



# City of Napoleon, Ohio

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## Memorandum

**To:** Mayor and Members of City Council  
**From:** Roxanne Dietrich, Clerk of Council  
**cc:** Joel L. Mazur-City Manager/Acting Finance Director, Billy D. Harmon-City Law Director  
**Date:** August 02, 2021  
**Subject:** General Information

### **CALENDAR**

7:00 pm – City Council Meeting

### **APPROVAL OF MINUTES**

July 19, 2021 Regular Council Meeting Minutes

### **INTRODUCTION OF NEW ORDINANCES AND RESOLUTIONS**

1. **Ordinance No. 030-21**, an Ordinance Authorizing the City Manager to Enter into a Contract or Contracts, for the Sale of City Owned Bulk Electric System (BES) 69kV Assets to American Municipal Transmission, LLC, a Subsidiary of American Municipal Power, Inc. (AMP); and declaring an Emergency
  - a. Information pertaining to this contract is attached.

### **SECOND READINGS OF ORDINANCES AND RESOLUTIONS**

1. **Resolution No. 025-21**, a Resolution Authorizing and Directing the Finance Director of the City of Napoleon to Certify and File Annual Special Assessments of the City of Napoleon, Ohio, with the County Auditor of Henry County for Placement and Collection on the 2021 Tax Duplicates Payable in the Year 2022; and declaring an Emergency
2. **Resolution No. 026-21**, a Resolution Accepting the Amounts and Rates as determined by the Budget Commission and Authorizing the necessary Tax Levies and Certifying them to the County Auditor of Henry County for the 2021 Tax Duplicates Payable in Year 2022; and declaring an Emergency
3. **Resolution No. 027-21**, a Resolution Authorizing the City Manager to Execute all Documents necessary to Apply for and accept Ohio Public Works Commission State Capital Improvement Program (SCIP) and Local Transportation Improvement Program (LTIP) funds for projects deemed necessary by the City Engineer in the year 2022; and declaring an Emergency.

### **THIRD READINGS OF ORDINANCES AND RESOLUTIONS**

1. **Ordinance No. 020-21**, an Ordinance Approving Current June 2021 Replacement Pages to the City of Napoleon Codified Ordinances

### **GOOD OF THE CITY** (Discussion/Action)

1. **Discussion/Action:** Award of the 2021 Street Striping Project
  - a. enclosed is a Memorandum from Chad on the bid opening and his recommendation of award. Also included is a map showing the ODOT FY2022 Winter Salt Prices

2. **Discussion/Action:** Development Agreement with Keller Logistics Group, Inc. for Potential Development of a Spec Building (direct Law Director to draft Legislation)
  - a. A draft copy of the Economic Development and Real Estate Purchase Agreement is in your packet
3. **Discussion/Action:** Purchase of Land, Parcel Nos. 280700320000 and 280700320300 (direct Law Director to draft Legislation)
  - a. In your packet is correspondence on the purchase of land and a map of where these parcels are.
4. **Discussion/Action:** Proposed Contribution to the Henry County Agricultural Society for the Proposed New Building at the Henry County Fairgrounds (direct Law Director to draft Legislation)
  - a. Joel's letter with the proposed contribution to the Henry County Ag Society is enclosed.
5. **Discussion/Action:** Finance Department Update

**INFORMATIONAL**

- 1) Agenda – Personnel Committee, Monday, August 2<sup>nd</sup> at 11:45 am
- 2) Cancellation – Technology and Communications Committee
- 3) AMP Weekly Newsletter – July 23, 2021

## August 2021

Sun	Mon	Tue	Wed	Thu	Fri	Sat
<b>1</b>	<b>2</b> 11:45 am – Personnel Comm. 7:00 pm – City Council	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
<b>8</b>	<b>9</b> 6:15 pm – Electric Committee 6:15 pm – Board of Public Affairs 7:00 pm – Water and Sewer Committee 7:30 pm – Municipal Properties ED Committee	<b>10</b> 4:30 pm – Board of Zoning Appeals 5:00 pm – Planning Commission	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>
<b>15</b>	<b>16</b> 6:00 pm – Tree Commission 6:00 pm – Parks and Rec Committee 7:00 pm – City Council	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b> 8:00 am – Healthcare Cost Committee	<b>21</b>
<b>22</b>	<b>23</b> 6:30 pm – Finance and Budget Committee 7:30 pm – Safety and Human Resources Committee	<b>24</b> 4:30 pm Civil Service Comm.	<b>25</b> 6:30 pm – Parks and Rec Board	<b>26</b>	<b>27</b>	<b>28</b>
<b>29</b>	<b>30</b> <i>5<sup>th</sup> Monday</i>	<b>31</b>				

**CITY OF NAPOLEON CITY COUNCIL  
MEETING AGENDA**

**Monday, August 2, 2021 at 7:00 pm**

Location ~ City Council Chambers, 255 West Riverview Avenue, Napoleon, Ohio

**A. Attendance** (Noted by the Clerk)

**B. Prayer and Pledge of Allegiance**

**C. Approval of Minutes** (in the absence of any objections or corrections, the minutes shall stand approved)  
July 19, 2021 Regular Council Meeting Minutes

**D. Citizen Communication**

**E. Reports from Council Committees**

1. Finance and Budget Committee did not meet on July 26, 2021 due to lack of agenda items
2. Safety and Human Resources Committee met on July 26, 2021 and;
  - a. received information about a proposed leadership program through Wildsparq for supervisors
3. Personnel Committee met earlier today in Executive Session to consider Employment of Personnel
4. Technology and Communications Committee did not meet tonight due to lack of agenda items

**F. Reports from Other Committees, Commissions and Boards** (*Informational Only-Not Read*)

1. Civil Service Commission did not meet in July due to lack of agenda items
2. The Parks and Rec Board did not meet in July due to lack of agenda items.

**G. Introduction of New Ordinances and Resolutions**

1. **Ordinance No. 030-21**, an Ordinance Authorizing the City Manager to Enter into a Contract or Contracts, for the Sale of City Owned Bulk Electric System (BES) 69kV Assets to American Municipal Transmission, LLC, a Subsidiary of American Municipal Power, Inc. (AMP); and declaring an Emergency

**H. Second Readings of Ordinances and Resolutions**

1. **Resolution No. 025-21**, a Resolution Authorizing and Directing the Finance Director of the City of Napoleon to Certify and File Annual Special Assessments of the City of Napoleon, Ohio, with the County Auditor of Henry County for Placement and Collection on the 2021 Tax Duplicates Payable in the Year 2022; and declaring an Emergency
2. **Resolution No. 026-21**, a Resolution Accepting the Amounts and Rates as determined by the Budget Commission and Authorizing the necessary Tax Levies and Certifying them to the County Auditor of Henry County for the 2021 Tax Duplicates Payable in Year 2022; and declaring an Emergency
3. **Resolution No. 027-21**, a Resolution Authorizing the City Manager to Execute all Documents necessary to Apply for and accept Ohio Public Works Commission State Capital Improvement Program (SCIP) and Local Transportation Improvement Program (LTIP) funds for projects deemed necessary by the City Engineer in the year 2022; and declaring an Emergency.

**I. Third Readings of Ordinances and Resolutions**

1. Ordinance No. 020-21, an Ordinance Approving Current June 2021 Replacement Pages to the City of Napoleon Codified Ordinances

- J. Good of the City** (Any other business that may properly come before Council, including but not limited to):
- 1. Discussion/Action: Award of the 2021 Street Striping Project**
  - 2. Discussion/Action: Development Agreement with Keller Logistics Group, Inc. for Potential Development of a Spec Building** (direct Law Director to draft Legislation)
  - 3. Discussion/Action: Purchase of Land, Parcel Nos. 280700320000 and 280700320300** (direct Law Director to draft Legislation)
  - 4. Discussion/Action: Proposed Contribution to the Henry County Agricultural Society for the Proposed New Building at the Henry County Fairgrounds** (direct Law Director to draft Legislation)
  - 5. Discussion/Action: Finance Department Update**
- K. Executive Session**--(as may be needed)
- L. Approve Payment of Bills** (in the absence of any objections or corrections, the Payment of Bills shall stand approved.)
- M. Adjournment**

  
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Roxanne Dietrich - Clerk of Council

*City of Napoleon, Ohio*  
**CITY COUNCIL MEETING MINUTES**  
MONDAY, JULY 19, 2021 at 7:00 PM

**PRESENT**

Councilmembers	Joseph D. Bialorucki-President, Daniel Baer-Council President Pro-Tem, Lori Siclair, Jeff Comadoll, Ken Haase, Molly Knepley, Ross Durham
Mayor	Jason P. Maassel
City Manager	Joel Mazur
Clerk of Council	Roxanne Dietrich
City Staff	Police Lt. Greg Smith Clayton O'Brien-Fire Chief Chad E. Lulfs, P.E.,P.S.-Director of Public Works Dustin Tewksbury and Justin Mullins-IT Department Tammy Fein-Executive Assistant/Paralegal to Law Director
Others	News Media

**ABSENT**

Law Director	Billy Harmon
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CALL TO ORDER

Council President Bialorucki called the City Council meeting to order at 7:00 pm with the Lord's Prayer followed by the Pledge of Allegiance.

APPROVAL OF MINUTES

Hearing no objections or corrections, the minutes from the July 6, 2021 Regular Council meeting were approved as presented.

CITIZEN COMMUNICATION

None.

REPORTS FROM COUNCIL COMMITTEES

The **Electric Committee** met on July 12, 2021 with Chair Siclair reporting the Committee accepted the the BOPA's recommendation to approve the July 2021 Public Power Supply Cost Adjustment Factor; recommend Council approve the Asset Purchase and Sale Agreement with AMPT; and, recommend Council approve the Operations and Maintenance Service Agreement with AMPT.

Chairman Comadoll reported the **Water, Sewer, Refuse, Recycling and Litter Committee** met on July 12, 2021 and received updates on the Wastewater Treatment Plant Improvements; discussed the Water Rate Review Commission Committee as required in the contract with the Village of Florida; and, discussed a potential Operation and Maintenance Agreement with the Village of Florida for their water system.

The **Municipal Properties, Building, Land Use and ED Committee** did not meet in July due to lack of agenda items.

The **Parks and Rec Committee** did not meet tonight due to lack of agenda items.

INTRODUCTION OF NEW ORDINANCES AND RESOLUTIONS

**Resolution No. 025-21 – Annual Special Assessments**

Council President Bialorucki read by title Resolution No. 025-21, a Resolution Authorizing and Directing the Finance Director of the City of Napoleon to Certify and File Annual Special Assessments of the City of Napoleon, Ohio, with the County Auditor of Henry County for Placement and Collection on the 2021 Tax Duplicates Payable in the Year 2022; and Declaring an Emergency.

Motion: Comadoll                      Second: Knepley  
to approve First Read of Resolution No. 025-21

Mazur reported this is an annual requirement that allows the Finance Director to certify and file special assessments. Special assessments would include North Point for the Industrial Park improvements that happened some time ago. Those were deferred assessments that are paid back when the properties sell or are developed outside of the agricultural use. This has to be filed with the Henry County Auditor's Office by October 1, 2021.

Roll call vote on the above motion:

Yea-Knepley, Durham, Haase, Baer, Bialorucki, Siclair, Comadoll  
Nay-

**Yea-7, Nay-0. Motion Passed.**

**Resolution No. 026-21 – Tax Levies**

Council President Bialorucki read by title Resolution No. 026-21, a Resolution Accepting the Amounts and Rates as determined by the Budget Commission and Authorizing the necessary Tax Levies and Certifying them to the County Auditor of Henry County for the 2021 Tax Duplicates Payable in the Year 2022; and Declaring an Emergency.

Motion: Haase                              Second: Durham  
to approve First Read of Resolution No. 026-21

Mazur stated this is also required annually and the two usually run together. This legislation adopts the Tax Budget for levy purposes with the Henry County Auditor's Office.

Roll call vote on the above motion:

Yea-Knepley, Durham, Haase, Baer, Bialorucki, Siclair, Comadoll  
Nay-

**Yea-7, Nay-0. Motion Passed.**

**Resolution No. 027-21 – Ohio Public Works Commission SCIP/LTIP Grant**

Council President Bialorucki read by title Resolution No. 027-21, a Resolution Authorizing the City Manager to Execute all Documents necessary to Apply for and Accept Ohio Public Works Commission State Capital Improvement Program (SCIP) and Local Transportation Improvement Program (LTIP) funds for Projects Deemed Necessary by the City Engineer in the Year 2022; and Declaring an Emergency.

Motion: Durham                              Second: Knepley  
to approve First Read of Resolution No. 027-21

Mazur stated this is required annually if we want to apply for the LTIP funding through ODOT. Sewer projects usually score the best. We are looking at Meekison as a project for this program because it is needed and ties into another sewer project that is needed on Third Street. Meekison has to come first and will score really well. Maassel asked did we receive any LTIP in 2021? Lulfs noted we received \$275,000 or 70% for the Front Street Project that I am going to request to advertise tonight.

Roll call vote on the above motion:

Yea-Knepley, Durham, Haase, Baer, Bialorucki, Siclair, Comadoll  
Nay-

**Yea-7, Nay-0. Motion Passed.**



Roll call vote on the above motion:

Yea-Knepley, Durham, Haase, Baer, Bialorucki, Siclair, Comadoll

Nay-

**Yea-7, Nay-0. Motion Passed.**

**Operations & Maintenance Service Agreement with AMPT** (direct Law Director to draft legislation)

Mazur said legislation is not needed. This only requires a motion since it is an amendment to the existing agreement. The amendment adds the items that are in the new asset transfer agreement and only requires a motion.

Motion: Durham

Second: Siclair

to amend the current Operations and Maintenance Services Agreement with AMP Transmission (AMPT Contract No. 2018-005287-MAS) to include the assets that are part of the Asset Transfer Agreement

Roll call vote on the above motion:

Yea-Knepley, Durham, Haase, Baer, Bialorucki, Siclair, Comadoll

Nay-

**Yea-7, Nay-0. Motion Passed.**

**PC 21-09 Conditional Use Permit ~ 2601 Scott Street**

Maassel reported there is a long history on the fruit stand being ran in the parking lot between Auto Parts and what used to be Fastenal. This stand has moved to 2601 Scott Street that is across the street from the Knights Inn. The Planning Commission passed unanimously to allow the conditional use at this location. Siclair noted the stand had been across from George's Furniture for a while. Maassel said we talked to them about this being later than anticipated. The owner thought they didn't have to do anything since it was already allowed in that zone. The question was, how do you know what zone you are in until you come see us.

Motion: Comadoll

Second: Siclair

to approve PC 21-09, Conditional Use Permit at 2601 Scott Street

Roll call vote on the above motion:

Yea-Knepley, Durham, Haase, Baer, Bialorucki, Siclair, Comadoll

Nay-

**Yea-7, Nay-0. Motion Passed.**

**Recommendation of NIEDF Committee to Approve a \$5,000 Reimbursement Grant, with Stipulations, for Façade Improvements to Property Preppers, LLC**

Mazur stated the NIEDF Committee met last week and recommended to City Council and the CIC Board to approve a grant from the NIEDF fund for what is Brick 'n Brew. The new owner is going to keep the name Brick 'n Brew for their business. The grant was recommended under the condition that they complete the work and have the work finished by October 30, 2021. There is room for extensions if needed for some unforeseen circumstances. They have to open. No money gets reimbursed until these happen. It is a critical location and in an effort to keep momentum going on that redevelopment and get that business open, the NIEDF Committee recommended awarding this to Property Preppers which is the company that owns the property. If Council approves this tonight, it will be on the CIC Board's agenda tomorrow. Bialorucki asked where does the grant money come from? Mazur replied the NIEDF fund. Bialorucki asked who funds it? Mazur explained it is from the CRA agreements, the payment in lieu of taxes. There is a line item in the CRA Agreements about the NIEDF Fund. There is about \$38,000 left in the NIEDF fund right now. The NIEDF money is held and housed by the CIC. Baer

asked if there any specifications on what kind of facade improvements they are making? Mazur said the facade improvements were already brought before the Preservation Commission. They plan on taking out that bay window and the base and pouring concrete where the old base is and then will dress up that wall and have awnings there for bistro tables on the sidewalk just outside the building on the Washington Street side.

Motion: Comadoll                      Second: Knepley  
to approve the NIEDF recommendation for a \$5,000 Reimbursable Grant, with Stipulations, for Façade Improvements to Brick 'n Brew, owned by Property Preppers, LLC

Roll call vote on the above motion:

Yea-Knepley, Durham, Haase, Baer, Bialorucki, Siclair, Comadoll

Nay-

**Yea-7, Nay-0. Motion Passed.**

### **Consulting/Service Agreement with Schonhardt & Associates**

Mazur stated we currently have a contract with Schonhardt & Associates to do our CAFR. This agreement would be for additional work to help us by providing oversight for managing the Finance Department in the interim period until a new Finance Director is hired. Fein said in the reoccurring legislation that we wrote for this year, it was specific Schonhardt & Associates was only for preparation of the CAFR. So, it would be in our best interest to have separate legislation. Mazur continued in order to get them started, Fein was gracious enough to draft legislation for this. The legislation is ready to go if you want to add it to the agenda and pass it now so we can get Schonhardt on board and started. Or else, we will have to wait two weeks. Durham asked this would allow us to use them up to 80 hours until what date? Mazur said until a new permanent Finance Director is hired. It is a time and materials type of contract. Durham said in your best estimate, I know O'Boyle did a lot in preparation before her departure, how much do you think we would have to use them in the next two weeks? Mazur responded I do not have a good answer for that. I plan on meeting with them on Monday next week. Durham asked would that meeting be considered as part of this 80 hours? Mazur said it would. Bialorucki commented I feel this is needed. There is a lot of work that still needs to be done immediately, stating Mazur and I have had some conversations and feel it is a good idea to make sure we have everything taken care of that the city is required to do starting immediately.

Motion: Comadoll                      Second: Knepley  
to add Resolution No. 028-21 to the agenda

Maassel expressed his concern having legislation walked on the night of the meeting. I really think we need Schonhardt & Associates, but when stuff gets walked on like this it's like we are skipping steps, I do understand the reason. Mazur said it is never anybody's desire to do that. Siclair asked do we know what needs to be done? O'Boyle had said she would leave everything pretty much up-to-date and ready to go for the next person to step in and we are not able to think of anybody else to fill that role. I think this is a great alternative, but like the Mayor said. Yet, if there is stuff coming up in the next two weeks that needs to be addressed, we don't really have a choice. Mazur said this is a fail-safe for Council and for the City. The Finance Department is short staffed greatly and I think everybody is aware of that. I was going to reach out to Schonhardt myself and they reached out to me first saying we can help out in the interim period. It's added protection for the City, it's a third party consulting/oversight for critical functions. Bialorucki noted we have had substantial savings in that department within the last year or two and that doesn't mean let's just blow a bunch of money; but to protect the City, I think it's important.



## **Review of City's Website**

Tewksbury started this has been quite an adventure for Mullins and I. Neither of us have a lot of experience with websites so, it's been a learning curve for both of us. We have had a lot of trial and error. On the home page, we added several images capturing the city the best we can. We will be adding more based on the time of year. We have tried to put the majority of things the citizens would need regarding the city on the home page for quick access. Four buttons for quick links have been added. These have the highest hits is why the links were put there. Mullins commented the old website was atrocious. This has been quite an improvement for us. On the City Council and Mayor page, are the bios that were on the old website. If there is any information you would like added or edited, just let us know. Tewksbury said we tried to minimize the length of pages. We are also planning on adding more photos as well. I have been in contact with the Tangent, the company hosting our web page. There are a few things I want them to adjust. I want the columns to be wider for the pages. Mullins added this website is more convenient for us to maintain. Bialorucki commented the other day I was looking for something and was impressed how easy it was for me to find what I was looking for. It's amazing where we are at from a few months ago. Tewksbury said we have had a lot of feedback from citizens. Mullins said there are some areas that we could improve with photos and stuff. Siclair stated it's a nice showcase of the city. I like the logos too. It looks nice. Maassel asked if there are links to the county site, state sites, to the CIC? Mazur said under the Economic Development tab at the top is the Master Plan, Chamber, CIC, and zoning. We could add JobsOhio. Maassel asked if HenryHas and other Henry County things the City is associated with are on there? Durham said in our discussions, if you are outside of Napoleon and are looking to move to Napoleon, where is the first place you go to look? It's the City website, maybe a Facebook page or something like that. So, we wanted the webpage to be visually appealing. The amount of time that you guys put into it was incredible. Thank-you for all that. Maassel pointed out it is Napoleon's front door. Siclair noted I like that you used the data to make it simpler for citizens. Bialorucki thanked them for the presentation.

## **Award of the 2021 Miscellaneous Streets Improvement Project**

Lulfs reported last week we opened bids for the 2021 Miscellaneous Street Improvements Project. Three bids were received. The engineer's estimate was \$493,750. The low bid of \$443,636 was received from Bryan Excavating. This project consists of replacing the curbing and widening North Sheffield and then replacing the curbing and repaving Michigan Avenue. Michigan is not being widened but North Sheffield is. Portions of the driveways will be replaced to accommodate the replacement of that curb. When the low bid is more than 10% below the average of all higher bids, we have to meet with the bidder and verify they didn't miss anything in their bid. Then, we have to contact their surety. We have done both of those and I am confident this is a good and responsive bid. It is my recommendation to award the contract to Bryan Excavating for \$433,636. Bialorucki asked we have been using Bryan Excavating for other things, is that right? Lulfs replied yes, I have worked with them off and on since 1993, they do good work. Previously they were Lingvai Excavating. They reorganized a few years ago and changed their name to Bryan Excavating but, still have the same people. Maassel asked why are we widening North Sheffield? Lulfs responded that street is only 19 feet wide are widening it to 25 feet that is our minimum. Comadoll commented that is the best thing we could be doing. You cannot get a big snow plow down there. With vehicles parked, you have to use a small truck. Lulfs noted parking is permitted on both sides of those streets. So, when there is a car parked even on a trash day, it is difficult even for the garbage trucks. Michigan Avenue is 25 feet wide now is why we are not going to widen that street. One thing we are doing to give a little extra room is we are going with a different type of curb instead of the standard curb and gutter that we usually put in. We are going to put in a Type 6 curb which is just a standup vertical curb that gives an



some private properties that we have acquired easements for and then go through the plant into the screw pumps. Most of the project consists of 30 inch sanitary sewer. With the amount of flow we have, there is a storm sewer pump station inside the plant that has to be rerouted as well. We are reusing a portion of the existing force main and that will be rerouted for the head works. The estimate for this project is \$360,000. We were able to get a grant for 70% of the project cost or \$275,000 whichever is less. Our estimate last year was about \$400,000, that is why we were able to get \$275,000. We are requesting approval of plans and specs so we can advertise this project this week. The completion date for this project is set for May 14, 2022. That date was coordinated with Kirk Bros.

Motion: Comadoll                      Second: Knepley  
to approve the plans and specifications for the Front Street Interceptor and Palmer Ditch Force Main Relocation Project and go out to bid

Roll call vote on the above motion:

Yea-Knepley, Durham, Haase, Baer, Bialorucki, Siclair, Comadoll

Nay-

**Yea-7, Nay-0. Motion Passed.**

#### **Acceptance of a \$1,000 Donation/Reimbursement from the Four County ADAMhs Board for the K9 Program**

Mazur stated this board has been very supportive of the Police Department

Motion: Comadoll                      Second: Haase  
to accept the \$1,000 donation/reimbursement from the Four County ADAMhs Board for the K9 Program

Roll call vote on the above motion:

Yea-Knepley, Durham, Haase, Baer, Bialorucki, Siclair, Comadoll

Nay-

**Yea-7, Nay-0. Motion Passed.**

Bialorucki stated I would like to change the agenda and go into Executive Session to consider appointment of personnel before we move on

#### **Executive Session – Appointment of Personnel**

Motion: Siclair                              Second: Knepley  
to go into Executive Session to consider Appointment of Personnel

Roll call vote on the above motion:

Yea-Knepley, Durham, Haase, Baer, Bialorucki, Siclair, Comadoll

Nay-

**Yea-7, Nay-0. Motion Passed.**

City Council went into Executive Session at 8:08 pm

#### **Adjourn from Executive Session**

Motion: Haase                              Second: Knepley  
to adjourn from Executive Session at 8:44 pm

Roll call vote on the above motion:

Yea-Knepley, Durham, Haase, Baer, Bialorucki, Siclair, Comadoll

Nay-

**Yea-7, Nay-0. Motion Passed.**

Council President Bialorucki reported no action was taken in Executive Session.

**Appointment of Acting Finance Director**

Motion: Bialorucki                      Second: Baer  
to appoint Joel Mazur as the Acting Finance Director

Maassel commented I think we all trust Mazur to do both roles, City Manager and Acting Finance Director. We trust the Finance Department to pull together and we trust the department heads to do a little more than what they normally do until we get a new finance director and get the system back the way it should be. In the meantime, we have full faith that Mazur is going to knock this out of the park.

**Around the Table.**

Durham – nothing for me sir. Thank you.

Haase - is there a chance that spray patch can be used on Wayne Park Drive? That is really getting torn up. Lulfs replied we do have that on our list but, we are currently short-handed. Haase commented I like the standup curbs.

Baer - I have a question about the dog park. We do not use it that often because we have our own situation but, we were down there last week and noticed that the locks are not working. Anybody can just walk right in. I'm not sure how often the dog park is used because anytime I have been down there, there has not been dogs in there. Mazur explained the lock broke and when we got the quote, for what we get in dog park memberships the cost of the lock exceeded the useful life of the lock going off the historical data. So, I opted to just keep them unlocked and make it a free dog park because it doesn't get used that much. Baer added that is my other point, I do not know if there is anything we can do to increase the use of that facility? Mazur said I would have to check with Cotter but I want to say we brought it up to the Parks and Rec Board. Haase noted any time that I have been at a meeting, there was no talk about that specific item. I drive around the city every morning and I have never seen anyone in there. Mazur said I haven't either.

Baer asked if there are any agenda items for the Safety and Human Resources for next Monday? Mazur said there a human resources item. Coming out of COVID, we are looking at doing some team building and training for supervisors. Baer set the Safety and Human Resources Committee meeting for 7:00 pm on Monday, July 26, 2021 since the Finance and Budget Committee will not be meeting earlier.

Maassel - there is vast room for approval in the applications for the open Finance Director position. How vast you ask? Well, when we get the next one, it will be the first application. I'm sure a lot of people will get them in towards the end of the month.

I drove by the city pool and they were putting in the next piece, is it the cover for over the kiddy area? Mazur said that is what they are attempting to do. Lulfs explained we had planned to get the two shade structures in today. The shade structure over the shallow end we were waiting because there were some parts that needed to be fabricated. While they were erecting it this afternoon, they discovered those fabricated parts were not fabricated correctly. So, they are going to have to refabricate the connectors between the vertical posts and struts that hold the shade structure in place. I was informed the shade structure that goes over the concession area would be the bolt pattern that is placed in the concrete foundations. The foundations were poured on April 14, 2021. Then, on April 21, 2021, the company that manufactured the post changed their bolt pattern so they don't match and the foundations were already in the ground. So, when they went to put those in, they didn't fit. We are having those issues corrected at no cost to the city.

Sicclair - nothing for me, thanks.



Roll call vote on the above motion:

Yea-Knepley, Durham, Haase, Baer, Bialorucki, Siclair, Comadoll

Nay-

**Yea-7, Nay-0. Motion Passed.**

Motion: Comadoll

Second: Durham

to suspend the rule requiring three readings of Ordinance No. 029-21

Roll call vote on the above motion:

Yea-Knepley, Durham, Haase, Baer, Bialorucki, Siclair, Comadoll

Nay-

**Yea-7, Nay-0. Motion Passed.**

Roll call vote to pass Ordinance No. 029-21 Under Suspension and Emergency

Yea-Knepley, Durham, Haase, Baer, Bialorucki, Siclair, Comadoll

Nay-

**Yea-7, Nay-0. Motion Passed.**

Mazur – I'm honored that you would trust me with this job duty. I want to make sure I stress how temporary this is going to be. I know the Personnel Committee is going through a selection process and hopefully someone can be hired with some expediency. It is not something I want to do but, it is definitely something I'm honored that you would have that trust in me to be able to take this on. Bialorucki said the trust is there because of your years here. I don't know that I have ever heard anyone say a bad thing about what you have done. How you care for the city is what gave us the reason to trust you. If you are having issues where it is too much for you, we can always take this away. Mazur – you will know right away, trust me.

#### **Approve Payment of Bills and Financial Reports**

In the absence of any objections or corrections the payment bills and financial reports shall stand approved.

#### **Adjournment**

Motion: Durham

Second: Haase

to adjourn the City Council meeting at 8:44 pm.

Roll call vote on the above motion:

Yea-Knepley, Durham, Haase, Baer, Bialorucki, Siclair, Comadoll

Nay-

**Yea-7, Nay-0. Motion Passed.**

**Approved:**

August 2, 2021

\_\_\_\_\_  
Joseph D. Bialorucki, Council President

\_\_\_\_\_  
Jason P. Maassel, Mayor

Attest:

\_\_\_\_\_  
Roxanne Dietrich, Clerk of Council

**ORDINANCE NO. 030-21**

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT OR CONTRACTS, FOR THE SALE OF CITY OWNED BULK ELECTRIC SYSTEM (BES) 69KV ASSETS TO AMERICAN MUNICIPAL TRANSMISSION, LLC, A SUBSIDIARY OF AMERICAN MUNICIPAL POWER, INC. (AMP); AND DECLARING AN EMERGENCY**

**WHEREAS**, the City of Napoleon, Ohio owns Bulk Electric System (BES) 138KV assets at the Northside Substation and related equipment; and,

**WHEREAS**, American Municipal Power, Inc. (“AMP”), is an Ohio nonprofit corporation, organized to own and operate facilities, or to provide otherwise, for the generation, transmission or distribution of electric capacity and energy, or any combination thereof, and to furnish technical services on a cooperative, nonprofit basis, for the mutual benefit of AMP members (“Members”), such Members, including this Municipality, being political subdivisions that operate municipal electric utility systems in Delaware, Indiana, Kentucky, Ohio, Maryland, Michigan, Pennsylvania, Virginia and West Virginia; and,

**WHEREAS**, American Municipal Transmission, LLC is an Ohio nonprofit limited liability company, and a subsidiary of American Municipal Power, Inc. (“AMP”), organized to own and operate facilities, or to provide otherwise, for the transmission of electric energy, and to furnish technical services on a cooperative, nonprofit basis, for the mutual benefit of AMP’s members, including the City of Napoleon, Ohio; and,

**WHEREAS**, recent Federal Energy Regulatory Commission (“FERC”), North American Electric Reliability Corporation (“NERC”) and PJM Interconnection, L.L.C. (“PJM”) regulations require Municipality to become a NERC and PJM transmission owner, thereby substantially increasing the number of regulations imposed upon Municipality; and,

**WHEREAS**, American Municipal Transmission, LLC is willing to purchase the Municipality’s transmission facilities in order to relieve the Municipality of the transmission owner obligations and responsibilities associated with the ownership and operation of the aforementioned equipment. **Now Therefore,**

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:**

Section 1. That, The City Manager is hereby authorized to enter into a contract or contracts with American Municipal Transmission, LLC for the sale of Bulk Electric System (BES) Transmission Elements and related Protection System equipment and appurtenances.

Section 2. That, any other Ordinances and Resolutions or portions of Ordinances and Resolutions inconsistent herewith are hereby repealed, but any Ordinances and Resolutions or portions of Ordinances and Resolutions not inconsistent herewith and which have not previously been repealed are hereby ratified and confirmed.

Section 3. That, it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an

open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements.

Section 4. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 5. That, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to enter into the stated contract in a timely manner which affects the public peace, health, and safety accessible to our citizens, and for further reasons as stated in the Preamble hereof.

Passed: \_\_\_\_\_  
Joseph D. Bialorucki, Council President

Approved: \_\_\_\_\_  
Jason P. Maassel, Mayor

VOTE ON PASSAGE \_\_\_\_ Yea \_\_\_\_ Nay \_\_\_\_ Abstain

Attest:

\_\_\_\_\_  
Roxanne Dietrich, Clerk of Council

*I, Roxanne Dietrich, Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Ordinance No. 030-21 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, 2021; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

\_\_\_\_\_  
Roxanne Dietrich, Clerk of Council

**ASSET PURCHASE AND SALE AGREEMENT**

between

**THE CITY OF NAPOLEON, OHIO**

**(Seller)**

and

**AMP TRANSMISSION, LLC**

**(Buyer)**

Dated \_\_\_\_\_, 2021

CONFIDENTIAL - DRAFT

## **ASSET PURCHASE AND SALE AGREEMENT RELATED TO THE INDUSTRIAL SUBSTATION**

This Asset Purchase and Sale Agreement (this “Agreement”) is made and entered into this \_\_\_ day of \_\_\_\_\_, 2021 (the “Effective Date”), by and between The City of Napoleon, Ohio, an Ohio municipal corporation (“Seller”), and AMP Transmission, LLC, an Ohio nonprofit limited liability company (“Buyer”). Seller and Buyer are referred to individually as a “Party” and collectively as the “Parties.”

### **RECITALS**

A. Seller owns five (5) 69kV breakers and associated equipment, including current and voltage transformers, station post insulators and associated equipment. Seller also owns certain ancillary equipment used or useful in connection with the operation of the Equipment, including certain galvanized steel structures, substation equipment, insulators, ground components, a bus conductor, fittings, supervisory control and data access equipment, and protection and control panels. Finally, Seller owns as 5.28 miles of 69 kV transmission line between Seller’s industrial substation and the Napoleon substation owned by Buyer.

For clarity, the 69 kV facilities and associated equipment, as more particularly described on Exhibit A (collectively the “Equipment”) does not include any other facilities and equipment associated with voltages less than 69 kV within the substation footprints.

B. Buyer is an Ohio nonprofit limited liability company, and a subsidiary of American Municipal Power, Inc. (“AMP”), organized to own and operate facilities, or to provide otherwise for the transmission of electric energy, and to furnish technical services on a cooperative, nonprofit basis, for the mutual benefit of AMP’s members, including Seller.

C. Buyer is willing to purchase Seller’s Equipment to relieve Seller of the transmission owner obligations and responsibilities associated with the ownership and operation of the Equipment.

D. Seller desires to sell, and Buyer desires to purchase, the Equipment and related rights as set forth more fully herein (collectively, the “Transferred Assets”) and to provide a lease to Buyer granting access to Buyer to the Transferred Assets, in the form attached as Exhibit B (the “Ground Lease”), on the terms and conditions set forth in this Agreement.

