



**CITY OF HUBER HEIGHTS  
STATE OF OHIO  
City Council Meeting  
Regular Session  
August 28, 2023  
6:00 P.M.**

**City Hall - Council Chambers - 6131 Taylorsville Road - Huber Heights, Ohio**

- 1. Call The Meeting To Order - Mayor Jeff Gore**
- 2. Invocation - Pastor Vanetta Bellows Of The Wright-Patterson Air Force Base Chapel**
- 3. Pledge Of Allegiance**
- 4. Roll Call**
- 5. Approval Of Minutes**
  - A. City Council Meeting Minutes - August 21, 2023**
- 6. Special Presentations/Announcements**
- 7. Citizens Comments**
- 8. Citizens Registered To Speak On Agenda Items**
- 9. City Manager Report**
- 10. Pending Business**

- A. An Ordinance To Approve Vacating Thorngate Drive, North Of Waynegate Road, To Transfer The Remnants Of The Public Right Of Way To The Adjacent Property Owners, And To Accept The Recommendation Of The Planning Commission (Case RP 23-18).  
(second reading)

11. **New Business**

**CITY COUNCIL**

**Anthony Rodgers, Clerk Of Council**

- A. A Motion To Appoint Stella Hyre To The Arts And Beautification Commission For A Term Ending June 30, 2025.
- B. A Public Hearing Scheduled For August 28, 2023 By The Huber Heights City Council For Case TA 23-14A To Amend Part Eleven - Planning And Zoning Code, Chapter 1181 - General Provisions, Section 1181.20 - Building Materials For Dwellings Of The City Code Of Huber Heights.

**ADMINISTRATION**

**Bryan Chodkowski, Interim City Manager**

- C. An Ordinance Amending Certain Sections Of Part Eleven, Planning And Zoning Code, Of The City Code Of Huber Heights (Case TA 23-14A).  
(first reading)
- D. A Resolution Approving The Collective Bargaining Agreement With The Fraternal Order Of Police, Ohio Labor Council, Inc. Representing Sergeants In The Police Division For The Time Period January 1, 2023 Through December 31, 2025.  
(first reading)
- E. A Resolution Approving The Collective Bargaining Agreement With The Fraternal Order Of Police, Ohio Labor Council, Inc. Representing Lieutenants In The Police Division For The Time Period January 1, 2023 Through December 31, 2025.  
(first reading)
- F. An Ordinance To Approve An Economic Development Plan And To State That The City May Hereafter Proceed With Approval Of A Tax Increment Financing Incentive District.  
(first reading)
- G. A Resolution Authorizing The City Manager To Enter Into A Community Reinvestment Area Agreement With Simms The Gables Of HH, Ltd. Under Certain Terms And Conditions.  
(first reading)

- H. An Ordinance Approving Individual Assessments Amounts And Directing The Director Of Finance Or His/Her Designee To Certify The Amounts To The Applicable County Auditor For Collection, And Declaring An Emergency.  
(first reading)
- I. An Ordinance Providing For The Issuance And Sale Of Notes In The Maximum Principal Amount Of \$1,662,000 In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying The Costs Of Acquiring Approximately 51 Acres Of Real Property Near The Intersection Of Brandt Pike And Executive Boulevard And Providing For The Site Preparation Thereof, All In Support Of Economic Development And Job Creation Within The City.  
(first reading)

12. **City Official Reports And Comments**

13. **Executive Session**

14. **Adjournment**

**AI-9449**

**Minutes    A.**

**City Council Meeting**

**Meeting Date:** 08/28/2023

Approval Of Minutes - 08/21/2023

**Submitted By:** Anthony Rodgers

**Department:** City Council

**Council Committee Review?:** None

**Date(s) of Committee Review:** N/A

**Audio-Visual Needs:** None **Emergency Legislation?:** No

**Motion/Ordinance/** N/A

**Resolution No.:**

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**Agenda Item Description or Legislation Title**

City Council Meeting Minutes - August 21, 2023

**Purpose and Background**

Approval of the minutes from the August 21, 2023 City Council Meeting.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

There are no financial implications to this agenda item.

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**Attachments**

Minutes

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**1. Call The Meeting To Order - Mayor Jeff Gore**

The Huber Heights City Council met in a Regular Session on August 21, 2023.  
Mayor Jeff Gore called the meeting to order at 6:00 p.m.

**2. Pledge Of Allegiance**

**3. Roll Call**

Present: Richard Shaw, Kathleen Baker, Mark Campbell, Nancy Byrge, Glenn Otto,  
Ed Lyons, Anita Kitchen, Don Webb, Jeff Gore

**4. Approval Of Minutes**

A. City Council Meeting Minutes - July 24, 2023

The minutes for the August 21, 2023 City Council Meeting were approved by the  
Huber Heights City Council as submitted.

**5. Special Presentations/Announcements**

There were no Special Presentations or Announcements.

**6. Citizens Comments**

There were no Citizens Comments.

**7. Citizens Registered To Speak On Agenda Items**

There were no citizens registered to speak on agenda items.

**8. City Manager Report**

Interim City Manager Bryan Chodkowski said he and City Planner Aaron Sorrell met with representatives of LWC regarding the future City Governance and Senior Center. He said City Staff hope to have a final siting layout and elevation drawing to show Council in another three weeks. He said City Staff released the Request For Proposals (RFP) for the property the City acquired at the intersection of Carriage Trails and Brandt Pike which is approximately 25 acres. He said the RFP is open from now until September 13, 2023. He said City Staff continue to work on the Carriage Trails Boulevard and Brandt Pike traffic signal issue. He said the City now needs an updated legal description for the land that would become the new right-of-way for the intersection, and City Staff have begun drafting that language to keep the process moving forward. He said the next step would be to meet with the affected property owners. He said this week, City Staff will be finishing up interviews for the Parks Manger position. He said the exterior of the Huber Heights Community Center has been painted, new basketball court surfaces have been laid down; and the painting of those surfaces will happen in a few weeks. He said regarding the inside of the Community Center, the contractor will begin staging within the building later in September, 2023 with renovations to

begin in October, 2023. He said final siting for the new Public Works Division building is complete, and that project will go to bid later in September, 2023.

**9. Pending Business**

- A. An Ordinance Approving Individual Assessments Amounts And Directing The Director Of Finance Or His/Her Designee To Certify The Amounts To The Applicable County Auditor For Collection, And Declaring An Emergency. (second reading)

Mr. Chodkowski said this item is recurring legislation and empowers the City to assess for outstanding fees associated with property maintenance and various other functions of the government that are levied on behalf of property owners to be placed on the tax roll.

Mayor Gore said the Council Work Session recommendation was to adopt this item.

Mr. Otto moved to adopt; Mrs. Byrge seconded the motion. On a call of the vote, Ms. Baker, Mr. Campbell, Mrs. Byrge, Mr. Otto, Mr. Lyons, Mrs. Kitchen, Mr. Webb, and Mr. Shaw voted yea; none voted nay. The motion passes 8-0.

**10. New Business**

**ADMINISTRATION**  
**Bryan Chodkowski, Interim City Manager**

- A. A Resolution Providing For Title Sponsorship Of The Big Hoopla's Hometown Heroes Military Appreciation Night At The Rose Music Center. (first reading)

Mr. Chodkowski said this year the City will be hosting the Dayton Development Coalition's (DDC) Military Appreciation Night at the Rose Music Center. He asked that Council consider providing for a Title Sponsorship so that as the owners and operators of that facility, the City would be able to provide military members of the community and the Miami Valley with tickets to this event to come and enjoy the facility. He said it was the Council Work Session recommendation that this item be adopted.

Ms. Baker moved to adopt; Mrs. Kitchen seconded the motion. On a call of the vote, Mr. Campbell, Mrs. Byrge, Mr. Otto, Mr. Lyons, Mrs. Kitchen, Mr. Webb, Mr. Shaw, and Ms. Baker voted yea; none voted nay. The motion passes 8-0.

- B. An Ordinance To Approve Vacating Thorngate Drive, North Of Waynegate Road, To Transfer The Remnants Of The Public Right Of Way To The Adjacent Property Owners, And To Accept The Recommendation Of The Planning Commission (Case RP 23-18). (first reading)

Mr. Chodkowski said this item would vacate a stub of Thorngate Drive which was intended to be extended, but never was and through the course of time turned into a large, open stormwater collection location. He asked that Council adopt this item as was the recommendation at the Council Work Session.

Mr. Rodgers said the recommendation was to pass this item to a second reading. He said if Council wanted to approve this item tonight, the second reading could be waived.

Mr. Chodkowski apologized for misreading the recommendation.

Mr. Webb asked if there was any hurry on this item.

Mr. Chodkowski replied there is not.

Mayor Gore said this item will be passed to a second reading.

C. A Resolution Authorizing The Execution Of A Development Agreement With Metro Rose, LLC.  
(first reading)

Mr. Chodkowski said this legislation gives approval of a development agreement between the City and Metro Rose, LLC. He said the project includes 300 market rate apartments across the street from the Rose Music Center and also includes a four acre parcel for a restaurant/pub development. He said the City is actively marketing that parcel and there is a pending proposal on that item now.

Mayor Gore said the Council Work Session recommendation was to adopt this item.

Mrs. Byrge moved to adopt; Mr. Webb seconded the motion.

Mr. Campbell said he would like to discuss Metro Rose, LLC as it related to any other items Council had talked about and agreed to. He said Council discussed signage at Dial Park, and he asked Mr. Shaw to confirm that he had hoped that the signage would have been completed before the passage of this legislation.

Mr. Shaw confirmed that signage was discussed back in March, 2023 and in several conversations since then.

Mr. Campbell asked for an update on the signage at Dial Park.

Mr. Chodkowski said the sign had been ordered and delivered. He said he reported at a previous City Council Meeting that he personally went out and marked the location for that sign to be placed at Dial Park. He said the sign company was called to have the sign installed, and that is the last information he had. He said Fast Signs is the vendor that is installing the sign. He said Fast Signs is the same company the City has ordered all of the park signs from in the past.

Mr. Campbell confirmed with Mr. Shaw that the agreement was to have that signage in place before the passage of this legislation along with a few other items discussed by Mr. Campbell, Mrs. Kitchen, and Mr. Shaw.

Mr. Shaw requested this item be passed to an additional reading or voted on tonight as he was good either way. He said he expects that the negotiation and compromise items will get taken care of.

Mr. Chodkowski said he would follow up with the Public Works Manager who is coordinating that signage. He said City Staff continue to advance the items that were asked to be advanced. He said some timetables are not as quick as City Staff would like them to be, and several items that he reported on in the City Manager's Report were also part of that list. He said City Staff are very conscientious and thoughtful of the conversation that happened in April, 2023 and will continue to try to advance the items as best as possible.

Mr. Otto said he appreciated Mr. Campbell bringing that issue up, but a park is more than just a sign and he thinks the agreement was for a lot more than just a sign. He said he had seen no movement on that park, and he gets razzed by Mr. Shaw all the time, asking if he had seen the new stuff at Dial Park. He said he personally expects more than a sign.

On a call of the vote, Mrs. Byrge, Mrs. Kitchen, Mr. Webb, Ms. Baker, and Mr. Campbell voted yea; Mr. Otto, Mr. Lyons, and Mr. Shaw voted nay. The motion passes 5-3.

- D. A Resolution Authorizing An Amendment To A Lease For CR Dayton Unit #9 Addressed As 6061 Brandt Pike.  
(first reading)

Mr. Chodkowski said this legislation authorizes an amendment to an existing lease for Posh Salon at the CR Dayton property and allows City Staff to enter into discussions with the owner to relocate the business from the north building, which is scheduled to be razed, to the south building. He said this item is one of the components necessary to complete the task of renovating the south building and razing the north building.

Mayor Gore said the Council Work Session recommendation was to adopt this item.

Mr. Webb moved to adopt; Ms. Baker seconded the motion.

Mr. Webb asked Mr. Chodkowski, what is the timeline for the movement of the tenant?

Mr. Chodkowski said City Staff had a conference call on Friday morning about the status of what to do and how to go about doing it. He said the hangup is being able to execute the amendment, and once the amendment is executed, City Staff can sit down with the owner and talk about the various components of what the relocation and new space would look like. He said the business is moving from a larger space to a smaller space, so concessions need to be made with regard to the initial lease. He said City Staff are not authorized to have those discussions because this legislation has not been passed. He said permitting is in process with Montgomery County, and the contractor is beginning to order supplies and products needed to begin work onsite the first week of September, 2023.

On a call of the vote, Mr. Otto, Mr. Lyons, Mrs. Kitchen, Mr. Webb, Ms. Baker, Mr. Campbell, and Mrs. Byrge voted yea; Mr. Shaw voted nay. The motion passes 7-1.

- E. A Resolution Authorizing The City Manager To Solicit, Advertise, And Receive Bids From Qualified Firms For The Construction Of The Fishburg Road Improvement Project.  
(first reading)

Mr. Chodkowski said this legislation is to widen the south side of Fishburg Road between Tomberg Street and Old Troy Pike. He said it is the last remaining section to be widened. He asked Council to authorize the legislation so that City Staff may proceed with the project in a timely manner as it is funded through Issue II grant funds.

Mrs. Byrge moved to adopt; Ms. Baker seconded the motion. On a call of the vote, Mr. Lyons, Mrs. Kitchen, Mr. Webb, Mr. Shaw, Ms. Baker, Mr. Campbell, Mrs. Byrge, and Mr. Otto voted yea; none voted nay. The motion passes 8-0.

- F. A Resolution Declaring The Necessity Of Repairing Sidewalks, Curbs, Gutters, Driveway Approaches And Appurtenances Thereto On Portions Or All Of Certain Streets In The 2024 Sidewalk Program, Providing That Abutting Owners Repair The Same.  
(first reading)

Mr. Chodkowski said this item is recurring legislation in support of the 2024 Sidewalk Program. He asked that this item be adopted so that the program can be completed on schedule.

Mayor Gore said the Council Work Session recommendation was to adopt this item.

Mr. Otto moved to adopt; Ms. Baker seconded the motion.

Mrs. Kitchen asked for a copy of the letter that went out to residents. She said she remembers when her sidewalk was replaced, the letter gave such a short timeframe to try to find another contractor to do the replacement work.

Mr. Chodkowski said a portion of the season is during the winter months when a resident may not be able to get contractors to respond in a timely manner before the City initiates the process. He said he will have a conversation with the City Engineer and confirm what the notice letters are, the requirements, as well as what the advanced timelines are, to be sure the City is being as thoughtful and as mindful of the timelines for both City Staff and citizens, so in the future, City Staff can make sure all of those concerns were thought of in giving the residents the best option on how to address this matter.

Mr. Webb confirmed that four months is the notification that is given. He asked Mrs. Kitchen to comment.

Mrs. Kitchen said when she received her notification, it was September and she was not going to be able to find a contractor in time based on the City's deadlines.

Mr. Chodkowski said he recognizes that if you are a resident who only has one or two panels to be replaced, that may not be enough to entice a contractor to come out and perform that work, and finding a bidder to respond may be more difficult. He said he will talk with the City Engineer and look at those timelines and report back on whether what City Staff are doing is the best way or if there is a better way to do it.

On a call of the vote, Mrs. Kitchen, Mr. Webb, Mr. Shaw, Ms. Baker, Mr. Campbell, Mrs. Byrge, Mr. Otto, and Mr. Lyons voted yea; none voted nay. The motion passes 8-0.

- G. A Resolution Amending Resolution No. 2021-R-7055 To Increase The Not To Exceed Amount For The Design Of The East Sanitary Sewer Extension Project. (first reading)

Mr. Chodkowski said this measure is being asked for to provide additional funds for the engineering of pump stations associated with this project to make sure that they are appropriately designed to carry the necessary capacity and flow of this project. He said it was the recommendation that this item be adopted.

Ms. Baker moved to adopt; Mr. Webb seconded the motion. On a call of the vote, Mr. Webb, Ms. Baker, Mr. Campbell, and Mrs. Byrge voted yea; Mr. Shaw, Mr. Otto, Mr. Lyons, and Mrs. Kitchen voted nay. Mayor Gore voted yea, breaking the tie vote. The motion passes 5-4.

- H. A Resolution Authorizing The City Manager To Enter Into A Contract For The Design Of The Powell Road S Curve Realignment Project And Waiving The Competitive Bidding Requirements. (first reading)

Mr. Chodkowski said this legislation allows City Staff to enter into a design contract for the S curve realignment on Powell Road. He said this project has future grant funding abilities, and he asked Council to adopt this measure so that the City is in a place to apply for the grant funds in the future.

Mrs. Byrge moved to adopt; Mr. Otto seconded the motion.

Mrs. Kitchen asked if competitive bidding has to be waived in order to get this funding?

Mr. Chodkowski said this measure is about being able to have the material available at the time of the grant cycle. He said it is not that City Staff is choosing to waive, because they do not want to, but it is that the City is under timelines and time constraints. He said if this project is bid, and the City misses the cycle this time around, then the City will miss the application cycle this time around.

On a call of the vote, Mr. Shaw, Ms. Baker, Mr. Campbell, Mrs. Byrge, Mr. Otto, Mr. Lyons, and Mr. Webb voted yea; Mrs. Kitchen voted nay. The motion passes 7-1.

- I. A Resolution Authorizing The City Manager To Award A Bid For Services Related To The Replacement And Repair Of City Property Located At Thomas Cloud Park At Shelter #1 Located At 4707 Brandt Pike For The City Of Huber Heights Parks And Recreation Division.  
(first reading)

Mr. Chodkowski said this legislation is to authorize the City to move forward with the replacement of the Shelter #1 roof at Thomas Cloud Park. he said it was the recommendation that this item be adopted.

Mr. Shaw moved to adopt; Ms. Baker seconded the motion.

Mr. Otto said he noticed on the proposal for Maxim that page one listed a total price, with labor and materials, of \$35,350, which falls into the \$39,000 that Council is looking to approve tonight. He said in the notes it mentions prevailing wages are excluded. He asked if this project needed to include prevailing wages for the project and, if so, would it increase the total?

Mr. Chodkowski said that the project does not meet the threshold for prevailing wages.

Mrs. Byrge asked what is the threshold for prevailing wages?

Mr. Chodkowski said it depends on the particular measure. He said he will look up the statute and follow up with Mrs. Byrge tomorrow.

On a call of the vote, Ms. Baker, Mr. Campbell, Mrs. Byrge, Mr. Otto, Mr. Lyons, Mrs. Kitchen, Mr. Webb, and Mr. Shaw voted yea; none voted nay. The motion passes 8-0.

- J. A Resolution Amending The Contract Between The City Of Huber Heights And Total Tennis, Inc. For Services Related To Providing For The Repair And Refurbishment Of The City's Pickleball Courts.  
(first reading)

Mr. Chodkowski said this item provides for an amendment to the current project with Total Tennis, Inc. to allow for the additional four feet to make the entire playing area compliant with the Pickleball Association rules and regulations rather than just the metrics of the court itself. He said it was the recommendation at the Council Work Session that this item be adopted.

Mr. Shaw moved to adopt; Ms. Baker seconded the motion.

Mr. Otto said he hopes it will be soon that residents can see the pickleball courts ready to host tournaments and bring lots of people in to play on the courts.

On a call of the vote, Mr. Campbell, Mrs. Byrge, Mr. Otto, Mr. Lyons, Mrs. Kitchen, Mr. Webb, Mr. Shaw, and Ms. Baker voted yea; none voted nay. The motion passes 8-0.

**11. City Official Reports And Comments**

Mr. Lyons asked regarding the Fraternal Order of Police (FOP) contracts, if the adjustment had been added to all the unions and employees in the City?

Mr. Chodkowski said City Staff had not moved forward with any particular measures because the conciliator's report is not back, and it is due this week. He said because the City and the FOP agreed to proceed with conciliation with both parties filing the fact finder's report as the last best offer, by statute the conciliator needs to write and submit a report. He said that report becomes the contract and there is no vote by the City Council, there is no ratification by the union, and it becomes the contract. He said, based on the conciliation hearing earlier in the month, the conciliator committed to have the report to City Staff this week. He said once the report is received, that becomes the contract, and City Staff will be able to move forward with the Sergeants' and Lieutenants' contracts which are derivatives of the Patrol Officers' contract as a percentage of wages. He said that is a matter that will be discussed with Council tomorrow at the Council Work Session as it has been reviewed previously with Council in Executive Session at the last Council Work Session.

Mr. Lyons asked Mr. Montgomery if he was following that conversation.

Mr. Montgomery said he was following along. He said to refresh everyone's memory, the City has separate labor counsel outside of his firm, so he is on the fringes of this issue so to speak. He said he understood everything Mr. Chodkowski said and concurs with everything he said.

Mrs. Kitchen thanked the City of Huber Heights Schools. She said she went to the convocation last week and received a warm welcome, and she is so glad she could attend.

Mayor Gore said there has been some email traffic about how many people are going to not be at the Council Work Session tomorrow based on the development meeting happening at the Huber Heights Athletic Foundation; and if there is not going to be a quorum for the meeting, it will have to be canceled and moved to some other evening. He discussed other options. He said there are items on the agenda that should be discussed, like the FOP contract.

Mr. Shaw said in order to have a quorum, he would rescind his absence notification, as Mrs. Kitchen and Mr. Otto will be at the Huber Heights Athletic Foundation as representatives of that area.

Mr. Campbell said he would not be able to attend the Council Work Session. After a count, it was decided there would be enough Councilmembers for a quorum.

**12. Executive Session**

Mayor Gore said there is a need for an Executive Session, and Mr. Rodgers read the motion.

Ms. Baker made the motion to enter into Executive Session to consider the appointment and employment of candidates and applicants for the City Manager position; Mrs. Byrge seconded the motion. On a call of the vote, Mrs. Byrge, Mr. Otto, Mr. Lyons, Mrs. Kitchen, Mr. Webb, Mr. Shaw, Ms. Baker, and Mr. Campbell voted yea; none voted nay. The motion passes 8-0.

Council entered into Executive Session at 6:32 p.m.

Council returned from Executive Session at 8:16 p.m.

Mayor Gore said there would be action taken by Council.

Mr. Rodgers said the first motion needed is to amend the agenda to add Item 10-K which is an ordinance to appoint the City Manager of Huber Heights.

Mr. Otto moved to amend the agenda to add Item 10-K, an ordinance to appoint the City Manager of Huber Heights; Mr. Webb seconded the motion. On a call of the vote, Mr. Otto, Mr. Lyons, Mrs. Kitchen, Mr. Webb, Mr. Shaw, Ms. Baker, Mr. Campbell, and Mrs. Byrge voted yea; none voted nay. The motion passes 8-0.

- 10-K. An Ordinance To Appoint Richard S. Dzik To The Position Of City Manager Of The City Of Huber Heights, And Declaring An Emergency.  
(first reading)

Mr. Rodgers said Item 10-K was added to the agenda and he read the title of the ordinance - An Ordinance To Appoint Richard S. Dzik To The Position Of City Manager Of The City Of Huber Heights, And Declaring An Emergency (first reading). He said a motion to waive the second reading of the ordinance is needed first.

Ms. Baker moved to waive the second reading; Mrs. Kitchen seconded the motion. On a call of the vote, Mr. Lyons, Mrs. Kitchen, Mr. Webb, Mr. Shaw, Ms. Baker, Mr. Campbell, Mrs. Byrge, and Mr. Otto voted yea; none voted nay. The motion passes 8-0.

Mrs. Kitchen moved to adopt; Mr. Webb seconded the motion. On a call of the vote, Mrs. Kitchen, Mr. Webb, Mr. Shaw, Ms. Baker, Mr. Campbell, Mrs. Byrge, and Mr. Otto voted yea; Mr. Lyons voted nay. The motion passes 7-1.

Mayor Gore congratulated Mr. Richard Dzik and said Council will lay out a time frame for a Meet and Greet with the new City Manager. He said Mr. Dzik wants to engage with the community.

14. Adjournment

Mayor Gore adjourned the Regular Session City Council Meeting at 8:20 p.m.

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

**AI-9450**

**Pending Business     A.**  
**City Manager**

**City Council Meeting**

**Meeting Date:** 08/28/2023

Case RP 23-18 - City Of Huber Heights - Vacate Thorngate Drive

**Submitted By:** Geri Hoskins

**Department:** Planning

**Division:** Planning

**Council Committee Review?:** Council Work  
Session

**Date(s) of Committee Review:** 08/08/2023

**Audio-Visual Needs:** SmartBoard

**Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:** Passed to a  
Second Reading

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**Agenda Item Description or Legislation Title**

An Ordinance To Approve Vacating Thorngate Drive, North Of Waynegate Road, To Transfer The Remnants Of The Public Right Of Way To The Adjacent Property Owners, And To Accept The Recommendation Of The Planning Commission (Case RP 23-18).  
(second reading)

**Purpose and Background**

The applicant, the City of Huber Heights, is requesting approval to vacate Thorngate Drive, north of Waynegate Road (Case RP 23-18). The remnants of the public right of way will be transferred to the adjacent property owners.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Staff Report  
Decision Record  
Drawing  
Fire Assessment  
Minutes  
Presentation  
Ordinance

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# Memorandum

Staff Report for Meeting of July 11, 2023

To: Huber Heights City Planning Commission  
From: Aaron K. Sorrell, City Planner  
Date: July 5, 2023  
Subject: Vacation of Public Right of Way  
RP 23-18 (Thorngate Dr. north of Waynegate Rd.)

Department of Planning and Zoning

City of Huber Heights

**APPLICANT/OWNER:** City of Huber Heights – Applicant

**DEVELOPMENT NAME:** N/A

**ADDRESS/LOCATION:** Thorngate Drive, north of Waynegate Road.

**ZONING/ACREAGE:** Planned Residential (PR) / 0.14 Acres

**EXISTING LAND USE:** Right of Way stub

**ZONING  
ADJACENT LAND:** North: PR  
East: PR  
West: PR  
South: PR

**REQUEST:** The City of Huber Heights requests approval to vacate Thorngate Drive, north of Waynegate Rd. The remnants of the public right of way will be transferred to the adjacent property owners.

**ORIGINAL APPROVAL:** N/A

**APPLICABLE HHCC:** Chapter 1107, Ohio Revised Code 711.39

**CORRESPONDENCE:** In Favor – None Received  
In Opposition – None Received.

### **Overview**

The city is requesting approval to vacate Thorngate Drive, north of Waynegate Road. This is a stub street intended to connect to the subdivision to the north. The connection was never approved or completed, nor will it ever be constructed. As a result, this stub serves no municipal purpose, and has created drainage problems for the adjacent property owners.

Once the right of way is officially vacated and the road bed removed, the two parcels will be transferred to the adjacent property owners.

### **Applicable Subdivision Regulations**

The applicable subdivision regulations for the plat are found in Chapter 1107 - Final Plat. The vacation of public right of way is governed by ORC 711.39 - Vacating Plat by Legislative Authority.

Vacating the public right of way requires approval by the platting commission (Planning Commission) and the Huber Heights City Council.

### **Staff Analysis**

The vacation is being initiated by the City at the request of the adjacent property owners who have consistent flooding issues due to this stub. The stub serves no municipal function since the connection to the northern subdivision was never completed. The City is removing the road bed for the adjacent property owners.

### **Additional Comments:**

**Fire:** The Fire Department has approved vacation and replat.

**City Engineer:** The engineer has approved vacation and replat.

### **Recommendation**

Staff recommends approval of the Thornburg Drive Vacation as submitted.

### **Planning Commission Action**

Planning Commission may take the following actions with a motion to:

- 1) Recommend approval of the vacation and replat, with or without conditions.
- 2) Recommend denial vacation and replat.
- 3) Table the application to gather additional information.



## **Planning Commission Decision Record**

WHEREAS, on June 22, 2023, the applicant, The City of Huber Heights, requested approval to vacate Thorngate Road north of Waynegate Road (Case RP 23-18), and;

WHEREAS, on July 11, 2023, the Planning Commission did meet and fully discuss the details of the request.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby recommended approval of the request.

Mr. Jeffries moved to approve the request by the applicant, The City of Huber Heights, for approval to vacate Thorngate Road north of Waynegate Road (Case RP 23-18) in accordance with the recommendation of Staff's Memorandum dated July 5, 2023, with the following conditions:

1. Approve as submitted.

Seconded by Mr. Cassity. Roll call showed: YEAS: Ms. Thomas, Mr. Cassity, Ms. Thomas, Mr. Jeffries, and Mr. Walton. NAYS: None. Motion to recommend approval carried 5-0.

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Terry Walton, Chair  
Planning Commission

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Date

# EXHIBIT THORNGATE ROAD VACATION

BEING A VACATION OF THORNGATE DRIVE  
OF THE HERBERT C. HUBER PLAT NO. 58, SECTION 8 BY P.B. 103, PG. 2  
LOCATED IN SECTION 30, TOWN 2, RANGE 8 M.Rs.  
CITY OF HUBER HEIGHTS, MONTGOMERY COUNTY, OHIO

0.1400 ACRES

APRIL 28, 2023

PREPARED BY:



VANATTAENGINEERING INC

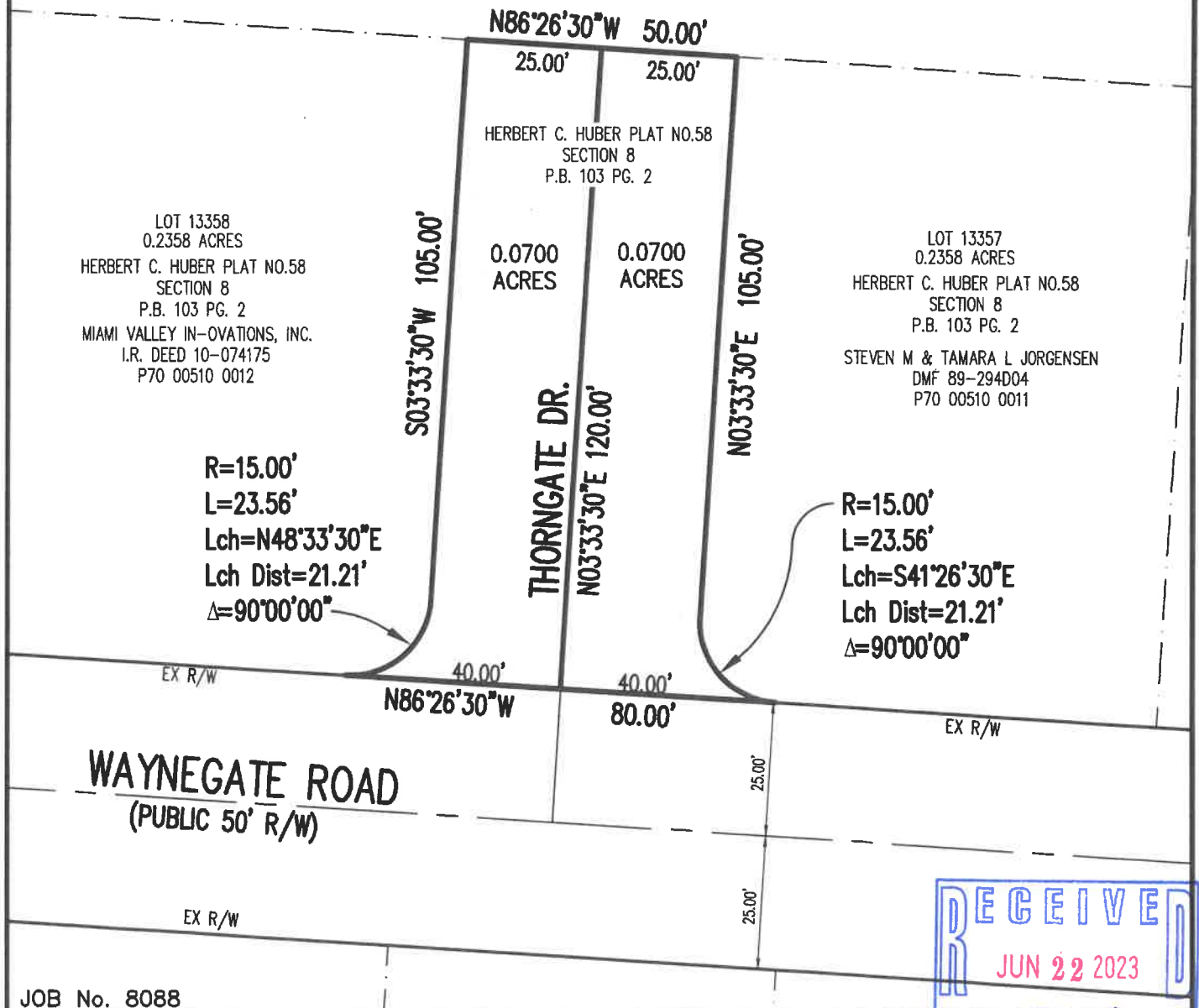
570 Congress Park Dr • Dayton, OH 45459

Phone: 937.438.5650

Fax: 937.438.5645



1"=30'



LOT 13358  
0.2358 ACRES  
HERBERT C. HUBER PLAT NO.58  
SECTION 8  
P.B. 103 PG. 2  
MIAMI VALLEY IN-OVATIONS, INC.  
I.R. DEED 10-074175  
P70 00510 0012

LOT 13357  
0.2358 ACRES  
HERBERT C. HUBER PLAT NO.58  
SECTION 8  
P.B. 103 PG. 2  
STEVEN M & TAMARA L JORGENSEN  
DMF 89-294D04  
P70 00510 0011

R=15.00'  
L=23.56'  
Lch=N48°33'30"E  
Lch Dist=21.21'  
Δ=90°00'00"

R=15.00'  
L=23.56'  
Lch=S41°26'30"E  
Lch Dist=21.21'  
Δ=90°00'00"

RECEIVED  
JUN 22 2023  
By 23-18

JOB No. 8088



# Huber Heights Fire Division

**Inspections require two business days advance notice! (OAC)1301:7-7-09(A)(5)**

Occupancy Name:	Replat		
Occupancy Address:	Thorngate Road		
Type of Permit:	HHP&D Site Plan		
Additional Permits:	Choose an item.		
Additional Permits:	Choose an item.		
MCBR BLD:	N/A	HH P&D:	
MCBR MEC:		HHFD Plan:	23-197
MCBR ELE:		HHFD Box:	
REVIEWER:	Susong	DATE:	7/5/2023

## **Fire Department Comments:**

**The Huber Heights City Code Part 15 Refers to Fire Code Requirements and has adopted by reference OFC and IFC Appendices**

**Plan submittal is approved as shown on drawing, dead end road vacation. Parcel to be split between adjoining homeowners.**

Please reference contact information below for questions or concerns with this document.

Plans reviewed by the Huber Heights Fire Division are reviewed with the intent they comply in **ALL** respects to this code, as prescribed in **SECTION (D) 104.1 of the 2017 Ohio Fire Code**. Any omissions or errors on the plans or in this review do not relieve the applicant of complying with **ALL** applicable requirements of this code. These plans have been reviewed for compliance with the Ohio Fire Code adopted by this jurisdiction. There may be other regulations applicable under local, state, or federal statutes and codes, which this department has no authority to enforce and therefore have not been evaluated as part of this plan review.

**Planning Commission  
July 11, 2023, Meeting  
City of Huber Heights**

- I. Chair Terry Walton called the meeting to order at approximately 6:02 p.m.
- II. Present at the meeting: Mr. Cassity, Mr. Jeffries, Ms. Thomas, Ms. Vargo, and Mr. Walton.

Members absent: None.

Staff Present: Aaron K. Sorrell, Interim City Planner, and Geri Hoskins, Planning & Zoning Administrative Secretary.

**III. Opening Remarks by the Chairman and Commissioners**

None.

**IV. Citizens Comments**

None.

- V. **Swearing of Witnesses** Mr. Walton explained the proceedings of tonight's meeting and administered the sworn oath to all persons wishing to speak or give testimony regarding items on the agenda. All persons present responded in the affirmative.

**VI. Pending Business**

- 1. **TEXT AMENDMENT - The applicant, THE CITY OF HUBER HEIGHTS, is requesting approval of a text amendment pertaining to Chapter 1181.20 Building Materials for Dwellings (TA 23-14A).**

Mr. Sorrell stated that over the years, building materials have improved and builders utilize a range of materials to provide a mixture of building facades along a street, convey different design aesthetics, and control construction costs as prices of materials can vary depending on local and regional demand. This text amendment seeks to codify community expectations and provide reasonable flexibility for contemporary designs and modern material utilization.

Based on feedback from the Planning Commission this version has been revised for clarity and ease of administration.

**Staff Analysis**

Currently, there is a significant schism with exterior building material requirements between building in a straight zoned area (A, R-1, R-2, etc.) versus building on a lot in a Planned Residential areas. If a buyer seeks to construct a new single-story home or build a single-story addition in any district other than a PUD, they must fully wrap their single-story home in brick or masonry material. New two-story homes must have the first floor wrapped in brick or masonry material. The floors above can be any other material.

## Planning Commission Meeting

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Recent Planning Commission decisions have established a minimum masonry limit at approximately 25% of the front façade for single-family homes. Multi-family structures have ranged from 10% to 20% in recent years.

Staff is proposing the following standards:

### Non-PUD Zoning:

- One-Story dwellings: 25% of the front façade
- Multi-Story dwellings: 25% of the first-floor front façade.

### PUD Zoning:

- 1 & 2-family buildings: 25% of the front facades
- Multi-family and mixed-use buildings: 10% of the aggregate building wall surface.

These standards encourage the Planning Commission to consider the types, location and layouts of the buildings. Every development is different, and the Planning Commission should include those details. Specifically, the Planning Commission is encouraged to:

When establishing the requirements, the Planning Commission shall consider the types, location, and layout of the buildings to:

- (1) Encourage a mix of building facades and material usage and discourage monotonous building repetition.
- (2) Encourage higher percentages of full depth brick, cultured brick, stone, cultured stone, or other approved masonry product along the frontage of major public streets and thoroughfares.

### **Additional Comments:**

Staff feels that these revised materials requirements for dwellings reflect the recent decisions of the Planning Commission and City Council and are a bridge from the previous masonry requirements to a constituent that desires a diverse architectural palate within the community.

**Fire:** No comments.

**City Engineer:** No comments.

Discussion on building in phases, each section held to standard, eliminate aggregated amount.

### **Action**

Ms. Thomas moved to approve the request by the applicant THE CITY OF HUBER HEIGHTS, for approval of a Text Amendment pertaining to Chapter 1181.20 Building Materials for Dwellings (TZ 23-14A) in accordance with the recommendation of Staff's Memorandum dated July 5, 2023, and the Planning Commission Decision Record attached thereto.

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Seconded by Mr. Jeffries. Roll call showed: YEAS: Mr. Jeffries, Ms. Vargo, Mr. Cassity, Ms. Thomas, and Mr. Walton. NAYS: None. Motion to approve carried 5 -0.

## **VII. New Business**

- 1. MINOR CHANGE - The applicant, KELLEY KOONS, is requesting approval of Minor Change to the Detailed Development Plan to construct a four-season enclosed patio. Property is located at 5420 Brandt Pike (MC 23-16).**

Mr. Sorrell stated that the applicant requests a minor change to the Detailed Development Plan to construct a 300 SF four-season enclosure on the north side of the existing building. The 30' by 10' structure will have overhead doors on each end of the building, and windows along the northern wall. The addition will be nearly 500' from Brandt Pike and barely visible due to its relatively small size.

### **Applicable Zoning Regulations**

The applicable zoning regulations are Chapter 1171 – General Provisions and Chapter 1174 -Planned Public and Private Buildings and Grounds District (PP).

### **Staff Analysis**

#### **Detailed Development Plan Analysis:**

The applicant requests a minor change to the Detailed Development Plan to construct a 300 SF four-season enclosure on the north side of the existing building. The exterior of the addition is mostly windows on the north side, and one window and overhead door on each end.

#### **Conformance With Planned Public and Private Buildings and Grounds District Requirements:**

Uses: Fraternal organizations are a permitted use.

Development Standards:

- The addition meets all setback and yard requirements.
- No additional parking is necessary.

No other changes are being proposed by the applicant. The existing structure is just over 18,000 SF. This addition represents an enlargement of under 2% of the existing floor area. No other improvements are required by the zoning code.

**Fire:** No comments received.

**City Engineer:** No comments received.

### **Action**

Mr. Jeffries moved to approve the request by the applicant KELLY KOONS, for approval of a Minor Change to the Detailed Development Plan (MC 23-16) in accordance with the recommendation of Staff's Memorandum dated July 5, 2023, and the Planning Commission Decision Record attached thereto.

July 11, 2023

Seconded by Mr. Cassity. Roll call showed: YEAS: Ms. Vargo, Mr. Cassity, Ms. Thomas, Mr. Jeffries, and Mr. Walton. NAYS: None. Motion to approve carried 5 -0.

**2. REPLAT - The applicant, THE CITY OF HUBER HEIGHTS, is requesting approval to vacate Thorngate Road north of Waynegate Road (RP 23-18).**

Mr. Sorrell stated that the city is requesting approval to vacate Thorngate Drive, north of Waynegate Road. This is a stub street intended to connect to the subdivision to the north. The connection was never approved or completed, nor will it ever be constructed. As a result, this stub serves no municipal purpose, and has created drainage problems for the adjacent property owners.

Once the right of way is officially vacated and the road bed removed, the two parcels will be transferred to the adjacent property owners.

**Applicable Subdivision Regulations**

The applicable subdivision regulations for the plat are found in Chapter 1107 - Final Plat. The vacation of public right of way is governed by ORC 711.39 - Vacating Plat by Legislative Authority.

Vacating the public right of way requires approval by the platting commission (Planning Commission) and the Huber Heights City Council.

**Staff Analysis**

The vacation is being initiated by the City at the request of the adjacent property owners who have consistent flooding issues due to this stub. The stub serves no municipal function since the connection to the northern subdivision was never completed. The City is removing the road bed for the adjacent property owners.

**Additional Comments:**

**Fire:** The Fire Department has approved vacation and replat.

**City Engineer:** The engineer has approved vacation and replat.

Discussion on changing the deeds, fully restored.

**Action**

Mr. Jeffries moved to approve the request by the applicant THE CITY OF HUBER HEIGHTS, for approval to vacate Thorngate Road north of Waynegate Road (RP 23-18) in accordance with the recommendation of Staff's Memorandum dated July 5, 2023, and the Planning Commission Decision Record attached thereto.

Seconded by Mr. Cassity. Roll call showed: YEAS: Mr. Jeffries, Ms. Vargo, Mr. Cassity, Ms. Thomas, and Mr. Walton. NAYS: None. Motion to approve carried 5 -0.

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3. **DETAILED DEVELOPMENT PLAN - The applicant, METROPOLITAN HOLDINGS LTD, is requesting approval of a Detailed Development Plan for an apartment project. Property is located at Executive Boulevard across the street from the Rose Music Center (DDP 23-19).**

Mr. Sorrell stated the applicant requests Detailed Development Plan approval to facilitate the construction of 312 residential units (1- and 2-bedroom apartments) on approximately 21.3 acres.

The Planning Commission recommended approval of a rezoning and basic development plan on February 14, 2023. The Huber Heights City Council approved the rezoning and basic development plan on April 11, 2023.

#### **Applicable Zoning Regulations**

The applicable zoning regulations are Chapter 1130 – Amendments, Chapter 1171 – General Provisions, Chapter 1179 – Planned Mixed Use, Chapter 1181 – General Provisions.

The staff analysis addresses the elements of the Detailed Development Plan and standards for approval.

#### **Staff Analysis**

The approved rezoning and Basic Development Plan ordinance has the following relevant conditions:

1. The Basic Development and Zoning Regulations shall be those submitted with the application dated January 30, 2023.
2. The northern property buffering requirements shall be determined during the Detailed Development Plan review.

#### **Conformance with the approved conditions of the BDP:**

1. **The Basic Development and Zoning Regulations shall be those submitted with the application dated January 30, 2023.**

The development regulations that were submitted with the Basic Development Plan will be recorded as part of the detailed development plan approval. The Project Zoning and Design Standards are attached for reference.

The submitted detailed development plan substantially conforms to these requirements.

#### **Setbacks**

<b>Minimum Requirements</b>	<b>As indicated on the DDP</b>	<b>Conforming (Y/N)</b>
Front yard: 20 feet	25 feet	Y
Rear yard: 25 feet	25 feet	Y
East Side yard: 25 feet	25 feet	Y
West Side yard: 25 feet	20 feet	N*

\*The applicant has indicated that this is an error and will be submitting corrected plans.

### **Signage**

The DDP indicates two (2) internal illuminated wall signs on the clubhouse building. The two wall signs total 75 square feet.

Two non-illuminated entrance columns (monument signs) are proposed. The columns are 6 feet high and just under 4 feet wide. The signage graphic affixed to each column is approximately 3.5 square feet.

Staff feels the signs are appropriately located and well designed to showcase the music branding of apartment complex.

### **Architecture and Site Standards**

The detailed development plan appears to satisfy the building material requirements outlined in the Project Zoning and Design Standards. The residential buildings are mixture of stone, cement panels, and lap and batten siding. The buildings facing Executive Boulevard including the clubhouse have extensive stone and masonry elements.

Additionally, the applicant is proposing a significant amenity package for residents including pool, outdoor kitchen and gathering areas.

### **Landscaping**

The landscaping plan is substantially compliant to the standards outlined in the Project Zoning and Design Standards. This includes street tree, perimeter and interior landscaping, and open space requirements. Sheets L1 and L2 illustrate the proposed landscaping plan.

### **Lighting**

The lighting plan indicates pedestrian scale decorative poles and fixtures will be used the parking areas and travel lanes. The decorative fixtures are mounted on 12-foot poles. The lighting standards limit light trespass to no more the 0.5 foot-candle. However, the photometric plan indicates areas of illumination on the north property line which exceeds this standard. As a condition of approval, the applicant shall shield the perimeter fixtures adjacent to the north property line.

### **Street and Transportation Standards**

The detailed development plan complies with the street and transportation standards outlined in the Project Zoning and Design Standards.

The only significant change is the multi-use path along Executive Boulevard. The basic development plan indicated a 10-foot path. After discussions between the applicant and staff, the path has been reduced to eight (8) feet. This was done to better accommodate decorative street lighting that is being planned for Executive Boulevard. The width of the path matches the width of the path in front of the Rose.

2. **The northern property buffering requirements shall be determined during the Detailed Development Plan review.**

How the project is buffered from the northern neighborhood was a significant discussion topic and particular concern to the adjacent neighbors. Staff encouraged the development team to survey the treeline to determine which

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mature trees are healthy and should remain, and to cluster landscaping between the garages to further reduce visual and noise impacts. Additionally, specific grading requirements and their impacts to the treeline was unknown at the point of basic development plan approval.

Surprisingly, only eight trees within the 25-foot setback must be removed. They are clustered in the areas where two retaining walls must be constructed to achieve the grading required for the parking areas and garages. No trees along the property line are indicated to be removed. Sheet C201 and C202 illustrate the planned removals. Sheet C501 and C502 illustrate the grading limits and location of the retaining walls.

To mitigate the loss of the trees and increase buffering, the applicant is proposing substantial landscaping along the northern property line. Sheet L2 and L2.1 There is a dense mixture of evergreen and deciduous trees planned. The evergreens will be 6 feet at planting, and the various deciduous trees will have a 3-inch diameter. These are substantially larger than typically planted.

Staff feels the northern property line is adequately buffered between the existing trees remaining and the substantial amount of new plantings.

#### **Staff Analysis**

The DDP application substantially conforms with the Basic Development Plan ordinance approved by the City Council. Additionally, the DDP generally conforms to all relevant zoning regulations, including landscaping, lighting, parking, architectural standards and signs.

#### **Additional Comments:**

**Fire:** See Attached.

**City Engineer:** No comments received.

Discussion on parking compared to Parkview, fire issues, 9 ft. parking spaces, another lane on south side of Executive, 8 ft sidewalks, font for sign, what name means, tree survey, retaining walls, 1 phase.

Ryan Young, Jamie Oberschlake,

Pat Dyer, resident, asked about retaining wall, between buildings and garages, dumpsters, maintenance, how long building will take.

Annamarie Norgrove, resident, asked about tree lines and when construction will start.

Melissa Cleary, resident, said the name was really cool and it's a great idea.

#### **Action**

Ms. Vargo moved to approve the request by the applicant METROPOLITAN HOLDINGS LTD, for approval of a Detailed Development Plan for a proposed new 312 unit apartment project. Property is located across the street from the Rose Music Center (DDP 23-19) in accordance with the recommendation of Staff's Memorandum dated July 6, 2023, and the Planning Commission Decision Record attached thereto.

Seconded by Mr. Jeffries. Roll call showed: YEAS: Mr. Jeffries, Ms. Vargo, Mr. Cassity, Ms. Thomas, and Mr. Walton. NAYS: None. Motion to approve carried 5 -0.

- 4. BASIC DEVELOPMENT PLAN - The applicant, BP-OTP, LLC, is requesting approval of a Rezoning from O1 to PC, and a Basic Development Plan for a gas station convenience mart with fueling pumps. Property is located at 4949 Chambersburg Road (BDP 23-17).**

Mr. Sorrell stated that the applicant seeks to construct a new 5,915 SF Wawa convenience store with eight fueling pumps at the corner of Old Troy Pike and Chambersburg Road. Wawa is entering the Dayton area market, and this will be its first Huber Heights store.

The proposed store will sit on 5.41 acres, of which approximately three (3) acres are zoned Planned Commercial and approximately 2.4 acres are zoned O-1.

Convenience stores and fueling stations are permitted in the Planned Commercial District but not the O-1. Thus, a replat and rezoning are included in the Basic Development Plan application.

Nearby commercial and retail uses at this intersection include Walgreens on the southwest corner; KeyBank on the northeast corner; and Speedway at the southeast corner.

#### **Site Characteristics**

Approximately half the site is currently developed as a single-family house in a densely wooded and landscaped lot. The other half is wooded, undeveloped land. There is a steep grade change with the plateau of the site approximately 30 feet above the Chambersburg / OTP intersection. The grade change between the road and the site becomes less dramatic as one travels east on Chambersburg and north on Old Troy Pike.

While the proposed store is located in the general clearing of the lot, grading will be required to develop the building pad, parking area, fueling bays and access drives. However, it does appear that grading will end approximately 80 feet from the east property line and have no impact on the home north of the site.

The site has access to all necessary utilities. Additionally, the applicant will dedicate the required right-of-way for the planned Chambersburg widening and multi-use path.

#### **Applicable Zoning Regulations**

The applicable zoning regulations are Chapter 1171 – General Provisions, Chapter 1176 – Planned Commercial, Chapter 1181 – General Provisions, Chapter 1182 – Landscaping, and Chapter 1185 – Parking and Loading.

Chapter 1171.05 - Contents of basic development plan, states:

(a) The basic development plan shall consist of at least the following information together with such other data and materials as may be required by the City:

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- (1) Site plan showing the actual shape and dimensions of the lot to be built upon or to be changed in its use together with the location of the existing and proposed structures with approximate square footages, number of stories including heights of structures;
  - (2) Typical elevation views of the front and side of each type of building;
  - (3) Planning location and dimensions of all proposed drives, service access road, sidewalks and curb openings;
  - (4) Parking lot areas (show dimensions of a typical parking space), unloading areas, fire lanes and handicapped parking;
  - (5) Landscaping plan, walls and fences;
  - (6) Storm water detention and surface drainage;
  - (7) Exterior lighting plan;
  - (8) Vehicular circulation pattern;
  - (9) Location and square footage of signs;
  - (10) Topographic survey; and
  - (11) Listing of proposed uses taken from the list of permitted and special uses of the PUD zoning district to which rezoning is being sought.
- (b) The Planning Commission shall schedule both the proposed rezoning and the issue of approval of the basic development plan for a combined public hearing, following which it shall make its recommendation indicating approval, approval with modification or disapproval.

Chapter 1171.06 - General standards for approval, states:

The Planning Commission shall review the application, prepared development plan and the facts presented at the hearing. The applicant shall have the burden of proof. No approval shall be given unless the Commission shall find by a preponderance of the evidence that such PUD on the proposed locations:

- (a) Is consistent with official thoroughfare plan, comprehensive development plan and other applicable plans and policies;
- (b) Could be substantially completed within the period of time specified in the schedule of development submitted by the developer;
- (c) Is accessible from public roads that are adequate to carry the traffic that shall be imposed upon them by the proposed development. Further, the streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development;
- (d) Shall not impose an undue burden on public services such as utilities, fire and police protection, and schools;
- (e) Contains such proposed covenants, easements and other provisions relating to the proposed development standards as may reasonably be required for the public health, safety and welfare;
- (f) Shall be landscaped or otherwise improved and the location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible

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with the existing intended uses, and any part of a PUD not used for structures, parking and loading areas, or accessways;

(g) Shall preserve natural features such as water courses, trees and rock outcrops, to the degree possible, so that they can enhance the overall design of the PUD;

(h) Is designed to take advantage of the existing land contours in order to provide satisfactory road gradients and suitable building lots and to facilitate the provision of proposed services;

(i) Shall place underground all electric and telephone facilities, street light wiring and other wiring conduits and similar facilities in any development which is primarily designed for or occupied by dwellings, unless waived by the Commission because of technical reasons;

(j) Shall not create excessive additional requirements at public cost of public facilities and services and shall not be detrimental to the economic welfare of the community;

(k) Shall not involve uses, activities, processes, materials, equipment and conditions of operation that shall be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors; and

(l) Rezoning of the land to the PUD District and approval of the development plan shall not adversely affect the public peace, health, morals, safety or welfare.

**Staff Analysis**

The staff analysis addresses the rezoning request and elements of the Basic Development Plan and standards for approval.

**Rezoning Analysis:**

The applicant requests the rezoning of approximately 2.44 acres from O-1 General Office to Planned Commercial (PC).

*Conformance with Comprehensive Plan*

The City's comprehensive plan indicates the site is within the Estates pattern area adjacent to the Southtown pattern area. The Estates development pattern area recognizes that is area is where large-scale development is unlikely to occur and where large-lot residential development is appropriate. This is particularly true on the west side of the pattern area where environmental constraints, such as flooding, limit the development potential.

However, that is not to say the area is determined to be exclusively residential. One of the key elements within the Estates development pattern area is to "allow for incremental, contextually relevant non-residential uses and amenities." This site is on the east edge of the pattern district, not subject to flooding and at the intersection of two major roadways. Additionally, all necessary utilities are available.

Given the location of this site and its context within the Estate pattern district, staff feels the rezoning from O-1 to PC is consistent with the comprehensive plan.

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**Basic Development Plan Analysis:**

The applicant proposes constructing a 5,915 SF convenience store and four-island fueling center. The applicant has submitted all necessary plans and studies for the Basic Development Plan review.

Conformance With Planned Commercial District Requirements:

Uses: Retail uses and filling stations are principally permitted in the district.

Development Standards:

- The site plan meets all parking and building setback and yard requirements.
- Nineteen street trees are required. The preliminary landscaping plan shows 19 street trees. However, due to grading issues and Chambersburg Road's planned widening, most of them are not near the sidewalk. During the Detailed Development plan review, staff will work with the applicant to place the required trees appropriately.
- The lighting plan submitted with the application meets all requirements. The proposed fixture height is 20 feet, and the fixture types meet the code. The photometric analysis indicates no light trespasses across the property lines.
- The building design substantially meets the exterior material recommendation. Not including glazing, the building's entire exterior is 68% masonry. The front façade is 78% masonry and glazing. Approximately 28% of the exterior is a wood composite accent siding.
- All utilities are below ground.

Parking and Loading:

- The applicant proposes 53 parking spaces, more than the code requires. Parking stall dimensions are 10' x 20', as required.

Landscaping:

- The plans appear to meet the landscaping requirements but will be verified when the detailed development plan is submitted.

Signs:

- A sign package was not submitted with the application and will be reviewed when the detailed development plan is submitted. The elevations indicate three wall signs, and the site plan indicates two monument signs.

Conformance with General Standards of Approval:

Below is the staff analysis of conformance with the general standards of approval.

- (a) *Is consistent with official thoroughfare plan, comprehensive development plan and other applicable plans and policies;*

It is the staff's opinion that the proposal is consistent with the comprehensive plan and thoroughfare plan. The site is located at the intersection of arterial and collector streets.

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*(b) Could be substantially completed within the period of time specified in the schedule of development submitted by the developer;*

While no development schedule has been submitted, the applicant has stated to staff that they will initiate construction shortly after all plans are approved by the City and County. There are no concerns on the part of staff that the applicant would have difficulty financing and constructing the project in a reasonable time.

*(c) Is accessible from public roads that are adequate to carry the traffic that shall be imposed upon them by the proposed development. Further, the streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development;*

It is important to note that the traffic counts were taken when school was in session, and they represent an accurate assessment of the existing peak traffic volume. The traffic study estimates there will be 541 AM and 467 PM weekday peak hour trips.

This store's net new peak hour trips are estimated at 129 AM and 1179 PM. It's important to note that the study estimates that 76% of those trips are pass-by, meaning those vehicles are on the road regardless of whether the Wawa development is constructed.

The traffic study indicates that no drop-down lanes are necessary. The applicant is required to dedicate additional ROW along Chambersburg Road to facilitate the construction of a future roadway widening.

*(d) Shall not impose an undue burden on public services such as utilities, fire and police protection, and schools;*

Staff does not anticipate any undue burden on public services. The area has adequate utility and street capacity. We are unaware of any policing concerns, and the development will comply with all building and fire code requirements.

*(e) Contains such proposed covenants, easements and other provisions relating to the proposed development standards as may reasonably be required for the public health, safety and welfare;*

Any conditions imposed by the Planning Commission or City Council will be memorialized in the PUD legislation and remain in effect unless modified by the Planning Commission or City Council.

*(f) Shall be landscaped or otherwise improved and the location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible with the existing intended uses, and any part of a PUD not used for structures, parking and loading areas, or accessways;*

The staff believes the site plan is generally well arranged, and internal circulation is efficient and compatible with the intended use. Pedestrian connections between the streets and the store are provided. The landscaping requirements will be reviewed with the Detailed Development application.

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*(g) Shall preserve natural features such as water courses, trees and rock outcrops, to the degree possible, so that they can enhance the overall design of the PUD;*

The site will retain a significant amount of wooded area to the west and north. Additionally, the existing decorative retaining wall will remain.

*(h) Is designed to take advantage of the existing land contours in order to provide satisfactory road gradients and suitable building lots and to facilitate the provision of proposed services;*

As discussed, the site has significant topographic features. The grading plan illustrates significant grading on the site's west, south and northeast edges. The grading should not impact the properties west or north of the site since there is an adequate buffer between the property lines and the extent of the grading activities. The applicant is grading to a 3:1 slope and providing vegetative ground cover, which will limit erosion.

*(i) Shall place underground all electric and telephone facilities, street light wiring and other wiring conduits and similar facilities in any development which is primarily designed for or occupied by dwellings, unless waived by the Commission because of technical reasons;*

All utilities will be placed underground.

*(j) Shall not create excessive additional requirements at public cost of public facilities and services and shall not be detrimental to the economic welfare of the community;*

Staff does not anticipate any additional public services required to support this development.

*(k) Shall not involve uses, activities, processes, materials, equipment and conditions of operation that shall be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors; and*

All proposed uses are consistent with the Planned Commercial district zoning being requested as part of this application. The traffic study does not indicate that this development will generate excessive traffic.

*(l) Rezoning of the land to the PUD District and approval of the development plan shall not adversely affect the public peace, health, morals, safety or welfare.*

The staff believes the rezoning is consistent with the comprehensive plan and will not adversely affect surrounding properties.

**Additional Comments:**

**Fire:** See attached.

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**City Engineer:** The engineer has reviewed the site plan and requested additional right of way along Old Troy Pike and Chambersburg Road. The applicant has indicated that they will revise their plans accordingly.

**Recommendation**

Staff supports the partial rezoning from General Office (O-1) to Planned Commercial. It is the staff's opinion that the requirements of Section 1171.06 can be met, and recommends approval of the rezoning and Basic Development Plan with the following conditions:

- The applicant shall assess the health of the existing trees along the site's perimeter that will be incorporated into the landscaping plan. Healthy trees shall be identified and incorporated into the landscaping plan as appropriate, subject to approval as part of the Detailed Development Plan. The applicant shall also develop a plan to protect key trees during construction, subject to staff approval.
- The applicant shall work with staff to determine the final street tree placement during the Detailed Development Plan phase.
- Signs shall conform with Chapter 1189, unless otherwise approved in the Detailed Development Plan by the Planning Commission.
- Permitted uses shall be those listed as permitted uses in Section 1176.01, except the following are prohibited:
  - Vehicle sales, rental or service
  - Sweepstakes Cafes
  - Short-term lenders (pay-day lenders, loans against auto titles, etc.)
  - Dry cleaners
  - Outdoor sales and storage, unless approved by the Planning Commission
- The applicant shall submit a revised Basic Development Plan indicating the corrected ROW dedication along Old Troy Pike and Chambersburg Road, as the City engineer requires.

Discussion on sidewalk width, undeveloped half of site, left turn onto Troy, traffic coming south, Chambersburg design timeline, 3-1 slope, full shielding on West side, traffic lane on Troy Pike, retaining wall, 19 ft. drop, bike racks, lower the crest on Chambersburg.

Patrick O'Leary, Eric Williams, Patrick Warnemont, Adam Malonjao, Jason Waite, Ryan Vickers.

**Action**

Ms. Thomas moved to approve the request by the applicant BP-OPT, LLC, for approval of a Rezoning from O1 to PC, and a Basic Development Plan for a gas station convenience mart with fueling pumps (BDP 23-17) in accordance with the recommendation of Staff's Memorandum dated July 5, 2023, and the Planning Commission Decision Record attached thereto.

Seconded by Ms. Vargo. Roll call showed: YEAS: Mr. Jeffries, Ms. Vargo, Mr. Cassity, Ms. Thomas, and Mr. Walton. NAYS: None. Motion to approve carried 5 -0.

**VIII. Additional Business**

None.

**IX. Approval of the Minutes**

Without objection, the minutes of the June 13, 2023, Planning Commission meeting are approved.

**X. Reports and Calendar Review**

Mr. Sorrell stated Flying Ace, Huber Health Center, and Technology and Artz Road.

**XI. Upcoming Meetings**

August 15, 2023  
September 12, 2023

**XII. Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at approximately 8:40 p.m.

---

**Terry Walton, Chair**

---

**Date**

---

**Geri Hoskins, Administrative Secretary**

---

**Date**

# RP 23-18

# Thorngate Drive Replat

Vacation of Public Right of Way

August 8, 2023

## Application:

- The City of Huber Heights requests approval to vacate Thorngate Drive, north of Waynegate Rd. The remnants of the public right of way will be transferred to the adjacent property owners.

## Applicable Regulations:

- Vacating the public right of way requires approval by the platting commission (Planning Commission) and the Huber Heights City Council.



OLDE PARK DR

PR

THORNGATE DR

ROW WAYNEGATE RD

MEADOWGATE CT

AUTUMNGATE LN



LOT 13358  
0.2358 ACRES  
HERBERT C. HUBER PLAT NO.58  
SECTION 8  
P.B. 103 PG. 2  
MIAMI VALLEY IN-OVATIONS, INC.  
I.R. DEED 10-074175  
P70 00510 0012

N86°26'30"W 50.00'

25.00'

25.00'

HERBERT C. HUBER PLAT NO.58  
SECTION 8  
P.B. 103 PG. 2

0.0700  
ACRES

0.0700  
ACRES

LOT 13357  
0.2358 ACRES  
HERBERT C. HUBER PLAT NO.58  
SECTION 8  
P.B. 103 PG. 2  
STEVEN M & TAMARA L JORGENSEN  
DMF 89-294D04  
P70 00510 0011

S03°33'30"W 105.00'

THORNGATE DR.

N03°33'30"E 120.00'

N03°33'30"E 105.00'

R=15.00'  
L=23.56'  
Lch=N48°33'30"E  
Lch Dist=21.21'  
Δ=90°00'00"

R=15.00'  
L=23.56'  
Lch=S41°26'30"E  
Lch Dist=21.21'  
Δ=90°00'00"

EX R/W

40.00'  
N86°26'30"W

40.00'  
80.00'

EX R/W

WAYNEGATE ROAD  
(PUBLIC 50' R/W)

25.00'

## **Staff Analysis and Recommendation:**

- The vacation is being initiated by the City at the request of the adjacent property owners who have consistent flooding issues. The stub serves no municipal function since the connection to the northern subdivision was never completed.
- Planning Commission voted 5-0 to recommend approval.

CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE NO. 2023-O-

TO APPROVE VACATING THORNGATE DRIVE, NORTH OF WAYNEGATE ROAD, TO TRANSFER THE REMNANTS OF THE PUBLIC RIGHT OF WAY TO THE ADJACENT PROPERTY OWNERS, AND TO ACCEPT THE RECOMMENDATION OF THE PLANNING COMMISSION (CASE RP 23-18).

WHEREAS, the citizens of Huber Heights require the efficient and orderly planning of land uses within the City; and

WHEREAS, the City Planning Commission has reviewed Case RP 23-18 and on July 11, 2023, recommended approval by a vote of 5-0 of the Replat; and

WHEREAS, the City Council has considered the issue.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Huber Heights, Ohio that:

Section 1. The application requesting approval of vacating Thorngate Drive, north of Waynegate Road, (Case RP 23-18) is hereby approved in accordance with the Planning Commission's recommendation.

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3. This Ordinance shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2023;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**AI-9457**

**New Business    A.  
City Council**

**City Council Meeting**

**Meeting Date:** 08/28/2023

Arts And Beautification Commission Appointment - S. Hyre

**Submitted By:** Anthony Rodgers

**Department:** City Council

**Council Committee Review?:** Council Work Session

**Date(s) of Committee Review:** 08/22/2023

**Audio-Visual Needs:** None                      **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

---

**Agenda Item Description or Legislation Title**

A Motion To Appoint Stella Hyre To The Arts And Beautification Commission For A Term Ending June 30, 2025.

**Purpose and Background**

The City's interview panel recommends the appointment of Stella Hyre to the Arts and Beautification Commission for a term ending June 30, 2025. A background check on Ms. Hyre was processed through Human Resources.

---

**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Application - S. Hyre

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6131 Taylorsville Road  
Huber Heights, Ohio 45424  
Phone: (937) 233-1423  
Fax: (937) 233-1272  
[www.hhoh.org](http://www.hhoh.org)  
An Equal Opportunity Employer

# Application For City Boards and Commissions

RECEIVED ON

JUL 26 2023

CLERK OF COUNCIL

Qualified applicants are considered for all positions without regard to race, color, religion, sex, national origin, marital or veteran status, or disability.

**PLEASE COMPLETE ALL SECTIONS AND EACH QUESTION COMPLETELY AND ACCURATELY**

Board or Commission Applied For:

Arts and Beautification

Date Applied:

7-25-23

Hyre

Last Name

Stela

First Name

Star

Middle Name

7515 Belle Plain Dr. HuberHts. OH

Address

City

State

45424

Zip Code

937-546-4383

Home Phone Number

Stella Joshua 10@gmail

Daytime Phone Number

Stella Joshua 10@gmail

E-mail Address

## EDUCATION

SCHOOL

COURSE OF STUDY  
OR DEGREE EARNED

HIGH SCHOOL

Northridge HS

G.E.D

COLLEGE

University of Phoenix

Business

GRADUATE SCHOOL

OTHER (Specify)

## COMMUNITY INVOLVEMENT

Please list all civic, community, or non-profit organizations to which you have belonged or currently do belong, and your dates of service.

Organization

Dates of Service

First Christian Church HH

2013 - Now

Mission Committee

December 2022 - Now

## EMPLOYMENT HISTORY

Name of Employer	Position(s) Held	Dates of Employment
First Steps Preschool	Para	April 2022-Now

## REFERENCES

Shannon Teague		937-361-1911
Name	Address	Telephone Number
John Wagner		937-673-5872
Name	Address	Telephone Number
Sheri Ellis		937-657-6454
Name	Address	Telephone Number

## STATEMENT OF INTEREST

Please tell us why you are interested in serving on this board or commission

I enjoy serving in my community. I also enjoy making things pretty, fun, and exciting. I would love to join the group and donate my time to planning and running events. I have 7 kids and they usually enjoy serving with me. I look forward to the opportunity.

## REQUIREMENTS AND APPLICANT STATEMENT

Are you at least 18 years of age? ☒ Yes ☐ No

Do you currently reside in the City of Huber Heights? ☒ Yes ☐ No

Have you resided in the City of Huber Heights for at least one year prior to making this application? ☒ Yes ☐ No

Are you a registered voter? ☒ Yes ☐ No

Are you willing to sign a release to allow the City of Huber Heights to perform a background screening and criminal records check? ☒ Yes ☐ No

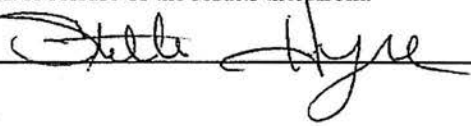
I certify that all of the information furnished in this application and its addenda are true and complete to the best of my knowledge. I understand that the City of Huber Heights may investigate the information I have furnished and I realize that any omissions, misrepresentation or false information in this application and/or its addenda may lead to revocation of any volunteer appointment.

I hereby acknowledge that I, voluntarily and of my own free will, have applied for a volunteer position with the City of Huber Heights with the understanding that the City may use a variety of screening procedures to evaluate my qualifications and suitability for appointment. I have been advised that these screening procedures might include, but are not limited to, interviews, criminal record checks, driving records checks and reference checks. I also acknowledge that any such screening procedures, as reasonably required by the City of Huber Heights, are prerequisites to my appointment to a volunteer position with the City of Huber Heights.

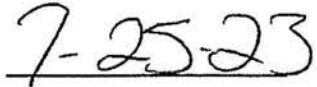
In addition, I also hereby understand that the City of Huber Heights cannot guarantee the confidentiality of the results of, or information obtained through the aforementioned screening procedures. Decisions of the Ohio Supreme Court regarding the Ohio Public Records Act indicate that, with certain enumerated exceptions, records maintained by a governmental entity are a matter of public record and, should a proper request be made by a member of the public for such records, the governmental entity would be required to make such records available to that member of the public within a reasonable time. Additionally, all information furnished in this application is subject to disclosure under the Ohio Public Records Act.

Therefore, in consideration of my application being reviewed by the City of Huber Heights, under no legal disability, and on behalf of my heirs and assigns, hereby release and agree to hold harmless the City of Huber Heights and any of its agents, employees, or related officials from any and all liability, whatever the type and nature resulting from the administration of any such screening procedures and/or release of the results therefrom.

Signature



Date



**AI-9384**

**New Business    B.  
City Council**

**City Council Meeting**

**Meeting Date:** 08/28/2023

Case TA 23-14A - City Of Huber Heights - Text Amendments - Chapter 1181.20 - Building Materials - Public Hearing

**Submitted By:** Geri Hoskins

**Department:** Planning **Division:** Planning

**Council Committee Review?:** Council Work Session **Date(s) of Committee Review:** 08/22/2023

**Audio-Visual Needs:** None **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

---

**Agenda Item Description or Legislation Title**

A Public Hearing Scheduled For August 28, 2023 By The Huber Heights City Council For Case TA 23-14A To Amend Part Eleven - Planning And Zoning Code, Chapter 1181 - General Provisions, Section 1181.20 - Building Materials For Dwellings Of The City Code Of Huber Heights.

**Purpose and Background**

The applicant, the City of Huber Heights, for revisions to Part Eleven - Planning and Zoning Code, Chapter 1181 - General Provisions, Section 1181.20 - Building Materials For Dwellings of the City Code of Huber Heights (Case TA 23-14A).

---

**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

*No file(s) attached.*

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**AI-9456**

**New Business C.  
City Manager**

**City Council Meeting**

**Meeting Date:** 08/28/2023

Case TA 23-14A - City of Huber Heights - Text Amendments - Chapter 1181.20 - Building Materials

**Submitted By:** Geri Hoskins

**Department:** Planning **Division:** Planning

**Council Committee Review?:** Council **Date(s) of Committee Review:** 08/22/2023  
Work  
Session

**Audio-Visual Needs:** None **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

---

**Agenda Item Description or Legislation Title**

An Ordinance Amending Certain Sections Of Part Eleven, Planning And Zoning Code, Of The City Code Of Huber Heights (Case TA 23-14A).  
(first reading)

**Purpose and Background**

This ordinance contains revisions to Part Eleven - Planning and Zoning Code - Chapter 1181 - General Provisions, Section 1181.20 - Building Materials For Dwellings of the City Code of Huber Heights (Case TA 23-14A).

---

**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Staff Report

Decision Record

Exhibit

Minutes

Presentation

Ordinance

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# Memorandum

Staff Report for Meeting of July 11, 2023

To: Huber Heights City Planning Commission  
From: Aaron K. Sorrell, City Planner  
Date: July 5, 2023  
Subject: TA 23-14A - Building Materials for Dwellings Text Amendment (Amended)

Department of Planning and Zoning

City of Huber Heights

**APPLICANT/OWNER:** City of Huber Heights

**DEVELOPMENT NAME:**

**ADDRESS/LOCATION:** 6131 Taylorsville Rd.

**ZONING/ACREAGE:** N/A

**EXISTING LAND USE:** N/A

**ZONING  
ADJACENT LAND:** N/A

**REQUEST:** This proposed text amendment clarifies what exterior materials are considered masonry, and updates the facade coverage requirements based on recent practices.

**ORIGINAL APPROVAL:** N/A

**APPLICABLE HHCC:** Chapter 1189.20 Building materials for dwellings

**CORRESPONDENCE:** In Favor – None Received  
In Opposition – None Received

## **STAFF ANALYSIS AND RECOMMENDATION:**

### **Overview**

Over the years, building materials have improved and builders utilize a range of materials to provide a mixture of building facades along a street, convey different design aesthetics, and control construction costs as prices of materials can vary depending on local and regional demand. This text amendment seeks to codify community expectations and provide reasonable flexibility for contemporary designs and modern material utilization.

