

# Village of Mogadore

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## COUNCIL MEETING AGENDA

March 6, 2024

5:30 p.m.

1. Moment of Reflection – Mr. McDowall
2. Pledge to the flag
3. Roll Call
4. Approval of the Agenda
5. Minutes from the February 21, 2024, Council meeting presented for changes, corrections, and adoption
6. Comments from the Audience on the pending legislation
7. Committee Reports
8. Old Business – None.
9. New Business –

**Resolution 2024-15 – Mr. McDowall – Parks Committee**

A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK-TREASURER TO ADVERTISE FOR BIDS FOR THE PURCHASE AND INSTALLATION OF NEW PLAYGROUND EQUIPMENT AT LIONS PARK, AND DECLARING AN EMERGENCY.

**Resolution 2024-16 – Ms. Van Dike – Finance Committee**

A RESOLUTION AMENDING RESOLUTION NO. 2023-103, INCLUDING EXHIBIT A THERETO, ENTITLED “WAGE AND BENEFIT PACKAGE FOR FULL-TIME EMPLOYEES OTHER THAN POLICE DEPARTMENT AND FIRE DEPARTMENT EMPLOYEES,” TO REVISE THE CLOTHING ALLOWANCE PROVIDED TO SUCH EMPLOYEES AND TO INCREASE THE SHIFT DIFFERENTIAL COMPENSATION, AND DECLARING AN EMERGENCY.

**Resolution 2024-17 – Ms. Van Dike – Mayor Rick**

A RESOLUTION CREATING THE FULL-TIME ADMINISTRATIVE ASSISTANT/MAYOR’S COURT CLERK POSITION FOR THE VILLAGE, AND DECLARING AN EMERGENCY.

**Resolution 2024-18 – Ms. Van Dike – Finance Committee**

A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE VILLAGE AND TESTA MOGADORE, LLC CONCERNING

THE DEVELOPMENT OF CERTAIN REAL PROPERTY LOCATED IN THE VILLAGE, AND DECLARING AN EMERGENCY.

**Resolution 2024-19** – Mr. Tonsic – Streets Committee

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT TO PURCHASE A 2024 FORD F-250 SUPER DUTY TRUCK FROM KEN GANLEY FORD AT STATE-TERM CONTRACT PRICING WHICH WILL NOT EXCEED \$50,000.00, AND DECLARING AN EMERGENCY.

**Resolution 2024-20** – Mr. Tonsic – Streets Committee

A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR A SAFE ROUTES TO SCHOOLS GRANT, IN CONJUNCTION WITH THE MOGADORE LOCAL SCHOOL DISTRICT, TO CONSTRUCT AND INSTALL SIDEWALKS ALONG CURTIS STREET AND HERBERT STREET AND A DRIVEWAY IMPROVEMENT AT O.H. SOMERS ELEMENTARY SCHOOL, AND DECLARING AN EMERGENCY.

**Ordinance 2024-21** – Ms. Van Dike – Mayor Rick

AN ORDINANCE AMENDING THE ANNUAL APPROPRIATIONS FOR THE CURRENT EXPENSES AND OTHER EXPENDITURES OF THE VILLAGE FOR THE FISCAL YEAR ENDING DECEMBER 31, 2024, AND DECLARING AN EMERGENCY.

10. Comments

1. Public
2. Council
3. Law Director
4. Village Engineer
5. Clerk-Treasurer
6. Mayor

11. Adjournment

RECORD OF ORDINANCES

Resolution No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

SPONSOR: PARKS COMMITTEE

A RESOLUTION AUTHORIZING AND DIRECTING THE CLERK-TREASURER TO ADVERTISE FOR BIDS FOR THE PURCHASE AND INSTALLATION OF NEW PLAYGROUND EQUIPMENT AT LIONS PARK, AND DECLARING AN EMERGENCY.

WHEREAS, Section 14.03 of the Village's Charter provides that all contracts exceeding one-half (1/2) of the statutory threshold of \$75,000.00 shall be undertaken by advertising for and accepting sealed bids; and

WHEREAS, the Village has identified the need for the acquisition and installation of new playground equipment at Lions Park; and

WHEREAS, the Village estimates that the cost for labor and materials for the project will exceed the threshold set forth in Section 14.03 of the Village's Charter and therefore will require competitive bidding; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village to authorize and direct the Clerk-Treasurer to advertise for bids for the purchase and installation of new playground equipment in Lions Park.

NOW, THEREFORE BE IT RESOLVED, by the Council of the Village of Mogadore, Counties of Summit and Portage, State of Ohio, that:

SECTION 1: It is hereby determined necessary that the Village enter into a contract for the purchase and installation of new playground equipment at Lions Park.

SECTION 2: The Clerk-Treasurer of the Village is hereby authorized and directed to advertise for bids for the purchase and installation of new playground equipment in Lions Park. A report of the responses shall be provided to Council. The Village Engineer shall establish an engineer's estimate of the cost and shall otherwise assist as necessary.

SECTION 3: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION 4: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the Village of Mogadore and for the purpose of proceeding with the aforementioned competitive bidding as expeditiously as possible so that the project may commence during the appropriate construction season, and, provided this Resolution receives the affirmative vote of at least five (5) members elected or appointed to this Council, it shall take effect and be in force upon its passage by Council and approval by the Mayor, otherwise it shall take effect and be in force at the earliest period allowed by law.

RECORD OF ORDINANCES

Resolution No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Clerk-Treasurer

## RECORD OF ORDINANCES

Resolution No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

SPONSOR: FINANCE COMMITTEE

A RESOLUTION AMENDING RESOLUTION NO. 2023-103, INCLUDING EXHIBIT A THERETO, ENTITLED "WAGE AND BENEFIT PACKAGE FOR FULL-TIME EMPLOYEES OTHER THAN POLICE DEPARTMENT AND FIRE DEPARTMENT EMPLOYEES," TO REVISE THE CLOTHING ALLOWANCE PROVIDED TO SUCH EMPLOYEES AND TO INCREASE THE SHIFT DIFFERENTIAL COMPENSATION, AND DECLARING AN EMERGENCY.

WHEREAS, it is the recommendation of the Mayor and the Finance Committee that this Council amend Resolution No. 2023-103, and Exhibit A attached thereto, entitled "Wage and Benefits Package for Full-Time Employees Other Than Police Department and Fire Department Employees," to revise the clothing allowance and shift differential provided to full-time employees of the Village other than Police Department and Fire Department employees; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village of Mogadore to amend Resolution No. 2023-103 and the Exhibit A attached thereto in order to revise the clothing allowance and shift differential provided to full-time employees of the Village other than Police Department and Fire Department employees.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of Mogadore, Counties of Summit and Portage, State of Ohio, that:

SECTION 1: Resolution 2023-103 and Exhibit A attached thereto are hereby amended as set forth in the attached Exhibit A, entitled "Wage and Benefit Package for Full-Time Employees Other Than Police Department and Fire Department Employees," which is incorporated herein.

SECTION 2: The effective date of Resolution 2023-103 of December 30, 2023 shall remain in full force and effect, and the revisions made by the aforementioned amendment shall take effect and be in force retroactively to December 30, 2023.

SECTION 3: All other ordinances, resolutions, or parts of other ordinances and resolutions which may be in conflict with the provisions of this ordinance are hereby declared null and void and are of no further force and effect.

SECTION 4: The Village of Mogadore finds and determines that all formal actions of this Council concerning and relating to the adoption of this resolution were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION 5: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the Village of Mogadore and for the purpose of immediately revising the benefits for the full-time employees other than Police Department and Fire Department employees of the Village for purposes of equity, and, provided this Resolution receives the affirmative vote of at least five (5) members elected or appointed to this Council,



**WAGE AND BENEFIT PACKAGE FOR  
FULL TIME EMPLOYEES OTHER THAN POLICE DEPARTMENT AND  
FIRE DEPARTMENT EMPLOYEES  
FOR THE YEAR 2024**

SECTION 1: WAGES. Effective beginning December 30, 2023, employees shall be compensated according to the following scale:

Street Department Full Time Employees: 2024 - \$25.13 per hour

Street Department Supervisor: 2024 - \$32.70 per hour

SECTION 2: NEW FULL TIME EMPLOYEES.

New full-time employees shall be hired and compensated at the rates set forth in Section 1.

SECTION 3: CLOTHING ALLOWANCE.

In addition to the uniforms provided by the Village of Mogadore to full-time street employees including the street supervisor, said employees shall receive an allowance of ~~\$450.00~~ ~~\$400.00~~ for 2024 per man for the purchase of foul weather clothing. Upon proof of purchase of said clothing by way receipts presented to the Clerk, said full-time employee shall be reimbursed for said expense. Purchase of jackets or any other type of wearing apparel shall be of uniform color.

SECTION 4: INSURANCE.

1) The Employer will provide insurance on behalf of each full-time employee and eligible dependents for hospitalization, medical, optical, and dental insurance. For 2024, monthly premium payroll deductions and required co-pays for all employees shall be in accordance with the schedule provided by Employee Benefits International.

The term "Full-Time Employees" shall include all elected officials of the Village, who are regularly employed and compensated on a full-time basis

2) Insurance coverage shall be also provided for the surviving spouse and/or eligible children of a deceased employee for a period of three (3) months after death.

3) The Employer will provide and pay the full premium for all full-time employees for a life insurance policy in the face of forty thousand dollars (\$40,000.00).

4) The Employer expressly reserves the right to change insurance coverage or carriers, so long as the new coverage meets the requirements contained within Section 1, Section 2, Section 3, and Section 4, contained herein.

#### SECTION 5: LONGEVITY.

On the first day of the month following a full-time employee's completion of four, nine, fourteen, nineteen, and twenty-four years of service with the Village of Mogadore said full-time employees other than Police Department and Fire Department employees shall be entitled to, in addition to current base salary an amount equal to two, three, four, five, and six percent respectively of the current base salary.

#### SECTION 6: ACTING SUPERVISOR.

In the absence of the Street Supervisor for vacation, personal or sick time, the person who has been designated to be Acting Supervisor will be compensated at a rate of Four Dollars (\$4.00) per hour over and above his normal rate of compensation. Said compensation applies to any hours worked as an acting supervisor and shall be the responsibility of the Street Supervisor to identify said person and hours per time cards when warranted. Said rate of compensation for the acting supervisor will be in effect September 8, 2006.