E. To further protect Buyer’s rights to access the Transferred Assets, after the transfer of the Transferred Assets, Seller agrees to grant to Buyer perpetual easements and rights of way to access, operate, maintain and otherwise deal with the Transferred Assets and any replacements and substitutions thereof, pursuant to that certain Easement in the form attached as Exhibit C (the “Easement”).

F. The Parties acknowledge that, upon completion of the transfer of assets, Buyer agrees to finance and construct necessary replacements or improvements to the existing assets and operate the breaker to the interconnection with American

Transmission Systems, Incorporated (“ATSI”) normally closed. Buyer agrees that construction of the necessary replacements or improvements will occur within a commercially reasonable period of time after the execution of this Agreement. Seller agrees that it may be required to undertake improvements of Seller’s retained assets in order to achieve the agreed upon transmission replacements and improvements.

G. The Parties have entered into an Operations and Maintenance Agreement (“O&M Agreement”) pursuant to which Seller agreed to assume certain responsibilities and implement procedures with respect to the operation and maintenance of previously transferred assets on behalf of Buyer. The Parties will modify the O&M Agreement to the extent necessary to include the Transferred Assets in the existing O&M Agreement.

H. The Parties have entered into an Interconnection Agreement pursuant to which Buyer agreed to provide to Seller in coordination with, but separate from, the transmission service that will be provided by PJM. The Parties will modify the Interconnection Agreement to the extent necessary.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, representations and warranties set forth herein, the Parties, intending to be legally bound, hereby agree as follows:

## **ARTICLE 1 DEFINITIONS**

**1.1 Certain Defined Terms.** For purposes of this Agreement, in addition to terms defined elsewhere in this Agreement, the following terms shall have the meanings specified:

“Affiliate” of a specified Person means any other Person which, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the Person specified. The term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether by contract or otherwise. In no event shall Seller or Buyer be deemed to be “Affiliates” of each other for purposes of this Agreement.

“Approvals” means notices to, and approvals, consents, authorizations and waivers from, Persons who are not Governmental Authorities, other than Buyer and Seller.

“Business Day” means any day other than Saturday, Sunday, or any day on which banks located in the State of Ohio are authorized or obligated to close.

“Closing” means the consummation of the Transactions, as measured on the date Buyer transmits the wire for payment of the Estimated Purchase Price made by or on behalf of Buyer to the order of Seller. The Closing shall be deemed to have occurred at 11:59 p.m. on the Closing Date.

“Commercially Reasonable Efforts” means efforts in accordance with reasonable commercial practice for owners and operators of similar assets and without incurrance of unreasonable expense in light of the objective to be accomplished.

“Contract” means any written agreement, lease, license, option, guaranty, right-of-way, evidence of indebtedness, mortgage, indenture, security agreement, purchase order, promissory note or other contract.

“Dispute” means any dispute, controversy or claim arising out of or relating to this Agreement or the other Transaction Documents, or the Transactions, or the breach, termination or invalidity hereof or thereof.

“Encumbrance” means any lien, deed of trust, easement, right of way, equitable interest, option, right of first refusal, preferential purchase right or similar right, pledge, security interest, mortgage, encumbrance of or exception to title, or other similar lien or encumbrance in or on the Transferred Assets.

“Environmental Law” means all Laws relating to pollution or protection of the environment, natural resources or human health and safety, as the same may be amended or adopted, including Laws relating to Releases or threatened Releases of Hazardous Materials (including Releases to ambient air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, Release, transport, disposal or handling of Hazardous Materials, including CERCLA; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq.; the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1471 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 8 2601 through 2629; the Oil Pollution Act, 33 U.S.C. §§ 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §§ 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Occupational Safety and Health Act, 29 U.S.C. §§ 651 et seq.; and any similar Laws of the State of Ohio or of any other Governmental Authority having jurisdiction over the Transferred Assets; and regulations implementing the foregoing.

“Governmental Authority” means any (i) federal, state, local, tribal, municipal, foreign or other government, (ii) any governmental, regulatory or administrative agency, board, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power, including the North American Electric Reliability Corporation (“NERC”) and the Federal Energy Regulatory Commission (“FERC”), (iii) any court or governmental tribunal, or (iv) any other organization having governmental, regulatory, administrative, taxing or police powers, in each case acting within the scope of its authority or jurisdiction, provided that neither Party shall be deemed to be a “Governmental Authority” for purposes of determining whether its approval of this Agreement is a required governmental consent or License.

“Hazardous Materials” means any chemicals, materials or substances, in whatever form they exist, in each case, which are regulated as pollutants or contaminants, or as

toxic or hazardous under Environmental Law, including petroleum products, asbestos, urea formaldehyde foam insulation, and lead-containing paints and coatings.

“Interim Operational Period” means the period from the Effective Date of this Agreement until the earlier of the Closing or termination of this Agreement.

“Laws” means all statutes, rules, regulations, ordinances, orders, decrees, injunctions, judgments and codes, or other authorization, ruling or restriction having the force of law of any applicable Governmental Authority.

“Licenses” means registrations, licenses, permits, authorizations, notices to, authorizations of, waivers from and other consents or approvals of Governmental Authorities.

“Major Maintenance Spare Parts” means those parts and equipment typically installed and repaired in connection with all significant maintenance performed during scheduled outages and forced outages that relate to the Transferred Assets.

“Material Adverse Effect” means any one or more changes, events, circumstances, conditions or effects, whether known or unknown, accrued or unaccrued, actual or contingent, that is, or would be reasonably likely to be, materially adverse to the results of operations or condition (physical or financial) of the Transferred Assets, taken as a whole, or the ability of a Party (to which the applicable representation, warranty, covenant or condition relates) to own or operate the Transferred Assets or to consummate the Transactions.

“Permitted Encumbrances” means (a) any Encumbrance for Taxes not yet due and payable or for Taxes that are being contested in good faith by appropriate proceedings, including those that are listed on the Schedules as contested proceedings, (b) any Encumbrance arising by operation of Law not due to the willful violation of Law by Seller or its Affiliates, (c) any other imperfection or irregularity of title or other Encumbrance that would not, individually or in the aggregate, materially detract from the value of, or materially interfere with the present use of, the Transferred Assets, (d) zoning, planning, and other similar limitations and restrictions on, including all rights of any Governmental Authority to regulate, a Transferred Real Property Asset, and (e) those Encumbrances listed on Schedule 1.

“Person” means any individual, corporation (including any non-profit corporation), general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, labor union, or other entity or Governmental Authority.

“Site” means the real property underlying the Transferred Assets, as more particularly described on Exhibit D, together with all the rights, easements, and appurtenances pertaining thereto.

“Prudent Operating Practices” means the practices, methods, standards and procedures that are consistent with Law and are generally accepted, engaged in and followed during the relevant time period by reasonably skilled, competent, experienced, and prudent owners and operators of generating and transmission facilities in the United

States similar to the Transferred Assets and which, in the exercise of reasonable judgment in light of the facts known or that reasonably should have been known at the time a decision is made, would reasonably be expected to accomplish the desired result in a manner consistent with applicable Laws, codes and standards, equipment manufacturer's recommendations, insurance requirements, manuals, environmental protection, good business practices, reliability, safety and expedition and taking into consideration the requirements of all applicable Licenses, Contracts and, from and after the Effective Date, this Agreement.

"Schedule" means a schedule to this Agreement.

"Tax" or "Taxes" means (i) all sales, use or transaction privilege taxes, real or personal property taxes, recordation and transfer taxes, payroll deduction taxes, franchise taxes, taxes on gross or net income or other monetary obligations imposed, assessed or exacted by any Governmental Authority, and (ii) any interest, penalties, adjustments and additions attributable to any of the foregoing, including any liability for any of the foregoing taxes or other items arising as a transferee or successor, by contract or otherwise.

"Tax Return" means any report, return, information return or other information required to be supplied to a taxing authority in connection with Taxes.

"Transaction Documents" means this Agreement and the Closing Agreements and any other agreement, consent, License, Approval or other document or instrument provided in connection with the Transactions.

"Transactions" means the transactions contemplated on the part of each of the Parties, collectively, by this Agreement and the other Transaction Documents.

"Warranty Claims" means any claims of Seller arising under any express or implied warranties by the manufacturers, vendors or lessors of any of the Transferred Assets.

**1.2 Certain Interpretive Matters.** In this Agreement, unless the context otherwise requires:

- (a) the representations, warranties and covenants in this Agreement shall have independent significance. Accordingly, if a Party has breached any representation, warranty or covenant contained in this Agreement in any respect, the fact that there exists another representation, warranty or covenant relating to the same subject matter (regardless of the relative levels of specificity) that the Party has not breached shall not detract from or mitigate the fact the Party is in breach of the first representation, warranty or covenant.
- (b) if any time period set forth in this Agreement expires on a day that is not a Business Day, then the performance period shall be extended until the next Business Day.

## ARTICLE 2 BASIC TRANSACTIONS

**2.1 Transferred Assets.** On the terms and subject to the conditions contained in this Agreement, at Closing, Buyer shall purchase from Seller, and Seller shall sell, convey, assign, transfer and deliver to Buyer, free and clear of all Encumbrances (other than Permitted Encumbrances), all of Seller's right, title and interest in, to and under the following Transferred Assets:

- (a) The "Transferred Real Property Assets" consisting of:
  - (i) the easements in favor of Buyer granted under the Easement; and
  - (ii) Seller's interest in any real property interests included in the Transferred Personal Property Assets.
  
- (b) The "Transferred Personal Property Assets" consisting of:
  - (i) the Equipment;
  - (ii) the Inventory;
  - (iii) the Major Maintenance Spare Parts;
  - (iv) the Transferred Licenses;
  - (v) Seller's interest in any personal property included in the Transferred Real Property Assets; and
  - (vi) Seller's interest in all unexpired and transferrable manufacturers' and other third-party warranties, guarantees and outstanding Warranty Claims relating to the Transferred Assets.

**2.2 Assumed Liabilities.** From and after Closing, Buyer shall assume and pay, discharge and perform only those obligations and liabilities first arising after the Closing Date that are related to or incurred in connection with the Assigned Contracts or Transferred Licenses and other matters noted on Schedule 2, if any (collectively, the "Assumed Liabilities"). Notwithstanding anything in this Agreement or any other Transaction Document to the contrary, Buyer is not assuming any other liability, responsibility or obligation hereunder. By way of clarification, if a liability arose on or prior to Closing, the liability shall remain the responsibility of Seller.

**2.3 Purchase Price.** The purchase price for the Transferred Assets shall be five million, five hundred thirty-seven thousand, seven hundred thirty-seven dollars and sixty two cents (\$5,537,737.62) (the "Purchase Price").

## ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Buyer, except as qualified by or disclosed in the Schedules, as follows (for purposes of this Agreement and the Schedules, a matter disclosed in one section of the Schedules shall be deemed disclosed with respect to other representations and warranties of Seller in this Agreement if it is reasonably apparent on the face of the disclosure of the matter):

**3.1 Formation and Power.** Seller is a municipal corporation duly formed and existing under the laws of the State of Ohio, and has full right, power and authority to own the Transferred Assets, and to enter into this Agreement and perform all of its obligations with respect to the Transactions, except where the failure to have such right, power and authority would not have a material effect adverse to Seller's right to consummate the Transactions.

**3.2 Binding Obligations of Seller.**

- (a) The execution, delivery and performance of this Agreement and the Closing Agreements by Seller and the consummation of the Transactions by Seller have been duly and effectively authorized by all necessary actions of Seller. This Agreement has been, and upon their execution, each Closing Agreement will have been, duly executed and delivered by Seller.
- (b) This Agreement constitutes the legal, valid and binding obligation of Seller and is enforceable against Seller, and the Closing Agreements will, upon delivery at Closing, constitute the legal, valid and binding obligations of Seller and will be enforceable against Seller, in each case in accordance with the respective terms contained therein.

**3.3 No Breach or Conflict.** The execution, delivery and performance by Seller of this Agreement and by Seller of the Closing Agreements to which it is or will be a party, and the consummation of the Transactions by Seller do not conflict with or result in a breach of any provision of the organizational documents of Seller.

**3.4 Approvals.**

- (a) The execution, delivery and performance of this Agreement and the Closing Agreements to which Seller is or will be a party and the consummation of the Transactions by Seller do not require any Approvals to be obtained by Seller that have not been obtained.
- (b) The execution, delivery and performance of this Agreement and the Closing Agreements to which Seller is or will be a party and the consummation of the Transactions by Seller do not require any License or any filing with any Governmental Authority to be obtained or made by Seller.

**3.5 Licenses.** All Licenses that are held by Seller as a named permittee in connection with the ownership and operation of the Transferred Assets in the manner in which they are currently owned and operated are in full force and effect. Seller has delivered to Buyer a true and correct copy of each of the Licenses. Seller has not previously transferred or assigned any right, title or interest under any of the Licenses. To the Knowledge of Seller,

there are no proceedings pending or threatened to revoke or modify any License in any material respect.

**3.6 Compliance with Law.** The Transferred Assets have been and are currently operated in compliance with all Licenses and all applicable Laws. Seller is not, and has not been, in violation of or in default under any Law applicable to it or the Transferred Assets, and Seller has filed or caused to be filed timely all material forms, reports, statements, and other documents required to be filed by it with all Governmental Authorities with respect to the Transferred Assets, and those filings were prepared in compliance with applicable Law.

**3.7 Environmental Matters.**

- (a) Seller has not conducted or permitted the conduct of operations or activities at the real property underlying the Transferred Real Property Assets (the "Subject Property") in violation of any Environmental Law. Seller has not received any written notice by a Governmental Authority to Seller or its Affiliates of a material violation of any Environmental Law by Seller or relating to the Subject Property. There are no environmental reports, studies, analyses, tests or monitoring results possessed by Seller or of which Seller is aware pertaining to Hazardous Materials in any regulated amount at, in, on, under or over the Subject Property or the Transferred Assets that would disclose any violation of any Environmental Law.
- (b) With respect to the Transferred Assets, Seller has not handled or disposed of any material amount of Hazardous Materials at the Subject Property or otherwise involving any of the Transferred Assets in violation of Environmental Law, or arranged for the disposal of any regulated amount of Hazardous Materials at or from the Subject Property or related to the Transferred Assets in violation of Environmental Law.
- (c) No written notice or written claim has been filed or threatened against Seller with respect to the Transferred Assets alleging any failure to comply with, or any violation of or liability under, any Environmental Law.

**3.8 Transferred Assets.**

- (a) Exhibit D contains the separate legal description of the Subject Property. Except in conjunction with the Transactions, none of Seller or any of its Affiliates has entered into any material leases, subleases, licenses, concessions or other agreements granting to any party or parties the right to use or occupy all or any portion of the Subject Property, other than access easements for third party maintenance or service personnel in the ordinary course of business; the Subject Property is not subject to any commitment, right of first offer, or other arrangement for the sale, transfer or lease thereof to any third party (other than pursuant to this Agreement).
- (b) Exhibit A contains a complete listing of the Transferred Personal Property Assets.

- (c) Seller holds good and marketable title to, and is the record owner of fee simple title to, the Subject Property, the Transferred Assets, and related rights, free and clear of all Encumbrances, other than Permitted Encumbrances.

**3.9 Litigation and Condemnation Proceedings.** There are no material proceedings pending or, to Seller's knowledge, threatened at law or in equity against or relating to any or all of the Transferred Assets or Seller's ownership or operation thereof. There is no condemnation proceeding pending or, to Seller's knowledge, threatened against any part of the Transferred Assets. There are no proceedings at law or in equity pending or, to Seller's knowledge, threatened against Seller or its Affiliates with respect to the Transactions or the Transferred Assets, (i) relating to the execution or delivery of this Agreement, or (ii) which could materially delay, prevent, result in rescission or material modification of or otherwise unwind the Transactions or any material portion thereof.

**3.10 Condition of the Transferred Assets.** The Transferred Assets are in good operating condition, reasonable wear and tear excepted. Seller has furnished Buyer with copies of all maintenance, operating, performance, financial, warranty and other reports in its possession related to the Transferred Assets as Buyer reasonably requests. Seller does not have knowledge of any material defect in any of the Transferred Assets.

**3.11 Inspection and Acceptance.** Buyer may, but is not required, to visit Seller's facilities to inspect the Transferred Assets not later than ten (10) business days prior to closing. Buyer may reject any Transferred Assets that contain defective materials or workmanship or do not conform to Buyer's specifications prior to closing.

**3.12 Tax Matters.** Excluding any Taxes on gross or net income or gain, Seller has filed or caused to be filed all Tax Returns required to have been filed by or for it (other than those for which extensions were requested and obtained in a timely manner) with respect to any Tax relating to the Transferred Assets (collectively, "Seller's Tax Returns"), and Seller has paid all Taxes that have become due as indicated thereon and that were required to be paid by or for Seller. All of Seller's Tax Returns relating to the Transferred Assets are true, correct and complete in all material respects. No written notice of deficiency or assessment has been received by Seller from any taxing authority with respect to liabilities for Taxes of Seller in respect of the Transferred Assets, which have not been fully paid or finally settled, or if not fully paid or finally settled, any deficiency and assessment is being contested in good faith through appropriate proceedings. There are no outstanding agreements or waivers extending the applicable statutory periods of limitation for Taxes of Seller associated with the Transferred Assets. All Taxes required to be withheld, collected or deposited by Seller have been timely withheld, collected or deposited and, to the extent required, have been paid to the relevant Tax authority.

**3.13 Brokers.** No broker, finder, investment banker or other Person is entitled to any brokerage, finder's or other fee or commission in connection with this Agreement or the Transactions based upon any agreements or arrangements or commitments, written or oral, made by or on behalf of Seller or any Affiliate of Seller by which the Transferred Assets or Buyer could be bound, before, from or after Closing.

**3.14 Insurance.** The Transferred Assets are self-insured by Seller.

**3.15 Absence of Certain Changes.** To Seller's knowledge, no condition or effect exists that, individually or in the aggregate with any other conditions or effects, is or would reasonably be expected to be materially adverse to the ownership or operation of the Transferred Assets.

**3.16 Undisclosed Liabilities.** Seller has no liability or obligation with respect to the Transferred Assets (whether accrued or unaccrued, known or unknown, absolute or contingent), except for (i) Permitted Encumbrances, (ii) matters that have been recorded on Seller's financial statements, and those obligations that have arisen thereafter in the ordinary course of business, and (iii) those obligations which individually or in the aggregate are not material with respect to the ownership or operation of the Transferred Assets.

**3.17 No Other Representations or Warranties.** Seller makes no other representations or warranties except for those expressly made in this Agreement and Seller expressly disclaims all other warranties of any kind, express or implied.

#### **ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer represents and warrants to Seller that the statements contained in this Article 4, except as qualified by or disclosed in the Schedules as follows (for purposes of this Agreement and the Schedules, a matter disclosed in one section of the Schedules shall be deemed disclosed with respect to other representations and warranties of Buyer in this Agreement if it is reasonably apparent on the face of the disclosure of the matter):

**4.1 Organization and Power.** Buyer is a non-profit limited liability company organized and existing under the laws of the State of Ohio and has full right, power and authority to enter into this Agreement, to own its assets and to perform all of its obligations with respect to the Transactions.

**4.2 No Breach or Conflict.** The execution, delivery and performance by Buyer of this Agreement and of the Closing Agreements to which it is or will be a party, and the consummation of the Transactions by Buyer do not conflict with or result in a breach of any provision of the organizational documents of Buyer.

**4.3 Approvals and Buyer's Required Regulatory Approvals.**

- (a) The execution, delivery and performance of this Agreement and the Closing Agreements by Buyer and the consummation of the Transactions by Buyer have been duly and effectively authorized by all necessary internal actions of Buyer.
- (b) This Agreement has been, and upon its execution of each Closing Agreement to which Buyer is a party, each Closing Agreement will have been, duly executed and delivered by Buyer.
- (c) This Agreement constitutes the legal, valid and binding obligation of Buyer and is enforceable against Buyer, and the Closing Agreements will, upon delivery at Closing, constitute the legal, valid and binding obligations of Buyer and will be

enforceable against Buyer, in each case in accordance with the respective terms contained therein, subject to the Enforceability Exceptions.

- (d) The execution, delivery and performance of this Agreement and the Closing Agreements and the consummation of the Transactions by Buyer do not require any material License or any material filing with any Governmental Authority to be obtained or made by Buyer.

**4.4 Litigation.** There are no proceedings pending or, to Buyer's knowledge, threatened against Buyer or its Affiliates with respect to the Transactions at law or in equity, (i) relating to the execution or delivery of this Agreement, or (ii) which would reasonably be expected to delay, prevent, result in rescission or modification of or otherwise unwind the Transactions or any portion thereof.

**4.5 No Other Representations or Warranties.** Buyer makes, no other representations or warranties except for those expressly made in this Agreement and Buyer expressly disclaims all other warranties of any kind, express or implied.

## **ARTICLE 5 COVENANTS OF SELLER AND BUYER**

**5.1 Commercially Reasonable Efforts to Close.** Subject to the terms and conditions provided herein, each of the Parties agrees to use its Commercially Reasonable Efforts to close, consummate and make effective the Transactions, and for the satisfaction of all other conditions to Closing set forth herein that it is required to satisfy (or to cause to be satisfied) to proceed with Closing.

**5.2 Expenses.** Whether or not the Transactions are consummated, except as otherwise provided in this Agreement, all costs and expenses incurred in connection with this Agreement and the Transactions shall be paid by the Party incurring those expenses, and Buyer shall pay the filing fees and expenses in connection with any filing it makes with FERC in connection with the Transactions. Notwithstanding the foregoing, documentary transfer fees, if any, and recording costs and charges respecting real property shall be shared by the Parties equally unless otherwise provided herein.

**5.3 Tax Matters.**

- (a) Subject to Section 5.2, all transfer, documentary, sales, use, stamp, registration, value added and other Taxes and fees (including any penalties and interest) incurred in connection with this Agreement, the Ground Lease, the Easement and other Transaction Documents (including any real property transfer Tax and any other similar Tax) shall be borne by Seller. Seller shall, at its own expense, timely file any Tax Return or other document with respect to those Taxes or fees (and Buyer shall cooperate with respect thereto as necessary).
- (b) Each Party shall use Commercially Reasonable Efforts to cooperate fully with the other Party, as and to the extent reasonably requested by the other Party, in connection with the filing of Tax Returns pursuant to this Agreement and any Proceeding with respect to Taxes associated with the Transactions. Consistent

with their respective document retention policies, each Party agrees to retain all of its books and records with respect to Tax matters pertinent to the Transferred Assets relating to any taxable period beginning before the Closing Date until the expiration of the applicable statute of limitations and to abide by all record retention agreements entered into with any taxing authority.

- (c) Seller agrees that the valuation methodology and conclusion accurately reflect the value of the Transferred Assets and enable Buyer to comply with FERC accounting requirements, if applicable, or other legal or accounting requirements.

**5.4 Post-Closing Delivery and Retention of Records.** Within ten (10) days following Closing, Seller shall deliver to Buyer all books, records and data pertaining exclusively to the Transferred Assets (other than those relating to the financial performance of Seller) in Seller's possession or control or reasonably available to Seller, in each case other than Excluded Assets; provided, that, any electronic correspondence and files stored on equipment and media that are not material need not be delivered, but shall be provided as reasonably requested by Buyer. Seller shall be entitled to make at its own expense and retain copies of the records pertaining to the Transferred Assets as needed in connection with Tax Returns or other filings with or notices to Governmental Authorities. Each Party shall (a) hold all records pertaining to the Transferred Assets and not destroy or dispose of any records for a period of seven (7) years following the Closing Date, or if any records pertain to any Proceeding pending at the conclusion of the seven-year period, until the Proceeding is finally resolved and the time for all appeals has been exhausted, and (b) for seven (7) years following Closing, allow the other Party and its accountants and counsel upon reasonable request, during normal business hours, reasonable access to the records pertaining to the Transferred Assets which it holds (other than those constituting Excluded Assets) at no cost, other than costs of copying and other reasonable out-of-pocket expenses; provided, however, that these obligations will not apply to any records subject to any attorney-client privilege; and provided, further, that in the event of any Proceeding relating to the Transferred Assets, nothing herein shall limit either Party's rights of discovery under applicable Law.

**5.5 Post-Closing Cooperation.** After Closing, upon prior reasonable written request, each Party shall use Commercially Reasonable Efforts to cooperate with the other Party in further evidencing and consummating the Transactions. The requesting Party shall reimburse the cooperating Party for any reasonable out-of-pocket expenses paid or incurred by the cooperating Party as a result of any requested cooperation.

**5.6 Confidentiality.**

- (a) Unless and until the Closing occurs, Seller shall keep confidential, except as may be approved in writing by Buyer, or as may be required under applicable Law, (1) any and all information received, created, or maintained by Seller related to any Seller owned or operated utility the release of which would more likely than not provide or create a competitive disadvantage to any of Seller's owned or operated utilities or be of economic value to a competitor or a person other than Seller, including information related to Seller's assets, operations or prospects, which is either non-public, confidential or proprietary, or (2) any and all analyses,

compilations, data, studies or other documents prepared by or for Buyer relating to the Transferred Assets that contains information described in clause (1) above (the "Buyer Confidential Information"). Buyer shall keep confidential, except as may be approved in writing by Seller, or as may be required under applicable Law, (1) any and all information received by or in the possession of Buyer relating to Seller's business, assets, operations or prospects and/or relating to the Transferred Assets which is either non-public, confidential or proprietary, or (2) any and all analyses, compilations, data, studies or other documents prepared by or for Buyer or Seller relating to the Transferred Assets or Seller and its Affiliates (collectively, the "Seller Confidential Information," and together with the Buyer Confidential Information, the "Confidential Information").

- (b) Notwithstanding anything in this Agreement to the contrary, each party hereto agrees that each Party (and any person or entity to which Confidential Information is disclosed by the Party as permitted hereby) may disclose Confidential Information to the extent reasonably necessary to: (i) its regulators; (ii) its auditors; (iii) persons who need to know the tax treatment and tax structure of the transactions contemplated by this Agreement; and (iv) the extent otherwise requested by any governmental agency, regulatory authority (including any self-regulatory organization claiming to have jurisdiction) or any bank examiner.
- (c) Nothing in this Agreement shall bar the right of either Party to seek and obtain from any court injunctive relief against conduct or threatened conduct which violates this Section 5.6.
- (d) Neither Party shall issue any external press releases, communications or disclosures concerning the Confidential Information or the Closing, without the other Party's prior written consent, which shall not be unreasonably withheld, conditioned or delayed, except those releases, communications or disclosures which are otherwise required by Law.

**5.7 Risk of Loss/Casualty/Takings. DURING THE INTERIM OPERATIONAL PERIOD, ALL RISK OF LOSS OR DAMAGE TO THE TRANSFERRED ASSETS SHALL, AS BETWEEN SELLER AND BUYER, BE BORNE BY SELLER.**

## **ARTICLE 6 ADDITIONAL COVENANTS OF SELLER AND BUYER**

Seller and Buyer, as applicable, hereby additionally covenant, promise and agree as follows:

**6.1 Access and Information.** Throughout the Interim Operational Period, Seller shall, upon reasonable notice from Buyer: (1) provide Buyer and its Representatives reasonable access to the books and records and other documents and data related to the Transferred Assets and Assumed Liabilities; (2) furnish Buyer and its Representatives with financial, operating and other data and information related to the Transferred Assets as Buyer or any of its Representatives may reasonably request; (3) reasonably cooperate with Buyer in its investigation of the Transferred Assets; (4) provide Buyer with copies of

any proposed amendment to any Assigned Contract and any proposed new Contract relating to the Transferred Assets of which Seller is aware; (5) provide Buyer with copies of any correspondence or notice asserting or threatening the assertion of a default under or termination of any Assigned Contract relating to the Transferred Assets; and (6) to the extent practicable under the circumstances, notify Buyer in advance of the commencement of any maintenance or capital project on the Transferred Assets that is expected to involve the expenditure of at least \$25,000. No investigation by Buyer or information received by Buyer shall operate as a waiver or otherwise affect any representation, warranty or agreement given or made by Seller in this Agreement.

**6.2 Operations During Interim Operational Period.** Except as authorized by Buyer in writing, from the Effective Date until Closing or termination of this Agreement, Seller shall maintain, or cause to be maintained, the Transferred Assets in the ordinary course of business consistent with past practices and in accordance with Prudent Operating Practices and in compliance with applicable Law; provided, that, this obligation shall not be deemed to require Seller to make any capital or maintenance expenditures other than those that would be part of the normal course of business.

**6.3 Notice of Certain Events.** Buyer's receipt of information pursuant to this Section shall not operate as a waiver or otherwise affect any representation, warranty or agreement given or made by Seller in this Agreement and shall not be deemed to amend or supplement any schedule to this Agreement, except as otherwise provided in this Agreement.

**6.4 Right of First Offer.** Except as provided below, if Buyer hereafter seeks to sell or dispose of all or substantially all of the Transferred Assets or any entity in which those assets comprise all or substantially all of its assets, whether by way of a sale of securities, merger, consolidation or similar proceeding, to any unaffiliated third party (a "Triggering Event"), Buyer hereby grants to Seller a right of first offer to acquire those assets. If Buyer seeks to enter into a Triggering Event, it shall provide written notice of the proposed Triggering Event prior to the date Buyer seeks to enter into the Triggering Event, or to commence offering that opportunity to another Person. Seller shall have twenty (20) days after the date of Buyer's notice to notify Buyer in writing of its intent to acquire the assets or equity subject to that transaction. If Seller submits an offer for any of the assets or equity, it must submit an offer to acquire all of those assets or equity and the related liabilities, unless the Parties otherwise agree. The Parties shall have forty-five (45) days after Seller notifies Buyer in writing of its intent to acquire such assets or equity to negotiate the principal business terms of that transaction which shall consist of the net book value of the assets at the time of closing, as well the remaining useful life, which determination shall be consistent with the valuation methodology used to determine the purchase price set forth herein. If they agree on those terms, then they shall continue to prepare definitive documents to effect that transfer on mutually acceptable terms during the next seventy-five (75) days. If at the end of that time, the parties are unable to consummate that transaction, then Buyer shall be free to sell those assets or equities to any other potential purchaser for a price not materially less than the net book value, provided that the revenue from any sale to any unaffiliated third party in excess of the net book value shall be divided evenly between Buyer and Seller.

This right of first offer shall not apply to: (a) ordinary course retirements, replacements or additions to the Transferred Assets; or, (b) any transaction not involving all or substantially all of the Transferred Assets or their replacements.

**6.5 Right to Lease-Back.** If Buyer is not permitted to recover all or substantially all of its costs, plus a FERC-approved margin through its FERC-approved tariff, or in the event that Buyer's survey or title search identify any issues that would materially and negatively impact Buyer's ownership or operation of the Transferred Assets, then Buyer shall provide notice in writing to Seller. Upon such notice, Seller shall enter into an operating lease to cover Buyer's costs (i.e., Buyer's cost of interest carrying costs, depreciation, and any FERC-required interest) for a term that extends until the assets become available for cost recovery. This right shall not extend beyond the final adjudication of Buyer's request for such cost recovery before the FERC.

**6.6 Conduct Pending Closing.** Prior to Closing or termination of this Agreement, unless Seller shall otherwise consent in writing, Buyer shall not take any action which would cause any of Buyer's representations and warranties set forth in Article 4 to be materially inaccurate as of Closing.

**6.7 Notice Certain Events.** During the Interim Operational Period, after obtaining knowledge of any event below, Buyer shall promptly notify Seller in writing of (but only to the extent affecting the Transferred Assets, Assumed Liabilities or ability of the Parties to consummate the Transactions):

- (a) any fact, circumstance, event or action the existence, occurrence or taking of which (A) has had, or would reasonably be expected to have, individually or in the aggregate, a material adverse effect on Buyer's ability to consummate the Transactions, without regard to the giving of notice or any opportunity to cure, (B) has resulted in any representation or warranty made by Buyer in Article 4 not being true and correct or (C) has resulted in the failure of any of the conditions set forth in Section 8.2, Section 8.3, Section 8.5 or Section 8.7 to be satisfied;
- (b) any material written notice or other written material communication from any Person received by it alleging that the consent of the Person is or may be required in connection with the transactions contemplated by this Agreement; and
- (c) any material written notice or other material written communication from any Governmental Authority received by it in connection with the Transactions, the Transferred Assets or the Assumed Liabilities.

For purposes of determining the accuracy of the representations and warranties of Seller contained in this Agreement and for purposes of determining satisfaction of the conditions set forth in Section 8.2, any subsequent updates shall not cure any breach of that representation or warranty unless Buyer expressly waives that breach. If any occurrence, event or change individually or in the aggregate, materially and adversely affects the Transferred Assets which cannot be cured by Closing, Buyer shall have the right to terminate this Agreement. In addition, Buyer may consummate the Transactions and

preserve its rights with respect to that breach of representation or warranty thereafter, unless Buyer expressly states to the contrary in a written instrument.

## **ARTICLE 7 CONDITIONS TO CLOSING**

The obligations of Buyer and Seller to consummate the Transactions at Closing shall be subject to fulfillment at or prior to Closing of the following conditions, unless Buyer or Seller, as applicable, waives the condition in writing:

**7.1 Termination of Agreement.** This Agreement shall not have been duly terminated.

**7.2 Representations and Warranties.** As a condition to a Party's obligation to consummate the Transactions, the representations and warranties of the other Party set forth in this Agreement shall be true and correct as of the Closing Date as though made on the Closing Date.

**7.3 Performance by Buyer and Seller.** Buyer and Seller shall have each performed and complied in all material respects with all of its respective agreements, obligations and covenants (including but not limited to those set forth in Articles 5, 6 and 7) hereunder during the Interim Operational Period.

**7.4 Transfer of Licenses.** All Transferred Licenses that lawfully may be transferred on or prior to Closing shall have been transferred to Buyer at Closing.

**7.5 No Restraint.** There shall be no:

- (a) Injunction, restraining order or order of any nature issued by any court of competent jurisdiction or Governmental Authority of competent jurisdiction which directs that the Transactions shall not be consummated as herein provided and no Proceeding has been commenced by a Governmental Authority seeking to do any of the foregoing; or
- (b) Law enacted which would render the consummation of the Transactions illegal or Law enacted that would prohibit or materially increase the cost of the owning or operating the Transferred Assets.

**7.6 Closing Agreements.** Buyer and Seller and any of their respective Affiliates which are parties to any Closing Agreements shall have executed and delivered the respective Closing Agreements to be executed by that Party or others, as appropriate.

**7.7 Material Adverse Effect.** No change, event, circumstance, condition, or effect shall have occurred from and after the Effective Date and is continuing that, individually or in the aggregate with any other changes, events, circumstances, conditions or effects, is or would reasonably be expected to be adversely material on the ability of the Buyer to own or operate the Transferred Assets.

**7.8 Ongoing Repairs, Maintenance and Improvements.** Seller shall have completed all repairs, maintenance and improvements for the Transferred Assets scheduled to have been completed through the Closing Date.

