

ORDINANCE 2021-47

AN ORDINANCE AUTHORIZING AND DIRECTING THE ACCEPTANCE OF A DEED OF EASEMENT FROM WJHOH LLC (WJH LLC) REGARDING ACCESS TO SANITARY SEWER LINES, CLEANOUTS, AND TAPS ON TWENTY-SEVEN LOTS WITHIN THE GENOA CROSSING SUBDIVISION, AND DECLARING AN EMERGENCY.

WHEREAS, the Village of Commercial Point may acquire by purchase easements or interests in real estate pursuant to Ohio Revised Code Section 717.01; and

WHEREAS, WJHOH LLC (WJH LLC) ("WJH") is the owner of twenty-seven (27) parcels of property located in the Genoa Crossing Subdivision, which is located within the corporate limits of the Village; and

WHEREAS, on November 16, 2020, the Village Council adopted Ordinance 2020-23, which authorized and directed the Mayor, Village Administrator, and Planning and Zoning Administrator to enter into an Agreement with WJH to extend certain Certificates of Zoning Compliance for Construction in the Genoa Crossing Subdivision in exchange for a performance bond, among other terms and conditions; and

WHEREAS, WJH, the Mayor, Village Administrator, and Planning and Zoning Administrator entered into said Agreement on or about November 30, 2020 (the "Original Agreement"); and

WHEREAS, on April 28, 2021, WJH requested an extension of the Original Agreement as to seven (7) properties that may not be completed by the deadline of May 31, 2021 as required by the Original Agreement; and

WHEREAS, on June 7, 2021, the Village Council adopted Ordinance 2021-16, which authorized and directed the Mayor, Village Administrator, and Planning and Zoning Administrator to enter into a Revised and Restated Agreement with WJH to further extend the Certificates of Zoning Compliance for Construction in the Genoa Crossing Subdivision; and

WHEREAS, WJH, the Mayor, Village Administrator, and Planning and Zoning Administrator entered into said Agreement ("Amended Agreement");

WHEREAS, one condition under each of the Original Agreement and Amended Agreement was that WJH would grant sanitary sewer tap access to the Village of Commercial Point on certain parcels by way of an easement in exchange for the release of the performance bond that WJH provided to the Village; and

WHEREAS, WJH has completed construction of homes on each of the twenty-seven parcels it owns in the Genoa Crossing subdivision and provided proof of certificates of occupancy on each of the homes; and

WHEREAS, the Village wishes to accept a Deed of Easement from WJH granting the Village access to the sanitary sewer lines, cleanouts, and taps on each of the twenty-seven parcels owned by WJH in exchange for, and in consideration of, the release of WJH's performance bond and payment of one dollar (\$1.00) to WJH.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF COMMERCIAL POINT, PICKAWAY COUNTY, OHIO THAT:

Section 1. Acceptance of Deed of Easement. The Village Council hereby authorizes and directs the acceptance of the Deed of Easement on substantially the same terms and in substantially the same form as Exhibit A, which is attached hereto and incorporated herein by reference. The Village Administration is hereby authorized and directed to take whatever actions are necessary to accept the Deed of Easement, including, but not limited to, recording the Deed of Easement with the Pickaway County Recorder's Office and payment of one dollar (\$1.00) to WJH.

Section 2. Release of Performance Bond and Satisfaction of Amended Agreement. Upon receipt of the executed Deed of Easement from WJH, the Village Administration is hereby authorized and directed to release WJH's performance bond back to WJH. Upon receipt of the executed Deed of Easement and release of the performance bond, the Amended Agreement shall be deemed satisfied.

ORDINANCE 2021-47

Section 3. Open Meetings Certification. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any other committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4. Emergency Declaration; Effective Date. Because the Village of Commercial Point requires the immediate ability to access the sanitary sewer lines, cleanouts, and taps described in the Deed of Easement in the event of an emergency, this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, peace, and welfare, and shall, therefore, go into effect immediately upon passage.