Based on feedback from the Planning Commission this version has been revised for clarity and ease of administration.

### **Staff Analysis**

Currently, there is a significant schism with exterior building material requirements between building in a straight zoned area (A, R-1, R-2, etc.) versus building on a lot in a Planned Residential areas. If a buyer seeks to construct a new single-story home or build a single-story addition in any district other than a PUD, they must fully wrap their single-story home in brick or masonry material. New two-story homes must have the first floor wrapped in brick or masonry material. The floors above can be any other material.

Recent Planning Commission decisions have established a minimum masonry limit at approximately 25% of the front façade for single-family homes. Multi-family structures have ranged from 10% to 20% in recent years.

Staff is proposing the following standards:

#### Non-PUD Zoning:

- One-Story dwellings: 25% of the front façade
- Multi-Story dwellings: 25% of the first-floor front façade.

#### PUD Zoning:

- 1 & 2-family buildings: 25% of the front facades
- Multi-family and mixed-use buildings: 10% of the aggregate building wall surface.

These standards encourage the Planning Commission to consider the types, location and layouts of the buildings. Every development is different, and the Planning Commission should include those details. Specifically, the Planning Commission is encouraged to:

When establishing the requirements, the Planning Commission shall consider the types, location, and layout of the buildings to:

- (1) Encourage a mix of building facades and material usage and discourage monotonous building repetition.

- (2) Encourage higher percentages of full depth brick, cultured brick, stone, cultured stone, or other approved masonry product along the frontage of major public streets and thoroughfares.

**Additional Comments:**

Staff feels that these revised materials requirements for dwellings reflect the recent decisions of the Planning Commission and City Council, and are a bridge from the previous masonry requirements to a constituent that desires a diverse architectural palate within the community.

**Fire:** No comments.

**City Engineer:** No comments.

**Recommendation**

Staff recommends approval of the text amendments as drafted.

**Planning Commission Action**

Planning Commission may take the following actions with a motion to:

- 1) Recommend approval of the text amendments as drafted;
- 2) Recommend approval of the text amendments with changes;
- 3) Recommend denial of the text amendments;



## **Planning Commission Decision Record**

WHEREAS, on May 2, 2023, the applicant, The City of Huber Heights, requested approval of a Text Amendment to the Zoning Ordinance of The City of Huber Heights pertaining to Chapter 1181.20 Building Materials for Dwellings (TA 23-14A), and;

WHEREAS, on July 11, 2023, the Planning Commission did meet and fully discuss the details of the request.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby recommended approval of the request.

Ms. Thomas moved to approve the request by the applicant, The city of Huber Heights, for approval of a Text Amendment to the Zoning Ordinance of the City of Huber Heights (TA 23-14A) in accordance with the recommendation of Staff's Memorandum dated July 5, 2023, with the following conditions:

1. Approve as submitted.

Seconded by Mr. Jeffries. Roll call showed: YEAS: Mr. Cassity, Ms. Vargo, Mr. Jeffries, Ms. Thomas, and Mr. Walton. NAYS: None. Motion to recommend approval carried 5-0.

---

Terry Walton, Chair  
Planning Commission

---

Date

---

## **1181.20 Building materials for dwellings. (Amended July 5, 2023)**

- (a) *One-Story Dwellings.* 25% of the front façade of one-story dwellings shall be constructed of full depth brick, cultured brick, stone, or cultured stone. Other exterior wall areas may be constructed of full depth brick, cultured brick, stone, cultured stone, EFIS, poured concrete, split-faced concrete block, stucco, or masonry or vinyl siding. All vinyl siding shall have a thickness of not less than 0.44mm or be insulated.
- (b) *Dwellings Over One Story.* The first-floor front façade shall be constructed of 25% of full depth brick, cultured brick, stone, or cultured stone. Other exterior wall areas may be constructed of full depth brick, cultured brick, stone, cultured stone, EFIS, poured concrete, split-faced concrete block, stucco, or masonry or vinyl siding. All vinyl siding shall have a thickness of not less than 0.44mm or be insulated.
- (c) *Dwellings in Planned Unit Developments.* Exterior building wall material requirements for all residential and mixed-use residential buildings shall be established through the Basic Development Plan or Detail Development Plan approval. At least 10% of the aggregate multi-family or mixed-use building wall surface, within the development, should be full depth brick, cultured brick, stone, or cultured stone. Single-family and two-family development front façades shall be constructed of not less than 25% full depth brick, cultured brick, stone, or cultured stone. When establishing the requirements, the Planning Commission shall consider the types, location, and layout of the buildings to:
  - (1) Encourage a mix of building facades and material usage and discourage monotonous building repetition.
  - (2) Encourage higher percentages of full depth brick, cultured brick, stone, cultured stone, or other approved masonry product along the frontage of major public streets and thoroughfares.
- (d) *Exceptions.* The requirement for certain exterior walls of dwellings to be constructed of brick or other approved masonry type of material shall not apply to:
  - (1) Exterior wall areas of the dwelling where federal, state and/or local building codes prohibit the use of brick or other masonry materials such as gas fireplace inserts, cantilevers, gables, overhangs, soffits, downspouts and gutters, kitchen and other bays and other type of protrusion for which it is not reasonably practical to use the material stated above.
  - (2) Room additions, remodeling, or reconstruction, to or of, dwellings that do not comply with subsections (a) and (b) above when such dwellings were constructed prior to enactment of this Ordinance. Material that is used for additions or remodeling must be similar to the existing structure and maintain the integral look of the dwelling.
- (d) *Definitions.* For purposes of this section, the following terms shall have the following definitions:
  - (1) "Dwelling" means any building or portion thereof occupied or intended to be occupied exclusively for residential purposes, but not including a tent, cabin, trailer or trailer coach or other temporary or transient structure or facility.
  - (2) "First floor" means the highest point at the finish grade of the proposed ground surface.
  - (3) "Front Façade" means the side of the building facing the lot front as defined by Section 1123.69 (Lot, Front).

**Planning Commission  
July 11, 2023, Meeting  
City of Huber Heights**

- I. Chair Terry Walton called the meeting to order at approximately 6:02 p.m.
- II. Present at the meeting: Mr. Cassity, Mr. Jeffries, Ms. Thomas, Ms. Vargo, and Mr. Walton.

Members absent: None.

Staff Present: Aaron K. Sorrell, Interim City Planner, and Geri Hoskins, Planning & Zoning Administrative Secretary.

**III. Opening Remarks by the Chairman and Commissioners**

None.

**IV. Citizens Comments**

None.

- V. **Swearing of Witnesses** Mr. Walton explained the proceedings of tonight's meeting and administered the sworn oath to all persons wishing to speak or give testimony regarding items on the agenda. All persons present responded in the affirmative.

**VI. Pending Business**

- 1. **TEXT AMENDMENT - The applicant, THE CITY OF HUBER HEIGHTS, is requesting approval of a text amendment pertaining to Chapter 1181.20 Building Materials for Dwellings (TA 23-14A).**

Mr. Sorrell stated that over the years, building materials have improved and builders utilize a range of materials to provide a mixture of building facades along a street, convey different design aesthetics, and control construction costs as prices of materials can vary depending on local and regional demand. This text amendment seeks to codify community expectations and provide reasonable flexibility for contemporary designs and modern material utilization.

Based on feedback from the Planning Commission this version has been revised for clarity and ease of administration.

**Staff Analysis**

Currently, there is a significant schism with exterior building material requirements between building in a straight zoned area (A, R-1, R-2, etc.) versus building on a lot in a Planned Residential areas. If a buyer seeks to construct a new single-story home or build a single-story addition in any district other than a PUD, they must fully wrap their single-story home in brick or masonry material. New two-story homes must have the first floor wrapped in brick or masonry material. The floors above can be any other material.

## Planning Commission Meeting

July 11, 2023

Recent Planning Commission decisions have established a minimum masonry limit at approximately 25% of the front façade for single-family homes. Multi-family structures have ranged from 10% to 20% in recent years.

Staff is proposing the following standards:

### Non-PUD Zoning:

- One-Story dwellings: 25% of the front façade
- Multi-Story dwellings: 25% of the first-floor front façade.

### PUD Zoning:

- 1 & 2-family buildings: 25% of the front facades
- Multi-family and mixed-use buildings: 10% of the aggregate building wall surface.

These standards encourage the Planning Commission to consider the types, location and layouts of the buildings. Every development is different, and the Planning Commission should include those details. Specifically, the Planning Commission is encouraged to:

When establishing the requirements, the Planning Commission shall consider the types, location, and layout of the buildings to:

- (1) Encourage a mix of building facades and material usage and discourage monotonous building repetition.
- (2) Encourage higher percentages of full depth brick, cultured brick, stone, cultured stone, or other approved masonry product along the frontage of major public streets and thoroughfares.

### **Additional Comments:**

Staff feels that these revised materials requirements for dwellings reflect the recent decisions of the Planning Commission and City Council and are a bridge from the previous masonry requirements to a constituent that desires a diverse architectural palate within the community.

**Fire:** No comments.

**City Engineer:** No comments.

Discussion on building in phases, each section held to standard, eliminate aggregated amount.

### **Action**

Ms. Thomas moved to approve the request by the applicant THE CITY OF HUBER HEIGHTS, for approval of a Text Amendment pertaining to Chapter 1181.20 Building Materials for Dwellings (TZ 23-14A) in accordance with the recommendation of Staff's Memorandum dated July 5, 2023, and the Planning Commission Decision Record attached thereto.

July 11, 2023

Seconded by Mr. Jeffries. Roll call showed: YEAS: Mr. Jeffries, Ms. Vargo, Mr. Cassity, Ms. Thomas, and Mr. Walton. NAYS: None. Motion to approve carried 5 -0.

## **VII. New Business**

- 1. MINOR CHANGE - The applicant, KELLEY KOONS, is requesting approval of Minor Change to the Detailed Development Plan to construct a four-season enclosed patio. Property is located at 5420 Brandt Pike (MC 23-16).**

Mr. Sorrell stated that the applicant requests a minor change to the Detailed Development Plan to construct a 300 SF four-season enclosure on the north side of the existing building. The 30' by 10' structure will have overhead doors on each end of the building, and windows along the northern wall. The addition will be nearly 500' from Brandt Pike and barely visible due to its relatively small size.

### **Applicable Zoning Regulations**

The applicable zoning regulations are Chapter 1171 – General Provisions and Chapter 1174 -Planned Public and Private Buildings and Grounds District (PP).

### **Staff Analysis**

#### **Detailed Development Plan Analysis:**

The applicant requests a minor change to the Detailed Development Plan to construct a 300 SF four-season enclosure on the north side of the existing building. The exterior of the addition is mostly windows on the north side, and one window and overhead door on each end.

#### **Conformance With Planned Public and Private Buildings and Grounds District Requirements:**

Uses: Fraternal organizations are a permitted use.

Development Standards:

- The addition meets all setback and yard requirements.
- No additional parking is necessary.

No other changes are being proposed by the applicant. The existing structure is just over 18,000 SF. This addition represents an enlargement of under 2% of the existing floor area. No other improvements are required by the zoning code.

**Fire:** No comments received.

**City Engineer:** No comments received.

### **Action**

Mr. Jeffries moved to approve the request by the applicant KELLY KOONS, for approval of a Minor Change to the Detailed Development Plan (MC 23-16) in accordance with the recommendation of Staff's Memorandum dated July 5, 2023, and the Planning Commission Decision Record attached thereto.

July 11, 2023

Seconded by Mr. Cassity. Roll call showed: YEAS: Ms. Vargo, Mr. Cassity, Ms. Thomas, Mr. Jeffries, and Mr. Walton. NAYS: None. Motion to approve carried 5 -0.

**2. REPLAT - The applicant, THE CITY OF HUBER HEIGHTS, is requesting approval to vacate Thorngate Road north of Waynegate Road (RP 23-18).**

Mr. Sorrell stated that the city is requesting approval to vacate Thorngate Drive, north of Waynegate Road. This is a stub street intended to connect to the subdivision to the north. The connection was never approved or completed, nor will it ever be constructed. As a result, this stub serves no municipal purpose, and has created drainage problems for the adjacent property owners.

Once the right of way is officially vacated and the road bed removed, the two parcels will be transferred to the adjacent property owners.

**Applicable Subdivision Regulations**

The applicable subdivision regulations for the plat are found in Chapter 1107 - Final Plat. The vacation of public right of way is governed by ORC 711.39 - Vacating Plat by Legislative Authority.

Vacating the public right of way requires approval by the platting commission (Planning Commission) and the Huber Heights City Council.

**Staff Analysis**

The vacation is being initiated by the City at the request of the adjacent property owners who have consistent flooding issues due to this stub. The stub serves no municipal function since the connection to the northern subdivision was never completed. The City is removing the road bed for the adjacent property owners.

**Additional Comments:**

**Fire:** The Fire Department has approved vacation and replat.

**City Engineer:** The engineer has approved vacation and replat.

Discussion on changing the deeds, fully restored.

**Action**

Mr. Jeffries moved to approve the request by the applicant THE CITY OF HUBER HEIGHTS, for approval to vacate Thorngate Road north of Waynegate Road (RP 23-18) in accordance with the recommendation of Staff's Memorandum dated July 5, 2023, and the Planning Commission Decision Record attached thereto.

Seconded by Mr. Cassity. Roll call showed: YEAS: Mr. Jeffries, Ms. Vargo, Mr. Cassity, Ms. Thomas, and Mr. Walton. NAYS: None. Motion to approve carried 5 -0.

July 11, 2023

- 3. DETAILED DEVELOPMENT PLAN - The applicant, METROPOLITAN HOLDINGS LTD, is requesting approval of a Detailed Development Plan for an apartment project. Property is located at Executive Boulevard across the street from the Rose Music Center (DDP 23-19).**

Mr. Sorrell stated the applicant requests Detailed Development Plan approval to facilitate the construction of 312 residential units (1- and 2-bedroom apartments) on approximately 21.3 acres.

The Planning Commission recommended approval of a rezoning and basic development plan on February 14, 2023. The Huber Heights City Council approved the rezoning and basic development plan on April 11, 2023.

#### **Applicable Zoning Regulations**

The applicable zoning regulations are Chapter 1130 – Amendments, Chapter 1171 – General Provisions, Chapter 1179 – Planned Mixed Use, Chapter 1181 – General Provisions.

The staff analysis addresses the elements of the Detailed Development Plan and standards for approval.

#### **Staff Analysis**

The approved rezoning and Basic Development Plan ordinance has the following relevant conditions:

1. The Basic Development and Zoning Regulations shall be those submitted with the application dated January 30, 2023.
2. The northern property buffering requirements shall be determined during the Detailed Development Plan review.

#### **Conformance with the approved conditions of the BDP:**

- 1. The Basic Development and Zoning Regulations shall be those submitted with the application dated January 30, 2023.**

The development regulations that were submitted with the Basic Development Plan will be recorded as part of the detailed development plan approval. The Project Zoning and Design Standards are attached for reference.

The submitted detailed development plan substantially conforms to these requirements.

#### **Setbacks**

<b>Minimum Requirements</b>	<b>As indicated on the DDP</b>	<b>Conforming (Y/N)</b>
Front yard: 20 feet	25 feet	Y
Rear yard: 25 feet	25 feet	Y
East Side yard: 25 feet	25 feet	Y
West Side yard: 25 feet	20 feet	N*

\*The applicant has indicated that this is an error and will be submitting corrected plans.

### **Signage**

The DDP indicates two (2) internal illuminated wall signs on the clubhouse building. The two wall signs total 75 square feet.

Two non-illuminated entrance columns (monument signs) are proposed. The columns are 6 feet high and just under 4 feet wide. The signage graphic affixed to each column is approximately 3.5 square feet.

Staff feels the signs are appropriately located and well designed to showcase the music branding of apartment complex.

### **Architecture and Site Standards**

The detailed development plan appears to satisfy the building material requirements outlined in the Project Zoning and Design Standards. The residential buildings are mixture of stone, cement panels, and lap and batten siding. The buildings facing Executive Boulevard including the clubhouse have extensive stone and masonry elements.

Additionally, the applicant is proposing a significant amenity package for residents including pool, outdoor kitchen and gathering areas.

### **Landscaping**

The landscaping plan is substantially compliant to the standards outlined in the Project Zoning and Design Standards. This includes street tree, perimeter and interior landscaping, and open space requirements. Sheets L1 and L2 illustrate the proposed landscaping plan.

### **Lighting**

The lighting plan indicates pedestrian scale decorative poles and fixtures will be used the parking areas and travel lanes. The decorative fixtures are mounted on 12-foot poles. The lighting standards limit light trespass to no more the 0.5 foot-candle. However, the photometric plan indicates areas of illumination on the north property line which exceeds this standard. As a condition of approval, the applicant shall shield the perimeter fixtures adjacent to the north property line.

### **Street and Transportation Standards**

The detailed development plan complies with the street and transportation standards outlined in the Project Zoning and Design Standards.

The only significant change is the multi-use path along Executive Boulevard. The basic development plan indicated a 10-foot path. After discussions between the applicant and staff, the path has been reduced to eight (8) feet. This was done to better accommodate decorative street lighting that is being planned for Executive Boulevard. The width of the path matches the width of the path in front of the Rose.

2. **The northern property buffering requirements shall be determined during the Detailed Development Plan review.**

How the project is buffered from the northern neighborhood was a significant discussion topic and particular concern to the adjacent neighbors. Staff encouraged the development team to survey the treeline to determine which

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mature trees are healthy and should remain, and to cluster landscaping between the garages to further reduce visual and noise impacts. Additionally, specific grading requirements and their impacts to the treeline was unknown at the point of basic development plan approval.

Surprisingly, only eight trees within the 25-foot setback must be removed. They are clustered in the areas where two retaining walls must be constructed to achieve the grading required for the parking areas and garages. No trees along the property line are indicated to be removed. Sheet C201 and C202 illustrate the planned removals. Sheet C501 and C502 illustrate the grading limits and location of the retaining walls.

To mitigate the loss of the trees and increase buffering, the applicant is proposing substantial landscaping along the northern property line. Sheet L2 and L2.1 There is a dense mixture of evergreen and deciduous trees planned. The evergreens will be 6 feet at planting, and the various deciduous trees will have a 3-inch diameter. These are substantially larger than typically planted.

Staff feels the northern property line is adequately buffered between the existing trees remaining and the substantial amount of new plantings.

#### **Staff Analysis**

The DDP application substantially conforms with the Basic Development Plan ordinance approved by the City Council. Additionally, the DDP generally conforms to all relevant zoning regulations, including landscaping, lighting, parking, architectural standards and signs.

#### **Additional Comments:**

**Fire:** See Attached.

**City Engineer:** No comments received.

Discussion on parking compared to Parkview, fire issues, 9 ft. parking spaces, another lane on south side of Executive, 8 ft sidewalks, font for sign, what name means, tree survey, retaining walls, 1 phase.

Ryan Young, Jamie Oberschlake,

Pat Dyer, resident, asked about retaining wall, between buildings and garages, dumpsters, maintenance, how long building will take.

Annamarie Norgrove, resident, asked about tree lines and when construction will start.

Melissa Cleary, resident, said the name was really cool and it's a great idea.

#### **Action**

Ms. Vargo moved to approve the request by the applicant METROPOLITAN HOLDINGS LTD, for approval of a Detailed Development Plan for a proposed new 312 unit apartment project. Property is located across the street from the Rose Music Center (DDP 23-19) in accordance with the recommendation of Staff's Memorandum dated July 6, 2023, and the Planning Commission Decision Record attached thereto.

Seconded by Mr. Jeffries. Roll call showed: YEAS: Mr. Jeffries, Ms. Vargo, Mr. Cassity, Ms. Thomas, and Mr. Walton. NAYS: None. Motion to approve carried 5 -0.

- 4. BASIC DEVELOPMENT PLAN - The applicant, BP-OTP, LLC, is requesting approval of a Rezoning from O1 to PC, and a Basic Development Plan for a gas station convenience mart with fueling pumps. Property is located at 4949 Chambersburg Road (BDP 23-17).**

Mr. Sorrell stated that the applicant seeks to construct a new 5,915 SF Wawa convenience store with eight fueling pumps at the corner of Old Troy Pike and Chambersburg Road. Wawa is entering the Dayton area market, and this will be its first Huber Heights store.

The proposed store will sit on 5.41 acres, of which approximately three (3) acres are zoned Planned Commercial and approximately 2.4 acres are zoned O-1.

Convenience stores and fueling stations are permitted in the Planned Commercial District but not the O-1. Thus, a replat and rezoning are included in the Basic Development Plan application.

Nearby commercial and retail uses at this intersection include Walgreens on the southwest corner; KeyBank on the northeast corner; and Speedway at the southeast corner.

#### **Site Characteristics**

Approximately half the site is currently developed as a single-family house in a densely wooded and landscaped lot. The other half is wooded, undeveloped land. There is a steep grade change with the plateau of the site approximately 30 feet above the Chambersburg / OTP intersection. The grade change between the road and the site becomes less dramatic as one travels east on Chambersburg and north on Old Troy Pike.

While the proposed store is located in the general clearing of the lot, grading will be required to develop the building pad, parking area, fueling bays and access drives. However, it does appear that grading will end approximately 80 feet from the east property line and have no impact on the home north of the site.

The site has access to all necessary utilities. Additionally, the applicant will dedicate the required right-of-way for the planned Chambersburg widening and multi-use path.

#### **Applicable Zoning Regulations**

The applicable zoning regulations are Chapter 1171 – General Provisions, Chapter 1176 – Planned Commercial, Chapter 1181 – General Provisions, Chapter 1182 – Landscaping, and Chapter 1185 – Parking and Loading.

Chapter 1171.05 - Contents of basic development plan, states:

(a) The basic development plan shall consist of at least the following information together with such other data and materials as may be required by the City:

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- (1) Site plan showing the actual shape and dimensions of the lot to be built upon or to be changed in its use together with the location of the existing and proposed structures with approximate square footages, number of stories including heights of structures;
  - (2) Typical elevation views of the front and side of each type of building;
  - (3) Planning location and dimensions of all proposed drives, service access road, sidewalks and curb openings;
  - (4) Parking lot areas (show dimensions of a typical parking space), unloading areas, fire lanes and handicapped parking;
  - (5) Landscaping plan, walls and fences;
  - (6) Storm water detention and surface drainage;
  - (7) Exterior lighting plan;
  - (8) Vehicular circulation pattern;
  - (9) Location and square footage of signs;
  - (10) Topographic survey; and
  - (11) Listing of proposed uses taken from the list of permitted and special uses of the PUD zoning district to which rezoning is being sought.
- (b) The Planning Commission shall schedule both the proposed rezoning and the issue of approval of the basic development plan for a combined public hearing, following which it shall make its recommendation indicating approval, approval with modification or disapproval.

Chapter 1171.06 - General standards for approval, states:

The Planning Commission shall review the application, prepared development plan and the facts presented at the hearing. The applicant shall have the burden of proof. No approval shall be given unless the Commission shall find by a preponderance of the evidence that such PUD on the proposed locations:

- (a) Is consistent with official thoroughfare plan, comprehensive development plan and other applicable plans and policies;
- (b) Could be substantially completed within the period of time specified in the schedule of development submitted by the developer;
- (c) Is accessible from public roads that are adequate to carry the traffic that shall be imposed upon them by the proposed development. Further, the streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development;
- (d) Shall not impose an undue burden on public services such as utilities, fire and police protection, and schools;
- (e) Contains such proposed covenants, easements and other provisions relating to the proposed development standards as may reasonably be required for the public health, safety and welfare;
- (f) Shall be landscaped or otherwise improved and the location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible

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with the existing intended uses, and any part of a PUD not used for structures, parking and loading areas, or accessways;

(g) Shall preserve natural features such as water courses, trees and rock outcrops, to the degree possible, so that they can enhance the overall design of the PUD;

(h) Is designed to take advantage of the existing land contours in order to provide satisfactory road gradients and suitable building lots and to facilitate the provision of proposed services;

(i) Shall place underground all electric and telephone facilities, street light wiring and other wiring conduits and similar facilities in any development which is primarily designed for or occupied by dwellings, unless waived by the Commission because of technical reasons;

(j) Shall not create excessive additional requirements at public cost of public facilities and services and shall not be detrimental to the economic welfare of the community;

(k) Shall not involve uses, activities, processes, materials, equipment and conditions of operation that shall be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors; and

(l) Rezoning of the land to the PUD District and approval of the development plan shall not adversely affect the public peace, health, morals, safety or welfare.

**Staff Analysis**

The staff analysis addresses the rezoning request and elements of the Basic Development Plan and standards for approval.

**Rezoning Analysis:**

The applicant requests the rezoning of approximately 2.44 acres from O-1 General Office to Planned Commercial (PC).

*Conformance with Comprehensive Plan*

The City's comprehensive plan indicates the site is within the Estates pattern area adjacent to the Southtown pattern area. The Estates development pattern area recognizes that is area is where large-scale development is unlikely to occur and where large-lot residential development is appropriate. This is particularly true on the west side of the pattern area where environmental constraints, such as flooding, limit the development potential.

However, that is not to say the area is determined to be exclusively residential. One of the key elements within the Estates development pattern area is to "allow for incremental, contextually relevant non-residential uses and amenities." This site is on the east edge of the pattern district, not subject to flooding and at the intersection of two major roadways. Additionally, all necessary utilities are available.

Given the location of this site and its context within the Estate pattern district, staff feels the rezoning from O-1 to PC is consistent with the comprehensive plan.

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**Basic Development Plan Analysis:**

The applicant proposes constructing a 5,915 SF convenience store and four-island fueling center. The applicant has submitted all necessary plans and studies for the Basic Development Plan review.

Conformance With Planned Commercial District Requirements:

Uses: Retail uses and filling stations are principally permitted in the district.

Development Standards:

- The site plan meets all parking and building setback and yard requirements.
- Nineteen street trees are required. The preliminary landscaping plan shows 19 street trees. However, due to grading issues and Chambersburg Road's planned widening, most of them are not near the sidewalk. During the Detailed Development plan review, staff will work with the applicant to place the required trees appropriately.
- The lighting plan submitted with the application meets all requirements. The proposed fixture height is 20 feet, and the fixture types meet the code. The photometric analysis indicates no light trespasses across the property lines.
- The building design substantially meets the exterior material recommendation. Not including glazing, the building's entire exterior is 68% masonry. The front façade is 78% masonry and glazing. Approximately 28% of the exterior is a wood composite accent siding.
- All utilities are below ground.

Parking and Loading:

- The applicant proposes 53 parking spaces, more than the code requires. Parking stall dimensions are 10' x 20', as required.

Landscaping:

- The plans appear to meet the landscaping requirements but will be verified when the detailed development plan is submitted.

Signs:

- A sign package was not submitted with the application and will be reviewed when the detailed development plan is submitted. The elevations indicate three wall signs, and the site plan indicates two monument signs.

Conformance with General Standards of Approval:

Below is the staff analysis of conformance with the general standards of approval.

- (a) *Is consistent with official thoroughfare plan, comprehensive development plan and other applicable plans and policies;*

It is the staff's opinion that the proposal is consistent with the comprehensive plan and thoroughfare plan. The site is located at the intersection of arterial and collector streets.

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*(b) Could be substantially completed within the period of time specified in the schedule of development submitted by the developer;*

While no development schedule has been submitted, the applicant has stated to staff that they will initiate construction shortly after all plans are approved by the City and County. There are no concerns on the part of staff that the applicant would have difficulty financing and constructing the project in a reasonable time.

*(c) Is accessible from public roads that are adequate to carry the traffic that shall be imposed upon them by the proposed development. Further, the streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development;*

It is important to note that the traffic counts were taken when school was in session, and they represent an accurate assessment of the existing peak traffic volume. The traffic study estimates there will be 541 AM and 467 PM weekday peak hour trips.

This store's net new peak hour trips are estimated at 129 AM and 1179 PM. It's important to note that the study estimates that 76% of those trips are pass-by, meaning those vehicles are on the road regardless of whether the Wawa development is constructed.

The traffic study indicates that no drop-down lanes are necessary. The applicant is required to dedicate additional ROW along Chambersburg Road to facilitate the construction of a future roadway widening.

*(d) Shall not impose an undue burden on public services such as utilities, fire and police protection, and schools;*

Staff does not anticipate any undue burden on public services. The area has adequate utility and street capacity. We are unaware of any policing concerns, and the development will comply with all building and fire code requirements.

*(e) Contains such proposed covenants, easements and other provisions relating to the proposed development standards as may reasonably be required for the public health, safety and welfare;*

Any conditions imposed by the Planning Commission or City Council will be memorialized in the PUD legislation and remain in effect unless modified by the Planning Commission or City Council.

*(f) Shall be landscaped or otherwise improved and the location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible with the existing intended uses, and any part of a PUD not used for structures, parking and loading areas, or accessways;*

The staff believes the site plan is generally well arranged, and internal circulation is efficient and compatible with the intended use. Pedestrian connections between the streets and the store are provided. The landscaping requirements will be reviewed with the Detailed Development application.

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*(g) Shall preserve natural features such as water courses, trees and rock outcrops, to the degree possible, so that they can enhance the overall design of the PUD;*

The site will retain a significant amount of wooded area to the west and north. Additionally, the existing decorative retaining wall will remain.

*(h) Is designed to take advantage of the existing land contours in order to provide satisfactory road gradients and suitable building lots and to facilitate the provision of proposed services;*

As discussed, the site has significant topographic features. The grading plan illustrates significant grading on the site's west, south and northeast edges. The grading should not impact the properties west or north of the site since there is an adequate buffer between the property lines and the extent of the grading activities. The applicant is grading to a 3:1 slope and providing vegetative ground cover, which will limit erosion.

*(i) Shall place underground all electric and telephone facilities, street light wiring and other wiring conduits and similar facilities in any development which is primarily designed for or occupied by dwellings, unless waived by the Commission because of technical reasons;*

All utilities will be placed underground.

*(j) Shall not create excessive additional requirements at public cost of public facilities and services and shall not be detrimental to the economic welfare of the community;*

Staff does not anticipate any additional public services required to support this development.

*(k) Shall not involve uses, activities, processes, materials, equipment and conditions of operation that shall be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors; and*

All proposed uses are consistent with the Planned Commercial district zoning being requested as part of this application. The traffic study does not indicate that this development will generate excessive traffic.

*(l) Rezoning of the land to the PUD District and approval of the development plan shall not adversely affect the public peace, health, morals, safety or welfare.*

The staff believes the rezoning is consistent with the comprehensive plan and will not adversely affect surrounding properties.

**Additional Comments:**

**Fire:** See attached.

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**City Engineer:** The engineer has reviewed the site plan and requested additional right of way along Old Troy Pike and Chambersburg Road. The applicant has indicated that they will revise their plans accordingly.

**Recommendation**

Staff supports the partial rezoning from General Office (O-1) to Planned Commercial. It is the staff's opinion that the requirements of Section 1171.06 can be met, and recommends approval of the rezoning and Basic Development Plan with the following conditions:

- The applicant shall assess the health of the existing trees along the site's perimeter that will be incorporated into the landscaping plan. Healthy trees shall be identified and incorporated into the landscaping plan as appropriate, subject to approval as part of the Detailed Development Plan. The applicant shall also develop a plan to protect key trees during construction, subject to staff approval.
- The applicant shall work with staff to determine the final street tree placement during the Detailed Development Plan phase.
- Signs shall conform with Chapter 1189, unless otherwise approved in the Detailed Development Plan by the Planning Commission.
- Permitted uses shall be those listed as permitted uses in Section 1176.01, except the following are prohibited:
  - Vehicle sales, rental or service
  - Sweepstakes Cafes
  - Short-term lenders (pay-day lenders, loans against auto titles, etc.)
  - Dry cleaners
  - Outdoor sales and storage, unless approved by the Planning Commission
- The applicant shall submit a revised Basic Development Plan indicating the corrected ROW dedication along Old Troy Pike and Chambersburg Road, as the City engineer requires.

Discussion on sidewalk width, undeveloped half of site, left turn onto Troy, traffic coming south, Chambersburg design timeline, 3-1 slope, full shielding on West side, traffic lane on Troy Pike, retaining wall, 19 ft. drop, bike racks, lower the crest on Chambersburg.

Patrick O'Leary, Eric Williams, Patrick Warnemont, Adam Malonjao, Jason Waite, Ryan Vickers.

**Action**

Ms. Thomas moved to approve the request by the applicant BP-OPT, LLC, for approval of a Rezoning from O1 to PC, and a Basic Development Plan for a gas station convenience mart with fueling pumps (BDP 23-17) in accordance with the recommendation of Staff's Memorandum dated July 5, 2023, and the Planning Commission Decision Record attached thereto.

Seconded by Ms. Vargo. Roll call showed: YEAS: Mr. Jeffries, Ms. Vargo, Mr. Cassity, Ms. Thomas, and Mr. Walton. NAYS: None. Motion to approve carried 5 -0.

**VIII. Additional Business**

None.

**IX. Approval of the Minutes**

Without objection, the minutes of the June 13, 2023, Planning Commission meeting are approved.

**X. Reports and Calendar Review**

Mr. Sorrell stated Flying Ace, Huber Health Center, and Technology and Artz Road.

**XI. Upcoming Meetings**

August 15, 2023  
September 12, 2023

**XII. Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at approximately 8:40 p.m.

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**Terry Walton, Chair**

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**Date**

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**Geri Hoskins, Administrative Secretary**

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**Date**

# **TA 23-14A**

# **ZONING TEXT AMENDMENTS**

August 22, 2023

# TA 23-14A BUILDING MATERIALS FOR DWELLINGS

Proposed amendment attempts to align the code with recent Planning Commission & City Council policy decisions.

Current masonry requirements:

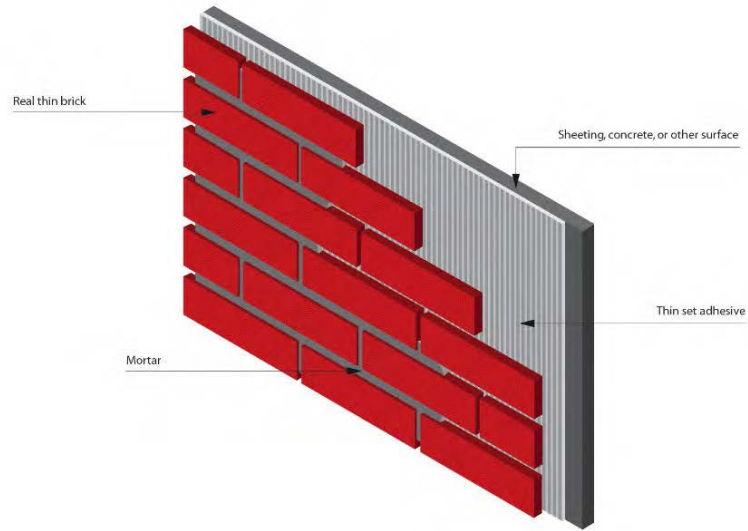
- Straight zones: One-story home – 100% brick  
1+ story dwellings – 100% brick first floor
- PUD: Discretion of Planning Commission / Council

# TA 23-14A BUILDING MATERIALS FOR DWELLINGS

Proposed standards:

## Materials

- Masonry defined as “full depth” or cultured brick or stone.
- Other materials may be used on non-masonry wall surfaces.  
Sets a .44mm standard for vinyl thickness unless insulated.



Cultured brick  
and Stone



Insulated Vinyl Siding

# TA 23-14A BUILDING MATERIALS FOR DWELLINGS

Proposed Coverage Standards:

Straight zoned areas: 25% first floor front facade.

PUD areas:

- 1 & 2 family structures: 25% front facade
- Multi-family / mixed use: At least 10% of aggregate wall surface.

# TA 23-14A BUILDING MATERIALS FOR DWELLINGS

PUD areas:

When establishing the requirements, the Planning Commission shall consider the types, location, and layout of the buildings to:

- (1) Encourage a mix of building facades and material usage and discourage monotonous building repetition.
- (2) Encourage higher percentages of full depth brick, cultured brick, stone, cultured stone, or other approved masonry product along the frontage of major public streets and thoroughfares.

# **TA 23-14A BUILDING MATERIALS FOR DWELLINGS**

Planning Commission recommended approval 5-0.

CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE NO. 2023-O-

AMENDING CERTAIN SECTIONS OF PART ELEVEN, PLANNING AND ZONING CODE, OF THE CITY CODE OF HUBER HEIGHTS (CASE TA 23-14A).

WHEREAS, the citizens of Huber Heights require City codified ordinances that are current, up to date, and reflect the current practices and processes of the City; and

WHEREAS, the Huber Heights Planning Commission has reviewed Case TA 23-14A and on July 11, 2023 recommended approval by a vote of 5-0 to update the building material requirements for residential buildings; and

WHEREAS, the City Council has determined that revisions in Chapter 1181 are necessary to enhance and protect the general welfare of the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Huber Heights, Ohio that:

Section 1. Part Eleven, Planning and Zoning, Chapter 1181 – General Provisions, Section 1181.20 – Building Materials For Dwellings is hereby amended to read as follows:

- (a) *One-Story Dwellings.* 25% of the front façade of one-story dwellings shall be constructed of full depth brick, cultured brick, stone, or cultured stone. Other exterior wall areas may be constructed of full depth brick, cultured brick, stone, cultured stone, EFIS, poured concrete, split-faced concrete block, stucco, masonry or vinyl siding. All vinyl siding shall have a thickness of not less than 0.44mm or be insulated.
- (b) *Dwellings Over One Story.* The first-floor front façade shall be constructed of 25% of full depth brick, cultured brick, stone, or cultured stone. Other exterior wall areas may be constructed of full depth brick, cultured brick, stone, cultured stone, EFIS, poured concrete, split-faced concrete block, stucco, masonry or vinyl siding. All vinyl siding shall have a thickness of not less than 0.44mm or be insulated.
- (c) *Dwellings in Planned Unit Developments.* Exterior building wall material requirements for all residential and mixed-use residential buildings shall be established through the Basic Development Plan or Detailed Development Plan approval. At least 10% of the aggregate multi-family or mixed-use building wall surface, within the development, should be full depth brick, cultured brick, stone, or cultured stone. Single-family and two-family development front façades shall be constructed of not less than 25% full depth brick, cultured brick, stone, or cultured stone. When establishing the requirements, the Planning Commission shall consider the types, location, and layout of the buildings to:
  - (1) Encourage a mix of building facades and material usage and discourage monotonous building repetition.
  - (2) Encourage higher percentages of full depth brick, cultured brick, stone, cultured stone, or other approved masonry product along the frontage of major public streets and thoroughfares.
- (d) *Exceptions.* The requirement for certain exterior walls of dwellings to be constructed of brick or other approved masonry type of material shall not apply to:
  - (1) Exterior wall areas of the dwelling where federal, state and/or local building codes prohibit the use of brick or other masonry materials such as gas fireplace inserts, cantilevers, gables, overhangs, soffits, downspouts and gutters, kitchen and other bays and other type of protrusion for which it is not reasonably practical to use the material stated above.

- (2) Room additions or remodeling to or of dwellings that do not comply with subsections (a) and (b) above when such dwellings were constructed prior to enactment of this Ordinance. Material that is used for additions or remodeling must be similar to the existing structure and maintain the integral look of the dwelling.
- (d) *Definitions.* For purposes of this section, the following terms shall have the following definitions:
- (1) "Dwelling" means any building or portion thereof occupied or intended to be occupied exclusively for residential purposes, but not including a tent, cabin, trailer or trailer coach or other temporary or transient structure or facility.
- (2) "First floor" means the highest point at the finish grade of the proposed ground surface.
- (3) "Front Façade" means the side of the building facing the lot front as defined by Section 1123.69 (Lot, Front).

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3. This Ordinance shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2023;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**AI-9451**

**New Business     D.  
City Manager**

**City Council Meeting**

**Meeting Date:** 08/28/2023

Collective Bargaining Agreements - FOP, OLC, Inc. - Sergeants - Police Division

**Submitted By:** Katie Knisley

**Department:** Human Resources

**Council Committee Review?:** Council     **Date(s) of Committee Review:** 08/22/2023  
Work  
Session

**Audio-Visual Needs:** None     **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

A Resolution Approving The Collective Bargaining Agreement With The Fraternal Order Of Police, Ohio Labor Council, Inc. Representing Sergeants In The Police Division For The Time Period January 1, 2023 Through December 31, 2025.  
(first reading)

**Purpose and Background**

The City and the Fraternal Order of Police, Ohio Labor Council, Inc. have been in negotiations and have agreed upon a new three-year contract. This legislation will approve the contract as negotiated and authorize the City Manager to sign the Collective Bargaining Agreement with the FOP, OLC, Inc. representing the Sergeants in the Police Division.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Resolution  
Exhibit A

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2023-R-

APPROVING THE COLLECTIVE BARGAINING AGREEMENT WITH THE FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC. REPRESENTING SERGEANTS IN THE POLICE DIVISION FOR THE TIME PERIOD JANUARY 1, 2023 THROUGH DECEMBER 31, 2025.

WHEREAS, representatives of the City of Huber Heights and the Fraternal Order of Police, Ohio Labor Council, Inc. representing Sergeants in the Police Division, have been involved in active collective bargaining; and

WHEREAS, those negotiations have resulted in a new Collective Bargaining Agreement with this bargaining unit, which agreement commences on January 1, 2023 and expires on December 31, 2025.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. The City Manager is hereby authorized to execute on behalf of the City of Huber Heights the collective bargaining agreement between the City of Huber Heights and the Fraternal Order of Police, Ohio Labor Council, Inc, referred to above and is appended hereto as Exhibit A and made a part hereof.

Section 2. The wages as set forth in the respective Collective Bargaining Agreement shall be effective retroactively in accordance with Article 20 of the attached agreement.

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

Section 4. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2023;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

AGREEMENT  
BETWEEN  
HUBER HEIGHTS  
AND



**OHIO LABOR COUNCIL**

THE FRATERNAL ORDER OF POLICE,  
OHIO LABOR COUNCIL, INC.

SERGEANTS

January 1, 2023 through December 31, 2025

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## **ARTICLE 1**

### **AGREEMENT**

**Section 1.1. Agreement.** This Agreement, is by and between the City of Huber Heights, Ohio, hereinafter referred to as the "City" or "Employer" and the Fraternal Order of Police, Gary Sherman Lodge 161, The Fraternal Order of Police, Ohio Labor Council, Inc., hereinafter referred to as the "Lodge" or "Labor Council".

This Agreement shall replace any existing Collective Bargaining Agreement between the parties.

**Section 1.2. Purpose.** The purpose of this Agreement is:

- A. To comply with the requirements of Chapter 4117 of the Ohio Revised Code and to set forth the full and complete understandings and agreements between the parties.
- B. To prevent interruptions of work and delivery of service to the citizens of Huber Heights.
- C. To establish a procedure for the resolution of grievances.

**Section 1.3. Modification of Agreement.** The express provisions of this Agreement may be changed only by mutual agreement between the parties, reduced to writing, dated, and signed by the parties to this Agreement.

**Section 1.4. Savings Clause.** This Agreement supersedes and replaces all pertinent statutes, ordinances, resolutions, rules and regulations over which it has authority to supersede and replace. Where this Agreement is silent, the provisions of applicable law shall prevail. Should any portion of this Agreement contained herein be declared invalid by operation of law or by a court of competent jurisdiction, such invalidation of said part or provision shall not invalidate the remaining portions hereof and they shall remain in full force and effect. In addition, within thirty (30) calendar days following the effective date of such declaration of invalidity, the parties shall meet in good faith negotiations to attempt to modify such provision to comply with applicable law.

**Section 1.5. Waiver in Case of Emergency.** In cases of emergency declared by the President of the United States, the Governor of the state of Ohio, the Montgomery County Sheriff, the City Manager of Huber Heights, or any other authorized governmental official, for acts of God or civil disorder, the following conditions of this Agreement may be temporarily suspended by the Employer

- A. Time limits for the processing of grievances; and
- B. Selected work rules and/or agreements and practices relating to the assignment of employees.

**Section 1.6. Waiver of Bargaining.** The parties acknowledge that during the negotiations which resulted in this agreement, each had the unlimited right and opportunity to make demands

and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understanding and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the parties agree that for the life of this Agreement, each voluntarily and unqualifiedly waives the right, and agrees that the other shall not be obliged, to bargain collectively with respect to any subject or matter referred to or covered in this Agreement. With respect to any subject or matter not referred to or covered in this Agreement, the provisions of applicable law shall apply.

## **ARTICLE 2** **RECOGNITION**

**Section 2.1. Recognition.** The City recognizes the Labor Council, as identified in Section 1.1 of this agreement, as the sole and exclusive bargaining representative with respect to wages, hours, and other terms and conditions of employment for all full-time employees that were certified by the State Employment Relations Board in Case Number 84-RC-07-1635, as amended on October 9, 1985 in case numbers 85-AC-06-3881 and 85-AC-06-3882 and on May 1, 2014 in Case No. 2014-REP-04-0050 , in the following unit:

Included: All Full-time Sergeants employed by the Police Division, City of Huber Heights, Ohio.

Excluded: Chief of Police, Lieutenants, Patrol Officers, Detectives, Corporals, Dispatchers, Clerks/Secretaries, Chiefs Secretary, and all other employees.

**Section 2.2. Other Positions.** Any new, full-time sworn positions within the division shall be subject to challenge by the Labor Council to the State Employment Relations Board, for inclusion or exclusion as bargaining unit members, pursuant to Chapter 4117 of the Ohio Revised Code and the SERB Rules and Regulations.

## **ARTICLE 3** **LODGE/LABOR COUNCIL SECURITY**

**Section 3.1. Dues Deductions.** The Lodge and Labor Council will notify the City in writing of the dues it charges and its current membership, and will update this information as needed to be accurate. The Labor Council shall provide at least thirty (30) days written notice to the Director of Finance of the amount of Labor Council dues and /or representation fee to be deducted from the wage of employees in accordance with this section. Any change in the amount determined will be provided to the Director of Finance at least thirty (30) days prior to its implementation. Said change is to be made only by proper written notice from the Labor Council and shall not be made more than twice a calendar year. Exceptions may be made upon written requests from the Labor Council and the written approval by the City Manager.

The Lodge/Labor Council shall obtain from the employee a completed check-off authorization form which shall conform to the respective state and federal laws concerning that subject, or any interpretation made thereof. The City's Director of Finance may return an incomplete or incorrectly completed form to the Labor Council and no check-off shall be made until such deficiency is corrected.

The Director of Finance will withhold the Labor Council membership dues of any Labor Council member from the available wages earned by such Labor Council member bi-monthly, and transmit the same to the Labor Council via ACH or USPS to 222 East Town Street, Columbus, Ohio, 43215-4611, within thirty (30) days after the last deduction for the month, upon presentation of written authorization from the Labor Council member (Appendix "A" is a current example).

The Director of Finance will withhold the Lodge membership dues of any Lodge member from the available wages earned by such Lodge member bi-monthly, and transmit the same to the designated lodge official within thirty (30) days after the last deduction for the month, upon presentation of written authorization from the lodge member.

The City shall check off only obligations which become due at the time of check-off and will make check-off deductions only if the employee has enough pay due to cover such obligation, and will not be responsible to the employee if the employee has duplicated a check-off deduction by direct payment to the Labor Council.

The City's remittance will be deemed correct if the Lodge/Labor Council does not give notice, in writing, to the Director of Finance within four (4) weeks after a remittance is sent, with reasons stated therefore, that the remittance is incorrect.

No other employee organization's dues shall be deducted from the pay of any bargaining unit member during the life of this Agreement.

**Section 3.2. Indemnification.** The Lodge and Labor Council shall indemnify and save the City harmless against any and all claims that shall arise out of or by reason of action taken by the City in reliance upon the Authorization for Dues Deduction. The Lodge/Labor Council assumes full responsibility for the disposition of the deductions so made, once they have been sent to the Lodge/Labor Council.

**Section 3.3. Lodge/Labor Council Membership.** It shall not be a condition of employment for any employee to either acquire or maintain membership in the Lodge or the Labor Council. Any employee who is a member of the Lodge or Labor Council may withdraw authorization for dues deduction by the City by directing a request thirty (30) days in advance, in writing to the City Finance Director with a copy to the Lodge or Labor Council.

During the first pay period in January and July of each year, the employer shall provide the FOP/OLC a roster of all bargaining unit members. Should the Employer receive notice from a bargaining unit member of the revocation of the dues deduction authorization and withdrawal from FOP/OLC membership, the Employer shall notify the FOP/OLC, in writing, within seven (7) days of the notice of revocation. Additionally, the Employer shall notify the FOP/OLC of any new hires within the bargaining unit. Such notification shall be in writing to the FOP/OLC within 30 days of their hire date.

Dues deductions shall cease upon the happening of any of the following events:

- A. Resignation or discharge of the employee;
- B. Transfer of the employee from the bargaining unit; or
- C. Revocation of the dues deduction authorization.

**Section 3.4. Bulletin Boards.**

- A. Bulletin boards as presently provided, and as may be installed in the future by the City, may be used by the Lodge and Labor Council for posting notices of the following types:
  - 1. Recreational and social events.
  - 2. Elections and election results.
  - 3. General membership meetings and other related business meetings.
  - 4. General Lodge and Labor Council business of interest to members.
- B. The Lodge and Labor Council agree that no notices will be placed on the bulletin boards which contain:
  - 1. Personal attacks upon any City employee.
  - 2. Scandalous, scurrilous or derogatory attacks upon management;
  - 3. Attacks on any other employee organizations;
  - 4. Any obscene or ethnic material;
  - 5. Any political material containing partisan or non-partisan issues.
- C. Notices may be reviewed by the Chief of Police and any bulletins or notices considered inflammatory, political or devoted to Labor Council organizing and pending grievances will not be permitted on any City bulletin boards, nor will they be permitted to be displayed in City offices, facilities, equipment, etc. If such inflammatory, political or organizing notices appear on said bulletin boards, they shall be removed by management.

**Section 3.5. Use of Divisional Mail System.** The Lodge and Labor Council will be permitted to utilize, at no cost or loss of time to the City (including no use of City materials and equipment), the Divisional Mail System for the purpose of providing information pertaining to Lodge and Labor Council business to bargaining unit employees. The Lodge and Labor Council agree that the use of the mail system will be reasonable and limited to providing information that is necessary for the normal conduct of Lodge and Labor Council business or bargaining unit representation.

**Section 3.6. Place for Meetings.** Meetings of the Committees of the Lodge and Labor Council will be permitted on City property when and where work is not interrupted by such meetings, and when such meetings are not held during the regularly scheduled duty hours of the participants on the day in question. The Lodge and Labor Council will work with the City to identify space in the police division for such meetings.

## **ARTICLE 4**

### **MANAGEMENT RIGHTS**

**Section 4.1. Management Rights.** The Lodge and Labor Council recognize that except as specifically limited or abrogated by the terms and provisions of this Agreement, all rights to manage, direct or supervise the operations of the Huber Heights Police Division and its employees are vested solely and exclusively in the Employer.

Nothing contained herein shall be considered to deny or restrict the City of its rights, responsibilities, and authority under the laws of the State of Ohio or any other national, state county, district, or local laws or regulations as they pertain to conducting the affairs of the City. Those rights include, but are not limited to the following:

- A. To determine matters of inherent managerial policy which include but are not limited to areas of discretion or policy such as functions and programs of the Employer, standards of services, its overall budget, utilization of technology, and organizational structure;
- B. To direct, supervise, evaluate, or hire employees;
- C. To maintain and improve the efficiency and effectiveness of operations and programs;
- D. To determine the overall methods, process, means or personnel by which operations are to be conducted;
- E. To suspend, discipline, demote or discharge for just cause, or layoff, transfer, assign, schedule, promote or retain employees;
- F. To determine the adequacy of the work force;
- G. To determine the mission of the Division as a unit of City government;
- H. To effectively manage the work force;
- I. To take action to carry out the mission of the Employer as a governmental unit.

Except as expressly provided otherwise by the terms of this Agreement, the determination and administration of City policy, the operation of the City and the direction of the employees are vested ultimately in the City Manager and delegated exclusively to the Chief of Police.

## **ARTICLE 5**

### **NON-DISCRIMINATION**

**Section 5.1. Equal Application.** The provisions of this Agreement shall be applied equally to employees without discrimination, which would violate applicable laws because of age, sex, race, color, national origin, religion, or disability. The Labor Council and the City shall share the responsibility for implementing this section of the Agreement.

**Section 5.2. Union Membership Non-Discrimination.** There shall be no discrimination by the City, the Lodge or the Labor Council against any employee on the basis of such employee's membership or non-membership in, the Lodge or the Labor Council.

**Section 5.3. Gender.** All references to employees in this Agreement designate both sexes, and wherever either gender is used, it shall be construed to include male and female employees.

## **ARTICLE 6**

### **LODGE/LABOR COUNCIL BUSINESS**

**Section 6.1. Lodge/Labor Council Business.** The Lodge/Labor Council agree that except as specifically provided by the terms and provisions of this Agreement, employees shall not be permitted to engage in union activity during working hours. The City, the Lodge and the Labor Council agree to work toward the goal of scheduling meetings at a date and time which minimize the loss of manpower to Division.

**Section 6.2. Representation.** The Labor Council may select one (1) Representative and one (1) alternate Representative to act in the absence of the Representative, for this bargaining unit. The Labor Council shall notify the City in writing of the names of the Representatives and will promptly update such names as necessary to be accurate. Only those Representatives listed by the Labor Council in writing will be permitted to conduct business on behalf of the Labor Council.

**Section 6.3. Grievance Investigations.** A Labor Council Representative may investigate grievances as defined herein and formal disciplinary action, once it has been issued by the City. To the extent practicable, such investigation will be conducted so as not to interfere with normal duty hours of the Labor Council Representative or any other Bargaining Unit Member. With the prior permission of the Chief of Police or designee, the Labor Council Representative may be allowed reasonable time without loss of pay for such investigation. Permission will not be unreasonably denied.

**Section 6.4. Labor Council Release Time.** The City will make provisions for a total of twenty-four (24) hours authorized leave annually for Labor Council Officials (or designees) and twenty-four (24) hours authorized leave annually for Lodge officials (or designees) to attend conventions or other major business meetings. An employee may use such leave in half-hour (1/2) increments or more. Partial increments will be "rounded up" to the next complete half hour. (For example, forty-five minutes will be "rounded" to one hour and twenty minutes will be "rounded" to one-half hour.) The above time off for such officials (or designees) shall be time off with full pay at no expense to the employee's accrued leave time.

Officials of the Lodge/Labor Council shall, at least thirty (30) days prior to the date of the function submit notice to the Chief of Police identifying the function, certify the member attending, and indicate the starting and ending date and applicable scheduled hours for each employee. The Chief will approve the request within three working days after receipt, provided Division Operations will not be unreasonably affected on the scheduled days in question.

**Section 6.5. Negotiations.** The Labor Council will identify the members of its negotiating team at the time it provides the City with written notice of a desire to renegotiate terms of this Agreement. No more than three (3) Officers shall be included on the Labor Council negotiating team. The City will transfer any member working shifts other than day shifts to day shifts on the days negotiations take place and allow members of the Labor Council negotiating team time without loss of pay to participate in negotiation meetings with the City. If an agreement is not reached through negotiations, including mediation, the City will allow time without loss of pay for meetings called by the Fact Finder or Conciliator for only the Labor Council's Chief Negotiator (or designee) and the other members of the Labor Council's negotiating team.

**Section 6.6. Labor Council Staff Representative.** The Business Staff Representative may consult with employees before the start of or at the completion of the day's work. Such representative shall be permitted in the assembly area at all reasonable times only for the purpose of adjusting grievances, assisting in the settlement of disputes, and for the purpose of carrying into effect the provisions and aims of this Agreement. However, the Representative must notify management when such representative will be present in the assembly area. The staff representative shall not disrupt the normal operation of the Police Division.

## **ARTICLE 7**

### **NO STRIKE/NO LOCKOUT**

**Section 7.1. No Strike.** During the life of this Agreement, the Labor Council shall not cause, authorize, sanction or condone, nor shall any member of the Labor Council take part in any strike, sit-down, stay-in, slow-down, work stoppage, curtailment of work, concerted use of paid leave time, restriction of work, or interference with the operations of the Police Division or City of any kind for any reason, including a labor dispute between the City and any other labor organization.

The Labor Council agrees that it (and its officers) will take prompt affirmative action to prevent or stop unauthorized strikes, sit-downs, slow-downs, work stoppages, curtailment of work, concerted use of paid leave time, restrictions of work or interference with the operation of the Police Division or City by notifying the Employees and the public in writing that it disavows these acts. The Labor Council further agrees that the Chief of Police and the City have the right to discipline (including discharge) any or all employees who violate this Article, except that the Grievance Procedure shall be available to such employees only to contend that they had not participated or engaged in such prohibited conduct.

**Section 7.2. No Lockout.** During the life of this Agreement, the Employer shall not cause, permit, or engage in any lockout of the bargaining unit employees.

## **ARTICLE 8**

### **LABOR-MANAGEMENT COMMITTEE**

**Section 8.1.Committee.** In the interest of sound Labor/Management relations, the City and the Labor Council shall establish a Labor-Management Committee, which shall normally consist of up to three (3) members from the bargaining unit and up to three (3) members appointed by the City. Each member shall serve at the pleasure of the appointing party, and may be replaced from time to time. The Committee shall establish its own rules of procedure and shall meet from time to time to discuss and investigate issues of mutual concern. Additionally, one (1) non-employee representative of the Labor Council and/or the City shall be permitted to attend such meetings with prior notification to the other party.

**Section 8.2.Agenda.** The party requesting the meeting shall furnish an agenda with the request for the meeting. The Labor Council will furnish the names of the employees who will be attending.

**Section 8.3.Meetings /Attendance.** The time, date and location of meetings shall be mutually agreed upon by the City and the Labor Council. Employee representatives attending Labor/Management meetings shall not suffer a loss in pay for hours spent in such meetings, if held during the employee's regular scheduled hours of work. Meetings may be rescheduled to avoid shift coverage on an overtime basis.

## **ARTICLE 9**

### **GRIEVANCE PROCEDURE**

#### **Section 9.1. Grievance Defined.**

A. A grievance is defined as being any dispute or controversy between an employee or the Labor Council and the City involving:

1. The interpretation, application, or claimed violation of any of the provisions of this Agreement.
2. The discipline of any Bargaining Unit Member; or
3. The reasonableness of application of any work rule established and enforced by the City.

B. A group grievance is a grievance as defined in Paragraph A above, which uniformly affects a group of employees. The group will be comprised of only those bargaining unit members who sign the grievance when it is first presented in writing.

C. Grievances involving the equivalent of verbal and written reprimands may be grieved up to the City Manager, but are not subject to the arbitration procedure.

D. Grievances involving lost time, lost pay or demotion shall be submitted directly to Step Three.

**Section 9.2. Jurisdiction.** Nothing in this section is intended to deny a Bargaining Unit Member or the

Labor Council any rights available at law to achieve redress of their legal rights. However, suspensions, reductions in rank, and discharges are subject to this Grievance and Arbitration Procedure and may not be the subject of a civil service appeal. Once the bargaining unit member or the Labor Council elects a remedy through some other official body (and that body takes jurisdiction), they are thereafter denied the remedy of the Grievance Procedure provided herein. However, to the extent a grievable grievance matter is or can be made the subject of a related SERB unfair labor practice charge, the parties agree that deferral to arbitration will in all cases be the preferred remedy in that the resolution of the matter through arbitration will serve as the sole exclusive remedy.

**Section 9.3. Procedure.** All employees will make an earnest and honest effort to settle differences and disputes with their immediate supervisor without filing a grievance. In the event that an agreement cannot be reached, then the following steps shall be taken with respect to any grievance. Grievances will be settled at the earliest possible step of the procedure. Any grievance not initiated or taken to the next step within the time limits specified herein will be considered to be resolved. Any answer to a grievance that has not been timely filed shall permit the Labor Council to appeal the grievance to the next higher step in the grievance process. Time limits for invoking the next higher step in the grievance procedure shall commence on the date the grievance answer is due. The Bargaining Unit Member must proceed through all steps of the grievance procedure in a proper order and within the prescribed time limits, except as otherwise provided in this procedure. A grievant may have a Labor Council representative, or may waive the right to have one present at any step of the procedure.

**Step One:** An employee having an individual grievance will first attempt to resolve it informally with the supervisor whose actions gave rise to the incident. Such attempt at informal resolution shall be made by the employee with or without Labor Council representation, within seven (7) business days following the events or circumstances giving rise to the grievance having occurred, or within seven (7) business days of when the events or circumstances should have become known to the employee. At this step, there is no requirement that the grievance be submitted in writing. If a supervisor grants a grievance at verbal levels, written acknowledgment of granting such grievance must be furnished. If the employee is not satisfied with the oral response from the supervisor, which shall be given within seven (7) business days of the submission of the grievance at this step.

The grievance may be referred to Step Two of the grievance procedure within seven (7) business days after receipt of the decision rendered in Step One.

**Step Two:** The grievance shall be referred in writing to the Chief of Police, or the Chief's designee who will hold a grievance hearing and reply in writing within seven (7) business days after the hearing. If the Bargaining Unit Member is not satisfied with the written answer of the Chief of Police, the grievance may be referred to Step Three of the grievance procedure within seven (7) business days after receipt of the decision rendered in Step Two.

**Step Three:** If the grievance is not resolved in Step Two, it may then be appealed by the employee to the City Manager. Within seven (7) business days, a mutually agreeable date shall be scheduled for said hearing. Each party may have a representative and any necessary witness present for the hearing. The City Manager (or designated representative) will answer the grievance within seven (7) business days after the

hearing has concluded. If the City fails to reply within the above time limit, the grievance may be referred to the next step by the Labor Council within seven (7) business days.

**Step Four:** If the grievance is not satisfactorily resolved at Step Three, the grievance may be appealed by the Labor Council to arbitration pursuant to the terms of this Step Four.

A. Notice of the appeal to arbitration must be served on the City Manager in writing within twenty-one (21) calendar days after the written answer was given at Step Three. Either party, within ten (10) business days thereafter, may request a panel of nine (9) arbitrators from the Federal Mediation and Conciliation Service (FMCS). The parties shall alternately strike the names of arbitrators until only one (1) name remains. Each party has the right to reject one submitted panel and request another. The parties may, by mutual agreement, select an arbitrator without requesting a panel from the FMCS or other similar service. A date for arbitration shall be set in accordance with the wishes of the parties and the availability of the arbitrator.

B. The Arbitrator shall have no authority to add to, subtract from, modify or amend any of the terms of this Agreement or addendum to this Agreement. The Arbitrator shall have no authority to rule on anything that happened before the effective date of this Agreement, or after the expiration of this Agreement. The Arbitrator shall promptly hear the matter and shall issue a decision within sixty (60) calendar days from the close of the hearing or the submission of post-hearing briefs; whichever is later, unless the parties grant additional time.

C. The decision of the Arbitrator shall be final and binding on the City, the Labor Council, and all persons, subject to appeal as provided by law.

D. The City and the Labor Council shall each bear its own expenses in any arbitration. The expenses of the arbitrator shall be shared equally by the parties.

**Section 9.4. Extensions of Time.** Upon the mutual agreement of the parties expressed in writing, the time limits set forth in this Article may be extended or the steps herein waived. All time periods cited in this article shall be interpreted to exclude Saturdays, Sundays, and legal holidays. Except as otherwise expressly provided "days" as listed in this procedure shall be working days for the moving person at each step.

**Section 9.5. Content of Grievances.** All written grievances must contain the following information on a Labor Council Grievance Form to be considered.

A. Aggrieved employee's name and signature.

B. Date grievance was first discussed and name of the supervisor with whom the grievance was discussed.

C. Date grievance was filed in writing.

D. Date and time grievance occurred.

- E. Location where the grievance occurred.
- F. A brief description of the incident, giving rise to the grievance.
- G. The specific sections of this Agreement which are alleged to have been violated, misinterpreted or misapplied.
- H. Desired remedy to resolve the grievance.

## **ARTICLE 10**

### **INVESTIGATIONS, INTERVIEWS AND DISCIPLINE**

**Section 10.1. Purpose.** The purpose of this procedure is to outline the process to be followed in the handling of an investigation dealing with complaints or misconduct by employees of the Police Division.

**Section 10.2. Police Investigations Procedures.** The City will use the existing chain of command structure to clarify complaints or allegations regarding members of the Police Division. In general, unless a special Grand Jury has been convened, the Police Division will be used to investigate complaints or allegations against employees unless the Chief defers to other qualified law enforcement agencies. Any criminal investigation will first be prefaced by a review of the complaint or allegation by the Chief of Police.

#### **Section 10.3. Internal Investigations.**

- A. Employees shall be notified in writing at the beginning of a formal internal investigation unless such notification would jeopardize such investigation.
- B. Employees will be paid for the time during which they are being interviewed. The interviews will be held at the Police Division, or at a location designated by the Chief of Police. An employee will be permitted to have a Labor Council representative and/or legal counsel present during an interview, should the employee feel such interview could lead to discipline.
- C. The employee shall be informed of the nature of the investigation prior to questioning and shall be informed to the extent known at that time, whether the investigation is focused on the member for potential disciplinary charges.
- D. The Chief of Police shall be updated in writing every forty-five (45) days an investigation is still open. The Chief shall report the status of such investigations to the Labor Council within three (3) days.
- E. When the City orders an employee to provide information in an investigation, such information may not be used in any criminal proceedings against the employee. Such information may be used by the City in taking action and in defending such action with respect to discharge or discipline of the employee. Before an employee may be charged for refusal to answer questions or participate in an investigation, the employee shall be advised

that refusal to answer such questions or participate in such investigation may be the basis of such a charge, in itself.

- F. An employee may be required, at City expense, to undergo alcohol and/or substance abuse testing in accordance with Article 14 of this Agreement, and/or a fitness for duty evaluation, which may include both physical and mental fitness.
- G. The accused employee being interviewed shall not be subject to offensive language or threatened with transfer, dismissal or disciplinary action. No promise or reward shall be made as an inducement to answer any questions.
- H. An employee may be given a polygraph examination or a voice stress examination if the Chief has reason to believe the employee is a witness to an incident or occurrence being investigated; at the employee's written request directly to the Chief; or if the employee is a focus of an investigation specifically related to the performance of the employee's official duties. An employee shall not be disciplined based solely on the results of such examination.
- I. An employee, who has been under investigation, will be informed of the outcome of the case within seven days following the conclusion of the investigation, culminating with the concurrence of the Chief of Police.
- J. Any employee who may be subject to disciplinary action the primary basis of which was generated by a citizen complaint, shall be entitled to a copy of such complaint prior to the implementation of disciplinary action. The City also shall provide a copy to the Union. Unsigned and/or anonymous complaints shall not form the sole basis of disciplinary action.
- K. All complaints filed in conformance with Section J will be investigated in a fair and impartial manner.
- L. All complaints that are determined to be unfounded shall not be included in the personnel file of the affected employee and may not be used in any subsequent disciplinary procedure, although the City will maintain any documents related to such complaints in accordance with the Ohio Public Records Law. Anonymous materials shall not be placed in an employee's personnel file unless an investigation determines the complaint is sustained.

#### **Section 10.4.Discipline.**

- A. No employee shall be disciplined, reduced in pay or position, suspended, or discharged, without just cause. The City agrees to begin the disciplinary process within ten (10) calendar days of receipt of knowledge of any act requiring discipline or within ten (10) calendar days of the conclusion of an investigation that results in discipline. The time limits for commencing discipline shall be extended in cases of pre-approved vacation and leave days. Documented warnings and reprimands that do not involve a reduction in pay or position, suspension, or discharge are not appealable to binding arbitration.
- B. The principles of progressive disciplinary action normally shall be followed with respect to minor offenses. It shall be corrective in nature, and applied in a uniform manner. Normal

progressive discipline shall consist of, but not be limited to, a documented verbal warning, written warning, written reprimand, short-term unpaid suspension [one (1) to ten (10) days], a long-term unpaid suspension, (more than ten (10) days), reduction in rank and discharge. A letter of counseling will be considered pre-disciplinary in nature, and will not be subject to the grievance procedure.

- C. The City may take disciplinary action deemed necessary by the circumstances on a case-by-case basis.
- D. The City agrees not to suspend without pay, demote or discharge an employee without first conducting a hearing. The hearing will be held among the City, the employee, and a Labor Council representative if the employee so desires. A copy of the charges will be sent to the employee not less than three (3) working days prior to the date of the hearing.
- E. In cases where a suspension of ten (10) days or less has been imposed on a bargaining unit member, the City may offer the member the option to forfeit accrued compensatory time or vacation leave. If such an offer is made and accepted, the forfeiture shall be one (1) hour of accrued compensatory time or vacation leave, for each hour of proposed suspension. The forfeiture of leave shall constitute disciplinary action of record the same as though the suspension had been served and shall be placed in the employee's personnel file. The forfeiture of leave shall constitute the final resolution of the divisional charges, and once accepted by the bargaining unit member, forfeiture of accrued leave is not subject to further appeal through the grievance procedure or otherwise.
- F. No public disclosure shall be initiated by the City of any disciplinary action taken or proposed against a Bargaining Unit Employee unless and until criminal charges have also been filed. Nothing in this section shall preempt and/or violate State or Federal law.
- G. The Labor Council recognizes that the Employer may take disciplinary action for actions occurring while the employee is working off-duty details, while wearing the uniform of the Employer, or while off duty representing themselves as an employee of the Employer.

#### **Section 10.5. Effect of Disciplinary Action.**

- 1) Oral Reprimands. Records of oral reprimands shall cease to have force and effect or be considered in future discipline matters nine (9) months after their effective date, providing there are no intervening disciplinary actions taken during that time period.
- 2) Written Reprimand. Records of written reprimands shall cease to have force and effect or be considered in future disciplinary matters fifteen (15) months after their effective date, providing there are no intervening disciplinary actions taken during that time period.
- 3) Suspensions/ Other Discipline. Records of suspension or any other discipline shall cease to have force and effect or be considered in future discipline matters thirty-six (36) months after their effective date, providing there are no intervening disciplinary actions taken during that time period.

## **ARTICLE 11**

### **PERSONNEL RECORDS**

**Section 11.1. Access to Personnel Records.** Upon written request to the Chief of Police, an employee shall have access to the employee's records during normal office hours of the records custodian. Such access to personnel records shall be within a reasonable time of said request. Such request shall not interfere with the employee's regularly scheduled working hours. Review of the records shall be made in the presence of the Chief or the Chief's designated representative.

**Section 11.2. Copies of Personnel Records.** An employee may copy documents in that employee's personnel records. The City may, at its discretion, charge reasonable copying cost to the employee for requested copies furnished to the employee.

**Section 11.3. Clarification/ Explanation of Material in Personnel Records.** An employee shall be permitted to insert written clarifications or explanatory memorandums of material found in the employee's personnel file, within five (5) days of the employee's knowledge of such material in the file.

**Section 11.4. Requests for Release of Personnel Records.** To the extent allowed by State or Federal Law and by State or Federal Court Decisions, personnel records shall be considered as public records. Whenever a request for disclosure of a personnel record is made by a member of the public, notice of such request and the identity of the requestor, will be given to the affected employee(s). The employee may request a meeting with the keeper of the records to discuss any appropriate reason some records should not be released. In the event that the employee believes that some of the records should not be released, it shall be the responsibility of the employee to notify the Chief of Police or the City Manager of the concern. No personal family information shall be released to anyone except as may be required by law or ordered by a court.

## **ARTICLE 12**

### **SENIORITY**

#### **Section 12.1. Definition.**

- A. **City Seniority.** City seniority shall mean an employee's length of continuous service with the City, based on the employee's most recent date of hire with the City. City seniority shall be the basis for such benefits as accumulation of sick leave, vacation accrual, and/or other cumulative monetary fringe benefits based on length of service.
- B. **Bargaining Unit Seniority.** Bargaining Unit seniority shall mean an employee's length of continuous service in the Bargaining Unit classification based on the original date of appointment in the division or transfer into the division.
- C. **Rank Seniority.** Rank seniority shall mean the length of continuous service in a rank commencing from the date of the employee's service in each rank and shall include the period of time occupying an equal or higher rank. Watch Commanders shall have rank seniority in the classification of Sergeant.

Seniority shall not be broken by approved leaves of absence or suspensions. Employees who are employed on the same date shall be placed on a seniority roster in alphabetical order of surnames.

**Section 12.2.Seniority List.** The Employer will maintain an up-to-date seniority list. A copy of the seniority list will be posted on the appropriate bulletin board each year or when updated whichever is less. The names of all employees shall be listed on the seniority list in order of their last hiring date, and the date of entry into the division, starting with the senior employee at the top of the list. The City shall furnish a copy of the seniority list to the Labor Council when it is published.

**Section 12.3.Termination of Seniority.** The following situations constitute breaks in continuous service for which seniority is lost:

- A. Discharge;
- B. Resignation;
- C. Retirement;
- D. Layoff for more than twenty-four (24) months or the length of the employee's seniority, whichever is less;
- E. Failure to return to work at the expiration of a leave of absence;
- F. Failure to return to work when recalled from layoff.
- G. Absent without leave for three (3) consecutive working days unless later excused by the Chief of Police.
- H. New full-time employment elsewhere without written permission.