**7.9 FERC Approvals.** The Parties shall have received FERC acceptance of all agreements related to the Transferred Assets that are required to be filed with FERC and FERC acceptance of all agreements related to the assignment and amendment of the Interconnection and Operating Agreement that are required to be filed with FERC.

## **ARTICLE 8 CLOSING**

**8.1 Closing.** The Closing provided for in this Agreement will take place on the Closing Date as Buyer and Seller may mutually agree in writing. At Closing, subject to the terms and conditions hereof, Buyer and Seller shall deliver or cause to be delivered to each other all the documents, instruments and other agreements required pursuant to Articles 8 and 9 to be executed and delivered for Closing, in each case duly executed by an authorized signatory of Buyer and Seller or other applicable Person and, if applicable, acknowledged and in due form for recording (collectively the "Closing Agreements").

**8.2 Closing Agreements.** Subject to the terms and conditions hereof, at the Closing, Buyer and Seller, as applicable, shall deliver, or cause to be delivered, the following to the other Party (and third parties, as applicable), in mutually acceptable form, that approval not to be unreasonably withheld:

- (a) An amount in immediately available funds, by way of wire transfer from Buyer to an account or accounts designated at the order of Seller, equal to the Purchase Price;
- (b) a Bill of Sale and Assignment executed by Seller transferring all of the Transferred Personal Property;
- (c) an Assignment and Assumption of Rights Agreement executed by Buyer;
- (d) the Ground Lease Agreement;
- (e) the Easement;
- (f) Certified copies of the resolutions of the Party's governing board or bodies, as needed, authorizing the execution, delivery and performance of this Agreement and the Transactions;
- (g) A certificate of the Secretary or Associate Secretary of the Party identifying the name and title and bearing the signatures of the officers of that Party, authorized to execute and deliver this Agreement, each Closing Agreement to which it is a party and the other agreements contemplated hereby;
- (h) Evidence, in form and substance reasonably satisfactory to Seller, of the receipt by the applicable party of its Required Regulatory Approvals;

- (i) To the extent available, originals of all of the Assigned Contracts constituting Transferred Assets, and, if the originals are not available, true and correct copies thereof, and required assignments to transfer the Assigned Contracts, duly executed by Seller and the counterparty (subject to Section 5.9);
- (j) Documents, if any, necessary to transfer any of the Transferred Assets not covered by the foregoing or as reasonably requested by Buyer;
- (k) Certificates of non-foreign status in the form required by Section 1445 of the Code duly executed by Seller; and
- (l) All the other agreements, documents, instruments and writings required to be delivered by the other Party at or prior to the Closing Date pursuant to this Agreement or reasonably requested by the other Party in connection with the Transactions.

## **ARTICLE 9 TERMINATION**

**9.1 Termination.** This Agreement may be terminated prior to Closing only:

- (a) At any time, by mutual written consent of Seller and Buyer;
- (b) By either Party upon written notice to the other Party if any Governmental Authority having competent jurisdiction has issued a final, non-appealable order, decree, ruling or injunction (other than a temporary restraining order) or taken any other action permanently restraining, enjoining or otherwise prohibiting the Transactions;
- (c) By Buyer or Seller, as applicable, pursuant to other provisions of this Agreement.
- (d) By a Party if there has been a misrepresentation with respect to the other Party's representations and warranties in this Agreement, or a default or breach by that other Party with respect to its covenants or agreements contained in this Agreement, any of which individually or in the aggregate would result in the material failure to satisfy one or more of the conditions to the Closing set forth in Section 8.1 or Section 8.2, as applicable, but not including any of those covenants that are not fulfilled due to the actions or inactions of the Party seeking termination, and the misrepresentation, default or breach is not cured within sixty (60) days (a "Cure Period");
- (e) By either Party upon written notice to the other, if all conditions set forth in Article 8, other than those that are within the control of the other Party, have been satisfied (other than conditions which by their nature are to be satisfied at the Closing) and that party refuses to close the transaction within thirty (30) days of written notice by the Party seeking to terminate that it is ready, willing and able to close and that the conditions noted in this subsection have been satisfied.

**9.2 Effect of Termination.** If this Agreement is validly terminated pursuant to Section 9.1, the Parties shall have no further obligations or liabilities hereunder, except

as expressly provided in this Agreement, including Section 5.7; provided that nothing in this Section 9.2 shall relieve any Party from liability for any fraudulent, reckless or willful breach of this Agreement by the Party prior to termination of this Agreement.

## **ARTICLE 10 INDEMNIFICATION**

**10.1 Indemnity by Buyer.** To the fullest extent permitted by law, Buyer shall indemnify, defend, and hold harmless Seller and its trustees, members, officers, employees, agents, and their subsidiaries and affiliates (collectively “Seller Indemnified Parties”) from and against all claims, damages, losses, fines, penalties, and expenses arising out of or in connection with the Transaction, relating to or resulting from:

- (a) The material breach of any representation or the breach of any warranty made by Buyer in this Agreement or any other Closing Agreement or Buyer’s Closing Certificate;
- (b) the material breach of any covenant or agreement made or undertaken by Buyer in this Agreement or any other Closing Agreement; or
- (c) the Excluded Assets or the Excluded Liabilities.

Buyer’s indemnification obligation exists regardless of whether or not the claim, damage, loss, fine, penalty, or expense is caused in part by one or more of the Seller Indemnified Parties. But this section does not obligate Buyer to indemnify any individual or entity from and against the consequences of that individual’s or entity’s own negligence.

In claims against one or more of the Seller Indemnified Parties by any direct or indirect employee of Seller, a subcontractor, or a person or entity for whom Seller or a subcontractor may be liable, the indemnification obligation will not be limited by a limitation on the amount or type of damages or penalties. Buyer’s indemnification obligation will survive termination of this Agreement.

**10.2 Purchase Price Adjustment.** Solely for Tax account and reporting purposes, the Parties agree to treat all payments made pursuant to this Article 10 as adjustments to the Purchase Price unless otherwise required by applicable Law or taxing authority interpretations thereof.

## **ARTICLE 11 GENERAL PROVISIONS**

**11.1 Notices.** All notices, requests, demands, waivers, consents and other communications hereunder shall be in writing, shall be delivered either in person, by overnight air courier or by mail, and shall be deemed to have been duly given and to have become effective (a) upon receipt, if delivered in person, (b) one (1) Business Day after having been delivered to an air courier for overnight delivery, (c) upon transmission by e-mail or facsimile if sent before 5:00 p.m. local time of the recipient on a Business Day, or on the next Business Day if sent thereafter, or (d) five (5) Business Days after having been deposited in the U.S. mail as certified or registered mail, return receipt requested,

all fees prepaid, directed to the Parties or their permitted assignees at the following addresses (or at another address as shall be given in writing by a Party):

If to Seller, addressed to: City of Napoleon, Ohio  
255 West Riverview Avenue, PO Box 151  
Napoleon, Ohio 43545  
Attn: Joel Mazur  
Phone: 419-592-4010  
E-Mail: jmazur@napoleonohio.com

With a copy to: Law Director, City of Napoleon, Ohio  
255 West Riverview Avenue, PO Box 151  
Napoleon, Ohio 43545  
Attn: Billy D. Harmon  
Phone: 419-592-4010  
E-Mail: bharmon@napoleonohio.com

If to Buyer, addressed to: AMP Transmission, LLC  
1111 Schrock Road, Suite 100  
Columbus, OH 43229  
Attn: Pamala M. Sullivan  
Phone: 614-540-0971  
E-Mail: psullivan@amppartners.org

with a copy to: AMP Transmission, LLC  
1111 Schrock Road, Suite 100  
Columbus, OH 43229  
Attn: Lisa McAlister  
Phone: 614-540-1111  
Fax: 614-540-6397  
E-Mail: lmcAlister@amppartners.org

**11.2 Successors and Assigns.** The rights of the Parties under this Agreement shall not be assigned or transferred nor shall the duties of either Party be delegated without the prior written consent of the other Party in its sole discretion; provided, that Buyer may, without Seller's consent, assign some or all of its rights, interests or obligations hereunder, in whole or in part to an Affiliate. This Agreement will apply to, be binding in all respects upon, and inure to the benefit of the Parties hereto and their respective successors and permitted assignees. Nothing contained in this Agreement, express or implied, is intended to confer upon any Person (other than the Parties hereto and their permitted assignees) any benefits, rights or remedies under or by reason of this Agreement.

**11.3 Counterparts.** This Agreement may be executed in two or more original counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument. Counterparts may be delivered by facsimile or other electronic methods and shall be effective upon that delivery as if a signed original

had been delivered at that time to the other party.

**11.4 Captions and Paragraph Headings.** Captions and paragraph headings used herein are for convenience only and are not a part of this Agreement and shall not be used in construing it.

**11.5 Entirety of Agreement; Amendments.** This Agreement (including the Schedules, Appendices and Exhibits hereto) and the Closing Agreements contain the entire understanding between the Parties concerning the Transactions and, except as expressly provided for herein, supersede all prior understandings and agreements, whether oral or written, between them with respect to the subject matter hereof and thereof. There are no representations, warranties, agreements, arrangements or understandings, oral or written, between the Parties relating to the subject matter of this Agreement and the Closing Agreements which are not fully expressed herein or therein. This Agreement may be amended or modified only by an agreement in writing signed by each of the Parties. All Appendices, Exhibits and Schedules attached to or delivered in connection with this Agreement are integral parts of this Agreement as if fully set forth herein.

**11.6 Waiver.** The failure of a Party to insist, in any one or more instances, on performance of any of the terms, covenants and conditions of this Agreement shall not be construed as a waiver or relinquishment of any rights granted hereunder or of the future performance of that term, covenant or condition, but the obligations of the Parties with respect thereto shall continue in full force and effect. No waiver of any provision or condition of this Agreement by a Party shall be valid unless in writing signed by the Party. A waiver by one Party of the performance of any covenant, condition, representation or warranty of the other Party shall not invalidate this Agreement, nor shall any waiver be construed as a waiver of any other covenant, condition, representation or warranty. A waiver by any Party of the time for performing any act shall not constitute a waiver of the time for performing any other act or the time for performing an identical act required to be performed at a later time.

**11.7 Waiver of Jury Trial.** EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS WHICH IT MAY HAVE TO A JURY TRIAL WITH RESPECT TO ANY SUIT, LEGAL ACTION OR PROCEEDING BROUGHT BY OR AGAINST IT OR ANY OF ITS AFFILIATES RELATING TO THIS AGREEMENT OR THE TRANSACTIONS.

**11.8 Governing Law/Dispute Resolution.**

- (a) This Agreement shall be governed in all respects, including validity, interpretation and effect, by the internal Laws of the State of Ohio without giving effect to any choice or conflict of law provision or rule (whether of the State of Ohio or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Ohio, except to the extent that portions hereof regulated by Federal law shall be governed by that Law.
- (b) Subject to the provisions of subsection (c), each Party hereby unconditionally and irrevocably, to the fullest extent permitted by law, (i) consents to jurisdiction in any

Proceeding arising out of or relating to this Agreement, or any of the Closing Agreements or the Transactions contemplated hereby, and agrees that any Proceeding arising out of this Agreement or any Closing Agreement shall be brought and prosecuted exclusively in a state court of competent jurisdiction located in the state or federal courts located in Franklin County or Henry County, Ohio, and any judgment obtained as a result thereof may be filed in any court of competent jurisdiction, (ii) submits to the *in personam* jurisdiction of those courts and waives and agrees not to assert in any Proceeding before any of those courts, by way of motion, as a defense or otherwise, any claim that it is not subject to the *in personam* jurisdiction of any of those courts, and (iii) waives any objection that it may now or hereafter have to the laying of venue in any Proceeding arising out of or relating to this Agreement, any Closing Agreement or the Transactions contemplated hereby brought in any of those courts and any claim that any Proceeding brought in any of those courts has been brought in an inconvenient forum.

**11.9 No Partnership; Relationship between Buyer and Seller.** Nothing in this Agreement is intended or shall be construed to create any partnership, joint venture or similar relationship between Buyer and Seller; and in no event shall either Party take a position in any regulatory filing or Tax Return or other writing of any kind that a partnership, joint venture or other similar relationship exists. The Parties do not intend to form or hold themselves out as a *de jure* or *de facto* partnership, joint venture or similar relationship, to share profits or losses, or to share any joint control over financial decisions or discretionary actions. Notwithstanding anything herein to the contrary, neither Seller nor Buyer shall be prevented from exercising their respective rights or pursuing their remedies as owners of the Transferred Assets, as applicable.

**11.10 Severability.** Whenever possible, each provision of this Agreement shall be interpreted in a manner as to be valid, binding and enforceable under applicable Law, but if any provision of this Agreement is held to be unenforceable under applicable Law, the provision shall be unenforceable only to the extent expressly so held, without affecting the remainder of the provision or the remaining provisions of this Agreement. The Parties shall negotiate in good faith to agree upon legal, valid and enforceable substitute provisions to carry out the purposes and intent of any unenforceable provision .

**11.11 Time of the Essence.** Time is hereby expressly made of the essence with respect to each and every term and provision of this Agreement. The Parties acknowledge that each will be relying upon the timely performance by the other of its obligations hereunder as a material inducement to each Party's execution of this Agreement.

**11.12 Limitations on Damages.** EXCEPT IN THE CASE OF A PARTY'S FRAUD, RECKLESSNESS OR WILLFUL MISCONDUCT, OR THE EVENT OF THIRD PARTY LIABILITY, NO PARTY SHALL BE LIABLE TO ANY OTHER PARTY OR ANY OF ITS AND ITS AFFILIATES RESPECTIVE, OFFICERS, TRUSTEES, DIRECTORS, CONTRACTORS, SUBCONTRACTORS, ATTORNEYS, AGENTS, REPRESENTATIVES OR AFFILIATES, FOR ANY DAMAGES, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY, STRICT LIABILITY OR ANY OTHER LEGAL THEORY, ARISING FROM THIS AGREEMENT OR ANY OF THE

ACTIONS OR TRANSACTIONS PROVIDED FOR HEREIN, OTHER THAN ACTUAL DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT OR IN ANY CLOSING AGREEMENT, IN NO EVENT SHALL ANY PARTY BE LIABLE UNDER THIS AGREEMENT OR ANY CLOSING AGREEMENT, OR OTHERWISE AT LAW OR IN EQUITY, FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE DAMAGES, EXEMPLARY DAMAGES, LOST PROFITS OR DAMAGES THAT ARE REMOTE, SPECULATIVE, INDIRECT, UNFORESEEN OR IMPROBABLE, OR ANY OTHER DAMAGES OTHER THAN ACTUAL DAMAGES.

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IN WITNESS WHEREOF, the Parties have duly executed this Agreement on the date first above written.

**SELLER:**

THE CITY OF NAPOLEON, OHIO

By: \_\_\_\_\_  
Name: Joel L. Mazur  
Title: City Manager

Approved as to form:

By: \_\_\_\_\_  
Name: Billy D. Harmon  
Title: Law Director

**BUYER:**

AMP TRANSMISSION, LLC

By: \_\_\_\_\_  
Name: Pamala M. Sullivan  
Title: President

Approved as to form:

By: \_\_\_\_\_  
Name: Lisa G. McAlister  
Title: General Counsel

CONFIDENTIAL - DRAFT

**Schedule 1 – Permitted Encumbrances**

There are no Permitted Encumbrances.

**Schedule 2 – Assumed Liabilities**

There are no Assumed Liabilities.

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**Exhibit A**  
**Equipment**  
**[See Attached]**

CONFIDENTIAL - DRAFT

<b>Name</b>	<b>Description</b>
INDU001	12.47KV TAP CHANGER
INDU002	69KV / 12.47KV MAIN XFMR
INDU003	AC PANEL
INDU004	BUS LA A
INDU005	BUS LA B
INDU006	BUS LA C
INDU007	BUS PT A
INDU008	BUS PT B
INDU009	BUS PT C
INDU011	DC BATTERY
INDU012	DC BATTERY CHARGER
INDU015	T2001 BREAKER
INDU016	F2042 BREAKER
INDU017	F2062 BREAKER
INDU018	F2072 BREAKER
INDU019	F2042 UNDERARM
INDU020	F2062 UNDERARM
INDU021	F2072 UNDERARM
INDU025	GENERATOR
INDU026	GENERATOR TRANSFER SWITCH
INDU027	IS1
INDU028	IS2
INDU029	IS1-B
INDU030	IS1-B
INDU031	IS1-N
INDU032	IS1-S
INDU033	IS2-E
INDU034	IS2-E
INDU035	IS2-W
INDU036	IS2-W
INDU039	IFRARED
INDU040	LIGHTING ARRESTER A NORTH
INDU041	LIGHTING ARRESTER A SOUTH
INDU042	LIGHTING ARRESTER B NORTH
INDU043	LIGHTING ARRESTER B SOUTH
INDU044	LIGHTING ARRESTER C NORTH
INDU045	LIGHTING ARRESTER C SOUTH
INDU046	STATION INSPECTION MONTHLY
INDU048	PT A
INDU049	PT A FUSE
INDU050	PT B
INDU051	PT B FUSE
INDU052	PT C
INDU053	PT C FUSE
INDU054	PT HL NORT
INDU055	PT HL SOUT

INDU058 SCADA SYSTEM  
INDU060 T2001 CABLE  
INDU061 IS3  
INDU062 IS3-N  
INDU063 IS3-N  
INDU064 IS3-S  
INDU065 IS3-S  
INDU066 IS4  
INDU067 IS4-E  
INDU068 IS4-E  
INDU069 IS4-W  
INDU070 IS4-W  
INDU071 IS5  
INDU072 IS5-E  
INDU073 IS5-E  
INDU074 IS5-W  
INDU075 IS5-W  
INDU076 PT HL IS5  
INDU077 F2042 CABLE  
INDU078 F2062 CABLE  
INDU079 F2072 CABLE  
INDU100 RP-I2 ALSTOM LFCB 102 662175M  
INDU101 RP-I2 SEL 351 2000152095  
INDU102 RP-I1 ALSTOM LFCB 102 339061L  
INDU103 RP-I1 SEL 311L 2003177070  
INDU104 RP-I3 SEL 2020 2000224040  
INDU105 RP-I3 SEL 351 2000152097  
INDU106 RP-I3 SEL 351 2000152096  
INDU107 IS-1 SEL 351  
INDU108 IS-2 SEL 351  
INDU109 IS-3 SEL 351  
INDU110 IS-4 SEL 351  
INDU111 IS-1 GE HFA  
INDU112 IS-1 GE HFA  
INDU113 A GE PVD  
INDU114 A GE PVD  
INDU115 A GE PVD  
INDU116 A GE 86 12HEA61C260X2  
INDU117 COM SEL 2032 2003155057  
INDU118 1 GE IAC  
INDU119 1 SEL 587 2000143104  
INDU120 1 GE 86 12HEA51B254  
INDU121 2 GE IAC  
INDU122 2 GE IAC  
INDU123 2 GE IAC  
INDU124 2 GE IAC  
INDU125 3 (F2042) SEL 351A 2003350028

INDU126 5 (F2072) SEL 351A 2003350034  
INDU127 8 (F2062) SEL 351A 2003350029  
INDU128 COM SEL 9321 2006159003  
INDU129 COM SEL 2401  
INDU130 OIL FILLED EQUIPMENT  
INDU131 T2001 SEL 351S 1150720218  
INDU132 TAP CHANGER CONTROL  
INDU133 FLOODLIGHT - SE CORNER  
INDU134 FLOODLIGHT - NE CORNER  
INDU135 FLOODLIGHT - SW CORNER  
INDU136 FLOODLIGHT CONTROL CONTACTOR  
INDU137 PROTECTION SYSTEM CONTROL CIRCUITS  
INDU138 DC PANEL  
INDU139 HVAC SYSTEM  
INDU140 EYE WASH STATION  
INDU141 FIRST AID KIT  
INDU142 COMMUNICATION RACK UPS - UNIT 1

<b>Category</b>	<b>Owner</b>
TAP CHANGER	NPL
TRANSFORMER	NPL
POWER SERVICE PANEL	AMPT
LIGHTNING ARRESTER	NPL
LIGHTNING ARRESTER	NPL
LIGHTNING ARRESTER	NPL
INSTRUMENT TRANSFORMER	NPL
INSTRUMENT TRANSFORMER	NPL
INSTRUMENT TRANSFORMER	NPL
STORAGE BATTERY	AMPT
BATTERY CHARGER	AMPT
AIR CIRCUIT BREAKER	NPL
UNDERARM DISCONNECT SWITCH	NPL
UNDERARM DISCONNECT SWITCH	NPL
UNDERARM DISCONNECT SWITCH	NPL
GENERATOR	AMPT
GENERATOR XFER SWITCH	AMPT
OIL CIRCUIT BREAKER	AMPT
SF6 BREAKER	AMPT
MANUAL OPERATING MECHANISM	AMPT
UNDERARM DISCONNECT SWITCH	AMPT
MANUAL OPERATING MECHANISM	AMPT
UNDERARM DISCONNECT SWITCH	AMPT
MANUAL OPERATING MECHANISM	AMPT
VERTICAL AIR BREAK SWITCH	AMPT
MANUAL OPERATING MECHANISM	AMPT
VERTICAL AIR BREAK SWITCH	AMPT
INFRARED	NPL
LIGHTNING ARRESTER	AMPT
FACILITY	NPL
INSTRUMENT TRANSFORMER	AMPT
FUSE	AMPT
INSTRUMENT TRANSFORMER	AMPT
FUSE	AMPT
INSTRUMENT TRANSFORMER	AMPT
FUSE	AMPT
INSTRUMENT TRANSFORMER	AMPT
INSTRUMENT TRANSFORMER	AMPT

SUBSTATION SCADA	NPL
ENTRANCE CABLE	NPL
SF6 BREAKER	AMPT
MANUAL OPERATING MECHANISM	AMPT
VERTICAL AIR BREAK SWITCH	AMPT
MANUAL OPERATING MECHANISM	AMPT
VERTICAL AIR BREAK SWITCH	AMPT
SF6 BREAKER	AMPT
VERTICAL AIR BREAK SWITCH	AMPT
MANUAL OPERATING MECHANISM	AMPT
VERTICAL AIR BREAK SWITCH	AMPT
MANUAL OPERATING MECHANISM	AMPT
OIL CIRCUIT BREAKER	NPL
MANUAL OPERATING MECHANISM	NPL
VERTICAL AIR BREAK SWITCH	NPL
MANUAL OPERATING MECHANISM	NPL
VERTICAL AIR BREAK SWITCH	NPL
INSTRUMENT TRANSFORMER	NPL
ENTRANCE CABLE	NPL
ENTRANCE CABLE	NPL
ENTRANCE CABLE	NPL
PROTECTIVE RELAY MICROPROCESSOR	NPL
PROTECTIVE RELAY MICROPROCESSOR	NPL
PROTECTIVE RELAY MICROPROCESSOR	AMPT
PROTECTIVE RELAY MICROPROCESSOR	NPL
PROTECTIVE RELAY MICROPROCESSOR	AMPT
PROTECTIVE RELAY ELECTROMECHANICAL	NPL
PROTECTIVE RELAY ELECTROMECHANICAL	NPL
PROTECTIVE RELAY ELECTROMECHANICAL	AMPT
PROTECTIVE RELAY ELECTROMECHANICAL	AMPT
PROTECTIVE RELAY ELECTROMECHANICAL	AMPT
PROTECTIVE RELAY LOCKOUT	AMPT
PROTECTIVE RELAY MICROPROCESSOR	NPL
PROTECTIVE RELAY ELECTROMECHANICAL	NPL
PROTECTIVE RELAY MICROPROCESSOR	NPL
PROTECTIVE RELAY LOCKOUT	NPL
PROTECTIVE RELAY ELECTROMECHANICAL	NPL
PROTECTIVE RELAY MICROPROCESSOR	NPL

Name	Description	Type	Area	Additional Location	Category	Owner
NORT001	AC PANEL			Northside	POWER SERVICE PANEL	AMPT(New)
NORT002	138KVVTBUS-E A		NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT003	138KVVTBUS-E B		NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT004	138KVVTBUS-E C		NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT005	138KVVTBUS-W A		NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT006	138KVVTBUS-W B		NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT007	138KVVTBUS-W C		NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT008	69KVVTBUS-E A			Northside	INSTRUMENT TRANSFORMER	AMPT(New)
NORT009	69KVVTBUS-E B			Northside	INSTRUMENT TRANSFORMER	AMPT(New)
NORT010	69KVVTBUS-E C			Northside	INSTRUMENT TRANSFORMER	AMPT(New)
NORT011	69KVVTBUS-W A			Northside	INSTRUMENT TRANSFORMER	AMPT(New)
NORT012	69KVVTBUS-W B			Northside	INSTRUMENT TRANSFORMER	AMPT(New)
NORT013	69KVVTBUS-W C			Northside	INSTRUMENT TRANSFORMER	AMPT(New)
NORT014	DC BATTERY		NERC	Northside	STORAGE BATTERY	AMPT
NORT015	DC BATTERY CHARGER			Northside	BATTERY CHARGER	AMPT
NORT019	GENERATOR			Northside	GENERATOR	AMPT
NORT020	GENERATOR TRANSFER SWITCH			Northside	GENERATOR XFER SWITCH	AMPT
NORT022	LIGHTING ARRESTER A 69GWS			Northside	LIGHTNING ARRESTER	AMPT(New)
NORT023	LIGHTING ARRESTER A 69IDS			Northside	LIGHTNING ARRESTER	AMPT(New)
NORT024	LIGHTING ARRESTER B 69GWS			Northside	LIGHTNING ARRESTER	AMPT(New)
NORT025	LIGHTING ARRESTER B 69IDS			Northside	LIGHTNING ARRESTER	AMPT(New)
NORT026	LIGHTING ARRESTER C 69GWS			Northside	LIGHTNING ARRESTER	AMPT(New)
NORT027	LIGHTING ARRESTER C 69IDS			Northside	LIGHTNING ARRESTER	AMPT(New)
NORT028	PT HL 69GWS			Northside	INSTRUMENT TRANSFORMER	AMPT(New)
NORT029	PT HL 69IDS			Northside	INSTRUMENT TRANSFORMER	AMPT(New)
NORT030	692A5			Northside	MANUAL OPERATING MECHANISM	AMPT
NORT031	692A6			Northside	MANUAL OPERATING MECHANISM	AMPT
NORT032	692D10			Northside	MANUAL OPERATING MECHANISM	AMPT
NORT033	692D11			Northside	MANUAL OPERATING MECHANISM	AMPT
NORT034	692D12			Northside	MANUAL OPERATING MECHANISM	AMPT
NORT035	692D13			Northside	MANUAL OPERATING MECHANISM	AMPT
NORT036	692D14			Northside	MANUAL OPERATING MECHANISM	AMPT
NORT037	692D7			Northside	MANUAL OPERATING MECHANISM	AMPT
NORT038	692D8			Northside	MANUAL OPERATING MECHANISM	AMPT
NORT039	692D9			Northside	MANUAL OPERATING MECHANISM	AMPT
NORT040	69EB-DE			Northside	MANUAL OPERATING MECHANISM	AMPT(New)
NORT041	69ET-DB			Northside	MANUAL OPERATING MECHANISM	AMPT(New)
NORT042	69ET-DT			Northside	MANUAL OPERATING MECHANISM	AMPT(New)
NORT043	69GWS-DB			Northside	MANUAL OPERATING MECHANISM	AMPT(New)
NORT044	69GWS-DL			Northside	MANUAL OPERATING MECHANISM	AMPT(New)
NORT045	69IDS-DB			Northside	MANUAL OPERATING MECHANISM	AMPT(New)
NORT046	69IDS-DL			Northside	MANUAL OPERATING MECHANISM	AMPT(New)
NORT047	69WB-DW			Northside	MANUAL OPERATING MECHANISM	AMPT(New)
NORT048	69WT-DB			Northside	MANUAL OPERATING MECHANISM	AMPT(New)
NORT049	69WT-DT			Northside	MANUAL OPERATING MECHANISM	AMPT(New)
NORT050	EAST 138KV MOAB			Northside	MOTOR OPERATING MECHANISM	AMPT
NORT051	WEST 138KV MOAB			Northside	MOTOR OPERATING MECHANISM	AMPT
NORT060	SCADA SYSTEM			Northside	SUBSTATION SCADA	AMPT(New)
NORT061	692B1		NERC	Northside	SF6 BREAKER	AMPT
NORT062	692B2		NERC	Northside	SF6 BREAKER	AMPT
NORT063	692B3		NERC	Northside	SF6 BREAKER	AMPT
NORT064	692B4		NERC	Northside	SF6 BREAKER	AMPT
NORT065	69ET			Northside	SF6 BREAKER	AMPT(New)
NORT066	69GWS			Northside	SF6 BREAKER	AMPT(New)
NORT067	69IDS			Northside	SF6 BREAKER	AMPT(New)
NORT068	69WBT			Northside	SF6 BREAKER	AMPT(New)
NORT069	69WT			Northside	SF6 BREAKER	AMPT(New)
NORT070	138KV / 69KV EAST XFMR			Northside	TRANSFORMER	AMPT(New)
NORT071	138KV / 69KV WEST XFMR			Northside	TRANSFORMER	AMPT(New)
NORT072	692A5		NERC	Northside	VERTICAL AIR BREAK SWITCH	AMPT
NORT073	692A6		NERC	Northside	VERTICAL AIR BREAK SWITCH	AMPT
NORT074	692D10		NERC	Northside	VERTICAL AIR BREAK SWITCH	AMPT
NORT075	692D11		NERC	Northside	VERTICAL AIR BREAK SWITCH	AMPT
NORT076	692D12		NERC	Northside	VERTICAL AIR BREAK SWITCH	AMPT
NORT077	692D13		NERC	Northside	VERTICAL AIR BREAK SWITCH	AMPT
NORT078	692D14		NERC	Northside	VERTICAL AIR BREAK SWITCH	AMPT
NORT079	692D7		NERC	Northside	VERTICAL AIR BREAK SWITCH	AMPT
NORT080	692D8		NERC	Northside	VERTICAL AIR BREAK SWITCH	AMPT
NORT081	692D9		NERC	Northside	VERTICAL AIR BREAK SWITCH	AMPT
NORT082	69EB-DE			Northside	VERTICAL AIR BREAK SWITCH	AMPT(New)
NORT083	69ET-DB			Northside	VERTICAL AIR BREAK SWITCH	AMPT(New)
NORT084	69ET-DT			Northside	VERTICAL AIR BREAK SWITCH	AMPT(New)
NORT085	69GWS-DB			Northside	VERTICAL AIR BREAK SWITCH	AMPT(New)
NORT086	69GWS-DL			Northside	VERTICAL AIR BREAK SWITCH	AMPT(New)
NORT087	69IDS-DB			Northside	VERTICAL AIR BREAK SWITCH	AMPT(New)
NORT088	69IDS-DL			Northside	VERTICAL AIR BREAK SWITCH	AMPT(New)
NORT089	69WB-DW			Northside	VERTICAL AIR BREAK SWITCH	AMPT(New)
NORT090	69WT-DB			Northside	VERTICAL AIR BREAK SWITCH	AMPT(New)
NORT091	69WT-DT			Northside	VERTICAL AIR BREAK SWITCH	AMPT(New)
NORT092	EAST 138KV MOAB		NERC	Northside	VERTICAL AIR BREAK SWITCH	AMPT
NORT093	WEST 138KV MOAB		NERC	Northside	VERTICAL AIR BREAK SWITCH	AMPT
NORT094	WEST OIL CONTAINMENT CONTROLS			Northside	OIL CONTAINMENT CONTROL	AMPT(New)
NORT095	EAST OIL CONTAINMENT CONTROLS			Northside	OIL CONTAINMENT CONTROL	AMPT(New)
NORT100	RP1 ALSTOM LFCB 102 339060L			Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT101	RP1 SEL 279 99168008			Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT102	RP1 SEL 321 99168002			Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT103	RP1 SEL 2032 2003155060			Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT104	RP2 GE IAC			Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT(New)