Vote on Suspension of the Readings:

Motion by: Tracy Joiner

2nd: Ryan Mitchem

Roll Call:

Yes Jason Thompson

Yes Aaron Grassel

Yes Ryan Mitchem

Yes Nancy Geiger

Yes Tracy Joiner

Yes Laura Wolfe

Vote on Passage of the Ordinance:

Motion by: Tracy Joiner

2nd: Ryan Mitchem

Roll Call:

Yes Jason Thompson

Yes Aaron Grassel

Yes Ryan Mitchem

Yes Nancy Geiger

Yes Tracy Joiner

Yes Laura Wolfe

Adopted this 15th day of November, 2021.


Allan D. Goldhardt, Mayor


Wendy Hastings, Fiscal Officer

Approved as to Form:


Joshua Cartee, Village Solicitor

Exhibit A of Ordinance 2021-47

Grantee, its successors and assigns, located within Grantor's Property and rights-of-way; provided, however, that Grantee shall have no obligation to restore paving, lighting, landscaping, drainage, or other improvements installed on Grantor's Property, its successors, or assigns, subsequent to this grant of easement.

Grantor, for itself, its successors, and assigns, covenants with the Grantee, its successors and assigns, that Grantor is lawfully seized of Grantor's Property and that Grantor will forever warrant and defend the same unto the Grantee, its successors and assigns, against all claims of all persons whomsoever.

(SIGNATURE ON FOLLOWING PAGE)

Exhibit A of Ordinance 2021-47

IN WITNESS WHEREOF, the Grantor has hereunto caused Grantor's name to be subscribed this _____ day of _____, 2021.

**WJHOH LLC, d/b/a WJH LLC,
a Delaware limited liability company**

By: _____

Print Name: _____

Title: _____

STATE OF _____

COUNTY OF _____, SS.

This is an acknowledgment certificate. No oath or affirmation was administered to the signer with regard to the notarial act.

Before me, a Notary Public, personally appeared _____, an authorized representative of WJHOH LLC, d/b/a WJH LLC, a Delaware limited liability company, who acknowledged the signing of the foregoing instrument to be his and its voluntary act and deed for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal this _____ day of _____, 2021.

Notary Public

This instrument prepared by: Thaddeus M. Boggz, Esq., Frost Brown Todd LLC, 10 W. Broad Street, Ste. 2300, Columbus, Ohio 43215

EXHIBIT "A"

Description of Grantor's Property

Exhibit A of Ordinance 2021-47

Instrument 201900000142 OR VOLUME 760 PAGE 1854

EXHIBIT 'A'

1103-2574068

LEGAL DESCRIPTION

Situated in the Village of Commercial Point, County of Pickaway, State of Ohio, and is described as follows:

Being Lots Numbered 4, 12, 13, 14, 26, 28, 30, 31, 32, 33, 39, 41, 44, 45, 51, 52, 64, 65, 66, 67, 68, 69, 83, 92 and 93 of Genoa Crossing Phase I, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Cabinet 1, Page 376, Recorder's Office, Pickaway County, Ohio.

Together With:

Description of 0.260 Acres of Land Village of Commercial Point Lot 25, part of Lot 24, 0.023 acres and 0.0285 Acres Genoa Crossing Phase 1

Situated in the State of Ohio, County of Pickaway, Village of Commercial Point, Virginia Military Survey 1189, and being a total of 0.260 acres of land being 0.149 acres is all of Lot 25 (Parcel No. L2800050202500) and 0.0595 acres is part of Lot 24 (Parcel No. L2800050202400) of Genoa Crossing Phase 1 as recorded in Plat Book 1, Page 376 and all of a 0.023 acres of land (Parcel No. L2800050202501) conveyed to West Scioto Development Company, Scioto Holding Company and Southeast Ohio Land Company in Official Record 603, Page 2234, and 0.0285 acres of land out of a 0.057 acre tract of land (Parcel No. L2800050202401) conveyed to West Scioto Development Company, Scioto Holding Company and Southeast Ohio Land Company in Official Record 603, Page 2230 of the Pickaway County Recorder's Office, and being more particularly described as follows:

Beginning, at 5/8" rebar found at the southwesterly corner of Lot 25 and in the northerly right-of-way of Parkview Avenue (32 feet in width) and the easterly line of West Scioto Development Company Scioto Holding Company and Southeast Ohio Land Company in Official Record 163, Page 119;

Thence along said easterly line O. R. 183, Page 119 parcel and the westerly line of said Lot 25 and the westerly line of said 0.023 acre tract, North 00°27'52" East, 181.90 feet to a 5/8" rebar set with a plastic cap stamped "Pomeroy & Assoc." at the northwesterly corner of said 0.023 acre tract;

Thence along said southerly line O. R. 163, Page 119 parcel and the northerly line of said 0.023 acre tract South 89°58'09" East, 49.06 feet to a 5/8" rebar set with a plastic cap stamped "Pomeroy & Assoc." at the northeasterly corner of said 0.023 acre tract, being in the westerly line of said 0.0285 acre tract;

Exhibit A of Ordinance 2021-47

Instrument 201900000142 OR VOLUME 760 PAGE 1855

Thence along the westerly line of said 0.0285 acre tract North 00°01'51" East, 30.00 feet to a 5/8" rebar set with a plastic cap stamped "Pomeroy & Assoc." at the northwesterly corner of said 0.0285 acre tract;

Thence along the northerly line of said 0.0285 acre tract South 89°58'09" East, 25.00 feet to a 5/8" rebar set with a plastic cap stamped "Pomeroy & Assoc." and the northwesterly corner of a 0.0285 acre parcel conveyed to Nancy L. Ritchie in Official Record 657, Page 1260;

Thence crossing said Lot 24, along said westerly line of a 0.0285 acre parcel conveyed to Nancy L. Ritchie in Official Record 657, Page 1260, South 00°01'51" West, 154.49 feet to a 5/8" rebar set with a plastic cap stamped "Pomeroy & Assoc." in the southerly line of said Lot 24 and the northerly line of said Parkview Avenue;

Thence along the southerly line of said Lots 24 and 25 and the northerly line of said Parkview Avenue, along the arc of a curve to the left, having a radius of 91.00 feet, a delta angle of 27°13'00", an arc distance of 99.72 feet, a chord bearing of South 52°45'36" West, a chord distance of 94.60 feet to the Place of Beginning containing 0.280 acres, more or less of which 0.0595 acres are part of Lot 24, 0.0285 acres are part of the 0.057 acre tract, 0.023 acres are all of the 0.023 acre tract and 0.149 acres are all of Lot 25.

For the purpose of this description, a bearing of South 89°58'09" East was used for a northerly line of Genoa Crossing Phase 1, of record in Plat Book 1, Page 376, (Instrument Number 13435) of the Pickaway County Recorder.

And

Description of 0.177 Acres of Land Village of Commercial Point Lot 55 and Part of Lot 54 Genoa Crossing Phase 1

Situated in the State of Ohio, County of Pickaway, Village of Commercial Point, Virginia Military Survey 1189, and being a total of 0.177 acres of which 0.103 acres is all of Lot 55 (Parcel No. L2800050205500) and 0.074 acres is part of Lot 54 (Parcel No. L2800050205400) of Genoa Crossing Phase 1 as recorded in Plat Book 1, Page 378, of the Pickaway County Recorder's Office, and being more particularly described as follows:

Beginning, at a 5/8" rebar set with a plastic cap stamped "Pomeroy & Assoc." at the southwestery corner of Lot 55, the southeasterly corner of Reserve "B" in said Genoa Crossing Phase 1 and in the northerly right-of-way of Genoa Road (32 feet in width);

Thence along the westerly line of said Lot 55 and the easterly line of said Reserve "B", North 00°08'35" East, 55.00 feet to a 5/8" rebar set with a plastic cap stamped "Pomeroy & Assoc." at the northwesterly corner of said Lot 55, the northeasterly corner of said Reserve "B" and in the southerly line of a 18 feet in width alley;