#### SECTION 7: SHIFT DIFFERENTIAL.

Street Department workers and the Street Supervisor will be compensated with a SHIFT DIFFERENTIAL of **five dollars (\$5.00)** ~~fifty cents (\$0.50)~~ per hour paid for hours **worked** ~~regularly scheduled~~ between the hours of. 3:30 p.m. and 7:30 a.m. The shift differential will only be paid for regular hours worked. Shift differential will not be paid if the employee works between 3:30 p.m. and 7:30 a.m. and these are overtime hours. The employee will receive overtime pay only for these hours.

#### SECTION 8: WORK WEEK.

Work week shall be defined as five (5) eight (8) hour days, totaling forty (40) hours, from 12:00 a.m. Monday through Friday.

All employees, for work performed in excess of eight (8) hours per day or eighty (80) hours in the standard work period, shall be compensated at the rate of one and one-half times the employee's regular rate for all overtime. All hours that are paid shall be included in the computation of overtime.

Paychecks shall be issued Bi-weekly.

#### SECTION 9: SICK LEAVE.

All full-time employees of the Village of Mogadore, other than elected officials and Police Department and Fire Department employees shall be entitled to accumulate one and one-quarter (1-1/4) days of sick leave for each month worked. Unused sick leave may be cumulative up to one hundred fifty (150) days. Upon a bona fide retirement with the Public Employee Retirement System of Ohio, or upon disability while an employee of the Village, cash payment of a maximum of seventy-five (75) days shall be compensated to such employee at the option of the Village either



as a lump sum or as an early retirement, to be paid in cash along with the general Village payroll.

In order to be entitled to sick leave of over three (3) consecutive days, employees must submit a doctor's certificate attesting to the sickness involved, which must be submitted to the Mayor. The Mayor shall have full authority to investigate such claims for sick leave and allow or disallow the leave, subject to the right of the employee to resubmit his application to the Street Department and in turn the full Council in the event of its disallowance.

The following Sick Leave Bonuses will be made available effective the first pay period in January, based on an employee's attendance in the previous calendar year:

- 1) Taken no sick leave - 16 hours pay
- 2) Taken 8 hours or less sick leave - 8 hours pay

#### SECTION 10: FUNERAL LEAVE.

An employee who has any one of the following described members of his family die shall be excused from work without loss of pay for not more than three (3) days with the third day being the day of the funeral. Said three (3) days shall include scheduled and non-scheduled working days alike. Said members of the family shall be limited to parents, children, spouse, mother-in-law, father-in-law, brother, brother-in-law, sister, sister-in-law, grandparent, great-grandparent, grandchild, great-grandchild, grandparent, and great-grandparent of spouse, or dependent who lives in the household. The above categories of relatives include step-relatives, half relatives, and legally adopted children.

In the application of this clause with respect to in-laws, recognition for any such relationship will be limited to those resulting from the employee's current marital status. Where a marriage has been terminated by death and there has been no subsequent marriage, the in-law relationship will be recognized.

#### SECTION 11: HOLIDAYS.

Each full-time employee shall be paid for the following holidays: New Year's Day, Martin Luther King Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Friday after Thanksgiving, Christmas Eve, and Christmas Day.

In order to receive compensation for any of the above holidays, an employee shall be present on the job the workday immediately preceding and immediately following each such legal holiday unless the said employee shall be on a duly authorized vacation. Compensation for hourly-paid employees for said holidays shall be computed for each individual employee on the basis of such employee's most recent hourly rate and on a forty (40) hour week. If any holiday described above, falls on a Saturday or Sunday, the Friday before or the Monday after, shall be a paid holiday for all full-time employees not scheduled normally to work on such a Saturday or Sunday. If the holiday falls within the period of vacation of any employee, such employee shall be entitled to an additional day of vacation for each occurrence.

If an employee is required to work on any of the holidays listed, he shall be entitled to pay for such

time at the rate of two times the employee's regular hourly rate.

In addition, each full-time employee shall be paid for four (4) personal days off at regular pay to be taken any day through the year with the Street Supervisors' approval.

#### SECTION 12: VACATION.

All full-time employees of the Village, other than elected officials, hired on or after July 1, 1981, shall be entitled to two (2) weeks vacation per year after completion of one (1) year but less than five (5) years of service with the Village; three (3) weeks vacation per year after completion of five (5) years but less than ten years of service, four (4) weeks vacation per year after completion of ten (10) years but less than fifteen (15) years of service with the Village; and five (5) weeks vacation per year after completion of fifteen (15) or more years of service with the Village.

For purposes of this provision, the term Full-time employee shall be an employee who is regularly and normally scheduled to work forty (40) hours per week. Also, for purposes of this provision, a week's vacation is defined as forty (40) hours at a straight time rate. Although the Village shall attempt to accommodate its employees in scheduling vacations, all vacations shall be scheduled at the convenience of the Village.

Any member of the Street Department who is entitled to five (5) weeks of vacation, may at the approval of the Service director select to forego the taking of all but two (2) weeks of vacation and receive an amount commensurate with the vacation earned during this time. The compensation will be paid over pay periods in the year in which the vacation could have been taken. Any member wishing to select this option must give notice of intent in writing to the Mayor by March 1st in the year the member wishes to select the option.

#### SECTION 13: DISABILITY RETIREMENT.

In the event an employee is separated from Village employment by reason of disability retirement, the employee shall receive payment for any unused portion of the earned vacation, based on rate of pay at the time the employee is removed from the payroll.

In the event, an employee is separated from Village employment by reason of disability retirement the employee shall receive payment for unused accumulated sick days, based on rate of pay at the time the employee is removed from the payroll.

#### SECTION 14: INJURY LEAVE.

If an employee is absent from work because of an injury received in the line of duty, the employee shall continue to receive a salary which, together with Workmen's Compensation, shall equal his regular pay and for a time equal to the employee's allowed sick leave without such time being charged against his sick leave.

RECORD OF ORDINANCES

Resolution No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

SPONSOR: MAYOR RICK

A RESOLUTION CREATING THE FULL-TIME ADMINISTRATIVE ASSISTANT/MAYOR'S COURT CLERK POSITION FOR THE VILLAGE, AND DECLARING AN EMERGENCY.

WHEREAS, Section 3.10(B) of the Village Charter provides Council the right to create positions and fix the compensation for Village employees.

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village to create a full-time Administrative Assistant/Mayor's Court Clerk.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of Mogadore, Counties of Summit and Portage, State of Ohio, that:

SECTION 1: There is hereby created a Full-Time Administrative Assistant/Mayor's Court Clerk position. The full-time position shall be compensated at an annual salary of \$40,000.00, and shall include full-time benefits. The duties of the Full-Time Administrative Assistant/Mayor's Court Clerk shall be the same as the part-time position of the same name. The Full-Time Administrative Assistant/Mayor's Court Clerk shall give bond in the same amount and form, and from the same surety, as the bond given by the Assistant Clerk-Treasurer, and the premium on the same shall be paid by the Village.

SECTION 2: The Mayor and all other Village officials are authorized and directed to any actions and/or execute any documents necessary to create the position.

SECTION 3: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this resolution were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION 5: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the Village of Mogadore and for the purpose of immediately creating the position so that the Village may continue to operate efficiently and effectively given a recent vacancy in the part-time equivalent of the position, and, provided this Resolution receives the affirmative vote of at least five (5) members elected or appointed to this Council, it shall take effect and be in force upon its passage by Council and approval by the Mayor, otherwise it shall take effect and be in force at the earliest period allowed by law.

## RECORD OF ORDINANCES

Resolution No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

President of Council

Date \_\_\_\_\_

Mayor

Date \_\_\_\_\_

Attest:

Clerk-Treasurer

RECORD OF ORDINANCES

Resolution No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

SPONSOR: FINANCE COMMITTEE

A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE VILLAGE AND TESTA MOGADORE, LLC CONCERNING THE DEVELOPMENT OF CERTAIN REAL PROPERTY LOCATED IN THE VILLAGE, AND DECLARING AN EMERGENCY.

WHEREAS, Testa Mogadore, LLC, an Ohio limited liability company (the “Developer”), is the owner of certain real property located in the Village, identified as Parcel Nos. 39-046-00-00-031-001 in the Portage County records (the “Site”); and

WHEREAS, pursuant to Resolution No. 2021-62, this Council previously authorized the Mayor to enter into a Development Agreement (the “Development Agreement”) with the Developer for the development of the Site into a mixed-use development consisting primarily of single-family detached homes and single-family townhomes, with some limited commercial development and condominiums potentially on a portion of the Site (the “Project”); and

WHEREAS, on August 24, 2022, the Mayor, on behalf of the Village, executed and entered into the Development Agreement with the Developer; and

WHEREAS, the Development Agreement provided for (i) the development of the Site and the Project by the Developer, (ii) the construction by the Developer of certain public infrastructure necessary to serve the Site by the Developer (“Public Infrastructure Improvements”), (iii) the Village to approve a 15-year, 100% tax increment financing exemption on the parcels within the Site through the enactment of an incentive district pursuant to Section 5709.40(C), 5709.42 and 5709.43 of the Ohio Revised Code that will provide service payments for a portion of the costs of the Public Infrastructure Improvements, (iv) for the donation of a portion of the Site to the Village, and (v) certain other matters that have been negotiated between the Developer and the Mayor; and

WHEREAS, the Village and the Developer now desire to amend and restate the Development Agreement to amend the rights and obligations thereunder, including, but not limited to, (i) repealing the previously approved incentive district and approving a new incentive district pursuant to Sections 5709.40(C), 5709.42 and 5709.43 of the Ohio Revised Code to provide a 30-year 100% tax increment financing exemption on the parcels within the Site, (ii) extending the time that the Developer has to donate a portion of the site to the Village, (iii) extending the time that the Developer has to complete the Public Infrastructure Improvements for Phase 1 of the Project, (iv) eliminating the Developer’s requirement to make improvements at the Mogadore Road – Cleveland Avenue intersection, and providing the Village additional service payments to complete the same (v) increasing the amount of service payments for the Developer to be repaid for the Public Infrastructure Improvements, and (vi) providing for the donation of a ladder fire truck from the developer to the Village; and

RECORD OF ORDINANCES

Resolution No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

WHEREAS, this Council finds and determines that it is necessary and in the best interest of this Council to authorize the Mayor to execute an Amended and Restated Development Agreement with the Developer pursuant to the terms set forth in the form attached hereto as Exhibit A.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Mogadore, Summit and Portage Counties, State of Ohio, that:

SECTION 1: The Mayor is hereby authorized to execute an Amended and Restated Development Agreement in the form set forth in the attached Exhibit A, together with any modifications thereto not inconsistent with this Ordinance and not substantially adverse to this Village, which shall be evidenced conclusively by the Mayor's execution of the Amended and Restated Development Agreement.