## **ARTICLE 13**

### **PROBATIONARY PERIOD**

**Section 13.1.Probationary Period** Newly promoted bargaining unit employees are required to successfully complete a probationary period as follows:

- A. The employee shall be on job probation in the promoted rank for a period of six (6) months. The purpose of the job probation is to give the City an opportunity to observe the employee at work in such classification and to form an opinion as to whether the employee has the ability, knowledge and skills required to satisfactorily perform the job duties. During the job probation, the employee may be demoted at any time the employee demonstrates the inability to satisfactorily perform the requirements of the job, or at the employee's request. If so demoted, the employee shall be returned to the last previous rank the employee permanently occupied. Such demotion is specifically excluded from the grievance procedure.

- B. If an employee is not in active pay status during any period of time during the probationary period, then the time of such leave or inactive status is not counted as part of the probationary period. For the purpose of extending the probationary period, any leave of less than six (6) workdays will not be considered.

## **ARTICLE 14**

### **SUBSTANCE TESTING**

**Section 14.1. Purpose of Policy.** The purpose of this policy is to assure employees are fit for duty and to protect our employees and the public from the risks posed by the use of drugs and alcohol.

The presence of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with the objective to maintain a drug and alcohol-free workplace. To further our commitment of maintaining a drug and alcohol-free workplace in order to provide a safe work environment for employees and safe service delivery to the public, it is our policy to:

- A. Ensure that employees are not impaired in their ability to perform their work in a safe, productive manner,
- B. Conduct pre-employment, reasonable suspicion, and post-accident drug and alcohol testing, and
- C. Encourage employees to seek professional assistance any time alcohol or drug use adversely affect their ability to perform their work assignments.

**Section 14.2. Employees Covered.** This policy applies to all employees covered by this agreement.

**Section 14.3. Prohibited Conduct.**

- A. “Alcohol” means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl (rubbing) alcohol. Employees must not consume alcohol:
  - 1. On the job, during hours of work, during city meal periods (paid or unpaid), or during city rest periods, or
  - 2. Up to four (4) hours following an accident or until the employee undergoes a post-accident test, whichever occurs first.
- B. Alcoholic beverages may be served at City-organized and hosted functions only with the express written consent of the City Manager or designee. Employees working at the function are not to consume alcoholic beverages while on duty. Employees in approved social attendance at functions where alcohol is served may consume alcoholic beverages so long as this is done in proper moderation and with decorum.

- C. “Controlled substance” means those substances identified as such in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812) and as further defined by 21 CFR 1300.11 through 1300.15. Employees must not consume any controlled substance without a prescription from a licensed doctor of medicine or osteopathy. This includes: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine.
- D. Employees must not refuse to take a required drug or alcohol test. Refusal to take a test will be considered a positive test for purposes of this policy.
- E. Employees must not be under the influence of or in possession of alcohol or drugs while on duty (except authorized, duty-related possession) and must not carry/store drugs or alcohol in any vehicle in which they are a passenger while on duty.
- F. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the City of Huber Heights workplace. An employee convicted of violating a criminal drug statute in the workplace must notify the Human Resources Director no later than five (5) working days after such conviction. The Human Resources Director will notify the U.S. Department of Commerce of the criminal violation within ten (10) working days.

**Section 14.4. Legal Drugs.** The appropriate use of legally prescribed medications and non-prescription medications is not prohibited. Employees are required to notify their supervisor prior to the use of any medication which may adversely affect their ability to perform their job. In such case, the employee may be assigned to perform work that can be safely performed while using such medication or placed on paid sick or other paid or unpaid leave. If reasonable suspicion exists that an employee is under the influence of an illegal substance or alcohol, a reasonable suspicion test will be conducted. This information should be handled in a confidential manner, the same as any other medical information.

**Section 14.5. Drug/Alcohol Testing.** Drug/alcohol testing shall be conducted solely for administrative purposes and the results obtained shall not be used in criminal proceedings. Under no circumstances may the results of drug/alcohol screening or testing be released to a third party for use in a criminal prosecution against the affected employee. The City conducts the following types of drug/alcohol testing to determine if employees are in compliance with this policy and associated rules of conduct: pre-employment, reasonable suspicion, and post-accident. In addition, employees are tested prior to returning to duty after a positive drug or alcohol test and subject to follow-up testing conducted during the course of a rehabilitation program recommended by a substance abuse professional. A Medical Review Officer (MRO) reviews test results and determines which tests are positive and which are negative.

The City shall test for the following drugs: marijuana, amphetamines, opiates, phencyclidine (PCP), cocaine, barbiturates, benzodiazepines, methadone, methaqualone, and propoxyphene. An initial drug screen is conducted on each specimen. For those specimens that are not negative, a confirmatory gas chromatography/mass spectrometry (GC/MS) test is performed. The test is considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40.

An alcohol concentration of .04 percent or greater is considered a positive alcohol test, and in violation of this policy.

If a drug or alcohol test produces a positive result, the City may take such actions as authorized in Section 14.6 herein. Sick leave and/or other paid leave may be used while participating in a rehabilitation program. Otherwise, the employee will be placed on leave without pay until return to work following a negative alcohol/ drug test and authorization by the SAP.

- A. **Pre-Employment Testing.** The City of Huber Heights performs drug and alcohol testing on potential employees after a conditional offer of employment.
- B. **Reasonable Suspicion Testing.** Reasonable suspicion that an employee used or is using a controlled substance or alcohol in an unlawful or abusive manner may be based upon, but not limited to:
  - 1. Observable phenomena, such as direct observation of drug or alcohol use or possession and/or the physical symptoms of being under the influence of a drug or alcohol;
  - 2. A pattern of abnormal conduct or erratic behavior;
  - 3. Conviction for a drug or alcohol-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug or alcohol possession, use, or trafficking. The employee is responsible for notifying the City, within five (5) working days, of any drug-related conviction;
  - 4. Information provided by reliable and/or credible sources or independently corroborated regarding an employee's substance abuse;
  - 5. Evidence that an employee had tampered with a previous drug test, and
  - 6. Facts or circumstances developed in the course of an authorized investigation of an accident or unsafe working practice.

The City representative must make a written record of the observations leading to a drug or alcohol test within twenty-four (24) hours of the observed behavior or before the test results are reported, whichever is earlier.

Any employee who demonstrates job performance impairments consistent with reasonable suspicion characteristics shall be relieved of duty with pay pending an investigation and testing of condition. In such case the employee shall be transported by City personnel to the sample collection location and to his/her home. Employees with a negative drug test and/or alcohol test below 0.04 will be returned to duty if not otherwise in violation of this policy.

Testing under this section may be for drugs or alcohol or both.

- C. **Post-Accident Testing.** Post-accident testing will be conducted on employees whenever an accident occurs, regardless of whether there is an injury. An "accident" is an

unplanned, unexpected or unintended event that occurs on City property, during the conduct of City business, during work hours, or which involves a City motor vehicle or motor vehicles used in conducting City business, or is within the scope of employment, and which results in any of the following:

1. A fatality of anyone involved in the accident; or
2. Bodily injury to the employee and/or another person that requires off-site medical attention away from the City's place of employment; or
3. Vehicular damage in apparent excess of \$2,000, or
4. Non-vehicular damage in apparent excess of \$2,000.

When such an accident results in one of the situations above, any employee who may have contributed to the accident will be tested for drugs or alcohol use or both.

- D. **Drug/Alcohol Testing After an Accident.** Urine specimen collection (for drugs) or breath/saliva collection (for alcohol) is to occur as quickly as possible after a need to test has been determined. At no time will a urine specimen be collected after sixteen (16) hours from the time of an employment-related accident. Breath or saliva alcohol testing will be performed as quickly as possible, but no later than four (4) hours after the accident, or it will be documented but not performed. If the employee responsible for an employment-related accident is injured, it is a condition of employment that the employee grant the City the right to request that attending medical personnel obtain appropriate specimens (breath or urine) for the purpose of conducting alcohol and/or drug testing. Further, all employees grant the City access to any and all other medical information that may be relevant in conducting a complete and thorough investigation of the employment-related accident including a full medical report from the examining physician(s) or other health care providers. A signed consent to testing form is considered a condition of employment. Any employee involved in an accident must refrain from alcohol use for four (4) hours following the accident, or until he/she undergoes a post accident alcohol test. Any employee who leaves the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing is considered to have refused the test. The City reserves the right to determine who may have caused or contributed to an employment-related accident and may choose not to test after minor accidents if there is no violation of a safety or work rule, minor damage and/or injuries and no reasonable suspicion.
- E. **Return-To-Duty Testing.** Any employee who has tested positive on a drug and/or alcohol test, and who was afforded the opportunity to return to work, must test negative for drugs and/or alcohol and be evaluated and released to duty by the Substance Abuse Professional before returning to work.
- F. **Follow-Up Testing.** Any employee who has tested negative on a return-to-duty drug and/or alcohol test and been returned to duty shall be required to undergo frequent unannounced drug and alcohol testing during the period of time recommended by the Substance Abuse Professional. A maximum of four (4) follow-up tests shall be conducted

within the twelve (12) months following the violation, which period may be extended up to one (1) additional year. Employees subject to follow-up testing will continue to perform their duties if not otherwise in violation of this policy.

- G. **Who Pays for Testing.** The City shall pay for all reasonable suspicion, post-accident, return-to-duty, and follow-up drug and alcohol tests for employees. Employees shall reimburse the City through payroll deduction for all employee-requested confirmatory tests.
- H. **Refusal to Submit to Testing.** A refusal to comply with a request for testing, submission of false information in connection with a test, or any attempt to falsify test results through tampering, contamination, adulteration, or substitution, shall be considered a refusal to submit to testing and will be treated the same as a positive test result. Refusal shall include an inability to provide a specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

**Section 14.6. Drug/Alcohol Treatment.** Employees who have completed probation and who test positive for the presence of illegal drugs or alcohol will be referred to a Substance Abuse Professional (SAP) for evaluation. An SAP is a licensed or certified physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of, and clinical experience in, the diagnosis and treatment of drug and alcohol-related disorders. The SAP will evaluate the employee to determine what assistance, if any, the employee needs to resolve problems associated with prohibited substance abuse or misuse of alcohol.

Under certain circumstances, including a positive drug and/or alcohol test, an employee may be required to undergo treatment for substance abuse. After the employee's return to duty after such evaluation and/or treatment, he/she must follow the rehabilitation program prescribed by the SAP, pass a return-to-duty drug and alcohol test(s), and be subject to unannounced follow-up tests for a period of at least one (1) year as determined by the SAP or as required by applicable law. Any employee who refuses treatment when required, or fails to comply with the regimen prescribed by the SAP for treatment, aftercare, or return-to-duty, shall be subject to disciplinary action, up to and including termination of employment.

**Section 14.7. Employee-Requested Confirmation Testing.** An employee who questions the results of a required drug test may request that an additional test be conducted at a different USDHHS-certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. The cost of the second test will be borne by the employee, unless the second test invalidates the first.

The method of collecting, storing, and testing the split sample will follow Department of Transportation guidelines. The employee's request for a split sample test must be made to the Medical Review Officer (MRO) within seventy-two (72) hours of notice of the initial test result. Requests after seventy-two (72) hours will be accepted only if the delay was due to documentable facts that were beyond the control of the employee.

**Section 14.8. Confidentiality.** Positive and confirmed laboratory reports or test results shall not appear in an employee's general personnel folder.<sup>22</sup> Information of this nature will be secured

in a separate confidential medical folder in the Department of Human Resources. The reports or test results may be disclosed to the City Manager and Chief of Police and shall be disclosed to the tested employee.

The City may disclose information required to be maintained pertaining to an employee to the employee or to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising from the results of an alcohol and/ or controlled substance test administered under this part, or from the employer's determination that the employee engaged in prohibited conduct (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee).

## **ARTICLE 15**

### **LAYOFF AND RECALL**

**Section 15.1.Layoff Notification.** When the City determines that a long term layoff or job abolishment is necessary, they shall notify the affected employees thirty (30) calendar days in advance of the effective date of the layoff or job abolishment. Employees will be notified of the Employer's decision to implement any short-term layoff, lasting seventy-two (72) hours or less, as soon as possible.

**Section 15.2.Layoff.** The City shall determine in which classifications layoffs will occur and layoffs of bargaining unit members will be by classification. Within the police division, provisional employees shall be laid off first followed by part-time employees and then probationary employees. Bargaining unit members shall be laid off within each classification in order of divisional seniority, beginning with the least senior and progressing to the most senior up to the number of bargaining unit members that are to be laid off. When an employee is removed from a classification within the Division as a result of a layoff, the employee may be allowed to bump the least senior employee in the next lowest-payment classification as provided by rank seniority, providing the employee can perform the available work.

**Section 15.3. Recall.** The City shall create a recall list for each classification with layoffs for a period of twenty-four (24) months or for the bargaining unit member's length of seniority, whichever is less. The City shall recall bargaining unit members according to seniority, beginning with the most senior employee in the classification and progressing to the least senior employee up to the number of employees to be recalled.

**Section 15.4. Recall Notification.** Notice of recall shall be sent to the bargaining unit member by certified mail. The City shall be deemed to have fulfilled its obligation by mailing the recall notice by certified mail, return receipt requested, to the last address provided by the bargaining unit member.

**Section 15.5.Time Limits.** The recalled bargaining unit member shall have fourteen (14) calendar days following the date of mailing of the recall notice to notify the City of the member's intention to return to work, and shall have twenty-one (21) calendar days following the mailing date of the recall notice in which to report for duty, unless a later date for returning to work is otherwise specified in the notice.

**Section 15.6. Recall Probationary Period.** Recalled bargaining unit members shall not serve a probationary period upon reinstatement, except that employees serving a probationary period at layoff shall be required to finish such probationary period.

## **ARTICLE 16**

### **RULES AND REGULATIONS**

**Section 16.1. Rules, Regulations, Policies and Procedures.** The City agrees that Rules, Regulations, Policies and Procedures of the Police Division shall be furnished to all members of the bargaining unit in written form.

The Chief of Police agrees under normal circumstances to notify the Labor Council of any new or amended rules and regulations or general orders prior to their general issuance and upon request to discuss the matter with the Labor Council prior to general issuance thereof.

The Rules, Regulations, Policies and Procedures shall be applied and interpreted consistently by the City, taking into consideration the facts and circumstances of each situation in which they are applied and interpreted.

The City shall retain the sole right to establish, change, amend, and enforce rules for employees to follow; and the right to warn, reprimand, discharge, demote, suspend, or transfer any and all employees who violate these rules. The Labor Council retains the right to grieve the reasonableness of the City's action. The City also may issue or establish reasonable regulations or general orders not in conflict with this Agreement.

## **ARTICLE 17**

### **PROMOTIONS**

**Section 17.1. Intent.** This Article is intended to apply to any promotional process for the position of Lieutenant within the Huber Heights Police Division.

**Section 17.2. Eligibility.** To be eligible for a promotional examination for the position of Lieutenant the applicant must have had at least one (1) year of full-time law enforcement service as a Sergeant with the Huber Heights Division of Police at the time of position posting, and had no lost time discipline within the previous twelve (12) months. The applicant must have a rating acceptable or above on all evaluations in the prior twelve (12) months.

**Section 17.3. Examinations.** The examination announcement shall provide a complete list of study materials and be posted at least forty-five (45) days prior to the examination. The City will administer a multi-part promotional examination, including written and oral components with command input. The weights of the various components will be determined by the City and disclosed to the Labor Council in advance of the examination. A portion of the written component may be purchased from a recognized testing agency. An employee shall be entitled to receive a report on that employee's individual performance. At no time will any member of the bargaining unit receive any test questions or content of answers in advance of the promotional test.

**Section 17.4 Promotional Lists.** Promotion to position of Lieutenant shall be filled from eligibility lists established by promotional examinations given to members of the Huber Heights Division of Police. Lost time discipline imposed after the testing phase shall remove a candidate from the promotional list. Promotional eligibility lists shall be in effect for one (1) year and may be extended by the City Manager to two (2) years from the certification date of the list.

## **ARTICLE 18**

### **HOURS OF WORK AND OVERTIME**

**Section 18.1. Intent.** This Article is intended to define the hours of a workday, hours of a workweek, and to define the basis for the calculation of overtime.

**Section 18.2. Work Day, Work Week, Work Year and Overtime.** Bargaining unit members working an eight (8) hour per day or eight and one-half (8 1/2) per day schedule shall be paid for all time worked in excess of the scheduled work day in any twenty-four (24) hour period computed on the basis of time and one-half (1-1/2) their regular hourly rate of pay. The term "hours worked" for overtime purposes shall include all hours during which the Bargaining Unit Member is in paid status. When an employee works more than twelve (12) consecutive hours, all hours over twelve (12) hours shall be paid at double the employee's regular hourly rate of pay.

For purposes of compliance with the Fair Labor Standards Act, the City shall pay overtime for all hours actually worked over one hundred seventy-six (176) in any twenty-eight (28) day period in accordance with the Act. For purposes of compliance with the Article, the City shall comply with this Article.

The work year for non-investigative personnel covered by this agreement is hereby defined as being two hundred and fifty-three (253) workdays.

**Section 18.3. Compensatory Time.** In lieu of receiving overtime premium pay, an employee may elect to receive compensatory time off in lieu of the overtime payment. An employee shall elect to be paid the overtime premium or receive compensatory time off at the time the overtime hours are actually worked. Compensatory time off will be scheduled with the approval of the Chief or designee. Compensatory time off shall be granted on the basis of the overtime rate applicable for each overtime hour actually worked. Compensatory time off will be granted in half hour (1/2) hour increments or more. Partial increments will be "rounded up" to the next complete half hour. (For example, forty-five minutes will be "rounded" to one hour and twenty minutes will be "rounded" to one half-hour). Compensatory time off may be accumulated to a maximum of eighty (80) hours.

Upon separation from service for any reason, members shall be paid at their current rate of pay for accumulated hours of compensatory time. When a member dies while in paid status in the City service, any unused compensatory time to the member's credit shall be paid in a lump sum to the surviving spouse or the estate of the deceased.

Employees in the bargaining unit may cash-out or receive pay in lieu of time off for accumulated compensatory time. Employees must cash-out time in increments of 8 hours, and may only cash

out compensatory time one time each calendar year during the first pay period in November of each year. Employees in the unit may cash out up to six (6) days (48 hours).

**Section 18.4. Schedules.** A work schedule shall be posted at least two (2) weeks in advance of its effective date covering a minimum of thirty (30) calendar days indicating the normal workdays of every member of the bargaining unit.

Changes may be made in the posted shift schedule by the Chief of Police as may be required to meet the needs of the Police Division. The City agrees to schedule the changing of shifts in such a manner so that an officer will not be required to work two (2) consecutive eight (8) hour shifts.

**Section 18.5. Temporary Transfers.** The City shall have the right to temporarily transfer employees within the Bargaining Unit, irrespective of their seniority status, from one job classification to another to cover the employees who are absent from work due to illness, accident, vacations, or leaves of absence for the period of such absences. The City shall also have the right to temporarily transfer employees from one classification to another within the Bargaining Unit, irrespective of their seniority status, to fill job or temporary vacancies and to take care of unusual conditions or situations, which may arise for a period not to exceed ninety (90) days in any calendar year. It is understood and agreed that any employee within the unit temporarily transferred in accordance with the provisions of this section shall not acquire any permanent title or right to the job to which the employee is temporarily transferred, but shall retain seniority in the permanent classification from which the employee was transferred. A temporarily transferred employee shall receive the higher classification rate of pay for each full day the employee performs the function of the higher classification.

**Section 18.6. Shift Bidding.**

- A. Shift bidding is limited to Patrol Sergeants assigned as Watch Commanders, except that in the event Lieutenants are returned to watch duty assignments, they shall be permitted to bid.
- B. Officers permitted to bid shall submit their first and second choices of shift assignment by August 1 of each year. By August 30, the Employer will post the shift assignment for the following 12-month period running from October 1 through September 30. Shift assignment shall be awarded based upon the rank seniority of the employees.
- C. Temporary shift reassignments may be made by the Employer due to operational needs (e.g., seasonal requirements, special events, injury leaves, training, training period for newly promoted employees, etc.). Such reassignments will not necessarily be made on the basis of seniority. Once the need is over, the reassigned employee will be returned to his regular shift. It is specifically understood that these reassignments are not grievable.
- D. Patrol Sergeants will be given the opportunity to re-bid their work shifts if any permanent change is made to their work week or shift rotation.

**Section 18.7. Supervisor Overtime** When the City decides to offer supervisory overtime it will first be offered to all sergeants (with the right of first refusal for all sergeants), then to the lieutenants. If the overtime is declined and the overtime is still being offered, an OIC from the Patrol Section will assume the supervision and the resulting overtime opportunity will be offered to the Patrol Officer(s).

## **ARTICLE 19** **TIME OFF RULES**

**Section 19.1. Flex Time.** Flex time is the practice of changing an employee's scheduled days off to accommodate other division and/or employee needs. Flex time scheduled by the City, with less than two weeks' notice, must be agreed to by the employee. Flex time scheduled by the City with more than two weeks' notice, does not require mutual agreement with the employee.

**Section 19.2. Flex Time Staffing.** For the purpose of granting time off and determining the number of employees off on a given day/shift, if more than one employee is on a scheduled flex day on the same day/shift, only one of the flexed employees will count toward minimum staffing.

**Section 19.3. Training Time Staffing.** For the purpose of granting time off and determining the number of employees off on a given day/shift, employees scheduled to attend training sessions lasting more than one week shall not count toward minimum staffing.

## **ARTICLE 20** **COMPENSATION**

**Section 20.1. Wages.** Bargaining Unit Members shall be paid per hour according to the following:

- a. **Police Sergeant.** The pay of members in the classification of Police Sergeant shall be 16% higher than the top pay step for the classification of Police Officer.

### **Wage Scale**

- A. Effective at the beginning of the first pay period after January 1, 2023:

	<u>Hourly</u>	<u>Bi- weekly</u>	<u>Annually</u>
Sergeant	\$46.60	\$3,728.00	\$96,928.00

- B. Effective at the beginning of the first pay period after July 1, 2023:

	<u>Hourly</u>	<u>Bi- weekly</u>	<u>Annually</u>
Sergeant	\$47.76	\$3,820.80	\$99,340.80

- C. Effective at the beginning of the first pay period after January 1, 2024:

	<u>Hourly</u>	<u>Bi- weekly</u>	<u>Annually</u>
Sergeant	\$49.07	\$3,925.60	\$102,065.60

D. Effective at the beginning of the first pay period after January 1, 2025:

	<u>Hourly</u>	<u>Bi- weekly</u>	<u>Annually</u>
Sergeant	\$50.42	\$4,033.60	\$104,873.60

- a. Annual salaries shown above are for informational purposes only. All bargaining unit employees are hourly employees.

**Section 20.2. Call-In Pay.** The City agrees to pay employees for a minimum of four (4) hours at one and one-half (1-1/2) times the employee's rate of pay if the officer is called-out for duty, as determined by a supervisor, at a time other than that for which the employee has been scheduled, thus necessitating additional travel to and from work. If the employee is notified that the call-in is cancelled before arriving at the location, the employee shall be paid for a minimum of two (2) hours at one and one-half (1-1/2) times the employee's rate of pay.

**Section 20.3. Court Time/Overtime.** In instances where an officer is required to work scheduled overtime, including court time, the City agrees to pay employees for a minimum of three and one-half (3 ½) hours at one and one-half (1-1/2) times the employee's hourly rate of pay. Court time on an employee's scheduled day off shall be a minimum of four (4) hours at one and one half (1-1/2) times the employee's hourly rate of pay. If the scheduled overtime, as outlined above, overlaps the officer's regularly scheduled duty time, the employee will only be eligible for overtime compensation for that time not on duty. If the scheduled overtime, as outlined above, begins one-half (1/2) hour or less after the officer's regular shift, the officer shall only be paid for the actual time worked. A Divisional vehicle will be provided for employee's attending out of town training sessions. If no vehicle is available, employees will be reimbursed in accordance with the City's travel policy.

**Section 20.4. Supervisor –In- Charge.** A bargaining unit member who has been temporarily assigned to perform the duties and assume the responsibilities of a higher classification by the Chief of Police (or designee) shall receive the rate of pay of that classification for all such hours.

**Section 20.5. Pension Pick-up.** Effective throughout the life of this Agreement, the City shall pay one percentage (1%) point of the employee's state-mandated contribution to the Police and Fireman's Pension Fund. The remaining portion of the employee's contribution shall be paid by the employee. However, the City shall "shelter" members pension contribution for personal income tax purposes.

**Section 20.6. Pyramiding.** There shall be no pyramiding of premium pay for the same hours worked.

**Section 20.7. Sick Leave Incentive**

A. Employees who have not used more than two (2) instances of sick leave, excluding leave which has been approved for FMLA, during the periods of January 1 through June 30 and July 1 through December 31 of each calendar year shall receive at their option either 12 hours of time off or twelve hours of pay for each period of compliance.

B. The time off or bonus pay shall be credited or paid to the employee the month after the period ends. Employees electing to take the time off credit must use the time within six (6) months of earning it or it shall be forfeited.

## **ARTICLE 21**

### **HOLIDAYS AND PERSONAL LEAVE DAYS**

**Section 21.1. Holidays.** The employees shall receive holiday pay as defined below for the following holidays, which shall be observed on the days indicated:

New Year's Day	January 1 <sup>st</sup>
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Juneteenth	June 19 <sup>th</sup>
Independence Day	July 4 <sup>th</sup>
Labor Day	First Monday in September
Veteran's Day	November 11 <sup>th</sup>
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving Day	Fourth Friday in November
Christmas Eve	December 24
Christmas Day	December 25 <sup>th</sup>

Any Special holiday, as designated by the City, when the City offices are closed for the entire day, will also be observed as a holiday under this Article.

### **Section 21.2. Holiday Payment.**

- A. For each holiday listed above, employees shall receive their regular daily rate as holiday pay, regardless of whether they work the holiday or not, provided they were employed during the holiday. Employees are paid at their normal hourly rate for holidays, and time and a half their hourly rate for working overtime. In addition, employees who work on a holiday will receive holiday premium pay in an amount equal to one half their regular hourly rate for all hours worked on the holiday. For clarification, a continuous shift beginning or ending on a holiday shall qualify for holiday pay as defined in this section
- B. Ninety-six (96) hours of holiday pay, at the then-current rate of pay, shall be paid once per year by separate check payable with the last paycheck issued in October for the Veteran's Day through Labor Day prior to payment for which the employee was employed on the workday before and after the holiday.
- C. In In regard to shifts that straddle midnight, only one working day will be counted as a holiday for which this benefit is intended.

**Section 21.3. Personal Leave.** All bargaining unit employees shall receive twenty-eight (28) hours of personal leave annually. An employee may elect to use the personal days as leave days from work in half hour (1/2) increments or more. Partial increments will be "rounded up" to the next complete half hour. (For example, forty-five minutes will be "rounded" to one hour and

twenty minutes will be “rounded” to one-half hour.)

## **ARTICLE 22**

### **VACATION**

**Section 22.1. Vacation Accrual.** Bargaining unit employees shall earn vacation leave, on a pay period by pay period basis, according to their number of years of continuous service with the City as a member of the Police Division. Accrual rates will be based on the table below:

<b><u>YEARS OF SERVICE</u></b>	<b><u>HOURS PER PAY PERIOD</u></b>	<b><u>APPROXIMATE NUMBER OF VACATION DAYS ANNUALLY</u></b>
Less than 5 years of service	3.0769 hours	10-vacation days
5 years of service but less than 10	4.9231 hours	16-vacation days
10 years of service but less than 15	6.1538 hours	20-vacation days
15 years of service but less than 20	7.3846 hours	24-vacation days
20 years of service but less than 25	8.6154 hours	28-vacation days
25 or more years of service	9.8461 hours	32-vacation days

Vacation time shall be accrued on the basis of complete pay periods of employment, and shall begin on the date of hire for each employee. No employee will be permitted to use vacation time that has not been accrued. It is the employee's responsibility to complete a standard leave request and submit the request to the Chief of Police.

**Section 22.2. Vacation Carry Over.** Year-to-year carry-over allowed is equal to the total hours accrued in a calendar year. Vacation amounts in excess of the above to an employee's credit as of December 31 shall be automatically carried over to the following calendar year, but such excess vacation is to be used by March 31 of the following year. Any excess not used by March 31 shall be forfeited, unless the employee is eligible to convert vacation to pay as described in Section 21.5. In such cases, all excess vacation as of March 31 shall be converted to cash up to the conversion limits described in Section 21.5. Any amounts as of March 31 that are over the conversion limits shall be forfeited.

**Section 22.3. Vacation Scheduling.** Vacations leave shall be granted by the Chief or designee at such times as they least interfere with the efficient operation of the Police Division. Vacation requests must be made two (2) weeks prior to the beginning of the Patrol Officer's vacation request scheduling period. Sergeants who make the request within the Sergeants' vacation request scheduling period shall be granted vacation preference in accordance with rank seniority. Sergeants in the Detective Section, Public Affairs Section, and any other specialized assignment, shall select vacation time off on a schedule that is separate from all other Sergeants in the Division. Should two (2) or more Sergeants request the same vacation time off for the same day, vacation shall be granted by seniority. After the seniority vacation picks listed above are over, all other casual vacation requests, on a first come first serve basis, shall only require a 48-hour notice.

Vacation leave shall be used in minimum increments of one-half (1/2) hour or more. Partial increments will be “rounded up” to the next complete half hour. (For example, forty-five minutes will be “rounded” to one hour and twenty minutes will be “rounded” to one-half hour.)

**Section 22.4. Prior Public Service Credit.** Employees shall be credited with prior service credit for time worked fulltime with other Ohio political subdivisions for the purpose of determining vacation entitlement.

**Section 22.5. Annual Vacation Cash-Out.** Employees in the bargaining unit may receive pay in lieu of time off for accumulated vacation leave. Employees with five (5) or more years of service may cash-out up to six (6) vacation days in a calendar year. Employees with ten (10) or more years of service may cash-out up to twelve (12) vacation days in a calendar year.

**Section 22.6. Substitution of Other Discretionary Paid Leave.** An employee whose use of vacation leave, compensatory time, or personal leave has been approved, but who has an insufficient balance of such leave available for leave taken, shall be paid for the time used from accrued vacation, compensatory time, or personal leave, in that order, up to the accrued leave available.

**Section 22.7. Terminal (Separation) Pay.** Accrued but unused vacation hours shall be paid as terminal (separation) pay if an employee leaves employment in good status and has completed six (6) months of continuous service with the City; provided the employee gives not less than fourteen (14) calendar days' advance notice of such action to the Chief. An employee who is laid off shall be paid for accrued vacation. The employee shall be remunerated for all accrued vacation at their last rate of pay with the City at the time the employee leaves employment. In the event of the death of an employee, such compensation shall be paid to the surviving spouse or the employee's estate.

## **ARTICLE 23**

### **MEDICAL INSURANCE COVERAGE**

**Section 23.1.** The Employer shall provide to all bargaining unit employees who elect coverage, health care through a qualified High Deductible Health Plan ("HDHP") in conjunction with a Health Savings Account ("HSA") or a Health Reimbursement Account ("HRA"). Dental and vision insurance coverage shall be the same coverage provided to other groups of Huber Heights City Employees.

**Section 23.2.** Through December 31, 2022, the Employer will pay 100% of the premium cost and will contribute 80% of the deductible for the HDHP for those bargaining unit employees who elect coverage and are enrolled in a HRA. The participating employees shall be responsible for the remaining 0% of the premium cost and 20% of the deductible. Through December 31, 2022, the Employer will contribute 60% of the deductible for the HDHP for those bargaining unit employees who elect coverage and are enrolled in a HSA. The participating Union member shall be responsible for the remaining 40% of the deductible.

Effective January 1, 2020, the Employer will pay 100% of the premium cost and will contribute 80% of the deductible for in-network providers within the HDHP for those bargaining unit employees who elect coverage and are enrolled in a HRA. The participating employees shall be responsible for the remaining 0% of the premium cost and 20% of the deductible for in-network providers. Effective January 1, 2020, the Employer will contribute 60% of the deductible for in-

network providers within the HDHP for those bargaining unit employees who elect coverage and are enrolled in a HSA. The participating Union member shall be responsible for the remaining 40% of the deductible for in-network providers.

Effective January 1, 2020, participating employees shall be responsible for 100% of the deductible for costs incurred for services provided by out-of-network providers and the Employer shall not be required to contribute toward such deductibles.

Effective January 1, 2020, participating employees shall be responsible for all “Co-Pays” under the HDHP for in-network and out-of-network services.

*(For information purposes, during 2020 the Co-Pays shall apply after the \$2,500 Single or \$5,000 Family Deductible is met for In-Network Services. Employees shall be obligated to pay the following Co-Pays up to a maximum of \$1,000 Single or \$1,850 Family for In-Network Services:*

- *Office Visit - \$30.00*
- *Specialist - \$60.00*
- *Urgent Care - \$100.00*
- *Emergency Room - \$250.00*
- *Prescription Drugs - \$10 - \$35 - \$60 depending upon Tier.*

*Employees shall be obligated to pay Co-Pays of 30% up to a maximum of \$5,000 Single or \$10,000 Family for Out-Of-Network Services.*

Effective January 1, 2020 the City shall continue to pay 100% of the premium.

**Section 23.3.** The Employer shall tender payments of its share of the deductibles to the Health Savings Accounts (“HSA”) and the Health Reimbursement Accounts (“HRA”) of Union members who chose to participate in the HDHP, then in effect, on or before the first banking day following January 1, April 1, July 1 and October 1 for each year of the Agreement.

**Section 23.4.** In the event that a Union member or a member of his or her family who is enrolled in and covered by the HDHP suffers an illness or injury for which the cost of medical attention exceeds the Employee contribution and the annual Employer contribution paid to date, the Employer shall accelerate payments of the remaining deductible contributions for that calendar year to assist the Union member in paying health care related expenses.

The Union member must submit to the Employer an Advance Request Form for acceleration and provide deductible documentation showing the costs of the illness or injury. Acceleration of the Employer’s payment of its portion of the deductible shall not be available for elective procedures, including surgery and/or outpatient treatments.

**Section 23.5.** The HSA accounts shall be set up with a bank selected by the Employee with Employer’s approval. The Union members are solely responsible for any and all charges or fees assessed by the bank for the administration of and/or transactions involving each Union

member's HSA. The Employer shall be responsible for any fees or costs associated with its decision to change insurance carriers.

**Section 23.6.** The Employer agrees to deduct from each participating Union member's biweekly paycheck the amount designated by that individual Union member through an authorization form to be provided by the Employer. These amounts shall be paid into the participating Union member's HSA.

**Section 23.7.** The Union member is solely responsible for the management of the member's own HSA. The Employer makes no representations or promises regarding the operation of the HSA, the tax implications of the HSA or the maximum a Union member may contribute to the HSA.

**Section 23.8.** Except for paragraphs 22.5 and 22.7, all matters relating to the rights and obligations of the Employer and Union member as set forth herein shall be subject to the grievance procedures set forth in Article 9 of this Agreement. Matters regarding occurrences which follow the Employer's deposit of its portion of the deductible and deposit of the Union member's authorized pay deductions, if any, are beyond the control of the Employer, and therefore are not amenable to the grievance procedure.

**Section 23.9.** The Employer and representatives of its bargaining unit employees, including the Union, shall form a committee to meet and confer regarding health care coverage during the term of this Agreement. The committee will evaluate and agree upon recommended changes to the health care coverage of the bargaining unit. In the event that the committee is unable to reach an agreement on a recommendation for health care coverage, either the employer or the Union may immediately file a request for arbitration pursuant to the American Arbitration Association's Expedited Labor Arbitration rules to determine if coverage under the HDHP selected by the City is substantially equivalent to the plan then in effect.

**Section 23.10.** Union members shall be responsible for five (5%) percent of the premiums for the plans providing vision and dental coverage.

**Section 23.11.** The insurance carriers and/or method of providing the benefits referred to in this Article shall be solely at the discretion of the Employer.

**Section 23.12.** The Employer shall continue to offer an Employee Assistance Program designed to assist employees with personal problems that often interfere with their work.

**Section 23.13.** In the event that a Union member declines coverage under the HDHP then in effect, the Employer agrees that it will pay the non-participating employee two-thousand five hundred dollars (\$2500.00), in lieu of providing health care coverage. Payments of six hundred twenty five dollars (\$625.00) shall be made to the employee quarterly, on the dates set forth in Section 22.3. Union members will not receive compensation should they choose not to participate in the City's vision or dental plan.

In order to qualify for this benefit, the employee must present proof satisfactory to the Employer that he or she is covered under a health care plan other than the HDHP provided by the

Employer.

**Section 23.14. Life Insurance.** The Employer shall provide for each bargaining unit employee term life insurance and double indemnity coverage in the amount of fifty thousand dollars (\$50,000.00). The costs of said term life insurance shall be at the expense of the City. The choice of insurance carriers shall be solely within the discretion of the City. A copy of the insurance policy shall be provided to the Labor Council by the City.

The City agrees to provide its employees the opportunity to purchase (at the employee's cost) voluntary group term life insurance for themselves and/or their dependents. The plan will attempt to provide flexibility that allows for various coverage options and choices for the employee. The provider selection process will allow the City to "shop" for affordable group rates, minimum/maximum levels of life insurance, as well as guaranteed issue provisions.

**Section 23.15. Liability Insurance** The City shall maintain professional liability insurance for employees of the bargaining unit for the duration of this Agreement provided such insurance is reasonably available to the City. The costs of said liability insurance shall be at the expense of the City. The choice of insurance carriers shall be solely within the discretion of the City. A copy of the insurance policy shall be provided to the Labor Council by the City.

**Section 23.16. Health Reimbursement Accounts** Employees who are participants of the HRA may use their HRA funds to purchase all qualified medical expenses, as permitted in section 213 (d) of the Internal Revenue Code and the HRA Plan Document. The maximum HRA benefit will be the maximum HRA benefit prorated on a quarterly basis based on the employee HRA eligibility date.

Reimbursements under the HRA can be made for the expenses of employee, spouse and dependent of the employee. HRA participants may access their entire HRA benefit anytime during the year. The unused HRA accounts at the end of the coverage year will not be carried forward to the next calendar period. Upon separation of employment during the plan year, participation in the plan will cease and any unused amounts are forfeited. These amounts may never be used for anything but reimbursements for qualified medical expenses.

## **ARTICLE 24**

### **UNIFORMS**

**Section 24.1.Uniforms.** Employees will receive uniforms and equipment paid for by the City, and updated within the City's discretion, as described in Appendix B attached hereto. The lists of items in Appendix B are initial issue items and amounts. All items damaged in the line of duty or worn out from normal wear shall be replaced as needed. These lists shall be reviewed as needed (at least annually) for the purpose of adding, deleting, or changing items and amounts. Should the City during the life of this Agreement, change its uniforms or accessories the City will supply each covered employee with the changed items. No employee is authorized to wear or use divisional clothing and equipment except in the official performance of their duty, except as otherwise approved by the Chief of Police.

**Section 24.2. Investigative Section.** One employee from the Unit assigned to the investigative section at the discretion of the Chief shall receive an annual clothing allowance of two thousand dollars (\$2,000) to be paid semi-annually based on a prorated basis of service in the investigative section for the preceding six (6) months. From this allowance, investigative section employees shall purchase all necessary clothing as per division policy, and maintain at least one (1) complete set of uniform garments as described in Appendix B herein at a minimum.

Upon initial assignment to the investigative section in other than a temporary capacity, an employee shall be provided with one-half (1/2) of the annual entitlement.

**Section 24.3. Personal Items** If, in the course of performing work related activities for the Employer, an employee loses or damages personal items, (eg. Watches, cell phones, sunglasses, contact lenses, eyeglasses, hearing aids, and dentures) the items will be replaced by the Employer. The total replacement cost in one (1) calendar year per employee shall not exceed five hundred dollars (\$500.00). Damages to eyeglasses, contact lenses, hearing aids, and dentures is subject to reimbursement by Workers' Compensation. In the event Workers Compensation does not cover full replacement cost, the employee is eligible for replacement cost reimbursement as outlined above. Pagers, and other such personal equipment owned and used by the employee are not subject to replacement or reimbursement.

**Section 24.4. Footwear and Miscellaneous Equipment Maintenance Allowance.** The City will, after initial issuance, provide an allowance of six hundred seventy-five dollars (\$675.00) annually, with the second check in January, for the officer's footwear, duty bag, flashlight, and flashlight batteries, which the City will no longer purchase as part of the provided uniform.

**Section 24.5 Footwear and Miscellaneous Equipment Maintenance Allowance Pay During Absence.** No Bargaining Unit Member shall receive Footwear and Miscellaneous Equipment Maintenance Allowance Pay under this Article during periods of time when the member is on leave status for twelve (12) consecutive months. Such members shall have their educational payment suspended until they return to work, at which time they will receive the education pay on a pro-rata basis. If a member does not return to work for any reason, the member shall not receive any education pay accrued during the member's absence from work.

**Section 24.6. Purchase of Weapon.** Upon retirement from the Police Division (with ten (10) years or more of service), each Bargaining Unit Member shall have the right to purchase their service weapon and related magazines. The price of the weapon will be based on a depreciation schedule of twenty percent (20%) per service year, with a minimum value of one dollar (\$1.00). The Chief shall maintain a record of make, model and serial number of said weapon in the name of the retired officer.

## **ARTICLE 25**

### **SICK LEAVE**

**Section 25.1.**                      **Rate of Accrual.** All full-time employees shall be credited with five (5) hours of paid sick leave per pay period.

**Section 25.2. Permissible Uses.** Sick leave may be granted to an employee, upon approval by the Employer, for the following reasons:

- A. Illness, injury or pregnancy related condition of the employee.
- B. Exposure of an employee to a contagious disease which could be communicated to and jeopardize the health of other employees or the public.
- C. Examination of the employee, including medical, psychological, dental or optical examination, by an approved practitioner, which cannot be scheduled during non-work time.
- D. Illness, injury or pregnancy related condition of a member of the employee's immediate family where the employee's presence is reasonably necessary for the health and welfare of the employee or affected family member.
- E. Examination, including medical, psychological, dental or optical examination, of a member of the employee's immediate family by an appropriate practitioner where the employee's presence is reasonably necessary.

For the purpose of this Article, the definition of immediate family shall be: spouse, child, step- child, parents, step-parents, parent-in-law, siblings, significant other (as determined by the City Manager) or dependents residing full-time in the employee's household.

**Section 25.3. Notification.** For sick leave use, each bargaining unit member shall notify the Chief or the Chief's designee as early as possible, but no later than two (2) hours prior to the employee's shift starting except day shift, which shall be one (1) hour before the beginning of the shift on the day of absence from work. Failure to promptly notify the City may result in denial of sick leave pay. All sick leave to be so classified shall be subject to approval by the Chief of Police. Employees shall follow proper procedures in filing sick leave forms upon return to work.

**Section 25.4. Doctor's Certificate.** The Chief or designee may require a physician's certificate to be provided to the City's Human Resources Director to confirm the reasons for an absence due to illness or injury or for verification of the fact that the employee is able to return to work. Failure to present any required or requested physician's certificate, employee's written statement, or other required or requested medical verification, to the Employer (or designee) may result in loss of pay for the time absent, and/or disciplinary action.

**Section 25.5. Medical Appointments.** To the extent possible, employees should schedule dental, optical or medical appointments during off duty hours. However, when this is not possible and in the judgment of the Chief an employee can be spared from work, the employee shall be given the time off and, at the employee's discretion, either from accumulated

compensatory time off or sick leave credits charged therefore.

**Section 25.6. Other Considerations.** During the first day and any second consecutive day of absence, an employee utilizing sick leave shall be available for contact during the employee's regular shift hours unless otherwise authorized by the Chief in writing. After a second consecutive day of sick leave, during continued absence utilizing sick leave, the employee must be at home so that the employee may be contacted during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday unless hospitalized, receiving out-patient medical treatment outside the employee's residence, purchasing required medication, or as authorized in writing by the Chief.

**Section 25.7. Accrual Limits** At the commencement of this Agreement, the City will calculate and "bank" any sick leave hours accrued by an employee in excess of one thousand two hundred eighty five (1285) hours. Those hours will become payable to the employee when that employee retires. That employee will then be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate in the pay period prior to the pay period containing the date of August 15, 2003, for every three (3) hours banked by the City at the commencement of the Agreement.

The City shall provide a document detailing the amount of hours banked, the rate of pay they will be reimbursed at, and the total they will be reimbursed, immediately after the hours have been deducted from the employee's sick leave bank. A copy of this documentation is to be provided to each affected employee, and a duplicate copy is to be placed in each affected employee's personnel file.

**Section 25.8. Sick Leave Compensation** If, at the end of the last pay period of any calendar year, an employee has a balance of more than one thousand two hundred and eighty five (1285) hours of accrued but unused sick leave, the hours in excess of one thousand two hundred eighty five (1285) will be converted into a cash payment. Each employee who has accumulated more than one thousand two hundred eighty five (1285) hours and has no more than four occurrences of sick leave, will be paid a sum equal to one hour worked, at the employee's regular straight time rate, for every two (2) hours accumulated in excess of one thousand two hundred eighty-five (1285) hours. Each employee who has accumulated more than one thousand two hundred eighty-five (1285) hours, and has more than four occurrences of sick leave, will be paid a sum equal to one hour worked, at the employee's regular straight time rate, for every three (3) hours accumulated in excess of one thousand two hundred eighty-five (1285) hours.

Upon retirement, an employee's sick leave balance will be converted into cash payment. Each employee will be paid according to the following schedule:

- A. For accumulated sick leave hours one (1) through three hundred fifty seven (357), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every four (4) hours of accumulated sick leave.
- B. For accumulated sick leave hours three hundred fifty eight (358) through seven hundred fourteen (714), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every three (3) hours of accumulated sick leave.
- C. For accumulated sick leave hours seven hundred fifteen (715) through one thousand

seventy one (1071), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every two (2) hours of accumulated sick leave.

- D. For accumulated sick leave hours in excess of one thousand seventy one (1071), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every one (1) hour of accumulated sick leave.

Upon an employee being granted a permanent and total disability from OP&F, that employee is eligible to receive a cash payment for unused sick leave hours according to the following schedule:

- A. For accumulated sick leave hours one (1) through three hundred fifty seven (357), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every one (1) hour of accumulated sick leave.
- B. For accumulated sick leave hours three hundred fifty eight (358) through seven hundred fourteen (714), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every three (3) hours of accumulated sick leave.
- C. For accumulated sick leave hours seven hundred fifteen (715) through one thousand seventy one (1071), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every two (2) hours of accumulated sick leave.
- D. For accumulated sick leave hours in excess of one thousand seventy one (1071), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every one (1) hour of accumulated sick leave.

**Section 25.9.Active Duty Death** Upon death of an employee, the spouse (if there is no spouse, then the deceased employee's estate) will be paid in one lump sum for all accumulated but unused sick leave. Such payment will be at the rate of one hundred percent (100%) at the employee's regular straight time hourly rate at the time of death. Any "bank" established under Section 24.7. shall also be paid out under this Section; per the formula contained in Section 24.7 above.

**Section 25.10.Sick Leave Abuse.** The City reserves the right to investigate all usage of sick leave, and may hold full payment of sick leave until said investigation is completed. Should the City determine that an employee has not used sick leave in accordance with the above rules and regulations, payment may be denied and discipline may be meted out in accordance with the severity of any abused sick leave benefits. After four (4) instances of sick leave during a calendar year, the use of sick leave requires approval of the Chief of Police on a case-by-case basis. Employees granted approval for sick leave in excess of this limit are not eligible for voluntary overtime assignments during the pay period during which the sick leave was granted.

**Section 25.11. Donated Sick Leave**

- A. **Eligibility** - Any eligible employee may apply to the City Manager to receive donated sick leave, if the employee requesting such donated sick leave:

- 1. Has a non-work-related serious illness or injury, as documented in writing by a medical

doctor, which renders them unable to perform the essential functions of their position for a minimum of four (4) consecutive weeks; and

2. Does not have a sufficient amount of accrued and unused paid leave to cover the estimated period of absence;
3. Has not been offered non-work-related Transitional Duty; and
4. Has no disciplinary actions regarding sick leave abuse on record for progressive discipline purposes.

**B. Procedure:**

1. An employee qualifying for sick leave donation hereunder shall make a written request for such leave by completing the necessary form and submitting same to the City Manager. Written documentation from a medical doctor of the employee's serious illness or injury must be attached to the request. The City Manager shall have the discretion to approve or deny such request. Copies shall be provided to the employee, Human Resources and the Chief of Police.
2. Upon approval of a request for sick leave donation, the City Manager shall complete the necessary form and forward copies of same to each city division.
3. An employee wishing to donate sick leave to a fellow employee eligible for donation shall complete the necessary form and forward same to their division head, who shall provide a copy to Human Resources.

**B. Approval - Upon approval of an employee's request for donated sick leave, the City Manager shall:**

1. Notify all city employees of the employee's need for donated sick leave, while respecting the employee's right of privacy;
2. Approve payment of any such donated sick leave to the requesting employee on a pay period by pay period basis up to the amount of donated leave, or the hours necessary to provide the employee with their regular, straight-time pay for such pay period, whichever is greater.

**C. Donating Sick Leave - An employee may donate accrued and unused sick leave to their credit to any other employee who has been approved to receive donated sick leave if the donating employee:**

1. Retains a sick leave balance of at least four hundred – eighty (480) hours after deduction of the hours offered for donation; and
2. Voluntarily elects to donate sick leave to the employee approved for donation, understanding that any such leave donated and used shall not be returned.

D. **Terms and Conditions** – The following additional terms and conditions shall apply to the sick leave donation program:

1. All donation of sick leave shall be in eight (8) hour increments, with eight (8) hours being the minimum donation;
2. An employee receiving donated sick leave shall be paid at their regular, straight- time rate of pay, regardless of the rate of pay of the employee donating such leave;
3. Sick leave shall be deducted from donating employees proportionately from all donated hours and credited to the receiving employee's account on pay day up to the amount necessary for the employee to be paid their regular two (2) weeks' pay. No sick leave shall accumulate in the account of a receiving employee or be converted to cash or compensatory time. Any sick leave donated by an employee that is not used shall remain in the account of the donating employee.
4. An employee using donated sick leave shall be in active pay status and shall accrue sick and vacation leave, and be entitled to any benefits they would normally receive. All paid leave provided to or accrued by an employee while using donated sick leave shall be used in the following pay period before donated sick leave is used.
5. Employees receiving donated sick leave shall be eligible to receive such leave only until the employee's estimated date of return to duty, or until the first pay period during which the receiving employee fails to receive enough donated leave to receive their full two (2) weeks pay. Persons who have continued to receive full donations and whose physicians extend their estimated date of return will be eligible for notification for the need for further donation.
6. No employee receiving donated sick leave will be permitted to be off work on such leave more than twelve (12) consecutive calendar months. An employee may not apply for donated leave more than once in any twelve (12) month period.
7. Donated sick leave shall not count for purposes of the donating employee's sick leave attendance bonus.
8. The City Manager shall ensure that no employee is forced or coerced into donating sick leave for a fellow employee. Donation shall be strictly voluntary. No city employee shall directly solicit donations of sick leave from another employee other than by the posting of an approved form.

## **ARTICLE 26**

### **WAGE CONTINUATION**

**Section 26.1.Reporting.** Any bargaining unit member injured in the line of duty will file a written accident or injury report with the Chief of Police or the Chief's designee within twenty-four (24) hours of the incident or as soon as the bargaining unit member is physically able to do so. Failure, without good cause, of a bargaining unit member to comply with this section may be grounds for the City to deny wage continuation leave or supplemental benefits. Any employee

claiming a service-connected illness or injury under this Article shall file an application with the Ohio Bureau of Worker's Compensation (BWC). In the event the claim is denied by Worker's Compensation, the employee shall be charged with sick leave and/or vacation for all time paid by the City for the wage continuation claim. The parties agree that the employee's pay status will be controlled by the BWC's original decision until all appeals are final.

**Section 26.2. Wage Continuation.** Any employee who becomes unable to perform duties as assigned by the Employer due to a physical injury suffered in the discharge or performance of official duties as an employee of the City shall be eligible for wage continuation. Wage continuation shall be available for up to seven hundred twenty (720) work hours. These seven hundred twenty (720) work hours are fully paid by the Employer, and are in lieu of workers' compensation benefits. An employee who applies for wage continuation will apply to BWC for medical benefits only and not lost income benefits. The employee may apply for lost income benefits toward the end of the wage continuation if it is known that the absence will continue beyond the paid wage continuation. Recurring injuries do not qualify employees to receive wage continuation pay beyond the allowable seven hundred twenty (720) work hours provided at the time of the initial work connected injury date. During the first twelve (12) weeks following the conclusion of the paid leave, the employee may utilize sick or vacation time to supplement the workers' compensation benefits.

**Section 26.3. Medical Evidence.**

- A. Any employee making claim for such compensation as provided for in this Article shall, at the request of the City, submit to a physical exam by a licensed physician of the City's choice. This examination will be restricted to areas limited to or affected by the injury. In the event that the physician finds that such employee is able to return to duty, the employee shall do so on the next scheduled work day or at any other time as scheduled by the City. Physical examinations required pursuant to this Article shall be at the City's expense.
- B. For the best interest of both the employee and the Employer, an employee utilizing injury leave shall remain at the employee's residence Monday through Friday, 8:00 a.m. to 4:00 p.m. unless hospitalized, receiving out-patient medical treatment outside the employee's residence, purchasing required medication, or as authorized in writing by the Chief.
- C. A partially disabled employee who is eligible for wage continuation under this Article may be required by the City to perform limited duty work, subject to the limitations set and approved by the employee's physician.
- D. Should an employee covered by this Agreement become permanently disabled as a result of an on-the-job injury to the extent that the employee cannot perform the regular job duties, the City will attempt to place the employee in a position within the Division, in the judgment of the City and/or the Chief of Police, the employee is physically and mentally able to perform, provided that such a position is available. This Section shall not require the City to create a position for any employee.

**Section 26.4. Protection Insurance.** The City may provide this benefit to the employee through income protection insurance or by any other means available to the City. In the event this benefit is provided through the purchase of income protection insurance, the employee shall meet all the

requirements of such insurance policy to receive injury leave pay. The cost of such insurance shall be at the City's expense.

## **ARTICLE 27**

### **OTHER LEAVES OF ABSENCE**

**Section 27.1.Jury Duty.** The City shall grant the required leave with full pay where a bargaining unit member is summoned for any jury duty. All compensation received from the summoning court for such duty shall be paid to the City unless such duty is performed totally outside of the member's regularly scheduled duty hours. Bargaining unit members released from jury duty prior to the end of their scheduled work period shall report to work for the remaining hours of such work shift.

**Section 27.2.Military Leave.**

- A. All bargaining unit members who are members of the Ohio National Guard, the Ohio Organized Militia or members of other reserve components of the Armed Forces of the United States are entitled to leave of absence from their respective duties-without loss of pay for such time as they are in the military service on field training or active duty for periods of time not to exceed twenty-two (22) eight (8) hour work days or one hundred seventy-six (176) hours in any one (1) calendar year from January 1 through December 31. The member is required to submit to the City an order or statement from the appropriate military commander as evidence of such duty. There is no requirement that the service be in one (1) continuous period of time. Bargaining unit members who are members of those components listed above will be granted emergency leave from mob control, riot control, flood, civil defense or similar duties when so ordered by the governor to assist civil authorities. Such leave will be paid provided it does not exceed the maximum hours of military leave provided above. The leave will cover the official period of the emergency.
- B. Employees who are called or ordered to the uniformed services for longer than a month, for each calendar year in which the employee performed service in the uniformed services, because of an executive order issued by the President of the United States or an act of congress is entitled, during the period designated in the order or act, to a leave of absence and to be paid, during each monthly pay period of that leave of absence, the lesser of the following:
  - 1. The difference between the permanent public employee's gross monthly wage or salary as an officer or permanent public employee and the sum of the permanent public employee's gross uniformed pay and allowances received that month;
  - 2. Five hundred dollars.

No permanent public employee shall receive payments under division (B) of this section if the sum of the permanent public employee's gross uniformed pay and allowances received in a pay

period exceeds the employee's gross wage or salary as a permanent public employee for that period or if the permanent public employee is receiving pay under (A) of this section.

- C. Employees who are drafted or called for active duty with the Armed Forces of the United States or one of its reserve components shall in accordance with existing laws be entitled to re-employment after separation or discharge under honorable conditions from such service. The employee must be physically and mentally able to do the work required and must report for work within ninety (90) days of discharge. The Employee shall be re-employed in the same position or a similar position to the one held at the time of entry into the Armed Forces. The employee will enjoy seniority and benefits of that seniority that would be due as though he had been actively on the payroll. However, while on extended leave the employee shall not be entitled to benefits of employment, such as, sick, vacation, personal leave days or group health and life insurance and other such coverages.
- D. An employee shall be granted permission to be absent from work in order to receive a physical examinations for compulsory military service in the Armed Forces in the United States. The employee shall be entitled to use paid sick leave for that purpose during such absence for a period not to exceed three (3) days.

Employees wishing to enlist shall be permitted to take one (1) enlistment physical and shall receive no more than one (1) day paid sick leave for that physical.

**Section 27.3.Funeral Leave.** At the time of a death in an employee's immediate family, an employee shall be granted time off for a period which is appropriate for the circumstances presented, and the employee shall be paid for up to three (3) days of missed work days in that period. Immediate family shall be defined as current spouse; natural, adopted, foster, in-law and step child, natural, adoptive, foster, in-law, and step parent, sibling, step-sibling, sibling-in-law, grandparent, grandparent-in-law, grandchild, aunt, aunt-in-law, uncle, uncle-in-law, person in loco parentis or legal guardian, other family member residing in the employees household and claimed as a tax exemption by the employee in the most recent tax year, and one (1) significant other residing in the employee's household as approved by the City Manager.

If additional time is necessary for an employee to attend the funeral of a member of the employee's family as defined above, an employee shall be entitled to use up to three (3) days of sick leave in conjunction with funeral leave.

**Section 27.4.Family and Medical Leave.** Family and Medical Leave will be granted to an employee who has been employed for at least twelve (12) months by the Employer and who has provided at least twelve hundred and fifty (1250) hours of work during the previous twelve (12) months. The leave will be granted for a period of up to twelve (12) weeks for the following reasons:

- A. To care for the employee's own serious health condition;
- B. To care for the employee's spouse, child or parent who has a serious health condition; or
- C. Because of the birth, adoption, or foster placement of a child.
- D. Care for spouse, son, daughter, parent or next of kin who has suffered serious illness or injury

while on active military duty; or

- E. A qualified exigency for a spouse, son, daughter, or parent of a member of the Armed Forces called to active duty.

The employee's paid leave must be used up and is included in the twelve (12) week total, as follows:

1. Available sick leave (if the absent qualifies for sick leave)
2. Accrued vacation
3. Accrued personal leave

The employee may use compensatory time during the twelve (12) weeks.

The employee must provide the Employer with thirty (30) days advance notice of the leave or such notice as is practicable if thirty (30) days notice is not possible. The employee shall provide the Employer with certification of the condition from a health care provider or from the adoption or placement agency, whichever is applicable.

If the City employs a married couple and one or both request leave for a birth, adoption, foster care placement of a child, or to care for a new child, the total annual FML leave available to them as a couple for those purposes is twelve (12) weeks.

It is intended that the application of this Section comply with the FMLA of 1993 (as amended) and that the parties shall take such actions as to ensure compliance.

An employee who exhausts Family Medical Leave and/or injury leave shall be eligible for continued sick leave or disability leave.

**Section 27.5. Personal Leave.** An employee may be granted up to ninety (90) days of a personal leave of absence without pay upon approval of the City Manager. A request for a personal leave of absence shall be in writing; state the reasons for the requested leave, and be signed by the employee. Approval from the City Manager shall be in writing and shall specify the extent, if any, which seniority will accumulate during the period of the leave of absence and the date upon which the leave of absence terminates.

**ARTICLE 28**  
**TUITION REIMBURSEMENT AND EDUCATIONAL INCENTIVE**

**Section 28.1 Reimbursement Program.** Each full-time non-probationary employee who is subject to the provisions of this Agreement shall be eligible for a reimbursement of tuition only in courses of instruction voluntarily undertaken and subject to the following conditions:

- A. Provided financial resources are available, each employee of the unit may be provided not more than \$2,000 per fiscal year for tuition reimbursement. Said funds shall only be provided under the following conditions:
  - An employee must submit a letter of intent for utilization of this benefit no later than September 1 of the year preceding the year in which the benefit will be used. This letter must be submitted to the employee's division head, or their designee.
  - For the fiscal year in which the benefit is to be utilized, the adopted city's budget must demonstrate a General Fund that is both legally and structurally balanced.
- B. Only courses that directly related to the employee's current employment position are eligible for reimbursement hereunder. To claim reimbursement the employee must complete an application on a form provide by the City and receive approval from the City Manager for the course of study in advance. Each class taken must also be approved in advance. All courses must be taken during non- work hours. The Employer shall not reimburse fees for any course for which the employee received a scholarship, grant or subsidy to the extent of such aid.
- C. All courses must be taken at an accredited college or university pursuant to and part of an established program leading to a degree.
- D. Upon completion of an eligible course the employee shall promptly submit to the Employer a copy of the course grade report and a receipt issued by the college or university setting forth the cost of tuition.
- E. Reimbursement shall be at the following rates:
  - a. One hundred percent (100%) for an "A" or equivalent;
  - b. Ninety percent (90%) for a "B" or equivalent; and
  - c. Eighty percent (80%) for a "C" or equivalent.
- F. No reimbursement will be granted for books, papers, supplies, transportation, meals or any other expense connected with any course except the cost of tuition.
- G. Utilization of the Tuition Reimbursement Program shall not preclude any unit member from receiving that Educational or Military Experience Incentive Pay for which they qualify.
- H. Employees shall repay the Employer any tuition reimbursement received in the prior year if they voluntarily leave employment.

- I. In the event of a permanent lay-off, disability retirement or death the employee will not be required to reimburse the Employer for tuition assistance.

**Section 28.2 Educational & Military Experience Incentive.** Employees with military experience prior to their employment with the city, or who possess an Associate's degree, a Bachelor's degree, and/or a Master's Degree shall be paid the following amounts during the first pay period of each December:

Military Experience \$ 400.00

Associate's Degree \$ 400.00

Bachelor's Degree \$ 700.00

Master's Degree \$1000.00

To qualify for the Military Experience Incentive, the unit member must provide documentation of an Honorable Discharge or a General Discharge Under Honorable Conditions.

These incentives are not subject to pyramiding and unit members shall only be paid to the highest rate of incentive for which they are qualified.

**Section 28.3 Educational Pay During Absence.** No Bargaining Unit Member shall receive Educational Pay under this Article during periods of time when the member is on leave status for twelve (12) consecutive months. Such members shall have their educational payment suspended until they return to work, at which time they will receive the education pay on a pro-rata basis. If a member does not return to work for any reason, the member shall not receive any education pay accrued during the member's absence from work.

## **ARTICLE 29**

### **FITNESS FOR DUTY**

**Section 29.1. Fitness for Duty.** The City may, at its discretion, require employees to submit to a physical or psychiatric/psychological examination in order to determine whether or not an employee remains capable of performing the essential functions of the position. All such examinations shall be conducted by licensed practitioners appointed and paid for by the City.

**Section 29.2. Medical Evidence.** The City may, at its discretion, require employees to provide specific medical data from the employee's doctor, the City's doctor, and/or a personal affidavit stating the cause of the absence, for any illness or injury which resulted in lost work time.

## **ARTICLE 30**

### **MISCELLANEOUS**

**Section 30.1. Training.** All officers are required to meet all mandatory certification requirements of the State of Ohio. Officers failing to maintain their certification or failing to pass any mandatory standard that compromises the certification shall not be allowed to work. The initial cost for any such mandatory requirements shall rest with the City. Non-probationary officers who fail to qualify and/or meet any mandatory certification standards shall be allowed an opportunity to retrain at their expense. Said retraining must be completed within a period of six (6) months.

**Section 30.2. Outside Activity.** No employee may directly or indirectly maintain or engage in any outside business, financial interest or employment activity which in the opinion of the Chief of Police conflicts with the interest of Division or which interferes with the employees' ability to discharge their duties fully. Such conflict of interest shall be grounds for discipline, up to and including discharge.

**Section 30.3. Copies of Agreement.** The Labor Council will provide each covered employee, at no cost to the employee, a copy of this Agreement within thirty (30) days from the date this Agreement is ratified by both parties.

## **ARTICLE 31**

### **DURATION OF AGREEMENT**

**Section 31.1. Duration.** The provisions of this Agreement shall be effective as of January 1, 2023 and shall continue and remain in full force and effect to and including December 31, 2025, and thereafter for successive periods of one (1) year, unless either party shall at least sixty (60) days prior to December 31, 2025, (or sixty (60) days prior to any one (1) year extension) serve written notice on the other party of a desire to terminate, modify, alter, renegotiate, change, or amend this Agreement. Such notice shall be sent by a method approved by the State Employment Relations Board.

In Witness Whereof the parties have hereunto signed by their authorized representatives this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

FOR THE CITY OF HUBER HEIGHTS:

FOR THE FOP/OLC:

\_\_\_\_\_  
Bryan Chodkowski,  
Interim City Manager

\_\_\_\_\_  
Richard Paquette,  
FOP/OLC Staff Representative

\_\_\_\_\_  
Mark Lightner,  
Chief of Police

\_\_\_\_\_  
John Kisse, Jr.,  
Bargaining Committee Member

\_\_\_\_\_  
Kathryn Knisley,  
HR Director

\_\_\_\_\_  
Cory Siegrist,  
Bargaining Committee Member

\_\_\_\_\_  
Dorian Ringer,  
Bargaining Committee Member

Approved to as Form:

\_\_\_\_\_  
David H. Montgomery, Law Director  
Pickerel, Schaeffer & Ebeling

Approved and ratified by the Council of the City of Huber Heights, Ohio on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Resolution No. \_\_\_\_\_-R- \_\_\_\_\_

## APPENDIX A



AUTHORIZATION FOR DUES DEDUCTION  
**FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.**  
222 E. Town St., Columbus, Ohio 43215  
1-800-FOP-OLCI

I, the undersigned, hereby authorize my Employer to check off and deduct from my payroll an amount equal to dues, remitting directly to the F.O.P. Ohio Labor Council, Inc.

(PLEASE PRINT)

Place of Employment \_\_\_\_\_

Name of *Employee*: \_\_\_\_\_

Home Address \_\_\_\_\_

City \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone \_\_\_\_\_

Classification \_\_\_\_\_

Department \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Mail white copy to FOP-OLC at above address  
Present card to your Auditor



**APPENDIX B**  
**UNIFORMS**

The following items of uniform clothing, accessories and equipment will be furnished by the Department:

Qty.	Description/ Item	Qty.	Description/ Item
1	Hat, dress	1	Rain Coat
1	Jacket, light weight	5	Shirts, long sleeve
1	Jacket, winter	5	Shirts, short sleeve
2	Neckwear	5	Trousers
1	Shoes		

Qty.	Description/ Item	Qty.	Description/ Item
1	Badge, shooting	1	Holster
1	Badge, breast	1	Pouch, ammunition
1	Badge, jacket	1	Key strap, clip (optional)
2	Bar, name	1	Badge, cap
1	Bar, tie	1	Belt, gun
1	Case, handcuff	1	

Qty.	Description/ Item	Qty.	Description/ Item
1	Locker, personal	1	Hand gun
	Keys, department	1	Asp and Holder
1	Handcuffs		Patches (shirts & jackets)
1	Keys, handcuffs	1	Ballistic Vest

**AI-9452**

**New Business E.**

**City Council Meeting**

**City Manager**

**Meeting Date:** 08/28/2023

Collective Bargaining Agreement - FOP, OLC, Inc. - Lieutenants - Police Division

**Submitted By:** Katie Knisley

**Department:** Human Resources

**Council Committee Review?:** Council Work Session  
**Date(s) of Committee Review:** 08/22/2023

**Audio-Visual Needs:** None  
**Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

---

**Agenda Item Description or Legislation Title**

A Resolution Approving The Collective Bargaining Agreement With The Fraternal Order Of Police, Ohio Labor Council, Inc. Representing Lieutenants In The Police Division For The Time Period January 1, 2023 Through December 31, 2025.  
(first reading)

**Purpose and Background**

The City and the Fraternal Order of Police, Ohio Labor Council, Inc. have been in negotiations and have agreed upon a new three-year contract. This legislation will approve the contract as negotiated and authorize the City Manager to sign the Collective Bargaining Agreement with the FOP, OLC, Inc. representing the Lieutenants in the Police Division.

---

**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Resolution  
Exhibit A

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2023-R-

APPROVING THE COLLECTIVE BARGAINING AGREEMENT WITH THE FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC. REPRESENTING LIEUTENANTS IN THE POLICE DIVISION FOR THE TIME PERIOD JANUARY 1, 2023 THROUGH DECEMBER 31, 2025.

WHEREAS, representatives of the City of Huber Heights and the Fraternal Order of Police, Ohio Labor Council, Inc, representing Lieutenants in the Police Division, have been involved in active collective bargaining; and

WHEREAS, those negotiations have resulted in a new Collective Bargaining Agreement with this bargaining unit, which agreement commences on January 1, 2023, and expires on December 31, 2025.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. The City Manager is hereby authorized to execute on behalf of the City of Huber Heights the Collective Bargaining Agreement between the City of Huber Heights and the Fraternal Order of Police, Ohio Labor Council, Inc, referred to above and is appended hereto as Exhibit A and made a part hereof.

Section 2. The wages as set forth in the respective Collective Bargaining Agreement shall be effective retroactively in accordance with Article 19 of the attached agreement.

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

Section 4. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2023;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Exhibit A  
**AGREEMENT**

**BETWEEN**

**HUBER HEIGHTS**

**AND**



**THE FRATERNAL ORDER OF POLICE,  
OHIO LABOR COUNCIL, INC.**

**LIEUTENANTS**

**January 1, 2023 through December 31, 2025**

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## **ARTICLE 1** **AGREEMENT**

**Section 1.1. Agreement.** This Agreement, is by and between the City of Huber Heights, Ohio, hereinafter referred to as the "City" or "Employer" and the Fraternal Order of Police, Gary Sherman Lodge 161, The Fraternal Order of Police, Ohio Labor Council, Inc., hereinafter referred to as the "Lodge" or "Labor Council".

This Agreement shall replace any existing Collective Bargaining Agreement between the parties.

**Section 1.2. Purpose.** The purpose of this Agreement is:

- A. To comply with the requirements of Chapter 4117 of the Ohio Revised Code and to set forth the full and complete understandings and agreements between the parties.
- B. To prevent interruptions of work and delivery of service to the citizens of Huber Heights.
- C. To establish a procedure for the resolution of grievances.

**Section 1.3. Modification of Agreement.** The express provisions of this Agreement may be changed only by mutual agreement between the parties, reduced to writing, dated, and signed by the parties to this Agreement.

**Section 1.4. Savings Clause.** This Agreement supersedes and replaces all pertinent statutes, ordinances, resolutions, rules and regulations over which it has authority to supersede and replace. Where this Agreement is silent, the provisions of applicable law shall prevail. Should any portion of this Agreement contained herein be declared invalid by operation of law or by a court of competent jurisdiction, such invalidation of said part or provision shall not invalidate the remaining portions hereof and they shall remain in full force and effect. In addition, within thirty (30) calendar days following the effective date of such declaration of invalidity, the parties shall meet in good faith negotiations to attempt to modify such provision to comply with applicable law.

**Section 1.5. Waiver in Case of Emergency.** In cases of emergency declared by the President of the United States, the Governor of the state of Ohio, the Montgomery County Sheriff, the City Manager of Huber Heights, or any other authorized governmental official, for acts of God or civil disorder, the following conditions of this Agreement may be temporarily suspended by the Employer

- A. Time limits for the processing of grievances; and
- B. Selected work rules and/or agreements and practices relating to the assignment of employees.

**Section 1.6. Waiver of Bargaining.** The parties acknowledge that during the negotiations which resulted in this agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understanding and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the parties agree that for the life of this Agreement, each voluntarily and unqualifiedly waives the right, and

agrees that the other shall not be obliged, to bargain collectively with respect to any subject or matter referred to or covered in this Agreement. With respect to any subject or matter not referred to or covered in this Agreement, the provisions of applicable law shall apply.

## **ARTICLE 2**

### **RECOGNITION**

**Section 2.1. Recognition.** The City recognizes the Labor Council, as identified in Section 1.1 of this agreement, as the sole and exclusive bargaining representative with respect to wages, hours, and other terms and conditions of employment for all full-time employees that were certified by the State Employment Relations Board in Case Number 84-RC-07-1635, as amended on October 9, 1985 in case numbers 85-AC-06-3881 and 85-AC-06-3882 and on May 1, 2014 in Case No.2014-REP-04-0050 , in the following unit:

Included: All Full-time Lieutenants employed by the Police Division, City of Huber Heights, Ohio.

Excluded: Chief of Police, Sergeants, Patrol Officers, Detectives, Corporals, Dispatchers, Clerks/Secretaries, Chiefs Secretary, and all other employees.

**Section 2.2. Other Positions.** Any new, full-time sworn positions within the Division shall be subject to challenge by the Labor Council to the State Employment Relations Board, for inclusion or exclusion as bargaining unit members, pursuant to Chapter 4117 of the Ohio Revised Code and the SERB Rules and Regulations.

## **ARTICLE 3**

### **LODGE/LABOR COUNCIL SECURITY**

**Section 3.1. Dues Deductions.** The Lodge and Labor Council will notify the City in writing of the dues it charges and its current membership, and will update this information as needed to be accurate. The Labor Council shall provide at least thirty (30) days written notice to the Director of Finance of the amount of Labor Council dues and /or representation fee to be deducted from the wage of employees in accordance with this section. Any change in the amount determined will be provided to the Director of Finance at least thirty (30) days prior to its implementation. Said change is to be made only by proper written notice from the Labor Council and shall not be made more than twice a calendar year. Exceptions may be made upon written requests from the Labor Council and the written approval by the City Manager.