NORT105	RP2 GE IAC		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT(New)
NORT106	RP2 GE IAC		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT(New)
NORT107	RP2 GE IAC		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT(New)
NORT108	RP2 SEL 587 99168011		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT109	RP2 SEL 279 99168010		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT110	RP2 GE PVD		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT(New)
NORT111	RP2 GE PVD		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT(New)
NORT112	RP2 GE PVD		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT(New)
NORT113	RP2 SEL 501 2008319343		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT114	RP1 SEL 9321 2006159008		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT115	RP1 SEL 2401		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT116	RP4 SEL 351 2008064046		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT117	RP5 SEL 587 2008281407		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT118	RP5 SEL 351 2008064047		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT119	RP5 SEL 587Z 2008281409		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT120	RP5 SEL 501 2008319342		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT121	RP6 ALSTOM LFCB 102 339062L	LFCB102156DDLEB	Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT122	RP6 SEL 279 99168009		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT123	RP6 SEL 321 99168004		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT124	RP2 ELECTROSWITCH 24		Northside	PROTECTIVE RELAY LOCKOUT	AMPT(New)
NORT125	RP2 ELECTROSWITCH 24		Northside	PROTECTIVE RELAY LOCKOUT	AMPT(New)
NORT126	RP5 ELECTROSWITCH 24		Northside	PROTECTIVE RELAY LOCKOUT	AMPT(New)
NORT127	RP5 ELECTROSWITCH 24		Northside	PROTECTIVE RELAY LOCKOUT	AMPT(New)
NORT128	RP7 GE IAC		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT
NORT129	RP7 GE IAC		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT
NORT130	RP7 GE IAC		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT
NORT131	RP7 GE IAC		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT
NORT132	RP7 SEL 321 99168007		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT133	RP7 SEL 501 99168014		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT134	RP7 ABB AR		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT
NORT135	RP7 SEL 321 99168005		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT136	RP8 SEL 501 2008281387		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT137	RP8 ABB AR		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT
NORT138	RP8 SEL 587Z 2008281410	NERC	Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT139	RP8 ELECTROSWITCH 24	NERC	Northside	PROTECTIVE RELAY LOCKOUT	AMPT
NORT140	RP9 SEL 2020 99168018		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT141	RP9 SEL 387 99111109	NERC	Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT142	RP9 GE IUS		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT
NORT143	RP9 ABB AR		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT
NORT144	RP9 SEL 501 99168012		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT145	RP9 ELECTROSWITCH 24	NERC	Northside	PROTECTIVE RELAY LOCKOUT	AMPT
NORT146	RP9 ELECTROSWITCH 24	NERC	Northside	PROTECTIVE RELAY LOCKOUT	AMPT
NORT147	RP9 GE PVD		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT
NORT148	RP9 GE PVD		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT
NORT149	RP9 GE PVD		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT
NORT150	RP10 SEL 351 2008344245		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT151	RP10 SEL 321 99168003		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT152	RP10 ABB AR		Northside	PROTECTIVE RELAY ELECTROMECHANICAL	AMPT
NORT153	RP10 SEL 501 99168013		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT154	RP10 SEL 321 99168006		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT155	RP11 SEL 451 2008344419		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT156	RP11 SEL 451 2008344420		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT157	RP11 SEL 2505 2009096048		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT158	RP11 SEL 2505 2009096047		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT160	138KVVT-MIDWAY A	NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT161	138KVVT-MIDWAY B	NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT162	138KVVT-MIDWAY C	NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT163	138KVVT-STRYKER A	NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT164	138KVVT-STRYKER B	NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT165	138KVVT-STRYKER C	NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT166	RP2 SEL 751 3200480057		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT167	RP2 ELECTROSWITCH 24 86 EAST XFMR		Northside	PROTECTIVE RELAY LOCKOUT	AMPT(New)
NORT168	RP5 ELECTROSWITCH 24 86 WEST XFMR		Northside	PROTECTIVE RELAY LOCKOUT	AMPT(New)
NORT169	RP7 SEL 421 1200450550 PRI	NERC	Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT170	RP7 SEL 421 1200450535 BU	NERC	Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT171	RP7 SEL 501 1200450347 BF	NERC	Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT172	RP7 SEL 751 3200480060 W XF OC		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT173	RP7 UPLC HUBKP1119422086	NERC	Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT174	RP7 SEL DTA2 99168016		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT175	RP7 ELECTROSWITCH 24 86 BF	NERC	Northside	PROTECTIVE RELAY LOCKOUT	AMPT
NORT176	RP8 SEL 501 1200450349 BF	NERC	Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT177	RP9 SEL 501 1200450348 BF	NERC	Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT178	RP9 SEL 587Z 1200450364 W BUS DIF	NERC	Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT179	RP9 SEL 751 3200480056 SYNC	NERC	Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT180	RP10 SEL 421 1200450542 PRI	NERC	Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT181	RP10 SEL 421 1200450552 BU	NERC	Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT182	RP10 SEL 501 1200450346 BF	NERC	Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT183	RP10 ELECTROSWITCH 24 86 BF	NERC	Northside	PROTECTIVE RELAY LOCKOUT	AMPT
NORT184	RP10 UPLC HUBKP1119422070	NERC	Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT185	RP10 SEL DTA2 99168015		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT
NORT186	RP1 SEL 3530 RTAC		Northside	PROTECTIVE RELAY MICROPROCESSOR	AMPT(New)
NORT187	RP8 ELECTROSWITCH 24 86 BF	NERC	Northside	PROTECTIVE RELAY LOCKOUT	AMPT
NORT188	RP9 ELECTROSWITCH 24 86 BF	NERC	Northside	PROTECTIVE RELAY LOCKOUT	AMPT
NORT189	DC BATTERY CHARGER	ENERSYS AT10130030F240SFS	Northside	BATTERY CHARGER	AMPT(New)
NORT190	CT 001 138kV Breaker 692B1	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT191	CT 002 138kV Breaker 692B1	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT192	CT 003 138kV Breaker 692B1	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT193	CT 004 138kV Breaker 692B1	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT194	CT 005 138kV Breaker 692B2	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT

NORT195	CT 006 138kV Breaker 692B2	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT196	CT 007 138kV Breaker 692B2	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT197	CT 008 138kV Breaker 692B2	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT198	CT 009 138kV Breaker 692B3	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT199	CT 010 138kV Breaker 692B3	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT200	CT 011 138kV Breaker 692B3	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT201	CT 012 138kV Breaker 692B3	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT202	CT 015 East Autotransformer	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT203	CT 021 69kV Breaker 69GWS	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT204	CT 025 69kV Breaker 69IDS	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT205	CT 201 138kV Breaker 692B4	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT206	CT 202 138kV Breaker 692B4	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT207	CT 203 138kV Breaker 692B4	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT208	CT 204 138kV Breaker 692B4	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT209	CT 215 West Autotransformer	1200/5 MR CURRENT TRANSF(NERC	Northside	INSTRUMENT TRANSFORMER	AMPT
NORT210	DC PANEL		Northside	POWER SERVICE PANEL	AMPT(New)
NORT211	FLOODLIGHT - NE CORNER		Northside	OUTDOOR LIGHTING	AMPT(New)
NORT212	FLOODLIGHT - EAST		Northside	OUTDOOR LIGHTING	AMPT(New)
NORT213	FLOODLIGHT - SE CORNER		Northside	OUTDOOR LIGHTING	AMPT(New)
NORT214	FLOODLIGHT - NW CORNER		Northside	OUTDOOR LIGHTING	AMPT(New)
NORT215	FLOODLIGHT - WEST		Northside	OUTDOOR LIGHTING	AMPT(New)
NORT216	FLOODLIGHT - SW CORNER		Northside	OUTDOOR LIGHTING	AMPT(New)
NORT217	FLOODLIGHT CONTROL CONTACTOR		Northside	OUTDOOR LIGHTING	AMPT(New)
NORT219	HVAC SYSTEM		Northside	HVAC	AMPT(New)
NORT220	EYE WASH STATION		Northside	SAFETY	AMPT(New)
NORT221	FIRST AID KIT		Northside	SAFETY	AMPT(New)

PROTECTIVE RELAY MICROPROCESSOR	NPL
OIL SAMPLE ANALYSIS	NPL
PROTECTIVE RELAY MICROPROCESSOR	NPL
TAP CHANGER	NPL
OUTDOOR LIGHTING	AMPT
CONTROL CIRCUIT	NPL
POWER SERVICE PANEL	AMPT
HVAC	AMPT
SAEFTY	AMPT
SAFETY	AMPT
COMMUNICATION	NPL

**Exhibit B**

**Ground Lease Agreement**

**[See Attached]**

CONFIDENTIAL - DRAFT

## GROUND LEASE

THIS GROUND LEASE ("Lease") is entered into this \_\_\_ day of \_\_\_\_\_, 2021 (the "Commencement Date"), between The City of Napoleon, Ohio, an Ohio municipal corporation ("Lessor"), and AMP Transmission, LLC, an Ohio non-profit corporation ("Lessee").

### RECITALS

A. Lessor operates an electric distribution utility in Napoleon, Ohio. Prior to the date of this Lease, Lessor owned five (5) 69kV breakers and associated equipment, including current and voltage transformers, station post insulators and associated equipment. Seller also owns certain ancillary equipment used or useful in connection with the operation of the Equipment, including certain galvanized steel structures, substation equipment, insulators, ground components, a bus conductor, fittings, supervisory control and data access equipment, and protection and control panels. Finally, Seller owns as 5.28 miles of 69 kV transmission line between Seller's industrial substation and the Napoleon substation owned by Buyer. (collectively, the "Equipment"), as described more fully in the Purchase Agreement (defined below).

B. On the Commencement Date, Lessor has sold the Equipment to Lessee, pursuant to an Asset Purchase and Sale Agreement (the "Purchase Agreement"). As contemplated in that agreement, the Equipment or its replacements shall remain in place at the Substations located at 1939 Enterprise Avenue, Napoleon, Ohio 43545 ("Industrial Substation"), to be used in connection with the transmission of electricity from the transmission grid to Napoleon's distribution utility at the Substation.

C. Through this Lease, Lessor seeks to provide Lessee with access on a non-exclusive basis to the Leased Premises (defined below), and with the right to occupy on a non-exclusive basis the Leased Premises to permit it to own, operate, maintain, repair and replace the Equipment during the term of this Lease, on the terms set forth more fully below.

D. On the Commencement Date, Lessor has also provided to Lessee a Perpetual Access Easement (the "Easement"), granting Lessee rights to access to the Equipment and the Leased Premises and the right to own, operate, maintain, repair and replace the Equipment at the Leased Premises for so long as Lessee or its successors and assigns own any of that Equipment or its replacements, on the terms set forth in that Easement.

### AGREEMENTS

NOW, THEREFORE, in consideration of the rents and mutual covenants herein contained, Lessor and Lessee do hereby covenant, promise and agree as follows:

#### I. LEASED PREMISES AND ACCESS RIGHTS

A. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, on a non-exclusive basis with Lessor, the real property described on Lease Exhibit A,

attached hereto, and by this reference incorporated herein, together with all rights and appurtenances thereto (the "Leased Premises"), situated in the County of Henry, State of Ohio. All references to the Leased Premises shall be deemed to include any subsequent improvements to the Leased Premises, whether made by Lessor or Lessee. The provisions of this Lease are all covenants running with the land.

B. The parties acknowledge that the Leased Premises are contained within the Industrial Substation and on, around and under the 69 kV transmission line that connects the two substations. Lessor hereby grants Lessee and its directors, managers, officers, employees, agents, contractors (collectively, its "Representatives") and its and their invitees access at no charge to them to and across the Substation properties and on, around and under the 69 kV transmission line during the Term to enable access to the Leased Premises by Lessee and its Representatives and invitees. In addition, Lessee and its Representatives shall have reasonable access to and use of, at no charge to them, the Substation facilities (e.g., storage facilities) as requested by Lessee in connection with the ownership, operation, maintenance, repair, replacement, improvement, and removal of the Equipment and the use of the Leased Premises.

C. Lessor shall supply Lessee with utilities and water as necessary or appropriate for its activities at the Leased Premises. Charges, if any, for those services shall be provided for in the O&M Agreement, and if not otherwise stated, shall be for Lessor's account.

D. Lessee agrees that it and its Representatives shall comply with Lessor's reasonable safety rules at the Substation.

## II. LEASE TERM

The initial term of this Lease (the "Initial Term") shall commence at 12:01 a.m., on the Commencement Date, and end at 11:59 p.m. on \_\_\_\_\_, 2071, unless sooner terminated or extended, as provided herein. At Lessee's option, which may be exercised by Lessee in writing at any time prior to the expiration of the Initial Term, Lessee may extend the term of this Lease for an additional ten year term, commencing with the expiration of the Initial Term (the "Extended Term" and collectively with the Initial Term, the "Term").

In the event that Lessee sells or transfers the Equipment to Lessor or a third party, this Lease shall terminate once the asset transfer is complete unless the Lease is also transferred with the Equipment.

## III. LEASE PAYMENTS

A. Commencing on the Commencement Date, Lessee shall pay to Lessor as "Base Rent" for the Leased Premises, without notice, set-off, deduction or demand, the sum of Twenty-Three Thousand Two Hundred Fifty Dollars (\$23,250) as a one-time, upfront payment payable on the Commencement Date. Lessor acknowledges the receipt of the full payment for the initial term, which shall be applied as a prepaid rent credit.

B. In the event that Lessor shall be required to pay any transaction privilege or sales tax levied upon or assessed against the Base Rent or additional rental received by

Lessor by any governmental authority having jurisdiction paid by Lessee to Lessor hereunder ("Rental Taxes"), specifically excluding Lessor's income tax, Lessee shall pay its Pro Rata Share of those Rental Taxes in addition to the Base Rent which Lessee is required to pay Lessor herein. The amount required to be paid by Lessee to Lessor for Rental Taxes shall be paid on or before the date the taxes are due and shall be considered as the payment of taxes, and not the payment of rent.

C. Lessee shall pay its Pro Rata Share of any Real Estate Taxes imposed on the Leased Premises as described herein and in Section VII. "Real Estate Taxes" shall mean: all taxes and assessments, general, special or otherwise, levied upon or with respect to the Leased Premises and the land upon which it is located and related personal property, whether imposed by federal, state or local governments, or any school, agricultural, lighting, drainage or other improvement district; taxes and assessments of every kind and nature whatsoever levied, assessed and imposed on Lessor in lieu of or in substitution for existing or additional real or personal property taxes or assessments; and the cost of contesting by appropriate proceedings the amount or validity of any of the aforementioned taxes or assessments; provided, that Real Estate Taxes shall not include income taxes of Lessor. In the case of special assessments payable in installments, only the amount of each installment due and payable during a single calendar year shall be included in Real Estate Taxes for that year. All rentals due under this Lease (Base Rent, Rental Taxes, and Real Estate Taxes) shall be paid to Lessor at its address of record as set forth below.

D. This Lease is intended to be and shall be deemed and construed as a "gross lease," pursuant to which Lessee shall have use and access to the Leased Premises net of any other costs or expense other than the Base Rent, the Rental Taxes, the Real Estate Taxes provided for above and any personal property taxes owed on the Equipment. The parties agree that any other charges to Lessee, if any, shall be addressed in the O&M Agreement. If not provided for thereunder, then those other charges shall be for the account of Lessor, not Lessee. Without limiting the foregoing, Lessee shall not be responsible for impositions, charges or expenses of any nature whatsoever, including without limitation any of the following: all electrical power, security, janitorial services, water, waste disposal, gas, maintenance of refuse removal facilities, insurance premiums, licenses, maintenance, supplies, costs of operation, and remodeling.

E. Each of Lessee and Lessor shall keep the Leased Premises and all adjacent sidewalks, parking and service areas free and clear of all debris, trash, garbage, and waste resulting from the operation of their respective business.

#### **IV. MAINTENANCE**

Lessor agrees to maintain the Leased Premises and all improvements thereon in good condition and repair (ordinary wear and tear and casualty and condemnation excepted) and Lessee shall have no responsibility for the maintenance and repair of the Leased Premises, except as otherwise set forth in the Operating Lease and provided, further that Lessee shall be responsible for damage and repair of the Leased Premises caused by the actual conduct of Lessee or its employees or agents. The Operating Lease shall address the rights of the parties to build, re-build, remodel, replace, demolish or raze

any improvements located from time to time on the Leased Premises which contain or support the Equipment.

## **V. ENVIRONMENTAL LAWS**

Lessee and Lessor shall each comply with all federal, state and local laws relating to environmental matters, and to the extent permitted by law, Lessee shall defend, indemnify and hold harmless Lessor and Lessor's shareholders, officers, directors, managers, members, employees and agents (collectively, as applicable, the "Indemnified Parties") from and against any and all claims, demands, liabilities, fines, penalties, losses, costs and expenses, including cost of compliance, remedial costs, clean-up costs, reasonable attorney's fees, and court costs arising from or related to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling, or the emission, discharge, release or threatened release into the environment, of any pollutant, contaminant or hazardous or toxic material, substance or matter from, on or at the Leased Premises as a result of any act or omission on the part of Lessee or its directors, officers, employees, contractors or agents. These indemnification and defense obligations shall survive the expiration or termination of this Lease. Lessee shall not be responsible for any environmental matter which first arose before the Commencement Date, including any environmental matter discovered thereafter which occurred on or before that date.

## **VI. NO MORTGAGE BY LESSOR**

During the term of this Lease, Lessor shall not at any time encumber or permit the Leased Premises to be encumbered with any senior lease, mortgage, deed of trust, or other lien or encumbrance in connection with any financing or indebtedness for the benefit of Lessor or otherwise.

## **VII. TAXES AND ASSESSMENTS; INSURANCE; AND CONSTRUCTION**

A. Property insurance must be procured by each Party for their owned assets from an insurance company with a Best A-/VII rating or better. Lessee shall insure the assets that have shared ownership with Lessor. All insurance proceeds shall be paid to and owned exclusively by the party procuring that policy.

B. Lessee shall procure commercial general liability insurance from an insurance company with a Best A-/VII rating or better in the amount of not less than ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) per occurrence and not less than TWO MILLION AND 00/100 DOLLARS (\$2,000,000.00) in the aggregate.

C. Property insurance must be procured by each Party for their owned assets from an insurance company with a Best A-/VII rating or better. Lessee shall insure the assets that have shared ownership with Lessor. All insurance proceeds shall be paid to and owned exclusively by the party procuring that policy.

D. Lessee's policy of insurance shall name Lessor as an additional insured and shall deliver the policy of insurance or a copy thereof to Lessor prior to the Commencement Date. Renewals thereof as required shall be delivered to Lessor at least thirty (30) days prior to the expiration of the policy terms. Lessee shall notify Lessor at least thirty (30) days prior to cancellation of the insurance.

## **VIII. TERMINATION OR EXPIRATION**

A. At the expiration of the Term of this Lease, as the same may be duly extended, or sooner terminated pursuant to this Lease, all Lessee-owned improvements (if any), may be removed by Lessee during the succeeding ninety (90) days following that termination (and Lessee shall have continued access and occupancy rights for no additional rent during that period) at its discretion. That period shall be extended by each day for which access to the Leased Premises is restricted by Lessor. Any property not removed by Lessee during that period shall become the property of Lessor "AS-IS" and without warranty.

B. Except for the removal period noted above, any holding over after the expiration of the term of this Lease shall be construed to be a tenancy from month to month, cancelable upon thirty (30) days written notice by Lessor or Lessee, and upon terms and conditions under this Lease as existed during the last year of the term hereof or any extended term.

C. Lessee shall restore any damage to the Leased Premises or the Substation caused by the removal of any Equipment, provided, however, that nothing in this Lease shall require Lessee to replace any of the Equipment or to restore any electric transmission facility following Lessee's removal or abandonment of that Equipment, regardless of the operating condition of that Equipment. Lessor hereby assumes responsibility for assuring that the power transmitted to the Substation can be transmitted outside of the Substation following the expiration of the Term, regardless of the reason for the termination of this Lease.

## **IX. PERMITTED USE; COMPLIANCE WITH LAWS AND REGULATIONS**

A. Throughout the term of this Lease and during any extended terms of the Lease, Lessee shall be permitted to use and occupy the Leased Premises for any lawful purpose consistent with the ownership, operation, maintenance, repair, replacement, improvement, and removal of transmission equipment, and for any other purpose incident thereto. Lessee shall comply during the Term and any Extended Terms with all present and future laws, acts, rules, requirements, orders, directions, ordinances and/or regulations, administrative decisions, and other holdings or requirements of all governmental authorities (whether state, federal or local), ordinary or extraordinary, foreseen or unforeseen, concerning the Leased Premises or improvements thereon, except Lessee shall have no obligation for environmental matters which existed on or adjacent to the Leased Premises on the Commencement Date.

B. To the extent permitted by law, Lessee shall defend, hold harmless and indemnify Lessor and its Indemnified Parties, from and against all fines, penalties or claims for damages of every kind and nature (including without limitation reasonable attorneys' fees and expenses) arising out of any failure by Lessee and its Representatives to comply with any laws, acts, rules, requirements, orders, directions, ordinances and/or regulations, the intention of the parties being with respect thereto that each party during the Term shall discharge and perform all their respective obligations in accordance therewith. Each party further covenants and agrees that it will procure and maintain, at its own expense, all required licenses, operating permits, certificates, or other items

required by any governmental, regulatory, or licensing body with respect to its operations at the Substation and on the Leased Premises.

## X. TRANSFER OR CONDEMNATION

A. Total, Substantial, or Unusable Remainder. If at any time during the term of this Lease:

(1) *Total or Substantial Taking.* Title to the whole or substantially all of the Leased Premises shall be transferred, this Lease shall terminate and expire on the date possession is transferred; or

(2) *Remainder Unusable for Purposes Leased.* Title to a substantial portion of the Leased Premises shall be transferred, and the remaining part of the Leased Premises cannot feasibly be used or converted for use by Lessee for the purpose for which it was being used immediately prior to the event, Lessee may, at its option, terminate this Lease within ninety (90) days after the transfer by serving upon Lessor at any time within said ninety (90) day period, a thirty (30) day written notice of Lessee's election to so terminate accompanied by a certificate of Lessee that the remaining part of the Leased Premises cannot feasibly be used or converted for use by Lessee for that purpose.

B. Partial Taking--Lease Continues. In the event of any taking of less than the whole or substantially all of the Leased Premises, the Term shall not be reduced or affected in any way. In that case, the parties shall confer in good faith to determine whether adjustments to the Base Rent and other terms hereof and under the O&M Agreement shall be made to restore the parties, to the greatest extent feasible, to their situation immediately prior to that partial taking, in light of their Pro Rata Share and operations on the Leased Premises.

C. Award Payments. In the event of a taking pursuant to any of the foregoing subsections, Lessor and Lessee shall work in good faith to divide the award according to their respective interests in the Leased Property, and if they are unable to reach agreement, the award shall be shared according to their Pro Rata Interests, except awards with respect to personal property owned by each party shall belong to that party alone.

D. Rights of Participation. Each party shall have the right, at its own expense, to appear in and defend any condemnation proceeding and participate in any and all hearings, trials, and appeals therein.

E. Notice of Proceeding. In the event Lessor or Lessee shall receive notice of any proposed or pending condemnation proceedings affecting the Leased Premises, the party receiving the notice shall promptly notify the other party of the receipt and contents thereof.

F. Relocation Benefits. Lessee is not waiving any of its rights to any federal, state or local relocation benefits or assistance provided in connection with any condemnation or prospective condemnation action.

G. Covenant Not to Exercise Condemnation Powers. To the fullest extent permitted by law, Lessor agrees not to exercise its condemnation powers to acquire any or all of Lessor's interests in the Leased Premises or any of the Equipment, rights or other interests of Lessor therein.

## **XI. DESTRUCTION OF EQUIPMENT OR IMPROVEMENTS**

If all or any portion of the Equipment or improvements constructed by Lessee on the Leased Premises should be destroyed by fire, flood or other casualty, then Lessee shall have the right to repair or replace those items at its own cost, except to the extent the damage was caused by Lessor or its Representatives.

## **XII. DEFAULT; REMEDIES**

A. Each of the following shall constitute an Event of Default in breach of this Lease:

(1) A party shall fail to pay any amounts due hereunder or any other agreements between them on any day upon which the same is due, and the same shall not be paid within fifteen (15) days after written notice from the party to the other of that failure to pay;

(2) A party shall do or permit anything to be done, whether by action or inaction, contrary to any material covenant or agreement on the part of that party in this Lease or the O&M Agreement or otherwise contrary to any of the material covenants, agreements, terms or provisions of this Lease or the O&M Agreement, or the party shall otherwise fail in the keeping or performance of any of the covenants, agreements, terms or provisions contained in this Lease or the O&M Agreement which on the part or behalf of that party are to be kept or performed, and that party remains in violation sixty (60) days after written notice thereof from the other party; provided, however, that if the default cannot be reasonably corrected within a sixty (60) day period, then the party shall not be deemed in default if it has, within that sixty (60) day period, commenced to correct the default and diligently thereafter pursues the correction to completion, subject to an event of enforced delay (together with the period noted in subsection A(1) above, as applicable, a "Cure Period").

(3) An involuntary petition shall be filed against a party under any bankruptcy or insolvency law or under the reorganization provisions of any law of like import, or a receiver of or for the property of that party shall be appointed without the acquiescence of the other party, and that situation shall continue and shall remain undischarged or unstayed for an aggregate period of one hundred twenty (120) days;

(4) A party shall make an assignment of its property for the benefit of creditors or file a voluntary petition under any bankruptcy or insolvency law, or whenever any court of competent jurisdiction shall approve a petition filed by the party under the reorganization provisions of the United States Bankruptcy Code or under the provisions of any law of like import, or whenever a petition shall be filed by the party under the arrangement provisions of the United States Bankruptcy Code;

(5) A party shall abandon the Leased Premises prior to the termination of the Lease and not cure that abandonment within ninety (90) days of notice from the other party, provided, however, that Lessee shall not be deemed to have abandoned the Leased Premises so long as the O&M Agreement or any successor thereto shall remain in place and for a period of 180 days following its termination;

B. Upon the occurrence of any Event of Default on the part of a party, as set forth in this Lease, and in addition to all other rights and remedies the other party may have under this Lease or under applicable law, the non-defaulting party shall have the following rights and remedies, but it shall not have any obligation to do so:

(1) It may enter into and upon the Leased Premises to do all things reasonably deemed necessary or desirable by that party to cure any Event of Default, and the defaulting party shall pay the non-defaulting party on demand all sums expended by it in curing or attempting to cure any such Event of Default, together with interest on those sums at six percent (6%) per annum;

(2) It may continue this Lease in effect until it elects to terminate the Lease by written notice to the defaulting party, and the defaulting party shall remain liable to perform all of its obligations under this Lease, and the non-defaulting party may enforce all of its rights and remedies, including the right to recover all amounts and all other payments and charges payable hereunder to it as the same fall due. If the defaulting party abandons the Leased Premises or fails to maintain and protect the Leased Premises as herein provided, the non-defaulting party may do all things necessary or appropriate to maintain, preserve and protect the Leased Premises. The defaulting party agrees to reimburse the non-defaulting party on demand for all amounts reasonably expended by it in maintaining, preserving and protecting the Leased Premises;

(3) Upon the occurrence of one or more of the Events of Default listed above, the non-defaulting party may at any time thereafter, but not after the default is cured, give written notice ("Second Notice") to the defaulting party specifying the Event(s) of Default and stating that this Lease and the Lease term hereby demised shall expire and terminate on the date specified in that notice, which shall be at least thirty (30) days after the giving of the Second Notice, and upon the date specified in the Second Notice, this Lease and the Lease Term shall expire and terminate as of that date. The defaulting party shall pay all amounts due to the non-defaulting party, less any undisputed amounts it owes the defaulting party.

C. No right or remedy herein conferred upon or reserved to a party is intended to be exclusive of any other right or remedy herein or by law provided, but each shall be cumulative and in addition to every other right or remedy given herein or now or hereafter existing at law or in equity or by statute.

### **XIII. NON-WAIVER**

No waiver of any default shall constitute a waiver of any other breach or default, whether of the same or any other covenant or conditions. Acceptance of rent by Lessor during a period in which Lessee is in default in any respect other than payment of rent shall not be deemed a waiver of the other default.

#### **XIV. NOTICES**

Any notice required to be given or which may be given hereunder shall be in writing, delivered in person, by overnight delivery service, or by certified mail, postage prepaid, return receipt requested, addressed to the party at the following address or at such other change of address as may, from time to time, be communicated to the other party in the same manner as notice hereunder is required to be given. The addresses of parties to which all notices are to be mailed are:

Lessor: City of Napoleon, Ohio  
255 West Riverview Avenue, PO Box 151  
Napoleon, Ohio 43545  
Attn: Joel Mazur  
Phone: 419-592-4010  
E-Mail: [jmazur@napoleonohio.com](mailto:jmazur@napoleonohio.com)

With a copy to: Law Director, City of Napoleon, Ohio  
255 West Riverview Avenue, PO Box 151  
Napoleon, Ohio 43545  
Attn: Bill Harmon  
Phone: 419-592-4010  
E-Mail: [bharmon@napoleonohio.com](mailto:bharmon@napoleonohio.com)

Lessee: AMP Transmission, LLC  
1111 Schrock Road, Suite 100  
Columbus, OH 43229  
Attn: Pamala M. Sullivan  
Phone: 614-540-0971  
E-Mail: [psullivan@amppartners.org](mailto:psullivan@amppartners.org)

with a copy to: AMP Transmission, LLC  
1111 Schrock Road, Suite 100  
Columbus, OH 43229  
Attn: Lisa G. McAlister  
Phone: 614-540-1111  
Fax: 614-540-6397  
E-Mail: [lmcalister@amppartners.org](mailto:lmcalister@amppartners.org)

That notice shall be deemed given when personally delivered, on the delivery date if delivered via overnight delivery service, upon transmission if sent by e-mail or facsimile before 5:00 p.m. local time of the recipient on a Business Day, or on the next Business Day if sent thereafter, or, if mailed in accordance with the provisions hereof, then five (5) Business Days following the deposit of the written notice in the United States mails. A "Business Day" is any day that is not a Saturday, Sunday or any day on which banks located in the State of Ohio are authorized or obligated to close.

#### **XV. EASEMENTS**

A. Lessor has granted to Lessee the Easement. The parties agree that the rights under the Easement are independent of this Lease and shall have legal effect notwithstanding the amendment or termination of this Lease.

B. Lessor agrees, at the request of Lessee and at Lessee's sole expense, to grant additional easements over, under, upon or across the Leased Premises as may be reasonably necessary in Lessee's opinion to enable the Leased Premises, and any improvements constructed or to be constructed thereon, to be adequately served by gas, electricity, water, sewer, telephone and other utilities and to permit Lessee, its Representatives, independent contractors, licensees and invitees to have full and reasonable access to the Leased Premises for any purposes permitted under this Lease or the Easement. Those easements shall be subject to Lessor's reasonable approval.

#### **XVI. CONSTRUCTION OF TERMS**

This Lease shall not be strictly construed either against the Lessor or the Lessee. The term "including" shall mean "including without limitation" regardless of whether so stated. Whenever reference is made to persons, unless the context otherwise requires, words denoting the singular number may, and where necessary shall, be construed as depicting plural number, and words of the plural number may, and where necessary shall, be construed as denoting the singular and words of one gender may, and where necessary shall, be construed as denoting another gender as is appropriate.

#### **XVII. ASSIGNMENT, SUBLETTING**

A. Transfers. Lessee may assign, mortgage, pledge, encumber, dispose, sublease, convey or transfer this Lease (a "Transfer") with or without the prior written consent of Lessor in each instance; provided that the assignee (other than a Lender or mortgagee) shall acquire all or substantially all of the Equipment or its replacements. Lessor shall not seek to alter the terms of this Lease, the Easement or the O&M Agreement in connection with that Transfer without the express written consent of Lessor and that Transferee, and, if Lessee would have any increased liability, duties or burdens due to that change, of Lessee.

B. Subleases. Without the prior written consent of Lessor, Lessee shall not assign its rights under this Lease to any other Person; provided, however, that contracting operation, maintenance, repair or replacement services to another Person, including Lessor pursuant to the O&M Agreement, shall not constitute a sublease hereunder.

## **XVIII. ENTIRE AGREEMENT**

This Lease, the Easement, the O&M Agreement, the Purchase Agreement and the exhibits attached to any of the foregoing set forth all the covenants, promises, agreements, conditions and understandings between Lessor and Lessee concerning the Leased Premises and this Lease, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as set forth in those documents. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by each of them.

## **XIX. PARTIAL INVALIDITY**

If any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

## **XX. BINDING EFFECT**

All of the terms, covenants, conditions and provisions contained in this Lease shall be binding upon and shall inure to the benefit of the Lessor and Lessee and their respective heirs, executors, administrators, successors and assigns. A mortgagee is a third party beneficiary of the mortgagee provisions contained in this Lease.

## **XXI. HEADINGS**

As used herein, any section or paragraph headings or defined terms are for convenience only and are not to be used in the construction of the sections nor are they meant to limit or expand the content of the sections.

## **XXII. TIME OF THE ESSENCE**

Time is of the essence of this Lease and each and every provision hereof.

## **XXIII. MEMORANDUM OF LEASE**

This Lease shall not be recorded without the written consent of both parties. Concurrently with the execution of this Lease, the parties shall execute and cause to be recorded a Memorandum of Lease in the form attached hereto as Lease Exhibit B.

## **XXIV. INDEMNITY**

A. Indemnification. Notwithstanding the termination of the Lease for any reason, Lessee shall to the extent permitted by law at all times, indemnify, protect and hold harmless Lessor and its Indemnified Parties against and from all liability, loss, cost, damage or expense sustained by Lessor:

(1) On account of or through the use of the Leased Premises or improvements or any part thereof by Lessee or its Representatives, or by any other

person at the invitation or request of that party, for any purpose inconsistent with the provisions of this Lease;

(2) Arising out of, or directly or indirectly due to any failure of Lessee, in any respect, to promptly and faithfully satisfy its obligations under this Lease;

(3) Arising out of, or directly or indirectly due to, any accident or other occurrence causing injury to any person or persons or property resulting from the use of the Leased Premises and improvements or any part thereof by Lessee.

B. Liens. Lessor shall not permit any monetary liens to encumber the Leased Premises which have priority over the Lease. In the event Lessor encumbers the Leased Premises subsequent to the date of this Lease, (i) the Lease shall retain its priority position, and (ii) the holder of each Lessor Mortgage or security interest shall execute and deliver to Lessee a fully executed and acknowledged non-disturbance agreement in a commercially reasonable form, and reasonably acceptable to Lessee and any Lessee Mortgagee whereby the holder agrees, among other things, to recognize Lessee's rights under this Lease and not to disturb Lessee's possession and use of the Leased Premises and such other appurtenant rights and easements in the Leased Premises. With respect to other monetary encumbrances (i.e., mechanics' liens, judgment liens, tax liens, etc.), Lessor shall take any such actions as are required to prevent any material adverse effect to Lessee's use hereunder as a result of such encumbrances.

C. Personal Injury. Each party shall hold the other party harmless from any personal injury to the other party or its Representatives, invitees or third parties, or to other occupants of any part of the Leased Premises, or for any damage to any property of the other party or of any other occupant of any part of the Leased Premises, to the extent caused by the negligence or willful misconduct of that party or its Representatives.

The indemnities set forth in this Article shall not apply to any loss directly caused by the gross negligence or intentional misconduct of the other party or its Representatives.

## **XXV. ESTOPPEL CERTIFICATES**

Lessor or Lessee, including Lessee's assignees and sublessees, may request, from time to time, a certificate from the other party, or a statement, within twenty (20) days of demand in writing certifying (a) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), (b) the dates to which the Base Rent and other charges have been paid in advance, if any, (c) for any certificate by Lessee, Lessee acceptance and possession of the Leased Premises, (d) the commencement of the Lease term, (e) the Base Rent provided under the Lease, and (f) that the other party is not in default under this Lease (or if it claims a default, the nature thereof), (g) that the party claims no offsets against amounts owed to the other, and (h) other information as shall be reasonably necessary to establish the status of the tenancy created by this Lease. It is intended that any statement delivered pursuant to this Article may be relied upon by any prospective purchaser, Mortgage holder or assignee of any Mortgage holder of the Leased Premises.

## **XXVI. FORCE MAJEURE**

If Lessor or Lessee shall be delayed, hindered in or prevented from the performance of any acts required hereunder, other than the payment of Rent, by reason of a Force Majeure Delay, then performance of such acts shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equal to the period of such delay.

## **XXVII. OPERATOR**

To the extent that Lessee engages a third party other than Lessor (each, an “Operator”) to operate, maintain, repair and replace the Equipment or to otherwise act with respect to the Leased Premises, the Operator may perform, on Lessee’s behalf, any or all of the obligations of Lessee under this Lease, and Lessor agrees to accept performance of those obligations from the Operator as though the same were performed by Lessee. To the extent Operator shall be acting on behalf of Lessee, pursuant to the O&M Agreement or otherwise, Lessor shall not treat its failure to preform those functions as a breach by Lessee of its obligations hereunder.

## **XXVIII. QUIET ENJOYMENT AND COOPERATION**

A. Lessee, upon paying the Base Rent and all other charges owing under this Lease, and upon performing all of its obligations under this Lease, will peaceably and quietly enjoy its non-exclusive rights to access and occupy the Leased Premises, subject to the terms of this Lease. Lessee shall use commercially reasonable efforts to assure that its activities in connection with the Lease do not unreasonably interfere with the use by Lessor of the Substation or the Leased Premises or other assets not owned by Lessee, subject to Lessee’s rights to maintain, service, repair and replace the Equipment at times it deems necessary or appropriate.