SECTION 2: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this resolution were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION 3: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the Village of Mogadore and for the purpose of immediately authorizing the Mayor to execute the Amended and Restated Development Agreement so that the Development may be timely completed, and, provided this Resolution receives the affirmative vote of at least five (5) members elected or appointed to this Council, it shall take effect and be in force upon its passage by Council and approval by the Mayor, otherwise it shall take effect and be in force at the earliest period allowed by law.

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Clerk-Treasurer

**AMENDED AND RESTATED**  
**DEVELOPMENT AND TAX INCREMENT FINANCING AGREEMENT**

This Amended and Restated Development Agreement (the “Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2024 (“Effective Date”), by and between the Village of Mogadore, an Ohio municipality organized under the laws of the State of Ohio and its Charter, with a principal address of 135 S. Cleveland Ave., Mogadore, OH 44260 (“Village”) and Testa Mogadore, LLC (“Testa”), an Ohio limited liability company, with a principal address of 2335 2<sup>nd</sup> Street, Cuyahoga Falls, OH 44221 (“Testa” and sometimes collectively with the Village, referenced herein as the “Parties” or, either individually as a “Party”).

***Recitals***

WHEREAS, Testa is the owner of certain real property located within the Village, consisting of 88.856 acres of vacant land, located at 197 N. Cleveland Ave., Mogadore, OH 44260, and identified in the Portage County Records as Parcel No. 39-046-00-00-031-01 (the “Property”); and

WHEREAS, Testa desires to develop the Property into a mixed-use development as depicted on the updated preliminary plan set forth in Exhibit A, and attached hereto by reference (the “Project”), which shall consist of one hundred twenty-seven (127) single family detached homes, one hundred thirty-four (134) townhomes, and two (2) blocks of that may be developed as retail/office commercial buildings with 2<sup>nd</sup> and 3<sup>rd</sup> floor for-sale residential condominiums or additional townhomes (the “Improvements”); and

WHEREAS, as part of the Project, Testa is expected to construct certain on-site public infrastructure improvements to serve the Property, including, but not limited to, streets, curbs, gutters, sidewalks and stormwater improvements, as the same are depicted in part on Exhibit A, and more fully set forth on the attached Exhibit B (the “On-Site Public Infrastructure Improvements”), as well as certain off-site public infrastructure improvements as set forth on Exhibit C (the “Off-Site Public Infrastructure Improvements” and, collectively with the On-Site Public Infrastructure Improvements, the “Public Infrastructure Improvements”); and

WHEREAS, Testa and the Village previously entered into a Development and Tax Increment Financing Agreement dated August 24, 2022 (the “Original Agreement”) whereby Testa agreed to undertake the Project, consisting of the Improvements and the Public Infrastructure Improvements, Testa further agreed to certain additional conditions related to the Project, and the Village agreed to provide certain assistance to Testa associated with the Project, including, but not limited to, adoption of Ordinance 2021-63 (the “Original TIF Ordinance”) pursuant to Section 5709.40(C) to establish a tax increment financing incentive district encompassing the Property for the purpose of exempting the 100% of the value of the Improvements from real property taxation for a period of 15 years and requiring owners of the Property to pay service payments pursuant to Section 5709.42 that will be used by the Village to, in part, reimburse Testa for the cost of the Public Infrastructure Improvements; and

WHEREAS, Testa and the Village now desire to execute this Agreement in order to amend and restate the Original Agreement, and any provisions of the Original Agreement in conflict with this Agreement shall be void and of no effect; and

WHEREAS, in order to effectuate the terms of this Agreement and the amendments contained herein to the Original Agreement, the Village intends to repeal the Original TIF Ordinance; and

WHEREAS, following repeal of the Original TIF Ordinance, the Village intends to enact a new Ordinance (the "TIF Ordinance") pursuant to Section 5709.40(C) of the Ohio Revised Code whereby the Village will establish a tax increment financing incentive district (the "Incentive District") over the Property that will exempt 100% of the real property taxes on the value of the Improvements for a period of thirty (30) years, will require Testa and subsequent owners of the Property to pay a service payment in lieu of taxes pursuant to Section 5709.42 of the Ohio Revised Code (the "Service Payments"), equivalent to the amount of real property taxes exempted, and will further provide that said Service Payments will be used by the Village to (i) reimburse Testa for a portion of the costs of the Public Infrastructure Improvements, (ii) providing funding for the Village to undertake additional public infrastructure improvements benefitting the Property, and (iii) paying to the Mogadore Local School District ("School District") a sum equal to the amount of real property taxes they would have received but for the exemption (the "TIF Financing"); and

WHEREAS, in exchange for the TIF Financing being provided by the Village, Testa has agreed to construct the Public Infrastructure Improvements and to further undertake the Project and the construction of the Improvements, as set forth herein, and has further agreed to certain terms and conditions, as more fully set forth in this Agreement, including:

(i) Testa shall substantially complete the Public Infrastructure Improvements that serve Phase 1 of the Project, as depicted on Exhibit D, no later than November 30, 2024;

(iii) Testa shall record a restrictive covenant against the Property prohibiting the construction of apartment units upon the Property by Testa and all subsequent owners and successors in interest of the Property;

(iv) Testa shall donate a 5.796-acre portion of the Property to the Village, depicted on Exhibit A as Block J, pursuant to the terms set forth in this Agreement;

(v) Testa shall construct the Off-Site Infrastructure Improvements as set forth in this Agreement, and no later than as set forth in this Agreement;

(vi) Testa shall enter into certain private developer agreements with the Village concerning the construction, dedication and bonding of the portion of the Public Infrastructure Improvements to be dedicated to the Village, and shall further enter into any necessary agreements with the County of Summit, City of Akron or any other political subdivision for the construction, dedication and bonding of any portions of the Public Infrastructure Improvements to be dedicated to those entities; and

(vii) Testa shall donate to the Village a Sutphen \_\_\_\_\_ ladder fire truck consistent with the specifications set forth in Exhibit G, attached hereto, pursuant to the terms set forth in this Agreement; and

(viii) Testa shall reimburse the Village up to \$25,000.00 towards the Village's legal costs associated with this Agreement, the Original Agreement, the TIF Financing and the Project generally, and \$25,000.00 towards the Village's engineering costs associated with this Project, as set forth in this Agreement; and

WHEREAS, the Parties desire to enter into this Agreement to more fully set forth the aforementioned rights, responsibilities and obligations of each Party regarding the agreements and arrangements set forth above, for the mutual benefit of the Parties; and



WHEREAS, the Council of the Village has authorized the Mayor to execute this Agreement pursuant to Ordinance 2021-62.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and covenants set forth herein, the Village and Testa agree as follows:

**ARTICLE I**  
**DEVELOPMENT OF THE PROPERTY**

1.1 Undertaking the Project. Testa shall undertake the Project, which shall include the following:

(a) Construction of the Project. Testa shall construct the Project on and throughout the Property, which shall include both the Improvements and the Public Infrastructure Improvements, as each are defined above. The Project shall conform to the development standards of the Village, the Village's Planning Commission's approvals, including any conditions thereto, any requirements of the Village Engineer, and shall be constructed and maintained in a commercially reasonable matter. The Village agrees to cooperate with the planning and construction of the Project, including, but not limited to, timely issuance of all required permits and other approvals for the Project, provided that the same are properly applied for by Testa, and are within the purview of the Village.

(b) Zoning Approvals and Entitlements; Plat. Testa shall submit all applications for all necessary zoning, land use, site plan, architectural design and utility approvals and entitlements from the Village necessary to undertake the Project prior to construction of the Project or any phase of the Project to which the same applies. Specifically, and without limiting the generality of the foregoing, Testa shall do each of the following prior to the construction of the Project:

(i) Obtain approval of the updated preliminary plan from the Village's Planning Commission, including any necessary variances, which has been accomplished by Testa.

(ii) Address all conditions imposed by the Village through its Planning Commission and/or Engineer to the approval of the updated preliminary plan.

(iii) Provide the Village with a completed traffic study and incorporate into the Project any conditions or requirements recommended by the Village's Engineer that are necessitated by the traffic study, and that are imposed by the Planning Commission and/or Council.

(iv) Approve the list of names and designation of all public streets to be built within the Project as suggested by the Village.

Additionally, prior to the sale of any portion of the Property within Phase 1 or Phase 2 to any third party, Testa shall prepare and submit a final plat of that phase of the Project subdividing the Property consistent with the approved preliminary plan, setting forth the location of the Public Infrastructure Improvements, and providing for any necessary dedicated right of ways. The Village shall reasonably cooperate in the review, approval and acceptance of such plats and the review and issuance of any such zoning, land use, site plan, architectural design and utility approvals and entitlements necessary for Testa to undertake the Project.

(c) Authorization, Cooperation, Dedication, and Maintenance of Public Infrastructure Improvements.

(i) Testa shall be solely responsible for the cost of design and construction of all Public Infrastructure Improvements, including both On-Site Infrastructure Improvements and Off-Site Infrastructure Improvements, as each are defined above. The Village hereby authorizes the design and construction of the Public Infrastructure Improvements by Testa or its representatives for and on behalf of the Village, provided, however, that Testa shall enter into and comply with, prior to the construction of the Public Infrastructure Improvements, a separate private developer agreement with the Village setting forth the terms and conditions for the construction, dedication and bonding of the portion of the Public Infrastructure Improvements to be dedicated to the Village by Testa, and further provided that Testa shall also enter into any separate agreements with the County of Summit, City of Akron and any other political subdivision to which a portion of the Public Infrastructure Improvements will be dedicated by Testa concerning the construction, dedication and bonding of the same. The Village agrees to provide timely cooperation in connection with the design and construction of the Public Infrastructure Improvements, provided that the same are installed consistent with the terms of the aforementioned private developer agreement, including, without limitation, completing inspections, providing reasonable approvals, and granting permits, to the extent the same are within the purview of the Village.

(ii) The Public Infrastructure Improvements shall be constructed in accordance with construction plans approved by the Village prior to the commencement of construction for the portions of the Public Infrastructure Improvements that will be dedicated to the Village. For the portions of the Public Infrastructure Improvements that will be dedicated to the County of Summit, City of Akron or another political subdivision, those portions of the Public Infrastructure Improvements shall be constructed in accordance with the construction plans approved by that entity prior to commencement of construction. Testa shall submit proposed construction plans to the Village for Public Infrastructure Improvements, and within ninety (90) days following such submission or any resubmission, the Village shall either provide written approval of the plans, or written comments detailing any needed changes. In no event shall any approval be given for Public Infrastructure Improvements to be constructed below the Village's standards.