The Lodge/Labor Council shall obtain from the employee a completed check-off authorization form which shall conform to the respective state and federal laws concerning that subject, or any interpretation made thereof. The City's Director of Finance may return an incomplete or incorrectly completed form to the Labor Council and no check-off shall be made until such deficiency is corrected.

The Director of Finance will withhold the Labor Council membership dues of any Labor Council member from the available wages earned by such Labor Council member bi-monthly, and transmit the same to the Labor Council, via ACH or USPS to, 222 East Town Street, Columbus, Ohio, 43215-4611, within thirty (30) days after the last deduction for the month, upon

presentation of written authorization from the Labor Council member (Appendix "A" is a current example).

The Director of Finance will withhold the Lodge membership dues of any Lodge member from the available wages earned by such Lodge member bi-monthly, and transmit the same to the designated lodge official within thirty (30) days after the last deduction for the month, upon presentation of written authorization from the lodge member.

The City shall check off only obligations which become due at the time of check-off and will make check-off deductions only if the employee has enough pay due to cover such obligation, and will not be responsible to the employee if the employee has duplicated a check-off deduction by direct payment to the Labor Council.

The City's remittance will be deemed correct if the Lodge/Labor Council does not give notice, in writing, to the Director of Finance within four (4) weeks after a remittance is sent, with reasons stated therefore, that the remittance is incorrect.

No other employee organization's dues shall be deducted from the pay of any bargaining unit member during the life of this Agreement.

**Section 3.2. Indemnification.** The Lodge and Labor Council shall indemnify and save the City harmless against any and all claims that shall arise out of or by reason of action taken by the City in reliance upon the Authorization for Dues Deduction. The Lodge/Labor Council assumes full responsibility for the disposition of the deductions so made, once they have been sent to the Lodge/Labor Council.

**Section 3.3. Lodge/Labor Council Membership.** It shall not be a condition of employment for any employee to either acquire or maintain membership in the Lodge or the Labor Council. Any employee who is a member of the Lodge or Labor Council may withdraw authorization for dues deduction by the City by directing a request thirty (30) days in advance, in writing to the City Finance Director with a copy to the Lodge or Labor Council.

During the first pay period in January and July of each year, the employer shall provide the FOP/OLC a roster of all bargaining unit members. Should the Employer receive notice from a bargaining unit member of the revocation of the dues deduction authorization and withdrawal from FOP/OLC membership, the Employer shall notify the FOP/OLC, in writing, within seven (7) days of the notice of revocation. Additionally, the Employer shall notify the FOP/OLC of any new hires within the bargaining unit. Such notification shall be in writing to the FOP/OLC within 30 days of their hire date.

Dues deductions shall cease upon the happening of any of the following events:

- A. Resignation or discharge of the employee;
- B. Transfer of the employee from the bargaining unit; or
- C. Revocation of the dues deduction authorization.

**Section 3.4. Bulletin Boards.**

A. Bulletin boards as presently provided, and as may be installed in the future by the City, may be used by the Lodge and Labor Council for posting notices of the following types:

1. Recreational and social events.
2. Elections and election results.
3. General membership meetings and other related business meetings.
4. General Lodge and Labor Council business of interest to members.

B. The Lodge and Labor Council agree that no notices will be placed on the bulletin boards which contain:

1. Personal attacks upon any City employee.
2. Scandalous, scurrilous or derogatory attacks upon management;
3. Attacks on any other employee organizations;
4. Any obscene or ethnic material;
5. Any political material containing partisan or non-partisan issues.

C. Notices may be reviewed by the Chief of Police and any bulletins or notices considered inflammatory, political or devoted to Labor Council organizing and pending grievances will not be permitted on any City bulletin boards, nor will they be permitted to be displayed in City offices, facilities, equipment, etc. If such inflammatory, political or organizing notices appear on said bulletin boards, they shall be removed by management.

**Section 3.5. Use of Divisional Mail System.** The Lodge and Labor Council will be permitted to utilize, at no cost or loss of time to the City (including no use of City materials and equipment), the Divisional Mail System for the purpose of providing information pertaining to Lodge and Labor Council business to bargaining unit employees. The Lodge and Labor Council agree that the use of the mail system will be reasonable and limited to providing information that is necessary for the normal conduct of Lodge and Labor Council business or bargaining unit representation.

**Section 3.6. Place for Meetings.** Meetings of the Committees of the Lodge and Labor Council will be permitted on City property when and where work is not interrupted by such meetings, and when such meetings are not held during the regularly scheduled duty hours of the participants on the day in question. The Lodge and Labor Council will work with the City to identify space in the Police Division for such meetings.

**ARTICLE 4**  
**MANAGEMENT RIGHTS**

**Section 4.1. Management Rights.** The Lodge and Labor Council recognize that except as specifically limited or abrogated by the terms and provisions of this Agreement, all rights to manage, direct or supervise the operations of the Huber Heights Police Division and its employees are vested solely and exclusively in the Employer.

Nothing contained herein shall be considered to deny or restrict the City of its rights, responsibilities, and authority under the laws of the State of Ohio or any other national, state county, district, or local laws or regulations as they pertain to conducting the affairs of the City. Those rights include, but are not limited to the following:

- A. To determine matters of inherent managerial policy which include but are not limited to areas of discretion or policy such as functions and programs of the Employer, standards of services, its overall budget, utilization of technology, and organizational structure;
- B. To direct, supervise, evaluate, or hire employees;
- C. To maintain and improve the efficiency and effectiveness of operations and programs;
- D. To determine the overall methods, process, means or personnel by which operations are to be conducted;
- E. To discipline, suspend, demote or discharge for just cause, or layoff, transfer, assign, schedule, promote or retain employees;
- F. To determine the adequacy of the work force;
- G. To determine the mission of the Division as a unit of City government;
- H. To effectively manage the work force;
- I. To take action to carry out the mission of the Employer as a governmental unit.

Except as expressly provided otherwise by the terms of this Agreement, the determination and administration of City policy, the operation of the City and the direction of the employees are vested ultimately in the City Manager and delegated exclusively to the Chief of Police.

## **ARTICLE 5**

### **NON-DISCRIMINATION**

**Section 5.1. Equal Application.** The provisions of this Agreement shall be applied equally to employees without discrimination, which would violate applicable laws because of age, sex, race, color, national origin, religion, or disability. The Labor Council and the City shall share the responsibility for implementing this section of the Agreement.

**Section 5.2. Union Membership Non-Discrimination.** There shall be no discrimination by the City, the Lodge or the Labor Council against any employee on the basis of such employee's membership or non-membership in, the Lodge or the Labor Council.

**Section 5.3. Gender.** All references to employees in this Agreement designate both sexes, and wherever either gender is used, it shall be construed to include male and female employees.

## **ARTICLE 6**

### **LODGE/LABOR COUNCIL BUSINESS**

**Section 6.1. Lodge/Labor Council Business.** The Lodge/Labor Council agree that except as specifically provided by the terms and provisions of this Agreement, employees shall not be permitted to engage in union activity during working hours. The City, the Lodge and the Labor Council agree to work toward the goal of scheduling meetings at a date and time which minimize the loss of manpower to the Division.

**Section 6.2. Representation.** The Labor Council may select one (1) Representative and one (1) alternate Representative to act in the absence of the Representative, for this bargaining unit. The Labor Council shall notify the City in writing of the names of the Representatives and will promptly update such names as necessary to be accurate. Only those Representatives listed by the Labor Council in writing will be permitted to conduct business on behalf of the Labor Council.

**Section 6.3. Grievance Investigations.** A Labor Council Representative may investigate grievances as defined herein and formal disciplinary action, once it has been issued by the City. To the extent practicable, such investigation will be conducted so as not to interfere with normal duty hours of the Labor Council Representative or any other Bargaining Unit Member. With the prior permission of the Chief of Police or designee, the Labor Council Representative may be allowed reasonable time without loss of pay for such investigation. Permission will not be unreasonably denied.

**Section 6.4. Labor Council Release Time.** The City will make provisions for a total of twenty-four (24) hours authorized leave annually for Labor Council Officials (or designees) and twenty-four (24) hours authorized leave annually for Lodge officials (or designees) to attend conventions or other major business meetings. An employee may use such leave in half-hour (1/2) increments or more. Partial increments will be "rounded up" to the next complete half hour. (For example, forty-five (45) minutes will be "rounded" to one (1) hour and twenty minutes (20) will be "rounded" to one-half (1/2) hour.) The above time off for such officials (or designees) shall be time off with full pay at no expense to the employee's accrued leave time.

Officials of the Lodge/Labor Council shall, at least thirty (30) days prior to the date of the function submit notice to the Chief of Police identifying the function, certify the member attending, and indicate the starting and ending date and applicable scheduled hours for each employee. The Chief will approve the request within three (3) working days after receipt, provided Division Operations will not be unreasonably affected on the scheduled days in question.

**Section 6.5. Negotiations.** The Labor Council will identify the members of its negotiating team at the time it provides the City with written notice of a desire to renegotiate terms of this Agreement. No more than three (3) Officers shall be included on the Labor Council negotiating team. The City will transfer any member working shifts other than day shifts to day shifts on the days negotiations take place and allow members of the Labor Council negotiating team time without loss of pay to participate in negotiation meetings with the City. If an agreement is not reached through negotiations, including mediation, the City will allow time without loss of pay for meetings called by the Fact Finder or Conciliator for only the Labor Council's Chief Negotiator (or designee) and the other members of the Labor Council's negotiating team.

**Section 6.6. Labor Council Staff Representative.** The Business Staff Representative may consult with employees before the start of or at the completion of the day's work. Such representative shall be permitted in the assembly area at all reasonable times only for the purpose of adjusting grievances, assisting in the settlement of disputes, and for the purpose of carrying into effect the provisions and aims of this Agreement. However, the Representative must notify management when such representative will be present in the assembly area. The staff representative shall not disrupt the normal operation of the Police Division.

## **ARTICLE 7**

### **NO STRIKE/NO LOCKOUT**

**Section 7.1. No Strike.** During the life of this Agreement, the Labor Council shall not cause, authorize, sanction or condone, nor shall any member of the Labor Council take part in any strike, sit-down, stay-in, slow-down, work stoppage, curtailment of work, concerted use of paid leave time, restriction of work, or interference with the operations of the Police Division or City of any kind for any reason, including a labor dispute between the City and any other labor organization.

The Labor Council agrees that it (and its officers) will take prompt affirmative action to prevent or stop unauthorized strikes, sit-downs, slow-downs, work stoppages, curtailment of work, concerted use of paid leave time, restrictions of work or interference with the operation of the Police Division or City by notifying the Employees and the public in writing that it disavows these acts. The Labor Council further agrees that the Chief of Police and the City have the right to discipline (including discharge) any or all employees who violate this Article, except that the Grievance Procedure shall be available to such employees only to contend that they had not participated or engaged in such prohibited conduct.

**Section 7.2. No Lockout.** During the life of this Agreement, the Employer shall not cause, permit, or engage in any lockout of the bargaining unit employees.

## **ARTICLE 8**

### **LABOR-MANAGEMENT COMMITTEE**

**Section 8.1. Committee.** In the interest of sound Labor/Management relations, the City and the Labor Council shall establish a Labor-Management Committee, which shall normally consist of up to three (3) members from the bargaining unit and up to three (3) members appointed by the City. Each member shall serve at the pleasure of the appointing party, and may be replaced from time to time. The Committee shall establish its own rules of procedure and shall meet from time to time to discuss and investigate issues of mutual concern. Additionally, one (1) non-employee representative of the Labor Council and/or the City shall be permitted to attend such meetings with prior notification to the other party.

**Section 8.2. Agenda.** The party requesting the meeting shall furnish an agenda with the request for the meeting. The Labor Council will furnish the names of the employees who will be attending.

**Section 8.3. Meetings /Attendance.** The time, date and location of meetings shall be mutually agreed upon by the City and the Labor Council. Employee representatives attending Labor/Management meetings shall not suffer a loss in pay for hours spent in such meetings, if

held during the employee's regular scheduled hours of work. Meetings may be rescheduled to avoid shift coverage on an overtime basis.

## **ARTICLE 9**

### **GRIEVANCE PROCEDURE**

#### **Section 9.1. Grievance Defined.**

- A. A grievance is defined as being any dispute or controversy between an employee or the Labor Council and the City involving:
  - 1. The interpretation, application, or claimed violation of any of the provisions of this Agreement.
  - 2. The discipline of any Bargaining Unit Member; or
  - 3. The reasonableness of application of any work rule established and enforced by the City.
- B. A group grievance is a grievance as defined in Paragraph A above, which uniformly affects a group of employees. The group will be comprised of only those bargaining unit members who sign the grievance when it is first presented in writing.
- C. Grievances involving the equivalent of verbal and written reprimands may be grieved up to the City Manager, but are not subject to the arbitration procedure.
- D. Grievances involving lost time, lost pay or demotion shall be submitted directly to Step Three.

**Section 9.2. Jurisdiction.** Nothing in this section is intended to deny a Bargaining Unit Member or the Labor Council any rights available at law to achieve redress of their legal rights. However, suspensions, reductions in rank, and discharges are subject to this Grievance and Arbitration Procedure and may not be the subject of a civil service appeal. Once the bargaining unit member or the Labor Council elects a remedy through some other official body (and that body takes jurisdiction), they are thereafter denied the remedy of the Grievance Procedure provided herein. However, to the extent a grievable grievance matter is or can be made the subject of a related SERB unfair labor practice charge, the parties agree that deferral to arbitration will in all cases be the preferred remedy in that the resolution of the matter through arbitration will serve as the sole exclusive remedy.

**Section 9.3. Procedure.** All employees will make an earnest and honest effort to settle differences and disputes with their immediate supervisor without filing a grievance. In the event that an agreement cannot be reached, then the following steps shall be taken with respect to any grievance. Grievances will be settled at the earliest possible step of the procedure. Any grievance not initiated or taken to the next step within the time limits specified herein will be considered to be resolved. Any answer to a grievance that has not been timely filed shall permit the Labor Council to appeal the grievance to the next higher step in the grievance process. Time limits for invoking the next higher step in the grievance procedure shall commence on the date the grievance answer is due. The Bargaining Unit Member must proceed through all steps of the grievance procedure in a proper order and within the prescribed time limits, except as otherwise

provided in this procedure. A grievant may have a Labor Council representative, or may waive the right to have one present at any step of the procedure.

Step One: An employee having an individual grievance will first attempt to resolve it informally with the supervisor whose actions gave rise to the incident. Such attempt at informal resolution shall be made by the employee with or without Labor Council representation, within seven (7) days following the events or circumstances giving rise to the grievance having occurred, or within seven (7) days of when the events or circumstances should have become known to the employee. At this step, there is no requirement that the grievance be submitted in writing. If a supervisor grants a grievance at verbal levels, written acknowledgment of granting such grievance must be furnished. If the employee is not satisfied with the oral response from the supervisor, which shall be given within three (3) days of the submission of the grievance at this step. The grievance may be referred to Step Two of the grievance procedure within five (5) days after receipt of the decision rendered in Step One.

Step Two: The grievance shall be referred in writing to the Chief of Police, or the Chief's designee who will hold a grievance hearing and reply in writing within seven (7) days after the hearing. If the Bargaining Unit Member is not satisfied with the written answer of the Chief of Police, the grievance may be referred to Step Three of the grievance procedure within five (5) days after receipt of the decision rendered in Step Two.

Step Three: If the grievance is not resolved in Step Two, it may then be appealed by the employee to the City Manager. Within seven (7) days, a mutually agreeable date shall be scheduled for said hearing. Each party may have a representative and any necessary witness present for the hearing. The City Manager (or designated representative) will answer the grievance within seven (7) days after the hearing has concluded. If the City fails to reply within the above time limit, the grievance may be referred to the next step by the Labor Council within seven (7) days.

Step Four: If the grievance is not satisfactorily resolved at Step Three, the grievance may be appealed by the Labor Council to arbitration pursuant to the terms of this Step Four.

A. Notice of the appeal to arbitration must be served on the City Manager in writing within twenty-one (21) calendar days after the written answer was given at Step Three. Either party, within ten (10) calendar days thereafter, may request a panel of nine (9) arbitrators from the Federal Mediation and Conciliation Service (FMCS), or other similar service. The parties shall alternately strike the names of arbitrators until only one (1) name remains. Each party has the right to reject one submitted panel and request another. The parties may, by mutual agreement, select an arbitrator without requesting a panel from the FMCS or other similar service. A date for arbitration shall be set in accordance with the wishes of the parties and the availability of the arbitrator.

B. The Arbitrator shall have no authority to add to, subtract from, modify or amend any of the terms of this Agreement or addendum to this Agreement. The Arbitrator shall have no authority to rule on anything that

happened before the effective date of this Agreement, or after the expiration of this Agreement. The Arbitrator shall promptly hear the matter and shall issue a decision within sixty (60) calendar days from the close of the hearing or the submission of post-hearing briefs; whichever is later, unless the parties grant additional time.

- C. The decision of the Arbitrator shall be final and binding on the City, the Labor Council, and all persons, subject to appeal as provided by law.
- D. The City and the Labor Council shall each bear its own expenses in any arbitration. The expenses of the arbitrator shall be shared equally by the parties.

**Section 9.4. Extensions of Time.** Upon the mutual agreement of the parties expressed in writing, the time limits set forth in this Article may be extended or the steps herein waived. All time periods cited in this article shall be interpreted to exclude Saturdays, Sundays, and legal holidays. Except as otherwise expressly provided "days" as listed in this procedure shall be working days for the moving person at each step.

**Section 9.5. Content of Grievances.** All written grievances must contain the following information on a Labor Council Grievance Form to be considered.

- A. Aggrieved employee's name and signature.
- B. Date grievance was first discussed and name of the supervisor with whom the grievance was discussed.
- C. Date grievance was filed in writing.
- D. Date and time grievance occurred.
- E. Location where the grievance occurred.
- F. A brief description of the incident, giving rise to the grievance.
- G. The specific sections of this Agreement which are alleged to have been violated, misinterpreted or misapplied.
- H. Desired remedy to resolve the grievance.

## **ARTICLE 10**

### **INVESTIGATIONS, INTERVIEWS AND DISCIPLINE**

**Section 10.1. Purpose.** The purpose of this procedure is to outline the process to be followed in the handling of an investigation dealing with complaints or misconduct by employees of the Police Division.

**Section 10.2. Police Investigations Procedures.** The City will use the existing chain of command structure to clarify complaints or allegations regarding members of the Police Division. In general, unless a special Grand Jury has been convened, the Police Division will be

used to investigate complaints or allegations against employees unless the Chief of Police defers to other qualified law enforcement agencies. Any criminal investigation will first be prefaced by a review of the complaint or allegation by the Chief of Police.

**Section 10.3. Internal Investigations.**

- A. Employees shall be notified in writing at the beginning of a formal internal investigation unless such notification would jeopardize such investigation.
- B. Employees will be paid for the time during which they are being interviewed. The interviews will be held at the Police Division, or at a location designated by the Chief of Police. An employee will be permitted to have a Labor Council representative and/or legal counsel present during an interview, should the employee feel such interview could lead to discipline.
- C. The employee shall be informed of the nature of the investigation prior to questioning and shall be informed to the extent known at that time, whether the investigation is focused on the member for potential disciplinary charges.
- D. The Chief of Police shall be updated in writing every forty-five (45) days an investigation is still open. The Chief of Police shall report the status of such investigations to the Labor Council within three (3) days.
- E. When the City orders an employee to provide information in an investigation, such information may not be used in any criminal proceedings against the employee. Such information may be used by the City in taking action and in defending such action with respect to discharge or discipline of the employee. Before an employee may be charged for refusal to answer questions or participate in an investigation, the employee shall be advised that refusal to answer such questions or participate in such investigation may be the basis of such a charge, in itself.
- F. An employee may be required, at City expense, to undergo alcohol and/or substance abuse testing in accordance with Article 14 of this Agreement, and/or a fitness for duty evaluation, which may include both physical and mental fitness.
- G. The accused employee being interviewed shall not be subject to offensive language or threatened with transfer, dismissal or disciplinary action. No promise or reward shall be made as an inducement to answer any questions.
- H. An employee may be given a polygraph examination or a voice stress examination if the Chief of Police has reason to believe the employee is a witness to an incident or occurrence being investigated; at the employee's written request directly to the Chief of Police; or if the employee is a focus of an investigation specifically related to the performance of the employee's official duties. An employee shall not be disciplined based solely on the results of such examination.
- I. An employee, who has been under investigation, will be informed of the outcome of the case within seven (7) days following the conclusion of the investigation, culminating with the concurrence of the Chief of Police.

#### **Section 10.4. Discipline.**

- A. No employee shall be disciplined, reduced in pay or position, suspended, or discharged, without just cause. The City agrees to begin the disciplinary process within ten (10) calendar days of receipt of knowledge of any act requiring discipline or within ten (10) calendar days of the conclusion of an investigation that results in discipline. The time limits for commencing discipline shall be extended in cases of pre-approved vacation and leave days. Documented warnings and reprimands that do not involve a reduction in pay or position, suspension, or discharge are not appealable to binding arbitration.
- B. The principles of progressive disciplinary action normally shall be followed with respect to minor offenses. It shall be corrective in nature, and applied in a uniform manner. Normal progressive discipline shall consist of, but not be limited to, a documented verbal warning, written warning, written reprimand, short-term unpaid suspension [one (1) to ten (10) days], a long-term unpaid suspension, (more than ten (10) days), reduction in rank and discharge. A letter of counseling will be considered pre-disciplinary in nature, and will not be subject to the grievance procedure.
- C. The City may take disciplinary action deemed necessary by the circumstances on a case-by-case basis.
- D. The City agrees not to suspend without pay, demote or discharge an employee without first conducting a hearing. The hearing will be held among the City, the employee, and a Labor Council representative if the employee so desires. A copy of the charges will be sent to the employee not less than three (3) working days prior to the date of the hearing.
- E. In cases where a suspension of ten (10) days or less has been imposed on a bargaining unit member, the City may offer the member the option to forfeit accrued compensatory time or vacation leave. If such an offer is made and accepted, the forfeiture shall be one (1) hour of accrued compensatory time or vacation leave, for each hour of proposed suspension. The forfeiture of leave shall constitute disciplinary action of record the same as though the suspension had been served and shall be placed in the employee's personnel file. The forfeiture of leave shall constitute the final resolution of the divisional charges, and once accepted by the bargaining unit member, forfeiture of accrued leave is not subject to further appeal through the grievance procedure or otherwise.
- F. No public disclosure shall be initiated by the City of any disciplinary action taken or proposed against a Bargaining Unit Employee unless and until criminal charges have also been filed. Nothing in this section shall preempt and/or violate State or Federal law.
- G. The Labor Council recognizes that the Employer may take disciplinary action for actions occurring while the employee is working off-duty details, while wearing the uniform of the Employer, or while off duty representing themselves as an employee of the Employer.

#### **Section 10.5. Effect of Disciplinary Action.**

- 1) Oral Reprimands. Records of oral reprimands shall cease to have force and effect or be considered in future discipline matters nine (9) months after their effective date, providing there are no intervening disciplinary actions taken during that time period.

- 2) Written Reprimand. Records of written reprimands shall cease to have force and effect or be considered in future disciplinary matters fifteen (15) months after their effective date, providing there are no intervening disciplinary actions taken during that time period.
- 3) Suspensions/ Other Discipline. Records of suspension or any other discipline shall cease to have force and effect or be considered in future discipline matters thirty-six (36) months after their effective date, providing there are no intervening disciplinary actions taken during that time period.

## **ARTICLE 11**

### **PERSONNEL RECORDS**

**Section 11.1. Access to Personnel Records.** Upon written request to the Chief of Police, an employee shall have access to the employee's records during normal office hours of the records custodian. Such access to personnel records shall be within a reasonable time of said request. Such request shall not interfere with the employee's regularly scheduled working hours. Review of the records shall be made in the presence of the Chief of Police or the designated representative.

**Section 11.2. Copies of Personnel Records.** An employee may copy documents in that employee's personnel records. The City may, at its discretion, charge reasonable copying cost to the employee for requested copies furnished to the employee.

**Section 11.3. Clarification/ Explanation of Material in Personnel Records.** An employee shall be permitted to insert written clarifications or explanatory memorandums of material found in the employee's personnel file, within five (5) days of the employee's knowledge of such material in the file.

**Section 11.4. Requests for Release of Personnel Records.** To the extent allowed by State or Federal Law and by State or Federal Court Decisions, personnel records shall be considered as public records. Whenever a request for disclosure of a personnel record is made by a member of the public, notice of such request and the identity of the requestor, will be given to the affected employee(s). The employee may request a meeting with the keeper of the records to discuss any appropriate reason some records should not be released. In the event that the employee believes that some of the records should not be released, it shall be the responsibility of the employee to notify the Chief of Police or the City Manager of the concern. No personal family information shall be released to anyone except as may be required by law or ordered by a court.

## **ARTICLE 12**

### **SENIORITY**

**Section 12.1. Definition.**

- A. **City Seniority.** City seniority shall mean an employee's length of continuous service with the City, based on the employee's most recent date of hire with the City. City seniority shall be the basis for such benefits as accumulation of sick leave, vacation accrual, and/or other cumulative monetary fringe benefits based on length of service.

- B. **Bargaining Unit Seniority.** Bargaining Unit seniority shall mean an employee's length of continuous service in the Bargaining Unit classification based on the original date of appointment in the division or transfer into the division.
- C. **Rank Seniority.** Rank seniority shall mean the length of continuous service in a rank commencing from the date of the employee's service in each rank and shall include the period of time occupying an equal or higher rank.

Seniority shall not be broken by approved leaves of absence or suspensions. Employees who are employed on the same date shall be placed on a seniority roster in alphabetical order of surnames.

**Section 12.2. Seniority List.** The Employer will maintain an up-to-date seniority list. A copy of the seniority list will be posted on the appropriate bulletin board each year or when updated whichever is less. The names of all employees shall be listed on the seniority list in order of their last hiring date, and the date of entry into the division, starting with the senior employee at the top of the list. The City shall furnish a copy of the seniority list to the Labor Council when it is published.

**Section 12.3. Termination of Seniority.** The following situations constitute breaks in continuous service for which seniority is lost:

- A. Discharge;
- B. Resignation;
- C. Retirement;
- D. Layoff for more than twenty-four (24) months or the length of the employee's seniority, whichever is less;
- E. Failure to return to work at the expiration of a leave of absence;
- F. Failure to return to work when recalled from layoff.
- G. Absent without leave for three (3) consecutive working days unless later excused by the Chief of Police.
- H. New full-time employment elsewhere without written permission.

## **ARTICLE 13**

### **PROBATIONARY PERIOD**

**Section 13.1. Probationary Period** Newly promoted bargaining unit employees are required to successfully complete a probationary period as follows:

- A. The employee shall be on job probation in the promoted rank for a period of six (6) months. The purpose of the job probation is to give the City an opportunity to observe the employee at work in such classification and to form an opinion as to whether the employee has the ability, knowledge and skills required to satisfactorily perform the job duties. During the job probation, the employee may be demoted at any time the

employee demonstrates the inability to satisfactorily perform the requirements of the job, or at the employee's request. If so demoted, the employee shall be returned to the last previous rank the employee permanently occupied. Such demotion is specifically excluded from the grievance procedure.

- B. If an employee is not in active pay status during any period of time during the probationary period, then the time of such leave or inactive status is not counted as part of the probationary period. For the purpose of extending the probationary period, any leave of less than six (6) workdays will not be considered.

## **ARTICLE 14**

### **SUBSTANCE TESTING**

**Section 14.1. Purpose of Policy.** The purpose of this policy is to assure employees are fit for duty and to protect our employees and the public from the risks posed by the use of drugs and alcohol.

The presence of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with the objective to maintain a drug and alcohol-free workplace. To further our commitment of maintaining a drug and alcohol-free workplace in order to provide a safe work environment for employees and safe service delivery to the public, it is our policy to:

- A. Ensure that employees are not impaired in their ability to perform their work in a safe, productive manner,
- B. Conduct pre-employment, reasonable suspicion, and post-accident drug and alcohol testing, and
- C. Encourage employees to seek professional assistance any time alcohol or drug use adversely affect their ability to perform their work assignments.

**Section 14.2. Employees Covered.** This policy applies to all employees covered by this agreement.

**Section 14.3. Prohibited Conduct.**

- A. "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl (rubbing) alcohol. Employees must not consume alcohol:
  - 1. On the job, during hours of work, during city meal periods (paid or unpaid), or during city rest periods, or
  - 2. Up to four (4) hours following an accident or until the employee undergoes a post-accident test, whichever occurs first.
- B. Alcoholic beverages may be served at City-organized and hosted functions only with the express written consent of the City Manager (or designee). Employees working at the function are not to consume alcoholic beverages while on duty. Employees in approved

social attendance at functions where alcohol is served may consume alcoholic beverages so long as this is done in proper moderation and with decorum.

- C. “Controlled substance” means those substances identified as such in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812) and as further defined by 21 CFR 1300.11 through 1300.15. Employees must not consume any controlled substance without a prescription from a licensed doctor of medicine or osteopathy. This includes: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine.
- D. Employees must not refuse to take a required drug or alcohol test. Refusal to take a test will be considered a positive test for purposes of this policy.
- E. Employees must not be under the influence of or in possession of alcohol or drugs while on duty (except authorized, duty-related possession) and must not carry/store drugs or alcohol in any vehicle in which they are a passenger while on duty.
- F. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the City of Huber Heights workplace. An employee convicted of violating a criminal drug statute in the workplace must notify the Human Resources Director no later than five (5) days after such conviction. The Human Resources Director will notify the U.S. Division of Commerce of the criminal violation within ten (10) days.

**Section 14.4. Legal Drugs.** The appropriate use of legally prescribed medications and non-prescription medications is not prohibited. Employees are required to notify their supervisor prior to the use of any medication which may adversely affect their ability to perform their job. In such case, the employee may be assigned to perform work that can be safely performed while using such medication or placed on paid sick or other paid or unpaid leave. If reasonable suspicion exists that an employee is under the influence of an illegal substance or alcohol, a reasonable suspicion test will be conducted. This information should be handled in a confidential manner, the same as any other medical information.

**Section 14.5. Drug/Alcohol Testing.** Drug/alcohol testing shall be conducted solely for administrative purposes and the results obtained shall not be used in criminal proceedings. Under no circumstances may the results of drug/alcohol screening or testing be released to a third party for use in a criminal prosecution against the affected employee. The City conducts the following types of drug/alcohol testing to determine if employees are in compliance with this policy and associated rules of conduct: pre-employment, reasonable suspicion, and post-accident. In addition, employees are tested prior to returning to duty after a positive drug or alcohol test and subject to follow-up testing conducted during the course of a rehabilitation program recommended by a substance abuse professional. A Medical Review Officer (MRO) reviews test results and determines which tests are positive and which are negative.

The City shall test for the following drugs: marijuana, amphetamines, opiates, phencyclidine (PCP), cocaine, barbiturates, benzodiazepines, methadone, methaqualone, and propoxyphene. An initial drug screen is conducted on each specimen. For those specimens that are not negative, a confirmatory gas chromatography/mass spectrometry (GC/MS) test is performed. The test is considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40.

An alcohol concentration of .03 percent or greater is considered a positive alcohol test, and in violation of this policy.

If a drug or alcohol test produces a positive result, the City may take such actions as authorized in Section 14.6 herein. Sick leave and/or other paid leave may be used while participating in a rehabilitation program. Otherwise, the employee will be placed on leave without pay until return to work following a negative alcohol/ drug test and authorization by the SAP.

- A. **Pre-Employment Testing.** The City of Huber Heights performs drug and alcohol testing on potential employees after a conditional offer of employment.
- B. **Reasonable Suspicion Testing.** Reasonable suspicion that an employee used or is using a controlled substance or alcohol in an unlawful or abusive manner may be based upon, but not limited to:
  - 1. Observable phenomena, such as direct observation of drug or alcohol use or possession and/or the physical symptoms of being under the influence of a drug or alcohol;
  - 2. A pattern of abnormal conduct or erratic behavior;
  - 3. Conviction for a drug or alcohol-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug or alcohol possession, use, or trafficking. The employee is responsible for notifying the City, within five (5) days, of any drug-related conviction;
  - 4. Information provided by reliable and/or credible sources or independently corroborated regarding an employee's substance abuse;
  - 5. Evidence that an employee had tampered with a previous drug test, and
  - 6. Facts or circumstances developed in the course of an authorized investigation of an accident or unsafe working practice.

The City representative must make a written record of the observations leading to a drug or alcohol test within twenty-four (24) hours of the observed behavior or before the test results are reported, whichever is earlier.

Any employee who demonstrates job performance impairments consistent with reasonable suspicion characteristics shall be relieved of duty with pay pending an investigation and testing of condition. In such case the employee shall be transported by City personnel to the sample collection location and to the employees' home. Employees with a negative drug test and/or alcohol test below .03 will be returned to duty if not otherwise in violation of this policy. Testing under this section may be for drugs or alcohol or both.

- C. **Post-Accident Testing.** Post-accident testing will be conducted on employees whenever an accident occurs, regardless of whether there is an injury. An "accident" is an unplanned, unexpected or unintended event that occurs on City property, during the conduct of City business, during work hours, or which involves a City motor vehicle or

motor vehicles used in conducting City business, or is within the scope of employment, and which results in any of the following:

1. A fatality of anyone involved in the accident; or
2. Bodily injury to the employee and/or another person that requires off-site medical attention away from the City's place of employment; or
3. Vehicular damage in apparent excess of \$2,000, or
4. Non-vehicular damage in apparent excess of \$2,000.

When such an accident results in one of the situations above, any employee who may have contributed to the accident will be tested for drugs or alcohol use or both.

- D. **Drug/Alcohol Testing After an Accident.** Urine specimen collection (for drugs) or breath/saliva collection (for alcohol) is to occur as quickly as possible after a need to test has been determined. At no time will a urine specimen be collected after sixteen (16) hours from the time of an employment-related accident. Breath or saliva alcohol testing will be performed as quickly as possible, but no later than four (4) hours after the accident, or it will be documented but not performed. If the employee responsible for an employment-related accident is injured, it is a condition of employment that the employee grant the City the right to request that attending medical personnel obtain appropriate specimens (breath or urine) for the purpose of conducting alcohol and/or drug testing. Further, all employees grant the City access to any and all other medical information that may be relevant in conducting a complete and thorough investigation of the employment-related accident including a full medical report from the examining physician(s) or other health care providers. A signed consent to testing form is considered a condition of employment. Any employee involved in an accident must refrain from alcohol use for four (4) hours following the accident, or until the employee undergoes a post accident alcohol test. Any employee who leaves the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing is considered to have refused the test. The City reserves the right to determine who may have caused or contributed to an employment-related accident and may choose not to test after minor accidents if there is no violation of a safety or work rule, minor damage and/or injuries and no reasonable suspicion.
- E. **Return-To-Duty Testing.** Any employee who has tested positive on a drug and/or alcohol test, and who was afforded the opportunity to return to work, must test negative for drugs and/or alcohol and be evaluated and released to duty by the Substance Abuse Professional before returning to work.
- F. **Follow-Up Testing.** Any employee who has tested negative on a return-to-duty drug and/or alcohol test and been returned to duty shall be required to undergo frequent unannounced drug and alcohol testing during the period of time recommended by the Substance Abuse Professional. A maximum of four (4) follow-up tests shall be conducted within the twelve (12) months following the violation, which period may be extended up to one (1) additional year. Employees subject to follow-up testing will continue to perform their duties if not otherwise in violation of this policy.

- G. **Who Pays for Testing.** The City shall pay for all reasonable suspicion, post-accident, return-to-duty, and follow-up drug and alcohol tests for employees. Employees shall reimburse the City through payroll deduction for all employee-requested confirmatory tests.
- H. **Refusal to Submit to Testing.** A refusal to comply with a request for testing, submission of false information in connection with a test, or any attempt to falsify test results through tampering, contamination, adulteration, or substitution, shall be considered a refusal to submit to testing and will be treated the same as a positive test result. Refusal shall include an inability to provide a specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

**Section 14.6. Drug/Alcohol Treatment.** Employees who have completed probation and who test positive for the presence of illegal drugs or alcohol will be referred to a Substance Abuse Professional (SAP) for evaluation. An SAP is a licensed or certified physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of, and clinical experience in, the diagnosis and treatment of drug and alcohol-related disorders. The SAP will evaluate the employee to determine what assistance, if any, the employee needs to resolve problems associated with prohibited substance abuse or misuse of alcohol.

Under certain circumstances, including a positive drug and/or alcohol test, an employee may be required to undergo treatment for substance abuse. After the employee's return to duty after such evaluation and/or treatment, the employee must follow the rehabilitation program prescribed by the SAP, pass a return-to-duty drug and alcohol test(s), and be subject to unannounced follow-up tests for a period of at least one (1) year as determined by the SAP or as required by applicable law. Any employee who refuses treatment when required, or fails to comply with the regimen prescribed by the SAP for treatment, aftercare, or return-to-duty, shall be subject to disciplinary action, up to and including termination of employment.

**Section 14.7. Employee-Requested Confirmation Testing.** An employee who questions the results of a required drug test may request that an additional test be conducted at a different USDHHS-certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. The cost of the second test will be borne by the employee, unless the second test invalidates the first.

The method of collecting, storing, and testing the split sample will follow Division of Transportation guidelines. The employee's request for a split sample test must be made to the Medical Review Officer (MRO) within seventy-two (72) hours of notice of the initial test result. Requests after seventy-two (72) hours will be accepted only if the delay was due to documentable facts that were beyond the control of the employee.

**Section 14.8. Confidentiality.** Positive and confirmed laboratory reports or test results shall not appear in an employee's general personnel folder. Information of this nature will be secured in a separate confidential medical folder in the Division of Human Resources. The reports or test results may be disclosed to the City Manager and Chief of Police and shall be disclosed to the tested employee. The City may disclose information required to be maintained pertaining to an employee to the employee or to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising from the results of an alcohol and/or controlled substance test administered under this part, or from the employer's determination that

the employee engaged in prohibited conduct (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee).

## **ARTICLE 15**

### **LAYOFF AND RECALL**

**Section 15.1. Layoff Notification.** When the City determines that a long term layoff or job abolishment is necessary, they shall notify the affected employees thirty (30) calendar days in advance of the effective date of the layoff or job abolishment. Employees will be notified of the Employer's decision to implement any short-term layoff, lasting seventy-two (72) hours or less, as soon as possible.

**Section 15.2. Layoff.** The City shall determine in which classifications layoffs will occur and layoffs of bargaining unit members will be by classification. Within the police division, provisional employees shall be laid off first followed by part-time employees and then probationary employees. Bargaining unit members shall be laid off within each classification in order of divisional , beginning with the least senior and progressing to the most senior up to the number of bargaining unit members that are to be laid off. When an employee is removed from a classification within the Division as a result of a layoff, the employee may be allowed to bump the least senior employee in the next lowest-payment classification as provided by rank seniority, providing the employee can perform the available work.

**Section 15.3. Recall.** The City shall create a recall list for each classification with layoffs for a period of twenty-four (24) months or for the bargaining unit member's length of seniority, whichever is less. The City shall recall bargaining unit members according to seniority, beginning with the most senior employee in the classification and progressing to the least senior employee up to the number of employees to be recalled.

**Section 15.4. Recall Notification.** Notice of recall shall be sent to the bargaining unit member by certified mail. The City shall be deemed to have fulfilled its obligation by mailing the recall notice by certified mail, return receipt requested, to the last address provided by the bargaining unit member.

**Section 15.5. Time Limits.** The recalled bargaining unit member shall have fourteen (14) calendar days following the date of mailing of the recall notice to notify the City of the member's intention to return to work, and shall have twenty-one (21) calendar days following the mailing date of the recall notice in which to report for duty, unless a later date for returning to work is otherwise specified in the notice.

**Section 15.6. Recall Probationary Period.** Recalled bargaining unit members shall not serve a probationary period upon reinstatement, except that employees serving a probationary period at layoff shall be required to finish such probationary period.

## **ARTICLE 16**

### **RULES AND REGULATIONS**

**Section 16.1. Rules, Regulations, Policies and Procedures.** The City agrees that Rules, Regulations, Policies and Procedures of the Police Division shall be furnished to all members of the bargaining unit in written form.

The Chief of Police agrees under normal circumstances to notify the Labor Council of any new or amended rules and regulations or general orders prior to their general issuance and upon request to discuss the matter with the Labor Council prior to general issuance thereof.

The Rules, Regulations, Policies and Procedures shall be applied and interpreted consistently by the City, taking into consideration the facts and circumstances of each situation in which they are applied and interpreted.

The City shall retain the sole right to establish, change, amend, and enforce rules for employees to follow; and the right to warn, reprimand, transfer, suspend, demote or discharge, any and all employees who violate these rules. The Labor Council retains the right to grieve the reasonableness of the City's action. The City also may issue or establish reasonable regulations or general orders not in conflict with this Agreement.

## **ARTICLE 17**

### **PROMOTIONS**

**Section 17.1. Eligibility** When a vacancy occurs in the Deputy Chief classification, the vacancy shall be posted and employees in the classification of Lieutenant who are interested in filling the vacancy will be offered an interview for the position along with any other candidates who apply.

## **ARTICLE 18**

### **HOURS OF WORK AND OVERTIME**

**Section 18.1. Intent.** This Article is intended to define the hours of a workday, hours of a workweek, and to define the basis for the calculation of overtime.

**Section 18.2. Work Day, Work Week and Overtime.** Bargaining unit members working an eight (8) hour per day schedule shall be paid for all time worked in excess of the scheduled work day in any twenty-four (24) hour period computed on the basis of one and one-half (1-1/2) times their regular hourly rate of pay. The term "hours worked" for overtime purposes shall include all hours during which the Bargaining Unit Member is in paid status.

For purposes of compliance with the Fair Labor Standards Act, the City shall pay overtime for all hours actually worked over one hundred seventy-six (176) in any twenty-eight (28) day period in accordance with the Act. For purposes of compliance with the Article, the City shall comply with this Article. The calculation of overtime shall not be "compounded", therefore, to the extent that overtime is paid based on a daily basis, such payment shall be credited against any overtime due based upon a twenty eight (28) day period.

**Section 18.3. Compensatory Time.** In lieu of receiving overtime premium pay, an employee may elect to receive compensatory time off in lieu of the overtime payment. An employee shall

elect to be paid the overtime premium or receive compensatory time off at the time the overtime hours are actually worked. Compensatory time off will be scheduled with the approval of the Chief of Police (or designee). Compensatory time off shall be granted on the basis of the overtime rate applicable for each overtime hour actually worked. Compensatory time off will be granted in half hour (1/2) hour increments or more. Partial increments will be “rounded up” to the next complete half (1/2) hour. (For example, forty-five (45) minutes will be “rounded” to one (1) hour and twenty (20) minutes will be “rounded” to one half (1/2)-hour). Compensatory time off may be accumulated to a maximum of eighty (80) hours.

Upon separation from service for any reason, members shall be paid at their current rate of pay for accumulated hours of compensatory time. When a member dies while in paid status in the City service, any unused compensatory time to the member's credit shall be paid in a lump sum to the surviving spouse or the estate of the deceased.

Employees in the bargaining unit may cash-out or receive pay in lieu of time off for accumulated compensatory time. Employees must cash-out time in increments of eight (8) hours, and may only cash out compensatory time one time each calendar year during the first pay period in November of each year. Employees in the unit may cash out up to six (6) days – forty eight (48) hours.

**Section 18.4. Schedules.** A work schedule shall be posted at least two (2) weeks in advance of its effective date covering a minimum of thirty (30) calendar days indicating the normal workdays of every member of the bargaining unit.

Changes may be made in the posted shift schedule by the Chief of Police as may be required to meet the needs of the Police Division. The City agrees to schedule the changing of shifts in such a manner so that an officer will not be required to work two (2) consecutive eight (8) hour shifts.

**Section 18.5. Temporary Transfers.** The City shall have the right to temporarily transfer employees within the Bargaining Unit, irrespective of their seniority status, from one job classification to another to cover the employees who are absent from work due to illness, accident, vacations, or leaves of absence for the period of such absences. It is understood and agreed that any employee within the unit temporarily transferred in accordance with the provisions of this section shall not acquire any permanent title or right to the job to which the employee is temporarily transferred, but shall retain seniority in the permanent classification from which the employee was transferred. A temporarily transferred employee shall receive the higher classification rate of pay for each full day the employee performs the function of the higher classification.

## **ARTICLE 19** **COMPENSATION**

**Section 19.1. Wages.** Bargaining Unit Members shall be paid per hour according to the following:

- a. **Police Lieutenant.** The pay of members in the classification of Police Lieutenant shall be fourteen percent (14%) higher than the top pay step for the classification of Police Sergeant.

### **Wage Scale**

- a. Effective at the beginning of the first pay period after January 1, 2023 the wage for Lieutenant is listed below:

	<u>Hourly</u>	<u>Bi- weekly</u>	<u>Annually</u>
Lieutenant	\$53.12	\$4,249.60	\$110,489.60

- b. Effective at the beginning of the first pay period after July 1, 2023:

	<u>Hourly</u>	<u>Bi- weekly</u>	<u>Annually</u>
Lieutenant	\$54.44	\$4,355.20	\$113,235.20

- c. Effective at the beginning of the first pay period after January 1, 2024 the wage for Lieutenant is listed below:

	<u>Hourly</u>	<u>Bi- weekly</u>	<u>Annually</u>
Lieutenant	\$55.93	\$4,474.40	\$116,334.40

- d. Effective at the beginning of the first pay period after January 1, 2025 the wage for Lieutenant is listed below:

	<u>Hourly</u>	<u>Bi- weekly</u>	<u>Annually</u>
Lieutenant	\$57.47	\$4,597.60	\$119,537.60

- d. Bi-weekly and annual salaries shown above are for informational purposes only. All bargaining unit employees are hourly employees.

**Section 19.2. Call-In Pay.** The City agrees to pay employees for a minimum of four (4) hours at one and one-half (1-1/2) times the employee's rate of pay if the employee is called-out for duty, as determined by a supervisor, at a time other than that for which the employee has been scheduled, thus necessitating additional travel to and from work. If the employee is notified that the call-in is cancelled before arriving at the location, the employee shall be paid for a minimum of two (2) hours at one and one-half (1-1/2) times the employee's rate of pay.

**Section 19.3. Court Time/Overtime.** In instances where an employee is required to work scheduled overtime, including court time, the City agrees to pay employees for a minimum of three and one-half (3 ½ ) hours at one and one-half (1-1/2) times the employee's hourly rate of pay. Court time on an employee's scheduled day off shall be a minimum of four (4) hours at one and one half (1-1/2) times the employee's hourly rate of pay. If the scheduled overtime, as outlined above, overlaps the officer's regularly scheduled duty time, the employee will only be eligible for overtime compensation for that time not on duty. If the scheduled overtime, as outlined above, begins one-half (1/2) hour or less after the officer's regular shift, the officer shall only be paid for the actual time worked. A Divisional vehicle will be provided for employee's attending out of town training sessions. If no vehicle is available, employees will be reimbursed in accordance with the City's travel policy.

**Section 19.4. Supervisor –In- Charge.** A bargaining unit member who has been temporarily assigned to perform the duties and assume the responsibilities of a higher classification by the Chief of Police (or designee) shall receive the rate of pay of that classification for all such hours.

**Section 19.5. Pension Pick-up.** Effective throughout the life of this Agreement, the City shall pay one percentage (1%) point of the employee's state-mandated contribution to the Police and Fireman's Pension Fund. The remaining portion of the employee's contribution shall be paid by the employee. However, the City shall "shelter" members pension contribution for personal income tax purposes.

**Section 19.6. Pyramiding.** There shall be no pyramiding of premium pay for the same hours worked.

## **ARTICLE 20** **HOLIDAYS AND PERSONAL LEAVE DAYS**

**Section 20.1. Holidays.** The employees shall receive holiday pay as defined below for the following holidays, which shall be observed on the days indicated:

New Year's Day	January 1 <sup>st</sup>
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Juneteenth	June 19
Independence Day	July 4 <sup>th</sup>
Labor Day	First Monday in September
Veteran's Day	November 11 <sup>th</sup>
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving Day	Fourth Friday in November
Christmas Eve	December 24 <sup>th</sup>
Christmas Day	December 25 <sup>th</sup>

Any Special holiday, as designated by the City, when the City offices are closed for the entire day, will also be observed as a holiday under this Article.

**Section 20.2. Holiday Payment.**

- A. For each holiday listed above, employees shall receive their regular daily rate of pay as holiday pay, regardless of whether they work the holiday or not, provided they were employed during the holiday. Employees who work on a holiday as a scheduled work day shall be paid their regular daily rate of pay for working such holiday. In addition, employees who work on a holiday shall be paid four (4) additional hours of holiday pay at their regular hourly rate. This results in sixteen (16) hours of pay for the employee not scheduled to work, and twenty (20) hours of pay for the employee scheduled to work. For clarification, a continuous shift beginning or ending on a holiday shall qualify for holiday pay as defined in this section.
- B. In regards to shifts that straddle midnight, only one working day will be counted as a holiday for which this benefit is intended.

**Section 20.3. Personal Leave.** All bargaining unit employees shall receive twenty-eight (28) hours of personal leave annually. An employee may elect to use the personal days as leave days from work in half hour (1/2) increments or more. Partial increments will be “rounded up” to the next complete half hour. (For example, forty-five minutes will be “rounded” to one hour and twenty minutes will be “rounded” to one-half hour.)

## **ARTICLE 21** **VACATION**

**Section 21.1. Vacation Accrual.** Bargaining unit employees shall earn vacation leave, on a pay period by pay period basis, according to their number of years of continuous service with the City as a member of the Police Division. Accrual rates will be based on the table below:

<b><u>YEARS OF SERVICE</u></b>	<b><u>ACCRUAL PER PAY PERIOD</u></b>	<b><u>APPROXIMATE NUMBER OF VACATION DAYS ANNUALLY</u></b>
Less than 5 years of service	3.0769 hours	10-vacation days
5 years of service but less than 10	4.9231 hours	16-vacation days
10 years of service but less than 15	6.1538 hours	20-vacation days
15 years of service but less than 20	7.3846 hours	24-vacation days
20 years of service but less than 25	8.6154 hours	28-vacation days
25 or more years of service	9.8461 hours	32-vacation days

Vacation time shall be accrued on the basis of complete pay periods of employment, and shall begin on the date of hire for each employee. No employee will be permitted to use vacation time that has not been accrued. It is the employee's responsibility to complete a standard leave request and submit the request to the Chief of Police.

**Section 21.2. Vacation Carry Over.** Year-to year carry-over allowed is equal to the total hours accrued in a calendar year. Vacation amounts in excess of the above to an employee's credit as of December 31 shall be automatically carried over to the following calendar year, but such excess vacation is to be used by March 31 of the following year. Any excess not used by March 31 shall be forfeited, unless the employee is eligible to convert vacation to pay as described in Section 21.5. In such cases, all excess vacation as of March 31 shall be converted to cash up to the conversion limits described in Section 21.5. Any amounts as of March 31 that are over the conversion limits shall be forfeited.

**Section 21.3. Vacation Scheduling.** Vacations leave shall be granted by the Chief of Police (or designee) at such times as they least interfere with the efficient operation of the Police Division. Vacation requests must be made by December 15, preceding the period requested. Officers who make the request by December 15 shall be granted vacation preference in accordance with rank seniority. Vacation leave shall be used in minimum increments of one-half (1/2) hour or more. Partial increments will be “rounded up” to the next complete half (1/2) hour. (For example, forty-five (45) minutes will be “rounded” to one (1) hour and twenty (20) minutes will be “rounded” to one-half (1/2) hour.)

**Section 21.4. Prior Public Service Credit.** Employees shall be credited with prior service credit for time worked fulltime with other Ohio political subdivisions for the purpose of determining vacation entitlement.

**Section 21.5. Annual Vacation Cash-Out.** Employees in the bargaining unit may receive pay in lieu of time off for accumulated vacation leave. Employees with five (5) or more years of service may cash-out up to six (6) vacation days in a calendar year. Employees with ten (10) or more years of service may cash-out up to twelve (12) vacation days in a calendar year.

**Section 21.6. Substitution of Other Discretionary Paid Leave.** An employee whose use of vacation leave, compensatory time, or personal leave has been approved, but who has an insufficient balance of such leave available for leave taken, shall be paid for the time used from accrued vacation, compensatory time, or personal leave, in that order, up to the accrued leave available.

**Section 21.7. Terminal (Separation) Pay.** Accrued but unused vacation hours shall be paid as terminal (separation) pay if an employee leaves employment in good status and has completed six (6) months of continuous service with the City; provided the employee gives not less than fourteen (14) calendar days' advance notice of such action to the Chief of Police. An employee who is laid off shall be paid for accrued vacation. The employee shall be remunerated for all accrued vacation at their last rate of pay with the City at the time the employee leaves employment. In the event of the death of an employee, such compensation shall be paid to the surviving spouse or the employee's estate.

## **ARTICLE 22- MEDICAL INSURANCE COVERAGE**

**Section 22.1.** The Employer shall provide to all ~~bargaining unit~~ employees who elect coverage, health care through a qualified High Deductible Health Plan ("HDHP") in conjunction with a Health Savings Account ("HSA") or a Health Reimbursement Account ("HRA"). Dental and vision insurance coverage shall be the same coverage provided to other groups of Huber Heights City Employees.

**Section 22.2.** Through December 31, 2022, the Employer will pay 100% of the premium cost and will contribute 80% of the deductible for the HDHP for those employees who elect coverage and are enrolled in a HRA. The participating employees shall be responsible for the remaining 0% of the premium cost and 20% of the deductible. Through December 31, 2022, the Employer will contribute 60% of the deductible for the HDHP for those bargaining unit employees who elect coverage and are enrolled in a HSA. The participating Union member shall be responsible for the remaining 40% of the deductible.

Effective January 1, 2020, the Employer will pay 100% of the premium cost and will contribute 80% of the deductible for in-network providers within the HDHP for those employees who elect coverage and are enrolled in a HRA. The participating employees shall be responsible for the remaining 0% of the premium cost and 20% of the deductible for in-network providers. Effective January 1, 2020, the Employer will contribute 60% of the deductible for in-network providers within the HDHP for those bargaining unit employees who elect coverage and are enrolled in a HSA. The participating Union member shall be responsible for the remaining 40% of the deductible for in-network providers.

Effective January 1, 2020, participating employees shall be responsible for 100% of the deductible for costs incurred for services provided by out-of-network providers and the Employer shall not be required to contribute toward such deductibles.

Effective January 1, 2020, participating employees shall be responsible for all “Co-Pays” under the HDHP for in-network and out-of-network services.

*(For information purposes, the Co-Pays shall apply after the \$2,500 Single or \$5,000 Family Deductible is met for In-Network Services. Employees shall be obligated to pay the following Co-Pays up to a maximum of \$1,000 Single or \$1,850 Family for In-Network Services:*

- *Office Visit - \$30.00*
- *Specialist - \$60.00*
- *Urgent Care - \$100.00*
- *Emergency Room - \$250.00*
- *Prescription Drugs - \$10 - \$35 - \$60 depending upon Tier.*

*Employees shall be obligated to pay Co-Pays of 30% up to a maximum of \$5,000 Single or \$10,000 Family for Out-Of-Network Services.*

**Section 22.3.** The Employer shall tender payments of its share of the deductibles to the Health Savings Accounts (“HSA”) and the Health Reimbursement Accounts (“HRA”) of employees who chose to participate in the HDHP, then in effect, on or before the first banking day following January 1, April 1, July 1 and October 1 for each year of the Agreement.

**Section 22.4.** In the event that an employee or a member of the employees’ family who is enrolled in and covered by the HDHP suffers an illness or injury for which the cost of medical attention exceeds the Employee contribution and the annual Employer contribution paid to date, the Employer shall accelerate payments of the remaining deductible contributions for that calendar year to assist the Union member in paying health care related expenses.

The employee must submit to the Employer an Advance Request Form for acceleration and provide deductible documentation showing the costs of the illness or injury. Acceleration of the Employer’s payment of its portion of the deductible shall not be available for elective procedures, including surgery and/or outpatient treatments.

**Section 22.5.** The HSA accounts shall be set up with a bank selected by the Employee with Employer’s approval. The employees are solely responsible for any and all charges or fees assessed by the bank for the administration of and/or transactions involving each employee’s HSA. The Employer shall be responsible for any fees or costs associated with its decision to change insurance carriers.

**Section 22.6.** The Employer agrees to deduct from each participating employee’s biweekly paycheck the amount designated by that individual employee through an authorization form to be provided by the Employer. These amounts shall be paid into the participating employee’s HSA.

**Section 22.7.** The employee is solely responsible for the management of the employee's own HSA. The Employer makes no representations or promises regarding the operation of the HSA, the tax implications of the HSA or the maximum an employee may contribute to the HSA.

**Section 22.8.** Except for paragraphs 22.5 and 22.7, all matters relating to the rights and obligations of the Employer and employee as set forth herein shall be subject to the grievance procedures set forth in Article 9 of this Agreement. Matters regarding occurrences which follows the Employer's deposit of its portion of the deductible and deposit of the employee's authorized pay deductions, if any, are beyond the control of the Employer, and therefore are not amenable to the grievance procedure.

**Section 22.9.** The Employer and representatives of its employees, including the Labor Council, shall form a committee to meet and confer regarding health care coverage during the term of this Agreement. The committee will evaluate and agree upon recommended changes to the health care coverage of the employees. In the event that the committee is unable to reach an agreement on a recommendation for health care coverage, either the employer or the Labor Council may immediately file a request for arbitration pursuant to the American Arbitration Association's Expedited Labor Arbitrations rules to determine if the coverage under the HDHP selected by the City is substantially equivalent to the plan then in effect.

**Section 22.10.** Employees shall be responsible for five (5%) percent of the premiums for the plans providing vision and dental coverage.

**Section 22.11.** The insurance carriers and/or method of providing the benefits referred to in this Article shall be solely at the discretion of the Employer.

**Section 22.12.** The Employer shall continue to offer an Employee Assistance Program designed to assist employees with personal problems that often interfere with their work.

**Section 22.13.** In the event that an employee declines coverage under the HDHP then in effect, the Employer agrees that it will pay the non-participating employee two-thousand five hundred dollars (\$2500.00), in lieu of providing health care coverage. Payments of six hundred twenty five dollars (\$625.00) shall be made to the employee quarterly, on the dates set forth in Section 22.3. Employees will not receive compensation should they choose not to participate in the City's vision or dental plan.

In order to qualify for this benefit, the employee must present proof satisfactory to the Employer that the employee is covered under a health care plan other than the HDHP provided by the Employer.

**Section 22.14. Life Insurance.** The Employer shall provide for each employee term life insurance and double indemnity coverage in the amount of fifty thousand dollars (\$50,000.00). The costs of said term life insurance shall be at the expense of the City. The choice of insurance carriers shall be solely within the discretion of the City. A copy of the insurance policy shall be provided to the Labor Council by the City.

The City agrees to provide its employees the opportunity to purchase (at the employee's cost) voluntary group term life insurance for themselves and/or their dependents. The plan will attempt to provide flexibility that allows for various coverage options and choices for the

employee. The provider selection process will allow the City to “shop” for affordable group rates, minimum/maximum levels of life insurance, as well as guaranteed issue provisions.

**Section 22.15. Liability Insurance** The City shall maintain professional liability insurance for employees of the bargaining unit for the duration of this Agreement provided such insurance is reasonably available to the City. The costs of said liability insurance shall be at the expense of the City. The choice of insurance carriers shall be solely within the discretion of the City. A copy of the insurance policy shall be provided to the Labor Council by the City.

**Section 22.16 Health Reimbursement Accounts.** Employees who are participants of the HRA may use their HRA funds to purchase all qualified medical expenses, as permitted in section 213 (d) of the Internal Revenue Code and the HRA Plan Document. The maximum HRA benefit will be the maximum HRA benefit prorated on a quarterly basis based on the employee HRA eligibility date.

Reimbursements under the HRA can be made for the expenses of employee, spouse and dependent of the employee. HRA participants may access their entire HRA benefit anytime during the year. The unused HRA amounts at the end of the year will not be carried forward to the next calendar period. Upon separation of employment during the plan year, participation in the plan will cease and any unused amounts are forfeited. These amounts may never be used for anything but reimbursements for qualified medical expenses.

## **ARTICLE 23** **UNIFORMS**

**Section 23.1. Uniforms.** Employees will receive uniforms and equipment paid for by the City, and updated within the City’s discretion, as described in Appendix B attached hereto. The lists of items in Appendix B are initial issue items and amounts. All items damaged in the line of duty or worn out from normal wear shall be replaced as needed. These lists shall be reviewed as needed (at least annually) for the purpose of adding, deleting, or changing items and amounts. Should the City during the life of this Agreement, change its uniforms or accessories the City will supply each covered employee with the changed items. No employee is authorized to wear or use divisional clothing and equipment except in the official performance of their duty, except as otherwise approved by the Chief of Police.

**Section 23.2. Personal Items** If, in the course of performing work related activities for the Employer, an employee loses or damages personal items, (eg. Watches, cell phones, sunglasses, contact lenses, eyeglasses, hearing aids, and dentures) the items will be replaced by the Employer. The total replacement cost in one (1) calendar year per employee shall not exceed five hundred (\$500.00) . Damages to eyeglasses, contact lenses, hearing aide, and dentures is subject to reimbursement by Workers’ Compensation. In the event Workers Compensation does not cover full replacement cost, the employee is eligible for replacement cost reimbursement as outlined above. Pagers, and other such personal equipment owned and used by the employee are not subject to replacement or reimbursement.

**Section 23.3. Footwear and Miscellaneous Equipment Maintenance Allowance.** The City will, after initial issuance, provide an allowance of six hundred twenty five dollars (\$625.00) annually, with the second check in January, for the officer’s footwear, duty bag, flashlight, and flashlight batteries.

**23.4. Footwear and Miscellaneous Equipment Maintenance Allowance Pay During Absence.** No Bargaining Unit Member shall receive Educational Pay under this Article during periods of time when the member is on leave status for twelve (12) consecutive months. Such members shall have their educational payment suspended until they return to work, at which time they will receive the education pay on a pro-rata basis. If a member does not return to work for any reason, the member shall not receive any education pay accrued during the member's absence from work.

**Section 23.5. Purchase of Weapon.** Upon retirement from the Police Division (with ten (10) years or more of service), each Bargaining Unit Member shall have the right to purchase their service weapon and related magazines. The price of the weapon will be based on a depreciation schedule of twenty percent (20%) per service year, with a minimum value of one dollar (\$1.00). The Chief shall maintain a record of make, model and serial number of said weapon in the name of the retired officer.

## **ARTICLE 24** **SICK LEAVE**

**Section 24.1. Rate of Accrual.** All full-time employees shall be credited with five (5) hours of paid sick leave per pay period.

**Section 24.2. Permissible Uses.** Sick leave may be granted to an employee, upon approval by the Employer, for the following reasons:

- A. Illness, injury or pregnancy related condition of the employee.
- B. Exposure of an employee to a contagious disease which could be communicated to and jeopardize the health of other employees or the public.
- C. Examination of the employee, including medical, psychological, dental or optical examination, by an approved practitioner, which cannot be scheduled during non-work time.
- D. Illness, injury or pregnancy related condition of a member of the employee's immediate family where the employee's presence is reasonably necessary for the health and welfare of the employee or affected family member.
- E. Examination, including medical, psychological, dental or optical examination, of a member of the employee's immediate family by an appropriate practitioner where the employee's presence is reasonably necessary.

For the purpose of this Article, the definition of immediate family shall be: spouse, child, step-child, parents, step-parents, parent-in-law, siblings, significant other (as determined by the City Manager) or dependents residing full-time in the employee's household.

**Section 24.3. Notification.** For sick leave use, each bargaining unit member shall notify the Chief of Police (or designee) as early as possible, but no later than two (2) hours prior to the

employee's shift starting except day shift, which shall be one (1) hour before the beginning of the shift on the day of absence from work. Failure to promptly notify the City may result in denial of sick leave pay. All sick leave to be so classified shall be subject to approval by the Chief of Police. Employees shall follow proper procedures in filing sick leave forms upon return to work.

**Section 24.4. Doctor's Certificate.** The Chief of Police (or designee) may require a physician's certificate to be provided to the City's Human Resources Director to confirm the reasons for an absence due to illness or injury or for verification of the fact that the employee is able to return to work. Failure to present any required or requested physician's certificate, employee's written statement, or other required or requested medical verification, to the Employer (or designee) may result in loss of pay for the time absent, and/or disciplinary action.

**Section 24.5. Medical Appointments.** To the extent possible, employees should schedule dental, optical or medical appointments during off duty hours. However, when this is not possible and in the judgment of the Chief of Police an employee can be spared from work, the employee shall be given the time off and, at the employee's discretion, either from accumulated compensatory time off or sick leave credits charged therefore.

**Section 24.6. Other Considerations.** During the first day and any second consecutive day of absence, an employee utilizing sick leave shall be available for contact during the employee's regular shift hours unless otherwise authorized by the Chief of Police in writing. After a second consecutive day of sick leave, during continued absence utilizing sick leave, the employee must be at home so that the employee may be contacted during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday unless hospitalized, receiving out-patient medical treatment outside the employee's residence, purchasing required medication, or as authorized in writing by the Chief of Police.

**Section 24.7. Accrual Limits** Effective June 28, 2011, the City will calculate and "bank" any sick leave hours accrued by an employee in excess of one thousand two hundred eighty five (1285) hours. Those hours will become payable to the employee when that employee retires. That employee will then be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate in the pay period prior to the pay period containing the date of August 15, 2003, for every three (3) hours banked by the City at the commencement of the Agreement.

The City shall provide a document detailing the amount of hours banked, the rate of pay they will be reimbursed at, and the total they will be reimbursed, immediately after the hours have been deducted from the employee's sick leave bank. A copy of this documentation is to be provided to each affected employee, and a duplicate copy is to be placed in each affected employee's personnel file.

**Section 24.8. Sick Leave Compensation** If, at the end of any given year, an employee has a balance of more than one thousand two hundred and eighty five (1285) hours of accrued but unused sick leave, the hours in excess of one thousand two hundred eighty five (1285) will be converted into a cash payment. Each employee who has accumulated more than one thousand two hundred eighty five (1285) hours and has no more than four (4) occurrences of sick leave, will be paid a sum equal to one hour worked, at the employee's regular straight time rate, for every two (2) hours accumulated in excess of one thousand two hundred eighty five (1285) hours. Each employee who has accumulated more than one thousand two hundred eighty five (1285) hours, and has more than four (4) occurrences of sick leave, will be paid a sum equal to

one hour worked, at the employee's regular straight time rate, for every three (3) hours accumulated in excess of one thousand two hundred eighty five (1285) hours. Upon retirement, under the State of Ohio Police and Firefighter Pension Fund system, an employee's sick leave balance will be converted into cash payment. Each employee will be paid according to the following schedule:

- A. For accumulated sick leave hours one (1) through three hundred fifty seven (357), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every four (4) hours of accumulated sick leave.
- B. For accumulated sick leave hours three hundred fifty eight (358) through seven hundred fourteen (714), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every three (3) hours of accumulated sick leave.
- C. For accumulated sick leave hours seven hundred fifteen (715) through one thousand seventy one (1071), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every two (2) hours of accumulated sick leave.
- D. For accumulated sick leave hours in excess of one thousand seventy one (1071), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every one (1) hour of accumulated sick leave.

Upon an employee being granted a permanent and total disability from OP&F, that employee is eligible to receive a cash payment for unused sick leave hours according to the following schedule:

- A. For accumulated sick leave hours one (1) through three hundred fifty seven (357), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every one (1) hour of accumulated sick leave.
- B. For accumulated sick leave hours three hundred fifty eight (358) through seven hundred fourteen (714), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every three (3) hours of accumulated sick leave.
- C. For accumulated sick leave hours seven hundred fifteen (715) through one thousand seventy one (1071), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every two (2) hours of accumulated sick leave.
- D. For accumulated sick leave hours in excess of one thousand seventy one (1071), the employee will be paid a sum equal to one (1) hour worked, at the employee's regular straight time rate, for every one (1) hour of accumulated sick leave

**Section 24.9. Active Duty Death** Upon death of an employee, the spouse (if there is no spouse, then the deceased employee's estate) will be paid in one lump sum for all accumulated but unused sick leave. Such payment will be at the rate of one hundred percent (100%) at the employee's regular straight time hourly rate at the time of death. Any "bank" established under Section 24.7. shall also be paid out under this Section; per the formula contained in Section 24.7 above.

**Section 24.10. Sick Leave Abuse.** The City reserves the right to investigate all usage of sick leave, and may hold full payment of sick leave until said investigation is completed. Should the City determine that an employee has not used sick leave in accordance with the above rules and regulations, payment may be denied and discipline may be meted out in accordance with the severity of any abused sick leave benefits. After four (4) instances of sick leave during a calendar year, the use of sick leave requires approval of the Chief of Police on a case-by-case basis. Employees granted approval for sick leave in excess of this limit are not eligible for voluntary overtime assignments during the pay period during which the sick leave was granted.

**Section 24.11. Donated Sick Leave**

A. **Eligibility** - Any eligible employee may apply to the City Manager to receive donated sick leave, if the employee requesting such donated sick leave:

1. Has a non-work related serious illness or injury, as documented in writing by a medical doctor, which renders them unable to perform the essential functions of their position for a minimum of four (4) consecutive weeks; and
2. Does not have a sufficient amount of accrued and unused paid leave to cover the estimated period of absence;
3. Has not been offered non-work related Transitional Duty; and
4. Has no disciplinary actions regarding sick leave abuse on record for progressive discipline purposes.

B. **Procedure:**

1. An employee qualifying for sick leave donation hereunder shall make a written request for such leave by completing the necessary form and submitting same to the City Manager. Written documentation from a medical doctor of the employee's serious illness or injury must be attached to the request. The City Manager shall have the discretion to approve or deny such request. Copies shall be provided to the employee, Human Resources and the Chief of Police.
2. Upon approval of a request for sick leave donation, the City Manager shall complete the necessary form and forward copies of same to each city division.
3. An employee wishing to donate sick leave to a fellow employee eligible for donation shall complete the necessary form and forward same to their division head, who shall provide a copy to Human Resources.

C. **Approval** - Upon approval of an employee's request for donated sick leave, the City Manager shall:

1. Notify all city employees of the employee's need for donated sick leave, while respecting the employee's right of privacy;
2. Approve payment of any such donated sick leave to the requesting employee on a pay period by pay period basis up to the amount of donated leave, or the hours necessary

to provide the employee with their regular, straight-time pay for such pay period, whichever is greater.

D. **Donating Sick Leave** - An employee may donate accrued and unused sick leave to their credit to any other employee who has been approved to receive donated sick leave if the donating employee:

1. Retains a sick leave balance of at least four hundred – eighty (480) hours after deduction of the hours offered for donation; and
2. Voluntarily elects to donate sick leave to the employee approved for donation, understanding that any such leave donated and used shall not be returned.

E. **Terms and Conditions** – The following additional terms and conditions shall apply to the sick leave donation program:

1. All donation of sick leave shall be in eight (8) hour increments, with eight (8) hours being the minimum donation;
2. An employee receiving donated sick leave shall be paid at their regular, straight-time rate of pay, regardless of the rate of pay of the employee donating such leave;
3. Sick leave shall be deducted from donating employees proportionately from all donated hours and credited to the receiving employee's account on pay day up to the amount necessary for the employee to be paid their regular two (2) weeks' pay. No sick leave shall accumulate in the account of a receiving employee or be converted to cash or compensatory time. Any sick leave donated by an employee that is not used shall remain in the account of the donating employee.
4. An employee using donated sick leave shall be in active pay status and shall accrue sick and vacation leave, and be entitled to any benefits they would normally receive. All paid leave provided to or accrued by an employee while using donated sick leave shall be used in the following pay period before donated sick leave is used.
5. Employees receiving donated sick leave shall be eligible to receive such leave only until the employee's estimated date of return to duty, or until the first pay period during which the receiving employee fails to receive enough donated leave to receive their full two (2) weeks pay. Persons who have continued to receive full donations and whose physicians extend their estimated date of return will be eligible for notification for the need for further donation.
6. No employee receiving donated sick leave will be permitted to be off work on such leave more than twelve (12) consecutive calendar months. An employee may not apply for donated leave more than once in any twelve (12) month period.
7. Donated sick leave shall not count for purposes of the donating employee's sick leave attendance bonus.

8. The City Manager shall ensure that no employee is forced or coerced into donating sick leave for a fellow employee. Donation shall be strictly voluntary. No city employee shall directly solicit donations of sick leave from another employee other than by the posting of an approved form.

## **ARTICLE 25**

### **WAGE CONTINUATION**

**Section 25.1. Reporting.** Any bargaining unit member injured in the line of duty will file a written accident or injury report with the Chief of Police or the Chief's designee within twenty-four (24) hours of the incident or as soon as the bargaining unit member is physically able to do so. Failure, without good cause, of a bargaining unit member to comply with this section may be grounds for the City to deny wage continuation leave or supplemental benefits. Any employee claiming a service-connected illness or injury under this Article shall file an application with the Ohio Bureau of Worker's Compensation (BWC). In the event the claim is denied by Worker's Compensation, the employee shall be charged with sick leave and/or vacation for all time paid by the City for the wage continuation claim. The parties agree that the employee's pay status will be controlled by the BWC's original decision until all appeals are final.