B. Each party shall execute further agreements or instruments reasonably requested by the other party to carry out the terms hereof and the other referenced agreements and the contemplated transactions.

## **XXIX. GOVERNING LAW/DISPUTE RESOLUTION**

A. This Lease shall be governed in all respects, including validity, interpretation and effect, by the internal Laws of the State of Ohio without giving effect to any choice or conflict of law provision or rule (whether of the State of Ohio or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Ohio, except to the extent that portions hereof regulated by Federal law shall be governed by that Law.

B. Subject to the provisions of subsection (C), each party hereby unconditionally and irrevocably, to the fullest extent permitted by law, (i) consents to jurisdiction in any legal proceeding arising out of or relating to this Lease, or any of the other agreements noted herein or the transactions contemplated hereby or thereby, and agrees that any proceedings arising out of this Lease or any of those other agreements or transactions shall be brought and prosecuted exclusively in a state court of competent jurisdiction located in the state or federal courts located in Franklin County or Henry

County, Ohio, and any judgment obtained as a result thereof may be filed in any court of competent jurisdiction, (ii) submits to the *in personam* jurisdiction of those courts and waives and agrees not to assert in any proceeding before any of those Forums, by way of motion, as a defense or otherwise, any claim that it is not subject to the *in personam* jurisdiction of any of those courts, and (iii) waives any objection that it may now or hereafter have to the laying of venue in any proceeding arising out of or relating to this Lease or those agreements or transactions brought in any of those Forums and any claim that any proceeding brought in any of those Forums has been brought in an inconvenient forum.

C. Unless otherwise provided pursuant to this Lease, all disputes between the parties shall be resolved, if possible, in accordance with the following dispute resolution procedures.

### **XXX. NO PARTNERSHIP**

Nothing in this Lease is intended or shall be construed to create any partnership, joint venture or similar relationship between Lessor or Lessee; and in no event shall either party take a position in any regulatory filing or Tax Return or other writing of any kind that a partnership, joint venture or other similar relationship exists. The parties do not intend to form or hold themselves out as a *de jure* or *de facto* partnership, joint venture or similar relationship, to share profits or losses, or to share any joint control over financial decisions or discretionary actions. Notwithstanding anything herein to the contrary, neither Lessor nor Lessee shall be prevented from exercising their respective rights or pursuing their remedies as owners of the Substation, Equipment, as applicable.

### **XXXI. COUNTERPARTS**

This Lease may be executed in counterparts and each of which shall be deemed to be an original, and together which shall constitute one instrument. Counterparts may be delivered by facsimile or other electronic means and shall be effective upon that delivery as if a signed original had been delivered at that time to the other party.

### **XXXII. LIMITATION ON DAMAGES**

EXCEPT IN THE CASE OF A PARTY'S FRAUD, RECKLESSNESS OR WILLFUL MISCONDUCT, OR THE EVENT OF THIRD PARTY LIABILITY, NO PARTY SHALL BE LIABLE TO ANY OTHER PARTY OR ANY OF ITS AFFILIATES, OFFICERS, TRUSTEES, DIRECTORS, CONTRACTORS, SUBCONTRACTORS, ATTORNEYS, AGENTS, REPRESENTATIVES OR AFFILIATES, FOR ANY DAMAGES, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY, STRICT LIABILITY OR ANY OTHER LEGAL THEORY, ARISING FROM THIS LEASE OR ANY OF THE ACTIONS OR TRANSACTIONS PROVIDED FOR HEREIN, OTHER THAN ACTUAL DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT OR IN ANY OTHER AGREEMENT BETWEEN THEM, IN NO EVENT SHALL ANY PARTY BE LIABLE UNDER THIS LEASE OR OTHER AGREEMENT, OR OTHERWISE AT LAW OR IN EQUITY, FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE DAMAGES, EXEMPLARY DAMAGES, LOST

PROFITS OR DAMAGES THAT ARE REMOTE, SPECULATIVE, INDIRECT, UNFORESEEN OR IMPROBABLE, OR ANY OTHER DAMAGES OTHER THAN ACTUAL DAMAGES. EACH PARTY HEREBY RELEASES THE OTHER PARTIES AND THEIR CONTRACTORS, SUBCONTRACTORS, AGENTS, AND AFFILIATES FROM ANY OF THOSE DAMAGES (EXCEPT TO THE EXTENT PAID TO A THIRD PARTY IN A THIRD PARTY CLAIM).

### **XXXIII. LESSOR REPRESENTATIONS AND WARRANTIES**

A. Lessor's Representations. Lessor hereby represents and warrants to Lessee that:

(1) Lessor has no actual knowledge of any existing physical conditions of the Leased Premises which would prevent, significantly restrict or make more expensive Lessee's development of the Leased Premises for the purposes specified in this Lease, or which could, with the passage of time, or the giving of notice, constitute a violation of any currently applicable governmental law, ordinance, order, rule or regulation.

(2) The execution of this Lease will not constitute a violation of nor be in conflict with nor constitute a default under any term or provision of any agreement or instrument to which Lessor is a party or by which the Leased Premises or any part thereof is bound.

(3) Without having made any specific investigation thereof, and without undertaking to do so, Lessor has no actual knowledge of any law, regulation, ordinance or order of any local, state or federal governmental authority which would prohibit or significantly restrict Lessee's development of the Leased Premises pursuant to this Lease. To the best of Lessor's knowledge, the Leased Premises is currently in material compliance with all governmental laws, ordinances, orders, rules and regulations applicable to the Leased Premises.

(4) To the best of Lessor's knowledge, neither the Leased Premises nor any part thereof violates any Environmental Law. Without limiting the foregoing, except as disclosed in writing to Lessee, to the best of Lessor's knowledge no Hazardous Materials have been disposed of on the Leased Premises or have been accumulated or burned on the Leased Premises, no part of the Leased Premises or any improvements thereon contain asbestos or asbestos-containing materials (including, without limitation, acoustical plaster, fireproofing, pipe and boiler insulation or similar materials), and no underground storage tanks are located on or under the Leased Premises. "Environmental Law" means all laws of any governmental authority having jurisdiction over the Leased Premises addressing pollution or protection of the environment and all amendments to such laws and all regulations implementing any of the foregoing. "Hazardous Material" shall mean any pollutant, contaminant, hazardous substance, hazardous waste, medical waste, special waste, toxic substance, petroleum-derived substance, waste or additive, asbestos, polychlorinated biphenyl (PCB), radioactive material, or other compound, element or substance in any form (including products) regulated or restricted by or under any Environmental Law.

(5) Lessor warrants that Lessor holds a fee simple interest in the Leased Premises and that the Leased Premises are free of any liens, encumbrances or restrictions of any kind that may interfere with Lessee's anticipated use of the Leased Premises. During the Term of this Lease, Lessor covenants and agrees that neither

Lessor nor its agents, lessees, invitees, guests, licensees, successors or assigns will (i) interfere with, impair or prohibit the free and complete use and enjoyment by Lessee of its rights granted by this Lease; or (ii) take any action which will interfere with or impair Lessee's access to the Leased Premises for the purposes specified in this Lease. Lessor further covenants that, to the best of Lessor's knowledge, there are no outstanding written or oral leases, purchase or sale agreements or other agreements or restrictions encumbering, or in any way affecting the Leased Premises, and no person or entity has any right with respect to the Leased Premises, whether by option to purchase, contract or otherwise, that would prevent or interfere with any of Lessee's rights under this Lease.

(6) The representations and warranties set forth in this Section shall survive the execution and delivery hereof.

#### **XXXIV. EXHIBITS AND INCORPORATION**

The following exhibits, which are attached hereto or are in the possession of the Lessor and Lessee, are incorporated herein by reference as though fully set forth:

Lease Exhibit "A"	Legal Description of Leased Premises
Lease Exhibit "B"	Memorandum of Ground Lease

**[SIGNATURES ARE ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, the parties have executed this Lease effective as of the day and year first above written.

**LESSOR:**

**THE CITY OF NAPOLEON, OHIO,**

By: \_\_\_\_\_  
Name: Joel L. Mazur  
Title: City Manager

STATE OF OHIO            )  
  ) ss.  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2021, by \_\_\_\_\_ as the \_\_\_\_\_ of the City of Napoleon, Ohio, an Ohio municipal corporation, on behalf of that entity.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**LESSEE:**

**AMP TRANSMISSION, LLC,**

By: \_\_\_\_\_  
Name: Pamala M. Sullivan  
Title: President

STATE OF OHIO            )  
  ) ss.  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2021, by \_\_\_\_\_ the \_\_\_\_\_ of AMP Transmission, LLC, an Ohio non-profit limited liability company, on behalf of the corporation.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**LEASE EXHIBIT A**  
Legal Description of the Leased Premises

That certain real property situated in the State of Ohio, County of Henry, more particularly described as follows:

Parcel No. \_\_\_\_\_

CONFIDENTIAL - DRAFT

**LEASE EXHIBIT B**  
Memorandum of Lease

WHEN RECORDED MAIL TO:

Attn:

**MEMORANDUM OF GROUND LEASE**

This MEMORANDUM OF GROUND LEASE is entered into this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between The City of Napoleon, Ohio, an Ohio municipal corporation, as "Lessor" (having an office at 255 West Riverview Avenue, Napoleon, Ohio 43545), and AMP Transmission, LLC, an Ohio non-profit corporation, as "Lessee" (having an office at 1111 Schrock Road, Suite 100, Columbus, Ohio 43229), with reference to the following facts:

A. Lessor and Lessee have entered into a Ground Lease of even date herewith (the "Lease"). Under the Lease, Lessee is leasing from Lessor that certain real property located in Henry County, Ohio and more particularly described on Exhibit A attached hereto and made a part hereof by reference (the "Leased Premises").

B. Lessor and Lessee desire to provide record evidence of Lessee's leasehold interest in the Leased Premises.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth in the Lease, and in this Memorandum of Ground Lease, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

1. The terms, provisions, covenants, conditions and agreements set forth in the Lease are by this reference incorporated herein.

2. The term of the Lease began on the "Commencement Date" as defined in the Lease, and shall continue until \_\_\_\_\_, 2071, unless sooner terminated or as extended, as provided in the Lease. Lessee shall have the right to extend the Lease for an additional 10-year term, subject to the conditions set forth in the Lease.

3. In addition to those terms referenced above, the Lease contains numerous other terms, covenants, conditions and provisions which affect the Leased Premises, and notice is hereby given that reference should be had to the Lease directly with respect to those terms, covenants, conditions and provisions. Copies of the Lease are maintained at the offices of Lessor and Lessee, as set forth above. This Memorandum of Ground Lease does not alter, amend, modify or change the Lease in any respect, is executed for recording purposes only, is not intended to be a summary of the Lease, and is subject to the terms of the Lease. In the event of conflict between this Memorandum and the Lease, the Lease shall control.

4. This Memorandum shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, representatives, successors and assigns.

IN WITNESS WHEREOF, the undersigned parties have executed this Memorandum as of the day and year first above written.

**LESSOR:**

**CITY OF NAPOLEON, OHIO,**

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

Name: Joel L. Mazur

Title: City Manager

STATE OF Ohio )  
 ) ss.  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_ 2021, by \_\_\_\_\_ as the \_\_\_\_\_ of The City of Napoleon, Ohio, an Ohio municipal corporation, on behalf of that entity.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**LESSEE:**

**AMP TRANSMISSION, LLC,**

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

Name: Pamala M. Sullivan

Title: President

STATE OF \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_ 2021, by \_\_\_\_\_ the \_\_\_\_\_ of AMP Transmission, LLC, an Ohio non-profit limited liability company, on behalf of the corporation.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**Exhibit C**

**Easement**

[SEE ATTACHED]

CONFIDENTIAL - DRAFT

## PERMANENT EASEMENT AGREEMENT

THIS PERMANENT EASEMENT AGREEMENT (this "Easement" or the "Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2021 ("Effective Date"), between THE CITY OF NAPOLEON, OHIO, an Ohio municipal corporation ("Grantor") and AMP TRANSMISSION, LLC, an Ohio non-profit limited liability company ("Grantee").

### RECITALS

A. Grantor and Grantee are parties to that certain Asset Purchase and Sale Agreement, dated as of \_\_\_\_\_, 2021 (the "Purchase Agreement"), pursuant to which, among other things, on the date hereof:

(i) Grantor sold to Grantee the Equipment (as defined in the Purchase Agreement) (collectively, and including any replacements, substitutions or additions thereto from time-to-time, the "Purchased Assets"); and

(ii) Grantor retained the fee interest in the real property underlying the Purchased Assets, which property is more particularly described in Easement Exhibit A (the "Property").

B. Because the Purchased Assets (or their replacements) will remain situated in, on or over a portion of the Property (the "Leased Area"), Grantor has agreed to provide Grantee with this Easement, providing Grantee with rights to access and occupy, on a non-exclusive basis, the Leased Area and permitting the Equipment (or its replacements, substitutions and proceeds thereof) to remain on the Property at Grantee's discretion, subject to the terms hereof. The Leased Area is further described on Easement Exhibit B.

C. Pursuant to the Purchase Agreement and concurrent with the execution and delivery of this Agreement, Grantor and Grantee entered into that certain Ground Lease (the "Lease") pursuant to which Grantor also granted Grantee rights to access and occupy the Property and the Leased Area.

D. The parties intend that this Easement shall have independence from the rights and obligations set forth in the Applicable Agreements (defined below). Accordingly, this Easement shall remain in effect notwithstanding any termination or modification of any of those agreements, unless expressly set forth in an amendment hereof.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions set forth herein, the sum of ten dollars (\$10.00), and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

. **Definitions and Rules of Construction.**

.. **Defined Terms.** The following terms when used in this Agreement shall have the meanings specified in this Section 1.1.

“Applicable Agreements” means the Purchase Agreement, the Lease, the Operating Lease and any other agreement or instrument entered into by the Parties relating to the Purchased Assets or the Property, as any of those may be amended from time-to-time.

“Emergency” shall mean a condition or situation that (i) presents an imminent physical threat of danger to life, health or property or could reasonably be expected to cause significant disruption of access to or the operation of the Equipment, or (ii) that is likely to or could reasonably be expected to result in an imminent violation of applicable law.

“Facilities” mean those facilities and Improvements located at, on, over or under the Property in which Grantee needs or reasonably requests to use, including storage space, parking facilities, communication facilities, equipment monitoring and control rooms, utility lines, connection points for integrating the Purchased Assets or their replacements with the Grantee’s systems and equipment, and receiving areas, regardless of whether those facilities are located within the Leased Area.

“Force Majeure Event” shall mean any event that both (i) restricts or prevents performance by a Party under this Agreement, and (ii) is not reasonably within the control of the Party or caused by the default or negligence of the Party and could not be overcome or avoided by the exercise of due care. “Force Majeure Event” includes: acts of God; Emergency conditions; failure of facilities due to unusually severe actions of the elements like drought, flood, earthquake, storm, fire, lightning, hurricane, tornado or epidemic; war, terrorism, civil disturbance, sabotage, riot or public disorder; strike or labor action; accident; curtailment of supply, unavailability of construction materials or replacement equipment beyond the Party’s reasonable control; inability to obtain and maintain rights-of-way, permits, licenses and other required authorizations from any Governmental Authority or person for any of the facilities or equipment necessary for performance by the Party hereunder; and actions, failures to act or restraints of any Governmental Authority (including expropriation, requisition and changes in law or regulations) to the extent preventing or delaying performance by the Party hereunder. Settlement of strikes and labor disputes which are Force Majeure Events shall be wholly within the discretion of the Party whose employees are on strike or involved in the labor dispute.

“Governmental Authority” means any federal, state, local, territorial or municipal government and any department, commission, board, bureau, authority, agency, court, instrumentality or judicial, regulatory or administrative body or entity, including any industry or regional bodies regulating the operations of a Party, like the North American Electric Reliability Corporation, and any balancing area authority, regardless of whether its orders or decisions have the force of law.

“Governmental Requirements” shall mean all local, state and federal governmental laws, statutes, rules and regulations, building codes, ordinances (zoning or otherwise) and permits which are, or will be, adopted, granted, amended, modified or supplemented and

which govern, affect or relate to the use, development, zoning, improvement, operation or ownership of the Property, or any portion thereof.

“Grantor Assets” shall mean all assets and Improvements owned by Grantor individually, and not as a tenant in common, located on the Property which were not included in the Purchased Assets.

“Improvements” shall mean all structures, improvements, facilities, systems, fixtures and equipment of any kind now or hereafter located on the Property, whether above or below the land surface, whether real or personal property, and whether permanent or temporary, including without limitation, all buildings, sheds, energy plants, tanks, pipelines (including meters, connections, valves and other associated equipment), cables, wires, conduits, cable trays, trenches, mains, lines, ducts, fences, towers, antennae, tunnels, driveways, streets, alleys, paved parking areas, pathways, screening walls, awnings, retaining walls, plantings, shrubs and other landscaping, irrigation and drainage pipes and facilities, lighting fixtures and signs.

“Party” or “Parties” shall individually or collectively, as the case may be, mean Grantor and its successors and assigns, or Grantee and its successors and assigns.

“Party’s Property” means the assets and property owned by that Party located at the Property.

“Permittees” shall mean: the Party, its owners and managers, and their respective directors, managers, officers, employees and agents, contractors, and invitees; provided, however, that a Party shall not be included in the definition of a “Permittee” of the other Party under this Agreement.

“Person” shall mean any individual, partnership, corporation, limited liability company, trust, estate or other legal entity.

. **Grant of Easements.**

.. **Access and Use Easement for the Property.** Grantor grants to Grantee in perpetuity and at no charge, a non-exclusive easement, in, on, over, under, across and through the Property for the purpose of permitting Grantee (and its Permittees) to access the Property (including the Leased Area) and for the access and use of the Facilities located at or on the Property. This easement shall permit Grantee to own, operate, maintain, repair, replace, improve, remove and remediate the Purchased Assets at, on, under or over the Leased Area, and to exercise and enjoy Grantee's rights relating to those assets, and any purpose incidental thereto, as well as to permit it to exercise all rights and duties set forth in any Applicable Agreement. Grantor shall provide Grantee with all required utility services (including without limitation electricity, water, sewer, communication, and natural gas) (collectively, "Utilities") necessary or appropriate for the operation of the Purchased Assets in the manner in which they have historically been operated, and if Grantor does not provide those services, Grantee may arrange for the provision thereof by others. Grantee shall be provided with access to all locked or password protected areas of the Property (including equipment monitoring or regulating any of the Equipment) necessary or appropriate to permit the use and enjoyment of the easement rights granted and the Purchased Assets. Grantor shall provide Grantee with keys, cardkeys, passcodes or other applicable devices to permit that access at all times to the Leased Area and the Facilities, all at no additional cost to Grantee. This easement shall include rights to temporary use of the Property for the construction and maintenance of the Purchased Assets.

.. **Use of Property and Facilities.** The easement granted herein may be utilized in any lawful manner which is within the stated purposes noted herein, and all activities and purposes reasonably-related thereto; provided, however, that Grantee's use of the easement granted herein and Grantor's use of the Property and Improvements shall be further subject to the following:

- (i) neither Party nor its Permittees shall use the rights pursuant to this Easement or the Party's Property in a manner that unreasonably interferes with the use of the other Party's Property or rights provided pursuant to any Applicable Agreement;
- (ii) neither Party nor its Permittees shall use the rights pursuant to this Easement or Party's Property in a manner that unreasonably interferes with the use of or damages the other Party's Property;
- (iii) neither Party nor its Permittees shall use the rights pursuant to this Easement or the Party's Property in a manner or for a purpose which causes the other Party or any of the other Party's Property to be in violation of, or in noncompliance with, any Governmental Requirements;
- (iv) neither Party nor its Permittees shall use the rights pursuant to this Easement or easements granted to such Party herein in a manner which constitutes or produces a nuisance or disturbance to the other Party's Property other than noises, vibrations, odors, dust, emissions and electro-magnetic interferences or disturbances and the like which are lawfully and customarily incidental to the transmission of electrical energy or other uses

currently existing at the Power Station as of the date of this Agreement and as it may change hereafter in the ordinary course of its operations; **and**

- (v) neither Party nor its Permittees shall construct Improvements or undertake any actions on the Property or alter any of the Equipment in a manner that interferes with the use or operation of the other Party's Property without the prior written consent of that other Party.

. **Maintenance and Repair.** Any and all Equipment which are used in connection with an easement granted hereunder shall be used, operated, maintained, repaired, altered, improved, replaced and/or removed in accordance with the O&M Agreement for so long as it remains in effect. Thereafter, Grantor and Grantee shall each have the right to use the Equipment in compliance with the provisions of Section 2.2 unless they otherwise agree.

. **Relocation of Easements.** At the request of either Party, the areas burdened by the easement granted herein shall be subject to relocation upon the consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. The cost of the relocation shall be determined as set forth in the O&M Agreement, which provisions shall continue to apply even after its termination unless the Parties otherwise agree.

. **Defaults/Enforcement**

.. **Defaults.** A Party shall be in default under this Agreement if the Party: (a) fails to pay amounts due hereunder (other than disputed payments) and the failure is not cured within thirty (30) days after the Party has received notice of the default pursuant to Section 10.2; or (b) defaults on any other material obligation under this Agreement after notice provided pursuant to Section 10.2 by the other Party, provided, the Party shall have up to sixty (60) days after the notice is given to cure the default or make substantial progress (in the reasonable opinion of the other Party) towards curing the default (but in no event shall the cure period exceed one hundred (100) days).

**5.2 Remedies.** In the event of a default by a Party, the non-defaulting Party (or its Permittees as directed by and on behalf of the non-defaulting Party), shall have the following remedies (but without obligation), exercisable only after due inquiry that a default has occurred and is continuing:

A. In its sole and absolute discretion, to cure the default of the defaulting Party by making or tendering the required payment or performance and permitting the defaulting Party's continued exercise of its other rights under this Agreement, provided that any amounts paid by the non-defaulting Party shall be treated as a demand loan to the defaulting Party, which loan shall accrue interest until repaid in full at the rate of interest per annum equal to the lesser of (i) five percent (5.0%) above the prime rate which is the rate reported in the "Money

Rates” section of *The Wall Street Journal* or (ii) the maximum rate of interest permitted by applicable law (“Default Interest Rate”);

B. To seek monetary damages and/or bring an action to specifically enforce the provisions of this Agreement; or

C. To exercise (or appoint any of its Permittees to exercise on its behalf) any and all other rights and remedies which the non-defaulting Party might otherwise have at law or in equity, except as provided below.

Under no circumstances shall termination of this Agreement or blocking the access to and use of the Property as noted herein be available to the non-defaulting Party as a remedy for the breach or default of a defaulting Party. The Parties agree that other than specific performance, the remedies of the Parties are limited to monetary damages. Except as noted above, all of the foregoing remedies are cumulative and non-exclusive, and the exercise of any one remedy at any one time shall not constitute the waiver of any other remedy at a later or different time; provided, however, that all available remedies shall be subject to the limitations on liability provided for pursuant to any Applicable Agreements.

**5.3. Reimbursement of Expenses to Cure; Lien.** If any Party elects to cure an event of default of another Party, the defaulting Party will reimburse the curing Party upon demand for its expenses incurred in rendering the cure, plus interest at the Default Interest Rate.

**5.4 No Waiver.** The failure of any aggrieved Party to enforce any covenant, condition, restriction or provision herein contained shall in no event be deemed to be a waiver of the right thereafter to do so, nor of the right to enforce any other covenant, condition, restriction or provision set forth in this Agreement. A Party shall be considered to have waived any rights hereunder only if the waiver shall be in writing and signed by the waiving Party.

**5.5 Force Majeure.** Except for the obligations of either Party to make payments of amounts then due hereunder to the other Party, obligations of either Party shall be excused from performance and shall not be considered to be in default in respect to any obligation hereunder to the extent the failure of performance shall be due to a Force Majeure Event, but only to the minimum extent that performance is actually prevented by the Force Majeure Event. A Party shall give notice of delay due to a Force Majeure Event to the other Party promptly upon obtaining actual knowledge of the occurrence of the event with respect to which the Party intends to claim a permitted delay hereunder.

**6. Termination.** Unless Grantee otherwise expressly agrees in writing, this Easement shall continue so long as and shall not terminate so long as any of the Purchased Assets exist on the Property, including any replacements of or additions to those Purchased Assets, and for so long as any of the Applicable Agreements remain in effect, whichever is longer. If the Lease is terminated without a replacement lease being entered into between the Parties, and Grantee has not agreed that this Easement shall terminate, Grantee shall continue to have a continuing non-revocable, permanent license and easement to access and occupy the Property and Leased Area as provided herein.

If Grantee has approved a termination of this Easement, Grantee shall record in the public records of Henry County, Ohio, a notice of termination of this Easement within sixty (60) days of the termination date.

7. **Arbitration; Governing Law; Waiver of Jury Trial.** This Easement shall be governed by the laws of the State of Ohio, without regard to its conflict of laws principles. EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS WHICH IT MAY HAVE TO A JURY TRIAL WITH RESPECT TO ANY SUIT, LEGAL ACTION OR PROCEEDING BROUGHT BY OR AGAINST IT OR ANY OF ITS AFFILIATES RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

8. **Run with Property.** Each and all of the easements, covenants, conditions and restrictions set forth in this Agreement shall run with and bind the Property. All covenants, conditions and restrictions set forth in this Agreement shall be equitable servitudes. All of the easements, covenants, conditions and restrictions set forth in this Agreement shall benefit and be binding upon each Party and their respective heirs, successors and assigns and shall create reciprocal rights and obligations, and privity of contract and estate between and among, the Parties and their respective heirs, successors and assigns. No Permittee of a Party shall acquire any rights of a Party hereunder, except to the extent the Party's rights are expressly assigned to the Permittee and the Permittee expressly assumes in writing the obligations, duties and liabilities of the Party under this Agreement accruing from and after the date of assignment. In no event shall the consent or approval of any Permittee be required in connection with, or as a condition to, any amendment, modification or termination of this Agreement.

**9. Miscellaneous Provisions.**

**9.1 Constructive Notice and Acceptance.** Every Person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition, restriction and provision contained in this Agreement, whether or not any reference to this Agreement is contained in the instrument by which the Person acquired an interest in the Property.

**9.2 Notices.** Any notice required or authorized to be given hereunder or any other communications between the Parties shall be in writing (unless otherwise expressly provided) and shall be served personally, by reputable express courier service (such as Federal Express) for next business day delivery, or by facsimile transmission, and in any such case, addressed to the relevant Party at the address stated below (as such address may be updated pursuant hereto). Any notice given personally shall be deemed to have been served on delivery, any notice given by express courier service shall be deemed to have been served one (1) business day after the same shall have been delivered to the relevant courier, and any notice so given by facsimile or e-mail transmission shall be deemed to have been served upon successful dispatch if sent before 5:00 p.m. on a business day, or on the next business day if sent thereafter. As proof of service it shall be sufficient to produce, as applicable, a receipt showing personal service, the receipt of a reputable courier company showing the correct address of the addressee, or an activity report of the sender's facsimile machine or computer, certified by the sender to be true, complete, and correct and showing the correct facsimile number or e-mail address, as applicable, of the Party on whom notice is served, the correct number of pages transmitted and the date of dispatch, and a status report indicating a successful transmission.

The Parties' addresses for service are as follows, although each Party may change its address for service by written notice to the other Parties given as provided in this Section 9.2:

If to Grantor:

City of Napoleon, Ohio  
255 West Riverview Avenue, PO Box 151  
Napoleon, Ohio 43545  
Attn: Joel Mazur  
Phone: 419-592-4010  
E-Mail: jmazur@napoleonohio.com

With a copy to:

Law Director, City of Napoleon, Ohio  
255 West Riverview Avenue, PO Box 151  
Napoleon, Ohio 43545  
Attn: Billy D. Harmon  
Phone: 419-592-4010  
E-Mail: bharmon@napoleonohio.com

Grantee: AMP Transmission, LLC  
1111 Schrock Road, Suite 100  
Columbus, OH 43229  
Attn: Pamala M. Sullivan  
Phone: 614-540-0971  
E-Mail: psullivan@amppartners.org

with a copy to: AMP Transmission, LLC  
1111 Schrock Road, Suite 100  
Columbus, OH 43229  
Attn: Lisa G. McAlister  
Phone: 614-540-1111  
Fax: 614-540-6397  
E-Mail: lmcaster@amppartners.org

**9.3 Headings.** Section headings used in this Agreement are inserted for convenience only and are not intended to be a part hereof or in any way to define, limit or describe the scope and intent of the particular provisions to which they refer.

**9.4 Effect of Invalidation.** Each covenant, condition and restriction of this Agreement is intended to be, and shall be construed as, independent and severable from each other covenant, condition and restriction. If any covenant, condition or restriction of this Agreement is held to be invalid by any court, the invalidity of the covenant, condition or restriction shall not affect the validity of the remaining covenants, conditions and restrictions hereof.

**9.5 Estoppels.** Within twenty (20) days following a request in writing by a Party, the other Party shall execute and deliver to any prospective purchaser or other lender to the requesting Party an estoppel certificate confirming that (i) this Agreement is in full force and effect, and has not been modified or amended (or stating any modifications or amendments), and (ii) to the knowledge of the certifying Party, there are no existing uncured defaults by any Party under this Agreement (or if any default exists, a description of the default).

**9.6 Amendments.** Any amendments or modifications of this Agreement shall be made only in a writing executed by all Parties.

**9.7 Construction.** The language in all parts of this Agreement shall in all cases be construed as a whole and in accordance with its fair meaning, and shall not be construed strictly for or against any of the Parties.

**9.8 Exhibits.** All exhibits attached to this Agreement are incorporated herein by this reference.

**9.9 Third Party Beneficiaries.** Except as otherwise expressly set forth herein, this Agreement is not intended to benefit any third party.

**9.10 Further Assurances.** Each Party agrees that it will, at any time and from time to time, upon the written request of the other Party, execute and deliver further documents (in recordable form, if appropriate under the circumstances) and do further acts and things, as the requesting Party may reasonably request to effect the purposes of this Agreement.

**9.11 Entire Agreement.** This Easement sets forth the entire agreement of the Parties and supersedes all prior agreements related to its subject matter, provided, however, that nothing in this Agreement shall affect the terms of any of the Applicable Agreements.

**9.12 No Partnership.** The Parties are independent of each other and no partnership, joint venture, association or principal and agency relationship between the Parties is created hereby.

IN WITNESS THEREOF, the Parties have entered into this Agreement as of the date first set forth above.