(iii) The Village agrees that it will accept the portions of the Public Infrastructure Improvements to-be dedicated to the Village, when and as constructed and dedicated by Testa, provided that the Public Infrastructure Improvements have been constructed in accordance with the applicable Village standards, the aforementioned private developer agreement, and the satisfaction of the Engineer, and further provided that Testa is in possession of lien releases from all contractors providing labor and material to construct the Public Infrastructure Improvements. The Village shall have no obligation to accept any Public Infrastructure Improvements constructed below, or not in compliance with, appropriate Village standards and/or not in conformity with this Agreement. The Village will cooperate, to the extent necessary and feasible, with Testa's dedication of the portions of the Public Infrastructure Improvements that will be dedicated to the County of Summit, City of Akron or any other political subdivision.

(iv) Following the dedication of the Public Infrastructure Improvements, the Village will maintain, operate, repair, and replace as necessary the portions of the Public Infrastructure Improvements dedicated to the Village in a commercially reasonable manner after dedication to the Village. Prior to acceptance of the portions of the Public Infrastructure Improvements dedicated to the Village, Testa shall post a maintenance bond in an amount determined by the Village, in Village's sole discretion, for the initial maintenance of the same.

(v) Prevailing Wages. Testa and the Village acknowledge and agree that the Public Infrastructure Improvements are subject to the prevailing wage requirements of R.C. Chapter

4115, and all wages paid to laborers and mechanics employed on the development of the Public Infrastructure Improvements that are dedicated to a public authority shall be paid at not less than the prevailing rates of wages of laborers and mechanics for the classes of work called for by the Public Infrastructure Improvements, which wages shall be determined in accordance with the requirements of R.C. Chapter 4115. Testa shall comply, and Testa shall require compliance by all contractors developing the Public Infrastructure Improvements, with all applicable requirements of R.C. Chapter 4115 including, without limitation, (i) obtaining from the Ohio Department of Industrial Compliance its determination of the prevailing rates of wages to be paid for all classes of work required for the construction of the Public Infrastructure Improvements; and (ii) ensuring that all subcontractors receive notification of changes in prevailing wage rates as required by R.C. Chapter 4115. Testa shall be responsible to designate and appoint a prevailing wage coordinator for the Public Infrastructure Improvements.

1.2 Off-Site Public Infrastructure Improvements. Testa shall construct the Off-Site Infrastructure Improvements along North Cleveland as set forth in Exhibit C. In constructing the Off-Site Infrastructure Improvements, Testa shall be responsible for the entire cost of the improvements along Cleveland Avenue set forth in Exhibit C. All Off-Site Infrastructure Improvements shall be completed by Testa no later than the date set forth in Section 1.3(b), below.

1.3 Timeframes for Undertaking the Project.

- (a) As of the date of this Agreement, Testa has commenced the construction of the Project.
- (b) Testa shall substantially complete the On-Site Public Infrastructure Improvements for Phase 1 of the Project, as depicted on Exhibit D, no later than November 30, 2024.
- (c) Testa shall otherwise use commercially reasonable efforts to undertake the balance of the Project and to see that the balance of the Public Infrastructure Improvements are completed in a commercially reasonable time.
- (d) In the event that Testa fails to substantially complete the On-Site Public Infrastructure Improvements for Phase 1 of the Project, as set forth in Section 1.3(b), and the Village terminates this Agreement as set forth in Section 5.1 as a result of such failure, then Testa shall no longer have an obligation to construct the Off-Site Infrastructure Improvements as set forth in Section 1.2, above.

## **ARTICLE II**

### **TIF FINANCING OF PUBLIC INFRASTRUCTURE IMPROVEMENTS**

2.1 TIF Exemption. Following execution of this Agreement, the Village shall repeal the Original TIF Ordinance and shall notify the Portage County Auditor, Ohio Department of Development and Ohio Department of Taxation of said action.

Thereafter, the Village shall adopt the TIF Ordinance, which, in the Village's discretion may cover the entirety of the Property, or, the Village may adopt a TIF Ordinance creating a separate Incentive District for each Phase of the Project, which, shall collectively be referred to herein as the TIF Ordinance and the Incentive District, respectively. In connection with the construction of the Public Infrastructure Improvements by Testa, the Village, through the TIF Ordinance and Section 5709.40(C) of the Ohio Revised Code, shall establish the Incentive District to be concurrent with the boundaries of the Property, and shall grant an exemption of 100% of the increase in assessed value of

the Property, and any parcels to be subdivided therefrom, resulting from any Improvement upon the Property occurring after the adoption of the TIF Ordinance for the life of the Incentive District. The life of the Incentive District commences with the first tax year that begins after the effective date of the TIF Ordinance in which any improvement attributable to a new structure would first appear on the tax list and duplicate of real and public utility property for any portion of the Property within that Incentive District were it not for the exemption granted by the Village and ends on the earlier of (a) thirty (30) years after such commencement or (b) the date on which the Village can no longer require Service Payments in lieu of taxes because the use of the Service Payments set forth in Section 2.5 and 2.6 has been fulfilled (the "Exemption Period").

2.2 Service Payments. As provided in Section 5709.42 of the Ohio Revised Code, Testa, and all subsequent owners of the Property are required under this Agreement and under the TIF Ordinance to make annual Service Payments (the "Service Payments") in lieu of taxes to the Portage County Treasurer on or before the final dates for payment of real property taxes. Each such payment (including any interest and penalties) shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvements if it were not exempt from real property taxation. Any late payments shall be subject to penalty and bear interest at the then-current rates established under R.C. Sections 323.121 and 5703.47, as may be amended from time to time, or any successor provisions, as the same may be amended from time to time. Neither Testa nor any subsequent owner shall, under any circumstances, be required with respect to any tax year both to pay Service Payments with respect to an Improvement and to reimburse local taxing authorities for the amount of real property taxes that would have been payable had the Improvement not been exempted from taxation pursuant to the TIF Ordinance.

2.3 Application for Exemption; Maintenance of Exemption. In accordance with R.C. Sections 5715.27 and 5709.911, the Village will file a completed application for an exemption from real property taxation (DTE Form 24 or its successor form) with the Portage County Auditor for the Incentive District. The Village and Testa agree to cooperate with each other for this purpose, and to cooperate with the Portage County Auditor, the Ohio Department of Taxation, and other public officials and governmental agencies in the performance by the public officials and governmental agencies of their duties in connection with the TIF Ordinance and this Agreement.

Testa and the Village shall each perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain the exemptions from real property taxation granted under the TIF Ordinance and this Agreement, including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions. Additionally, Testa shall cooperate with the Village in providing the necessary information for the Village to comply with its annual reporting obligations as the same pertain to the TIF Financing set forth in this Agreement.

2.4 Redevelopment Tax Equivalent Fund. Pursuant to the TIF Ordinance, the Village will establish the North Cleveland Avenue Improvement Tax Increment Equivalent Fund (the "TIF Fund") as a redevelopment tax equivalent fund under Section 5709.43 of the Ohio Revised Code. The TIF Fund shall be maintained in the custody of the Village. The TIF Fund shall receive all Service Payments provided for in Section 2.2 of this Agreement and the TIF Ordinance and distributed by the Portage County Treasurer to the Village pursuant to Section 5709.43 of the Ohio Revised Code.

The TIF Fund shall remain in existence so long as Service Payments are collected and used for the purposes described in this Agreement and the TIF Ordinance. Then the TIF Fund shall be dissolved in accordance with Section 5709.43 of the Ohio Revised Code. Further, except as otherwise provided in

this Agreement or the TIF Ordinance, moneys deposited in the TIF Fund shall be used as described in Section 2.5 of this Agreement.

2.5 Use of Service Payments Deposited into the TIF Fund.

(a) The Parties agree that the Service Payments deposited into the TIF Fund shall be used exclusively as described by this Section 2.5.

(b) The Service Payments deposited into the TIF Funds shall be used on a semi-annual basis for the following purposes, in the following order of priority:

FIRST, with respect to each year of the Exemption Period, to the Mogadore Local School District (the "School District") and the Maplewood Career Center (the "Vocational School District") an amount equal to the real property tax payments that the School District and Vocational School District would have received with respect to the Improvements had the Improvements not been exempted from real property taxation under the TIF Ordinance.

SECOND, with respect to each year of the Exemption Period to the Village, 10% of the Service Payments received by the Village after first making the payments to the School District and Vocational School District provided for in paragraph (i), above, provided that all such payments to the Village shall be used solely to pay for the costs of constructing and maintaining public infrastructure improvements, as defined in Section 5709.40 of the Ohio Revised Code, that benefit the Property; and

THIRD, with respect to each year of the Exemption Period, to Testa, subject to the terms and conditions of this Agreement, the amount remaining after payments authorized by paragraphs (i) and (ii), above, provided that all such payments to Testa shall be used solely to pay or reimburse Costs of the Public Infrastructure Improvements, as defined in Section 2.6, including the principal and interest on the advancement of such costs by Testa or any loan or other financing acquired by Testa in connection with the Public Infrastructure Improvements, and further provided that such payments shall not exceed the amount set forth in Section 2.6.

(c) Notwithstanding any other provision of this Agreement, the Village's payment obligations under this Agreement shall be limited to the monies actually on deposit or payable to the TIF Fund, and do not constitute an indebtedness of the Village within the provisions and limitations of the laws and the Constitution of the State of Ohio.

(d) Should Testa opt to use the service payments allocable to it to finance the design and construction of any of the Public Infrastructure Improvements or to reimburse itself for the advancement of any such costs, the Village shall cooperate with Testa in procuring such financing, including executing any agreements or other documents associated with such financing, including (without limitation) cooperative agreements with a port authority if it issues debt with such financing, the assignment of the right to receive the service payments, and the entry of direct-payment arrangements for the Village to make debt service payments directly out of the TIF Fund to a trustee or lender.

2.6 Reimbursement from Service Payments; Cap on Reimbursement. The Village shall use the Service Payments in the TIF Fund to reimburse Testa for the costs of constructing the Public Infrastructure Improvements (the "Costs of Public Infrastructure Improvements"). The Costs of Public Infrastructure Improvements shall include any and all costs Testa incurred in order to construct the Public Infrastructure Improvements, including the items of "costs of permanent improvements"

set forth in R.C. Section 133.15(B), and as set forth on Exhibits B and C, attached hereto. Such costs include but are not necessarily limited to: (i) cash paid; (ii) interest on any costs paid in an amount not to exceed 4%, unless such costs are financed by Testa, at which point, interest will be paid at the actual interest rate of such financing, not to exceed 8%; (iii) review and inspection fees incurred in connection with the construction of the Public Infrastructure Improvements; (iv) other financing costs; (v) professional fees; and (vi) manager, construction management and supervisory fees.

