin set;

South 00° 25' 07" East, a distance of 403.22 feet to the TRUE POINT OF BEGINNING and containing 5.2404 acres of land, more or less.

The bearings herein are based on westerly line of Kenwood Village Block "H", a subdivision of record in Plat Book 25, Pages 41 & 42, of the Registered Land Records of Hamilton County, Ohio, and in Plat Book 151, Pages 23 & 24, of the Hamilton County Recorder's Office, having a bearing of North 0° 25' West.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.



EVANS, MECHWART, HAMBLETON, & TILTON, INC.

Heather L. King 4/22/10
Heather L. King
Registered Surveyor No. 8307

EXHIBIT "D"
SCHEDULE OF ANNUAL DEBT SERVICE AMOUNTS

Loan Amortization Schedule

EXHIBIT "E"
ADDITIONAL CONSTRUCTION COVENANTS

The Developer hereby agrees to be bound by the following construction related obligations and covenants.

Section 1 Retention of Records and Audit Responsibility. All records relating to the construction and acquisition of the Public Improvements and the supporting documentation for Project Invoices submitted to the Township by the Developer shall be retained and made available by the Developer for audit by the Township or its designee for a minimum of three (3) years after final payment under this Agreement. If an audit is initiated during this time period, the Developer shall retain such records until the audit is concluded and all issues resolved. The Developer agrees to accept responsibility for receiving, replying to and/or complying with any audit exception by any appropriate federal, state, or local audit related to the provisions of services under this Agreement.

Section 2 Disclosure. The Developer hereby covenants that it has disclosed any information that it possesses about any business relationship or financial interest that Developer has with the Township or any Township employee, employee's business, or any business relationship or financial interests that the Township or an employee or officer has with the Developer or the Developer's business. The Developer further warrants that it is aware of no improper personal, financial or other beneficial interest on the part of any member, employee, or officer of the Township involved in the development of the specifications, negotiation or performance of this Agreement. The Developer has no knowledge of any situation that would constitute a conflict of interest. It is understood that a conflict of interest occurs when an employee or officer will gain financially or receive personal benefit as a result of the procuring, signing, negotiation or implementation of this Agreement. The Developer will report the discovery of any potential conflict of interest to the Township.

Section 3 Assignment. The parties expressly agree that with respect to the obligations of the Township and the Developer in this Agreement regarding the construction and acquisition of the Public Improvements, such portions of this Agreement may be assigned/sublet/subcontracted by the Developer without the prior written approval of the Township. All assignments/sublets/subcontracts shall be subject to the same terms, conditions and covenants contained within this Agreement. The Developer shall at all times remain primarily responsible for the construction and acquisition of the Public Improvements and shall cause all work performed thereon by the approved subcontractor to be performed in accordance with this Agreement. Nothing contained in this paragraph shall preclude the Developer from contracting the actual work on the Public Improvements to be performed under this Agreement with third parties.

Section 4 Compliance. The Developer certifies that the Developer and all subcontractors who will provide work on the Public Improvements will comply with all requirements of federal laws and regulations, applicable OMB circulars, state statutes and Ohio

Administrative Code Rules in the conduct of this Agreement. The Developer accepts full responsibility for payment of any and all unemployment compensation premiums, all income tax deductions, pension deductions, and any and all other taxes or payroll deductions related to the Developer's employees required as a result of the construction and acquisition of the Public Improvements hereunder.

Section 5 Non-Discrimination. The Developer certifies that it is an equal opportunity employer and shall remain in compliance with state and federal civil rights and nondiscrimination laws and regulations including, but not limited to, Title VI and Title VII of the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination Act of 1975, the Age Discrimination and Employment Act, and the Ohio Civil Rights Law.

The Developer will not discriminate against any employee, contract worker or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, Vietnam-era veteran status, age, political belief, or place of birth. The Developer will take affirmative action to insure that during employment all employees are treated without regard to race, color, religion, sex, national origin, ancestry, disability, Vietnam-era veteran status, age, political belief, or place of birth. These provisions apply also to any contract workers. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff, or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Developer agrees to posting in conspicuous places, available to employees and applicants for employment, notices stating that the Developer complies with all applicable federal and state non-discrimination laws. The Developer and any person claiming through the Developer agrees not to establish or knowingly permit any such practice or practices or discrimination or segregation.

Section 6 Relationship. Nothing in this Agreement is intended to, nor shall it be deemed to constitute a partnership, association, or joint venture with the Developer in the conduct of the provisions of this Agreement. The Developer and its employees are expected to perform the services under this contract without the benefit of direct day-to-day control from the Township. The Developer will exercise its own discretion and professional judgment in constructing and acquiring the Public Improvements hereunder, and the Developer's employees and subcontractors will perform work and labor under supervision of the Developer and not the Township. The Developer shall at all times have the status of an independent contractor in performing its obligations with regard to the Public Improvements under this Agreement.

Section 7 Indemnification. The Developer shall save, protect, defend, indemnify and hold harmless, the Board of Township Trustees of Sycamore Township, Ohio, the Hamilton County Engineer, the Township, its officers, employees, and agents from and against any and all liabilities, penalties, damages, settlements, or costs of every other kind and character, including legal fees, arising in any way out of or in connection with (a) the negligent acts, errors, or omissions, or intentional misconduct of the Developer, its employees, officers, agents, independent contractors, or subcontractors, which are related directly to the construction or acquisition of the Public Improvements or (b) Developer's breach of any term of this Agreement related to the construction or

acquisition of the Public Improvements which continues beyond any applicable grace or cure period. The Developer agrees to pay all damages, costs and expenses, including legal fees, of the Board of Township Trustees of Sycamore Township, Ohio, the Hamilton County Engineer, the Township, and its officers, employees, and agents in defending any action arising out of the aforementioned negligent acts, errors, or omissions or intentional misconduct. The parties expressly agree that this provision shall survive the acceptance by the Township of the Public Improvements and the termination or expiration of this Agreement.

Section 8 Drug Free Workplace. The Developer certifies and affirms that Developer will comply with all applicable state and federal laws regarding a drug free workplace. The Developer will make a good faith effort to insure that all employees and subcontractors performing duties or responsibilities under this Agreement, while working on Township or private property, will not purchase, transfer, use or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

Section 9 Illegal Immigration. In the event the Developer is found to be using any illegal immigrant as defined in Sycamore Township Resolution 2007-40 on the construction and/or acquisition Public Improvements, or in the event any subcontractor employed by Developer is found to be using any illegal immigrant on the construction and/or acquisition of the Public Improvements, the Developer shall pay a penalty to Sycamore Township in the amount of \$100,000.00.