THE CITY OF NAPOLEON, OHIO,  
an Ohio municipal corporation

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

AMP TRANSMISSION, LLC,  
an Ohio non-profit corporation

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

This instrument prepared by, and when recorded return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF OHIO            }  
  } ss.  
COUNTY OF \_\_\_\_\_ }

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, the \_\_\_\_\_ of the City of Napoleon, Ohio, an Ohio municipal corporation, on its behalf.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Notary Seal:

\_\_\_\_\_  
Notary Public Signature

STATE OF OHIO            }  
  } ss.  
COUNTY OF \_\_\_\_\_ }

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, the \_\_\_\_\_ of AMP Transmission, LLC, an Ohio non-profit limited liability company, on its behalf.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Notary Seal:

\_\_\_\_\_  
Notary Public Signature

**EASEMENT EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

That certain real property situated in the State of Ohio, County of Henry, more particularly described as follows:

Parcel 280795140080

Located on Industrial Drive within the Napoleon city limits

41.411080, -84.096479

0.9301 acres

TShp: LIBERTY TWP | Qtr: NE | Sctn: 7 | Twn: 5 | Rng: 7 | Desc: 6.355 PCL SLIDE 265B

CVT: HENRY COUNTY | SDIV: SUBSTATION SUBDIVISION (NE 7-5-7) SLIDE 265B |

Lot 4 | Desc: SLIDE 265B ETAL

CONFIDENTIAL - DRAFT

**EASEMENT EXHIBIT B**

**LEGAL DESCRIPTION OF THE LEASED AREA**

That certain real property situated in the State of Ohio, County of Henry, more particularly described as follows:

Parcel 280795140080

Located on Industrial Drive within the Napoleon city limits

41.411080, -84.096479

0.9301 acres

TShp: LIBERTY TWP | Qtr: NE | Sctn: 7 | Twn: 5 | Rng: 7 | Desc: 6.355 PCL SLIDE 265B

CVT: HENRY COUNTY | SDIV: SUBSTATION SUBDIVISION (NE 7-5-7) SLIDE 265B |

Lot 4 | Desc: SLIDE 265B ETAL

## Exhibit D

### Legal Description of Site

That certain real property situated in the State of Ohio, County of Henry, more particularly described as follows:

Parcel 280795140080

Located on Industrial Drive within the Napoleon city limits

41.411080, -84.096479

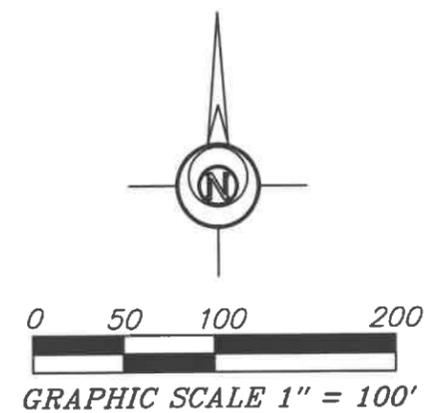
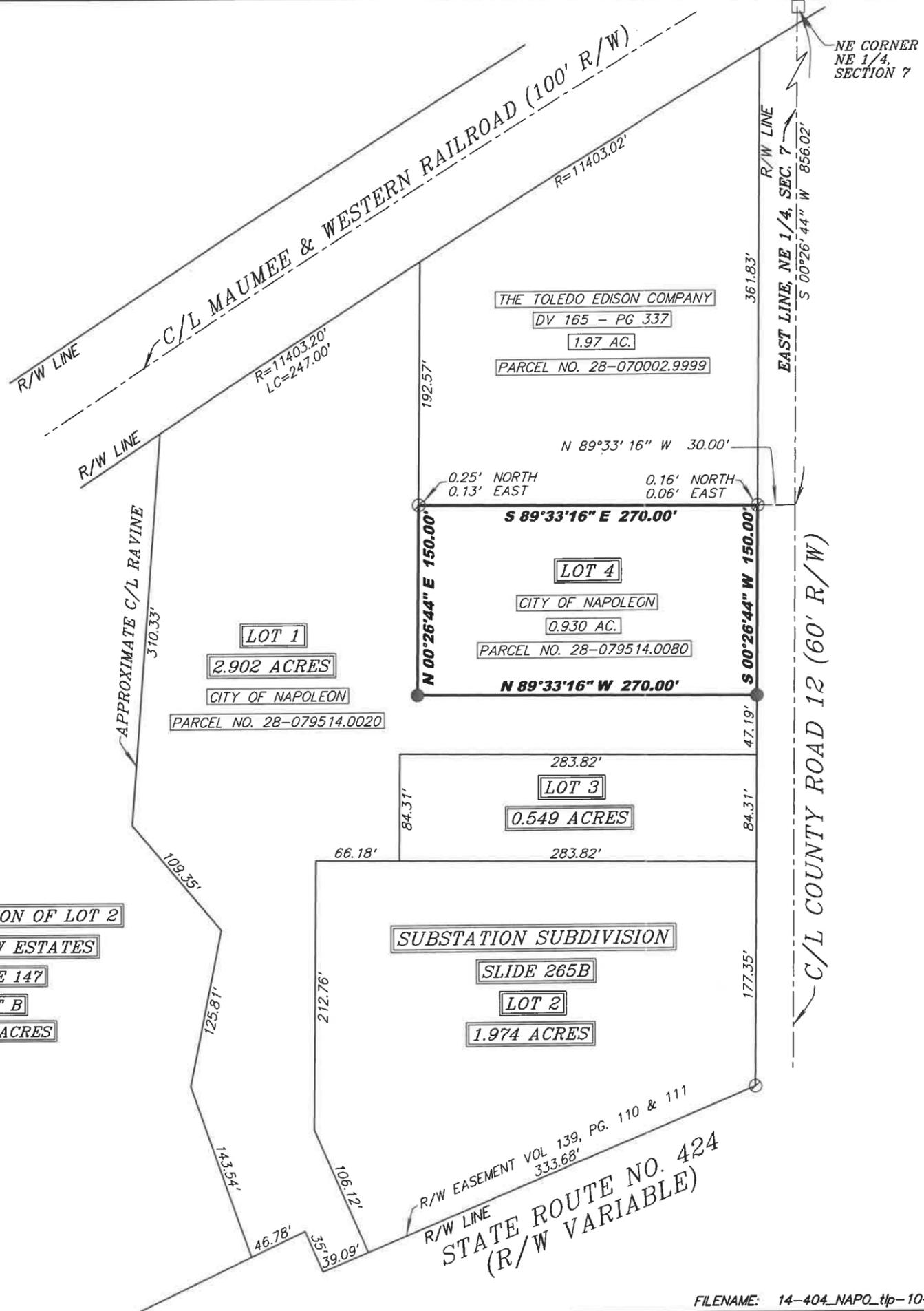
0.9301 acres

TShp: LIBERTY TWP | Qtr: NE | Sctn: 7 | Twn: 5 | Rng: 7 | Desc: 6.355 PCL SLIDE 265B

CVT: HENRY COUNTY | SDIV: SUBSTATION SUBDIVISION (NE 7-5-7) SLIDE 265B |

Lot 4 | Desc: SLIDE 265B ETAL

4818-4373-2204, v. 1



**LEGEND**

- 5/8" REBAR WITH ID CAP SET
- 5/8" REBAR WITH ID CAP SET
- 1" REBAR FOUND IN MONUMENT BOX

**NOTE: BEARINGS BASED UPON STATE PLANE COORDINATES**

I HEREBY CERTIFY THIS TO BE A SURVEY MADE UNDER MY S AND THAT THE MONUMENTS ARE FOUND AND/OR SET AS IN

11-4-14  
Date

*Gregory A. Bockrath*  
Gregory A. Bockrath, P.S.  
Registered Surveyor No. 8306  
115 S. Fair Avenue, Suite A  
Ottawa, Ohio 45875  
419-523-5789

City of Napoleon  
Electric Department  
00022-2



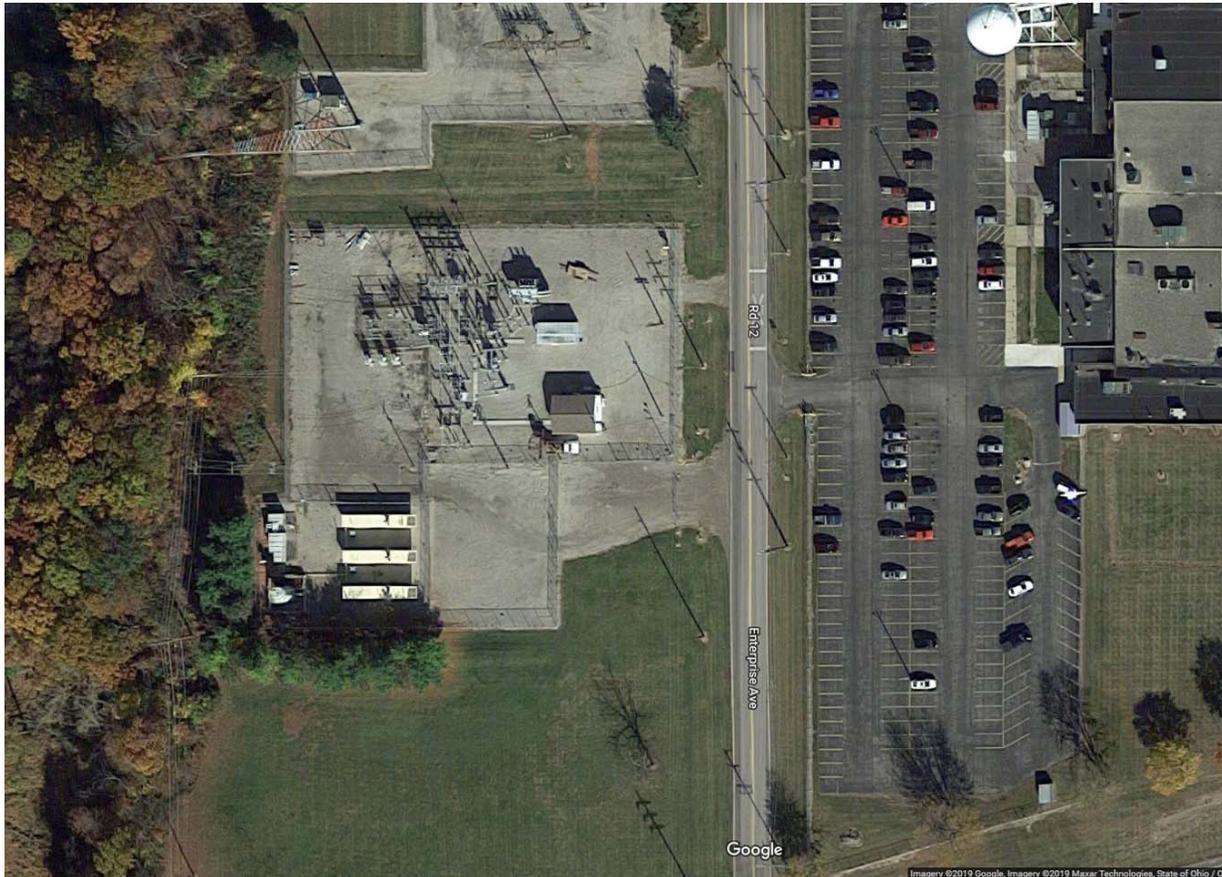
RETRACEMENT SURVEY FOR:  
CITY OF NAPOLEON

BEING LOT 4 IN SUBSTATION SUBDIVISION & PART OF THE NORTHEAST 1/4 OF SECTION 7, T5N - R7E, LIBERTY TOWNSHIP, HENRY COUNTY, OHIO

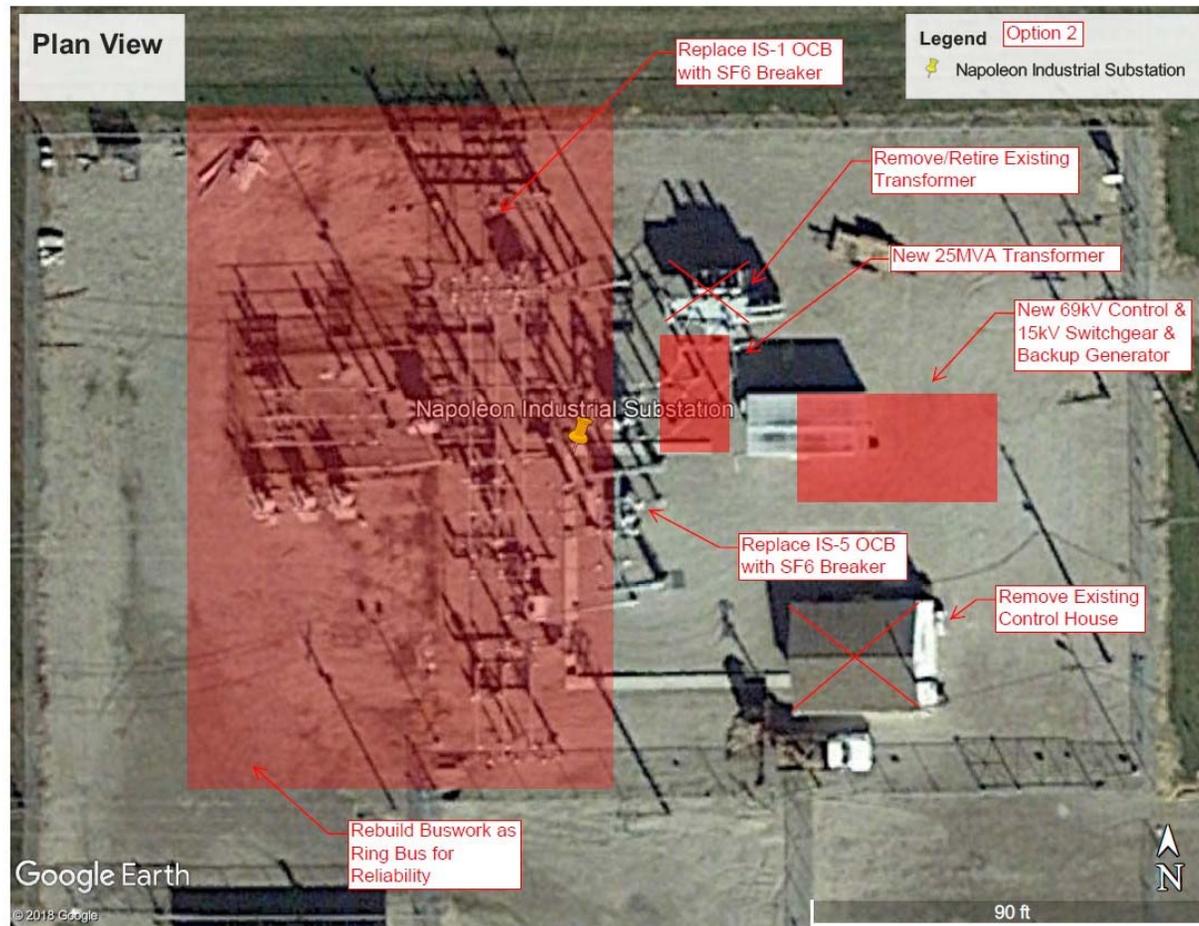
**Bockrath & Associates**  
Engineering and Surveying, LLC  
115 S. Fair Avenue, Suite A - Ottawa - Ohio  
Phone: 419.523.5789

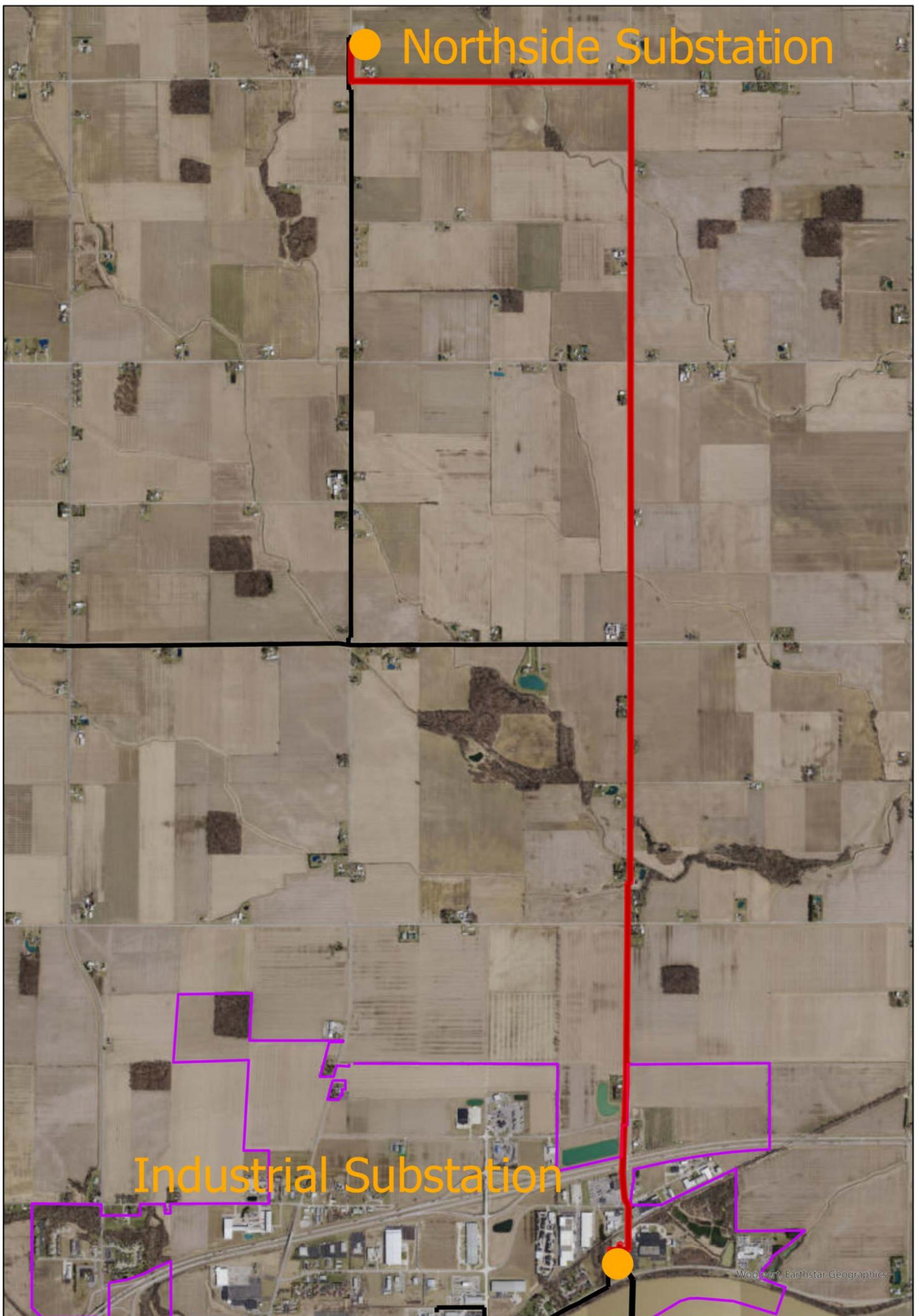
THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE EXAMINATION. BEYOND THE DEED DOCUMENTS CITED ON THE SURVEY DRAWING THERE MAY BE RECORDED OR UNRECORDED EASEMENTS AND/OR ENCUMBRANCES BENEFITING OR ENCUMBERING THE SURVEYED PROPERTY WHICH ARE NOT SHOWN ON THIS DRAWING.

# Industrial Substation



# Industrial Substation





**City of Napoleon:  
Transmission Lines from  
Northside to Industrial Substation**

**BILL OF SALE  
RELATED TO THE INDUSTRIAL SUBSTATION**

For the sum of five million, five hundred thirty seven thousand, seven hundred thirty seven dollars and sixty two cents (\$5,537,737.62) for the assets, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City of Napoleon, Ohio ("Seller"), with an address at 255 West Riverview Avenue, PO Box 151, Napoleon, Ohio 43545, hereby unconditionally and irrevocably grants, bargains, transfers, sells, assigns, conveys, and delivers to AMP Transmission, LLC ("Buyer"), with an address at 1111 Schrock Road, Suite 100, Columbus, Ohio 43229, its successors and assigns forever, all of the Seller's right, title, and interest, legal or equitable, in and to the following described asset and all appurtenances thereto (hereinafter, collectively, the "Equipment"):

Five (5) 69kV breakers and associated equipment, including current and voltage transformers, station post insulators and associated equipment. Seller also owns certain ancillary equipment used or useful in connection with the operation of the Equipment, including certain galvanized steel structures, substation equipment, insulators, ground components, a bus conductor, fittings, supervisory control and data access equipment, and protection and control panels.

For clarity, the Equipment does not include any other facilities and equipment associated with voltages less than 69 kV within the substation footprints.

THE PROPERTY IS BEING SOLD AND CONVEYED BY SELLER TO (AND ACCEPTED BY) BUYER IN ITS EXISTING CONDITION AS-IS, WHERE-IS, WITH ALL FAULTS (KNOWN OR UNKNOWN, LATENT, DISCOVERABLE OR UNDISCOVERABLE), AND WITHOUT ANY WRITTEN OR VERBAL REPRESENTATIONS OR WARRANTIES WHATSOEVER, WHETHER EXPRESS OR IMPLIED OR ARISING BY OPERATION OF LAW, INCLUDING ANY IMPLIED OR EXPRESS WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR CONFORMITY TO MODELS OR SAMPLES OR MATERIALS. Notwithstanding the foregoing, Seller hereby assigns to Buyer all warranties which Seller received relating to the Equipment.

Nothing herein shall be deemed or construed as an assumption by Buyer of, and Buyer does not hereby assume, any obligations or liabilities of Seller with respect to any of the Property which existed prior to the date hereof. However, Buyer hereby assumes any and all liability owed or which may become owed to any third party arising out of or in any way related to Buyer's acquisition, use or disposal of the Equipment, including but not limited to damages to any persons or property incurred after the date of this Bill of Sale.

This Bill of Sale constitutes the entire agreement between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions, and prior agreements and understandings relating to the sale of the Equipment. This Bill of Sale shall be governed and construed in accordance with the laws of the State of Ohio. No modification or waiver of any provision hereof will be effective unless made in writing and signed by Seller and Buyer, and then only to the extent provided in such writing.

IN WITNESS WHEREOF, this Bill of Sale is being executed and delivered by Seller as of \_\_\_\_\_, 2021.

**CITY OF NAPOLEON, OHIO**

BY: \_\_\_\_\_  
Joel L. Mazur  
City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Bill Harmon  
Law Director

ACCEPTED AND AGREED:

AMP TRANSMISSION, LLC

By: \_\_\_\_\_  
Name: Pamala M. Sullivan  
Title: President

Approved as to Form:

By: \_\_\_\_\_  
Name: Lisa G. McAlister  
Title: General Counsel

**Assignment and Assumption Agreement by and between  
AMP Transmission, LLC and Napoleon, Ohio  
Related to the Industrial Substation**

This Assignment and Assumption Agreement (the "Agreement"), effective as of \_\_\_\_\_, 2021 (the "Effective Date"), is by and between the City of Napoleon, Ohio ("Seller") and AMP Transmission, LLC ("Buyer").

WHEREAS, Seller and Buyer have entered into a certain Asset Purchase and Sale Agreement, dated as of \_\_\_\_\_, 2021 (the "Purchase Agreement") by and among Buyer and Seller, pursuant to which, among other things, Seller has agreed to assign and transfer, and Buyer has agreed to accept and assume, certain rights and obligations of the Seller under the Assigned Contracts and the Assumed Liabilities, on the terms and subject to the conditions more fully described in the Purchase Agreement.

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

1. Definitions. All capitalized terms used in this Agreement but not otherwise defined herein are given the meanings set forth in the Purchase Agreement.
2. Assignment and Assumption. Seller hereby sells, assigns, grants, conveys and transfers to Buyer all of Seller's right, title and interest in and to the Assigned Contracts and the Assumed Liabilities. Buyer hereby accepts and assumes the assignment and transfers of the Assigned Contracts and the Assumed Liabilities pursuant to the terms and conditions set forth in the Purchase Agreement.
3. Terms of the Purchase Agreement. The terms of the Purchase Agreement, including, but not limited to, the representations, warranties, covenants, agreements and indemnities relating to the Assigned Contracts are incorporated herein by this reference. The parties hereto acknowledge and agree that the representations, warranties, covenants, agreements and indemnities contained in the Purchase Agreement shall not be superseded hereby but shall remain in full force and effect to the full extent provided therein. In the event of any conflict or inconsistency between the terms of the Purchase Agreement and the terms hereof, the terms of the Purchase Agreement shall govern.
4. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without giving effect to any choice or conflict of law provision or rule.

5. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the date first above written.

**SELLER:**

THE CITY OF NAPOLEON, OHIO

By: \_\_\_\_\_  
Name: Joel L. Mazur  
Title: City Manager

Approved as to form:

By: \_\_\_\_\_  
Name: Bill Harmon  
Title: Law Director

**BUYER:**

AMP TRANSMISSION, LLC

By: \_\_\_\_\_  
Name: Pamala M. Sullivan  
Title: President

Approved as to form:

By: \_\_\_\_\_  
Name: Lisa G. McAlister  
Title: General Counsel

**CERTIFICATE OF NON FOREIGN STATUS**

Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code"), provides that a transferee (buyer) of a U.S. real property interest must withhold tax if the transferor (seller) is a foreign person. To inform AMP Transmission, LLC (the "Transferee") that withholding of tax is not required upon the disposition of a U.S. real property interest by the City of Napoleon, Ohio (the "Transferor"), the undersigned hereby certifies the following on behalf of the Transferor:

1. That the Transferor is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Internal Revenue Code and the Treasury Regulations promulgated thereunder);
2. That the Transferor is not a disregarded entity as defined in the Treasury Regulation Section 1.1445-2(b)(2)(iii);
3. The Transferor's U.S. Employer Identification Number is: 34-6400941; and,
4. The Transferor's address is: 255 West Riverview Avenue, PO Box 151, Napoleon, Ohio 43545.

The Transferor understands that this certification will be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment or both.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE EXAMINED THIS CERTIFICATION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IT IS TRUE, CORRECT AND COMPLETE, AND I FURTHER DECLARE THAT I HAVE AUTHORITY TO SIGN THIS DOCUMENT ON BEHALF OF THE TRANSFEROR.

DATED: \_\_\_\_\_

**City of Napoleon, Ohio**

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

Joel L. Mazur  
City Manager, City of Napoleon, Ohio

**RESOLUTION NO. 025-21**

**A RESOLUTION AUTHORIZING AND DIRECTING THE FINANCE DIRECTOR OF THE CITY OF NAPOLEON TO CERTIFY AND FILE ANNUAL SPECIAL ASSESSMENTS OF THE CITY OF NAPOLEON, OHIO, WITH THE COUNTY AUDITOR OF HENRY COUNTY FOR PLACEMENT AND COLLECTION ON THE 2021 TAX DUPLICATES PAYABLE IN THE YEAR 2022; AND DECLARING AN EMERGENCY**

**WHEREAS**, this Council in accordance with all relevant provisions of law and by Ordinance has previously established special assessments for various projects in the City; and,  
**WHEREAS**, these special assessments must be annually certified to the County Auditor by the Clerk of the Municipality; **Now Therefore**,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:**

Section 1. That, the City Council of the City of Napoleon, Ohio, directs the Finance Director to certify and file annual special assessments of the City with the County Auditor, as required by Section 727.30 of the Ohio Revised Code, in the form presented to Council and on file in the office of the Finance Director, attached and marked as (Exhibit "A"), for placement and collection on the 2021 tax duplicates, payable in the year 2022.

Section 2. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 3. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 4. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow timely placement of special assessments on the tax rolls; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to certify and file said assessments in a timely manner which affects the public peace, health, and safety accessible to our citizens, and for further reasons as stated in the Preamble hereof.

Passed: \_\_\_\_\_  
Joseph D. Bialorucki, Council President

Approved: \_\_\_\_\_  
Jason P. Maassel, Mayor

VOTE ON PASSAGE \_\_\_\_\_ Yea \_\_\_\_\_ Nay \_\_\_\_\_ Abstain

Attest:

---

Roxanne Dietrich, Clerk of Council

*I, Roxanne Dietrich, interim Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Resolution No. 025-21 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, 2021; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

---

*Roxanne Dietrich, Clerk of Council*



# City of *NAPOLÉON*, Ohio

255 West Riverview Avenue • P.O. Box 151

Napoleon, Ohio 43545-0151

Phone: (419) 592-4010 • Fax: (419) 599-8393

Web Page: [www.napoleonohio.com](http://www.napoleonohio.com)

July 16, 2021

Kevin Garringer  
Henry County Auditor  
P.O. Box 546  
Napoleon, Ohio 43545

Dear Mr. Garringer:

I hereby certify that the identified Special Assessments have been levied upon the following lots and lands:

<u>CODE</u>	<u>PROJECT</u>	<u>REMAINING YEARS</u>	<u>ASSESSMENT AMOUNT</u>
208	North Pointe Water Main & Dist Sys	3	2,254.00
209	North Pointe Pump Station & Force Main	3	3,793.03
210	North Pointe Collector Sewer	3	3,044.39
211	North Pointe East Interceptor Sewer	3	2,459.84
212	North Pointe West Interceptor Sewer	3	3,652.98
296	South Side Sewer/Storm & Sanitary	11	2,218.53

These Special Assessments are for the 2021 tax duplicates payable in the year 2022. If you have any questions, please call Kim Franz at 419-599-1235. Thank you for processing.

Sincerely,

Kelly O'Boyle  
Finance Director



# City of *NAPOLEON*, Ohio

255 West Riverview Avenue • P.O. Box 151  
Napoleon, Ohio 43545-0151  
Phone: (419) 592-4010 • Fax: (419) 599-8393  
Web Page: [www.napoleonohio.com](http://www.napoleonohio.com)

July 16, 2021

Kevin Garringer  
Henry County Auditor  
P.O. Box 546  
Napoleon, Ohio 43545

Dear Mr. Garringer:

I hereby certify that the Special Assessments have been levied up the following lots and lands for nuisance control:

<u>PARCEL NO.</u>	<u>ASSESSMENT</u> <u>AMOUNT</u>	<u>AUDITOR FEE - 3%</u>	<u>TOTAL</u> <u>ASSESSMENT</u>
41.009544.0020	\$ 55.00	\$1.65	\$ 56.65
41.009512.0120	\$ 55.00	\$1.65	\$ 56.65
41.009063.0120	\$ 55.00	\$1.65	\$ 56.65
		<b>TOTAL</b>	<b>\$169.95</b>

This is to be applied upon the tax listings for the year 2021 and collected in the year 2022.

Sincerely,

  
Kelly O'Boyle  
Finance Director

**RESOLUTION NO. 026-21**

**A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR OF HENRY COUNTY FOR THE 2021 TAX DUPLICATES PAYABLE IN YEAR 2022; AND DECLARING AN EMERGENCY**

**WHEREAS**, this Council in accordance with all relevant provisions of law has previously adopted a Tax Budget (Ordinance No. 019-21) for the next succeeding fiscal year commencing January 1, 2022; and,

**WHEREAS**, the Budget Commission of Henry County, Ohio, has certified its action thereon to this Council together with an estimate of the County Auditor of the rate of each tax necessary to be levied by this Council, and what part thereof is without, and what part within the ten mill tax limitation; **Now Therefore**,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:**

Section 1. That, the amounts and rates, as determined by the Budget Commission in its certification, be and the same are hereby accepted; further, the necessary tax levies are authorized to be certified to the County Auditor for the 2021 Tax Duplicates, payable in the year 2022.

Section 2. That, there be and is hereby levied on the tax duplicate of the City the rate of each tax necessary to be levied within and without the ten mill limitation as follows:

<b>SCHEDULE A</b>				
<b>SUMMARY OF AMOUNTS REQUIRED FROM GENERAL PROPERTY TAX APPROVED BY BUDGET COMMISSION, AND COUNTY AUDITOR'S ESTIMATED TAX RATES</b>				
City Tax Valuation <b>\$170,686,730</b>	Amount to Be Derived from Levies Outside 10 Mill Limitation	Amount Approved by Budget Commission Inside 10 Mill Limitation	County Auditor's Estimate of Tax Rate to be Levied	
FUND			Inside 10 Mill Limit	Outside 10 Mill Limit
General Fund		\$341,373	2.0	
Police District Fund		\$102,412	0.6	
Fire District Fund		\$51,206	0.3	
Park & Rec Levy Fund	\$288,842			1.9
<b>TOTAL</b>	<b>\$288,842</b>	<b>\$494,991</b>	<b>2.9</b>	<b>1.9</b>

Section 3. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 4. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 5. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow timely adoption of tax levies for placement on tax rolls; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to authorize and certify said tax levies in a timely manner which affects the public peace, health, and safety accessible to our citizens, and for further reasons as stated in the Preamble hereof.

Passed: \_\_\_\_\_  
Joseph D. Bialorucki, Council President

Approved: \_\_\_\_\_  
Jason P. Maassel, Mayor

VOTE ON PASSAGE \_\_\_\_ Yea \_\_\_\_ Nay \_\_\_\_ Abstain

Attest:

\_\_\_\_\_  
Roxanne Dietrich, Clerk of Council

*I, Roxanne Dietrich, Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Resolution No. 026-21 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, 2021; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances of Napoleon, Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

\_\_\_\_\_  
Roxanne Dietrich, Clerk of Council

**RESOLUTION NO. 027-21**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS NECESSARY TO APPLY FOR AND ACCEPT OHIO PUBLIC WORKS COMMISSION STATE CAPITAL IMPROVEMENT PROGRAM (SCIP) AND LOCAL TRANSPORTATION IMPROVEMENT PROGRAM (LTIP) FUNDS FOR PROJECTS DEEMED NECESSARY BY THE CITY ENGINEER IN THE YEAR 2022; AND DECLARING AN EMERGENCY**

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:**

Section 1. That, the City Manager is directed to execute all documents necessary to apply for and accept Ohio Public Works Commission State Capital Improvement Program (SCIP) and Local Transportation Improvement Program (LTIP) funds for the year for projects deemed necessary by the City Engineer in the Year 2022, including but not limited to execution of Grant Agreement(s).

Section 2. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 3. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 4. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to assure the prompt and efficient application for project funds related to public peace, health or safety of the City; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to be in effect at the earliest possible time to allow for proper and timely application of grant funds, and for further reasons as stated in the Preamble hereof.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Joseph D. Bialorucki, Council President

Approved: \_\_\_\_\_

\_\_\_\_\_  
Jason P. Maassel, Mayor

VOTE ON PASSAGE \_\_\_\_ Yea \_\_\_\_ Nay \_\_\_\_ Abstain

Attest:

---

Roxanne Dietrich, Clerk of Council

*I, Roxanne Dietrich, Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Resolution No. 027-21 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, 2021; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

---

*Roxanne Dietrich, Clerk of Council*

**ORDINANCE NO. 020-21**

**AN ORDINANCE APPROVING CURRENT JUNE 2021 REPLACEMENT PAGES TO THE CITY OF NAPOLEON CODIFIED ORDINANCES**

**WHEREAS**, certain provisions within the Codified Ordinances should be amended to conform with current State law as required by the Ohio Constitution; and,

**WHEREAS**, various ordinances of a general and permanent nature have been passed by Council which should be included in the Codified Ordinances; and,

**WHEREAS**, the City has heretofore entered into a contract with the American Legal Publishing Corporation (formerly known as Walter H. Drane Company) to prepare and publish such revision which is before Council; **Now Therefore**,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:**

Section 1. That, the Ordinances of the City of Napoleon, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections within the June 2021 Replacement Pages to the Codified Ordinances are hereby approved and adopted; such having been certified as correct by the Clerk of Council and the Mayor.

Section 2. That, among others, the following sections and chapters are hereby added, amended or repealed as respectively indicated in order to comply with current State law.

Traffic Code

301.182 Low-Speed Micromobility Device. (Added)

301.22 Pedestrian. (Amended)

301.52 Vehicle. (Amended)

331.37 Driving Upon Sidewalks, Street Lawns or Curbs. (Amended)

335.04 Certain Acts Prohibited. (Amended)

371.13 Operation of Personal Delivery Device on Sidewalks and Crosswalks. (Added)

371.14 Low-Speed Micromobility Devices. (Added)

373.10 Motorized Bicycle Operation. (Amended)

373.13 Electric Bicycles. (Amended)

General Offenses Code

501.99 Penalties for Misdemeanors. (Amended)

Section 3. That, the complete text of all current Codified changes is set forth in the current replacement pages to the City of Napoleon's Codified Ordinances, said pages which are attached to this Ordinance as Exhibit "A." Any summary publication of this Ordinance shall include a complete listing of these sections. Notice of adoption of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

Section 4. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council

and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon, Ohio.

Section 5. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 6. That, upon passage, this Ordinance shall take effect at the earliest time permitted by law.

Passed: \_\_\_\_\_  
Joseph D. Bialorucki, Council President

Approved: \_\_\_\_\_  
Jason P. Maassel, Mayor

VOTE ON PASSAGE \_\_\_\_ Yea \_\_\_\_ Nay \_\_\_\_ Abstain

Attest:

\_\_\_\_\_  
Roxanne Dietrich, Clerk of Council

*I, Roxanne Dietrich, Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Ordinance No. 020-21 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, 2021; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

\_\_\_\_\_  
*Roxanne Dietrich, Clerk of Council*



# City of Napoleon, Ohio

## Department of Public Works

255 West Riverview Avenue, P.O. Box 151

Napoleon, OH 43545

Chad E. Lulfs, P.E., P.S., Director of Public Works

Telephone: (419) 592-4010 Fax: (419) 599-8393

[www.napoleonohio.com](http://www.napoleonohio.com)

## Memorandum

**To:** Joel L. Mazur, City Manager  
**From:** Chad E. Lulfs, P.E., P.S., Director of Public Works  
**cc:** City Council & Mayor  
Roxanne Dietrich, Clerk of Council  
Jeff Rathge, Operations Superintendent  
**Date:** July 28, 2021  
**Subject:** 2021 Street Striping ~ Recommendation of Award

On Wednesday, July 28, 2021, bids were opened and read aloud for the above referenced project. One bid was submitted and read as follows:

Griffin Pavement Striping, L.L.C.

\$129,334.09

The Engineer's Estimate for this project is \$120,000.00. This project consists of restriping all streets inside the corporation limits of the City of Napoleon except for those streets scheduled to be resurfaced or replaced as part of another City contract. The completion date for this project is September 25, 2021.

The budgeted amount for this project is \$120,000.00 from the 203.5100.53630 account. The low bid exceeds the budget amount by \$9,334.09. I recommend using funds from the 200.5110.54260 account or 204.5100.54260 account to cover the budget shortfall. These funds are budgeted for purchase of salt. The salt bids were received this week and were substantially below the budgeted amount.

**Having reviewed the submitted bids, it is my recommendation that Council award Griffin Pavement Striping, L.L.C. the contract for the 2021 Street Striping in the amount of \$129,334.09.** If you have any questions or require additional information, please contact me at your convenience.