The Village and Testa agree that the reimbursement pursuant to this Section 2.6 is offered by the Village to Testa in consideration of Testa's investment in the Public Infrastructure Improvements. In addition, those portions of the Costs of Public Infrastructure Improvements that have not been reimbursed as provided in this Agreement shall accrue interest at the set forth in the previous paragraph until such Costs of Public Infrastructure Improvements have been reimbursed.

From time to time after Testa substantially completes portions of the Public Infrastructure Improvements, Testa shall provide a certified statement to the Village setting forth and providing reasonable evidence concerning Costs of Public Infrastructure Improvements substantially in the form attached hereto as Exhibit E and incorporated herein by this reference (each a "Certified Statement," and collectively, the "Certified Statements"). At least twice each year, subsequent to submission of the first Certified Statement by Testa, contingent upon the Village having received funds in the TIF Fund, the Village shall pay to Testa, within thirty (30) business days following the Village's receipt of a Certified Statement, the lesser of (i) the Costs of Public Infrastructure Improvements, or part of the Costs of Public Improvements, as shown in the Certified Statements, or (ii) the funds available pursuant to Sections 2.4 and 2.5 of this Agreement for payment of Costs of Public Improvements at that time in the TIF Fund. The Village and Testa agree that all Service Payments received into the TIF Fund shall be paid in the order of priority set forth in Section 2.5 of this Agreement.

Should insufficient funds available pursuant to Sections 2.5 of this Agreement to pay the Costs of Public Infrastructure Improvements exist in the TIF Fund at the time of submission of a Certified Statement to reimburse Testa for the Costs of Public Infrastructure Improvements, then the Village shall maintain a record of such unpaid amounts, and the Village shall pay to Testa such amounts within 30 business days after such funds exist in the TIF Fund (after the payment of items of higher priority), provided that such payment shall not exceed the available balance in the TIF Fund. Unpaid amounts shall bear Interest as described above. Interest accrued but not paid following the date of any payment to Testa out of the TIF Fund shall be added to the principal balance of unpaid amounts as of that date. The Village shall submit an accounting or record of all amounts paid to Testa out of the TIF Fund along with each payment to Testa, including payments made by the Village within 30 business days of the receipt of a Certified Statement and payments made by the Village within 30 business days of funds being deposited into the TIF Fund with respect to any unpaid amounts. Funds paid to Testa by the Village in accordance with this Agreement shall be applied first by Testa for interest components of the Costs of Public Infrastructure Improvements prior to being used by Testa for non-interest components of the Costs of the Public Infrastructure Improvements. In no event shall the Village be liable to Testa in any manner for any unpaid Costs of the Public Infrastructure Improvements that are unpaid as a result of insufficient funds in the TIF Fund.

Section 2.7 Priority of Lien. The provisions of Section 5709.91 of the Ohio Revised Code, which specify that Service Payments will be treated in the same manner as taxes for all purposes of the lien described in R.C. Section 323.11, including, but not limited to, the priority of the lien and the collection of Service Payments, apply to this Agreement and to the Property.

### **ARTICLE III**

#### **ADDITIONAL PROVISIONS**

3.1 Donation of Land. No later than December 31, 2026, Testa shall donate to the Village approximately 5.796 acres of the Property ("Donated Property"), which is depicted as Block J on Exhibit A. Testa has obtained an appraisal report and provided the same to the Village indicating the value of the Donated Property to be \$1,015,000.00 ("Donated Property Value"). At the time of the transfer of the Donated Land, the Village shall provide documentation to Testa, in form reasonably acceptable to Testa, accepting the donation of the Donated Land and acknowledging the fair market value of the same to be the Donated Property Value. Prior to the transfer of the Donated Land, Testa shall procure, pay for and provide to the Village an owner's policy of title insurance insuring the Village's interest in the donated land against any liens, encumbrances or defaults in the title to the Donated Land other than ordinary exceptions. Additionally, all taxes, assessments and other expenses associated with the Donated Property shall be pro-rated as of the date of transfer and shall be paid by Testa prior to or upon the Transfer. Prior to the donation, Testa agrees to remove all asphalt and other improvements on the Donated Property and will grade the Donated Property in a manner agreed upon by Testa and the Village Engineer. The Donated Property will be transferred to the Village via limited warranty deed ("Donated Land Deed").

3.2 Restrictive Covenant Regarding Apartment Units. No later than thirty (30) days after the adoption of the TIF Ordinance, Testa shall place upon the entirety of the Property a restrictive covenant, to be contained in a quit-claim deed from Testa to Testa, in a form as set forth on Exhibit F, whereby neither Testa, as the current owner, nor any subsequent owners, may construct, maintain or operate any apartment units on or upon the Property, in perpetuity. The parties understand that said restriction shall not restrict or limit Testa or any subsequent owner from constructing for-sale condominium units upon the Property.

3.3 Deposits and Reimbursements. Following the Effective Date, the Village may present Testa with paid invoices up to twenty-five thousand dollars (\$25,000.00) from the Village Engineer for the Village's engineering costs related to the Project that were either rendered by the Village Engineer prior to the Effective Date of this Agreement, or the engineering costs that will be rendered by the Village Engineer during the undertaking of the Project. Testa shall have no further obligation to pay or reimburse the Village for the costs of engineering services rendered by the Village Engineer, unless otherwise set forth in this Agreement. Said invoices may be delivered to Testa for the entire twenty-five thousand dollars (\$25,000.00) or in smaller increments from time to time until the threshold of twenty-five thousand dollars (\$25,000.00) is met. Testa shall pay the same within thirty (30) days of receipt.

Following the Effective Date, the Village may present Testa with paid invoices up to twenty-five thousand dollars (\$25,000.00) from the Village Solicitor or economic development consultant for the Village's legal fees and economic development consultant fees for services related to the Project, including, but not limited to, this Agreement and the TIF Financing, that were either rendered by the Village Solicitor or Village's economic development consultant prior to the Effective Date of this Agreement, or that will be rendered by the Village Solicitor or economic development consultant during the undertaking of the Project. Testa shall have no further obligation to pay or reimburse the Village for the costs of services rendered by the Village Solicitor or economic development consultant, unless otherwise set forth in this Agreement. Said invoices may be delivered to Testa for the entire twenty-five thousand dollars (\$25,000.00) or in smaller increments from time to time until the threshold of twenty-five thousand dollars (\$25,000.00) is met. Testa shall pay the same within thirty (30) days of receipt.

3.4 Donation of Ladder Fire Truck. Testa agrees to donate to the Village a new Sutphen \_\_\_\_\_ fire ladder truck equipped and meeting the specifications set forth on Exhibit G, attached hereto. To consummate said donation, Testa shall cooperate with the Village's Fire Chief to place an order for said truck no later than December 31, 2024 and to pay any necessary deposit for the same. Additionally, on or before delivery of the truck to the Village, Testa shall pay any remaining balance owed for the purchase of the same. Testa agrees to make all such payments timely and upon the terms and conditions required by the manufacturer of the truck so as to not delay delivery of the truck to the Village. At the time of the transfer of the truck, the Village shall provide documentation to Testa, in form reasonably acceptable to Testa, accepting the donation of the truck and acknowledging the fair market value of the same to be the purchase price of the truck.

#### **ARTICLE IV**

#### **REPRESENTATIONS AND WARRANTIES**

4.1 Representations and Warranties of the Village. The Village hereby represents and warrants as of the date of delivery of this Agreement that:

(a) It is a municipality and political subdivision duly organized and validly existing under the Constitution, laws of the State of Ohio and its Charter.

(b) It is not in violation of or in conflict with any provision of the laws of the State that would impair its ability to observe and perform its covenants, agreements and obligations under this Agreement, nor will its execution, delivery and performance of this Agreement (a) result in such a violation or conflict or (b) conflict with or result in any breach of any provisions of any other agreement or instrument to which the Village is a party or by which it may be bound.

(c) It has and will have full power and authority (a) to execute, deliver, observe and perform this Agreement and all other instruments and documents executed and delivered by it in connection herewith and (b) to enter into, observe and perform the transactions contemplated by this Agreement and those other instruments and documents.

(d) It has or will have duly authorized the execution, delivery, observance and performance of this Agreement.

4.2 Representations and Warranties of the Testa. Testa hereby represents and warrants as of the date of delivery of this Agreement that:

(a) It is a limited liability company duly organized and validly existing under the laws of the State of Ohio.

(b) It is not in violation of or in conflict with any provision of the laws of the State that would impair its ability to observe and perform its covenants, agreements and obligations under this Agreement, nor will its execution, delivery and performance of this Agreement (a) result in such a violation or conflict or (b) conflict with or result in any breach of any provisions of any other agreement or instrument to which it is a party or by which it may be bound.

(c) It has and will have full power and authority (a) to execute, deliver, observe and perform this Agreement and all other instruments and documents executed and delivered by it in connection herewith and (b) to enter into, observe and perform the transactions contemplated by this Agreement and those other instruments and documents.



(d) It has or will have duly authorized the execution, delivery, observance and performance of this Agreement.

## **ARTICLE V**

### **MISCELLANEOUS**

5.1 **Breach and Remedy.** Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement by either Party to this Agreement, or any successor to such Party, such Party (or successor) shall, within thirty (30) days of receipt of written notice from the other, proceed to cure or remedy such default or breach. In case such action is not taken within such thirty (30) day period, or if such cure or remedy cannot be reasonably completed within such thirty (30) day period but is not begun during such period and cured or remedied within a reasonable time, the non-defaulting party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations. Furthermore, in the event of a default by Testa that is not cured or remedied as set forth above, the Village may terminate this Agreement and may further take such actions as are necessary to terminate the TIF Financing and/or any other support or assistance to the Project or Testa. All rights and remedies shall be cumulative and shall not be construed to exclude any other remedies allowed at law or in equity.

5.2 **Entire Agreement.** This Agreement and the agreements attached hereto represent the entire and integrated agreement between the Parties for the subject matter hereof and supersedes all prior negotiations, representations, or agreements in such regard, either written or oral. As set forth in the recitals, above, this Agreement shall amend and supersede the Original Agreement and any provision of the Original Agreement in conflict with this Agreement shall be null and void and of no effect whatsoever.

5.3 **Amendments and Modification.** This Agreement may be amended only by a written document signed by both Parties.

5.4 **No Personal Liability.** Nothing herein shall be construed as creating any personal liability on the part of any member, officer or agent of either Party.

5.5 **Successor and Assigns.** This Agreement shall be binding upon, and inure to the benefit of, all successors and assigns; provided, however, that neither Party may assign its interest in this Agreement without the written consent of the other Party.