**Section 25.2. Wage Continuation.** Any employee who becomes unable to perform duties as assigned by the Employer due to a physical injury suffered in the discharge or performance of official duties as an employee of the City shall be eligible for wage continuation. Wage continuation shall be available for up to seven hundred twenty (720) work hours. These seven hundred twenty (720) work hours are fully paid by the Employer, and are in lieu of workers' compensation benefits. An employee who applies for wage continuation will apply to BWC for medical benefits only and not lost income benefits. The employee may apply for lost income benefits toward the end of the wage continuation if it is known that the absence will continue beyond the paid wage continuation. Recurring injuries do not qualify employees to receive wage continuation pay beyond the allowable seven hundred twenty (720) work hours provided at the time of the initial work connected injury date. During the first twelve (12) weeks following the conclusion of the paid leave, the employee may utilize sick or vacation time to supplement the workers' compensation benefits.

**Section 25.3. Medical Evidence.**

- A. Any employee making claim for such compensation as provided for in this Article shall, at the request of the City, submit to a physical exam by a licensed physician of the City's choice. This examination will be restricted to areas limited to or affected by the injury. In the event that the physician finds that such employee is able to return to duty, the employee shall do so on the next scheduled work day or at any other time as scheduled by the City. Physical examinations required pursuant to this Article shall be at the City's expense.
- B. For the best interest of both the employee and the Employer, an employee utilizing injury leave shall remain at the employee's residence Monday through Friday, 8:00 a.m. to 4:00 p.m. unless hospitalized, receiving out-patient medical treatment outside the employee's residence, purchasing required medication, or as authorized in writing by the Chief of Police.

- C. A partially disabled employee who is eligible for wage continuation under this Article may be required by the City to perform limited duty work, subject to the limitations set and approved by the employee's physician.
- D. Should an employee covered by this Agreement become permanently disabled as a result of an on-the-job injury to the extent that the employee cannot perform the regular job duties, the City will attempt to place the employee in a position within the Division, in the judgment of the City and/or the Chief of Police, the employee is physically and mentally able to perform, provided that such a position is available. This Section shall not require the City to create a position for any employee.

**Section 25.4. Protection Insurance.** The City may provide this benefit to the employee through income protection insurance or by any other means available to the City. In the event this benefit is provided through the purchase of income protection insurance, the employee shall meet all the requirements of such insurance policy to receive injury leave pay. The cost of such insurance shall be at the City's expense.

## **ARTICLE 26**

### **OTHER LEAVES OF ABSENCE**

**Section 26.1. Jury Duty.** The City shall grant the required leave with full pay where a member is summoned for any jury duty. All compensation received from the summoning court for such duty shall be paid to the City unless such duty is performed totally outside of the member's regularly scheduled duty hours. Employees released from jury duty prior to the end of their scheduled work period shall report to work for the remaining hours of such work shift.

**Section 26.2. Military Leave.**

- A. All members who are members of the Ohio National Guard, the Ohio Organized Militia or members of other reserve components of the Armed Forces of the United States are entitled to leave of absence from their respective duties-without loss of pay for such time as they are in the military service on field training or active duty for periods of time not to exceed twenty-two (22) eight (8) hour work days or one hundred seventy-six (176) hours in any one (1) calendar year from January 1 through December 31. The member is required to submit to the City an order or statement from the appropriate military commander as evidence of such duty. There is no requirement that the service be in one (1) continuous period of time. Employees who are members of those components listed above will be granted emergency leave from mob control, riot control, flood, civil defense or similar duties when so ordered by the governor to assist civil authorities. Such leave will be paid provided it does not exceed the maximum hours of military leave provided above. The leave will cover the official period of the emergency.
- B. Employees who are called or ordered to the uniformed services for longer than a month, for each calendar year in which the employee performed service in the uniformed services, because of an executive order issued by the President of the United States or an act of congress is entitled, during the period designated in the order or act, to a leave of absence and to be paid, during each monthly pay period of that leave of absence, the lesser of the following:

1. The difference between the permanent public employee's gross monthly wage or salary as an officer or permanent public employee and the sum of the permanent public employee's gross uniformed pay and allowances received that month;
2. Five hundred dollars.

No permanent public employee shall receive payments under division (B) of this section if the sum of the permanent public employee's gross uniformed pay and allowances received in a pay period exceeds the employee's gross wage or salary as a permanent public employee for that period or if the permanent public employee is receiving pay under (A) of this section.

- C. Employees who are drafted or called for active duty with the Armed Forces of the United States or one of its reserve components shall in accordance with existing laws be entitled to re-employment after separation or discharge under honorable conditions from such service. The employee must be physically and mentally able to do the work required and must report for work within ninety (90) days of discharge. The Employee shall be re-employed in the same position or a similar position to the one held at the time of entry into the Armed Forces. The employee will enjoy seniority and benefits of that seniority that would be due as though he had been actively on the payroll. However, while on extended leave the employee shall not be entitled to benefits of employment, such as, sick, vacation, personal leave days or group health and life insurance and other such coverages.
- D. An employee shall be granted permission to be absent from work in order to receive a physical examinations for compulsory military service in the Armed Forces in the United States. The employee shall be entitled to use paid sick leave for that purpose during such absence for a period not to exceed three (3) days.

Employees wishing to enlist shall be permitted to take one (1) enlistment physical and shall receive no more than one (1) day paid sick leave for that physical.

**Section 26.3. Funeral Leave.** At the time of a death in an employee's immediate family, an employee shall be granted time off for a period which is appropriate for the circumstances presented, and the employee shall be paid for up to three (3) days of missed work days in that period. Immediate family shall be defined as current spouse; natural, adopted, foster, in-law and step child, natural, adoptive, foster, in-law, and step parent, sibling, step-sibling, sibling-in-law, grandparent, grandparent-in-law, grandchild, aunt, aunt-in-law, uncle, uncle-in-law, person in loco parentis or legal guardian, other family member residing in the employees household and claimed as a tax exemption by the employee in the most recent tax year, and one (1) significant other residing in the employee's household as approved by the City Manager.

If additional time is necessary for an employee to attend the funeral of a member of the employee's family as defined above, an employee shall be entitled to use up to three (3) days of sick leave in conjunction with funeral leave.

**Section 26.4. Family and Medical Leave.** Family and Medical Leave will be granted to an employee who has been employed for at least twelve (12) months by the Employer and who has provided at least twelve hundred and fifty (1250) hours of work during the previous twelve (12)

months. The leave will be granted for a period of up to twelve (12) weeks for the following reasons:

- A. To care for the employee's own serious health condition;
- B. To care for the employee's spouse, child or parent who has a serious health condition; or
- C. Because of the birth, adoption, or foster placement of a child.
- D. Care for spouse, son, daughter, parent or next of kin who has suffered serious illness or injury while on active military duty; or
- E. A qualified exigency for a spouse, son, daughter, or parent of a member of the Armed Forces called to active duty.

The employee's paid leave must be used up and is included in the twelve (12) week total, as follows:

- 1. Available sick leave (if the absent qualifies for sick leave)
- 2. Accrued vacation
- 3. Accrued personal leave

The employee may use compensatory time during the twelve (12) weeks.

The employee must provide the Employer with thirty (30) days advance notice of the leave or such notice as is practicable if thirty (30) days notice is not possible. The employee shall provide the Employer with certification of the condition from a health care provider or from the adoption or placement agency, whichever is applicable.

If the City employs a married couple and one or both request leave for a birth, adoption, foster care placement of a child, or to care for a new child, the total annual FMLA leave available to them as a couple for those purposes is twelve (12) weeks.

It is intended that the application of this Section comply with the FMLA of 1993 (as amended) and that the parties shall take such actions as to ensure compliance.

An employee who exhausts Family Medical Leave and/or injury leave shall be eligible for continued sick leave or disability leave.

**Section 26.5. Personal Leave.** An employee may be granted up to ninety (90) days of a personal leave of absence without pay upon approval of the City Manager. A request for a personal leave of absence shall be in writing; state the reasons for the requested leave, and be signed by the employee. Approval from the City Manager shall be in writing and shall specify the extent, if any, which seniority will accumulate during the period of the leave of absence and the date upon which the leave of absence terminates.

## **ARTICLE 27**

### **TUITION REIMBURSEMENT AND EDUCATIONAL INCENTIVE**

Section 28.1 Reimbursement Program. Each full-time non-probationary employee who is subject to the provisions of this Agreement shall be eligible for a reimbursement of tuition only in courses of instruction voluntarily undertaken and subject to the following conditions:

A. Provided financial resources are available, each employee of the unit may be provided not more than \$2,000 per fiscal year for tuition reimbursement. Said funds shall only be provided under the following conditions:

- An employee must submit a letter of intent for utilization of this benefit no later than September 1 of the year preceding the year in which the benefit will be used. This letter must be submitted to the employee's division head, or their designee.
- For the fiscal year in which the benefit is to be utilized, the adopted city's budget must demonstrate a General Fund that is both legally and structurally balanced.

B. Only courses that directly related to the employee's current employment position are eligible for reimbursement hereunder. To claim reimbursement the employee must complete an application on a form provide by the City and receive approval from the City Manager for the course of study in advance. Each class taken must also be approved in advance. All courses must be taken during non- work hours. The Employer shall not reimburse fees for any course for which the employee received a scholarship, grant or subsidy to the extent of such aid.

C. All courses must be taken at an accredited college or university pursuant to and part of an established program leading to a degree.

D. Upon completion of an eligible course the employee shall promptly submit to the Employer a copy of the course grade report and a receipt issued by the college or university setting forth the cost of tuition.

E. Reimbursement shall be at the following rates:

- a. One hundred percent (100%) for an "A" or equivalent;
- b. Ninety percent (90%) for a "B" or equivalent; and
- c. Eighty percent (80%) for a "C" or equivalent.

F. No reimbursement will be granted for books, papers, supplies, transportation, meals or any other expense connected with any course except the cost of tuition.

G. Utilization of the Tuition Reimbursement Program shall not preclude any unit member from receiving that Educational or Military Experience Incentive Pay for which they qualify.

H. Employees shall repay the Employer any tuition reimbursement received in the prior year if they voluntarily leave employment.

I. In the event of a permanent lay-off, disability retirement or death the employee will not be quired to rei burse the Employer for tuition assistance.

Section 28.2 Educational & Military Experience Incentive. Employees with military experience prior to their employment with the city, or who possess an Associate's degree,

a Bachelor's degree, and/or a Master's Degree shall be paid the following amounts during the first pay period of each December:

Military Experience \$ 400.00

Associate's Degree \$ 400.00

Bachelor's Degree \$ 700.00

Master's Degree \$1000.00

To qualify for the Military Experience Incentive, the unit member must provide documentation of an Honorable Discharge or a General Discharge Under Honorable Conditions.

These incentives are not subject to pyramiding and unit members shall only be paid to the highest rate of incentive for which they are qualified.

Section 28.3 Educational Pay During Absence. No Bargaining Unit Member shall receive Educational Pay under this Article during periods of time when the member is on leave status for twelve (12) consecutive months. Such members shall have their educational payment suspended until they return to work, at which time they will receive the education pay on a pro-rata basis. If a member does not return to work for any reason, the member shall not receive any education pay accrued during the member's absence from work.

## **ARTICLE 28**

### **FITNESS FOR DUTY**

**Section 28.1. Fitness for Duty.** The City may, at its discretion, require employees to submit to a physical or psychiatric/psychological examination in order to determine whether or not an employee remains capable of performing the essential functions of the position. All such examinations shall be conducted by licensed practitioners appointed and paid for by the City.

**Section 28.2. Medical Evidence.** The City may, at its discretion, require employees to provide specific medical data from the employee's doctor, the City's doctor, and/or a personal affidavit stating the cause of the absence, for any illness or injury which resulted in lost work time.

## **ARTICLE 29**

### **MISCELLANEOUS**

**Section 29.1. Training.** All officers are required to meet all mandatory certification requirements of the State of Ohio. Officers failing to maintain their certification or failing to pass any mandatory standard that compromises the certification shall not be allowed to work. The initial cost for any such mandatory requirements shall rest with the City. Non-probationary

officers who fail to qualify and/or meet any mandatory certification standards shall be allowed an opportunity to retrain at their expense. Said retraining must be completed within a period of six (6) months.

**Section 29.2. Outside Activity.** No employee may directly or indirectly maintain or engage in any outside business, financial interest or employment activity which in the opinion of the Chief of Police conflicts with the interest of the Division or which interferes with the employees' ability to discharge their duties fully. Such conflict of interest shall be grounds for discipline, up to and including discharge.

**Section 29.3. Copies of Agreement.** The Labor Council will provide each covered employee, at no cost to the employee, a copy of this Agreement within thirty (30) days from the date this Agreement is ratified by both parties.

### **ARTICLE 30** **DURATION OF AGREEMENT**

**Section 30.1. Duration.** The provisions of this Agreement shall be effective as of January 1, 2023, and shall continue and remain in full force and effect to and including December 31, 2025 and thereafter for successive periods of one (1) year, unless either party shall at least sixty (60) days prior to December 31, 2025, (or sixty (60) days prior to any one (1) year extension) serve written notice on the other party of a desire to terminate, modify, alter, renegotiate, change, or amend this Agreement. Such notice shall be sent by a method approved by the State Employment Relations Board.

In Witness Whereof the parties have hereunto signed by their authorized representative this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

FOR THE CITY OF HUBER HEIGHTS

FOR THE FOP/OLC

\_\_\_\_\_  
Bryan Chodkowski, Interim City Manager

\_\_\_\_\_  
Rick Paquette, Staff Representative

\_\_\_\_\_  
Mark Lightner, Police Chief

\_\_\_\_\_  
Brian Carr, Bargaining Committee

\_\_\_\_\_  
Kathryn Knisley, Human Resources Director

\_\_\_\_\_  
Tony Ashley, Bargaining Committee

\_\_\_\_\_  
Brad Reaman, Bargaining Committee

Approved to as Form:

\_\_\_\_\_  
David Montgomery, Law Director  
Pickerel, Schaeffer, & Ebeling

Approved and ratified by the Council of the City of Huber Heights, Ohio on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Resolution No. \_\_\_\_\_-R-\_\_\_\_\_

**APPENDIX A**



AUTHORIZATION FOR DUES DEDUCTION  
**FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.**  
 222 E. Town St., Columbus, Ohio 43215  
 1-800-FOP-OLCI

I, the undersigned, hereby authorize my Employer to check off and deduct from my payroll an amount equal to dues, remitting directly to the F.O.P. Ohio Labor Council, Inc.

(PLEASE PRINT)

Place of Employment \_\_\_\_\_  
 Name of Employee: \_\_\_\_\_  
 Home Address \_\_\_\_\_

**APPENDIX B**  
**UNIFORMS**

The following items of uniform clothing, accessories and equipment will be furnished by the Department:

Qty.	Description/ Item	Qty.	Description/ Item
1	Hat, dress	1	Rain Coat
1	Jacket, light weight	5	Shirts, long sleeve
1	Jacket, winter	5	Shirts, short sleeve
2	Neckwear	5	Trousers
1	Shoes		

Qty.	Description/ Item	Qty.	Description/ Item
1	Badge, shooting	1	Holster
1	Badge, breast	1	Pouch, ammunition
1	Badge, jacket	1	Key strap, clip (optional)
2	Bar, name	1	Badge, cap
1	Bar, tie	1	Belt, gun
1	Case, handcuff	1	

Qty.	Description/ Item	Qty.	Description/ Item
1	Locker, personal	1	Hand gun
	Keys, department	1	Asp and Holder
1	Handcuffs		Patches (shirts & jackets)
1	Keys, handcuffs	1	Ballistic Vest

**AI-9455**

**New Business    F.  
City Manager**

**City Council Meeting**

**Meeting Date:** 08/28/2023

Economic Development Plan - The Meadows At Heritage Commons

**Submitted By:** Kyren Gantt

**Department:** Economic Development

**Council Committee Review?:** Council      **Date(s) of Committee Review:** 08/22/2023  
Work  
Session

**Audio-Visual Needs:** None      **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

---

**Agenda Item Description or Legislation Title**

An Ordinance To Approve An Economic Development Plan And To State That The City May Hereafter Proceed With Approval Of A Tax Increment Financing Incentive District.  
(first reading)

**Purpose and Background**

The purpose of this Economic Development Plan (this "Plan") is to satisfy the requirement of Section 5709.40(B) of the Ohio Revised Code, which affirms the legislative authority of a municipal corporation, by ordinance, may declare improvements to certain parcels of real property located in the municipal corporation to be a public purpose. Improvements with respect to a parcel that is used or to be used for residential purposes may be declared a public purpose under this division only if the parcel is located in a blighted area of an impacted city. This Plan has been developed to continue the efficient and effective development of the City of Huber Heights, Ohio (the "City"). This Plan relates to the remodel and construction of facade improvements and tenant fit out located at 6007 – 6091 Brandt Pike, Huber Heights, Ohio 45424, formerly known as "CR Dayton." The Contractor shall be responsible for hiring and managing the design-build professional services provider as necessary to complete the design (the "Work") for the project.

The property for this development (the "Property") has been targeted for redevelopment for more than five years. The Property remains in a blighted condition and detracts from the image, character, and value of one of the City's most prominent corridors. The project will activate the area with new residents, businesses, and amenities. Additionally, completing this development with a new, multi-unit residential development will stabilize and finalize development in the area. The City is considering the creation of a public purpose improvement Tax Increment Financing (TIF) Incentive District (the "Incentive District") encompassing the proposed urban development. The Incentive District will help to: (1) use quality architecture and design; (2) permit the development of high-quality commercial lease space; (3) enhance the City by providing for public infrastructure improvements necessary for the preservation and advancement of the public health, safety, and well-being; and (4) increase the City's collection of income taxes and, over time, real property taxes.

The collective improvements proposed in association with The Incentive District will improve access, in both ease and safety, to the numerous retail and public amenities located within the Incentive District. The City has determined it necessary and appropriate and in the best interest of the City to provide service payments in lieu of taxes with respect to the proposed Incentive District pursuant to Section 5709.42 of the Ohio Revised Code.

---

### **Fiscal Impact**

**Source of Funds:** Tax Increment Financing (TIF)

**Cost:** \$3,000,000.00

**Recurring Cost? (Yes/No):** No

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

This project has an estimated total 30-year revenue benefit to the City of \$249,707.37.

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### **Attachments**

Ordinance

Exhibit A

Exhibit A- Attachment A

Exhibit A- Attachment B

Exhibit B

---

CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE NO. 2023-O-

TO APPROVE AN ECONOMIC DEVELOPMENT PLAN AND TO STATE THAT THE CITY MAY HEREAFTER PROCEED WITH APPROVAL OF A TAX INCREMENT FINANCING INCENTIVE DISTRICT.

WHEREAS, Section 5709.40(c) of the Ohio Revised Code authorizes the legislative authority of a municipal corporation to create, by ordinance, incentive districts and declare the improvement to each parcel of real property within those districts to be public purpose; and

WHEREAS, Section 5709.40(a) of the Ohio Revised Code requires incentive districts to have one or more distress characteristics, which may be defined as inadequate public infrastructure serving the districts as evidence by written economic development plan for the districts; and

WHEREAS, the City’s Division of Engineering has determined to create an incentive district in the City, as depicted and described in Exhibit A attached hereto (the “Incentive District”); and

WHEREAS, the area within the Incentive District has been studied and an economic development plan has been prepared for that area (the “Economic Development Plan”) and is attached hereto as Exhibit B, and which Economic Development Plan has been submitted to this Council and contains recommendations addressing land use and public infrastructure, and related issues.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Huber Heights, Ohio, that:

Section 1. This Council adopts and approves the Economic Development Plan, and the City’s Division of Engineering and all departments and divisions of the City administration are authorized and directed to consult and use the Economic Development Plan as guidance in establishing the Incentive District and providing financing for public infrastructure improvements. Copies of the Economic Development Plan will be kept on file in the City Division of Engineering.

Section 2. This Council may hereafter proceed to establish the Incentive District under Section 5709.40(c) of the Ohio Revised Code.

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

Section 4. This Ordinance shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_ day of \_\_\_\_\_, 2023;  
\_\_\_\_ Yeas; \_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# **EXHIBIT A**

## **CITY OF HUBER HEIGHTS, OHIO THE MEADOWS DEVELOPMENT PLAN PUBLIC PURPOSE IMPROVEMENT INCENTIVE DISTRICT**

**August 1, 2023**

## **The Plan**

The purpose of this Economic Development Plan (this “Plan”) is to satisfy the requirement of Section 5709.40(B) of the Ohio Revised Code, which affirms the legislative authority of a municipal corporation, by ordinance, may declare improvements to certain parcels of real property located in the municipal corporation to be a public purpose. Improvements with respect to a parcel that is used or to be used for residential purposes may be declared a public purpose under this division only if the parcel is located in a blighted area of an impacted city. This Plan has been developed to continue the efficient and effective development of the City of Huber Heights, Ohio (the “City”).

## **Proposed Development**

This Plan relates to the remodel and construction of façade improvements and tenant fit out located at 6007 – 6091 Brandt Pike, Huber Heights, Ohio 45424, formally known as “CR Dayton.” The Contractor shall be responsible for hiring and managing the design-build professional services provider as necessary to complete the design (the “Work”) for the project.

The property for this development (the “Property”) has been targeted for redevelopment for more than five years. The Property remains in a blighted condition and detracts from the image, character, and value of one of the City’s most prominent corridors. The project will activate the area with new residents, businesses, and amenities. Additionally, completing this development with a new, multi-unit residential development will stabilize and finalize development in the area.

The current development plans for these projects are contained in Attachment A.

## **Proposed Incentive District**

The City is considering the creation of a public purpose improvement Tax Increment Financing (TIF) Incentive District (the “Incentive District”) encompassing the proposed urban development. The Incentive District will help to: (1) use quality architecture and design; (2) permit the development of high-quality commercial lease space; (3) enhance the City by providing for public infrastructure improvements necessary for the preservation and advancement of the public health, safety, and well-being; and (4) increase the City’s collection of income taxes and, over time, real property taxes.

## **Public Infrastructure Improvements**

Payments in lieu of taxes collected from the proposed Incentive District will fund public infrastructure improvements necessary to support residential development, including, without limitation, the following improvements:

Phase I Improvements shall include remodel and construction of improvements and tenant fit out located at 6007 – 6091 Brandt Pike, Huber Heights, Ohio 45424. General scope of work includes, but is not limited to updating existing façade of the south building, relocation of

Tenants from the north building to the south building, demolition and removal of the North building, new site concrete, asphalt overlay/sealcoat and new asphalt (see attached Exhibit), liquid membrane coating of the existing metal roof at the south building, replacing exterior storefront and storefront doors at the south building, new roofing for the east walkway resulting from the work on the façade, new LED electrical lighting under canopy, remove and re-install the tenant signage, general and final project site clean-up, punch list, and turnover. The total cost of acquisition, remediation and razing is \$3 million, and is intended to be substantially complete by December 31, 2023.

Phase II Improvements will include all Public Infrastructure Improvements (as the terms are defined in Ohio Revised Code Sections 5709.40) that directly benefit, or that once made will directly benefit, the Incentive District. Phase II Improvements will also include, but not be limited to, excavating, grading, paving, constructing and installing curbs and gutters, public utilities which include water mains, sanitary sewers, and storm sewers, street lighting, sidewalks, bikeways, landscaping, traffic signalization, and also including design and other related cost, any right-of-way acquisition, erosion and sediment control measures, grading and other related work, survey work, soil engineering and construction staking, and in each case, all other costs and improvements necessary and appurtenant thereto, all of which will directly benefit, or that once made will directly benefit the Incentive District.

Phase III Improvements will include the replacement, repair, maintenance, and/or construction of new or existing capital asset amenities located within the Incentive District; or any costs directly associated thereto such as design and other related costs, any right-of-way acquisition, erosion and sediment control measures, grading and other related work, survey work, soil engineering and construction staking, and in each case, all other costs and improvements necessary and appurtenant thereto. The LJB Infrastructure Reliance Study completed in September of 2022, reflects the correlation and interdependence of infrastructure elements, which will better position the city for funding opportunities for the maintenance and expansion of critical services for city residents and businesses. Increased funding for infrastructure allows Huber Heights to better distribute improvements throughout the city, improve service, and attract new developments. For the purposes of this phase, “capital asset” shall have the same meaning as defined within the Ohio Administrative Code. Any and all such replacement, repair, maintenance, and/or construction of new or existing amenities identified as Phase II Improvements must qualify as a capital asset as defined herein.

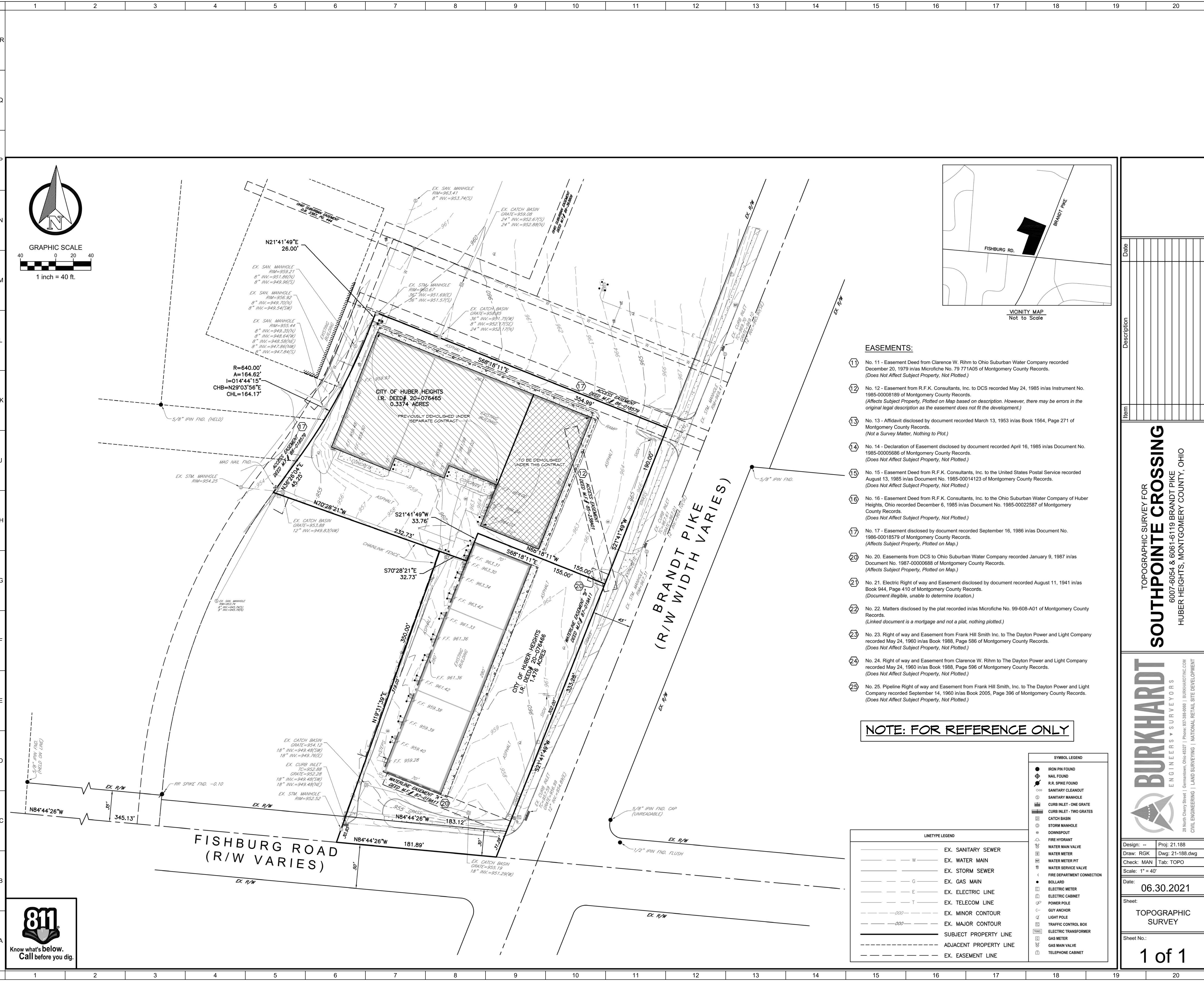
The collective improvements proposed in association with The Incentive District will improve access, in both ease and safety, to the numerous retail and public amenities located within the Incentive District. The City has determined it necessary and appropriate and in the best interest of the City to provide service payments in lieu of taxes with respect to the proposed Incentive District pursuant to Section 5709.42 of the Ohio Revised Code.

## **Attachments**

### **Attachment A: Current development plans for the Project**



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SHEET NOTES:

GENERAL NOTES:

No.	CONSTRUCTION DOCUMENTS	Revisions / Submissions	Date
1			
2			
3			
4			
5			
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7			
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20			

TOPOGRAPHIC SURVEY FOR  
**SOUTHPOINTE CROSSING**  
6007-6054 & 6061-6119 BRANDT PIKE  
HUBER HEIGHTS, MONTGOMERY COUNTY, OHIO

**BURKHARDT**  
ENGINEERS & SURVEYORS  
28 North Cherry Street | Germantown, Ohio 45327 | Phone: 937-388-6060 | [info@burkhardtinc.com](mailto:info@burkhardtinc.com)  
CIVIL ENGINEERING | LAND SURVEYING | NATIONAL RETAIL SITE DEVELOPMENT

Design: --	Proj: 21.188
Draw: RGK	Dwg: 21-188.dwg
Check: MAN	Tab: TOPO
Scale: 1" = 40'	
Date: 06.30.2021	
Sheet: TOPOGRAPHIC SURVEY	
Sheet No.: 1 of 1	

**CITY OF HUBER HEIGHTS**

**THE MEADOWS FACADE RENOVATION**

BRANDT PIKE 6007 - 6053  
HUBER HEIGHTS, OHIO, 45424

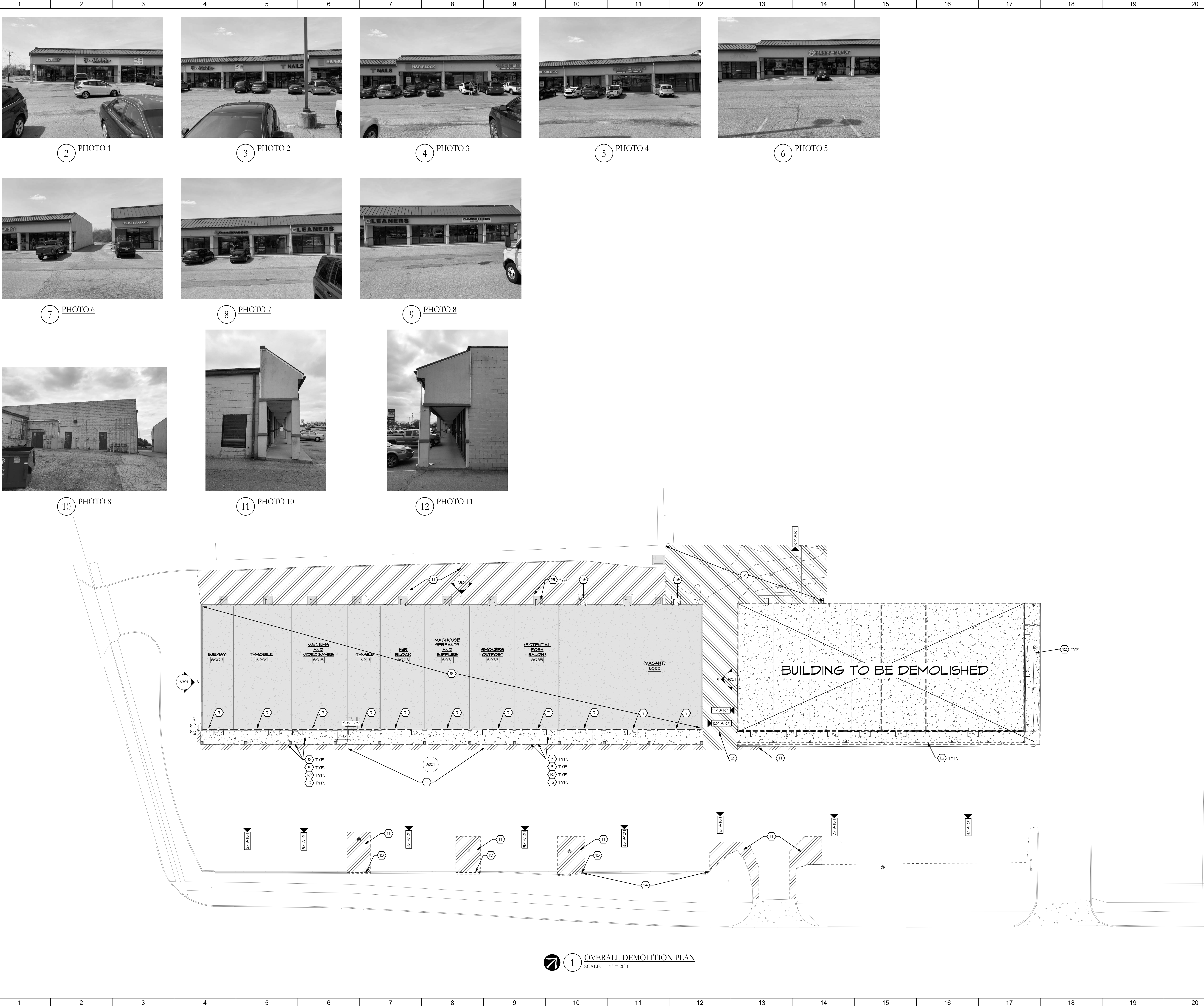
**EXISTING SITE SURVEY**

Comm. No. 20639.00	Date 2023/08/07
Drawn NKG/SLT	Drawing No. A100
Checked EGS	

JOHN CHARLES FABELLO  
REGISTERED PROFESSIONAL SURVEYOR  
STATE OF OHIO  
LICENSE ARC 9711799, EXPIRES: 12/31/23

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1 OVERALL DEMOLITION PLAN  
SCALE: 1" = 20'-0"

SHEET NOTES:

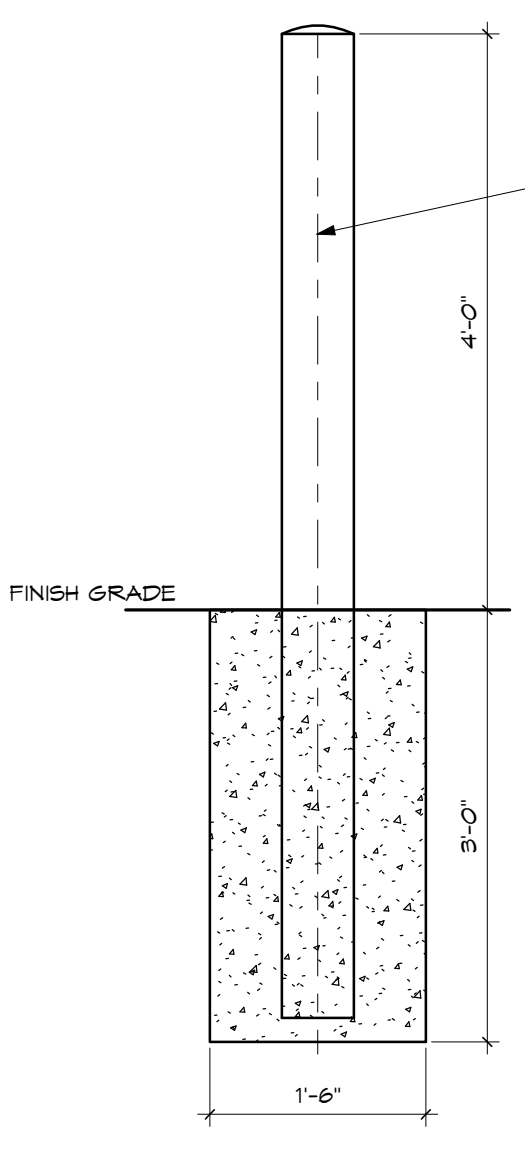
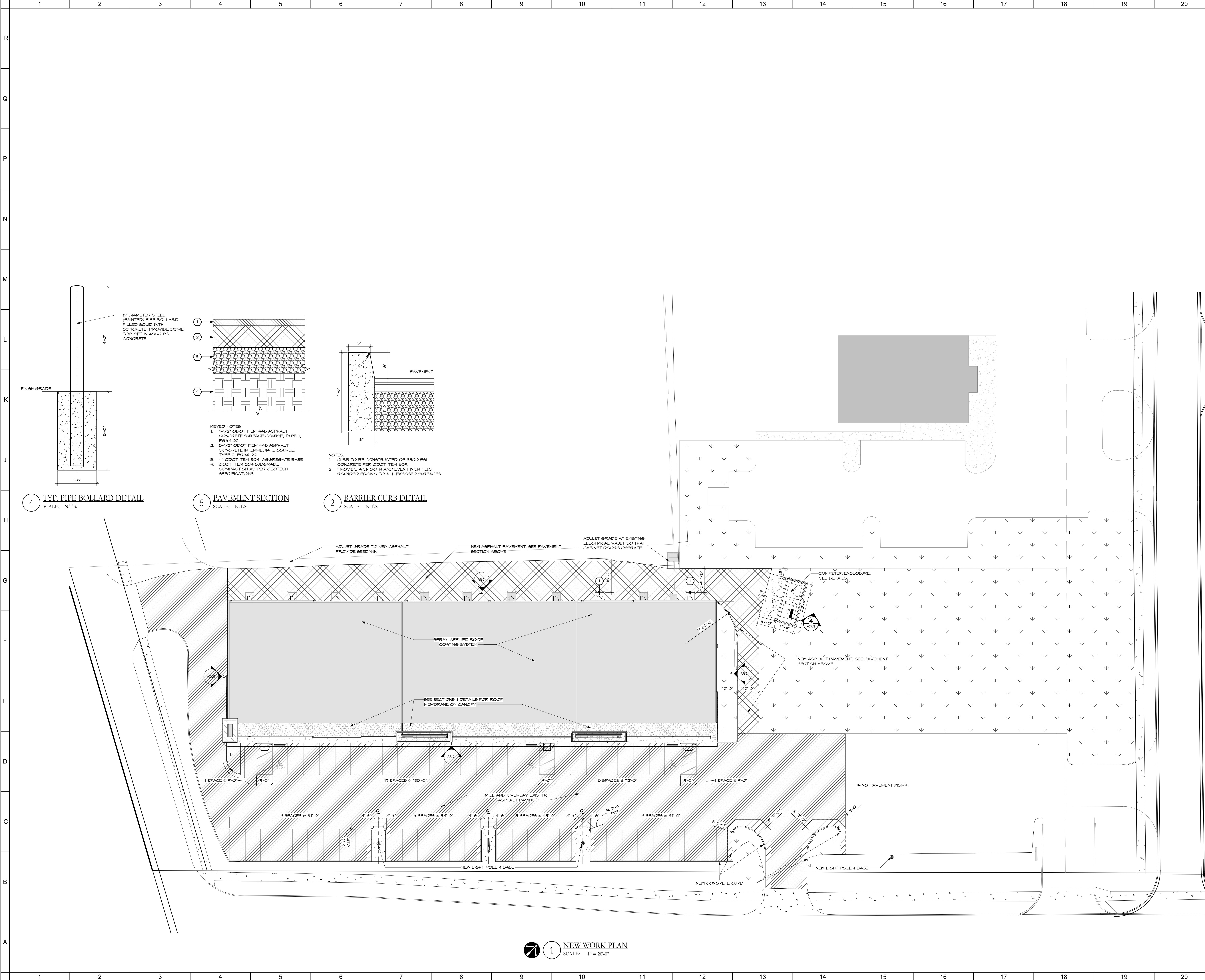
1. (NOT USED)
2. REMOVE ASPHALT PAVING AND RELATED STONE BASE
3. (NOT USED)
4. (NOT USED)
5. EXISTING BUILDING TO REMAIN
6. (NOT USED)
7. REMOVE EXISTING STOREFRONT SYSTEM IN ITS ENTIRETY.
8. REMOVE EXISTING EIFS AND ASSOCIATED FRAMING.
9. REMOVE EXISTING EIFS FROM COLUMN SURROUND TO EXTENT NECESSARY FOR NEW WORK.
10. SEE WALL SECTIONS FOR EXTENT OF OVERHANG, SOFFIT, AND ASSOCIATED ROOF DEMOLITION.
11. SAW CUT AND REMOVE ASPHALT PAVEMENT. ADJUST GRADING AND RECOMPACT IN PREPARATION FOR NEW ASPHALT OR CONCRETE PAVEMENT.
12. REMOVE EXISTING CONCRETE SIDEWALK AND GRAVEL BASE.
13. REMOVE CONCRETE CURB.
14. REPLACE CONCRETE CURB AS NEEDED.
15. CONCRETE STOOPS AND PIPE BOLLARDS AT REAR ENTRANCES TO REMAIN UNLESS NOTED OTHERWISE.
16. REMOVE EXISTING CONCRETE STOOP.

GENERAL NOTES:

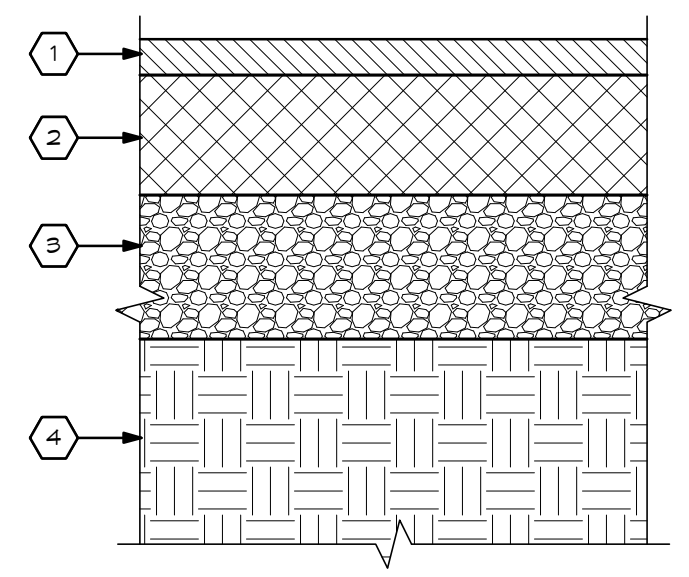
- A. CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS.
- B. COORDINATE SCHEDULE OF DEMOLITION AND CONSTRUCTION ACTIVITIES WITH BUILDING OWNER AND TENANTS TO ENSURE BUSINESSES MAY REMAIN IN OPERATION DURING THE CONSTRUCTION PHASE.
- C. AT ACTIVE STORE ENTRANCES, PROVIDE PROTECTIVE COVERINGS TO MAINTAIN ACCESS TO TENANT SPACES.
- D. PROVIDE TEMPORARY ENCLOSURES AT TENANT SPACE ENTRANCES AFTER EXISTING STOREFRONT IS REMOVED. TENANT SPACE SHALL REMAIN ACCESSIBLE TO THE PUBLIC AND BE SECURABLE.

CONSTRUCTION DOCUMENTS		2023/08/07
No.	Revisions / Submissions	Date
 434 East First Street Dayton, OH 45402 937.223.6500 712 East Main Street Richmond, IN 47374 765.966.3546		
CITY OF HUBER HEIGHTS		
THE MEADOWS FACADE RENOVATION		
BRANDT PIKE 6007 - 6053 HUBER HEIGHTS, OHIO, 45424		
OVERALL DEMOLITION PLAN		
	Comm. No. 20639.00 Drawn NKG/SLT Checked EGS	Date 2023/08/07 Drawing No. A101 © 2023 LWC INCORPORATED

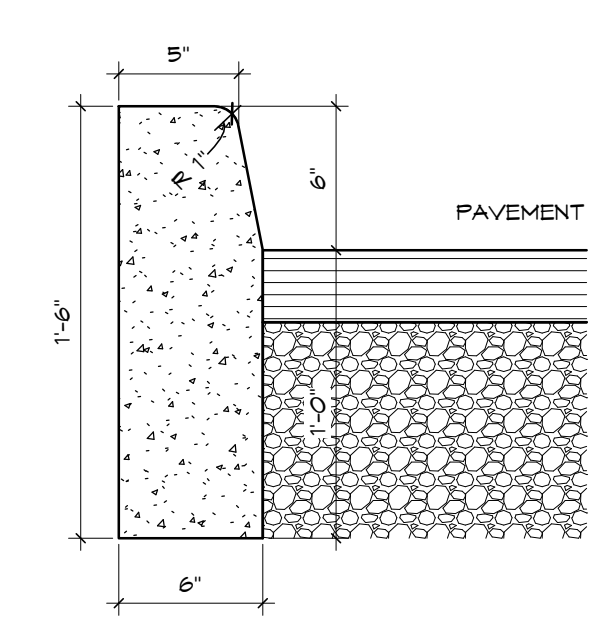
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4 TYP. PIPE BOLLARD DETAIL  
SCALE: N.T.S.



5 PAVEMENT SECTION  
SCALE: N.T.S.



2 BARRIER CURB DETAIL  
SCALE: N.T.S.

1 NEW WORK PLAN  
SCALE: 1" = 20'-0"

SHEET NOTES:

1. NEW CONCRETE STOOP TO MATCH THAT REMOVED.

CONSTRUCTION DOCUMENTS		2023/08/07
No.	Revisions / Submissions	Date

LWC

INCORPORATED

434 East First Street Dayton, OH 45402 937.223.6500

712 East Main Street Richmond, IN 47374 765.966.3546

CITY OF HUBER HEIGHTS

THE MEADOWS FACADE RENOVATION

BRANDT PIKE 6007 - 6053

HUBER HEIGHTS, OHIO, 45424

NEW WORK SITE PLAN

STATE OF OHIO

JOHN CHARLES FABELLO

071178

REGISTERED ARCHITECT

JOHN C. FABELLO

LICENSE ARC 9711789, EXPIRES: 12/31/23

Comm. No.

20639.00

Date

2023/08/07

Drawn

NKG/SLT

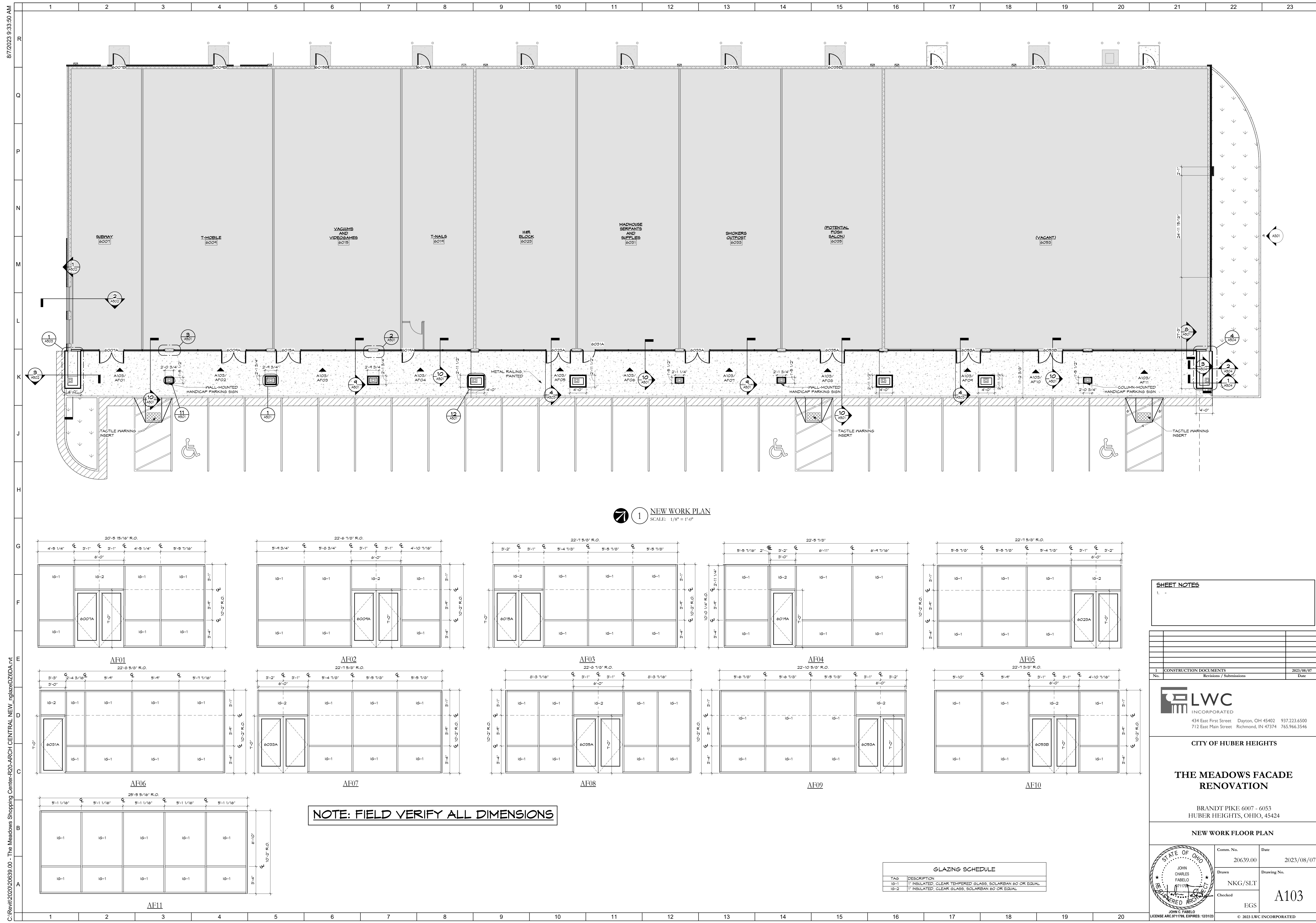
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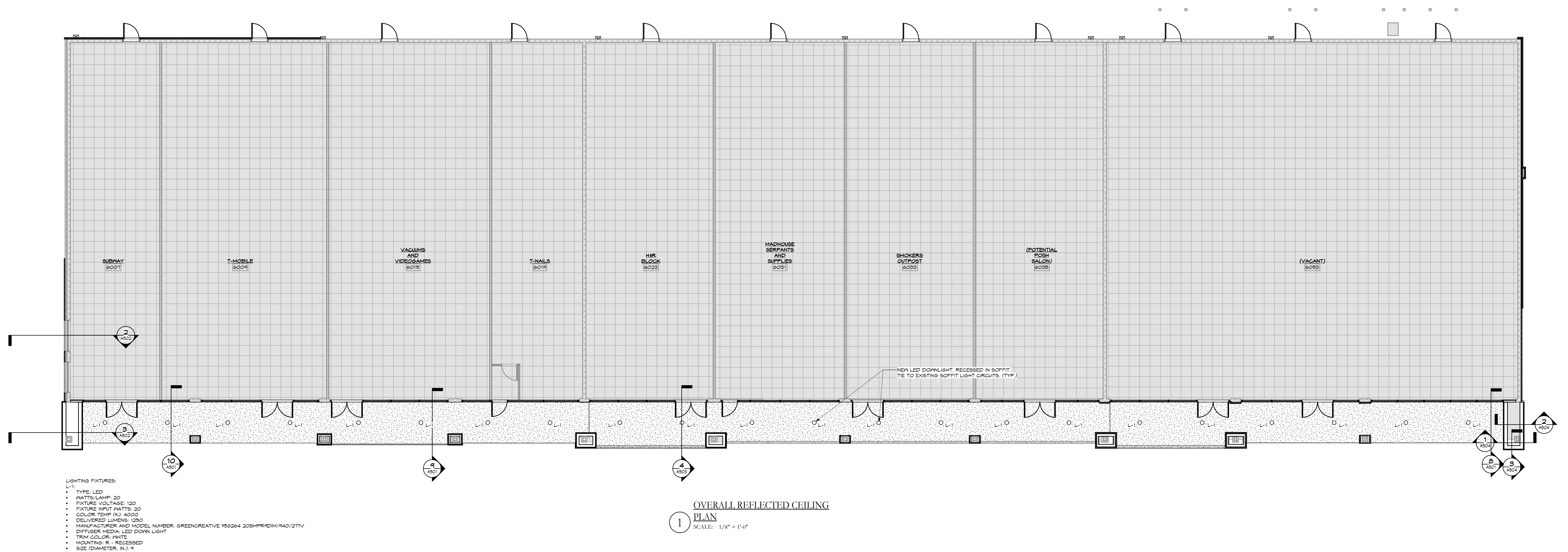
A102

Checked


JCF

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1	CONSTRUCTION DOCUMENTS	2023/08/07	
No.	Revisions / Submissions	Date	



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INCORPORATED

434 East First Street    Dayton, OH 45402    937.223.6500

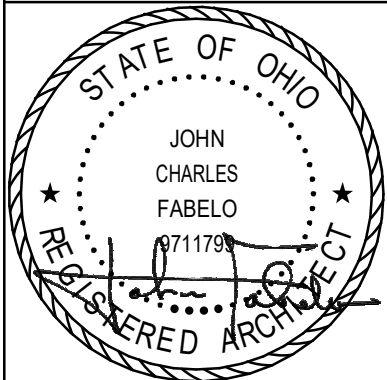
712 East Main Street    Richmond, IN 47374    765.966.3546

## CITY OF HUBER HEIGHTS

# THE MEADOWS FACADE RENOVATION

BRANDT PIKE 6007 - 6053  
HUBER HEIGHTS, OHIO, 45424

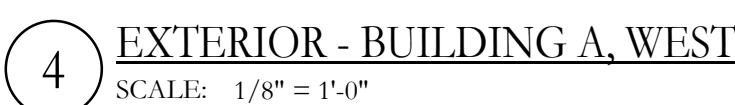
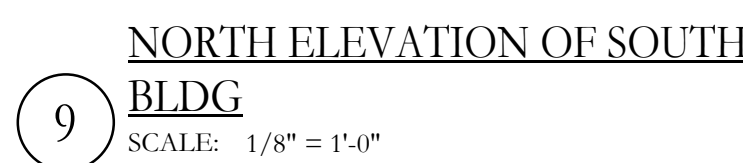
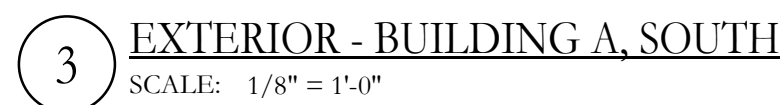
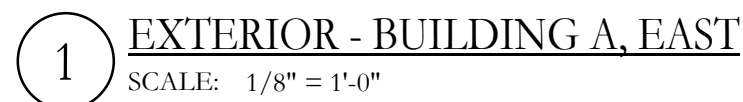
## OVERALL NEW WORK REFLECTED CEILING PLAN

	Comm. No.	Date
	206/39.00	2023/08/07
	Drawn	Drawing No.
	SLT	A201
Checked	JCF	

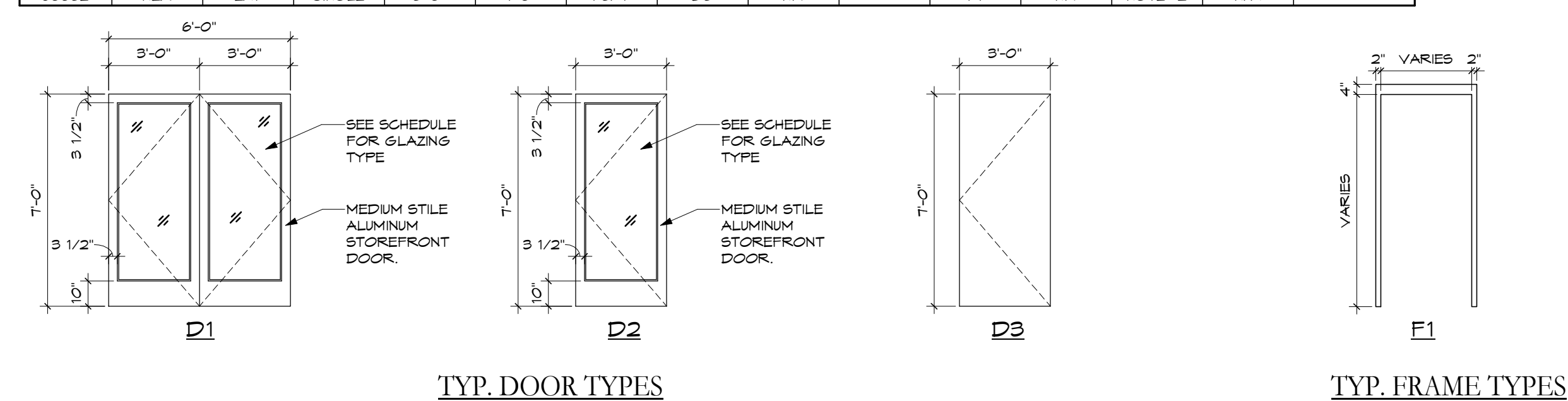
JOHN C. FABELO

LICENSE ARC.9711799, EXPIRES: 12/31/23

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FINISH SCHEDULE		
TYPE	MARK	DESCRIPTION
PAINT	PT-1	MATCH DRYVIT - 614 SMOKE SIGNAL
PAINT	PT-2	MATCH DRYVIT - 310 CHINA WHITE
STONE	ST-1	COUNTRY LEDGESTONE - ECHO RIDGE
CEMENT BOARD	CB-1	NIGHIA CEMENT BOARD - CONFIRM COLOR
EI/F5	EI/F5-1	DRYVIT - 614 SMOKE SIGNAL
EI/F5	EI/F5-2	DRYVIT - 310 CHINA WHITE
EI/F5	EI/F5-3	DRYVIT - 105 NATURAL WHITE




<b>1</b>	CONSTRUCTION DOCUMENTS		2023/08/07
<b>No.</b>	Revisions / Submissions		Date

**LWC**

INCORPORATED

434 East First Street    Dayton, OH 45402    937.223.6500

712 East Main Street    Richmond, IN 47374    765.966.3546

## CITY OF HUBER HEIGHTS

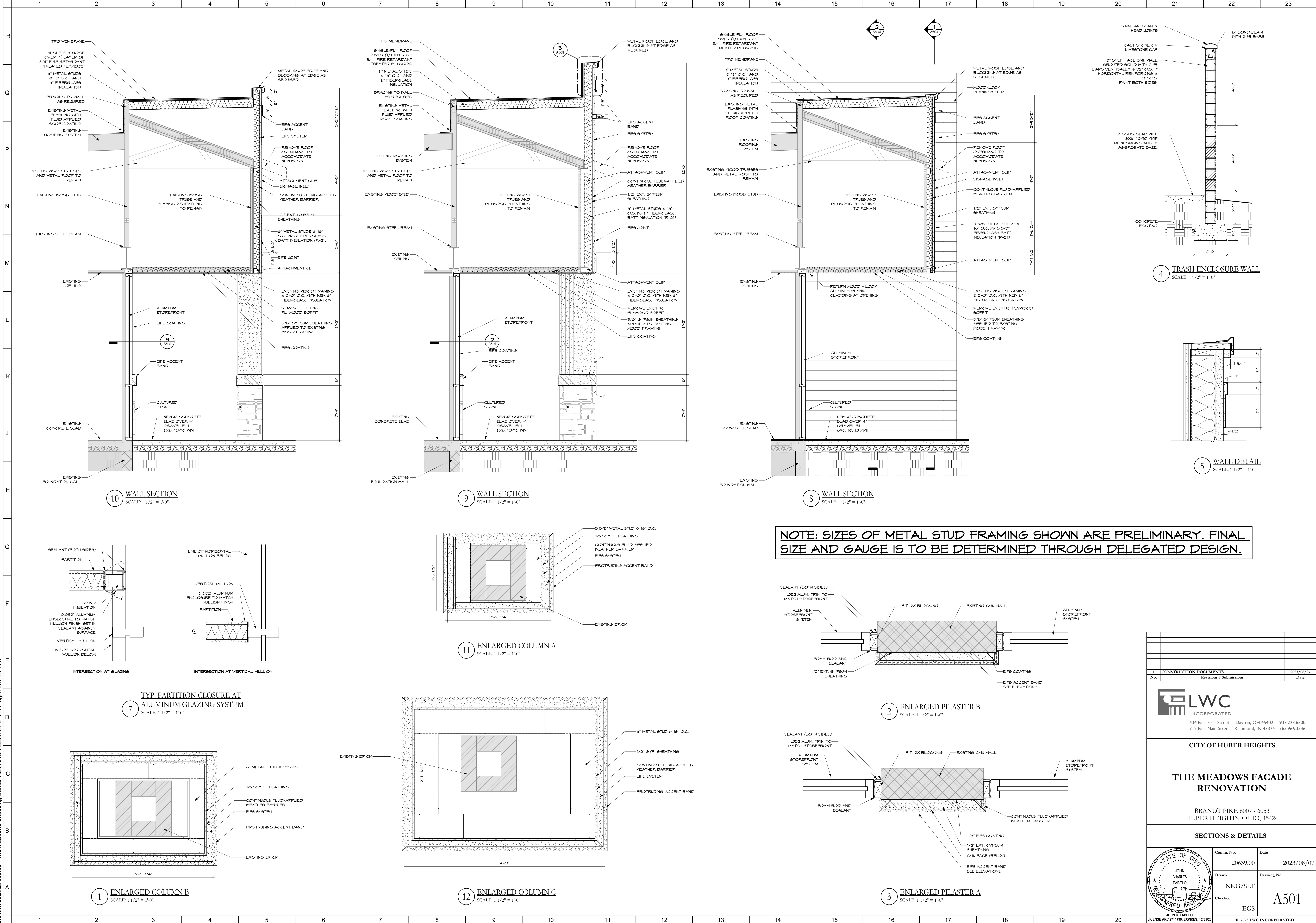
# THE MEADOWS FACADE RENOVATION

BRANDT PIKE 6007 - 6053

HUBER HEIGHTS, OHIO, 45424

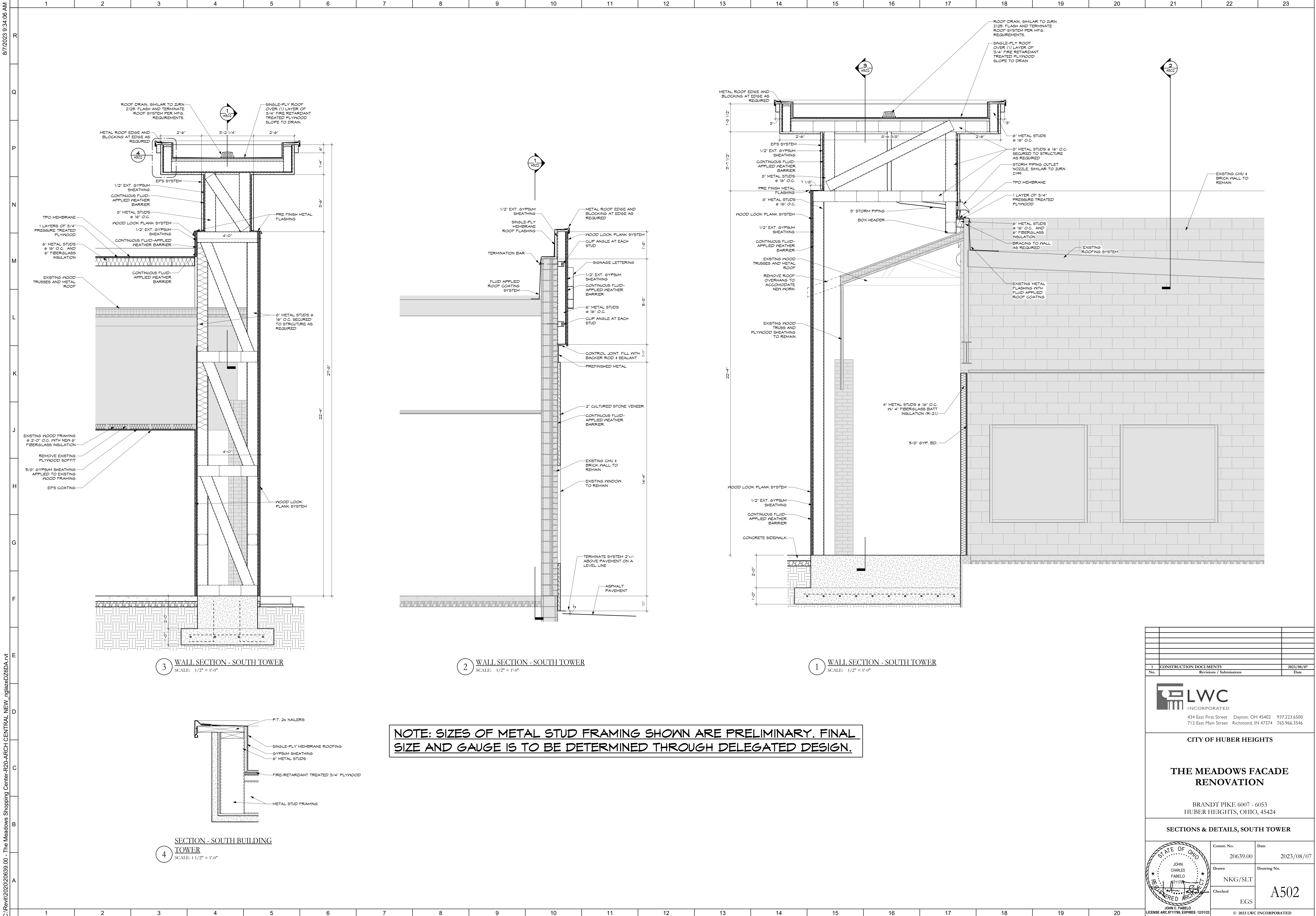
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	Drawn <div style="border: 1px solid black; padding: 2px; font-weight: bold; margin-top: 5px;">NKG/SLT</div>	Drawing No.
	Checked <div style="border: 1px solid black; padding: 2px; font-weight: bold; margin-top: 5px;">JCF</div>	<span style="font-size: 2em; font-family: serif;">A301</span>

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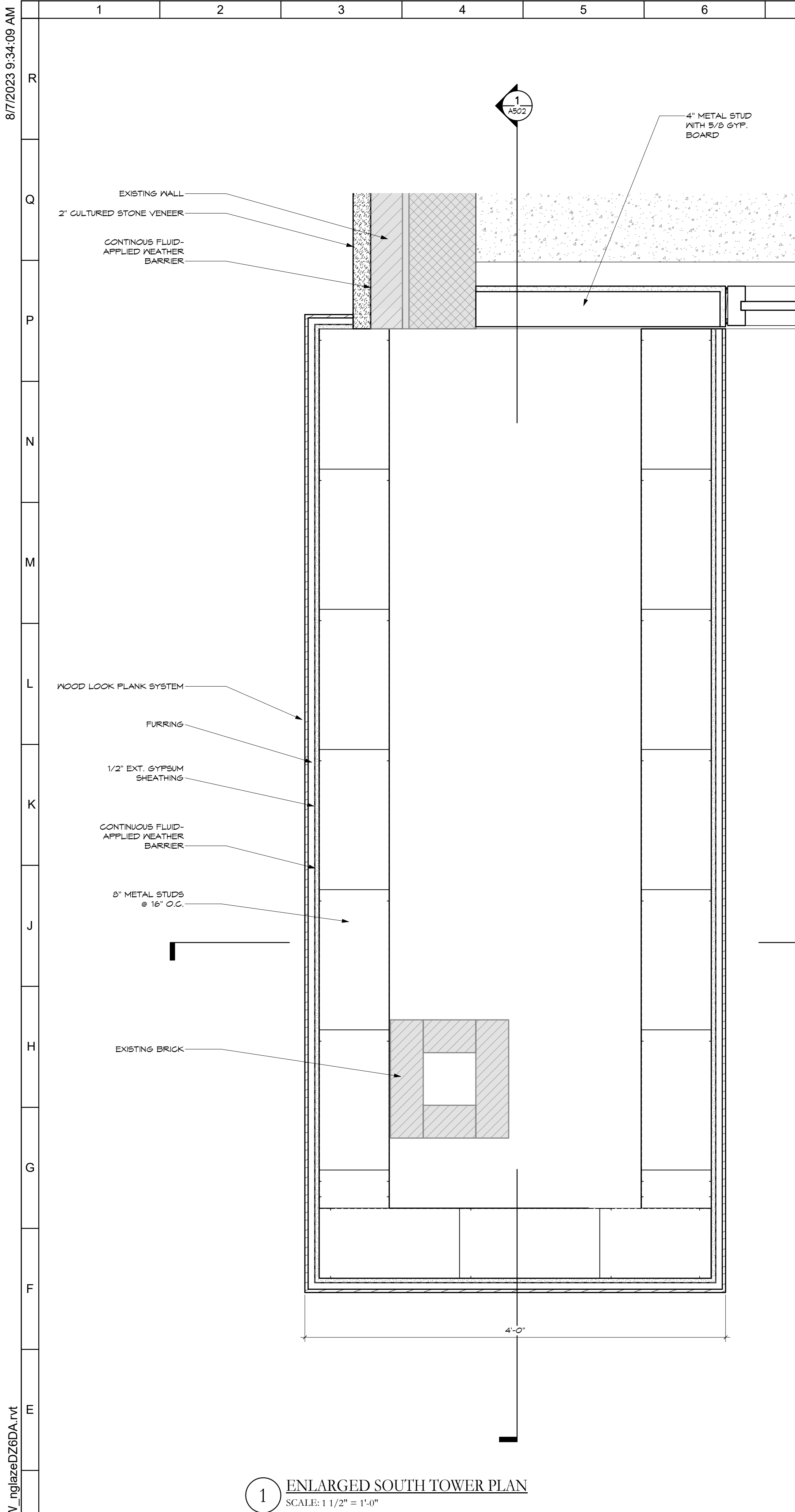
CONSTRUCTION DOCUMENTS		2023/08/07
No.	Revisions / Submissions	Date
<b>LWC</b> INCORPORATED 434 East First Street Dayton, OH 45402 937.223.6500 712 East Main Street Richmond, IN 47374 765.966.3546		
CITY OF HUBER HEIGHTS		
THE MEADOWS FACADE RENOVATION		
BRANDT PIKE 6007 - 6053 HUBER HEIGHTS, OHIO, 45424		
SECTIONS & DETAILS		
Comm. No.	20639.00	Date 2023/08/07
Drawn	NKG/SLT	Drawing No. A501
Checked	EGS	
JOHN C. FABELO ARCHITECT LICENSE ARC 9711799, EXPIRES: 12/31/23		
© 2023 LWC INCORPORATED		

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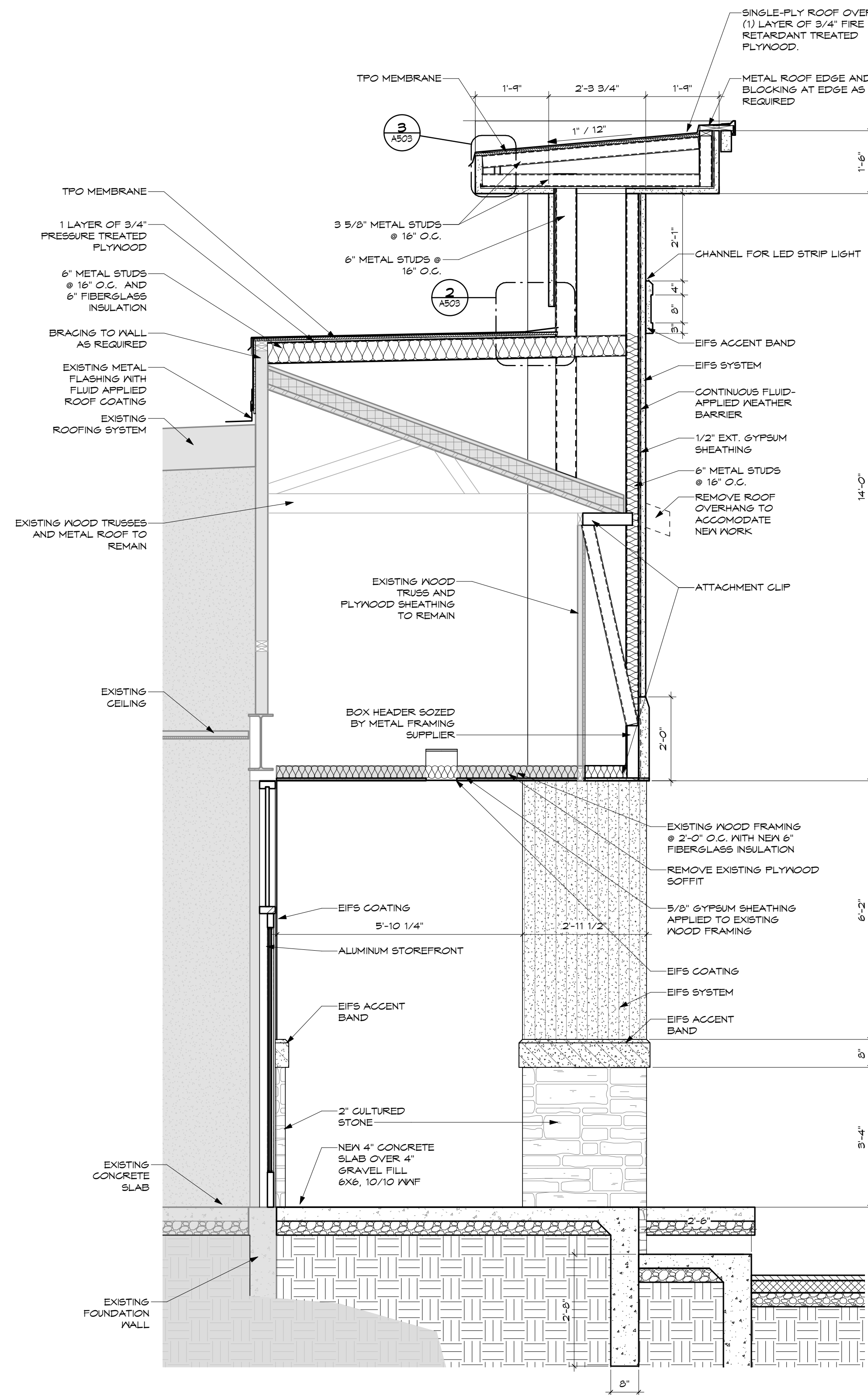
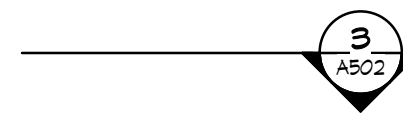


CONSTRUCTION DOCUMENTS		2023/08/07
No.	Revisions / Submissions	Date
<b>LWC</b> INCORPORATED 434 East First Street Dayton, OH 45402 937.223.6500 712 East Main Street Richmond, IN 47374 765.966.3546		
CITY OF HUBER HEIGHTS		
<b>THE MEADOWS FACADE RENOVATION</b>		
BRANDT PIKE 6007 - 6053 HUBER HEIGHTS, OHIO, 45424		
SECTIONS & DETAILS, SOUTH TOWER		
Comm. No.	Date	2023/08/07
20639.00		
Drawn	Drawing No.	A502
NKG/SLT		
Checked		
EGS		
JOHN C. FABELO LICENSE ARC 9711799, EXPIRES: 12/31/23		
© 2023 LWC INCORPORATED		

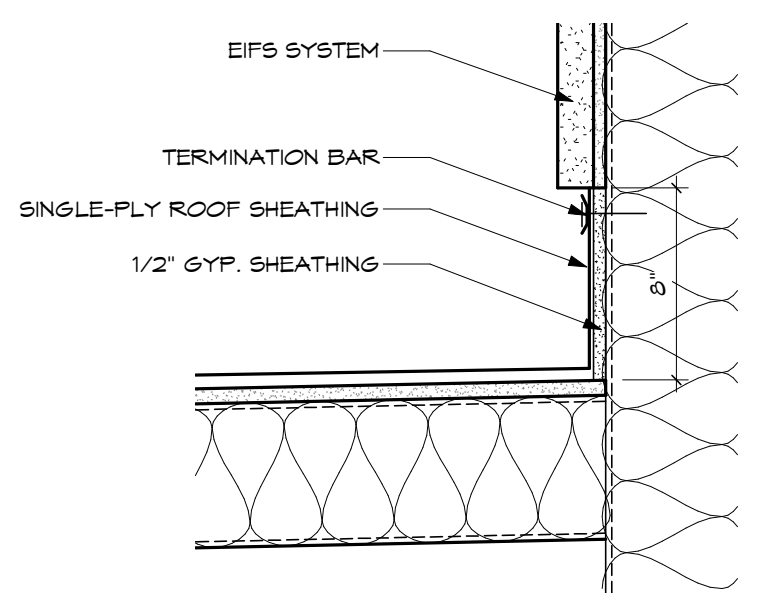
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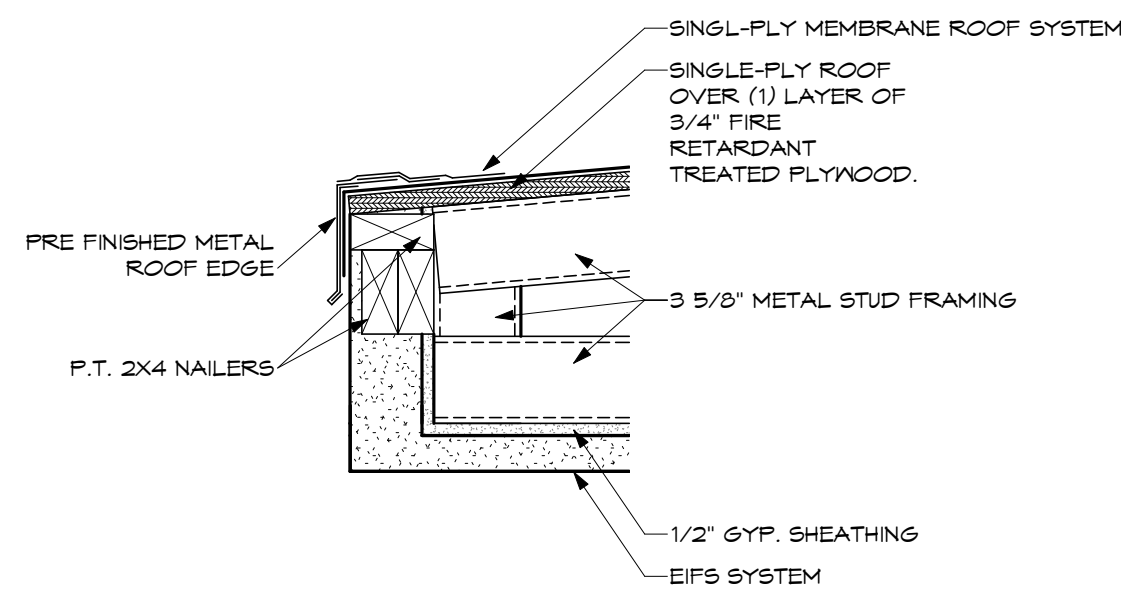
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SCALE: 1 1/2" = 1'-0"



4 WALL SECTION - MID TOWER  
SCALE: 1/2" = 1'-0"


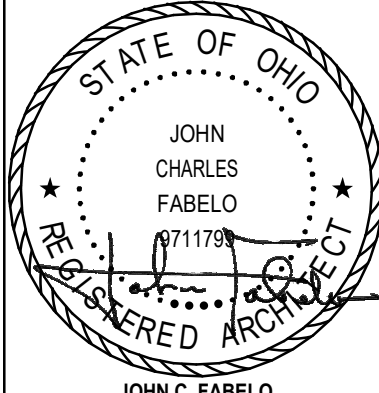


2 ROOF DETAIL - MID TOWER  
SCALE: 1 1/2" = 1'-0"

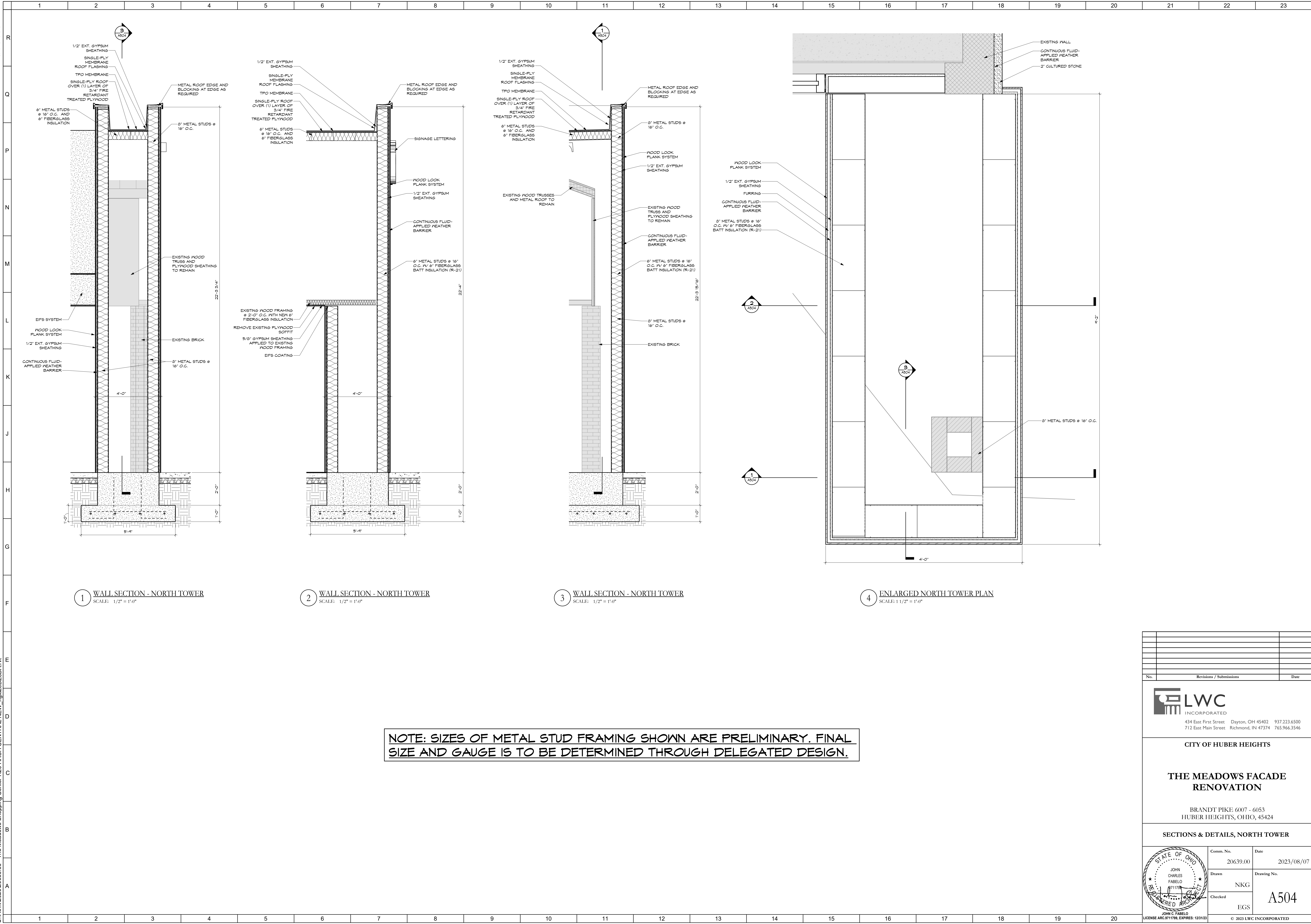


3 ROOF DETAIL - MID TOWER  
SCALE: 1 1/2" = 1'-0"

NOTE: SIZES OF METAL STUD FRAMING SHOWN ARE PRELIMINARY. FINAL SIZE AND GAUGE IS TO BE DETERMINED THROUGH DELEGATED DESIGN.