CEL





# City of *NAPOLEON*, Ohio

255 West Riverview Avenue • P.O. Box 151  
Napoleon, Ohio 43545-0151  
Phone: (419) 592-4010 • Fax: (419) 599-8393  
Web Page: [www.napoleonohio.com](http://www.napoleonohio.com)

August 2, 2021

*Mayor*  
Jason Maassel

*Members of Council*

**PRESIDENT:**  
Joseph Bialorucki

**PRESIDENT PRO-TEM:**  
Daniel Baer

Molly Knepley  
Jeff Comadoll  
Kenneth Haase  
J. Ross Durham  
Lori Siclair

*City Manager/  
Acting Finance Director*  
Joel L. Mazur

*Law Director*  
Billy D. Harmon

Henry County Agricultural Society  
Attn: Mr. Wayne Michaelis  
614 N. Perry St.  
Napoleon, OH 43545

Re: City of Napoleon Contribution to the HC Agricultural Society

Dear Mr. Michaelis,

The Napoleon City Council recently received a presentation from the Henry County Ag Improvement Association regarding the intentions to construct a new modern facility for animal shows and general use at the Henry County Fair Grounds. The presentation was concise and the plan to achieve this goal was well organized. The City recognizes that this facility would help attract people to Napoleon and help generate agritourism activity for the betterment of the City, its businesses and its residents.

In consideration of this project, the City of Napoleon would like to offer a way to help the project meet the financial goal to see the project through. The City is willing to help offset ongoing costs for operating the facility by reducing the electric utility rates for the facility. The City proposes to offset costs by reducing the electric bill for the facility by 100% of the first full year of operation, 75% for the second full year of operation, 50% for the third full year of operation and 25% for the fourth full year of operation. This would be calculated based on actual usage and billed accordingly each month. The average annual electric expenses for the entire facility from 2018 and 2019 are approximately \$28,500. This cost offset for the facility is estimated at \$71,250 over the 4-year period.

The City of Napoleon is also willing to waive any tap fees, permit fees and electric utility connection fees and costs associated with the construction of the facility. This is estimated at a \$14,000 value.

This offer is subject to City Council approval and would only take effect if the project is completed. We appreciate your efforts in making improvements to Henry County Fair Grounds. We hope that as the project continues, we will be able to assist to make this project a success. Please contact me at (419) 592-4010 or at [jmazur@napoleonohio.com](mailto:jmazur@napoleonohio.com) if you have any questions or need additional information.

Sincerely,

---

Joel L. Mazur  
City Manager

## **ECONOMIC DEVELOPMENT AND REAL ESTATE PURCHASE AGREEMENT**

This ECONOMIC DEVELOPMENT AND REAL ESTATE PURCHASE AGREEMENT (this “*Agreement*”) is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2021 (the “*Effective Date*”), by and between the CITY OF NAPOLEON (the “*City*”), an Ohio municipal corporation duly organized and validly existing under the Constitution and the laws of the State of Ohio (the “*State*”) and its Charter, THE COMMUNITY IMPROVEMENT CORPORATION OF HENRY COUNTY, OHIO (the “*CIC*”), an Ohio nonprofit corporation duly organized and validly existing under the laws of the State and KELLER LOGISTICS GROUP, INC. (the “*Company*”) an Ohio corporation. The City, the CIC and the Company may hereinafter be referred to individually as a “*Party*”, or collectively as the “*Parties*.”

### **Recitals**

WHEREAS, the City desires to encourage commercial and industrial development and create and preserve jobs and employment opportunities within the City; and

WHEREAS, based on the results of an examination of office space needs within the City, and induced by and in reliance on the economic development incentives provided in this Agreement, the Company expects to build an approximate 100,000 square foot industrial building in the City (the “*Building*”); and

WHEREAS, to facilitate the construction of the Building, which the City reasonably expects will result in the creation of new jobs and employment opportunities within the City, the City has agreed to provide certain incentives to the Company and sell a parcel of real property (which parcel is depicted on EXHIBIT A and referred to herein as the “*Property*”) to the Company for a purchase price of Thirty Thousand Three Hundred and 00/100 Dollars (\$30,300.00) and other valuable consideration provided herein, including construction of the Building by April 1, 2023; and

WHEREAS, pursuant to Ordinance No. \_\_\_\_\_ passed on \_\_\_\_\_, 2021 (the “*Ordinance*”), the City has determined to offer the economic development incentives described herein to induce the Company to construct the Building within the City, which the City expects will result in the creation of new jobs and employment opportunities within the City and will improve the economic welfare of the people of the State and the City, all as authorized in Article VIII, Section 13 of the Ohio Constitution.

### **End of Recitals**

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City, the CIC and the Company covenant, agree and obligate themselves to the foregoing Background Information and as follows:

## **ARTICLE I GENERAL AGREEMENT AND TERM**

**Section 1. General Agreement Among Parties.** For the reasons set forth in the Recitals hereto, which Recitals are incorporated herein by reference as a statement of the public purposes of this Agreement and the intended arrangements between the Parties, the Parties intend to and shall cooperate in the manner described herein to provide certain incentives to the Company and facilitate the construction of the Building.

**Section 2. Term of Agreement.** This Agreement shall become effective as of the Effective Date and will continue until the Parties' respective obligations set forth herein have been fulfilled, unless earlier terminated in accordance with this Agreement.

**Section 3. No Implied Obligations for Future Development.** Except as otherwise expressly provided herein, the rights and obligations of the Parties under this Agreement pertain only to the provision of certain incentives described herein and facilitating the construction of the Building. This Agreement creates no obligation by any Party to cooperate in the design, financing or construction of any development other than the project described herein.

**Section 4. No Partnership or Joint Venture.** This Agreement does not and may not be construed to create a partnership or joint venture between or among any of the Parties.

## **ARTICLE II REPRESENTATIONS OF THE PARTIES**

**Section 1. Representations by the City.**

(a) The City is a municipal corporation duly organized and validly existing under the Constitution and the applicable laws of the State and its Charter.

(b) The City has the power and authority to enter into and perform this Agreement.

(c) This Agreement has been duly authorized, executed and delivered by the City and constitutes the legal, valid and binding obligation of the City enforceable in accordance with its terms.

(d) Neither the entry into nor the performance of and compliance with this Agreement has resulted or will result in any violation of, or a conflict with or a default under, any judgment, decree, order, contract or agreement by which the City is bound or any legal requirement applicable to the City.

(e) There is no action, proceeding or investigation pending or, to the City's actual knowledge, threatened, which questions, directly or indirectly, the validity or enforceability of this Agreement or any action taken or to be taken pursuant to this Agreement.

(f) No representation or warranty of the City in this Agreement contains any untrue statement of material fact or omits a statement of a material fact necessary in order to make such representation or warranty not misleading in light of the circumstances under which it is made.

(g) Ordinance No. \_\_\_\_\_ passed by City Council on \_\_\_\_\_, 2021, authorizing the execution and delivery of this Agreement, has been duly passed and is in full force and effect as of the Effective Date.

**Section 2. Representations by the CIC.**

(a) The CIC is an Ohio nonprofit corporation duly organized and validly existing under the laws of the State.

(b) The CIC has the power and authority to enter into and perform this Agreement.

(c) This Agreement has been duly authorized, executed and delivered by the CIC and constitutes the legal, valid and binding obligation of the CIC enforceable in accordance with its terms.

(d) Neither the entry into nor the performance of and compliance with this Agreement has resulted or will result in any violation of, or a conflict with or a default under, any judgment, decree, order, contract or agreement by which the CIC is bound or any legal requirement applicable to the CIC.

(e) There is no action, proceeding or investigation pending or, to the CIC's actual knowledge, threatened, which questions, directly or indirectly, the validity or enforceability of this Agreement or any action taken or to be taken pursuant to this Agreement.

(f) No representation or warranty of the CIC in this Agreement contains any untrue statement of material fact or omits a statement of a material fact necessary in order to make such representation or warranty not misleading in light of the circumstances under which it is made.

**Section 3. Representations by the Company.**

(a) The Company is an Ohio corporation duly organized and validly existing under the laws of the State.

(b) The Company has the power and authority to enter into and perform this Agreement.

(c) This Agreement has been duly authorized, executed and delivered by the Company and constitutes the legal, valid and binding obligation of the Company enforceable in accordance with its terms.

(d) Neither the entry into nor the performance of and compliance with this Agreement has resulted or will result in any violation of, or a conflict with or a default under, any judgment, decree, order, contract or agreement by which the Company is bound or any legal requirement applicable to the Company.

(e) There is no action, proceeding or investigation pending or, to the Company's actual knowledge, threatened, which questions, directly or indirectly, the validity or enforceability of this Agreement or any action taken or to be taken pursuant to this Agreement, or which might result in any material adverse change in the condition (financial or otherwise) or business of the Company.

(f) No representation or warranty of the Company in this Agreement contains any untrue statement of material fact or omits a statement of a material fact necessary in order to make such representation or warranty not misleading in light of the circumstances under which it is made.

(g) The Company is in compliance with State of Ohio campaign financing laws contained in Chapter 3517 of the Ohio Revised Code, including, but not limited to, Section 3517.13(I) of the Ohio Revised Code.

(h) The Company is currently in compliance with, and not currently in violation of, any provisions of Section 2921.42 of the Ohio Revised Code that may be applicable to it, and that (i) has reviewed and understands the Ohio ethics and conflict of interest laws including, without limitation, Sections 102.01 et seq., 2921.01, 2921.42 and 2921.43 of the Ohio Revised Code, and (ii) will take no action inconsistent with those laws, as any of them may be amended or supplemented from time to time.

(i) The Company is not aware of any finding for recovery having been issued against it by the Auditor of the State of Ohio which is "unresolved" under Section 9.24 of the Ohio Revised Code.

### **ARTICLE III ECONOMIC DEVELOPMENT INCENTIVES**

**Section 1. General.** In consideration for the Company's agreement to construct the Building, which the City expects will result in the creation of new jobs and employment opportunities within the City and will improve the economic welfare of the people of the State and the City, the City and the CIC agree to respectively provide certain economic development incentives to the Company in accordance with this Article III.

**Section 2. Community Reinvestment Area.**

(a) General. On \_\_\_\_\_, 20\_\_ , the City Council of the City adopted Resolution No. \_\_\_ (the "*CRA Resolution*") authorizing the creation of Community Reinvestment Area #7, which on \_\_\_\_\_, 20\_\_ was designated by the State of Ohio as CRA# 069-53550-02 (the "*City CRA*"). Pursuant to the CRA Resolution, the City is permitted to approve real property tax exemptions for the construction of commercial developments within the City CRA of up to 100% for up to 15 years.

(b) Real Property Tax Exemption. The City agrees to provide to the Company, as the owner of the Property, a 100% real property tax exemption for 10 years in respect of the construction of the Building, all in accordance with the CRA Resolution and Ohio Revised Code Section 3735.65, *et seq.* The Company agrees that the City will coordinate with the CIC to process the real property tax exemption.

**Section 3. Utility Services.** The City agrees that it will finance and construct and/or install any municipal electric service that is reasonably determined by the City to be necessary to provide utility service to the Property; *provided* that any connection required to provide service from the City owned portion of the utilities to the Building shall be financed and constructed by the Company detailed in the following paragraph. In addition, the City shall finance and install one pad mount electric transformer and other associated underground electric utility lines, conduit, meter(s), connections and related appurtenances on the Property and shall be and remain as owned by the City.

The Company agrees that it will finance and construct and/or install any utility connections and related appurtenances within the Property (the “*Onsite Utility Connections*”) which are necessary to provide service from the City’s main service lines to the Building, which Onsite Utility Connections and related appurtenances shall be installed and inspected pursuant to plans and specifications approved by the City in accordance with City’s standard requirements. The City agrees that it will waive any fees or charges customarily levied by the City and related to the connection of the Building’s Onsite Utility Connection Lines to the City’s municipal electric, sanitary sewer and water systems; *provided* that the Company has otherwise complied with this Section III.3.

**Section 4. Napoleon Golf Club and Aquatic Center Corporate Memberships.** Corporate memberships to the Napoleon Golf Club and Napoleon Aquatic Center will be provided to the Company for 3 years starting in the calendar year of 2022. This allows all employees of the Company memberships to these facilities, which include free greens fees for individual employees of the Company and family memberships to the Napoleon Aquatic Center for the families of the employees of the Company for 3 years starting in calendar year 2022.

**Section 5. Additional Economic Incentives.** The Company is satisfied with the economic viability of the proposed Building, including but not limited to the Company's receipt of certain grants and other economic incentives which it intends to seek from the State of Ohio. Should the Company fail to receive satisfactory economic incentives from the State of Ohio during the Inspection Period, or otherwise determine during the Inspection Period that the proposed building is not economically viable, the Company may terminate this Agreement by delivering written notice of such intent to the City.

#### ARTICLE IV REAL ESTATE CONVEYANCE

**Section 1. Sale of Real Property.** The City hereby agrees to sell the Property to the Company, and the Company hereby agrees to purchase the Property from the City, upon the terms and conditions of this Agreement for the sum of Thirty Thousand Three Hundred and 00/100 Dollars (\$30,300.00) (the “*Purchase Price*”).

**Section 2. Consideration to City.** The Company agrees to construct on or before April 1, 2023, evidenced by the issuance of a certificate of occupancy permit for One Hundred Thousand (100,000) square feet, an industrial building on the Property. If the Company fails to meet the condition in this Section IV.2, the Company agrees that it will no later than July 1, 2023 reimburse the City in an amount equal to the following calculation – (a) the Fair Market Value of

the Property as of June 1, 2022 minus (b) the Fair Market Value of any improvement that exists upon the Property as of June 1, 2022 minus (c) \$30,300.00 but in any event no less than zero. For purposes of this Section IV.2, “*Fair Market Value*” shall be determined by an appraiser that is mutually agreed upon by the City and the Company. The provisions of this Section IV.2 shall survive the delivery of the deed to the Property.

**Section 3. Due Diligence.** To the extent the City has not already done so, within ten (10) days following the Effective Date, the City shall deliver to the Company all of the following documentation, to the extent that such documentation and information is within the possession or reasonable control of the City or any officer or agent of the City or can be secured through ordinary means by the City or any officer or agent of the City: (a) copies of any tenant leases with respect to the Property; (b) copies of all material agreements with respect to the use or operation of the Property; (c) copies of all title policies, title commitments and surveys of the Property; and (d) copies of all hazardous waste or environmental audits, soil tests, utility studies, water retention (storm sewer) and civil engineering drawings, studies, tests, examinations, reports and other material documentation with respect to the physical and environmental condition of the Property including but not limited to any orders, correspondence, consents, permits or approvals from any governmental entities or authorities.

**Section 4. Contingencies.**

(a) **Environmental Inspection.** For a period of sixty (60) days from the Effective Date (the “*Inspection Period*”), the City agrees to permit the Company, the Company’s lender and any qualified, professional environmental consultant or consultants retained by the Company or its prospective lender(s) to conduct, at the expense of the Company, environmental site assessments of the Property as the Company may deem necessary. The Company agrees to indemnify and hold harmless the City from any injury or damage to persons, property and crops caused by such inspection and to promptly restore the Property to substantially the condition in which the same were found before such inspection. If such assessment is obtained and the consultant recommends further inspection to determine the extent of suspected contamination or recommends remedial action, the Company, at its option, may notify the City in writing prior to the expiration of the Inspection Period that this Agreement is null and void. Failure of the Company to deliver written notice and a copy of the environmental report(s) within such time period shall constitute a waiver of the Company’s right to terminate this Agreement pursuant to this provision. The indemnification herein shall survive the termination of this Agreement.

(b) **Property Inspection.** The Company, at its own expense, may during the Inspection Period inspect the Property, including any and all improvements, fixtures and equipment contained thereon (if any). The Company may undertake any non-invasive inspection of the Property with prior notice to, but without the consent of, the Company but before performing any invasive testing shall obtain the prior written consent of the City. The City shall cooperate in making the Property reasonably available for such inspection(s). The Company agrees to indemnify and hold the City harmless from any injury or damage to persons, property and crops caused by such inspection(s) and to restore the Property to substantially the condition in which the same was found before such inspection. If the Company is not, in good faith, satisfied with the condition of the Property as disclosed by such inspection(s), the Company may terminate this Agreement by delivering written notice of such termination to the City, along with a written copy of such inspection report(s), prior

to the expiration of the Inspection Period, which notice and report(s) shall specify the unsatisfactory conditions. Failure of the Company to deliver written notice and copy of the inspection report(s) prior to the expiration of the Inspection Period shall constitute a waiver of the Company's right to terminate this Agreement pursuant to this provision. The indemnification herein shall survive the termination of this Agreement.

(c) Liability Insurance. Prior to first entering the Property to undertake an inspection as permitted in this Agreement, the Company shall provide to the City evidence that the Company maintains general liability insurance in an amount of at least \$1,000,000 and naming the City as an additional insured and shall maintain such insurance thereafter for so long as this Agreement is in effect.

(d) Survey Approval. The Company may, at its own expense, hire a surveyor registered in the State to perform an ALTA survey (the "*Survey*") and legal description of the Property.

(e) Zoning Approval. The Company shall obtain all zoning approvals needed for the site development prior to the Closing (as hereinafter defined). The City will reasonably cooperate in good faith with the Company to obtain any needed zoning approvals.

**Section 5. Title Examination.**

(a) The Company may obtain, at its own expense and through a title company and/or agency of its choosing in its sole discretion (the "*Title Insurance Company*"), a letter report ("*Letter Report*") or an ALTA Commitment for Title Insurance (2006) (the "*Title Commitment*"), which Letter Report or Title Commitment shall show all recorded liens and encumbrances affecting the Property, as the case may be, and shall include copies of all documents referenced in the Letter Report or Title Commitment. The Letter Report or Title Commitment obtained by the Company shall show in the City good and marketable title to the Property, free and clear of all liens, charges, encumbrances and clouds of title, whatsoever, except the following ("*Permitted Encumbrances*"):

- (i) Those created or assumed by the Company;
- (ii) Zoning ordinances;
- (iii) Legal highways and public rights-of-way;
- (iv) Real estate taxes which are liens on the Property, but which are not yet due and payable; and
- (v) Covenants, restrictions, conditions and easements of record which do not unreasonably interfere with the Company's proposed use of the Property.

(b) Title Insurance. At the Closing, the Company shall have the right to purchase, at its own expense, title insurance coverage for the Property.

(c) Title Defects. In the event that an examination of either the Title Commitment/Letter Report or the Survey discloses any matter adversely affecting title to the Property, or if title to the Property is not marketable, as determined by Ohio law with reference to the Ohio State Bar Association's Standards of Title Examination, or in the event of any encroachment or other defect shown by the Survey (the foregoing collectively referred to as, "*Property Defects*"), the Company may, at least ten (10) days prior to the expiration of the Inspection Period, provide the City with written notice of any such Defects to which the Company is objecting. The City may, but shall have no obligation to, within five (5) days following receipt of such written notice to cure or remove any such Property Defects to the reasonable satisfaction of the Company or for the Company to complete its due diligence review of the Property. If the City is unable or unwilling to cure or remove such Property Defects, then the Company, at its option, may notify the City in writing prior to the expiration of the Inspection Period that this Agreement is null and void. Failure of the Company to deliver written notice within such time period shall constitute a waiver of the Company's right to terminate this Agreement pursuant to this provision.

**Section 6. Possession and Closing.**

(a) Closing Date. The Property shall be closed through the \_\_\_\_\_ Title Agency, LLC (the "*Closing*") on a date mutually agreeable to the parties but in any event no later than thirty (30) days following expiration of the Inspection Period, which Closing date may be extended in writing by mutual agreement of the Parties and shall be extended by such time, if any, as is necessary to cure any Property Defects as set forth in Section IV.5 hereof.

(b) Limited Warranty Deed. At the Closing, the City shall convey to the Company fee simple title to the Property, by validly executed, recordable limited warranty deed, free and clear of all liens and encumbrances, except the Permitted Encumbrances applicable to the Property and as stated in the instrument.

(c) Adjustments at Closing. At the Closing, the City and the Company shall apportion, adjust, prorate and pay the following items in the manner hereinafter set forth:

(i) Real Estate Taxes, CAUV and Assessments. The City shall pay to the Henry County Treasurer all delinquent real estate taxes, if any, together with penalties and interest thereon, and assessments which are a lien against the Property as of the date of Closing (both current and reassessed, whether due or to become due and not yet payable). At the Closing the City shall credit against the Purchase Price a portion of all real estate taxes, if any, for the year in which the Closing occurs, prorated through the date of Closing. Any such proration of taxes shall be based upon a 365-day year. Said calculation at the Closing shall be final. Notwithstanding the foregoing, the Company and the City acknowledge that the Property is currently valued as "Current Agriculture Use Value" ("*CAUV*") property on the books of the Henry County Auditor and Treasurer. The Company shall be responsible for any and all real estate tax recoupment owed on the Property for removing it from CAUV.

(ii) The City's Expenses. The City shall, at the Closing (unless previously paid), pay the following expenses:

1. The cost of all municipal services and public utility charges (if any) applicable to the Property due through the date of Closing;

2. One-half (1/2) the fee, if any, charged by the Title Insurance Company for closing the transaction contemplated herein.

3. Any transfer taxes or deed stamps to the extent not exempt.

(iii) The Company's Expenses. The Company shall, at the Closing (unless previously paid), pay the following expenses:

1. The cost of furnishing the Title Commitment/Letter Report for the Property, and the premium for any owner's policy of title insurance for the Property desired by the Company;

2. The cost of recording the limited warranty deed transferring title in the Property to The Company;

3. The cost of all "due diligence" items conducted pursuant to Section IV.4 herein;

4. One-half (1/2) the fee, if any, charged by the Title Insurance Company for closing the transaction contemplated herein.

(iv) Other Closing Costs. All other closing costs and expenses not herein referenced and not specifically attributable to either the City or the Company shall be shared equally by the City and the Company.

(v) Brokers. Each Party represents and warrants that no realtor's or finder's fees, brokerage commissions, or other forms of compensation are due to any realtor or broker in connection with this transaction.

(vi) Other Documents. The Parties agree that such other documents as may be legally necessary or appropriate to carry out the terms of this Agreement shall be executed and delivered by the appropriate party to the Title Insurance Company at the Closing. Such documents shall include, but not be limited to, a settlement statement, affidavits regarding liens, unrecorded matters and possession as may be reasonably requested by the Title Insurance Company.

**Section 7. Warranties And Representations of the City Relating to the Property.**

The City hereby represents and warrants as follows:

(a) The City has not received any written notice or notices from any municipal, county, state or any other governmental agency or body, of any zoning, fire, health, environmental or building violation, or violation of any laws, ordinances, statutes or regulations relating to pollution or environmental standards, which have not heretofore been corrected;

(b) The execution, delivery and performance of this Agreement, and the consummation of the transaction contemplated hereby, will not result in any breach of, or constitute any default under, or result in the imposition of any lien or encumbrance against, the Property, under any agreement or other instrument to which the City is a party or by which the City or the Property might be bound;

(c) The City has no knowledge of any fact or condition which would result in the termination or material limitation of the existing pedestrian and/or vehicular access to the Property from abutting public roads;

(d) From the Effective Date through and until the Closing, the City shall not enter into any easement, lease or other contract pertaining to the Property that is not terminable without cost on no more than thirty (30) days' notice and shall not modify or change the condition of the Property, unless the Company has approved of such modification or change, which approval shall not be unreasonably withheld, conditioned or delayed; and

(e) The City is not a "Foreign Person" as that term is defined in the Foreign Investment in Real Property Tax Act.

**Section 8. Breach of Warranties Prior to Closing.** If, during the pendency of this Agreement, any warranty or representation under this Agreement shall be untrue, incorrect or misleading, in whole or in part, the same shall constitute a default hereunder.

**Section 9. Zoning and Plan Review Process.** The City agrees to reasonably cooperate with the Company and its consultants in connection with the preparation by the Company of the development plans for the Facilities to facilitate compliance by the Company with the City's zoning and planning standards and related review process.

**Section 10. As-Is. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE CITY HEREBY EXPRESSLY DISCLAIMS AND NEGATES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE CONDITION OF OR VALUE OF THE PROPERTY. THE COMPANY IS PURCHASING THE PROPERTY "AS-IS WHERE-IS" AND IS SOLELY RELYING ON ITS OWN DUE DILIGENCE AND INSPECTION OF THE PROPERTY.**

## ARTICLE V MISCELLANEOUS PROVISIONS

**Section 1. Assignment.** This Agreement may not be assigned without the prior written consent of all non-assigning Parties.

**Section 2. Binding Effect.** The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

**Section 3. Captions.** The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

**Section 4. Day for Performance.** Wherever herein there is a day or time period established for performance and such day or the expiration of such time period is a Saturday, Sunday or legal holiday, then such time for performance shall be automatically extended to the next business day.

**Section 5. Economic Development Assistance Certification.** The Company has made no false statements to the City in the process of obtaining approval of the incentives described in this Agreement. If any representative of the Company has knowingly made a false statement to the City to obtain the incentives described in this Agreement, the Company shall be required to immediately return all benefits received under this Agreement pursuant Ohio Revised Code Section 9.66(C)(2) and shall be ineligible for any future economic development assistance from the State, any State agency or a political subdivision pursuant to Ohio Revised Code Section 9.66(C)(1). The Company acknowledges that any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(F)(1), which is punishable by a fine of not more than \$1,000 and/or a term of imprisonment of not more than six months.

**Section 6. Entire Agreement.** This Agreement constitutes the entire Agreement between the Parties on the subject matter hereof and supersedes all prior negotiations, agreements and understandings, both written and oral, between the Parties with respect to such subject matter. This Agreement may not be amended, waived or discharged except in an instrument in writing executed by the Parties.

**Section 7. Events of Default.** in the event of any default in or breach of this Agreement, or any of its terms or conditions, by any Party hereto, the non-defaulting Party shall provide written notice to the defaulting Party of such default or breach. The defaulting Party shall have thirty (30) days following receipt of such written notice to cure or remedy such default or breach. If such default or breach is not timely cured, then the non-defaulting Party shall have such remedies as provided in Section 8 below.

**Section 8. Executed Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to constitute an original, but all of which together shall constitute but one and the same instrument. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

**Section 9. Extent of Covenants; No Personal Liability.** All covenants, obligations and agreements of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the City, the CIC or the Company other than in his or her official capacity, and neither the members of the legislative body of the City nor any City, CIC or Company official executing this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution thereof or by reason of the covenants, obligations or agreements of the City, the CIC and the Company contained in this Agreement.

**Section 10. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without regard to its principles of conflicts of laws.

All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, the CIC, its agents and employees, and the Company, its employees and agents, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Henry County, Ohio.

**Section 11. Limitation on Liability.** Notwithstanding any clause or provision of this Agreement to the contrary, in no event shall the City, the CIC or the Company be liable to each other for punitive, special, consequential, or indirect damages of any type and regardless of whether such damages are claimed under contract, tort (including negligence and strict liability) or any other theory of law.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

**Section 12. Notices.** Notice from one Party to another relating to this Agreement shall be deemed effective if made in writing and delivered to the recipient's address set forth below by any of the following means: (a) hand delivery, (b) registered or certified U.S. mail, postage prepaid, with return receipt requested, or (c) Federal Express, UPS, or like overnight courier service. Notice made in accordance with this Section shall be deemed delivered when delivered by hand, upon receipt or refusal of receipt if mailed by registered or certified U.S. mail, or the next business day after deposit with an overnight courier service if delivered for next day delivery. The Parties agree that electronic mail shall not constitute a permitted form of notice under this Section. All notices shall be addressed as follows:

If intended for the City, to:

City of Napoleon, Ohio  
255 W. Riverview Avenue  
Napoleon, Ohio 43545  
Attention: City Manager

With a copy to:

City of Napoleon, Ohio  
255 W. Riverview Avenue  
Napoleon, Ohio 43545  
Attention: Law Director

If intended for the CIC, to:

The Community Improvement Corporation of Henry County, Ohio  
104 E. Washington Street - Suite 301  
Napoleon, Ohio 43545  
Attention: Executive Director

If intended for the Company, to:

Keller Logistics Group, Inc.

24862 Elliott Rd.  
Defiance, OH 43512  
Attention: Brian Keller

The Parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices; certificates, requests or other communications shall be sent.

**Section 13. No Recordation of Agreement.** Neither this Agreement nor any memorandum of this Agreement may be recorded in the real property records.

**Section 14. No Waiver.** The failure of any Party to insist at any time upon the strict observance or performance of any of the provisions of this Agreement or to exercise any right or remedy as provided in this Agreement shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof. Every right and remedy given by this Agreement to the Parties hereto may be exercised from time to time and as often as may be deemed expedient by the parties hereto, as the case may be.

**Section 15. Recitals.** The Parties acknowledge and agree that the facts and circumstances as described in the Recitals hereto are an integral part of this Agreement and as such are incorporated herein by reference.

**Section 16. Remedies.** If the City defaults or breaches this Agreement and such default or breach continues beyond any applicable cure period, then the Company's sole and exclusive remedy shall be to sue for specific performance of this Agreement by the City. If the Company defaults or breaches this Agreement and such default or breach continues beyond any applicable cure period, then the City's sole and exclusive remedy shall be to sue for damages and/or equitable relief.

**Section 17. Severability.** If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

**Section 18. Survival of Representations and Warranties.** The warranties, representations, covenants and agreements set forth in this Agreement shall not be cancelled by performance under this Agreement, but shall survive the Closing and the delivery of the deed of conveyance hereunder.

**Section 19. Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**Section 20. Time of Essence.** Time is of the essence of this Agreement in all respects.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

DRAFT

IN WITNESS WHEREOF, the City, the CIC and the Company have caused this Agreement to be executed in their respective names by their duly authorized representatives, all as of the date first written above.

**CITY:**

**CITY OF NAPOLEON, OHIO**  
an Ohio municipal corporation

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

Printed: Joel L. Mazur

Title: City Manager

Approved as to Form:

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

Printed: Billy D. Harmon

Title: Law Director

**COMPANY:**

**KELLER LOGISTICS GROUP, INC.**  
an Ohio corporation

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

Printed: Brian Keller

Title: President/CEO

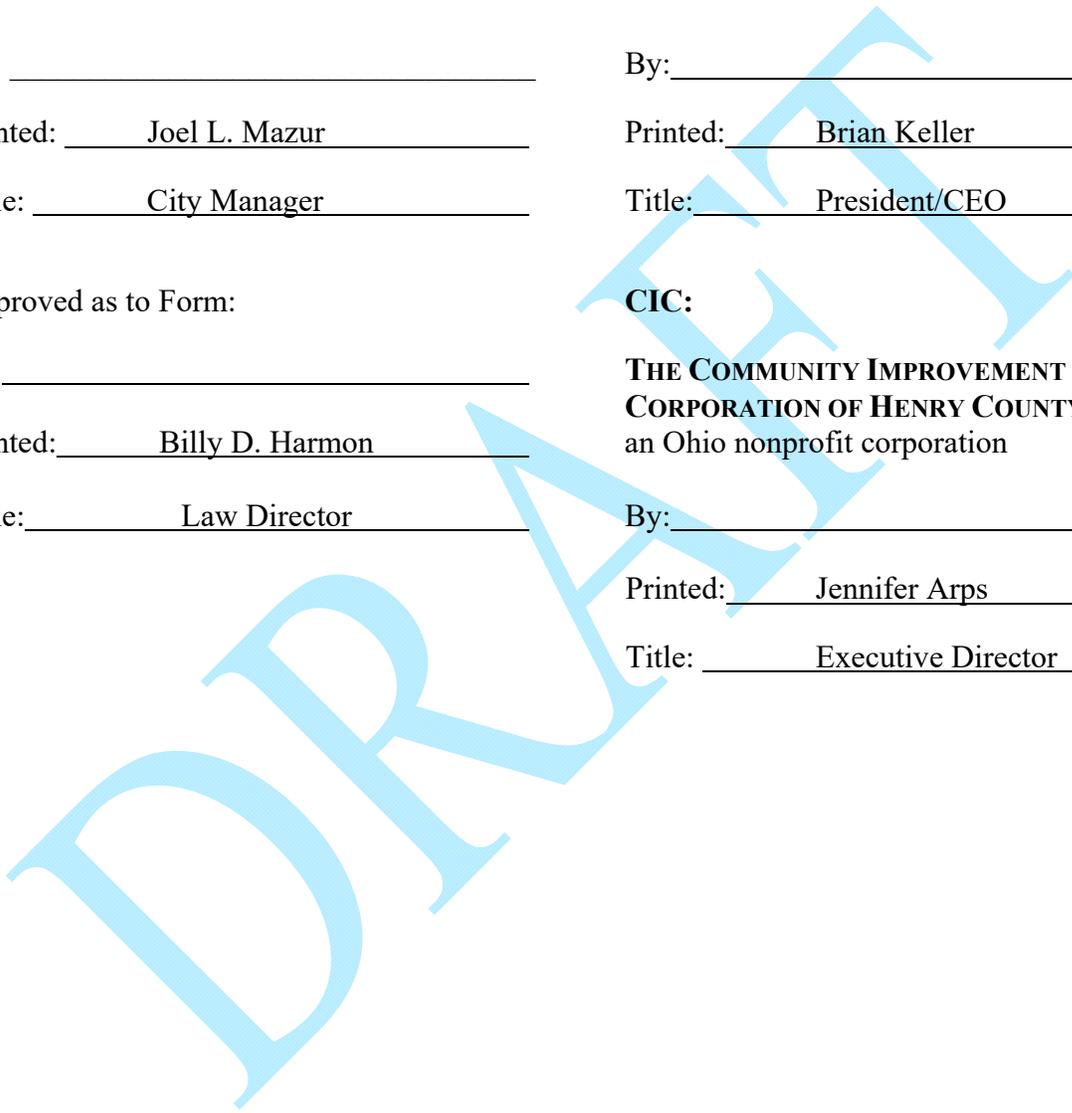
**CIC:**

**THE COMMUNITY IMPROVEMENT  
CORPORATION OF HENRY COUNTY, OHIO**  
an Ohio nonprofit corporation

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

Printed: Jennifer Arps

Title: Executive Director



**FISCAL OFFICER’S CERTIFICATE**

The undersigned, Director of Finance of the City under the foregoing Agreement, certifies hereby that the moneys required to meet the obligations of the City under the foregoing Agreement during Fiscal Year 2021 have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: \_\_\_\_\_, 2021

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

DRAFT

**EXHIBIT A**

**PROPERTY**

The Property shall include the approximate 10.10 acres of real property located on Independence Drive in Napoleon, Ohio – Parcel Number 280700780200, as more fully depicted and described below:

[Insert Depiction and Legal Description]

DRAFT

**Parcel No: 3**

**Parcel No. (28-0700780200):**

Situated in the City of Napoleon, Township of Liberty, County of Henry, and State of Ohio:

Being a part of the Northwest quarter (1/4) of Section 7, Town 5 North, Range 7 East, Liberty Township, Henry County, Ohio, and which is more particularly described as follows:

Commencing at an iron pipe found at the Northeast corner of the Northwest quarter (1/4) of said Section 7;

thence North 89°33'27" West (assumed bearing for the purposes of this description) on the North line of the Northwest quarter (1/4) of said Section 7, forty and zero hundredths (40.00) feet to an iron pin found on the West right-of-way line of Industrial Drive;

thence South 00°25'33" West on the West right-of-way line of Industrial Drive, one thousand two hundred nineteen and sixty-five hundredths (1219.65) feet to a point on the North right-of-way of Independence Drive;

thence North 89°31'57" West on the North right-of-way of Independence Drive, five hundred twenty-five and fifty-two hundredths (525.52) feet to an iron pin found and the point of beginning;

thence North 89°31'57" West on the North right-of-way of Independence Drive, four hundred forty-three and ninety-one hundredths (443.91) feet to a 5/ 8" x 30" iron pin with ID cap set;

thence North 00°24'32" East, nine hundred ninety- seven and fifteen hundredths (997.15) to a 5/ 8" x 30" iron pin with ID cap set on the Southerly limited access right-of-way for Ramp "A" of United States Routes 6 & 24;

thence North 87°37'04" East on the Southerly limited access right-of-way for Ramp "A" of United States Routes 6 & 24, eighty-six and forty-one hundredths (86.41) feet to a point;

thence South 85°36'33" East on the Southerly limited access right-of-way for Ramp "A" of United States Routes 6 & 24, three hundred thirteen and twenty hundredths (313.20) feet to a point;

thence South 77°43'30" East on the Southerly limited access right-of-way for Ramp "A" of United States Routes 6 & 24, forty-six and fifty-seven hundredths (46.57) feet to an iron pin found;

thence South 00°26'02" West, nine hundred seventy and forty-nine hundredths (970.49) feet to the point of beginning.