5.6 **Notices.** Any notice, request, consent, approval or demand (collectively, a "Notice") given or made under this Agreement shall be in writing and shall be given in the following manner: (a) by personal delivery of such Notice; (b) by mailing of such Notice by certified mail, return receipt requested; or (c) by nationally recognized commercial overnight delivery of such Notice for next business day delivery. All Notices shall be delivered to the addresses set forth in this Section. Notice served by certified mail shall be effective on the fifth business day after the date of mailing. Notice served by commercial overnight delivery shall be effective on the next business day following deposit with the overnight delivery company.

If to Testa:	Testa Mogadore, LLC 2335 2 <sup>nd</sup> Street, Cuyahoga Falls, OH 44221 Attn: Joel Testa
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If to Village:	Village of Mogadore
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135 S. Cleveland Ave.,  
Mogadore, OH 44260  
Attn: Mayor

with a copy to: Roetzel & Andress, LPA  
222 S. Main St.  
Suite 400  
Akron, OH 44308  
Attn: Jason D. Dodson, Esq.

Any party may change its address for the service of notice by giving written notice of such change to the other party, in any manner above specified.

5.7 Choice of Law and Forum Selection. This Agreement shall be construed and interpreted in accordance with the laws of the State of Ohio. Any civil action relating to or arising from this Agreement shall be filed in the Portage County Court of Common Pleas.

5.8 Severability. If any provisions, covenants, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants or portions of this Agreement and, to that end, all provisions, covenants, agreements or portions of this Agreement are declared to be severable.

5.9 Execution. This Agreement may be executed by the parties hereto in one or more counterparts or duplicate signature pages, each of which when so executed and delivered will be an original, with the same force and effect as if all required signatures were contained in a single original instrument. Any one or more of such counterparts or duplicate signature pages may be removed from any one or more original copies of this Agreement and annexed to other counterparts or duplicate signature pages to form a completely executed original instrument. Electronic or facsimile signatures shall be treated as original signatures to this Agreement.

5.10 Exhibits. All of the exhibits attached to this Agreement are expressly incorporated herein and made a part hereof. If the Parties, after the execution of this Agreement, mutually agree to amend or modify any of the exhibits attached hereto, then the applicable exhibit attached hereto shall be removed and replaced by the mutually approved amended or modified version of such exhibit.

5.11 Force Majeure. Neither Party will be considered in default in its obligations, if the delay in performance is due to causes beyond its reasonable control and without its fault or negligence. Such causes include, without limitation, acts of God or of the public enemy, acts of terrorism, acts of the federal or state government, acts or delays of the other party, fires, floods or other casualty, weather, epidemics, freight embargoes, unavailability of materials, strikes or delays of contractors, subcontractors or materialmen due to any of those causes. It is the intent of the Parties that in the event of the occurrence of any force majeure event, the time or times for performance will be extended based on the delay caused by such force majeure event.

[Signature Page to Follow]

**IN WITNESS WHEREOF**, the parties hereto have set their hand and seals, and have executed this Agreement on the day and year first above written.

**VILLAGE OF MOGADORE, OHIO**

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

Michael Rick, Mayor

Date: \_\_\_\_\_

APPROVED TO AS FORM AND  
CORRECTNESS:

\_\_\_\_\_  
Jason D. Dodson, Law Director

**TESTA MOGADORE, LLC**

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

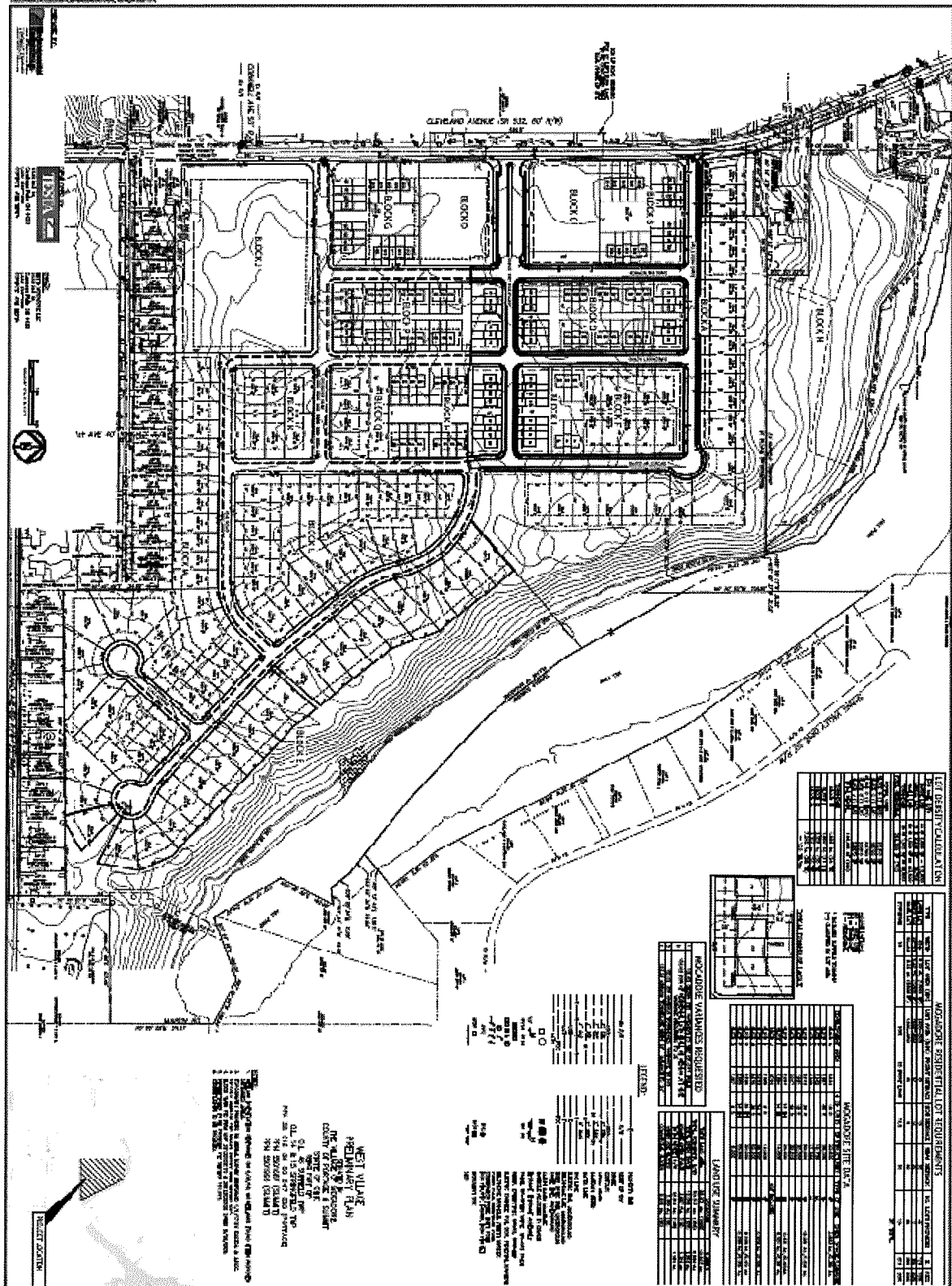
Its: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT LIST

- “A” Preliminary Plan
- “B” Description of On-Site Public Infrastructure Improvements
- “C” Description of Off-Site Public Infrastructure Improvements
- “D” Public Infrastructure Improvements Related to Phase 1
- “E” Certified Statement
- “F” Quit-Claim Deed with Restrictive Covenant
- “G” Ladder Fire Truck Specifications

# Exhibit A Preliminary Plan



**Exhibit B**  
**Description of On-Site Public Infrastructure Improvements**

The On-Site Public Infrastructure Improvements consist of any “public infrastructure improvement” defined under Section 5709.40(A)(7) of the Ohio Revised Code and that directly benefits or serves the Property and specifically include, but are not limited to, any of the following improvements that will benefit or serve the Property and all related costs of those permanent improvements (including, but not limited to, those costs listed in Section 133.15(B) of the Ohio Revised Code):

- **Stormwater.** Construction, reconstruction and installation of stormwater and flood remediation projects and facilities, including such projects and facilities on private property when determined to be necessary for public health, safety and welfare, including but not limited to the construction and installation of storm water sewers throughout the proposed development including the public roads to be constructed throughout the development;
- **Parks.** Construction or reconstruction of one or more public parks, including grading, trees and other park plantings, park accessories and related improvements, multi-use trails and bridges, together with all appurtenances thereto, including, without limitation, improvements to parkland and multi-use trails within or proximate to the TIF area;
- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto, including but not limited to the construction, reconstruction, improving, grading, draining and resurfacing of, and installation of sidewalks along Front Street, 2<sup>nd</sup> Street, Chestnut Boulevard, Sackett Avenue, and along the public roads to be constructed throughout the development;
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto, including but not limited to construction and installation of sanitary sewers along Front Street, 2<sup>nd</sup> Street, Chestnut Boulevard, Sackett Avenue, and along the public roads to be constructed throughout the development;
- **Environmental/Health.** Implementation of environmental remediation measures necessary to enable the Project and the construction of public health, including but not limited to preservation of wetlands and flood plain management in the areas around the proposed development and along Front Street, 2<sup>nd</sup> Street, Chestnut Boulevard and Sackett Avenue, dam modifications and improvements, any dredging of waterways in the TIF area, streambank erosion protection and renovation and related environmental studies and remediation;
- **Utilities.** Construction, reconstruction or installation of gas, electric and communication service facilities and all appurtenances thereto;
- **Demolition.** Demolition, including demolition on private property when determined to be necessary for public health, safety and welfare;

- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described in “Roadways” above, and including but not limited to lighting along Front Street, 2<sup>nd</sup> Street, Chestnut Boulevard, Sackett Avenue, and the other new streets to be constructed throughout the development;
- **Real Estate.** Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing improvements, or (b) in aid of industry, commerce, distribution or research; including, but not limited to, the purchase of parkland; and
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.