1	CONSTRUCTION DOCUMENTS		2023/08/07
No.	Revisions / Submissions		Date
<div>LWC INCORPORATED</div> <div>434 East First Street    Dayton, OH 45402    937.223.6500 712 East Main Street    Richmond, IN 47374    765.966.3546</div>			
CITY OF HUBER HEIGHTS			
THE MEADOWS FACADE RENOVATION			
BRANDT PIKE 6007 - 6053 HUBER HEIGHTS, OHIO, 45424			
SECTIONS & DETAILS, SOUTH AND MID TOWER			
	Comm. No.	Date	
	20639.00	2023/08/07	
	Drawn	Drawing No.	
	NKG/SLT	A503	
	Checked		
	EGS		
JOHN C. FABELO LICENSE ARC 9711789, EXPIRES: 12/31/23		© 2023 LWC INCORPORATED	

8/7/2023 9:34:11 AM  
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No.	Revisions / Submissions	Date
<div><div><div><div><div><span></span></div><div>LWC</div></div><div>INCORPORATED</div><div>434 East First Street Dayton, OH 45402 937.223.6500</div><div>712 East Main Street Richmond, IN 47374 765.966.3546</div></div></div></div>		
CITY OF HUBER HEIGHTS		
THE MEADOWS FACADE RENOVATION		
BRANDT PIKE 6007 - 6053 HUBER HEIGHTS, OHIO, 45424		
SECTIONS & DETAILS, NORTH TOWER		
<div><div><div><div><div><span></span></div><div>STATE OF OHIO</div><div>JOHN C. FABELO</div><div>11178</div><div>REGISTERED ARCHITECT</div></div></div></div></div>	Comm. No.	Date
	20639.00	2023/08/07
	Drawn	Drawing No.
	NKG	A504
Checked	EGS	
JOHN C. FABELO LICENSE ARC 9711789, EXPIRES: 12/31/25		
© 2023 LWC INCORPORATED		

# ATTACHMENT B



## CITYWIDE INFRASTRUCTURE RELIANCE STUDY

September 30, 2022

### PREPARED FOR:

City of Huber Heights  
Mr. Bryan Chodkowski

6131 Taylorsville Road  
Huber Heights, Ohio 45424

### PREPARED BY:

LJB Inc.

2500 Newmark Drive  
Miamisburg, OH 45342  
(937) 259-5000

Daniel J. Hoying, P.E., P.S., STP  
DHoying@LJBinc.com

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> Appendix G: Infrastructure District 7	
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## METHODOLOGY

### BACKGROUND

The City of Huber Heights commissioned LJB Inc. to conduct a citywide Infrastructure Reliance Study that evaluates critical linkages in the city's roadway, water, wastewater, and stormwater infrastructure. The results of this study will help the city better understand the correlation and interdependence of infrastructure elements, which will better position the city for funding opportunities for the maintenance and expansion of critical services for city residents and businesses. Increased funding for infrastructure allows Huber Heights to better distribute improvements throughout the city, improve service, and attract new developments.

The City of Huber Heights covers 25 square miles with a population of more than 43,000 residents and 800 businesses. The city also includes 233.91 centerline miles of roadways, 210.24 miles of water main, 189.71 miles of sanitary sewer, and 163.81 miles of stormwater infrastructure facilities.

### INFRASTRUCTURE ATTRIBUTE APPROACH

#### Infrastructure Districts

Allocation of the city's 45,833 individual infrastructure elements distributed over 25 square miles requires suballocation of districts within the city. The LJB team collaborated with city staff to develop 8 Infrastructure Districts. Most city infrastructure exists within roadway right of way. Right of way for major roadway corridors were selected as borders of the Infrastructure Districts. The city corporation limits were bisected by SR 202 and SR 201 in the north and south direction and by the Montgomery County / Miami County line, I-70, Taylorsville Road and Fishburg Road in the east west directions. These corridors were selected as District borders at various points in the city. **Figure 1**, on the following page, depicts the Infrastructure Districts that are used throughout this study.

The infrastructure facilities identified for evaluation in this study are each linked to the residents and businesses in the city in different ways. For that reason, a different approach was used for the determination of how each of the different infrastructure facility categories provides service to a region of the city. A description of the allocation approach that was used for each asset category is included below.

Mapping of the infrastructure elements attributable to each of the Infrastructure Districts is included in the Appendices of this report. Maps include an overall District Infrastructure Map as well as individual maps for each of the roadway, water, sanitary sewer and stormwater assets for that district.

#### Roadways

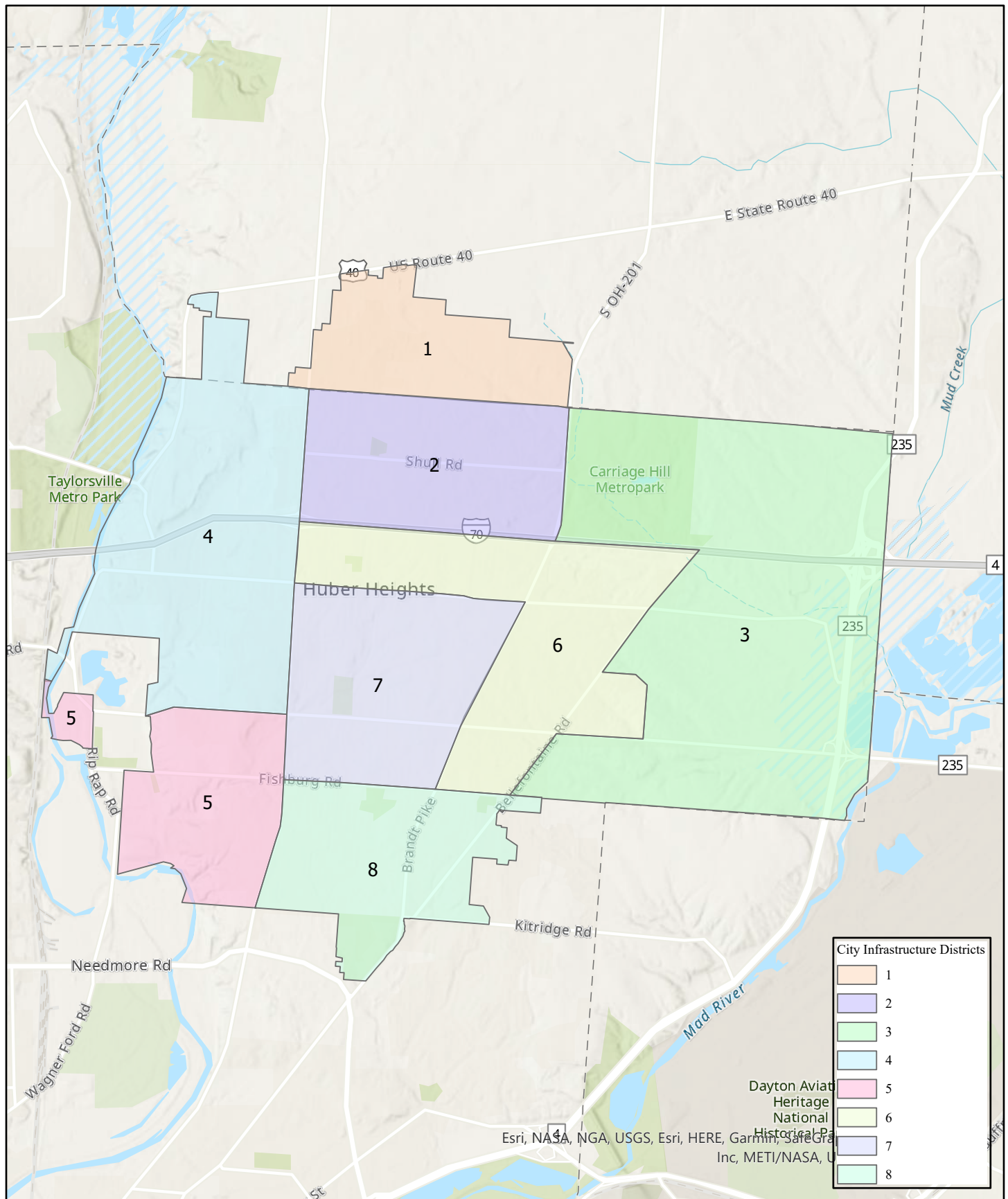
The city's roadway network provides critical access for people and goods to reach homes and businesses throughout the city. These residences and businesses rely on the roadway network to reach points inside and outside the city limits. The primary roadways that carry people and goods to points beyond the city limits are I-70, SR 202 and SR 201. A roadway segment was allocated to an Infrastructure District if it is located within that District or provided a critical, convenient link between residences and businesses within the district to the I-70, SR 202 or SR 201 corridors.

#### Clarifications

- > The Ohio Department of Transportation owns and maintains I-70 including grade separated interchanges with State Route 202 (SR 202) and State Route 201 (SR 201). This facility was not allocated to any of the Infrastructure Districts as it is not maintained by the city.
- > US 40 and SR 4 are also significant roadway assets in the region. While the city borders on these facilities, they are not maintained by the city and were not included in the study beyond being destinations beyond the city limits that are connected to the city's primary corridors.

Figure 1

# Huber Heights Infrastructure Districts



0 0.5 1 2  
Miles

1 inch equals 1 miles



### **Water Infrastructure**

The city's supply of potable water for residential and commercial use and fire protection throughout the city is a very interconnected system. The entire city relies on the water treatment plant to provide safe water. The entire city also relies on elevated storage tanks, booster stations, and a network of pipes 6" in diameter and larger that provide appropriate redundancy and pressure balancing to all areas of the city.

A water infrastructure asset was allocated to an Infrastructure District if it is located in that district or is a part of the water treatment or pressure-providing system for that district. All water mains 6" in diameter and larger are included in the pressure-providing system and are therefore included in each of the Infrastructure Districts. A map of all water assets is included in Appendix X. See the table of contents for a listing of the exhibits that include maps for water assets in each of the Infrastructure Districts.

### **Sanitary Sewer Infrastructure**

The city's sanitary sewer network includes all wastewater collection infrastructure from the individual residences, businesses and facilities to the lines that leave the city carrying sewage to the Tri-Cities Northern Regional Wastewater Authority or Clark County treatment plants. The system includes gravity sewer conduits, manholes, pump stations and sanitary sewer force mains.

A sanitary sewer infrastructure asset was allocated to an Infrastructure District if it is located in that district or is a downstream asset moving flows from the district towards the outfalls from the city. The vast majority of sanitary sewer infrastructure in the city carries flows to the Tri-Cities Northern Regional Wastewater Authority treatment plant located at 3777 Needmore Rd, Dayton, OH 45424, just outside the city's southwestern corporation limits. A small portion of the city's eastern sanitary sewer system, providing service to the Centre Point 70 development and businesses along New Carlisle Pike south of I-70, leaves the city to the east to enter the Clark County system just north of the Artz and SR 235 intersection.

### **Stormwater Infrastructure**

The city's stormwater infrastructure network includes all publicly maintained open and closed drainage systems that carry rainwater from properties within the city limits to tributaries of the Great Miami River and Mad River as they exit the city corporation limits. The city's storm water system relies entirely on gravity flows and includes catch basins, manholes, storm sewer conduits, open channels and culverts within public right of way.

A storm sewer infrastructure asset was allocated to an Infrastructure District if it is located in that district or is a downstream asset moving flows from the district towards the outfalls from the city. Culverts carrying water under city owned and maintained roadways were included in the infrastructure asset assignments for Infrastructure Districts that drain to that location.

### **GIS MAP INTERFACE**

The volume of infrastructure assets included in the city's dataset suggests that map-based presentations and management of the data will be the most effective. The LJB team applied additional data fields to the city's existing GIS information to allocate each asset to one or more Infrastructure Districts. This approach will allow the city to re-integrate the data into their existing system and apply similar approaches to modified or additional elements that are added. It will also allow city staff to query and produce maps and datasets according to the various District assignments.

### Coding of Infrastructure Assets

Utility assets were assigned a code, which is viewable in the asset attribute field “Infrastructure Support District”, identifying the infrastructure district of origin. For road, storm and sanitary sewer assets, lines of continuity were followed until the utility assets exited the city boundary or ended at a body of water or processing facility. Codes were assigned to each segment in that path relating to the infrastructure district of origin, providing a clear path of asset origin to termination as defined earlier.

### Query Process

To query assets, LJB first sorted by infrastructure district of origin by selecting the corresponding value from the “Infrastructure Support District” attribute field, thus showing all assets located within the boundaries of the district of interest. Next LJB added additional querying statements to show the path from origin to termination by selecting the corresponding value for “Support District” attribute fields 1-4. When structured correctly, the querying statement selects assets from the infrastructure district of origin and the accompanying assets required to perform a trace from infrastructure district of origin to point of termination.

Queried shapefile layers have been provided for each Infrastructure Support District.

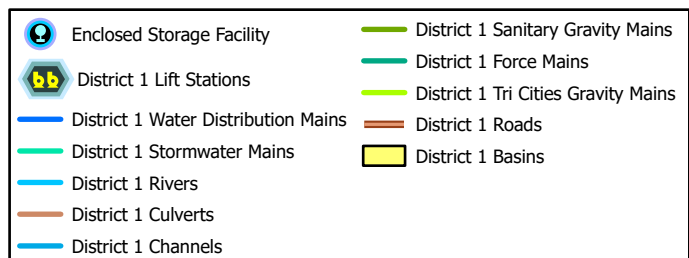
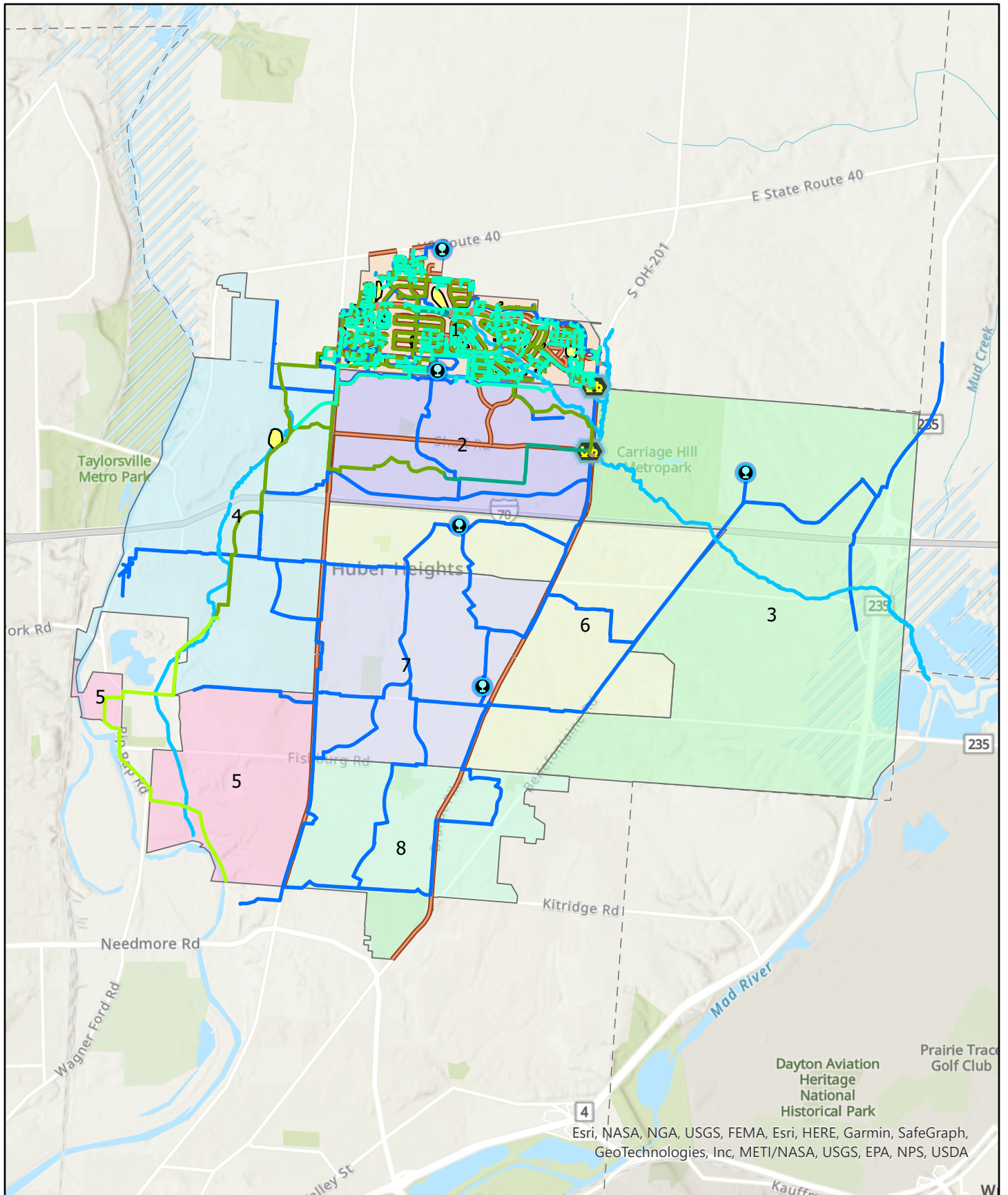
# Appendix A

Infrastructure District 1



We think bigger.

## Infrastructure District 1 - Overview

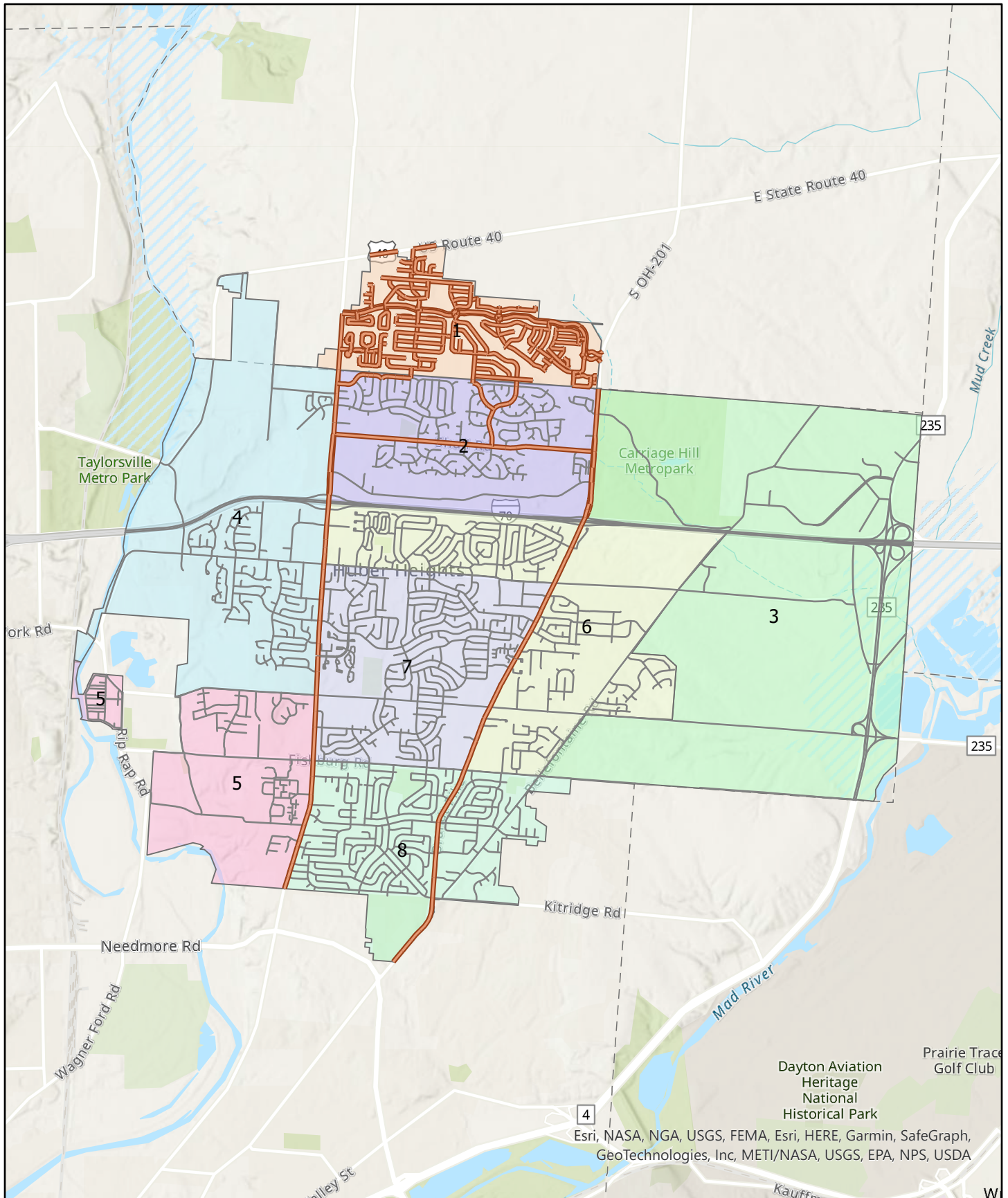


0 0.5 1 2 Miles

1 inch equals 1 miles



# Infrastructure District 1 - Roads



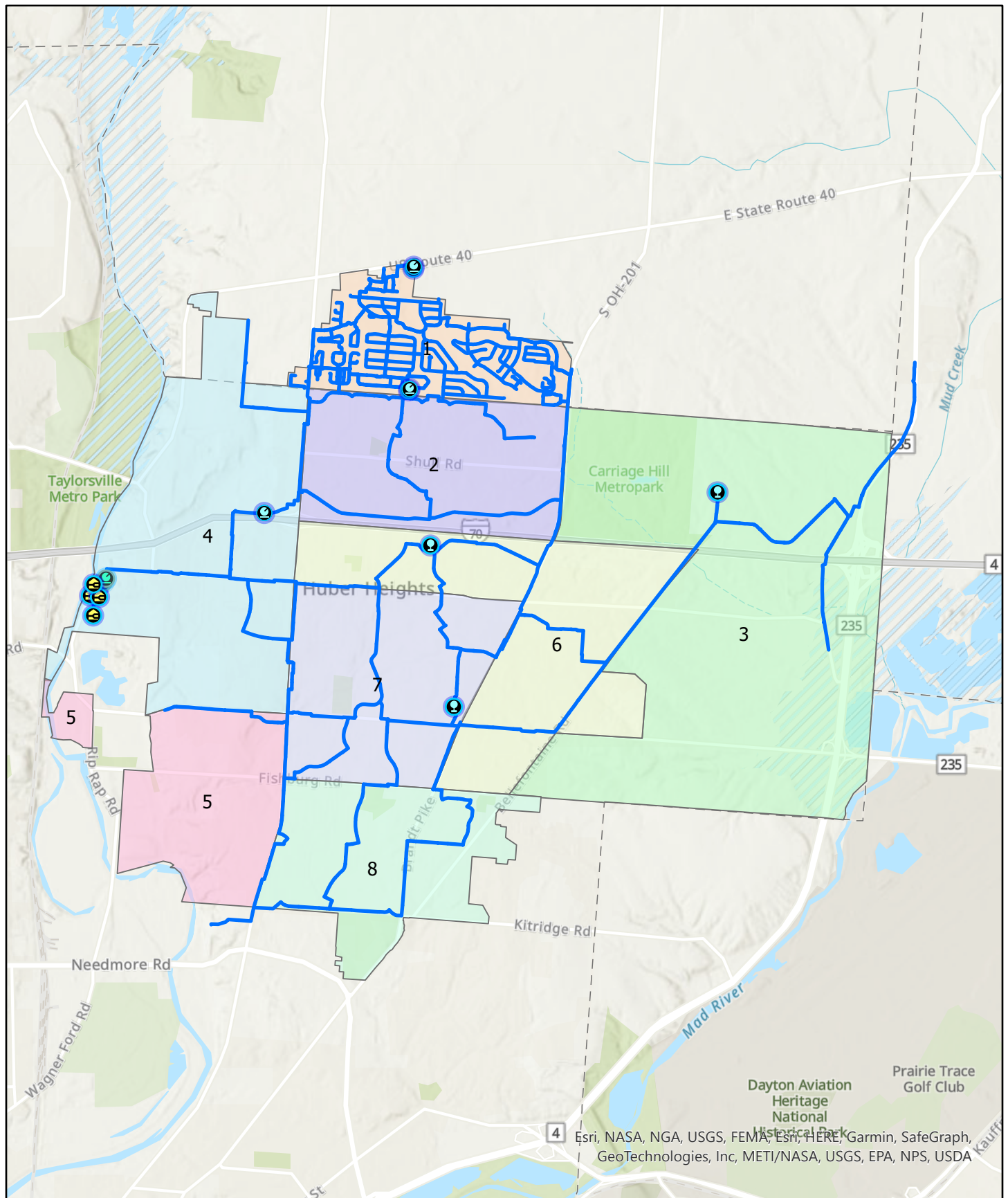
— District 1 Roads  
— Huber Heights Streets

0 0.5 1 2  
Miles

1 inch equals 1 miles



# Infrastructure District 1 - Water



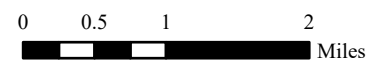
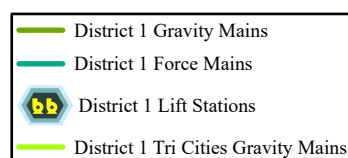
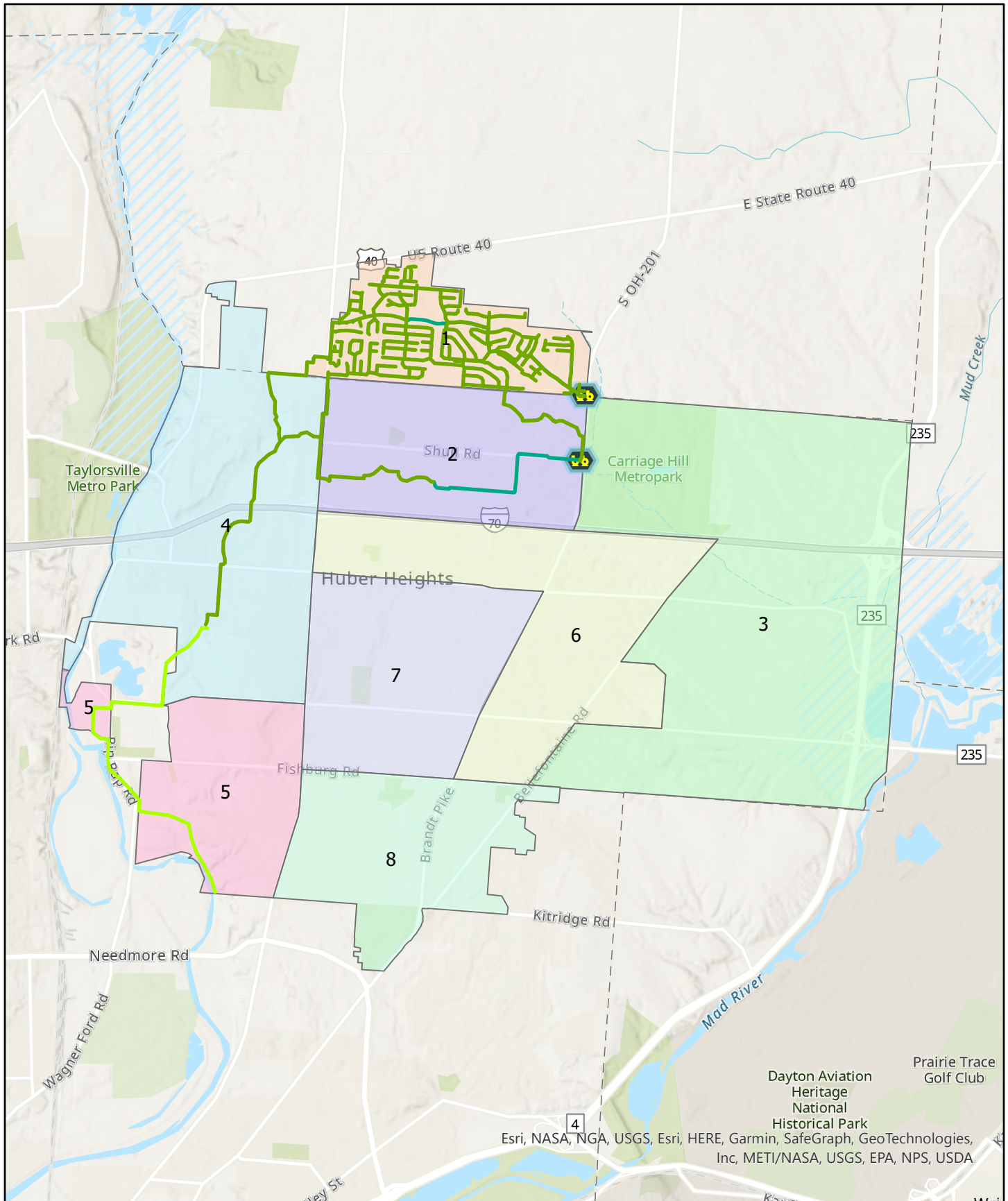
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	Intake		Storage Basin
	Meter Station		Treatment Plant
	Production Well		Water Distribution Mains

0 0.5 1 2 Miles

1 inch equals 1 miles



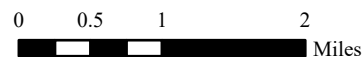
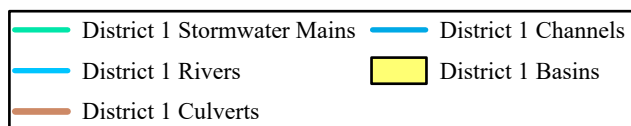
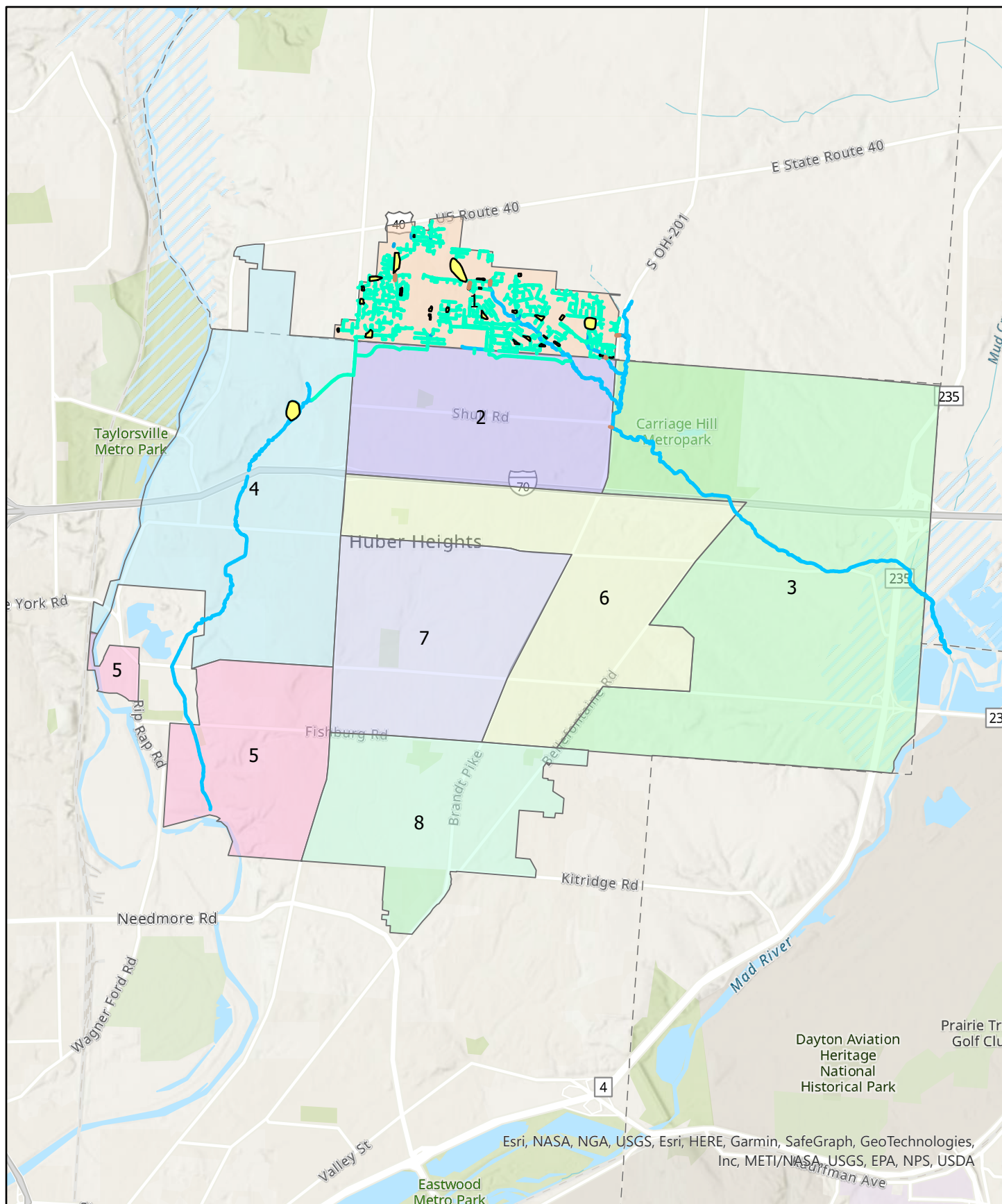
# Infrastructure District 1 - Sanitary Sewer



1 inch equals 1 miles



# Infrastructure District 1 - Stormwater



1 inch equals 1 miles



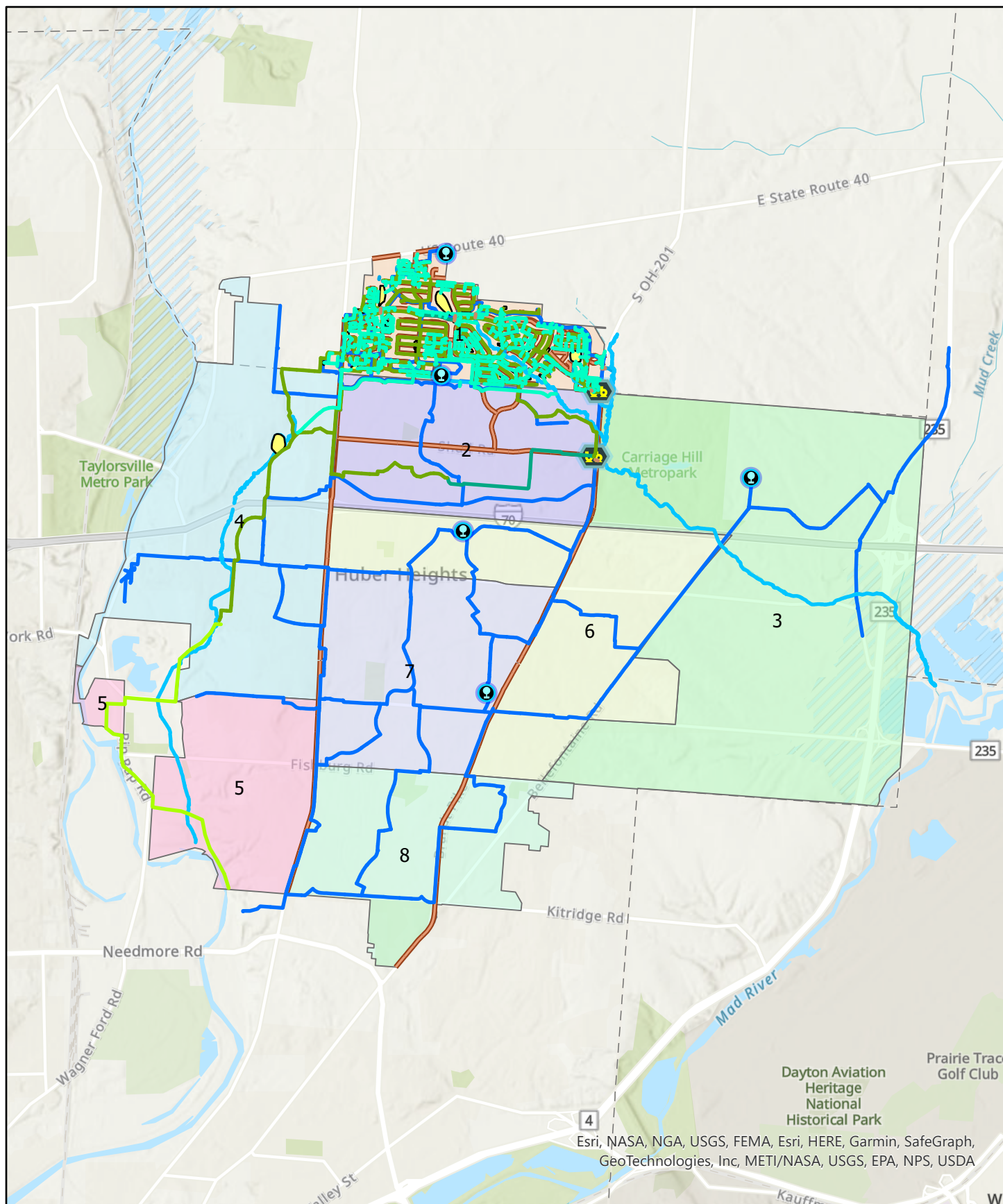
# Appendix B

Infrastructure District 2



We think bigger.

## Infrastructure District 1 - Overview



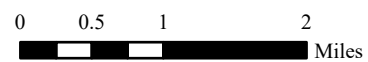
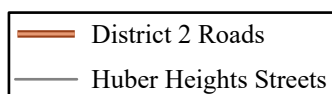
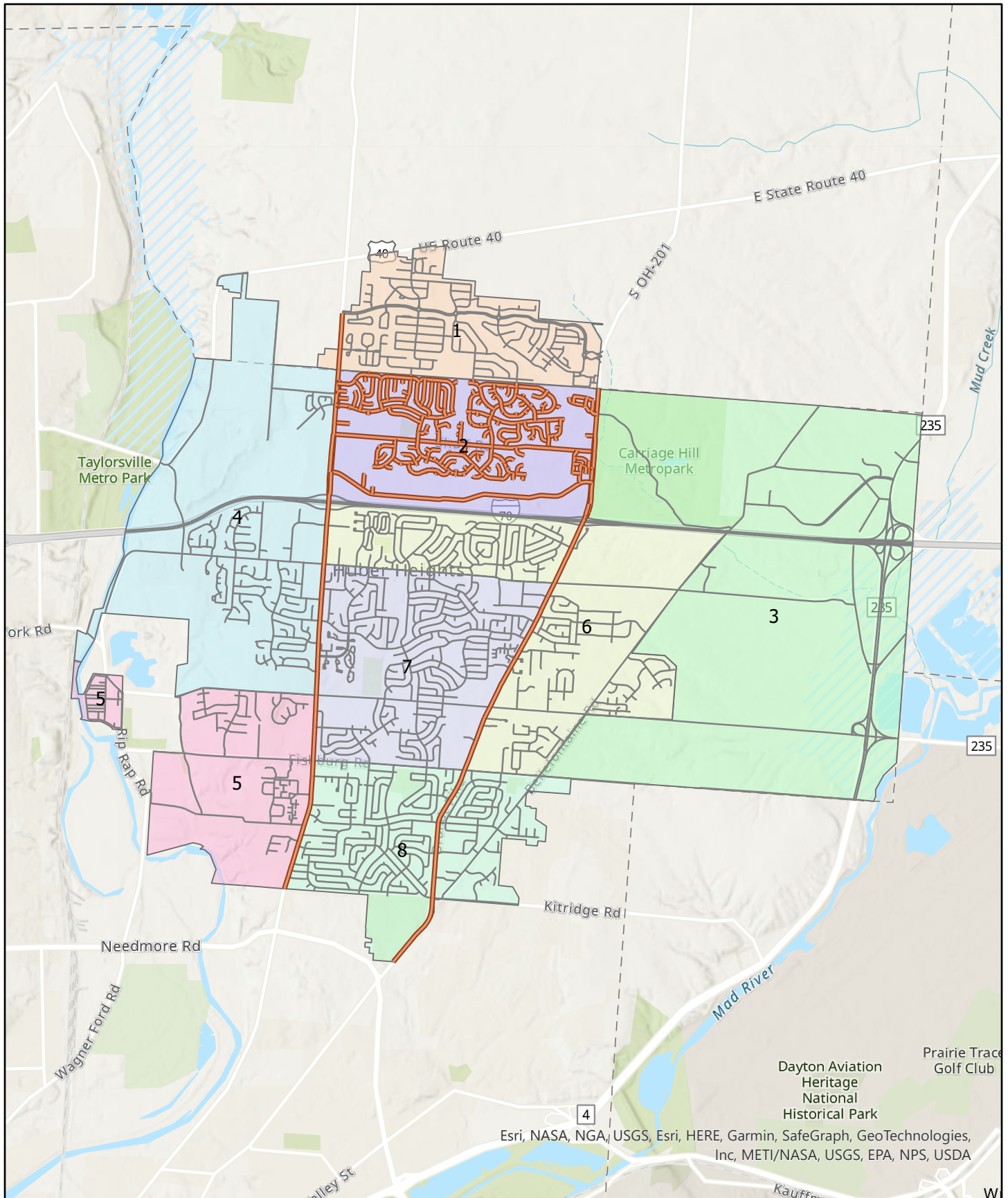
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|-------------------------------------|-------------------------------------|
| Enclosed Storage Facility           | District 1 Sanitary Gravity Mains   |
| District 1 Lift Stations            | District 1 Force Mains              |
| District 1 Water Distribution Mains | District 1 Tri Cities Gravity Mains |
| District 1 Stormwater Mains         | District 1 Roads                    |
| District 1 Rivers                   | District 1 Basins                   |
| District 1 Culverts                 |                                     |
| District 1 Channels                 |                                     |

0 0.5 1 2 Miles

1 inch equals 1 miles



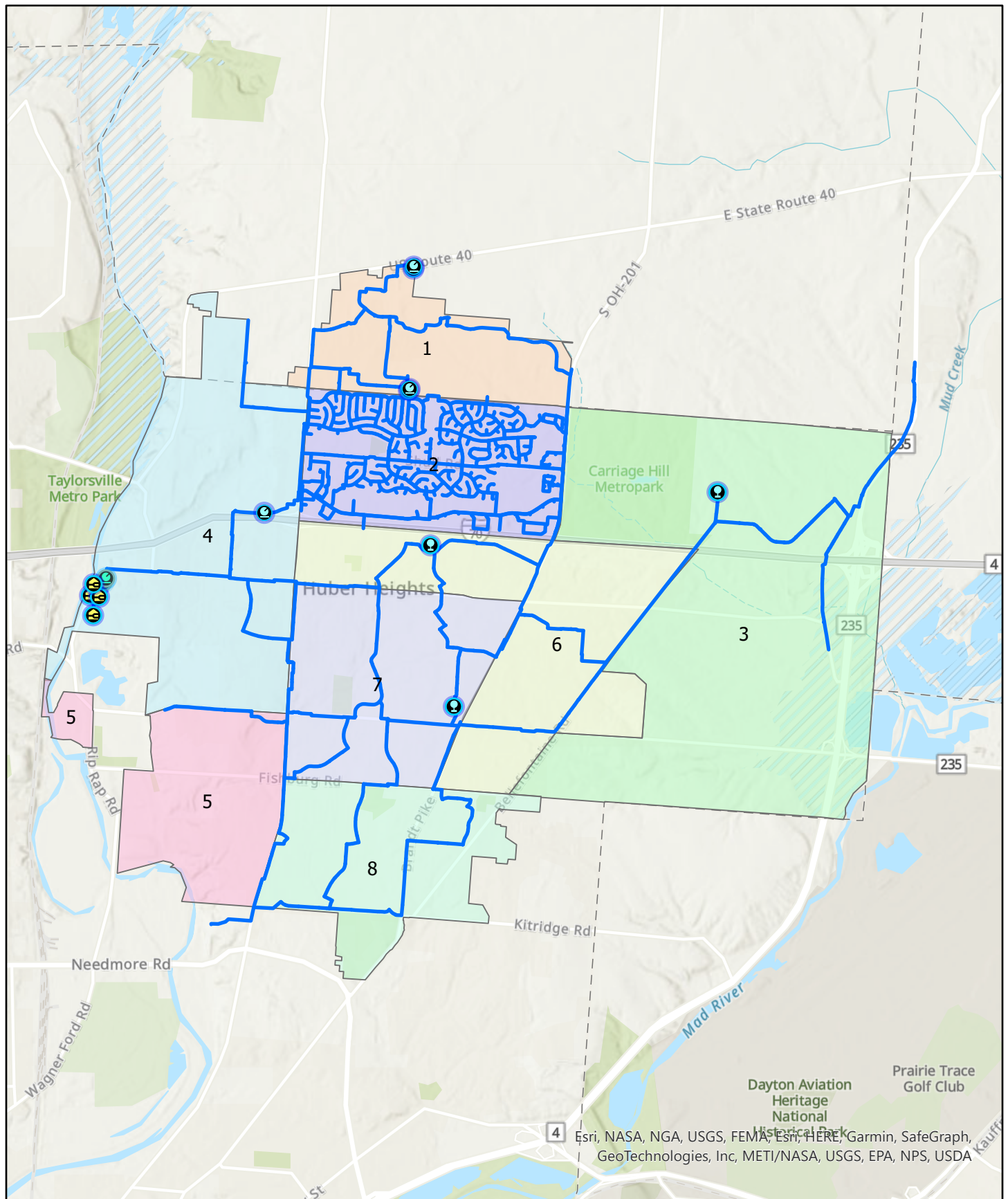
# Infrastructure District 2 - Roads



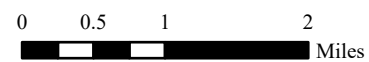
1 inch equals 1 miles



# Infrastructure District 2 - Water



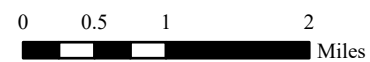
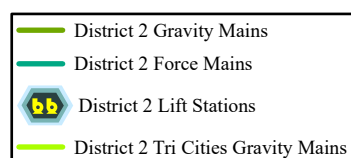
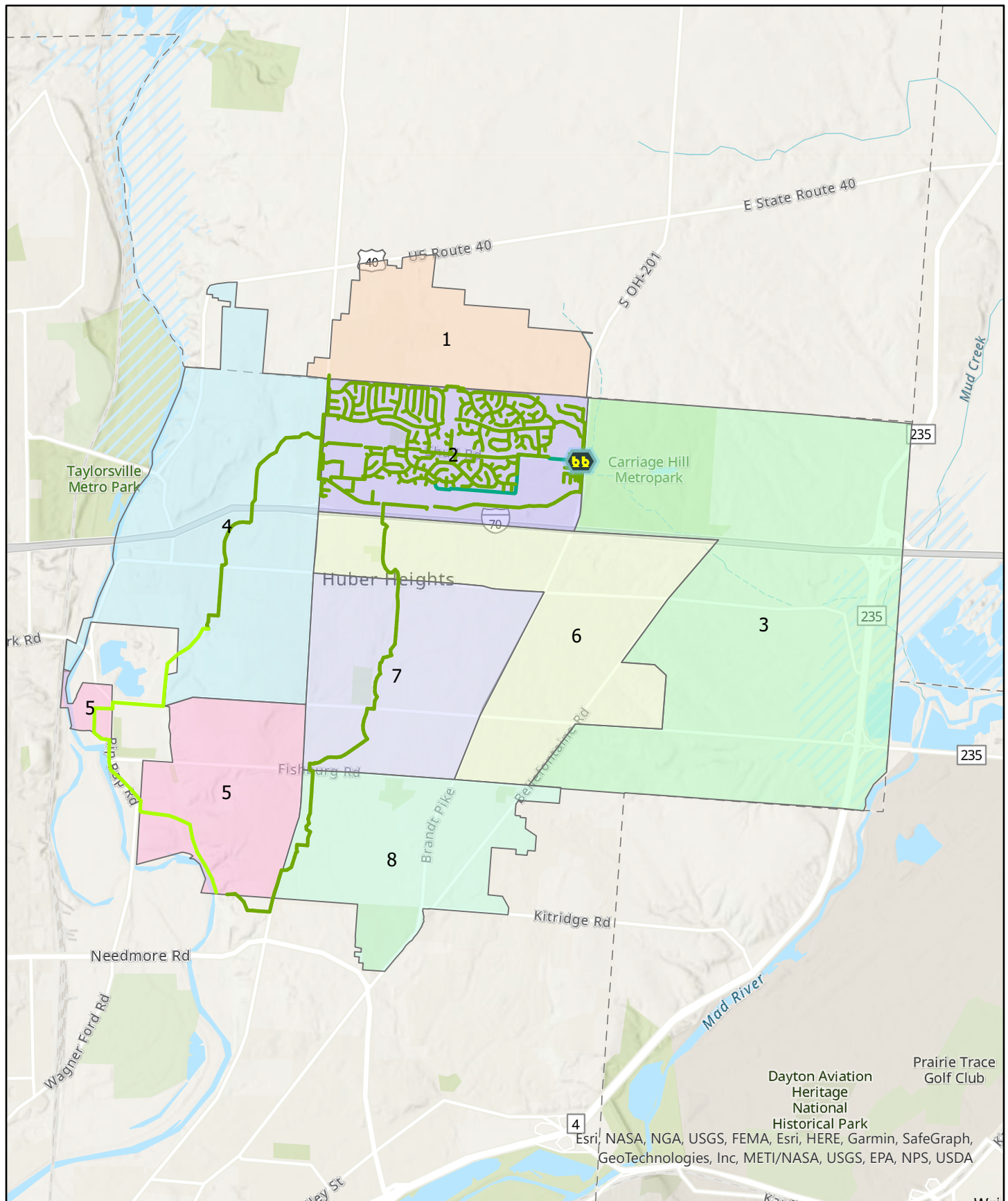
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	Intake		Storage Basin
	Meter Station		Treatment Plant
	Production Well		Water Distribution Mains



1 inch equals 1 miles



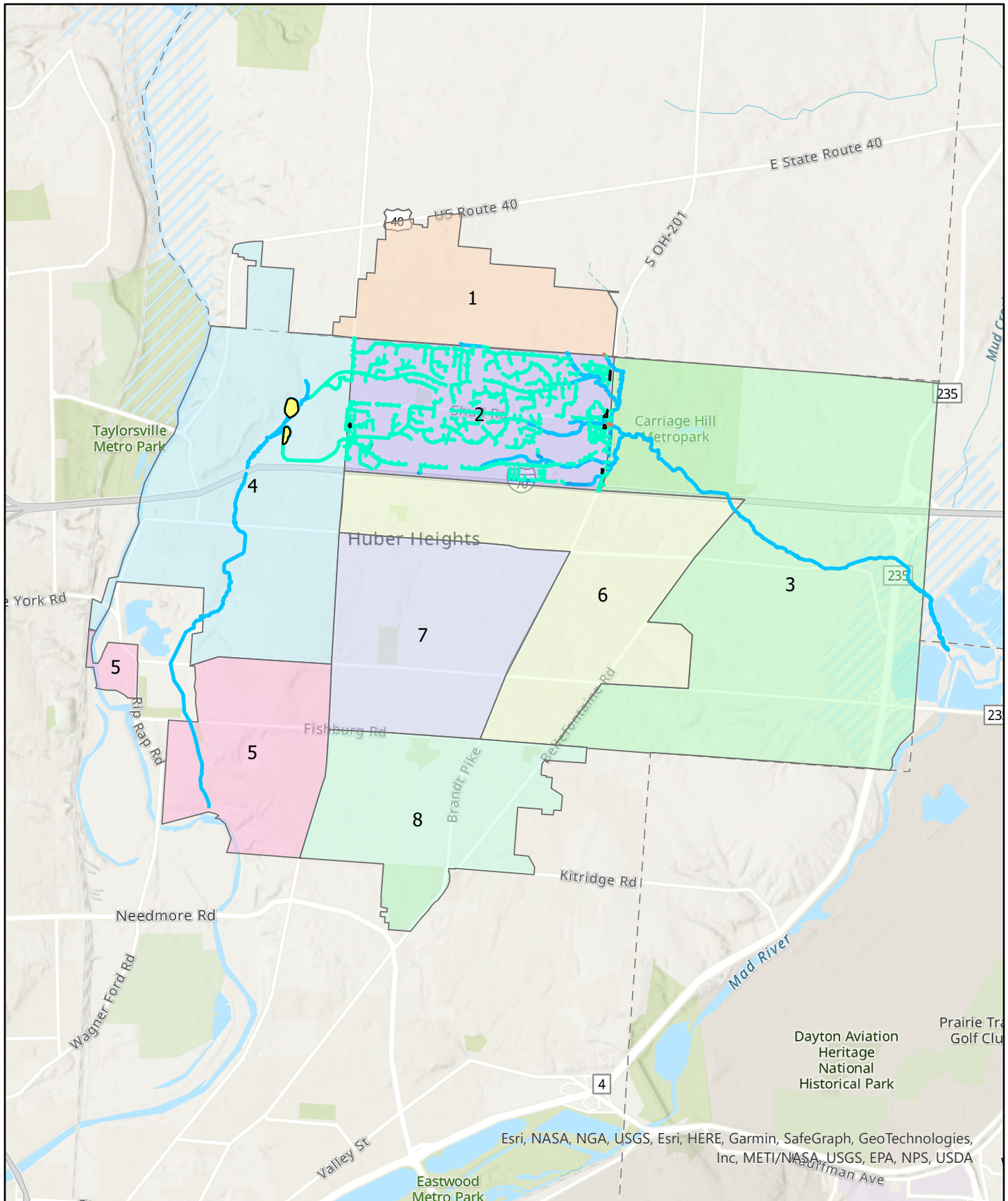
## Infrastructure District 2 - Sanitary Sewer








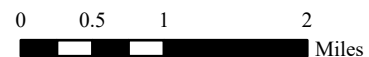
1 inch equals 1 miles



# Infrastructure District 2 - Stormwater



 District 2 Stormwater Mains	 District 2 Channels
 District 2 Rivers	 District 2 Basins
 District 2 Culverts	



1 inch equals 1 miles



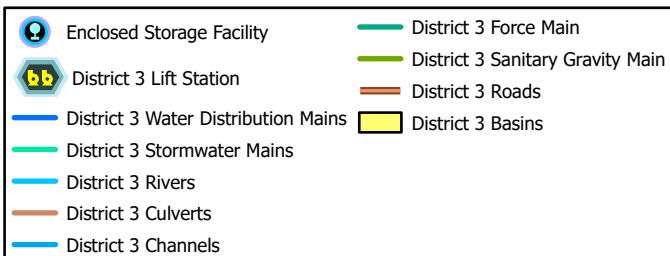
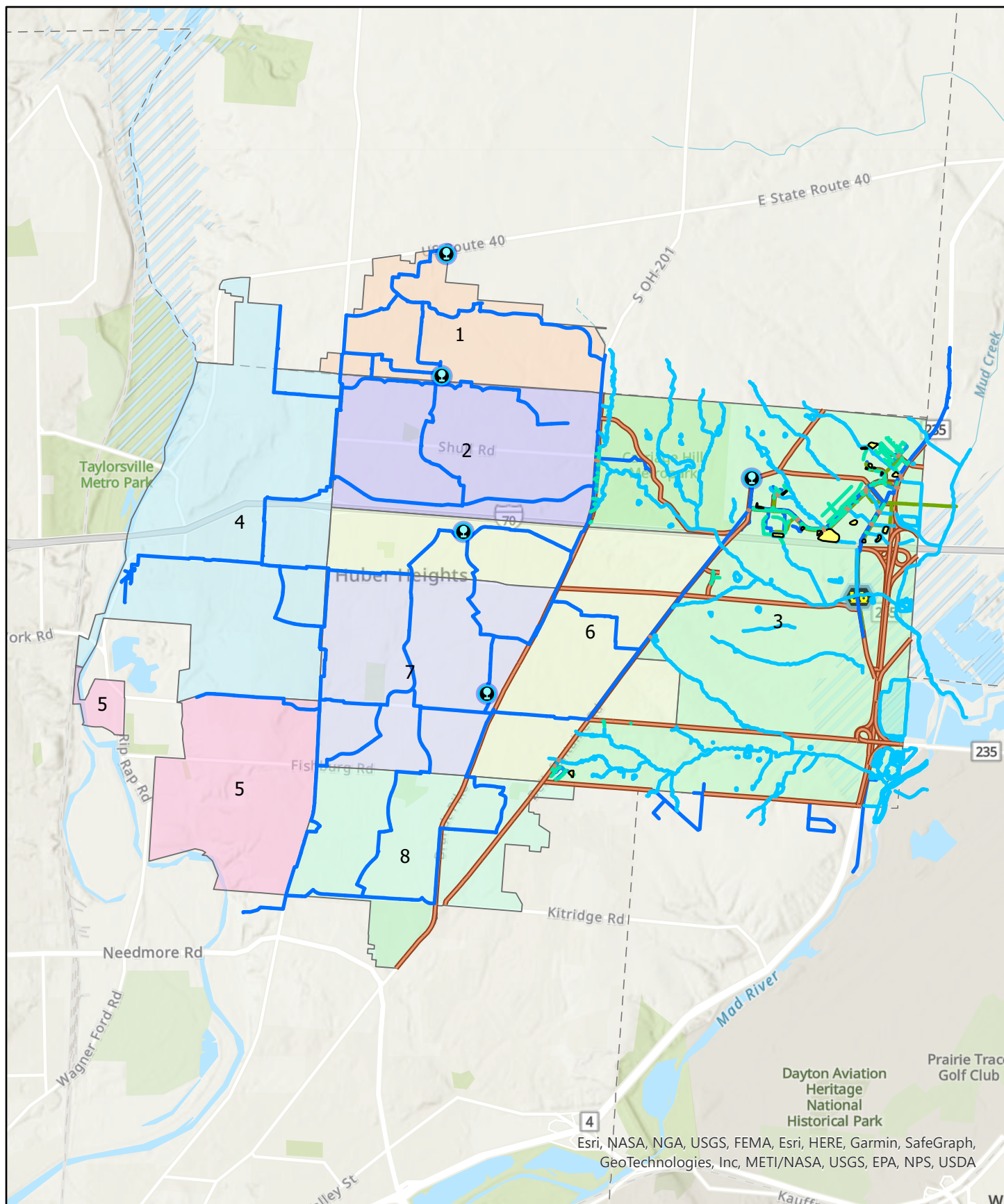
# Appendix C

Infrastructure District 3



We think bigger.