Thence along the northerly line of said Lots 55 and 54 and the southerly line of said alley, South 89°51'25" East, 158.08 feet to a 5/8" rebar set with a plastic cap stamped "Pomeroy & Assoc.";

Thence crossing said Lot 54, South 41°12'50" West 94.50 feet to a 5/8" rebar set with a plastic

Exhibit A of Ordinance 2021-47

Instrument 201900000142 OR VOLUME 760 PAGE 1856

cap stamped "Pomeroy & Assoc." in the southerly line of said Lot 54 and in the northerly line of said Genoa Road;

Thence along the southerly line of said Lots 54 and 55 and the northerly line of said Genoa Road, along the arc of a curve to the left, having a radius of 66.00 feet, a delta angle of 41°04'15", an arc distance of 47.31 feet, a chord bearing of North 69°19'17" West, a chord distance of 46.30 feet to a point of tangency;

Thence continuing along the southerly line of said Lot 55 and the northerly line of said Genoa Road, North 89°51'25" West, 52.63 feet to the Place of Beginning containing 0.177 acres, more or less of which 0.103 acres are all of Lot 55 and 0.074 acres are part of Lot 54.

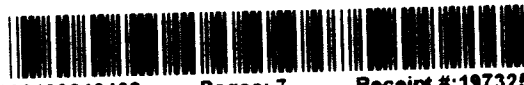
For the purpose of this description, a bearing of South 89°58'09" East was used for a northerly line of Genoa Crossing Phase 1, of record in Plat Book 1, Page 376, (Instrument Number 13435) of the Pickaway County Recorder.

For informational Purposes only:

Property Addresses: Lockbay Rd; Parkview Ave; Waterman Ave; Genoa Rd; Genoa Circle; Lot 4 - 412 Lockbay Rd; Lot 25/Part 24 - 40 Parkview Ave; Lot 41 - 41 Waterman Ave; Lot 55/Part 54 - 316 Genoa Rd.

Parcel No.: L2800050200400 and L2800050201200 and L2800050201300 and L2800050201400 and L2800050206400 and L2800050206500 and L2800050206600 and L2800050206700 and L2800050206800 and L2800050206900 and L2800050202500 and L2800050202600 and L2800050202800 and L2800050203000 and L2800050203100 and L2800050203200 and L2800050203300 and L2800050203900 and L2800050204400 and L2800050204500 and L2800050205200 and L2800050205500 and L2800050209200 and L2800050209300 and L2800050208300 and L2800050204100 and L2800050205100

201900000142
Electronic Filing
From: eRecording Partners Network
Thru: ERX



202100010498 Pages: 7 Receipt #: 197325
 Filed for Record in PICKAWAY County, Ohio
 Joyce R. Gifford, Recorder
 12/02/2021 11:06 AM Recording Fees: \$74.00
 EASEMENTS OR 789 / p6061 - p6067