**Without limiting the generality of the foregoing, the On-Site Public Infrastructure Improvements shall include all Public Infrastructure Improvements to be installed in the dedicated rights-of-way depicted on Exhibit A of this Agreement.**

**Exhibit C**  
**Description of Off-Site Public Infrastructure Improvements**

The Off-Site Public Infrastructure Improvements consist of any “public infrastructure improvement” defined under Section 5709.40(A)(7) of the Ohio Revised Code and that directly benefits or serves the Property and specifically include, but are not limited to, any of the following improvements that will benefit or serve the Property and all related costs of those permanent improvements (including, but not limited to, those costs listed in Section 133.15(B) of the Ohio Revised Code):

- **Stormwater.** Construction, reconstruction and installation of stormwater and flood remediation projects and facilities, including such projects and facilities on private property when determined to be necessary for public health, safety and welfare, including but not limited to the construction and installation of storm water sewers throughout the proposed development including the public roads to be constructed throughout the development;
- **Parks.** Construction or reconstruction of one or more public parks, including grading, trees and other park plantings, park accessories and related improvements, multi-use trails and bridges, together with all appurtenances thereto, including, without limitation, improvements to parkland and multi-use trails within or proximate to the TIF area;
- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto, including but not limited to the construction, reconstruction, improving, grading, draining and resurfacing of, and installation of sidewalks along Front Street, 2<sup>nd</sup> Street, Chestnut Boulevard, Sackett Avenue, and along the public roads to be constructed throughout the development;
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto, including but not limited to construction and installation of sanitary sewers along Front Street, 2<sup>nd</sup> Street, Chestnut Boulevard, Sackett Avenue, and along the public roads to be constructed throughout the development;
- **Environmental/Health.** Implementation of environmental remediation measures necessary to enable the Project and the construction of public health, including but not limited to preservation of wetlands and flood plain management in the areas around the proposed development and along Front Street, 2<sup>nd</sup> Street, Chestnut Boulevard and Sackett Avenue, dam modifications and improvements, any dredging of waterways in the TIF area, streambank erosion protection and renovation and related environmental studies and remediation;
- **Utilities.** Construction, reconstruction or installation of gas, electric and communication service facilities and all appurtenances thereto;
- **Demolition.** Demolition, including demolition on private property when determined to be necessary for public health, safety and welfare;



- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described in “Roadways” above, and including but not limited to lighting along Front Street, 2<sup>nd</sup> Street, Chestnut Boulevard, Sackett Avenue, and the other new streets to be constructed throughout the development;
- **Real Estate.** Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing improvements, or (b) in aid of industry, commerce, distribution or research; including, but not limited to, the purchase of parkland; and
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.

**Without limiting the generality of the foregoing, attached hereto as Attachment C-1 is a further description of the Off-Site Public Infrastructure Improvements.**

## **Attachment C-1**

**See attached documents depicting the Off-Site Public Infrastructure Improvements to Cleveland Avenue.**

**Exhibit D**  
Public Infrastructure Improvements Related to Phase 1

The On-Site Public Infrastructure Improvements to-be-constructed in the right-of-way areas on the attached map.

## Exhibit E

### Form of Certified Statement

To: Village of Mogadore, Ohio

Attention: Mayor

Subject: Request for Reimbursement from the TIF Fund for Public Improvements pursuant to the terms of the Amended and Restated Development and Tax Increment Financing Agreement dated \_\_\_\_\_, 2024 (the “Agreement”), by and between the Village of Mogadore, Ohio, and Testa Mogadore, LLC (the “Developer”).

You are hereby requested to approve the amount of \$\_\_\_\_\_ as Costs of Public Improvements for the purposes set forth in Item I attached hereto. Unless otherwise defined herein, all capitalized terms set forth but not defined in this Certified Statement have the respective meanings assigned to them in the Agreement.

The undersigned authorized representative of the Developer does hereby certify on behalf of the Developer that:

- (i) I have read the Agreement and definitions relating thereto and have reviewed appropriate records and documents relating to the matters covered by this Certified Statement;
- (ii) The disbursement herein requested is for an obligation properly incurred, is a proper charge as a cost of the Public Infrastructure Improvements (as defined in the Agreement), and has not been the basis of any previous reimbursement request;
- (iii) The Developer is in material compliance with all provisions and requirements of the Agreement;
- (iv) The reimbursement requested hereby does not include any amount which is being retained under any holdbacks or retainages provided for in any applicable agreement;
- (v) The Developer has, or the appropriate parties on the Developer’s behalf has, asserted its entitlement to all available manufacturer’s warranties to date upon acquisition of possession of or title to the Public Infrastructure Improvements or any part thereof which warranties have vested in the Developer;
- (vi) The Developer is not aware of any mechanic’s or materialman’s liens (excluding those for which a bond or other form of security has been posted) from any contractors, subcontractors and suppliers (which would not include sellers of machinery and equipment) who have provided services or materials for the Public

Infrastructure Improvements for which reimbursement is requested pursuant to this Certified Statement.

- (vii) The Developer has obtained lien releases from any contractors, subcontractors and suppliers who have provided services or materials for the Public Infrastructure Improvements for which reimbursement is requested pursuant to this Certified Statement, and a copy of the same are attached.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

MOGADORE TESTA, LLC

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

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED this \_\_\_\_ day of 20\_\_:

\_\_\_\_\_  
Village of Mogadore, Ohio

ITEM I

Requisition No. \_\_\_\_\_ for Public Improvements

Pay to \_\_\_\_\_

Amount \$ \_\_\_\_\_

For Account of:

Account Number:

Wiring Instructions:

For the purpose of reimbursing the following payments previously paid by the Developer for the Public Improvements:

Name of Vendor	Service Rendered	Time Period	Cost of Service Rendered
----------------	------------------	-------------	--------------------------

1.

2.

**Exhibit F**  
Quit-Claim Deed with Restrictive Covenant

**QUIT-CLAIM DEED**  
(Pursuant to Ohio Revised Code Section 5302.11)

KNOW ALL MEN BY THESE PRESENTS, that Testa Mogadore, LLC, an Ohio limited liability company, whose tax mailing address is 2335 2<sup>nd</sup> Street, Cuyahoga Falls, OH 4422, as Grantor, for valuable consideration paid, the receipt and sufficiency of which is hereby acknowledged, do hereby transfer, convey, grant and quitclaim unto Testa Mogadore, LLC, an Ohio limited liability company, whose tax mailing address is 2335 2<sup>nd</sup> Street, Cuyahoga Falls, OH 4422, as Grantee, Grantors entire interest in the real property described in the attached **Exhibit A** which is made a part of this Deed (the "Property").

Property Address: 197 N. Cleveland Ave., Mogadore, OH 44260

Permanent Parcel Nos.: 39-046-00-00-031-001, 38-046-00-00-00-047-00 and 39-046-00-00-032-000

Prior Instrument Number: 201510395

Except a) any mortgage assumed by Grantee, b) such restrictions, conditions, easements (however created) and encroachments as do not materially adversely affect the use or value of the real property transferred herein, c) zoning ordinances, if any, and d) taxes and assessments, both general and special, not yet due and payable.

And further, by acceptance of this Deed, Grantee acknowledges and agrees, for itself and all successors and assigns, that it shall not construct or use any structure or improvement upon the Property situated within the Village of Mogadore, now or in the future, as a for-rent multi-family apartment building in which rent or consideration of any type or nature is charged by the Grantee or its successors or assigns in exchange for a leasehold interest in or to said multi-family apartment building. This restriction is not intended to restrict, and shall not restrict, the construction or use of any structure or improvement upon the Property as a condominium unit subject to a declaration of condominium legally adopted and filed of record pursuant to the Ohio Revised Code. This restriction shall be placed on each and every deed conveying the Property or any portion thereof located within the Village of Mogadore. Furthermore, the legislative authority of the Village of Mogadore, Ohio may adopt a resolution or ordinance approving the removal of this restriction against the Property, and, upon adoption of the same, this restriction shall have no force or effect.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on \_\_\_\_\_, 2024.

Testa Mogadore, LLC

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

Name: \_\_\_\_\_

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

STATE OF OHIO )  
 )  
COUNTY OF SUMMIT )

NOTARY PUBLIC  
My Commission Expires:

Jason Dodson  
Roetzel & Andress  
222 S. Main Street, Suite 400  
Akron, Ohio 44308  
(330) 849-6631  
[jdodson@ralaw.com](mailto:jdodson@ralaw.com)



**Exhibit G**  
Ladder Fire Truck Specifications

See attached.

RECORD OF ORDINANCES

Resolution No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

SPONSOR: STREETS COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT TO PURCHASE A 2024 FORD F-250 SUPER DUTY TRUCK FROM KEN GANLEY FORD AT STATE-TERM CONTRACT PRICING WHICH WILL NOT EXCEED \$50,000.00, AND DECLARING AN EMERGENCY.

WHEREAS, Section 14.03 of the Village's Charter provides that all purchases exceeding one-half (1/2) of the statutory threshold of \$50,000.00 shall be undertaken by advertising for and accepting sealed bids; and

WHEREAS, Section 125.04 of the Ohio Revised Code provides an exception to the Village's requirement for competitive bidding for the purchase of goods and services through the Village's participation in pricing procured by the State of Ohio Department of Administrative Services ("State-Term Contract"); and

WHEREAS, the Mayor desires to place an order with Ken Ganley Ford at State-Term Contract pricing, for a 2024 Ford F-250 Super Duty Truck in an amount not to exceed \$50,000.00 for use by the Streets Department to replace its prior vehicle; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village to authorize the Mayor to enter into an agreement to purchase a 2024 Ford F-250 Super Duty Truck from Ken Ganley Ford for an amount not to exceed \$50,000.00, pursuant to State-Term Contract pricing.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of Mogadore, Counties of Summit and Portage, State of Ohio, that:

SECTION 1: The Mayor is hereby authorized to enter into an agreement to purchase a 2024 Ford F-250 Super Duty Truck from Ken Ganley Ford for an amount not to exceed \$50,000.00 pursuant to State-Term Contract pricing.

SECTION 2: The Mayor and all other Village officials are authorized and directed to sign and/or enter into any instruments of conveyance or other documents necessary to effectuate the provisions of this Resolution. Additionally, the Mayor is authorized to enter into any purchase orders of less than the amount required by Section 14.03 of the Village's Charter that are necessary to equip the 2024 Ford F-250 Super Duty Truck.

SECTION 3: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this resolution were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings

RECORD OF ORDINANCES

Resolution No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

open to the public, in compliance with all legal requirements.

SECTION 4: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the Village of Mogadore and for the purpose of immediately purchasing the 2024 Ford F-250 Super Duty Truck so that the Village may maintain a satisfactory fleet of street department vehicles and, provided this Resolution receives the affirmative vote of at least five (5) members elected or appointed to this Council, it shall take effect and be in force upon its passage by Council and approval by the Mayor, otherwise it shall take effect and be in force at the earliest period allowed by law.

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Clerk-Treasurer

RECORD OF ORDINANCES

Resolution No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

SPONSOR: STREETS COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT TO PURCHASE A 2024 FORD F-250 SUPER DUTY TRUCK FROM KEN GANLEY FORD AT STATE-TERM CONTRACT PRICING WHICH WILL NOT EXCEED \$50,000.00, AND DECLARING AN EMERGENCY.