## Infrastructure District 3 - Overview

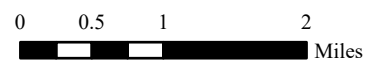
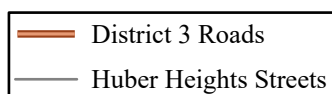
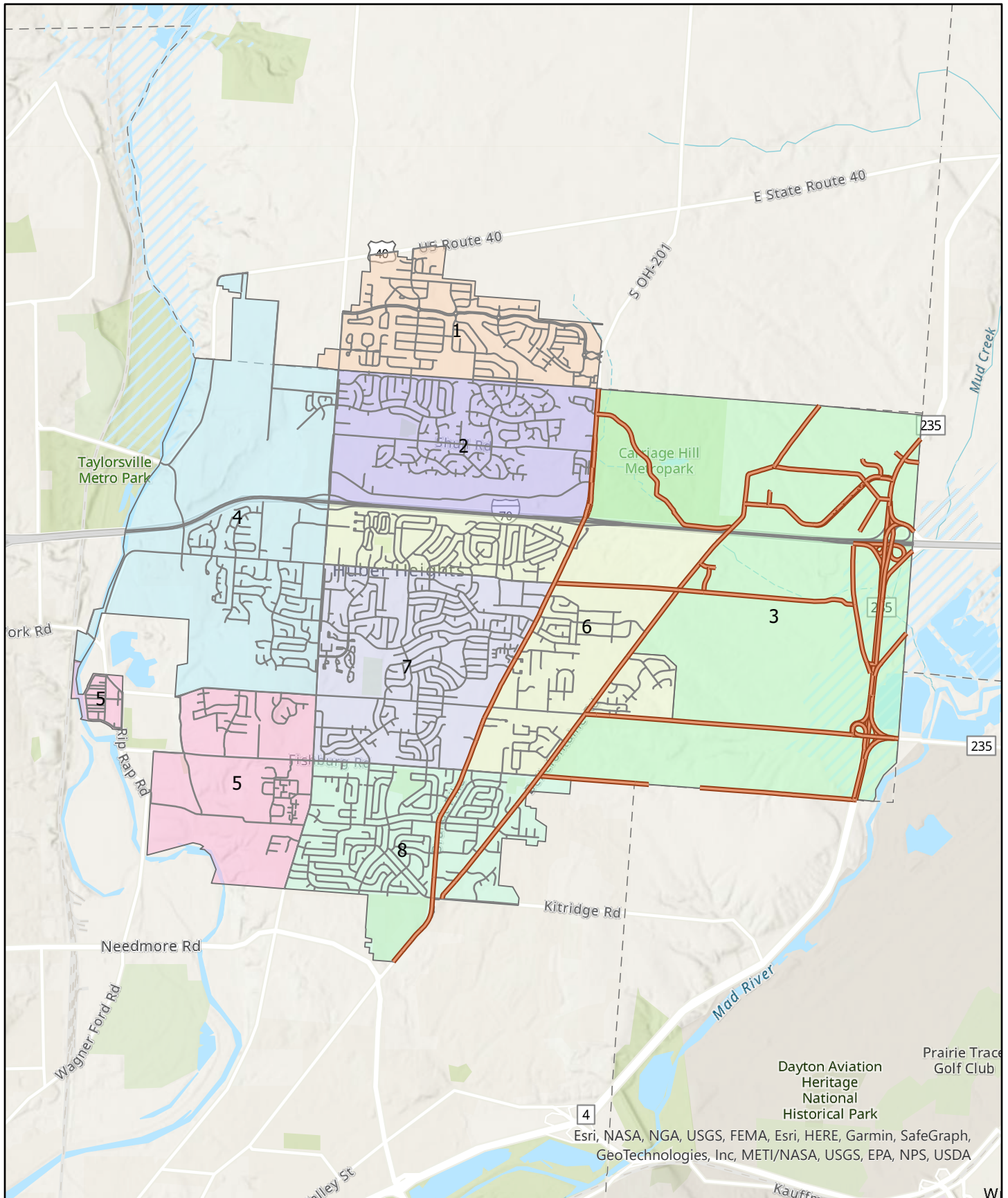


0 0.5 1 2 Miles

1 inch equals 1 miles



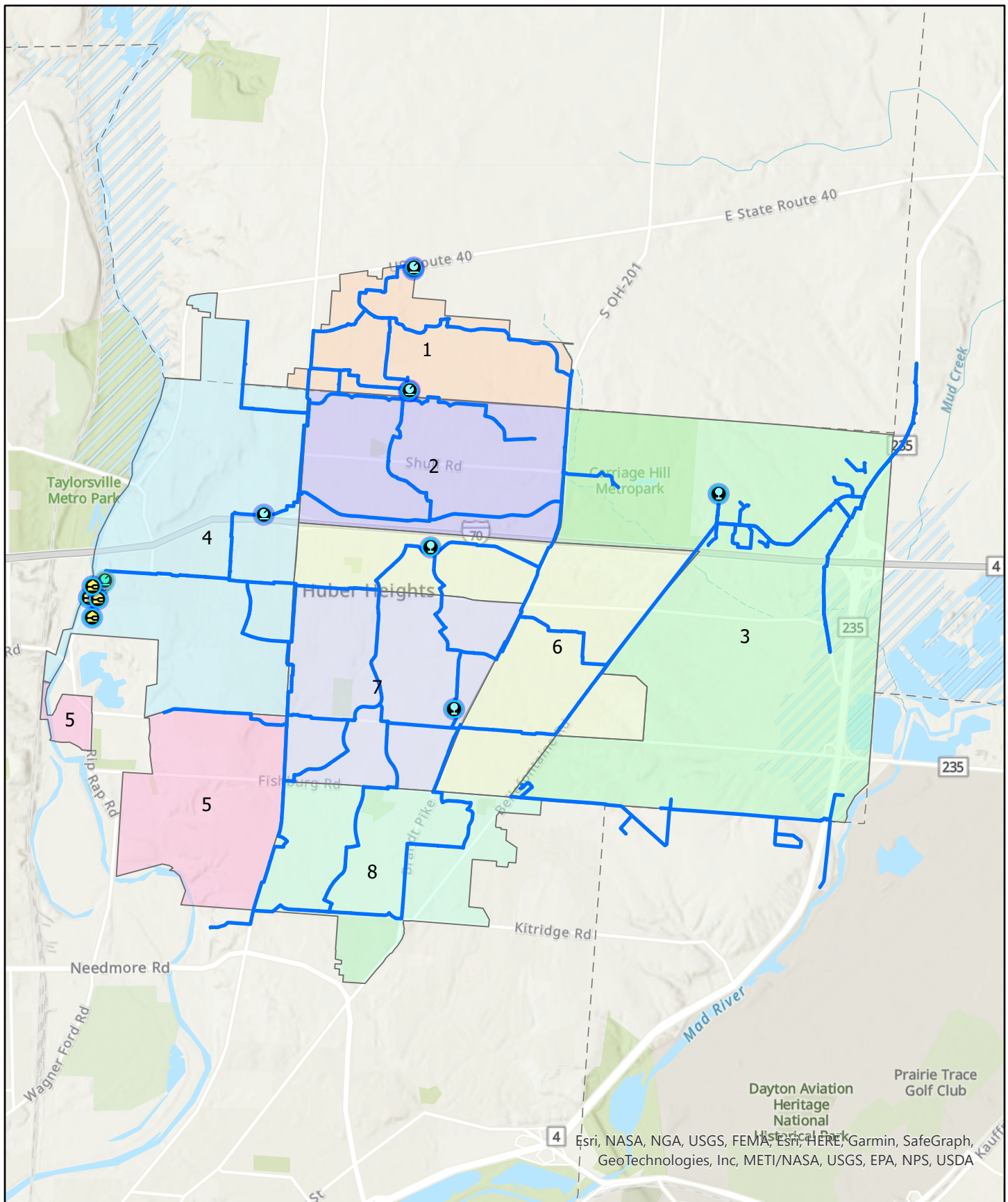
# Infrastructure District 3 - Roads



1 inch equals 1 miles



## Infrastructure District 3 - Water



	Enclosed Storage Facility		Pump Station
	Intake		Storage Basin
	Meter Station		Treatment Plant
	Production Well		Water Distribution Mains

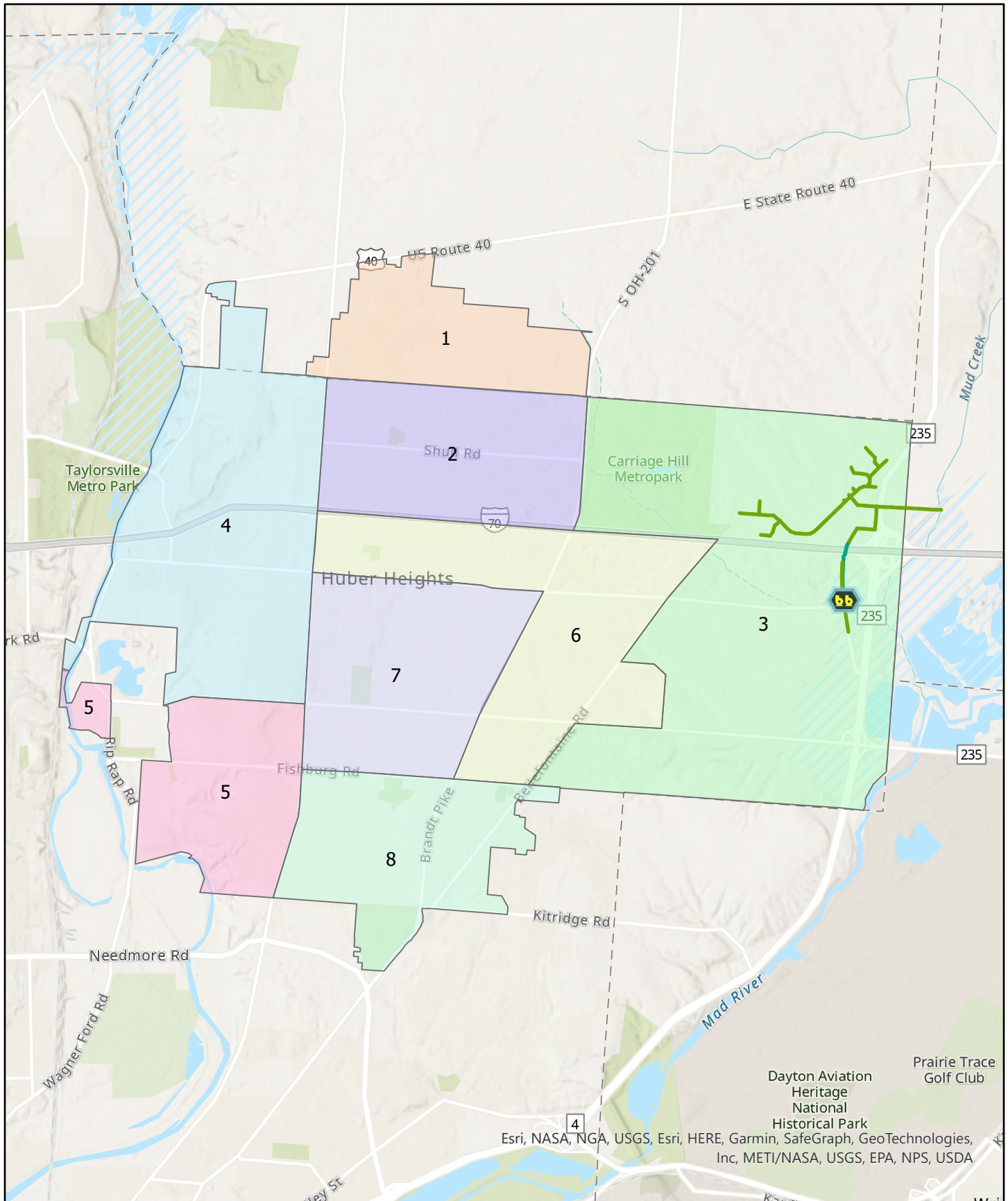
0 0.5 1 2  
Miles

1 inch equals 1 miles

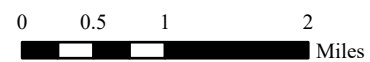


Esri, NASA, NGA, USGS, FEMA, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA

# Infrastructure District 3 - Sanitary Sewer



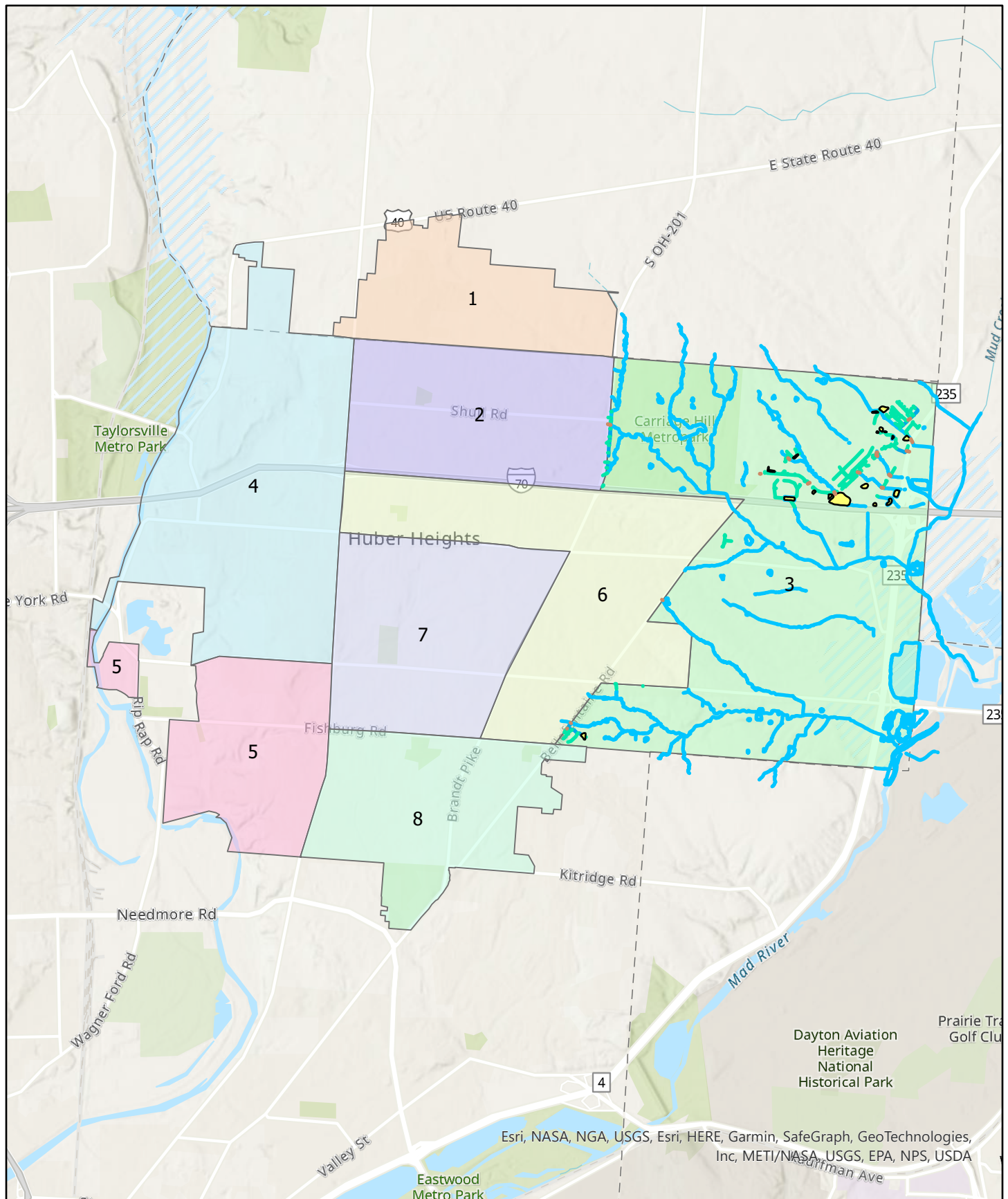
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<span style="color: blue;">—</span>	District 3 Force Main
<span style="background-color: yellow; border: 1px solid black; border-radius: 50%; padding: 2px;">bb</span>	District 3 Lift Station



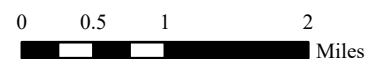
1 inch equals 1 miles



# Infrastructure District 3 - Stormwater



<span style="color: green;">—</span> District 3 Stormwater Mains	<span style="color: blue;">—</span> District 3 Channels
<span style="color: blue;">—</span> District 3 Rivers	<span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> District 3 Basins
<span style="color: brown;">—</span> District 3 Culverts	



1 inch equals 1 miles



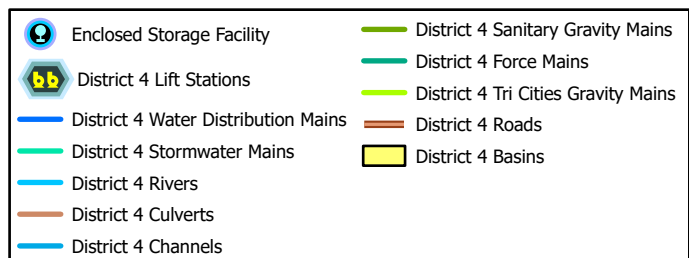
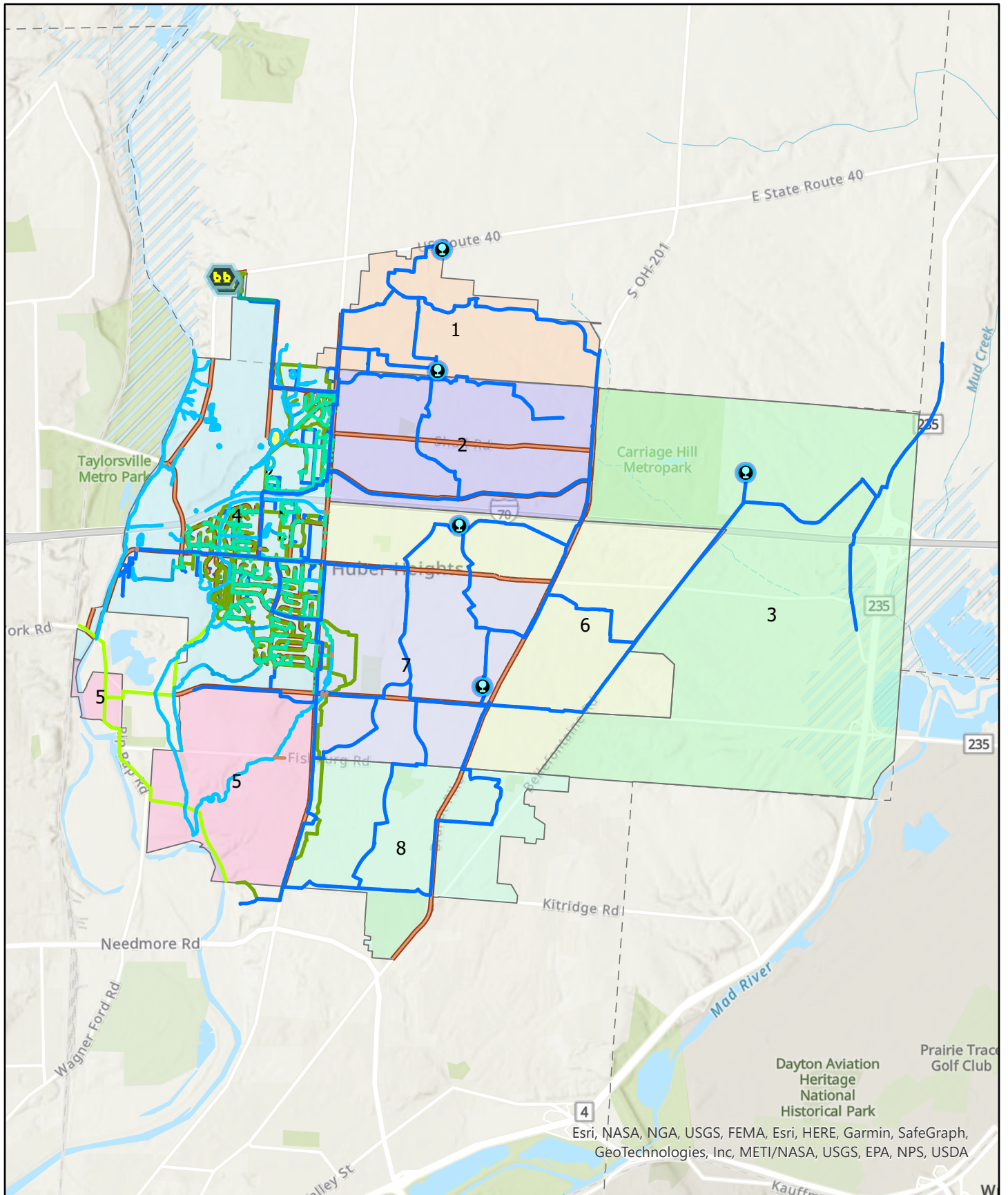
# Appendix D

Infrastructure District 4



We think bigger.

## Infrastructure District 4 - Overview

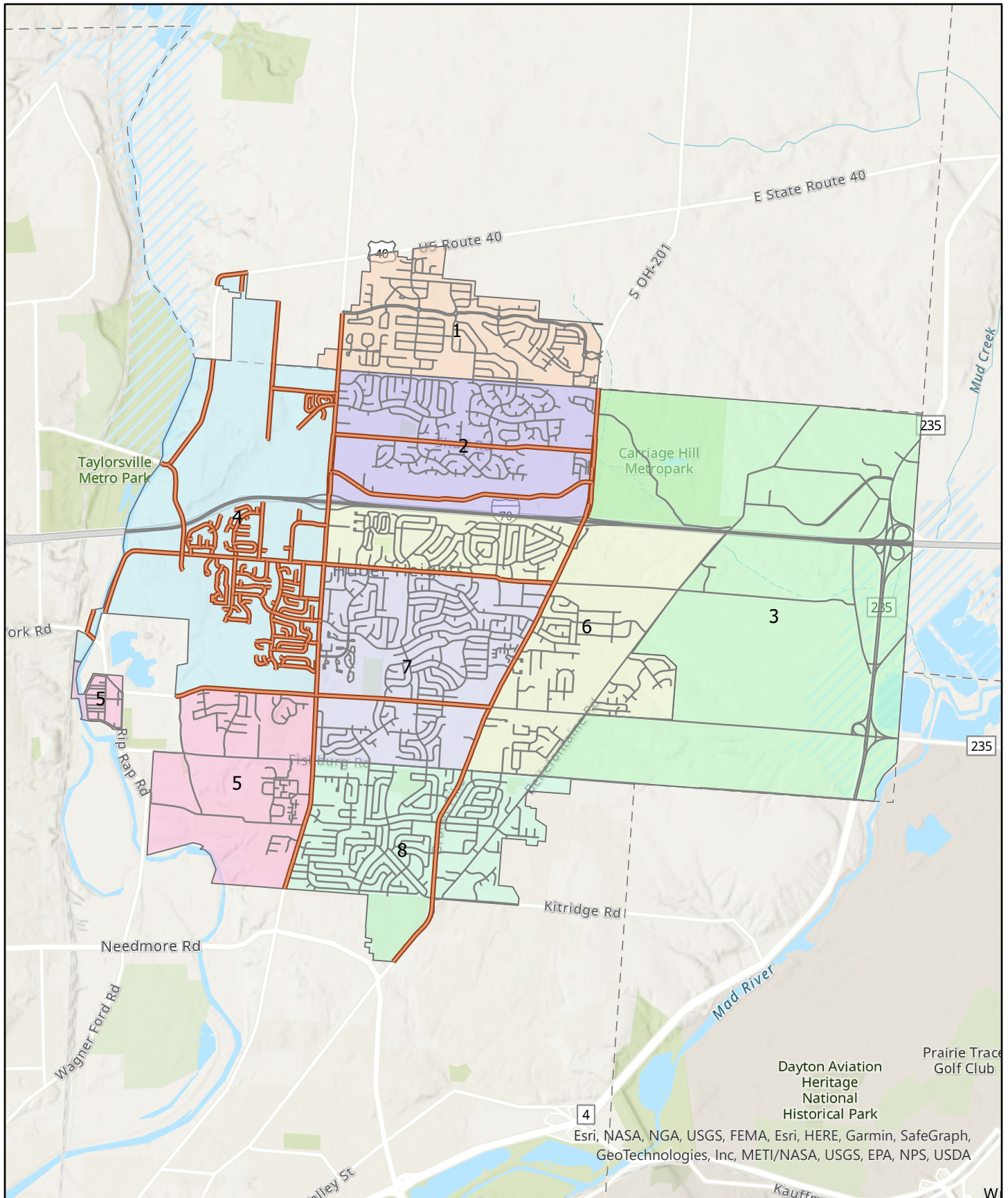


0 0.5 1 2 Miles

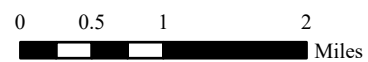
1 inch equals 1 miles



# Infrastructure District 4 - Roads



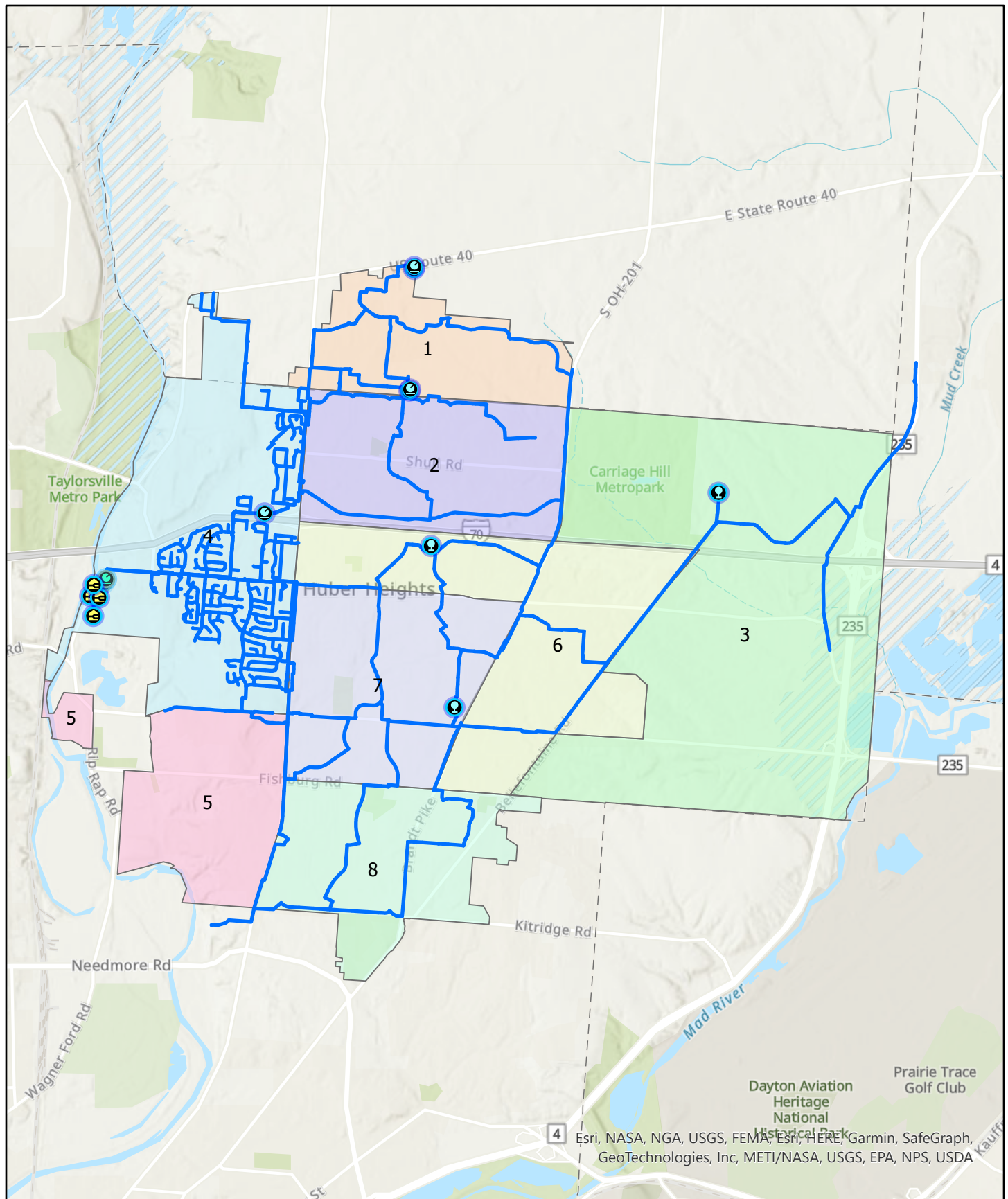
	District 4 Roads
	Huber Heights Streets



1 inch equals 1 miles



## Infrastructure District 4 - Water



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	Intake		Storage Basin
	Meter Station		Treatment Plant
	Production Well		Water Distribution Mains

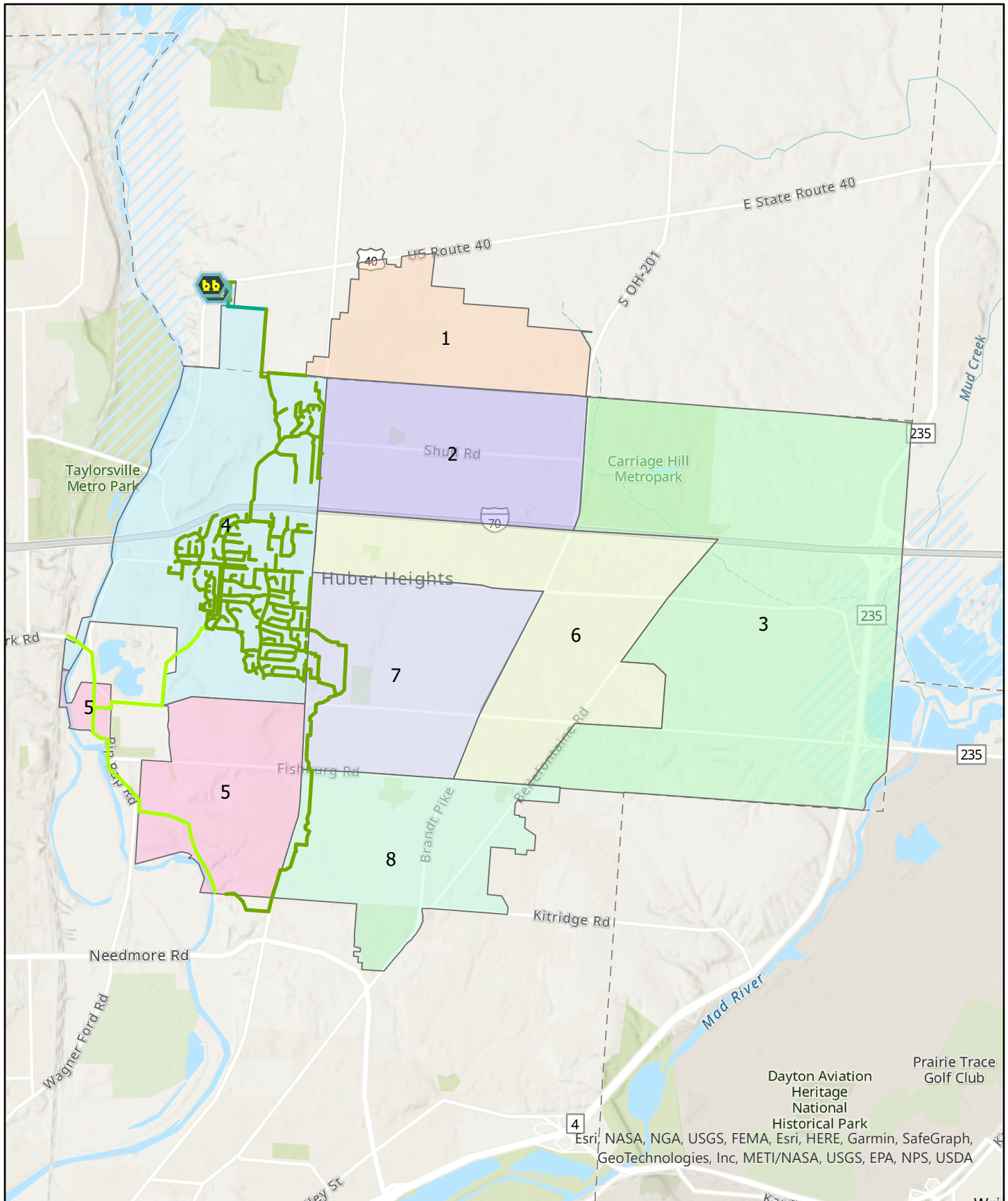
0 0.5 1 2  
Miles

1 inch equals 1 miles

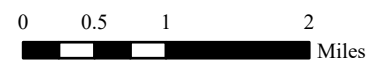


Esri, NASA, NGA, USGS, FEMA, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA

# Infrastructure District 4 - Sanitary Sewer



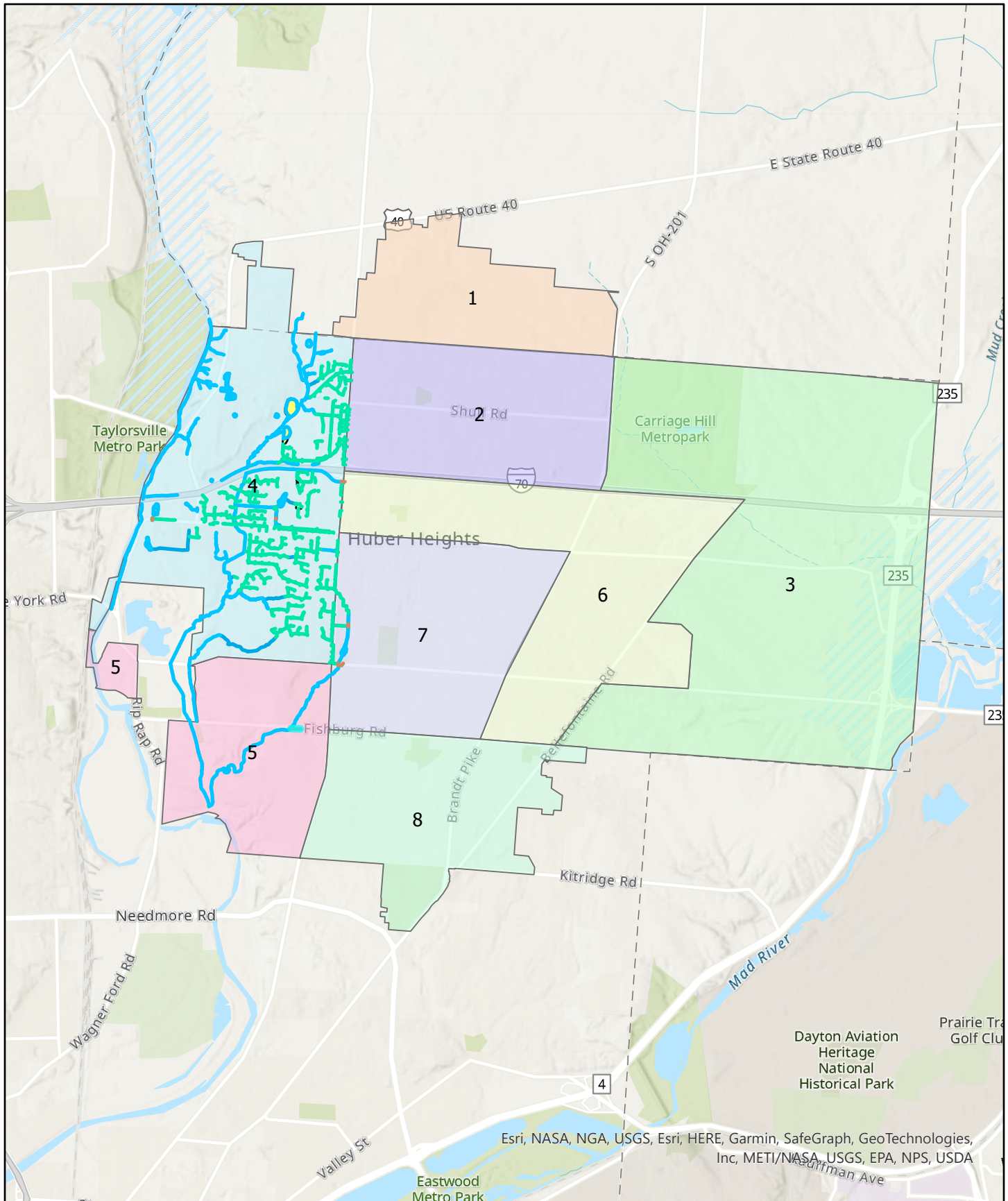
- District 4 Gravity Mains
- District 4 Force Mains
- bb District 4 Lift Stations
- District 4 Tri Cities Gravity Mains



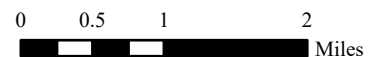
1 inch equals 1 miles



# Infrastructure District 4 - Stormwater



<span style="color: green;">—</span> District 4 Stormwater Mains	<span style="color: blue;">—</span> District 4 Channels
<span style="color: lightblue;">—</span> District 4 Rivers	<span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> District 4 Basins
<span style="color: brown;">—</span> District 4 Culverts	



1 inch equals 1 miles



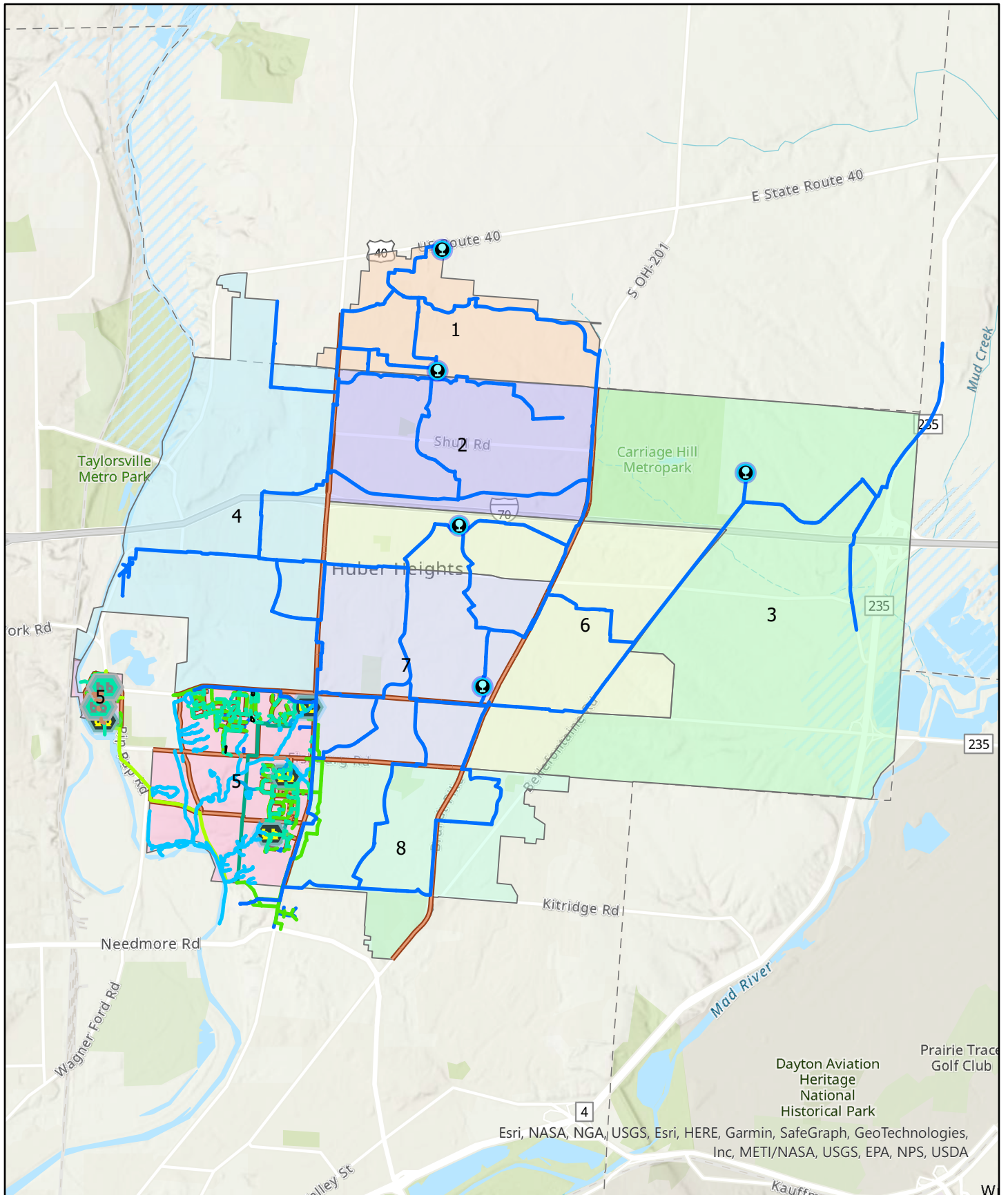
# Appendix E

Infrastructure District 5



We think bigger.

## Infrastructure District 5 - Overview



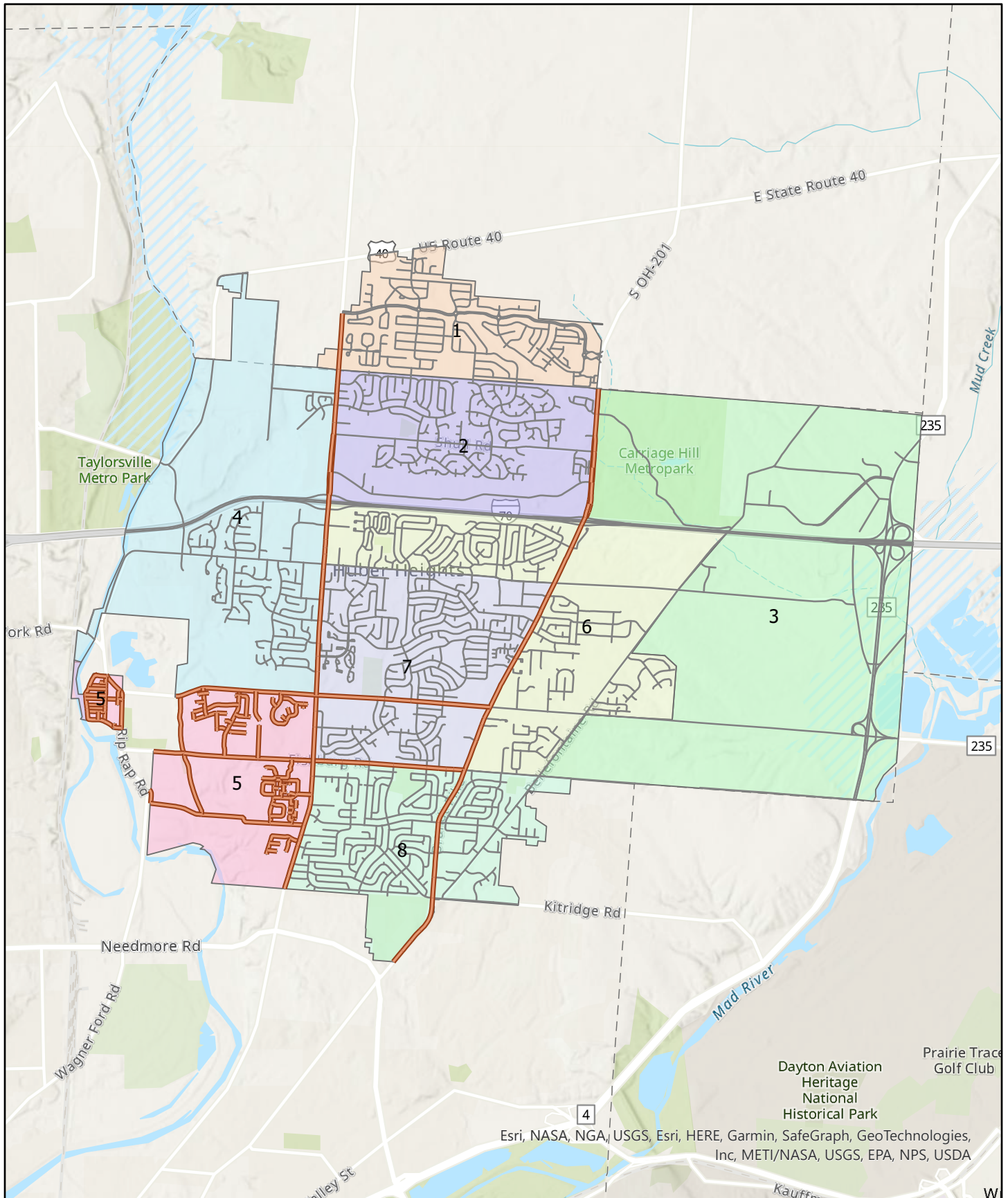
- |                                     |                                     |
|-------------------------------------|-------------------------------------|
| Enclosed Storage Facility           | District 5 Culverts                 |
| District 5 Lift Stations            | District 5 Channels                 |
| District 5 Pump Station             | District 5 Sanitary Gravity Mains   |
| District 5 Water Distribution Mains | District 5 Force Mains              |
| District 5 Stormwater Mains         | District 5 Tri Cities Gravity Mains |
| District 5 Rivers                   | District 5 Roads                    |
|                                     | District 5 Basins                   |

0 0.5 1 2  
Miles

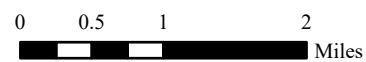
1 inch equals 1 miles



# Infrastructure District 5 - Roads



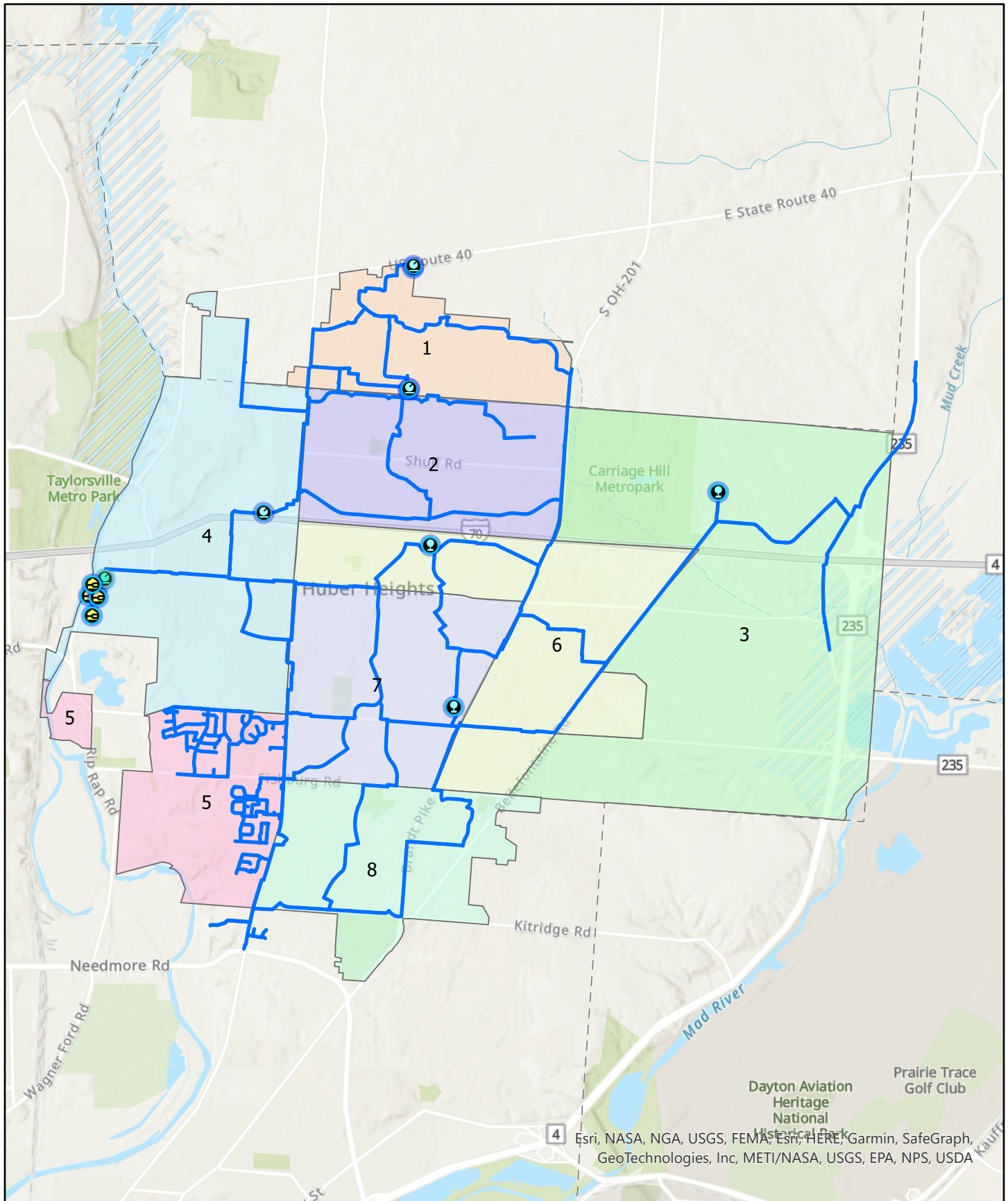
	District 5 Roads
	Huber Heights Streets



1 inch equals 1 miles



# Infrastructure District 5 - Water



	Enclosed Storage Facility		Pump Station
	Intake		Storage Basin
	Meter Station		Treatment Plant
	Production Well		Water Distribution Mains

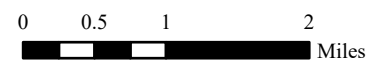
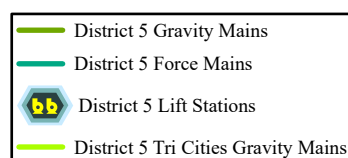
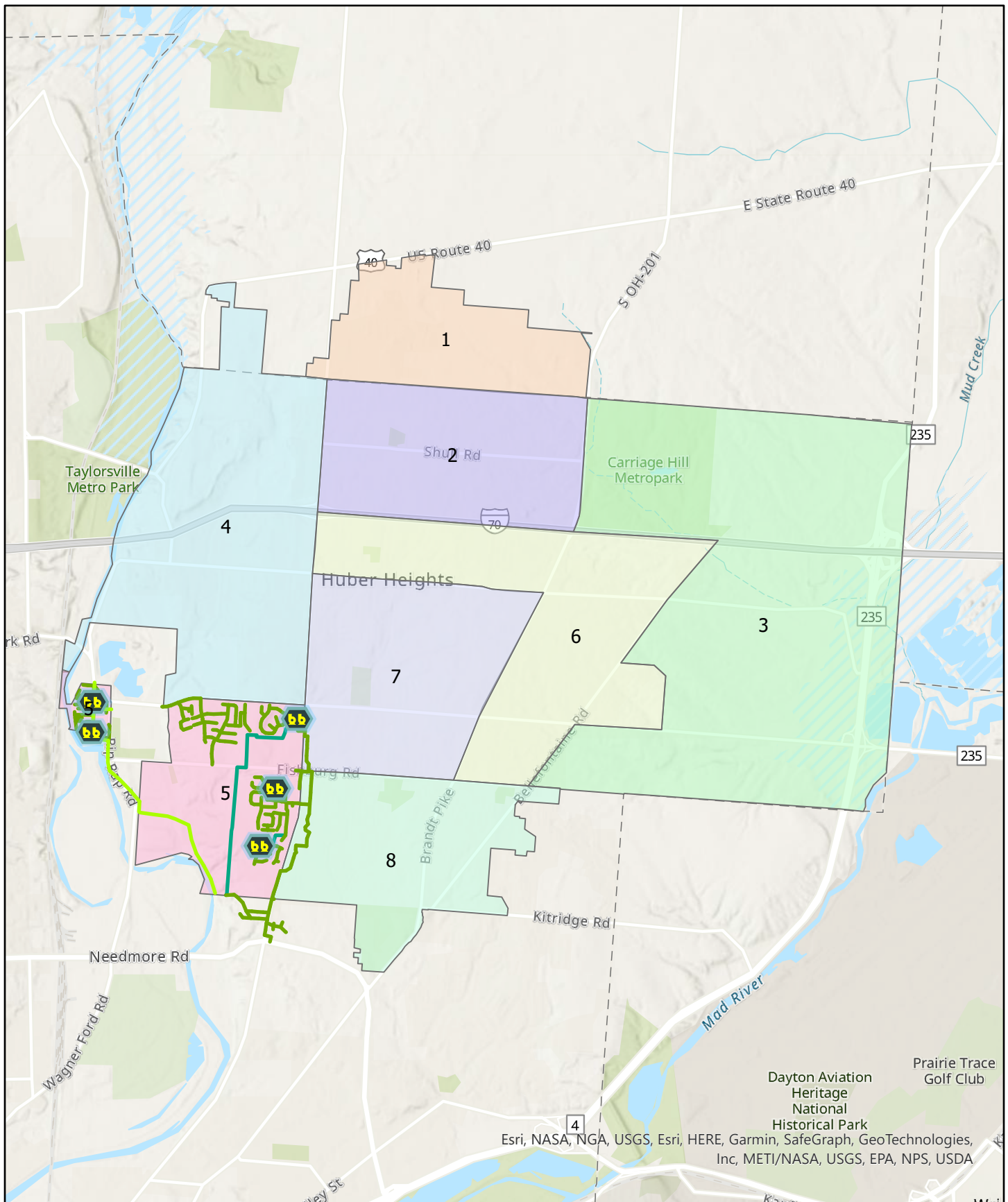
0 0.5 1 2 Miles

1 inch equals 1 miles



Esri, NASA, NGA, USGS, FEMA, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA

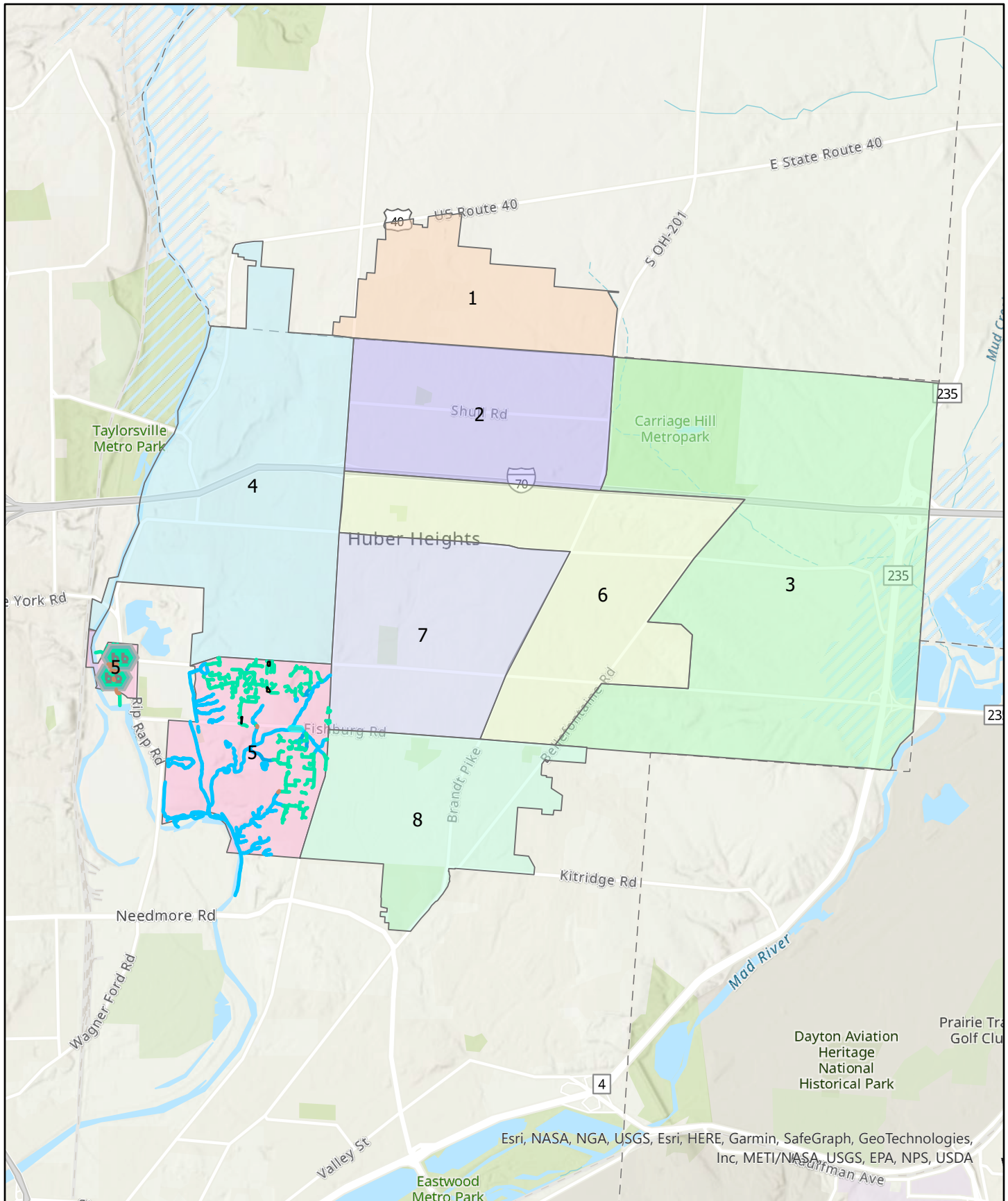
# Infrastructure District 5 - Sanitary Sewer



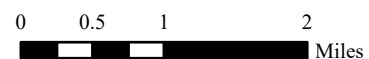
1 inch equals 1 miles



# Infrastructure District 5 - Stormwater



<span style="color: green;">—</span> District 5 Stormwater Mains	<span style="color: blue;">—</span> District 5 Channels
<span style="color: lightblue;">—</span> District 5 Rivers	<span style="background-color: yellow;"> </span> District 5 Basins
<span style="color: brown;">—</span> District 5 Culverts	<span style="background-color: green; border: 1px solid black; border-radius: 50%; padding: 2px;">PS</span> Pump Station



1 inch equals 1 miles



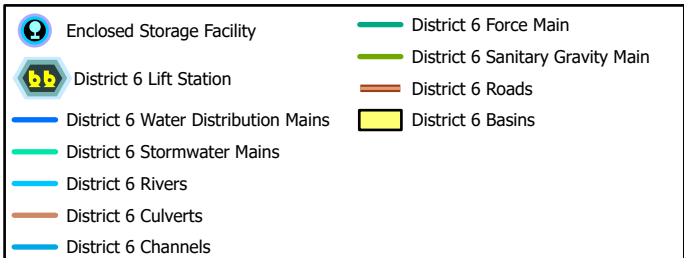
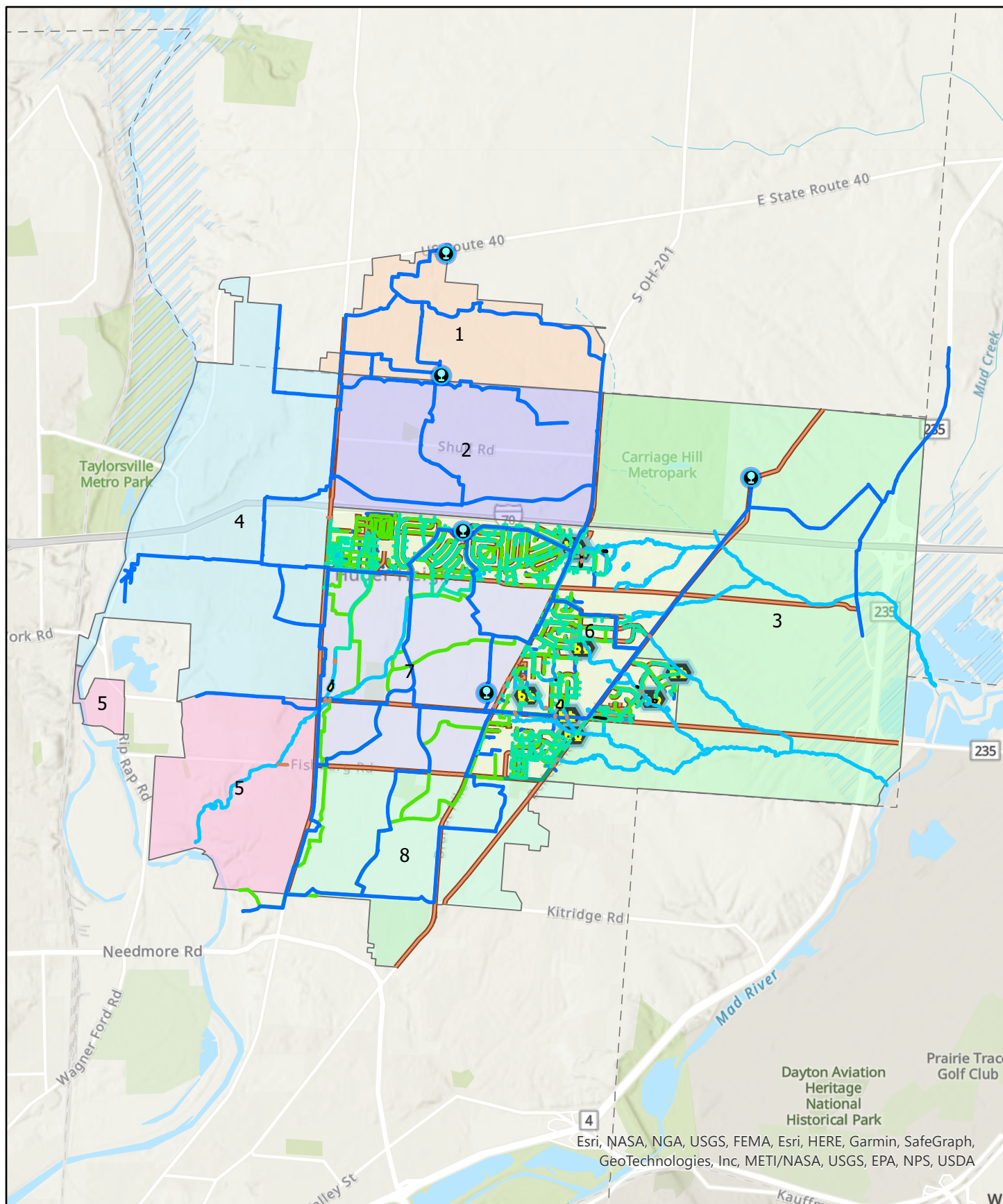
# Appendix F

Infrastructure District 6



We think bigger.

## Infrastructure District 6 - Overview

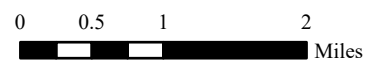
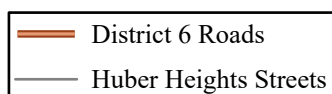
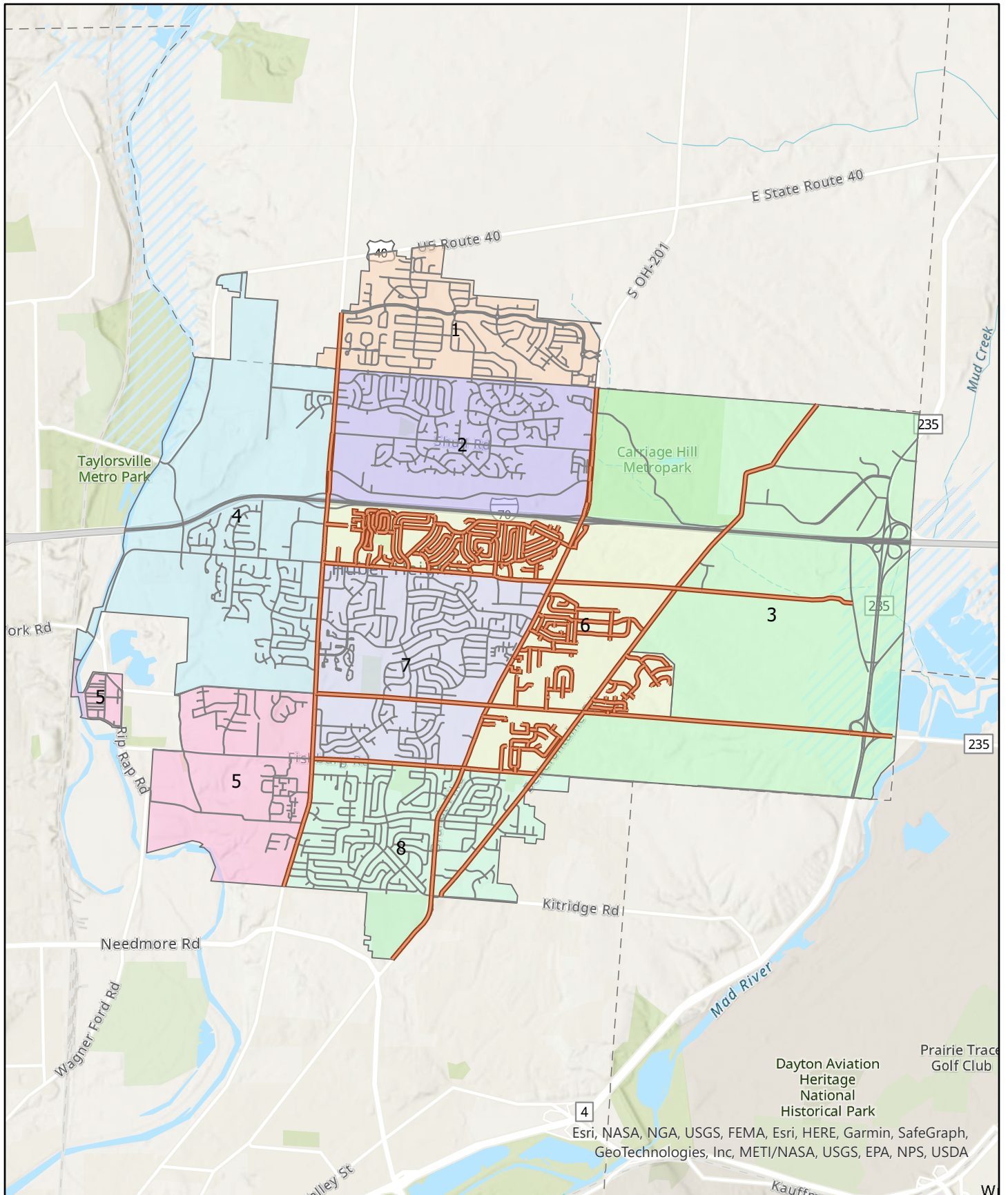


0 0.5 1 2 Miles

1 inch equals 1 miles



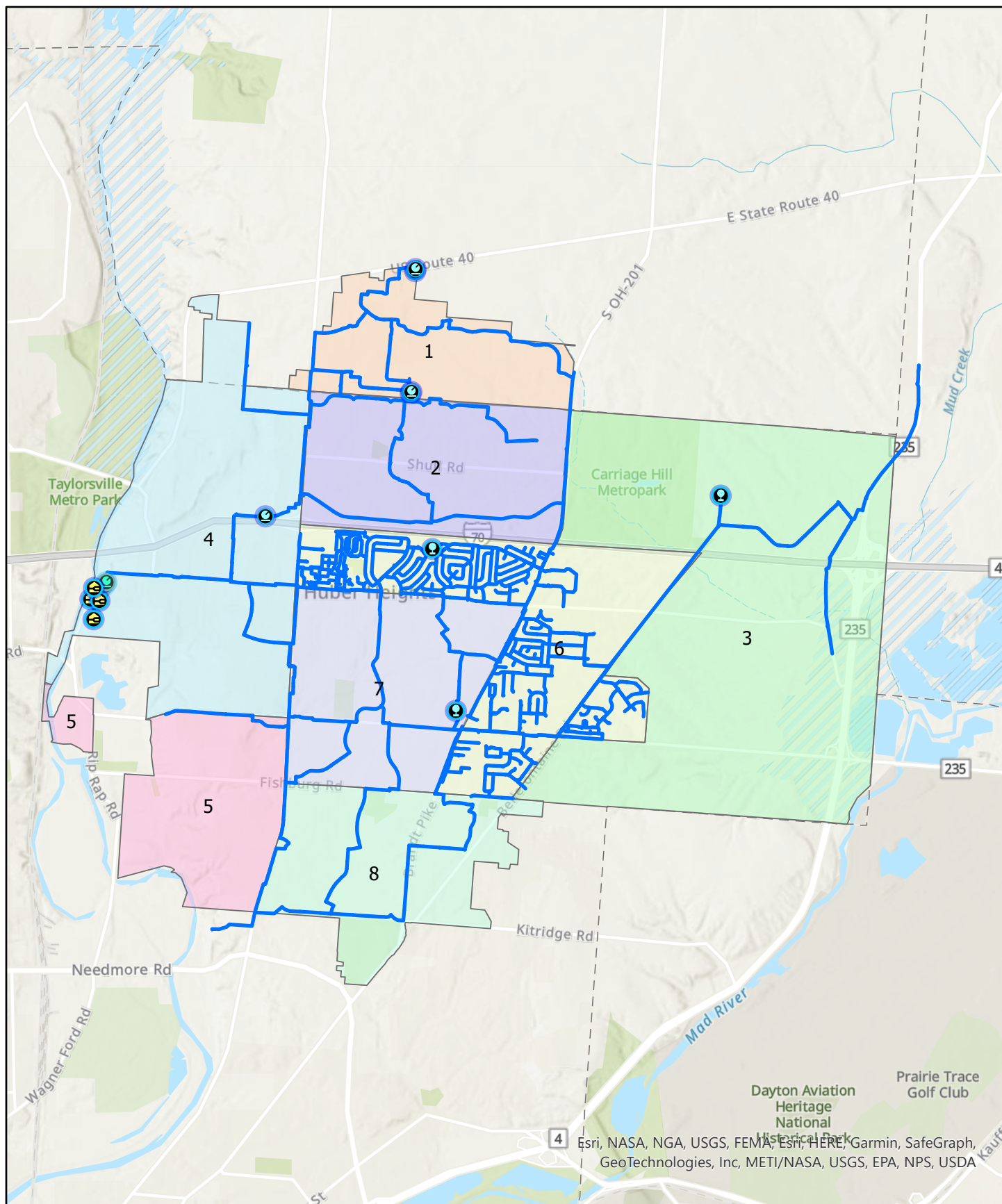
# Infrastructure District 6 - Roads



1 inch equals 1 miles



## Infrastructure District 6 - Water



	Enclosed Storage Facility		Pump Station
	Intake		Storage Basin
	Meter Station		Treatment Plant
	Production Well		Water Distribution Mains

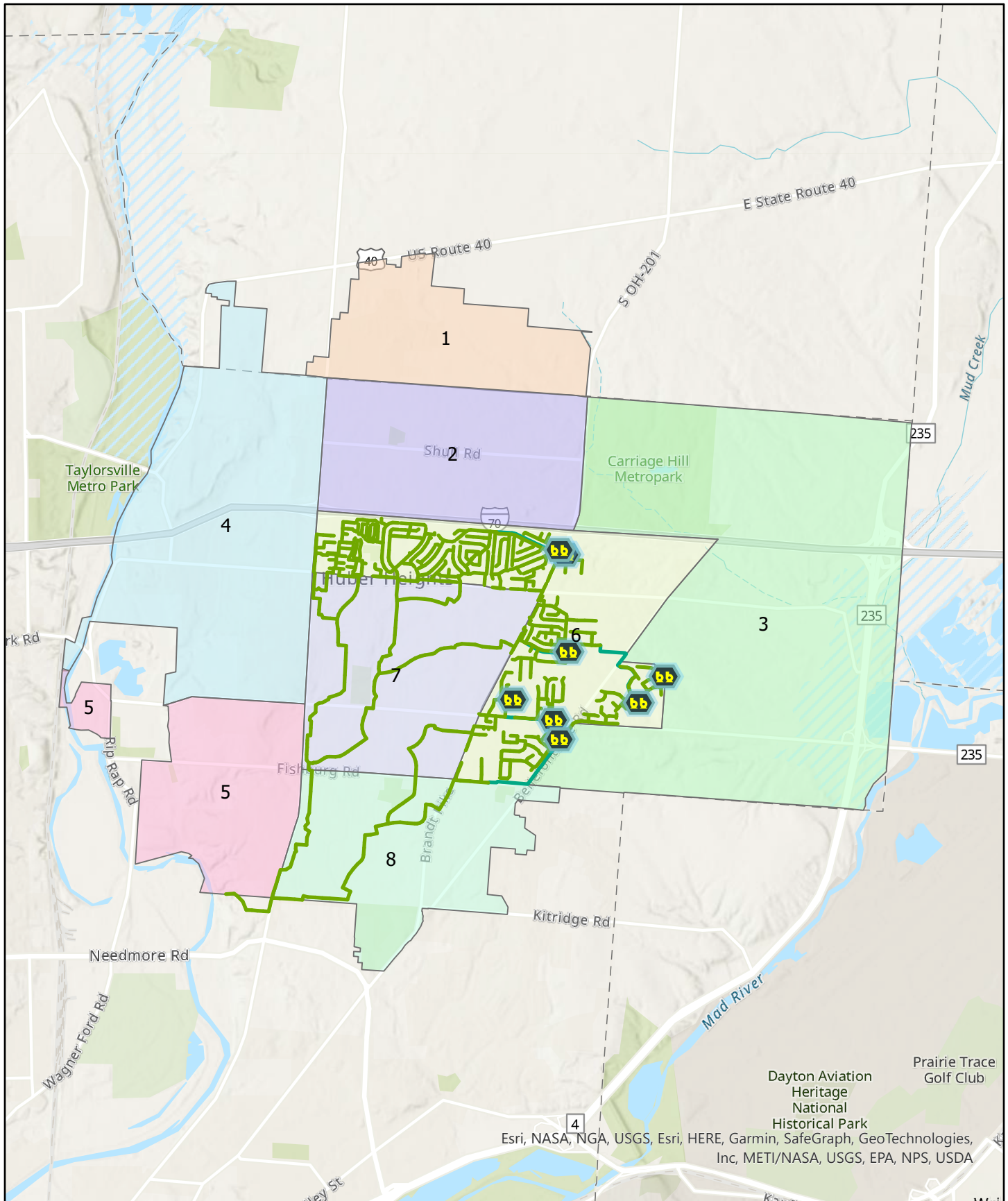
0 0.5 1 2  
Miles

1 inch equals 1 miles



Esri, NASA, NGA, USGS, FEMA, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA

# Infrastructure District 6 - Sanitary Sewer



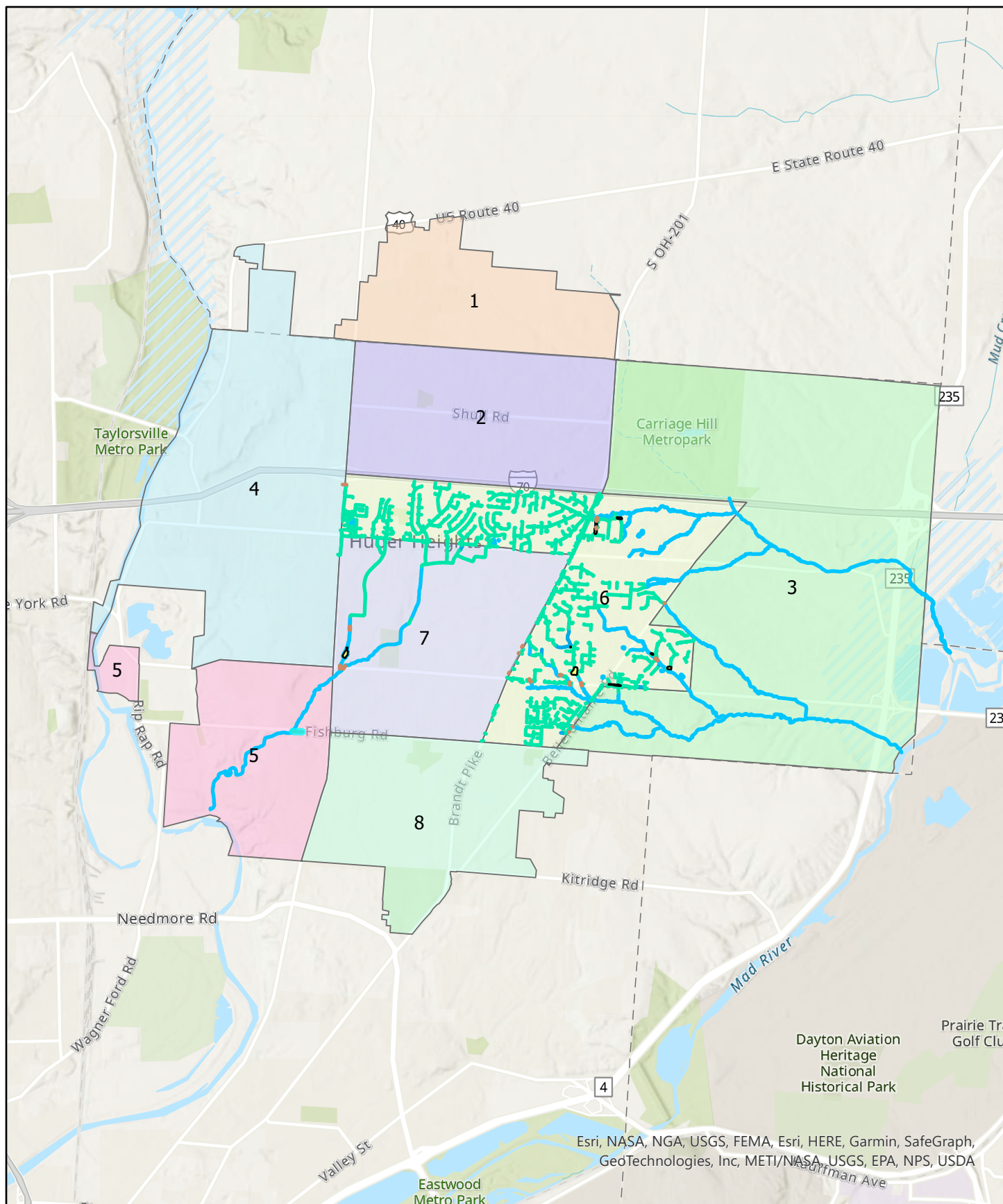
- District 6 Gravity Main
- District 6 Force Main
- bb District 6 Lift Station






0 0.5 1 2  
Miles

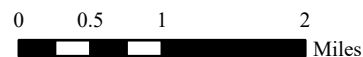
1 inch equals 1 miles



## Infrastructure District 6 - Stormwater



	District 6 Stormwater Mains		District 6 Channels
	District 6 Rivers		District 6 Basins
	District 6 Culverts		



1 inch equals 1 miles



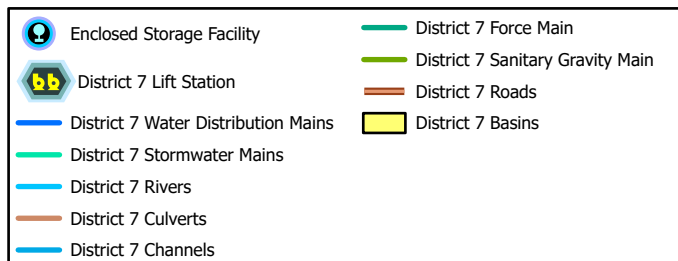
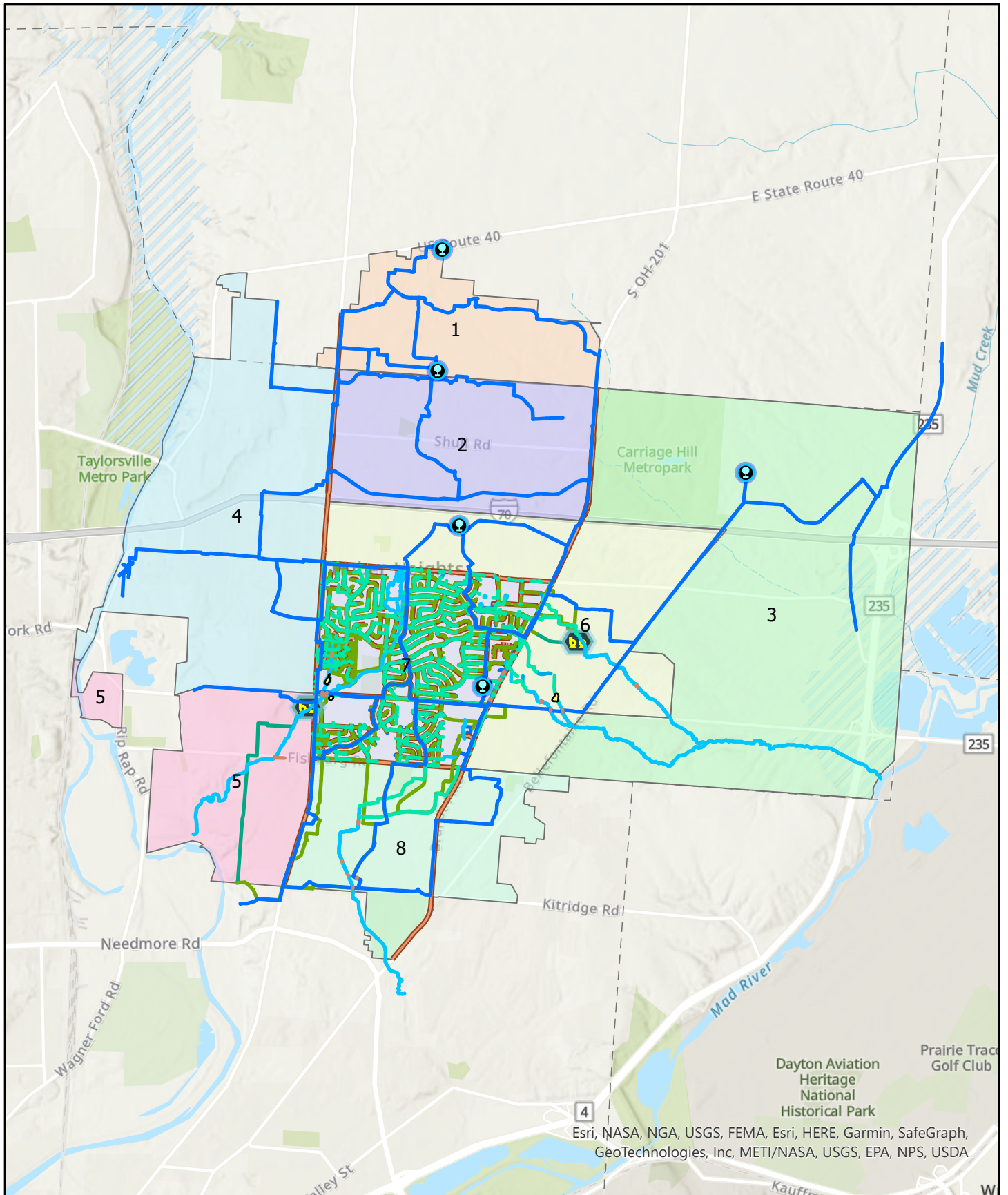
# Appendix G

Infrastructure District 7



We think bigger.