**TRANSFER
 NOT NECESSARY**

DEC 02 2021

MELISSA A. BETZ
 AUDITOR
 PICKAWAY CO OHIO

APPROVED FOR RECORDING
 PICKAWAY COUNTY ENGINEER

BY JAT DATE 12/2/21

STATE OF OHIO }
 }
 COUNTY OF PICKAWAY }

DEED OF EASEMENT

WJHOH LLC, d/b/a WJH LLC, a Delaware limited liability company (hereinafter "Grantor"), with an address of 3091 Governors Lake Drive, Suite 300, Norcross, GA 30071, (and appearing as "WJHOH LLC (WJH LLC)" in the records of the Ohio Secretary of State), who owns the property described in the deed recorded at *OFFICIAL RECORD 760/P 6. 1853* in the Pickaway County, Ohio, Recorder's Office, which includes the twenty-seven (27) lots in the Genoa Crossing Subdivision described in Exhibit A hereto and incorporated by reference ("Grantor's Property"), in consideration of One Dollar (\$1.00) and other good and valuable considerations, paid by the VILLAGE OF COMMERCIAL POINT, an Ohio municipal corporation (hereinafter "Grantee"), receipt and sufficiency of which is hereby acknowledged, does hereby, for itself, its successors and assigns, GRANT AND CONVEY to Grantee, its successors and assigns forever, a permanent easement on, over, through, under, and across Grantor's Property for purposes of installing, maintaining, operating, repairing, and replacing public sewer lines, cleanouts, taps, and related facilities. In addition, Grantor grants and conveys to Grantee the right of ingress and egress at all reasonable times for the purposes aforesaid, on, over, through, under and across the Grantor's Property for the purposes of operating, repairing, maintaining, replacing, and servicing the public sewer lines, cleanouts, taps, and related facilities.

To have and to hold said easements and rights-of-way, with all of the privileges and appurtenances thereto belonging, to said Grantee, its successors and assigns forever.

The Grantor, its successors, and assigns shall have the right to access Grantor's Property for purposes consistent with this Easement, and not inconsistent with the Grantee's, and its successors and assigns, full enjoyment of the rights herein granted.

Grantee, its successors and assigns, shall restore all property within Grantor's Property, to its original condition insofar as reasonably practicable, after entering upon said premises for any of the purposes herein set forth, including construction, repair, maintenance, replacement, relocation, operation, inspection and maintenance of all facilities and improvements of the

Grantee, its successors and assigns, located within Grantor's Property and rights-of-way; provided, however, that Grantee shall have no obligation to restore paving, lighting, landscaping, drainage, or other improvements installed on Grantor's Property, its successors, or assigns, subsequent to this grant of easement.

Grantor, for itself, its successors, and assigns, covenants with the Grantee, its successors and assigns, that Grantor is lawfully seized of Grantor's Property and that Grantor will forever warrant and defend the same unto the Grantee, its successors and assigns, against all claims of all persons whomsoever.

(SIGNATURE ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the Grantor has hereunto caused Grantor's name to be subscribed this 17th day of November, 2021.

**WJHOH LLC, d/b/a WJH LLC,
a Delaware limited liability company**

By: Matthew Phillipoff

Print Name: MATT PHILLIPOFF

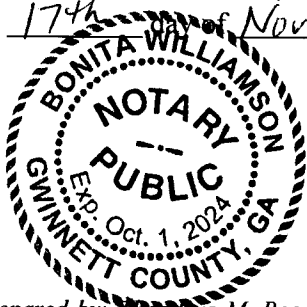
Title: Executive VP of Operations

STATE OF Georgia
COUNTY OF Gwinnett, SS:

This is an acknowledgment certificate. No oath or affirmation was administered to the signer with regard to the notarial act.

Before me, a Notary Public, personally appeared Matthew Phillipoff, an authorized representative of WJHOH LLC, d/b/a WJH LLC, a Delaware limited liability company, who acknowledged the signing of the foregoing instrument to be his and its voluntary act and deed for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal this 17th day of November, 2021.



Bonita Williamson
Notary Public

This instrument prepared by: Theodorus M. Boggs, Esq., Frost Brown Todd LLC, 10 W. Broad Street, Ste. 2300, Columbus, Ohio 43215

EXHIBIT "A"

Description of Grantor's Property

EXHIBIT 'A'

1103-2574068

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Thence along said easterly line O. R. 183, Page 119 parcel and the westerly line of said Lot 25 and the westerly line of said 0.023 acre tract, North 00°27'52" East, 181.90 feet to a 5/8" rebar set with a plastic cap stamped "Pomeroy & Assoc." at the northwesterly corner of said 0.023 acre tract;

Thence along said southerly line O. R. 163, Page 119 parcel and the northerly line of said 0.023 acre tract South 89°58'09" East, 49.06 feet to a 5/8" rebar set with a plastic cap stamped "Pomeroy & Assoc." at the northeasterly corner of said 0.023 acre tract, being in the westerly line of said 0.0285 acre tract;