Containing 10.102 acres of land more or less, but subject to all easements, zoning regulations and restrictions of record.

Subject also, to a permanent utility easement thirty (30) feet in width on and along the entire Northerly side of the above described property. Said easement referred to being a part of that easement recorded in Volume 8, Pages 965-967, Official Records, Henry County, Ohio.

**PRIOR INSTRUMENT REFERENCE:  
Official Record Volume 249, Page 1616  
Official Record Volume 246, Page 1616,  
Official Record Volume 254, Page 1792,  
Henry County, Ohio**

July 28, 2021

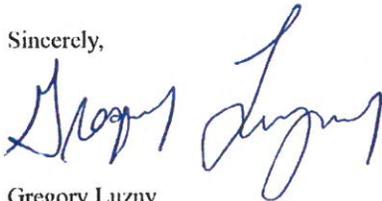
City of Napoleon, Ohio  
Attn: Joel L. Mazur  
City Manager  
255 W. Riverview Ave.  
Napoleon, Ohio 43545

RE: Acceptance of Offer to Purchase Property

Dear Mr. Mazur,

I am in receipt of your offer to purchase the property located at the intersection of Commerce Dr. and Interchange Dr. in Napoleon, Ohio, Parcel Nos. 280700320000 and 280700320300, which is comprised of approximately 12.91 acres total (See Attached). As the Executor of my deceased father's estate, this letter serves to formally accept the offer under the terms and conditions you have described. I hope that we can close on the property prior to the end of the year, so this offer will expire on December 31, 2021 and may be extended upon my written approval if more time is needed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gregory Luzny". The signature is fluid and cursive, with a large initial "G" and "L".

Gregory Luzny

## Joel L. Mazur

---

**From:** Greg Luzney <chargerguy440@yahoo.com>  
**Sent:** Thursday, July 8, 2021 9:56 AM  
**To:** Joel L. Mazur  
**Cc:** manahanlaw@gmail.com; Billy Harmon  
**Subject:** Re: Offer

Joel,

As executor of my dad's estate I accept the city's offer and grant permission to the property for the activities listed in your letter.

Tom, please draw up the acceptance letter needed and assist Joel in any way needed to meet his July 14th deadline? That deadline is less than a week away. I would greatly appreciate that.

Feel free to call me if there are any questions.

Sincerely,  
Greg Luzny  
(614)570-3243

Sent from my iPhone

On Jul 8, 2021, at 9:08 AM, Joel L. Mazur <jmazur@napoleonohio.com> wrote:

Please accept my original unofficial offer letter as the official offer at this time from the City of Napoleon, contingent on the Napoleon City Council approval. At this point, what we will need is a signed letter accepting the offer and acknowledging that this offer is contingent on City Council approval. We would also request that the letter allows the City access to the property in order to secure the site from trespassers, add lighting and perform any property cleanup and site assessment work, if needed and if the City chooses to perform any of these functions.

If this is acceptable, we will need the Offer Acceptance Letter by July 14<sup>th</sup> so we can review it and then add it to the City Council packet for review. This will be on the City Council agenda for the meeting on July 19<sup>th</sup>. Please contact me if you have any questions or need any additional information.

Thanks.

Joel L. Mazur  
City Manager  
City of Napoleon  
Office: (419) 592-4010  
Mobile: (419) 591-8038

<Property Offer Letter.pdf>



# City of *NAPOLEON*, Ohio

255 West Riverview Avenue • P.O. Box 151  
Napoleon, Ohio 43545-0151  
Phone: (419) 592-4010 • Fax: (419) 599-8393  
Web Page: [www.napoleonohio.com](http://www.napoleonohio.com)

July 1, 2021

*Mayor*  
Jason Maassel

*Members of Council*

**PRESIDENT:**  
Joseph Bialorucki

**PRESIDENT PRO-TEM:**  
Daniel Baer

Molly Knepley  
Jeff Comadoll  
Kenneth Haase  
J. Ross Durham  
Lori Siclair

*City Manager*  
Joel L. Mazur

*Finance Director*  
Kelly O'Boyle

*Law Director*  
Billy D. Harmon

Mr. Greg Luzny  
614 N. Perry St.  
Napoleon, OH 43545

Re: City of Napoleon Informal Offer for Property

Dear Mr. Luzny,

As we discussed this week, the City of Napoleon (City) may be interested in the property located to the west of the intersection of Commerce Dr. and Interchange Dr. in Napoleon, Ohio identified as parcel numbers 280700320300 and 280700320000. Please consider this letter an unofficial, informal offer for this property. The official approval of a purchase requires legislation to be passed by the Napoleon City Council. However, we may enter into a tentative Agreement pending the approval of City Council and the establishment of the estate.

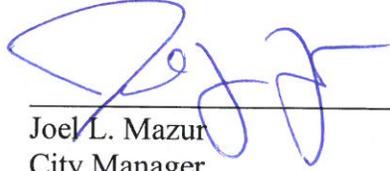
The City is willing to offer \$95,000 for the property, which is both parcels mentioned above and is comprised of approximately 12.91 acres. I will note that there are a few items that the City will need to address during and after this transaction, if it is to take place. They are listed below:

- The City will require access to the property to complete a Phase I Environmental Site Assessment on the property prior to closing.
- The City will assume responsibility for acquiring a site survey for the property prior to closing.
- The City will be responsible for its own closing costs only that is customary for a purchaser.
- The City is knowingly accepting the property with nuisance conditions. The nuisance conditions consist of loose garbage and debris scattered throughout the property. If additional junk, garbage and debris is dumped on the site, this may void the offer depending on the quantity and type of materials dumped.
- The City will request access to the property in order to secure the property from illegal trespassing and illegal dumping. This would include installing barricades, lighting and other measures to ensure the property is secured and no other illegal dumping activity occurs.
- It is suspected that a homeless person is living on the site. The City will be investigating this potential and report any findings to you and your legal counsel.

The City is willing to assume ownership of the property for several reasons, but namely to secure the opportunity for further solar or industrial growth in Napoleon and to abate nuisance conditions that affect the property values and is a source of blight to the neighborhood.

I have estimated the costs associated with the above items at approximately \$25,000-\$35,000. We hope you find this offer to be more than equitable for your property. Thank you for your time and consideration. Please contact me at (419) 592-4010 or at [jmazur@napoleonohio.com](mailto:jmazur@napoleonohio.com) if you have any questions or need additional information.

Sincerely,



---

Joel L. Mazur  
City Manager

JLM/

CC: Billy D. Harmon, Law Director  
Jennifer Arps, CIC Executive Director

Water

08443

08444

08445

08446

08447

07247

01494

01493

01492

01491

Parcels

Electric

- Single Phase Primary Overhead
- Two Phase Primary Overhead
- Three Phase Primary Overhead
- Primary Underground Conductor
- Communication Cable
- Transmission Lines
- Abandoned Line Segment
- Streetlight
- Capacitor

- Transformer
- Primary Meter
- Poles
- Recloser
- Switch
- Fuse

Water

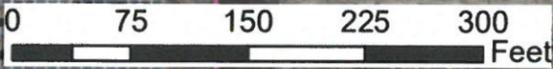
- Water Hydrants
- Water Main Line Valves
- Water System Valves
- Water Laterals
- Water Mains

Storm Sewer

- Storm Manhole
- Storm Inlet
- Storm Gravity Mains

Sanitary Sewer

- Manhole
- Sewer Clean Outs
- Sewer Fittings
- Sewage Main
- Sewage Lateral
- Sewer Network Structures
- Sewer Service Connections



Map Prepared By  
 City of Napoleon  
 Engineering Department  
 Chad E. Lulfs, P.E., P.S.  
 Director of Public Works



City of Napoleon  
 Engineering Department  
 255 West Riverview Avenue  
 Napoleon, Ohio 43545  
 Phone: (419)-592-4010  
 Fax: (419)-599-8393

# Luzny Property

Woolpert, Masar, Microsoft

*City of Napoleon, Ohio*

**PERSONNEL COMMITTEE**

**MEETING AGENDA**

**Monday, August 2, 2021 at 11:45 am**

LOCATION: *Council Chambers, 255 West Riverview Avenue, Napoleon, Ohio*

1. Call to Order
2. Approval of Minutes: July 2, 2021 (in the absence of any objections or corrections, the Minutes shall stand approved)
3. Executive Session (to consider employment of a public employee)
4. Adjournment.

*Roxanne Dietrich*

---

Roxanne Dietrich – Clerk of Council

*City of Napoleon, Ohio*  
**PERSONNEL COMMITTEE MEETING MINUTES**  
Friday, July 2, 2021 at 1:00 pm

**PRESENT**

Committee Members Jason Maassel -Chair, Joe Bialorucki, Lori Siclair  
City Staff Lanie Lambert, Human Resources Director  
Clerk of Council Roxanne Dietrich

**ABSENT**

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**CALL TO ORDER**

Chairman Maassel called the meeting to order at 1:00 pm.

**APPROVAL OF MINUTES**

Hearing no objections or corrections, the minutes from the June 20, 2019 Personnel Committee meeting were approved.

**EXECUTIVE SESSION (TO CONSIDER EMPLOYMENT OF A PUBLIC EMPLOYEE)**

Motion: Bialorucki Second: Siclair  
to go into Executive Session to consider employment of a public employee

Roll call vote on the above motion:

Yea-Maassel, Siclair, Bialorucki

Nay-

**Yea-3, Nay-0. Motion Passed**

The Personnel Committee went into Executive Session at 1:01 pm

**ADJOURN FROM EXECUTIVE SESSION**

Motion: Siclair Second: Bialorucki  
to adjourn from Executive Session at 1:47 pm

Roll call vote on the above motion:

Yea-Maassel, Siclair, Bialorucki

Nay-

**Yea-3, Nay-0. Motion Passed**

Chair Maassel reported No Action was taken.

**ADJOURNMENT**

Motion: Bialorucki Second: Siclair  
to adjourn the Personnel Committee meeting at 1:47 pm

Roll call vote on the above motion:

Yea-Maassel, Siclair, Bialorucki

Nay-

**Yea-3, Nay-0. Motion Passed**

**Approved**

August 2, 2021

---

Jason Maassel - Chair



# City of Napoleon, Ohio

255 West Riverview Avenue, P.O. Box 151  
Napoleon, OH 43545  
Telephone: (419) 592-4010 Fax: (419) 599-8393  
[www.napoleonohio.com](http://www.napoleonohio.com)

## Memorandum

**To:** City Council, Mayor, City Manager, City Law Director, Finance Director, Department Supervisors, News media  
**From:** Roxanne Dietrich, Clerk of Council  
**Date:** July 30, 2021  
**Subject:** Technology and Communications Committee – Cancellation

The regularly scheduled meeting of the **Technology and Communications Committee** for Monday, August 2, 2021 at 6:15 pm has been CANCELED due to lack of agenda items.

## AMP Update for July 23, 2021

American Municipal Power, Inc. <webmaster@amppartners.org>

Fri 7/23/2021 4:20 PM

To: Roxanne Dietrich <rdietrich@napoleonohio.com>

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July 23, 2021

### **AMP 50 Years: Stronger Together interview series - Former AMP Board Chairs discuss AMP's strengths and achievements**

*By Michele Lemmon - manager of public relations and a digital media*

As American Municipal Power, Inc. (AMP) marks its 50th anniversary in 2021, we are interviewing former and current leaders to share their insights and perspectives on key milestones, strengths and member benefits, demonstrating the many ways that we are Stronger Together.

Over the years, the AMP Board of Trustees has been led by a number of talented, thoughtful individuals who have provided valuable guidance and leadership to the organization. To celebrate AMP's 50th anniversary, we recently interviewed four former Board Chairs in order to learn from their experiences and hear what they view as the organization's key achievements, its strengths and what AMP and its members should be focused on in the future:

- Jon Bisher, former city manager for the City of Napoleon and former member of AMP Board of Trustees, who served as Board Chair from 2009-2014 and is an AMP Wall of Fame honoree
- Steve Dupee, current village manager for the Village of Wellington and current AMP Board of Trustees member, who served as Board Chair from 2014-2019
- George Pofok, former commissioner of Cleveland Public Power and former AMP Board of Trustees member, who served as Board Chair from 1993-2000 and is an AMP Wall of Fame honoree
- Mike Weadock, former director of public service and safety for the City of St. Marys and former AMP Board of Trustees member, who served as Board Chair from 2000-2005 and is an AMP Wall of Fame honoree

Read the full Q&As [here](#) and watch a video of their interviews below.

# AMP's Former Board Chairs

AMP 50 Years: *Stronger Together* Interview Series



Continue to learn more about AMP's 50 years of history on the [AMP 50 Years - Stronger Together webpage](#), where you can access videos with current and former leaders, read Q&A's of interviews and learn more about AMP's history and accomplishments. Also, keep an eye on future editions of Update and follow us on [Facebook](#), [Twitter](#), [LinkedIn](#), [Instagram](#) and [YouTube](#) for more historical information on the organization.

## U.S. DOE announces Energy Earthshots

*By Adam Ward - senior vice president of member services and external affairs*

The U.S. Department of Energy (DOE) recently announced its *Energy Earthshots Initiative* to accelerate breakthroughs of more abundant, affordable and reliable clean energy solutions within the decade.

President Biden has announced plans to transition the nation's economy to clean energy and combat climate change. His stated desire is to reduce carbon emissions by 50 to 52 percent by the end of the decade, produce 100-percent clean energy by 2035 and hit net-zero carbon emissions by 2050.

At the Leaders Summit on Climate, which occurred on Earth Day, the DOE was charged with speeding the development of critical technologies. In response, the DOE will announce a series of six to eight Energy Earthshots over the next year. The following Earthshots have been released to date:

- Hydrogen Shot: Establish a cost target to accelerate innovations and spur demand of clean hydrogen by reducing the cost by 80 percent.
- Long Duration Storage Shot: Aims to achieve affordable grid storage for clean power - anytime, anywhere - by reducing the cost of grid-scale energy storage by 90 percent of systems that deliver at least 10 hours of duration within the decade.

With each Earthshot, research, development and demonstration funding will be made available to help bridge technical gaps, paving the way toward decarbonization goals.

AMP is currently assessing each Energy Earthshot as announced to determine whether and how they may affect member communities. To learn more about the *Energy Earthshots Initiative*, click [here](#).

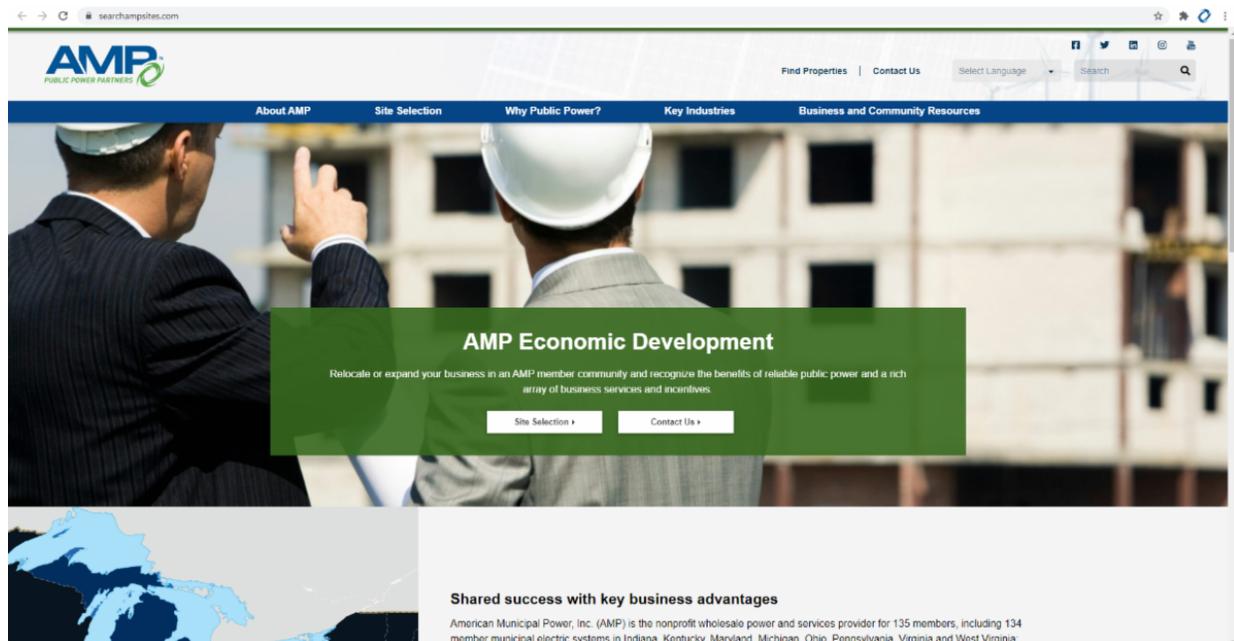
## AMP economic development website now available

*By Erin Miller - assistant vice president of energy policy and sustainability*

AMP recently modernized its economic development website to better convey economic development opportunities within our member communities, promote the advantages of public power, and spotlight members and available sites. The website integrates profiles of each of our members, community data

and available sites for site-selection consultants, corporate real estate executives and prospective businesses. In addition, the new platform will enable staff to make regular updates, better track engagement and visitor behavior.

Visit the site [here](#). If you have any questions or would like to make updates to your community profile, please contact me at [emiller@amppartners.org](mailto:emiller@amppartners.org) or 614.540.1019.



## Final week to nominate for 2021 AMP Awards Program

By Jodi Allalen - member events and programs manager

AMP is seeking nominations for the 2021 AMP Awards Program, and the deadline to submit is July 30. We are currently accepting nominations for the following AMP Awards:

<b>Electric System Sustainability Award</b>	<i>(more than one award may be given)</i>
<b>Hard Hat Safety Award</b>	<i>(more than one award may be given)</i>
<b>Innovation Award</b>	<i>(one award for each of four categories)</i>
<b>Public Power Promotion Award</b>	<i>(more than one award may be given)</i>
<b>Safety Award</b>	<i>(more than one award may be given)</i>
<b>Seven Hats Award</b>	<i>(only one award given each year)</i>
<b>System Improvement Award</b>	<i>(one award for each of four categories)</i>
<b>New this year: Service Distinction Award</b>	<i>(more than one award may be given)</i>



AMP award nominations will be accepted electronically on the AMP Awards Program [webpage](#) of the AMP website. Nomination details for each award are available by clicking the "Apply now" link next to each award name. A program brochure has been emailed to AMP members, which also provides direct links to the online award nomination forms. If you have questions, please contact me at [jallalen@amppartners.org](mailto:jallalen@amppartners.org) or 614.540.0916.

## AMP holds virtual safety training course

By Kyle Weygandt - director of member safety

On July 20, AMP conducted the virtual training course *Are Monsters Real?* In this session, participants learned about the dangers lurking in the workplace that can be defeated by performing a job safety

analysis, communicating with your safety team and employees, and taking preventative measures.

If you were unable to attend, a video recording will soon be posted to the [Member Extranet](#) (login required) and the AMP YouTube channel (links available to members upon request). If you have any questions, need assistance accessing the Member Extranet or would like the YouTube link, please contact Jennifer Flockerzie at [jflockerzie@amppartners.org](mailto:jflockerzie@amppartners.org) or 614.540.0853.

## AMP TECHNICAL AND SAFETY TRAINING WEBINAR SCHEDULE

In an effort to continue providing members with high-quality training opportunities, AMP has temporarily transitioned trainings to a webinar format. Please see the below schedule - we will continue to update the schedule as needed. We are in this together.

**Aug. 24 9 a.m.**  
Behavior Based Application & Safety Culture  
Instructor: Kyle Weygandt



For more information on the AMP Training Program or to access the virtual training webinars, please contact Jennifer Flockerzie, AMP's manager of technical services logistics, at [jflockerzie@amppartners.org](mailto:jflockerzie@amppartners.org).



### Energy market update

*By Jerry Willman - assistant vice president of energy marketing*

The August 2021 natural gas contract increased yesterday \$0.044/MMBtu to close at \$4.003. The EIA reported an injection of 49 Bcf for the week ending July 16, which was above industry estimates of +42 Bcf. Last year was an injection of 38 Bcf and the five-year average was +36 Bcf. Storage is now 2,678 Bcf, 16.6 percent below a year ago and 6.2 percent below the five-year average.

On-peak power prices for 2022 at AD Hub closed yesterday at \$39.35/MWh, which was \$1.50/MWh higher for the week.

### On Peak (16 hour) prices into AEP/Dayton

#### Week ending July 23

MON	TUE	WED	THU	FRI
\$47.84	\$47.58	\$40.84	\$42.59	\$42.96

#### Week ending July 16

MON	TUE	WED	THU	FRI
\$43.81	\$42.22	\$43.54	\$47.53	\$40.43

AEP/Dayton 2022 5x16 price as of July 23 — \$39.35

AEP/Dayton 2022 5x16 price as of July 15 — \$37.85

### AFEC weekly update

*By Jerry Willman*

The AMP Fremont Energy Center (AFEC) plant was in 2x1 configuration during the week. The plant cleared offline for the overnight hours Friday through Thursday based on PJM day-ahead economics. Duct firing operated for 68 hours this week. For the week, the plant generated at a 61-percent capacity factor (based on 675 MW rating).

## AMP welcomes two new employees

*By Tracy Reimbold - CPO and vice president of administrative services*

Tommy Della Rocco joined AMP on July 19 as director of electrical engineering. In this role, Della Rocco will be responsible for managing safe electrical operations and maintenance of all generation assets, as well as project engineering.

Prior to joining AMP, Della Rocco served as senior electrical engineer for Burns & McDonnell, and as production manager for Louisville Gas & Electric. He is a veteran of the U.S. Navy, and he holds a bachelor's degree in electrical engineering with a minor in mathematics from Ohio University and a master's degree in engineering management from Old Dominion University.



Brandon Fields joined AMP on July 19 as lead circuit rider and general safety coordinator. In this role, Fields will serve as a trainer and technical advisor to member communities for the Circuit Rider program, provide safety training to designated members with an emphasis on lineworkers, and assist in the presentation and development of AMP's lineworker training programs.

Prior to joining AMP, Fields served as a lineworker for City of Columbus Division of Power, where he attended AMP Lineworker Training, experiencing it firsthand. He also previously served as a groundman for U.S. Utility Contractor Co., Inc. He is a graduate of the London Digital Academy.



Please join me in welcoming Tommy and Brandon to AMP!

## Encourage energy efficiency with Summer Efficiency Tips video

*By Zachary Hoffman - manager of communications and publications*

With the high temperatures of summer well upon us, electric customers are using more electricity than ever. When this happens on high demand days, it can lead to higher transmission rates in the future. That is why, when hot days are forecasted, AMP member communities are encouraged to share content like AMP's Summer Efficiency Tips video on their social media channels.

In addition to this video, AMP has created the Community Energy Savings Day Toolkit, which can be accessed on the Public Power Connections page of the [member extranet](#) (login required). The goal of this toolkit is to assist members in communicating to consumers the need and benefits of reducing energy usage during peak demand days and times. It includes a video, fact sheets, sample messages, phone scripts and social media graphics.

If you have questions, please feel free to contact me at [zhoffman@amppartners.org](mailto:zhoffman@amppartners.org). If you need help downloading content or accessing the Public Power Connections page, please contact Bethany Kiser at [bkiser@amppartners.org](mailto:bkiser@amppartners.org).



## Macros on macros

*By Jared Price - vice president of information technology and chief technology officer*

Cybercriminals are always finding new ways to bypass your security filters. In this scam, the bad guys start by sending a Microsoft Word document that has no malicious code or links within it. Once opened in Microsoft Word, the innocent-looking document includes a pop-up that asks you to enable macros. A macro, short for macroinstruction, is a set of commands that can be used to control Microsoft Word, Microsoft Excel and other programs.



While a macro may seem harmless, they can cause big problems. Here is how the attack works: If you open the attached Microsoft Word document and enable macros, the document automatically downloads and opens an encrypted Microsoft Excel file. The Microsoft Excel file instructs Microsoft Word to write new commands into the same Microsoft Excel file. Once the new commands are added, the Microsoft Excel file automatically downloads and runs a dangerous piece of malware onto your device.

Use the tips below to avoid falling victim to an attack like this one:

- Never click a link or download an attachment from an email that you were not expecting.
- Before enabling macros for a file, contact the sender using an alternative line of communication, such as making a phone call or sending a text message. Verify who created the file, what the file contains, and why enabling macros is necessary.
- This type of attack is not exclusive to Microsoft products. The technique could easily be used on a number of other programs. Always think before you click.

## City of Cleveland seeks commissioner to lead CPP

The City of Cleveland is seeking a Commissioner to lead Cleveland Public Power (CPP). CPP is one of the three utilities that make up the City of Cleveland's Department of Public Utilities (DPU). DPU is comprised of Cleveland Water, CPP and Cleveland Water Pollution Control. CPP is a self-sustaining business enterprise of the City of Cleveland, Ohio, Department of Public Utilities. CPP operates a municipal electric system that is the largest in the state of Ohio and ranks 35th out of 2,000 publicly owned electric utilities in the country.

The commissioner will report directly to the public utilities director. The commissioner needs to be knowledgeable in the principles, practices and methods essential to lead an electric utility, including its governance, strategic direction, planning and performance. Additionally, the commissioner needs to be passionate about business efficiency and results, quality service and continuous improvement.

This position requires a bachelor's degree in electrical engineering or a closely related field, and seven years of experience in a medium-large public electric utility or investor-owned utility electric system, five years of which have been in an administrative capacity. A master's degree in business administration, public administration or engineering (chemical, civil, electrical, mechanical or environmental) or closely related field is preferred. Candidates must demonstrate high-level knowledge of public utilities operations and familiarity with electric regulatory environment. The total compensation for this outstanding opportunity includes a starting salary range of \$110,000-\$150,000 depending on experience and qualifications.

Qualified candidates please submit your cover letter and resume online by visiting our website at: <https://bakertilly.recruitmenthome.com/postings/2950>. This position is open until filled, however interested applicants are strongly encouraged to apply no later than Aug. 2. This announcement will remain posted, and we will continue to accept applications until the city reaches an agreement with one finalist.

For more information, please contact Patty Heminover at [Patty.Heminover@bakertilly.com](mailto:Patty.Heminover@bakertilly.com) or by calling 651.968.7841 or Kathleen Woidke at [woidke@clevelandwater.com](mailto:woidke@clevelandwater.com).

## City of Bowling Green seeks applicants for two positions

### **Community affairs coordinator**

The City of Bowling Green is seeking applicants for the position of community affairs coordinator. This salaried, exempt position is responsible for coordinating and implementing impactful public relations programs that promote the City of Bowling Green's brand and message. Job responsibilities include but are not limited to: assisting with and creating educational programming and public outreach through a multi-media approach; creating and implementing advertising and marketing for the city; promoting public relations activities; supporting communication activities; assists with website management; assists with management of the city's social media accounts; assists with sustainability efforts; develops educational programs; participates in special projects and programming; performs research; communicates with media; participates in public meetings; provides guidance to city staff and elected officials relating to marketing, communications, sustainability, etc.

The successful applicant must hold a bachelor's degree in marketing, journalism, communications/public relations, visual communications technology, public administration or other related field and with two to three years related experience in communications; or any combination of education, training and work experience which provides the required skill sets to perform the essential functions of the job. Position pay is \$60,424-\$68,286. Deadline for making application is August 16, 4:30 p.m.

### **Journeyman lineworker**

The City of Bowling Green is seeking applicants for the position of journeyman lineworker. This position is responsible for constructing, maintaining, troubleshooting and repairing the city's electrical distribution system; operating equipment; maintaining service lines; analyzing outage situations; repairing outage situations; connecting new customers to electrical power; maintaining streetlights; informing public of work.

This position requires a high school diploma or equivalent; successful completion of a lineman apprenticeship program; Commercial Class A Driver's License; and three to five years of relevant experience. A copy of the job description will be provided to applicants. Position pay is \$38.47 per hour. Deadline for making application is August 6, 4:30 p.m.

Any persons interested in these positions must complete an application packet, job description included, that is available in the Department of Human Resources, City of Bowling Green, 304 N Church St, Bowling

Green, OH 43402. Online application is available [here](#). Resumes alone are unacceptable. For information contact the Human Resources Dept: 419.354.6200; email [humanresources@bgohio.org](mailto:humanresources@bgohio.org); fax: 419.352.1262. AA/EEO

## AMP bucket truck for sale

AMP is selling a 2008 Terex Hi-Ranger TL37M with a Sterling (Dodge) 5500 4x4 chassis and a four-door quad cab. The unit has a maximum working height of 44 feet and a maximum horizontal side reach of 28 feet. Interested parties can contact Michelle Palmer at 614.540.0924 for a copy of the full specifications or to inquire about the purchase of the truck.



## City of Napoleon seeks applicants for finance director

The City of Napoleon is seeking applicants for the position of finance director. The successful candidate will be a highly collaborative and progressive government finance professional who will serve on the executive team to direct and coordinate the activities of the city's Finance Department, which includes the city's Income Tax and Utilities Office. The finance director provides highly responsible strategic leadership and day-to-day management of the city's financial operations and compliance including, but not limited to, developing and administering the city's overall budget, asset accounting, cash management, investments, debt management, payroll, accounts payable, utility billing, audit coordination, income tax collection, and budget and financial forecasting. The ideal candidate will possess a solid background in government finance with a general understanding of government operations and department compliance including enforcement of applicable federal, state and local laws, ordinance and codes.

Candidates must have a bachelor's degree in accounting, finance or business administration, three to five years of relevant executive management/leadership experience and a valid State of Ohio driver's license. Prior experience in municipal finance management is preferred. The annual salary is \$75,000 to \$100,000, depending upon qualifications and experience. A completed application must be returned to City of Napoleon, 255 W. Riverview Ave., PO Box 151, Napoleon, OH 43545 with a resume and cover letter by July 30, 4:00 p.m.

Learn more about this job opportunity, complete job description and application by visiting [www.napoleonohio.com](http://www.napoleonohio.com). Contact City of Napoleon's HR Director with questions at 419.592.4010 or [llambert@napoleonohio.com](mailto:llambert@napoleonohio.com). The City of Napoleon is an Equal Opportunity Employer

## Town of Bedford seeks applicants for experienced right-of-way crew foreman

The Town of Bedford Electric Department is seeking an experienced right-of-way (ROW) crew foreman. This individual will direct the activities of the ROW crew working with and through the ROW assistant supervisor, line foreman and operations superintendent. Position will be responsible for oversight of: ROW clearing, re-clearing, herbicide application, ensuring that all crew members adhere to safety procedures and requirements, coordinating maintenance of equipment to ensure proper working conditions and compliance with safety regulations.

This is a working position, so the candidate must also possess a valid Class A CDL, be experienced in bucket truck operation, safe chain saw operation and other ROW clearing equipment. Individual must be conversant in safely working around electric hazards and skilled in trimming and climbing. Must be able to work extra hours when necessary for storm restoration and report to work whenever needed during non-scheduled working periods.

Compensation will be based on experience and skill level. Position offers excellent benefit package including participation in the Virginia Retirement System. Employment application and job description may be obtained from the Town of Bedford Human Resources Office, 215 E. Main Street, Bedford, VA 24523 or visit our website at [www.bedfordva.gov](http://www.bedfordva.gov) to download application; resumes alone not accepted. Applications accepted until position is filled. The Town of Bedford is an equal opportunity employer that values and welcomes diversity in our workforce. To this end, we encourage all qualified persons to apply.

## City of Milford seeks applicants for electric superintendent

The City of Milford Public Works Department is seeking applicants for the position of electric superintendent. The electric superintendent oversees the overall operations of the city's electric system that serves approximately 7,500 homes and businesses from two substations in approximately a 12-square-mile service territory, covering all of Milford and portions of unincorporated areas of Kent and Sussex Counties. The system peaks at just over 46,000 MW and delivers over 225 million kWh annually.

The electric superintendent supervises approximately 11 employees, including those covered under the International Brotherhood of Electrical Workers, Local Union 126 Collective Bargaining Agreement. The electric superintendent is responsible for construction, maintenance and design of the distribution system, including substation operations and maintenance. Electricity is purchased in bulk from the Delaware Municipal Electric Corporation. Work is performed under the general supervision of the public works director.

The city is seeking applicants with a bachelor's degree in electrical engineering (preferred) or a related field with at least five years' experience; or 10 years of experience in the electric utility industry with considerable supervisory and management experience may be substituted for a degree; or any combination of education and experience equivalent to the requirements. Possession of a valid Delaware vehicle operator's license and Class B CDL (minimum - within one year of date of hire) is preferred.

The city offers a comprehensive, competitive benefits package. Please apply online at [www.cityofmilford.com](http://www.cityofmilford.com).

## Opportunities available at AMP

AMP is seeking applicants for the following positions:

- Circuit rider and general safety coordinator
- Transmission planning engineer

For complete job descriptions, please visit the [AMP careers page](#).