WHEREAS, Section 14.03 of the Village's Charter provides that all purchases exceeding one-half (1/2) of the statutory threshold of \$50,000.00 shall be undertaken by advertising for and accepting sealed bids; and

WHEREAS, Section 125.04 of the Ohio Revised Code provides an exception to the Village's requirement for competitive bidding for the purchase of goods and services through the Village's participation in pricing procured by the State of Ohio Department of Administrative Services ("State-Term Contract"); and

WHEREAS, the Mayor desires to place an order with Ken Ganley Ford at State-Term Contract pricing, for a 2024 Ford F-250 Super Duty Truck in an amount not to exceed \$50,000.00 for use by the Streets Department to replace its prior vehicle; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village to authorize the Mayor to enter into an agreement to purchase a 2024 Ford F-250 Super Duty Truck from Ken Ganley Ford for an amount not to exceed \$50,000.00, pursuant to State-Term Contract pricing.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of Mogadore, Counties of Summit and Portage, State of Ohio, that:

SECTION 1: The Mayor is hereby authorized to enter into an agreement to purchase a 2024 Ford F-250 Super Duty Truck from Ken Ganley Ford for an amount not to exceed \$50,000.00 pursuant to State-Term Contract pricing.

SECTION 2: The Mayor and all other Village officials are authorized and directed to sign and/or enter into any instruments of conveyance or other documents necessary to effectuate the provisions of this Resolution. Additionally, the Mayor is authorized to enter into any purchase orders of less than the amount required by Section 14.03 of the Village's Charter that are necessary to equip the 2024 Ford F-250 Super Duty Truck.

SECTION 3: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this resolution were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings

RECORD OF ORDINANCES

Resolution No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

open to the public, in compliance with all legal requirements.

SECTION 4: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the Village of Mogadore and for the purpose of immediately purchasing the 2024 Ford F-250 Super Duty Truck so that the Village may maintain a satisfactory fleet of street department vehicles and, provided this Resolution receives the affirmative vote of at least five (5) members elected or appointed to this Council, it shall take effect and be in force upon its passage by Council and approval by the Mayor, otherwise it shall take effect and be in force at the earliest period allowed by law.

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Clerk-Treasurer

RECORD OF ORDINANCES

Resolution No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

SPONSOR: STREETS COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR A SAFE ROUTES TO SCHOOLS GRANT, IN CONJUNCTION WITH THE MOGADORE LOCAL SCHOOL DISTRICT, TO CONSTRUCT AND INSTALL SIDEWALKS ALONG CURTIS STREET AND HERBERT STREET AND A DRIVEWAY IMPROVEMENT AT O.H. SOMERS ELEMENTARY SCHOOL, AND DECLARING AN EMERGENCY.

WHEREAS, the United States Congress has set aside monies for Safe Routes to School (“SRTS”) projects which are available through the State of Ohio, Department of Transportation; and

WHEREAS, Local Public Agencies (“LPA”) may apply for SRTS funds and be selected for funding by the State of Ohio, Department of Transportation; and

WHEREAS, while not requiring a match, the SRTS grant program does require LPAs to bear the cost of all construction and installation of eligible projects over and above the maximum amount provided by the State of Ohio, Department of Transportation; and

WHEREAS, the Village Engineer has identified a transportation project eligible for SRTS funding within the Village consisting of the construction and installation of sidewalks along Curtis Street and Herbert Street and the construction and installation of a driveway improvement at O.H. Somers Elementary, at an estimated cost of \$500,709.00 (the “Project”); and

WHEREAS, in conjunction with the Mogadore Local School District, the Village desires to apply for SRTS grant funds for the Project; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village of Mogadore to apply for and accept an SRTS grant to fund the Project, in conjunction with the Mogadore Local School District.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of Mogadore, Counties of Summit and Portage, State of Ohio, that:

SECTION 1: Together with the Mogadore Local School District, the Mayor and all other Village officials are hereby authorized to do all things necessary to apply for a SRTS grant from the State of Ohio, Department of Transportation on behalf of the Village, as the LPA, to fund the construction and installation of the Project. Additionally, any actions of the Mayor and all other Village officials towards applying for the aforementioned grant that occurred prior to the adoption of this Ordinance are hereby approved and ratified.

## RECORD OF ORDINANCES

Resolution No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

SECTION 2: Together with the Mogadore Local School District, the Mayor and all other Village officials are hereby authorized to do all things necessary to accept the SRTS grant from the State of Ohio, Department of Transportation.

SECTION 3: While no match is required, by applying for the SRTS grant, the Village, as the LPA, agrees that it shall bear the cost of all construction and installation of the Project over and above the maximum amount provided by the State of Ohio, Department of Transportation.

SECTION 4: Upon completion of the Project, and unless otherwise agreed, the Village, as the LPA, shall: (1) provide adequate maintenance for the Project in accordance with all applicable state and federal laws, including, but not limited to, 23 USC 116; (2) provide ample financial provisions, as necessary, for the maintenance of the Project; (3) if necessary, maintain the right-of-way, keeping it free of obstructions; and (4) if necessary, hold said right-of-way inviolate for public highway purposes.

SECTION 5: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this resolution were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION 6: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the Village of Mogadore and for the purpose of applying for and accepting the aforementioned grant in a time and manner required by the grant program, and expending the same in a time and manner required by the grant program, and, provided this Resolution receives the affirmative vote of at least five (5) members elected or appointed to this Council, it shall take effect and be in force upon its passage by Council and approval by the Mayor, otherwise it shall take effect and be in force at the earliest period allowed by law.

\_\_\_\_\_  
President of Council\_\_\_\_\_  
Date\_\_\_\_\_  
Mayor\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Clerk-Treasurer

RECORD OF ORDINANCES

Ordinance No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

SPONSOR: FINANCE COMMITTEE

AN ORDINANCE AMENDING THE ANNUAL APPROPRIATIONS FOR THE CURRENT EXPENSES AND OTHER EXPENDITURES OF THE VILLAGE FOR THE FISCAL YEAR ENDING DECEMBER 31, 2024, AND DECLARING AN EMERGENCY.

WHEREAS, the Clerk-Treasurer has recommended that this Council amend the annual appropriations for the current expenses and other expenditures of the Village for the Fiscal Year ending December 31, 2024; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village of Mogadore to amend the annual appropriations for the current expenses and other expenditures of the Village for the Fiscal Year ending December 31, 2024.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Mogadore, Counties of Summit and Portage, State of Ohio, that:

SECTION 1: This Council hereby amends the annual appropriations for the current expenses and other expenditures of the Village for the Fiscal Year ending December 31, 2024, from the various funds of the Village, as follows:

STREETS CONSTRUCTION/MAINTENANCE

Other

\$50,000.00

SECTION 2: With such amendments specified in Section 1 above, the total revised appropriations for the Village for the Fiscal Year ending December 31, 2024, is now contained in Exhibit A attached hereto and incorporated by reference herein.

SECTION 3: The Clerk-Treasurer is hereby authorized and directed to effectuate the appropriations set forth herein.

SECTION 4: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings open to the public, in compliance with all legal requirements.



RECORD OF ORDINANCES

Ordinance No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

SECTION 5: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the Village of Mogadore and for the purpose of immediately appropriating said funds to provide for the orderly operation of the Village and the payment of the Village's immediate obligations, and, provided this Resolution receives the affirmative vote of at least five (5) members elected or appointed to this Council, it shall take effect and be in force upon its passage by Council and approval by the Mayor, otherwise it shall take effect and be in force at the earliest period allowed by law.

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Clerk-Treasurer

## EXHIBIT A - ORDINANCE NO. 2024-

## 2024 ANNUAL APPROPRIATIONS ORDINANCE

## Amendment #3

That to provide for the current expenses and Capital Improvements of the Village of Mogadore for the fiscal year ending December 31, 2024, the following sums be and they are hereby set aside and appropriated as follows:

<u>GENERAL FUND</u>			
Administrative (Mayor, Legislative, Solicitor, and Clerk-Treasurer)	Personal Service	\$140,387.00	
	Other	\$695,189.00	\$835,576.00
Mayor's Court	Personal Service	\$10,792.00	
	Other	\$8,650.00	\$19,442.00
Police Law Enforcement	Personal Service	\$1,065,599.00	
	Other	\$533,751.00	\$1,599,350.00
Service (Land and Buildings) Personal Service	Personal Service	\$0.00	
	Other	\$116,900.00	\$116,900.00
	Transfers Out		\$2,372,000.00
TOTAL GENERAL FUND APPROPRIATIONS			<u>\$4,943,268.00</u>
<u>FIRE EMS FUND</u>			
	Personal Service	\$0.00	
	Other	\$37,500.00	\$37,500.00
<u>FIRE FUND</u>			
	Personal Service	\$497,778.00	
	Other	\$437,050.00	\$934,828.00
<u>SAFETY GRANT</u>			
	Personal Service	\$319,956.00	
	Other	\$90,000.00	\$409,956.00
<u>POLICE TASER GRANT FUND</u>			
	Personal Service	\$0.00	
	Other	\$14,824.45	\$14,824.45
<u>COPS GRANT FUND</u>			
	Personal Service	\$68,000.00	
	Other	\$12,000.00	\$80,000.00
<u>CEMETERY FUND</u>			
	Personal Service	\$12,145.00	
	Other	\$127,800.00	\$139,945.00
<u>STREETS CONSTRUCTION/MAINTENANCE</u>			
	Personal Service	\$321,540.00	
	Other	\$641,840.00	\$963,380.00
<u>STATE HIGHWAY</u>			
	Personal Service	\$0.00	
	Other	\$10,550.00	\$10,550.00
<u>PARKS &amp; RECREATION</u>			
	Personal Service	\$98,128.00	
	Other	\$470,600.00	\$568,728.00
<u>COURT COMPUTERIZATION FUND</u>			
	Personal Service	\$0.00	
	Other	\$3,000.00	\$3,000.00
<u>COVID AID FISCAL RECOVERY</u>			
	Personal Service	\$0.00	
	Other	\$25,750.00	\$25,750.00
<u>WATER/SEWER MAIN PROJECT</u>			
	Personal Service	\$0.00	
	Other	\$1,152,000.00	\$1,152,000.00
<u>POLICE PENSION FUND</u>			
	Personal Service	\$0.00	
	Other	\$50,000.00	\$50,000.00
<u>DEBT SERVICE FUND</u>			
	Personal Service	\$0.00	
	Other	\$66,000.00	\$66,000.00
GRAND TOTAL ALL APPROPRIATIONS FOR 2024			<u><u>\$9,399,729.45</u></u>