## Infrastructure District 7 - Overview

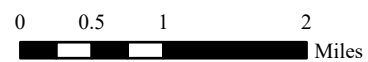
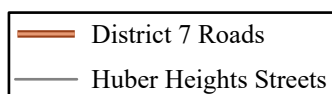
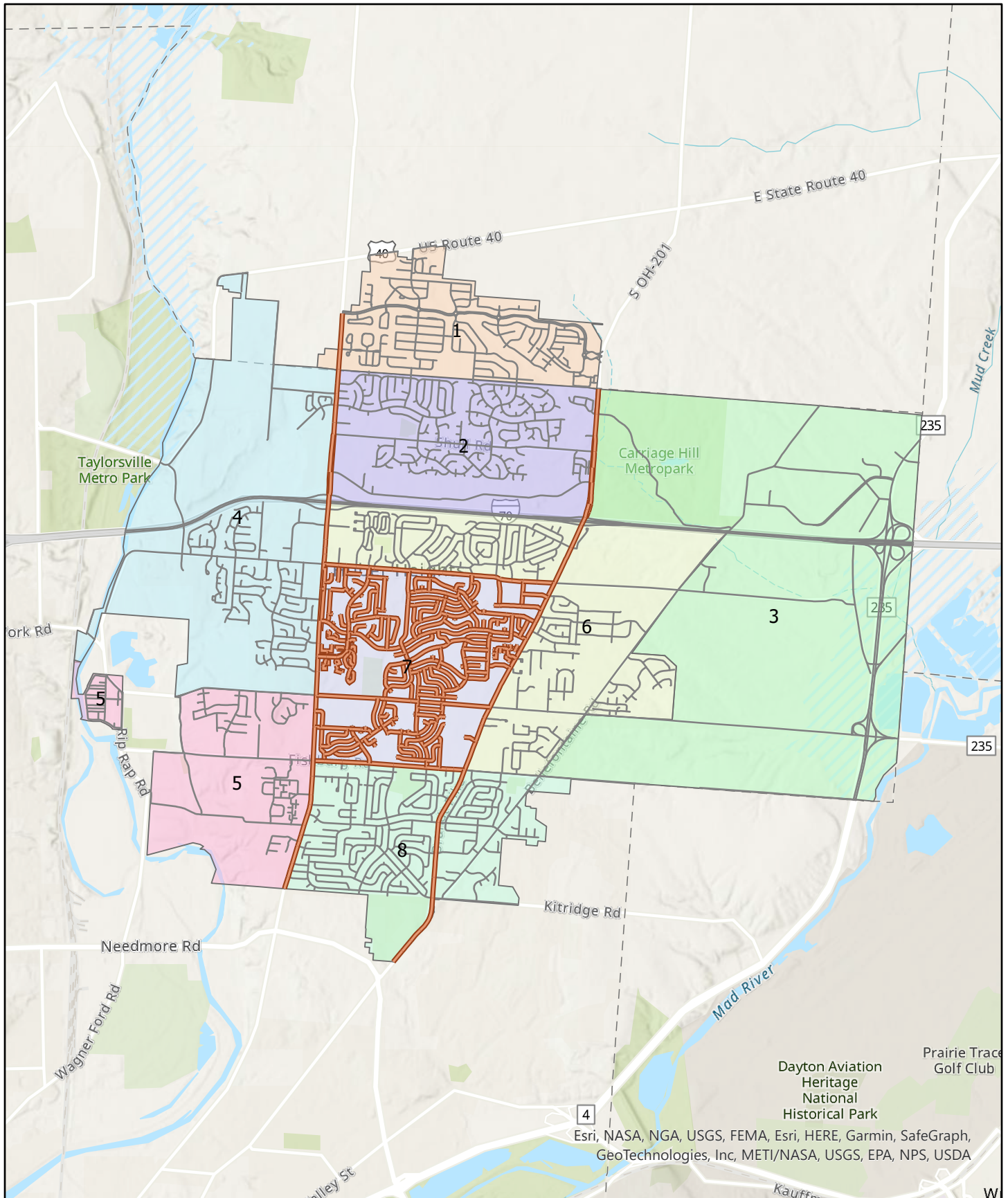


0 0.5 1 2 Miles

1 inch equals 1 miles



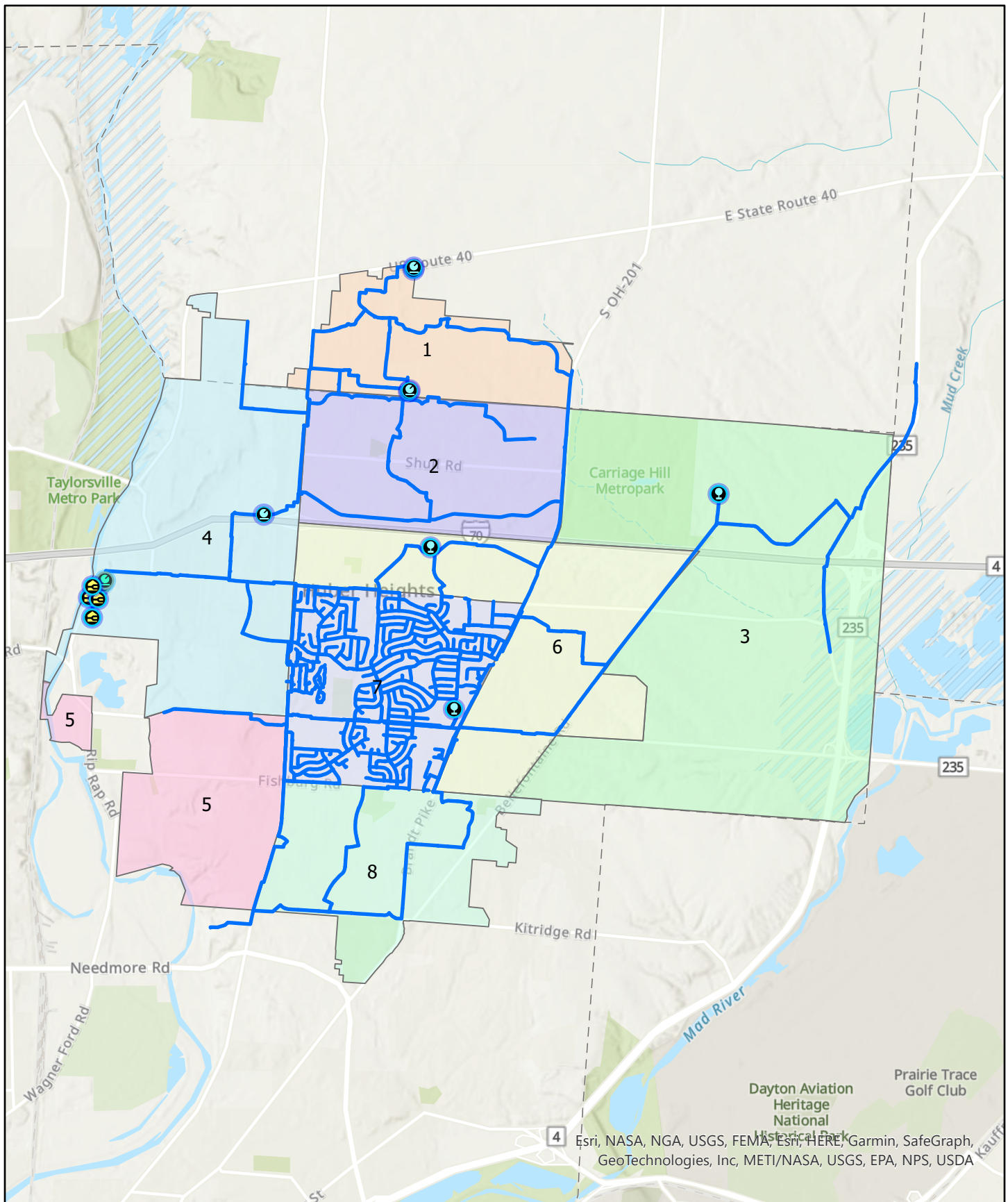
# Infrastructure District 7 - Roads



1 inch equals 1 miles



## Infrastructure District 7 - Water



	Enclosed Storage Facility		Pump Station
	Intake		Storage Basin
	Meter Station		Treatment Plant
	Production Well		Water Distribution Mains

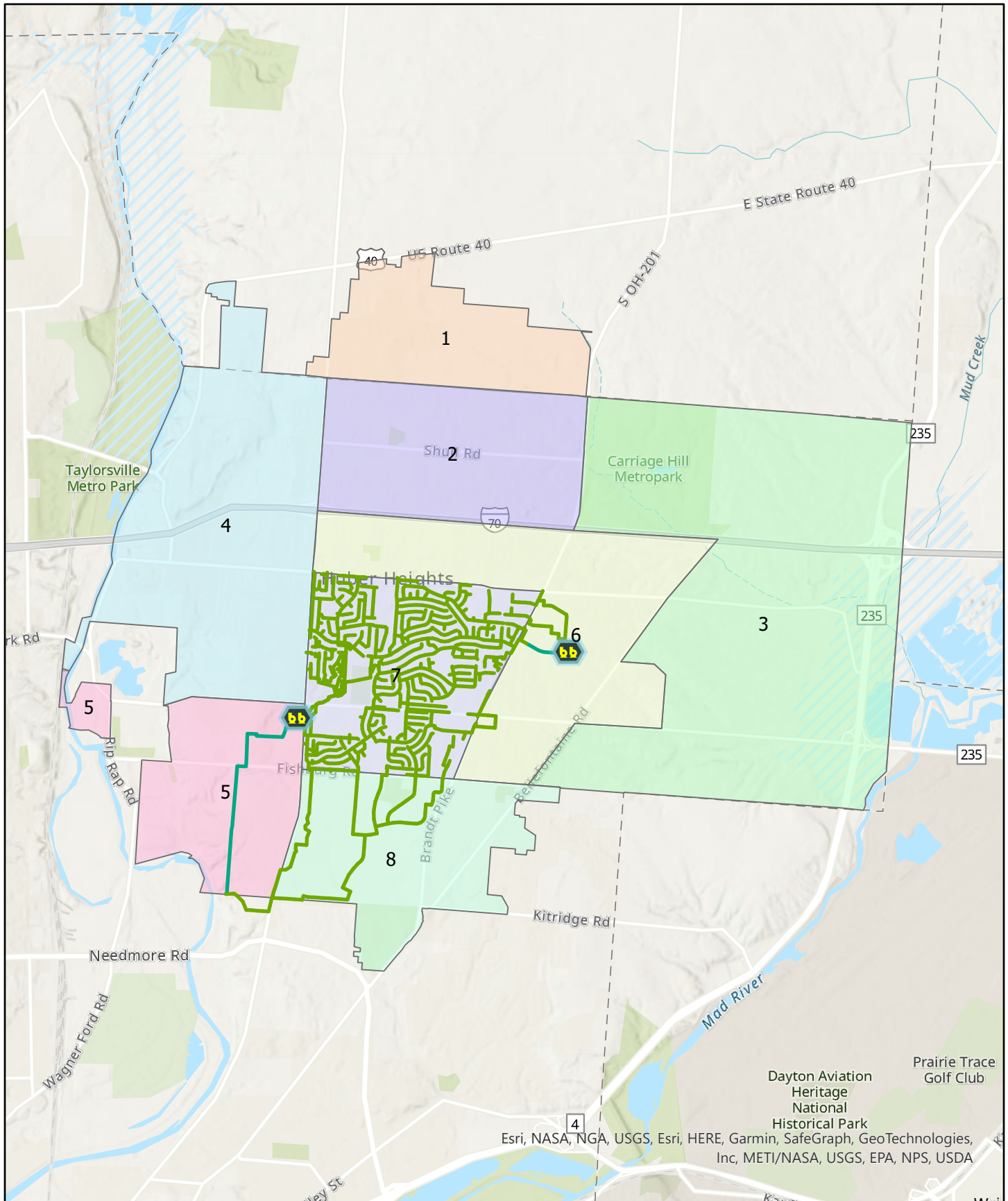
0 0.5 1 2  
Miles

1 inch equals 1 miles



Esri, NASA, NGA, USGS, FEMA, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA

# Infrastructure District 7 - Sanitary Sewer



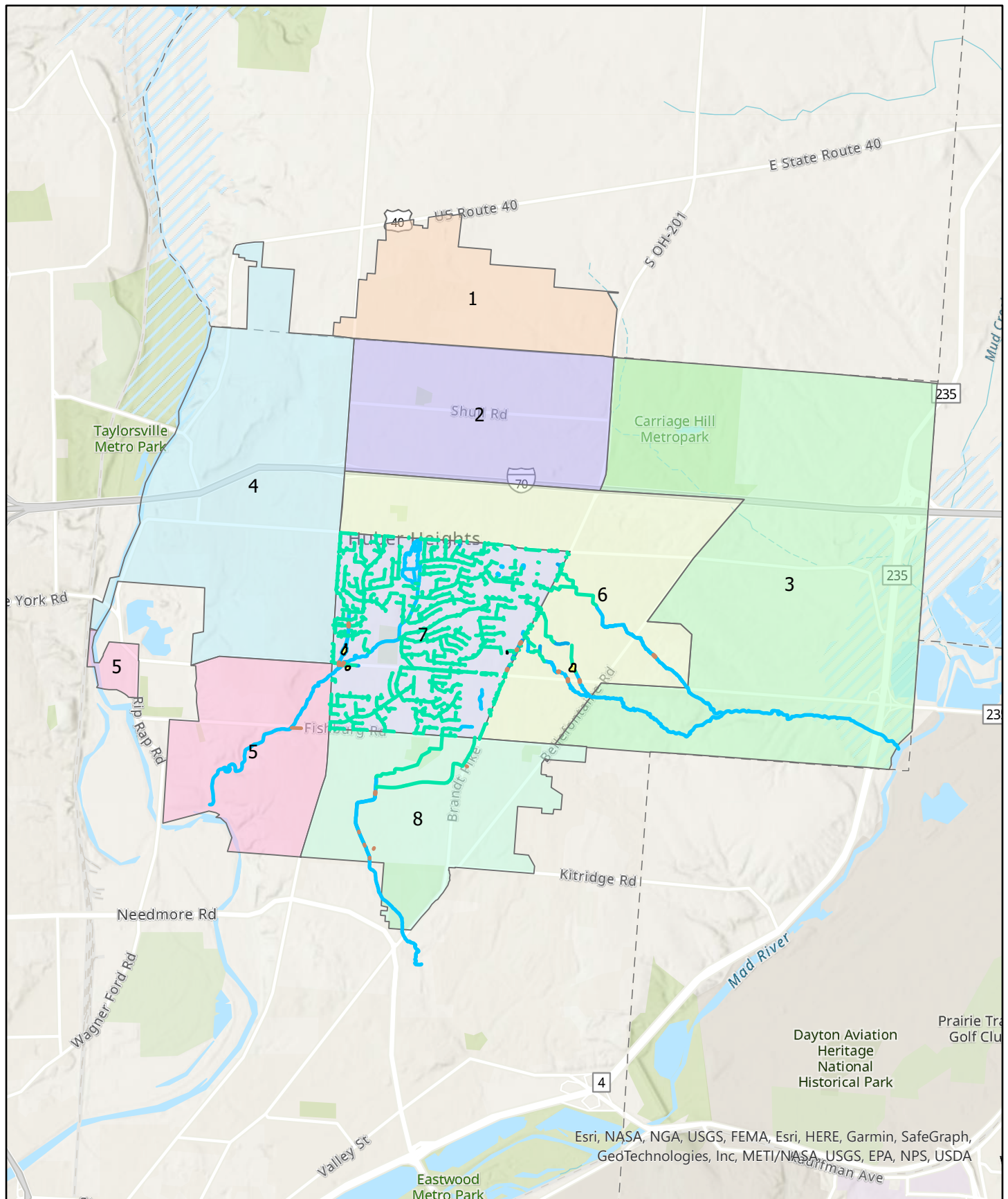
- District 7 Gravity Main
- District 7 Force Main
- bb District 7 Lift Station

0 0.5 1 2  
Miles

1 inch equals 1 miles



## Infrastructure District 7 - Stormwater



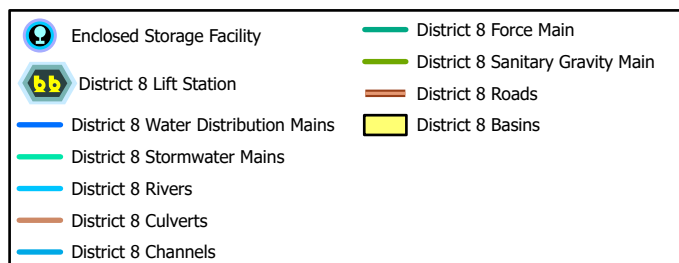
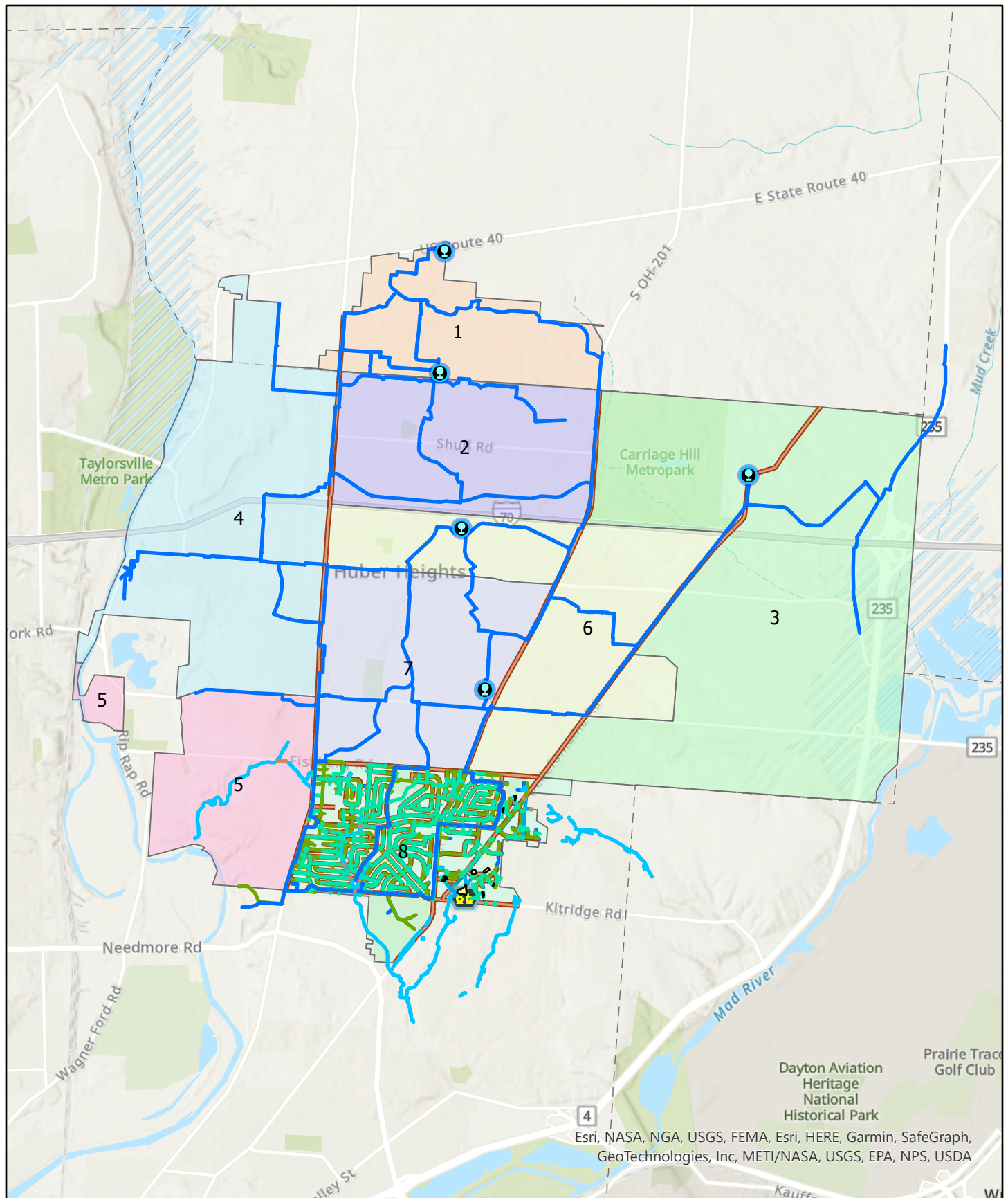
# Appendix H

Infrastructure District 8



We think bigger.

## Infrastructure District 8 - Overview

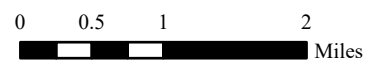
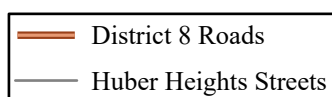
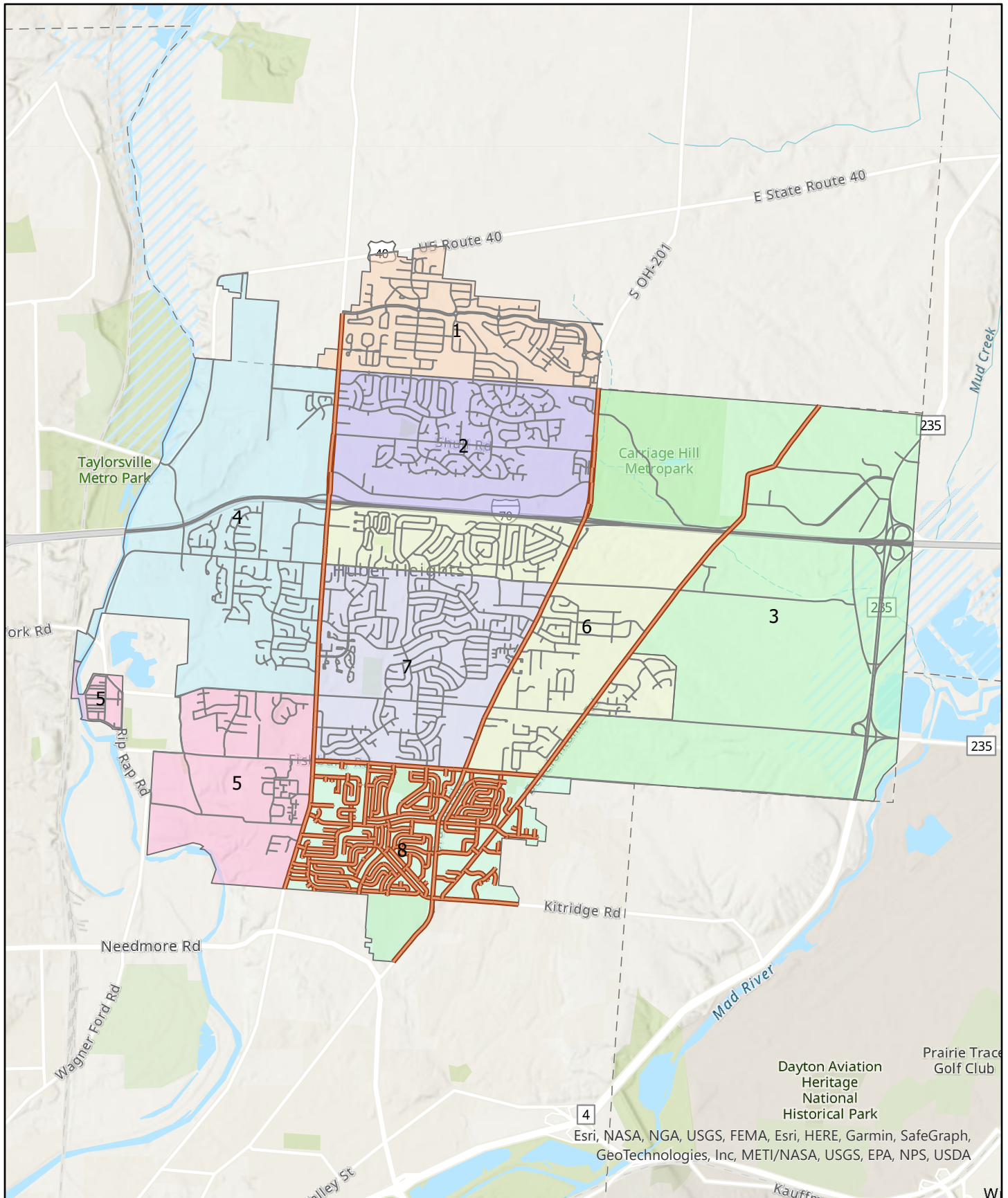


0 0.5 1 2 Miles

1 inch equals 1 miles



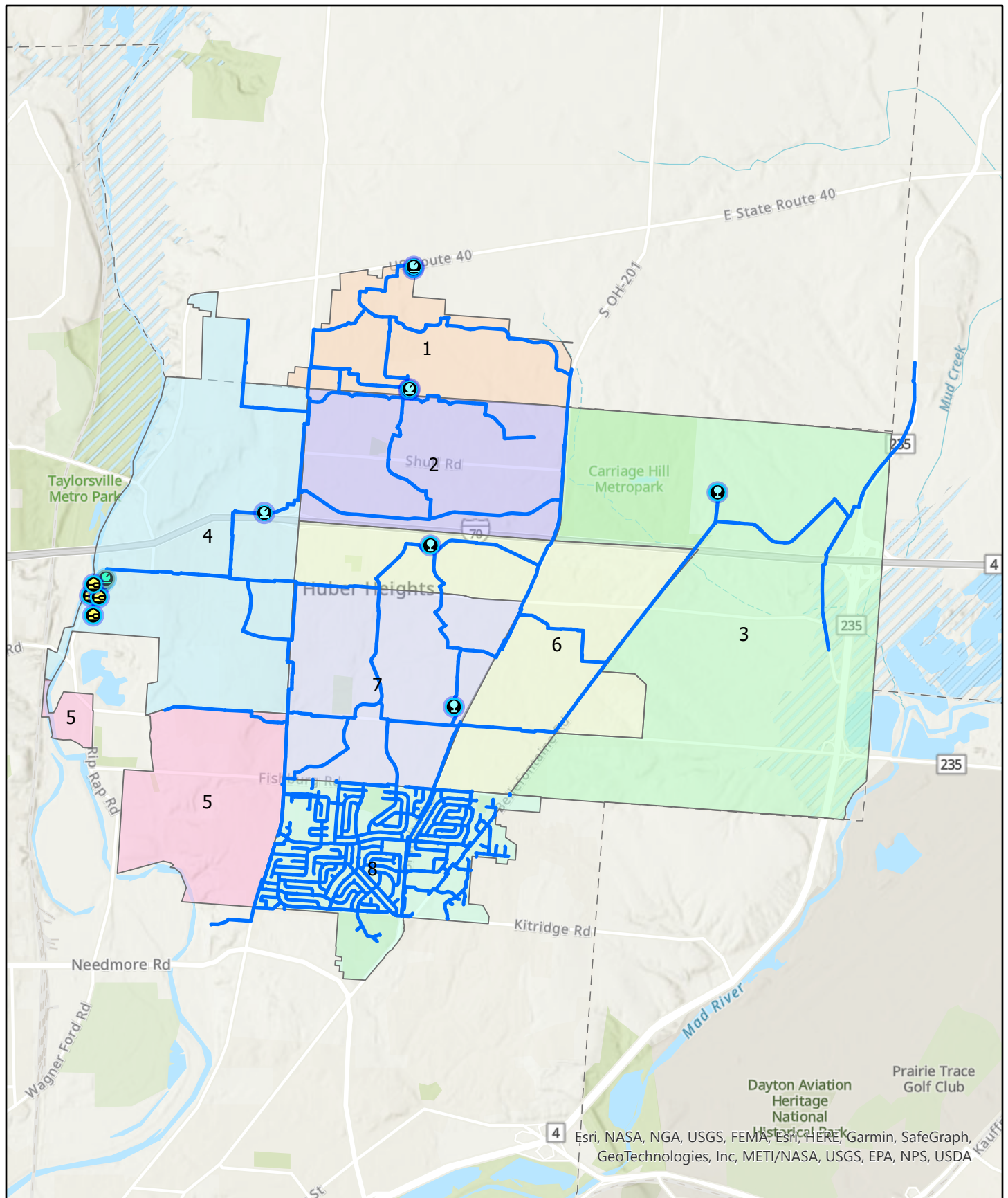
# Infrastructure District 8 - Roads



1 inch equals 1 miles



# Infrastructure District 8 - Water



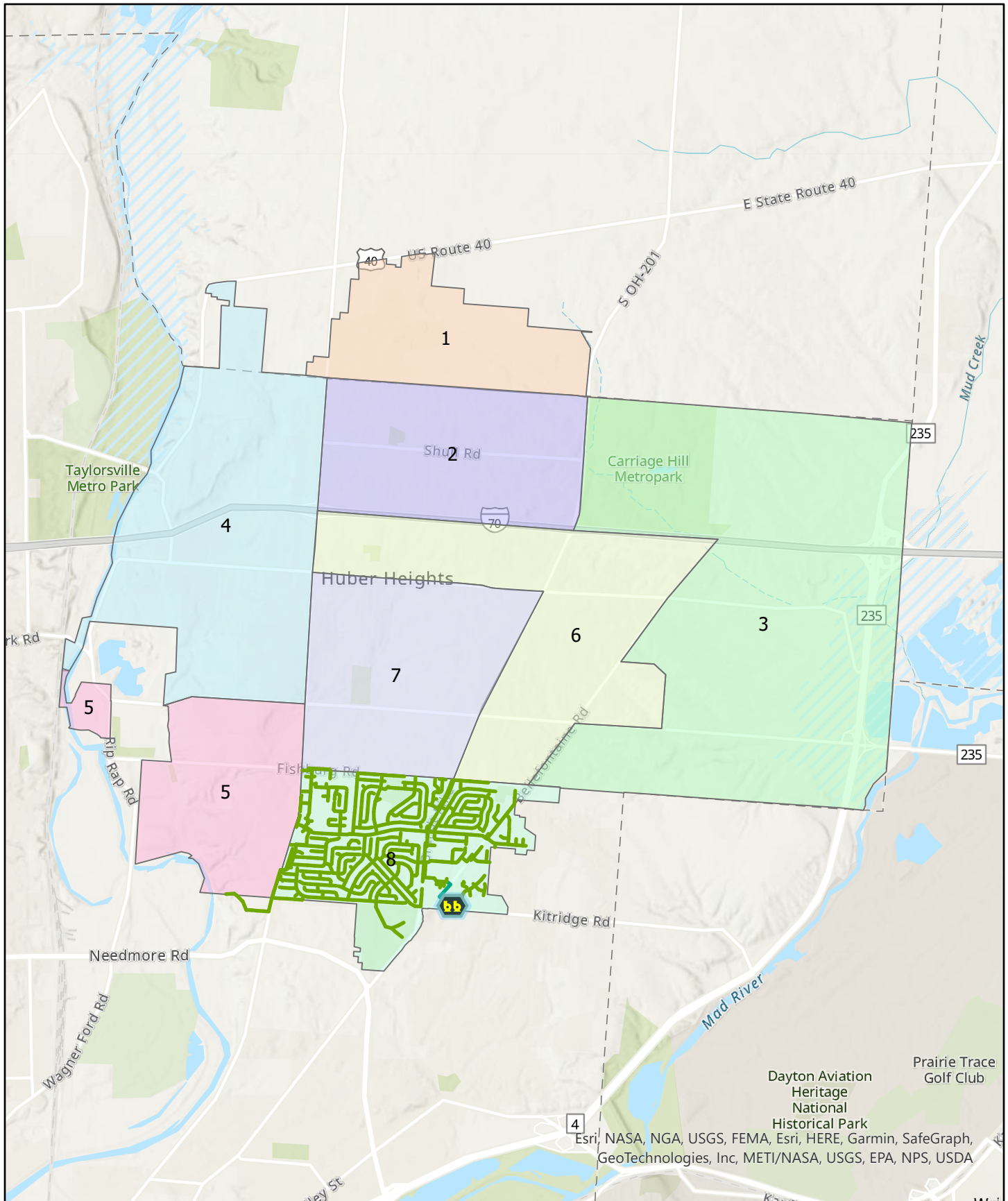
	Enclosed Storage Facility		Pump Station
	Intake		Storage Basin
	Meter Station		Treatment Plant
	Production Well		Water Distribution Mains

0 0.5 1 2 Miles

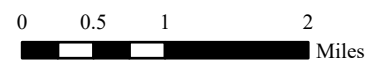
1 inch equals 1 miles



# Infrastructure District 8 - Sanitary Sewer



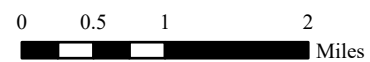
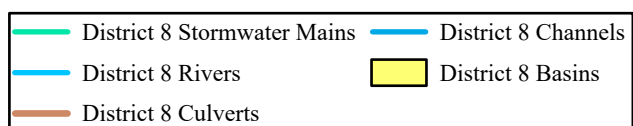
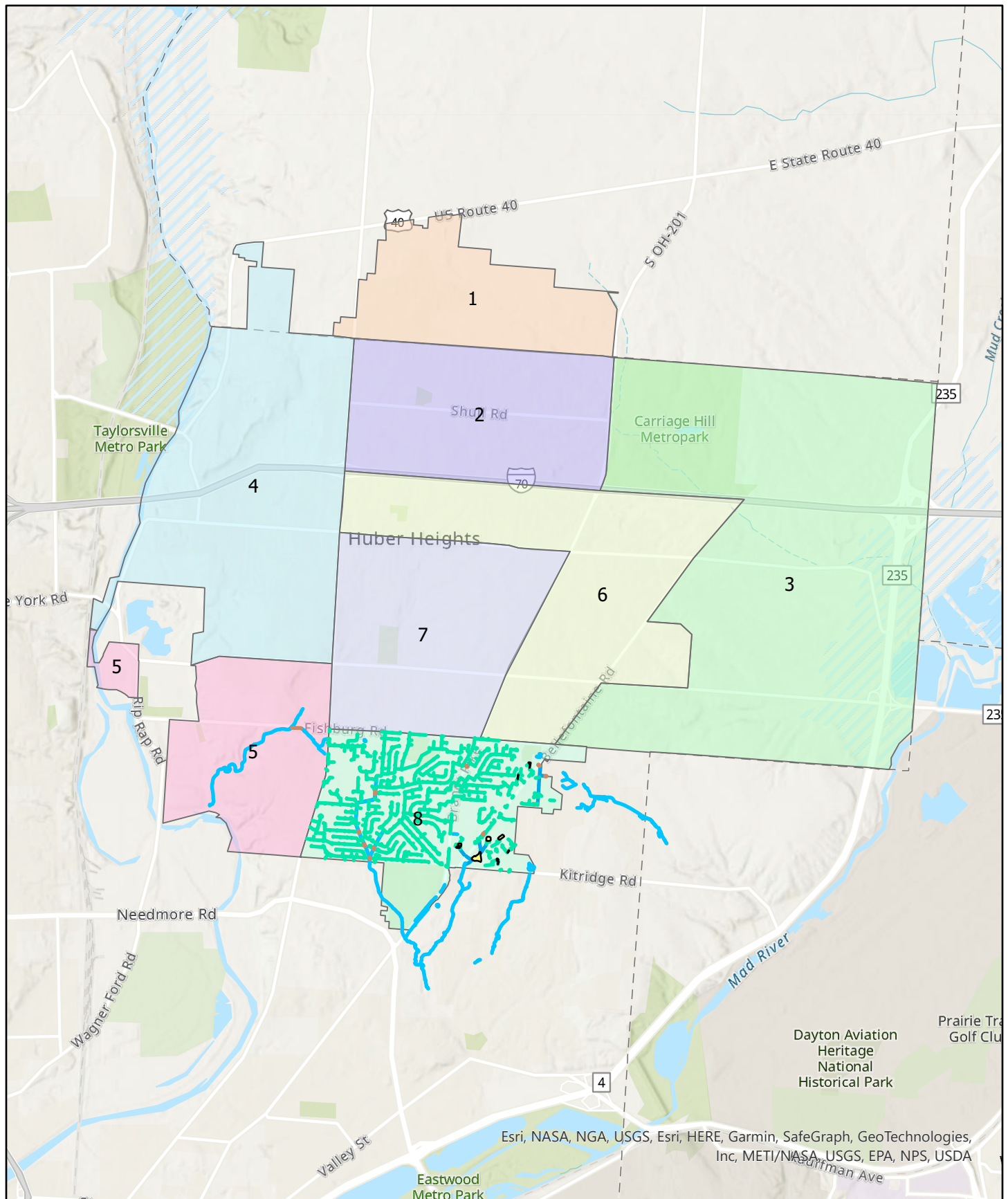
- District 8 Gravity Main
- District 8 Force Main
- bb District 8 Lift Station



1 inch equals 1 miles



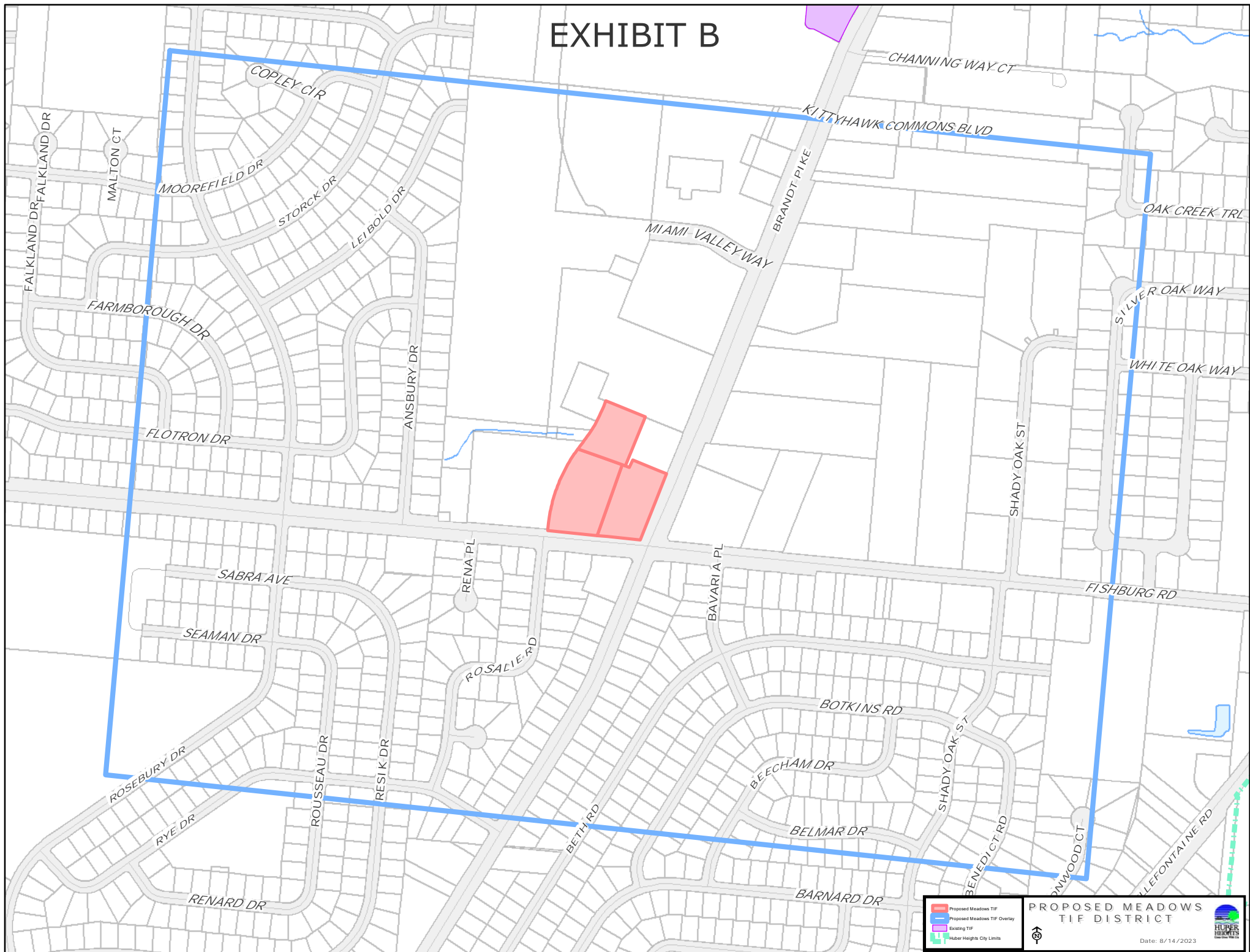
## Infrastructure District 8 - Stormwater



1 inch equals 1 miles



# EXHIBIT B



**AI-9458**

**New Business    G.  
City Manager**

**City Council Meeting**

**Meeting Date:** 08/28/2023

CRA Agreement - Simms Development - The Gables

**Submitted By:** Bryan Chodkowski

**Department:** Economic Development

**Council Committee Review?:** Council Work Session      **Date(s) of Committee Review:** 05/16/2023 and 08/21/2023

**Audio-Visual Needs:** None      **Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

---

**Agenda Item Description or Legislation Title**

A Resolution Authorizing The City Manager To Enter Into A Community Reinvestment Area Agreement With Simms The Gables Of HH, Ltd. Under Certain Terms And Conditions.  
(first reading)

**Purpose and Background**

The City of Huber Heights created Community Reinvestment Area #7 ("CRA #7") for the purpose of encouraging economic development activity. Parcel Numbers P70 03910 0057; P70 0320 0010, 0011, and 0012; P70 0320 0018, 0019 and 0020 (the "Property") are located within CRA #7 and vacant. Charles Simms Development intends to construct 74 owner-occupied condominium homes with an initial estimated investment of \$27,750,000.00. Absent any economic development agreement, the City is estimated to earn approximately \$1,138,854.27 in property tax from this project over the next 30 years. Charles Simms Development seeks to enter into an economic development agreement with the City that is estimated to generate approximately \$5,630,285.13 in net revenues to the City. This legislation authorizes the City Manager to execute said economic development agreement.

---

**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

---

**Attachments**

Resolution

Attachment A

Attachment A - Exhibit A

Attachment A - Exhibit B

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

RESOLUTION NO. 2023-R-

AUTHORIZING THE CITY MANAGER TO ENTER INTO A COMMUNITY REINVESTMENT AREA AGREEMENT WITH SIMMS THE GABLES OF HH, LTD. UNDER CERTAIN TERMS AND CONDITIONS.

WHEREAS, the City has encouraged the development of real property located in areas of the City designated as a Community Reinvestment Area (CRA); and

WHEREAS, on September 27, 1992, the City Council of Huber Heights, Ohio by Resolution No. 93-R-1319, designated the area known as “Community Reinvestment Area Number 5” pursuant Chapter 3735 of the Ohio Revised Code and the City Charter of Huber Heights, as subsequently amended; and

WHEREAS, on June 20, 1994, the City Council of Huber Heights, Ohio by Resolution No. 94-R-1453, designated the area known as “Community Reinvestment Area Number 7” pursuant Chapter 3735 of the Ohio Revised Code and the City Charter of Huber Heights, as subsequently amended; and

WHEREAS, Community Reinvestment Area Number 5 (“CRA #5”) has been modified or amended by the City Council of Huber Heights on September 28, 2015 via Resolution No. 2015-R-6232; and

WHEREAS, Community Reinvestment Area Number 7 (“CRA #7”) has been modified or amended by the City Council of Huber Heights on September 27, 2010 via Resolution No. 2010-R-5333; June 8, 2015 via Resolution No. 2015-R-6195; September 14, 2021 via Resolution No. 2021-R-7036; and December 15, 2022 via Resolution No. 2022-R-7211; and

WHEREAS, in accordance with division (B) of Section 3 of Am. Sub. S.B. 19 of the 120<sup>th</sup> general assembly, and Ohio Revised Code 3735.661, CRA #5 and CRA #7 continue to operate as “Pre-1994” CRAs; and

WHEREAS, Simms The Gables of HH, LTD (the “Developer”) intends to construct 74 owner-occupied condominium-style homes (the “Project”); and

WHEREAS, the Project will require an initial investment of \$27,750,000.00; and

WHEREAS, the Project will be located on Brandt Pike, Huber Heights, Ohio, consisting of Montgomery County Auditor Parcel Numbers P70 03910 0057; P70 0320 0010, 0011, and 0012; P70 0320 0018, 0019, and 0020 (the “Project Site”); and

WHEREAS, certain property within the Project Site, identified as Montgomery County Auditor Parcel Number P70 03910 0057, is located within CRA #5; and

WHEREAS, certain property within the Project Site, identified as Montgomery County Auditor Parcel Numbers P70 0320 0010, 0011, and 0012; P70 0320 0018, 0019 and 0020 are located within CRA #7; and

WHEREAS, the Developer seeks to enter into an agreement with the City to ensure the economic development incentives available in CRA #5 and CRA #7 as negotiated with the City are provided in support of the Project (the “CRA Agreement”).

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. The City Manager is hereby authorized and directed to execute an agreement the Developer, attached hereto as Attachment A, to provide tax incentives for the purposes noted above and detailed therein; approved as to final form and content by the Law Director.

Section 2. With regards to any tax increment financing exemption that may be applicable to any of the Project Site in Ordinance No. 2003-O-1409, the City hereby declares that the exemptions

granted in the CRA Agreement are superior to any exemption granted under Ordinance No. 2003-O-1409 during the term of the applicable CRA real property tax exemption granted for any portion of the Project Site, and the exemption granted in Ordinance No. 2003-O-1409 shall be subordinate to the CRA real property tax exemption granted under the CRA Agreement during the term of the applicable CRA real property tax exemption granted for any portion of the Project Site.

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

Section 4. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2023;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ATTACHMENT A**  
**PRE-JULY 1994**  
**COMMUNITY REINVESTMENT AREA AND DEVELOPMENT AGREEMENT**

This Community Reinvestment Area and Development Agreement (the “Agreement”) made and entered into as of the \_\_\_\_ day of \_\_\_\_ 2023, by and between the CITY OF HUBER HEIGHTS, OHIO, an Ohio political subdivision, with its main offices located at 6131 Taylorsville Road, Huber Heights, Ohio (the “City”); and SIMMS THE GABLES OF HH, LTD., an Ohio limited liability company, with its main offices located at 2785 Orchard Run Road, Dayton, Ohio 45449 (the “Developer”).

WHEREAS, the City has encouraged the development of real property located in areas of the City designated as a Community Reinvestment Area; and

WHEREAS, on September 27, 1992, the City Council of Huber Heights, Ohio by Resolution No. 93-R-1319, designated the area known as “Community Reinvestment Area Number 5” pursuant Chapter 3735 of the Ohio Revised Code and the Charter of Huber Heights, as subsequently amended; and

WHEREAS, on June 20, 1994, the City Council of Huber Heights, Ohio by Resolution No. 94-R-1453, designated the area known as “Community Reinvestment Area Number 7” pursuant Chapter 3735 of the Ohio Revised Code and the Charter of Huber Heights, as subsequently amended; and

WHEREAS, Community Reinvestment Area Number 5 (“CRA #5”) has been modified or amended by the City Council of Huber Heights on September 28, 2015 via Resolution No. 2015-R-6232; and

WHEREAS, Community Reinvestment Area Number 7 (“CRA #7”) has been modified or amended by the City Council of Huber Heights on September 27, 2010 via Resolution No. 2010-R-5333; June 8, 2015 via Resolution No. 2015-R-6195; September 14, 2021 via Resolution No. 2021-R-7036; and December 15, 2022 via Resolution No. 2022-R-7211; and

WHEREAS, the Developer intends to develop certain unimproved real property and constructed certain improvements within the boundaries of CRA #5 and CRA #7 in the City, provided that the appropriate development incentives are available to support the economic viability of the Project (defined below); and

WHEREAS, the City, having the appropriate authority pursuant to the Ohio Constitution, Charter of the City of Huber Heights and laws of the State of Ohio, desires to provide the Property Owner with incentives available for the development of the Project in said CRA #5 and CRA #7; and

NOW, Therefore, in consideration of the mutual covenants contained in this agreement, and of the benefit to be derived by the parties from the execution of it, the parties herein agree as follow:

1. The Developer shall make improvements to real property, at an unimproved

location on Brandt Pike, Huber Heights, Ohio, consisting of Montgomery County Auditor Parcel Numbers P70 03910 0057; P70 0320 0010, 0011, and 0012; P70 0320 0018, 0019, and 0020 (the “Project Site”), as more specifically described in Exhibit A attached hereto and incorporated herein. P70 03190 0057 is located within and located within CRA #5, and the balance of the parcels within the Project Site are located within CRA #7. The Developer shall construct seventy four (74) single family residential dwellings (each such residential dwelling a “Unit” and together, the “Units”), other improvements and amenities, comprising the planned community known as The Gables of Huber Heights (the “Project”). The Project involves a total investment by the Developer of approximately \$27,750,000.00, at the Project Site.

2. The Developer, and any Property Owner, shall provide to the City’s housing officer, and the designated tax incentive review council any information reasonably required by the City’s housing officer or, the designated tax incentive review council to evaluate the Developer’s compliance with this Agreement. Developer agrees to file with the City, no later than ninety (90) days following the issuance (which issuance will not be unreasonably conditioned, withheld or delayed) by the City of a certificate of occupancy for each Unit, or other structure within the Project, a real property CRA tax exemption application, which shall include at least the following information, to the extent applicable:

(i) Confirmation that construction of one or more Units of the Project has been completed and a certificate of occupancy has been issued therefor, and

(ii) Confirmation that the Project has been constructed, or is on track to include at least approximately the number of Units described in this Agreement,

3. Upon conclusion of the Project, including any phased portions thereof, the City shall grant a Community Reinvestment Area tax exemption for real property improvements made to the Project Site pursuant to applicable law, including Ohio Revised Code 3735.65 through 3735.70 (including the pre-Senate Bill 19 (1994) version thereof, as applicable); and shall be in the following amounts: One Hundred Percent (100%) for fifteen (15) consecutive years (the “CRA Exemption”) for each Unit constructed as part of the Project. The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation. For purposes of Section 3 of Resolution 94-R-1453, as amended by Resolution 2022-R-7211, and for purposes of Section 4 of Resolution 93-R-1319, as amended by Resolution 2015-R-6232, the CRA Exemption granted by the terms of this Agreement shall be superior to any other tax exemption granted under Ohio Revised Code Sections 5709.40 or 5709.41, and any exemption granted under such sections shall be subordinate to the CRA Exemption for the duration of the CRA Exemption applicable to each Unit. The parties agree: (a) Upon the initial sale of each Unit to a subsequent owner, other than the Developer, of any Unit, including any successors or assigns (each such owner, including the Developer, together with any successors or assigns as to any Unit, a “Property Owner”), the Developer shall cause this Agreement to be partially assigned to such Property Owner, substantially in the form attached to this Agreement as Exhibit C (b) the CRA Exemption shall commence separately and run for a full 15 years for each Unit of the Project with the first tax year for such Unit, based on the submittal by the Developer of a CRA exemption application to the City provided that the CRA Exemption for any particular Unit of the Project shall commence no later than the first tax year after that portion is completed; (c) the City shall provide written notification

to the Montgomery County Auditor's Office to the tax year in which the CRA Exemption shall commence as to Unit of the Project; (d) the parties shall cooperate and work in good faith to maximize for the Developer, and any Property Owner, the benefits of the CRA Exemption. Developer must file the appropriate applications with the City, if any, and tax forms with the Montgomery County Auditor to effect and maintain the exemptions covered in this Agreement. The City shall timely submit any status report or other reporting to Montgomery County or the State of Ohio (including the Ohio Department of Development) as required by applicable law, rule or regulation.

4. Provided each Property Owner receives the benefit of the CRA Exemption for each Unit owned by such Property Owner in accordance with the terms of this Agreement, each Property Owner agrees to annual minimum service payments ("MSP" or "MSPs") of Nine Thousand Five Hundred dollars (\$9,500.00) per Unit, per year, for years 11 through 15 of each CRA Exemption. The City is authorized to record the necessary documentation to perfect its lien rights with respect to the MSP set forth herein including but not limited to this Agreement and the Declaration of Minimum Service Payments (the "Declaration"), attached hereto as Exhibit B and incorporated herein. Any lien created by this Agreement, and/or pursuant to the Declaration of shall run with the land.

For each applicable year, the MSP will be due on or before the later of (i) thirty (30) days after the receipt of an invoice from the City therefore, or (ii) February 15<sup>th</sup>.

5. This Agreement is not transferable or assignable without the express written consent of the City. This Agreement shall be binding upon each party's respective successors and permitted assigns. Notwithstanding anything else to the contrary, the City agrees to, and consents to the partial assignment of this Agreement (the "Assumption Agreement"), substantially in the form attached hereto as Exhibit C, to any Property Owner that acquires a Unit from the Developer, in order for such Property Owner to receive the benefits of the CRA Exemption and be required to make the MSP outlined in Section 4 of this Agreement, hereof.

6. Each Property Owner shall pay such real estate taxes as are not exempted under this Agreement, and are charged against such property, and shall file all tax reports and returns as required by law. If a Property Owner fails to pay such taxes or file such returns and reports, all incentives granted under this Agreement are rescinded for such Unit, beginning with the year for which such taxes are charged or such reports returns are required to be filed, and thereafter.

7. The City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

8. If for any reason the Community Reinvestment Area designation expires or the Director of the Ohio Department of Development revokes certification of the Area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement; provided however, if a Property Owner materially fails to fulfill its obligation under this Agreement the City may terminate or modify the exemptions from taxation granted under this Agreement.

9. If a Property Owner materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification as to delinquent taxes required by this Agreement is fraudulent, the City may unilaterally terminate or modify the exemptions from taxation granted under this Agreement; and may require that the Property Owner pay to the City the amount of taxes that were exempted under this Agreement, (i.e. the taxes that would have been payable had the property not been exempted from taxation under this Agreement). The City is authorized to secure the repayment of such taxes by a lien on any Unit of such a Property Owner in an amount required to be repaid; and such lien shall attach and may be perfected, collected, and enforced, in the same manner as a mortgage lien on the real property; and shall otherwise have the same force and effect as a mortgage lien on the real property.

10. The Developer covenants that at the time of executing this Agreement it does not owe: (1) any delinquent taxes to the State of Ohio or political subdivision of the State; or (2) any other monies to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.

11. The Developer and the City acknowledge that this Agreement must be approved by formal action of the City Council of Huber Heights, Ohio, as a condition for the Agreement to take effect.

12. By executing this Agreement, the Developer is committing to following non-discriminatory hiring practices, acknowledging that no individual may be denied employment solely on the basis of race, religion, gender, disability, color, national origin, or ancestry.

13. The Developer agrees to construct the Project in accordance with the requirements of Huber Heights Codified Ordinances, and approvals for the Project.

14. The failure by any party to exercise any of its rights hereunder or to enforce any of the terms or conditions of this Agreement on any occasion shall not constitute or be deemed a waiver of that party's rights thereafter to exercise any rights hereunder or to enforce each and every term and condition of this Agreement. This Agreement may not be modified except by a writing specifically referring to this Agreement and executed by duly authorized representatives of both parties. The parties have had the opportunity to have this Agreement reviewed by legal counsel of their choosing. This Agreement was the product of negotiations between the parties and the parties agree that no provision or provisions herein shall be construed against any one party by virtue of the authorship of such provision.

15. The Parties agree to execute and deliver such additional documents and to perform such additional acts as may become reasonably necessary to effectuate the transfers contemplated by this Agreement.

16. A determination that any portion of this Agreement is unenforceable or invalid shall not affect the enforceability or validity of any of the remaining portions of this Agreement as a whole. In the event that any part of any of the covenants, Sections, or provisions herein may be determined by a court of law or equity to be invalid or unenforceable, the parties shall attempt to reach agreement with respect to valid and

enforceable substitutes for deleted provision(s), which shall be as close in intent and effect as possible to the deleted portions.

17. The Developer, on behalf of itself and all subsequent Property Owners, including any successors or assigns, hereby consents to the Huber Heights Tax Division providing to, the Huber Heights City Manager, or his designee, and City housing officer, any and all tax information if necessary to evaluate any Property Owner's compliance with this Agreement and such disclosure shall not be a violation of any federal state or local confidentiality laws or requirements associated with tax or payroll returns. To the fullest extent permitted by law, the City Manager or his designee, or City housing officer will treat any such information as confidential.

18. The City hereby acknowledges that, from time to time during the development of the Project, the Developer will obtain financing in connection with the Project which will be secured in whole or in part by assignments, pledges or mortgages of the its interests in the Project Site (each a "Owner Mortgage"). In connection therewith, the City agrees to and shall cooperate with the Developer and developer to provide to the holder of any such Owner Mortgage (each a "Owner Mortgagee") such reasonable factual representations and mortgagee cure rights regarding this Agreement and/or Developer's rights hereunder as such Owner Mortgagee may request from time to time. Any such requested assurance and/or consent shall be in a form reasonably approved by the City, and the City shall endeavor reasonably to respond to any such request in a prompt and timely manner.

19. This Agreement, including the exhibits and the corollary agreements contemplated hereby, embodies the entire agreement and understanding of the Parties relating to the subject matter herein and therein and may not be amended, waived or discharged except in an instrument in writing executed by the Parties. All prior agreements between the parties relative to the subject matter of this Agreement are expressly terminated.

20. The parties acknowledge and agree that the facts and circumstances as described in the recitals hereto and the information contained in the Exhibits hereto are an integral part of this Agreement and as such are incorporated herein by reference.

21. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination will not affect any other provision, covenant, obligation or agreement contained herein, each of which will be construed and enforced as if the invalid or unenforceable portion were not contained herein. If any provision, covenant, obligation or agreement contained herein is subject to more than one interpretation, a valid and enforceable interpretation is to be used to make this Agreement effective. That invalidity or unenforceability will not affect any valid and enforceable application, and each provision, covenant, obligation or agreement will be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have execute this Agreement, respectively,  
as from the last date below written

CITY

PROPERTY OWNER

THE CITY OF HUBER HEIGHTS

SIMMS THE GABLES OF HH, LTD.

By: Charles V. Simms Development Corp.

\_\_\_\_\_  
Bryan RH Chodkowski,  
Interim City Manager

\_\_\_\_\_  
Charles H. Simms, President

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

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

Approved as to Form and Correctness:

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

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

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

COUNTY OF MONTGOMERY )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by Bryan RH Chodkowski, Interim City Manager of Huber Heights, Ohio, on behalf of the City of Huber Heights, Ohio.

STATE OF OHIO )  
 )  
 ss

COUNTY OF MONTGOMERY )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by Charles H. Simms, President of Charles V. Simms Development Corp., member of Simms The Gables of HH, Ltd., an Ohio limited liability company, on behalf of the company.

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EXHIBIT A  
PROJECT SITE

EXHIBIT B

FORM OF DECLARATION

## EXHIBIT C

### FORM OF PARTIAL ASSIGNMENT AND ASSUMPTION

This PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT (this “Assignment and Assumption Agreement”) is made and entered into by and between \_\_\_\_\_, (“Property Owner” or “Assignee”), SIMMS THE GABLES OF HH, LTD. (“Developer” or “Assignor”), and the City of Huber Heights, Ohio (the “City”) related to the Gables of Huber Heights Project Community Reinvestment Area and Development Agreement (“CRA Agreement”) dated \_\_\_\_\_. Except as otherwise provided herein, capitalized terms used herein shall have the same meaning as in the CRA Agreement.

#### WITNESSETH THAT:

WHEREAS, Developer has committed to completing construction of a seventy four (74) residential unit planned community, known as the Gables at Huber Heights (the “Project”) located within the Project Site, and the City; and

WHEREAS, pursuant to the CRA Agreement, the Developer has (1) completed construction of one or more Unit(s), (2) has received a certificate of occupancy from the City for such Unit(s) and (3) has submitted an application to commence the CRA Exemption for Unit(s)\_\_\_\_\_, and having the commonly known mailing address(es) of \_\_\_\_\_, (each an “Exempt Unit” or the “Transferred Property”) attached hereto as Exhibit A, incorporated by reference; and

WHEREAS, the City has granted the CRA Exemption for the Exempt Units as of tax year \_\_\_\_ and has received confirmation that the CRA Exemption has been activated for the Exempt Units by the Montgomery County Auditor for tax year \_\_\_\_; and

WHEREAS, the City and the Developer have caused the Declaration, obligating the Property Owner to make MSPs with respect to years 11 through 15 of the CRA Exemption on record with the Montgomery County Recorder, to attach to the Transferred Property, as evidenced in the attached Exhibit B, incorporated by reference;

WHEREAS, in connection with the anticipated and planned conveyance of the Transferred Property by the Assignor to Assignee, Assignee now wishes to assume the rights and obligations of the Assignor under the CRA Agreement, and the City, under the terms of the CRA Agreement, has approved the assignment to and assumption by Assignee of those benefits and obligations on the terms set forth in the CRA Agreement relating to the Transferred Property by approving the execution and delivery of this Agreement.

NOW, THEREFORE, in consideration of the circumstances described above, the covenants contained in the CRA Agreement, and the benefit to be derived by Assignor and Assignee from the execution hereof, the parties hereto agree as follows:

1. From and after the date of execution of this Agreement, Assignee hereby (i) agrees to be bound by, assume and perform, or ensure the performance of, all of the obligations, agreements, covenants and restrictions set forth in the CRA Agreement to be performed and observed by a Property Owner with respect to the Transferred Property; and (ii) certifies to the validity, as to Assignee as of the date of this Agreement, of the representations, warranties, and covenants made by Assignor in the CRA Agreement with respect to the Transferred Property, other than as set forth below. Such obligations, agreements, covenants, restrictions, and warranties include, but are not limited to, those contained in the CRA Agreement as they relate to the Transferred Property including, without limitation, the provisions of Sections 2, 4, 6, 9, and 10 of the CRA Agreement.

2. Assignee specifically agrees, pursuant to Section 4 of the CRA Agreement, and the Declaration, to make annual MSPs in the amount of Nine Thousand Five Hundred dollars (\$9,500) to the City in years 11 through 15 of the CRA Exemption. The City and the Assignee agree that the CRA Exemption for the Transferred Property begins with tax year \_\_\_\_\_, meaning MSPs shall be due in tax years \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_.

3. The City agrees that, from and after the Effective Date, as to the Transferred Property, Assignee has and shall have all entitlements and rights to tax exemptions, and obligations, as both (a) an "Property Owner" under the CRA Agreement, and (b) in the same manner and with like effect as if Assignee had been an original signatory to the CRA Agreement, including, but not limited to, the commitment of the City not to terminate or modify the terms of the CRA Agreement without the consent of Assignee.

4. Upon execution of this Agreement, Assignor is released from all liability under the Community Reinvestment Act Agreement with respect to the Transferred Property.

[Signature pages follow]

**ASSIGNOR**

SIMMS THE GABLES OF HH, LTD

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

[SIGNATURE PAGE TO PARTIAL ASSIGNMENT AND  
ASSUMPTION AGREEMENT]

**ASSIGNEE**

[NAME OF ASSIGNEE]

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

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

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

[SIGNATURE PAGE TO PARTIAL ASSIGNMENT AND  
ASSUMPTION AGREEMENT]

This Agreement is approved by:  
**THE CITY OF HUBER HEIGHTS, OHIO**

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

\_\_\_\_\_  
City Attorney  
Approved-as-to-form

[SIGNATURE PAGE TO PARTIAL ASSIGNMENT AND  
ASSUMPTION AGREEMENT]

**EXHIBIT A**  
**TRANSFERRED PROPERTY**

**EXHIBIT B**

**MSP DECLARATION**

EXHIBIT A

Situate in the State of Ohio, County of Montgomery, and in the City of Huber Heights, and located in Section 18, Town 2, Range 8 MRS, and being the followings lands:

Tract I:

Being all of Lot Numbered FIVE (5) of The Reserve on the Fairways as recorded in Plat Book 187, Pages 13-13A of the Plat Records of Montgomery County, Ohio records.

Parcel ID No.: P70-03910-0057

Tract II:

Being all of Lot Number FIFTEEN (15) of The Reserve at the Fairways, Section One-A, as recorded in Plat Book 202, Pages 1-1A of the Plat Records of Montgomery County, Ohio.

Parcel ID No.: P70-00320-0019

Tract III:

Being all of Lot Number SIXTEEN (16) of The Reserve at the Fairways, Section One-A, as recorded in Plat Book 202, Pages 1-1A of the Plat Records of Montgomery County, Ohio.

Parcel ID No.: P70-00320-0020

Tract IV:

Being all of Lot Numbered TWELVE (12) of The Reserve at the Fairways, Section One as recorded in Plat Book 195, Pages 21-21A of the Plat Records of Montgomery County, Ohio records.

Parcel ID No.: P70-0320-0012

Tract V:

Being all of Lot Number FOURTEEN (14) of The Reserve at the Fairways, Section One-A, as recorded in Plat Book 202, Pages 1-1A of the Plat Records of Montgomery County, Ohio.

Parcel ID No.: P70-00320-0018

Tract VI:

Being all of Lot Numbered TEN (10) of The Reserve at the Fairways, Section One as recorded in Plat Book 195, Pages 21-21A of the Plat Records of Montgomery County, Ohio records.

Parcel ID No.: P70-0320-0010

Tract VII:

Being all of Lot Numbered ELVEN (11) of The Reserve at the Fairways, Section One as recorded in Plat Book 195, Pages 21-21A of the Plat Records of Montgomery County, Ohio records.

Parcel ID No.: P70-0320-0011

EXCEPTING THEREFROM THE ABOVE REFERENCED TRACTS, the following:

Those portions of the Lots above which have been re-platted in The Reserve at the Fairways, Section One, in Plat Book 195, Pages 21-21A; The Reserve at the Fairways, Section One-A, in Plat Book 202, Pages 1-1A; The Reserve at the Fairways Condominium-Phase One, in Plat Book 199, Pages 6-6D; The Reserve at the Fairways Condominium-Phase Two, in Plat Book 200, Pages 13-13F; The Reserve at the Fairways Condominium-Phase Three, in Plat Book 200, Pages 14-14E; The Reserve at the Fairways Condominium-Phase 4, in Plat Book 204, Pages 1-1E; The Reserve at the Fairways Condominium-Phase Five, in Plat Book 205, Pages 36-36C; and The Reserve at the Fairways Condominium-Phase Six, in Plat Book 207, Pages 33-33C, all of the Montgomery County, Ohio records.

## **EXHIBIT B**

### **DECLARATION OF MINIMUM SERVICE PAYMENTS**

This Declaration of Minimum Service Payments (“Declaration”) is made by SIMMS THE GABLES OF HH, LTD, an Ohio limited liability company having its address at 2785 Orchard Run Road, Dayton, Ohio 45449 (the “Declarant”).

WHEREAS, the Declarant has acquired certain parcels of real property located in the City of Huber Heights, Ohio (the “City”), a description of which real property is attached hereto as Exhibit A (the “Parcel” or “Parcels”), having acquired such fee simple title by instrument No. 2022-00059936 recorded in the Official Records of the Office of the Recorder of Montgomery County, Ohio (the “County Recorder”); and

WHEREAS, the Declarant intends to develop the Parcels and in furtherance thereof the Declarant and the City entered into a Community Reinvestment Area and Development Agreement as of \_\_\_\_\_, 2023 (the “Agreement”), a copy of which may be obtained from the office of the City Manager of the City at 6131 Taylorsville Road, Huber Heights, Ohio 45424; and

WHEREAS, the Agreement creates an obligation that the owners of the Parcel make certain minimum service payments with respect to residential units located on the Parcels (the “Minimum Service Payments”);

WHEREAS, the current and future owners of one or more Parcels agree as a term and condition of this Declaration to waive any past, present or future defense to the obligation to pay the Minimum Service Payments required by this Declaration; and

WHEREAS, this Declaration is being made and filed of record pursuant to Section 4 of the Agreement.

NOW, THEREFORE, the Declarant, for itself and its successors and assigns to or of any of the Parcels (collectively, the “Owners” and individually, each an “Owner”), hereby declares that the foregoing recitals are incorporated into this Declaration by this reference and that the Parcels and any improvements

thereon will be held, developed, encumbered, leased, occupied, improved, built upon, used and conveyed subject to the terms and provisions of this Declaration:

Section 1. Development of the Parcels. The Parcels shall be developed in the manner described in the Agreement.

Section 2. Provision of Real Property Tax Exemptions Pursuant to CRA #5 Resolution. The City shall not be required to provide any real property tax exemption with respect to the Parcels located within "Community Reinvestment Area Number 5" as designated by the City Council in Resolution No. 93-R-1319, passed by the City Council on September 27, 1992, and as amended on September 28, 2015 via Resolution No. 2015-R-6232, except as provided in the Agreement.

Section 3. Provision of Real Property Tax Exemptions Pursuant to CRA #7 Resolution. The City shall not be required to provide any real property tax exemption with respect to the Parcels located within "Community Reinvestment Area Number 7" as designated by the City Council in Resolution No. 94-R-1453, passed by the City Council on September June 20, 1994, and as amended on September 27, 2010 via Resolution No. 2010-R-5333; June 8, 2015 via Resolution No. 2015-R-6195; September 14, 2021 via Resolution No. 2021-R-7036; and December 15, 2022 via Resolution No. 2022-R-7211.

Section 4. Minimum Service Payments. The Declarant/Owner(s) agree to a minimum service payment obligation (the "Minimum Service Payment Obligation") for each Unit (as defined in the Agreement) owned by Declarant or such respective Owner, pursuant to and in accordance with the requirements of the Agreement.

Section 5. Waiver of Defenses Against Payment of the Minimum Service Payments. The Declarant/Owner(s), current and future, agree to waive any past, current and future defenses to the obligation to pay the Minimum Service Payments required by this Declaration, which obligation shall be considered as a covenant that runs with the land and is to the fullest extent allowed by law and equity binding on all current and future owner(s) of the Parcel(s).

Section 6. Covenants to Run With the Land. Each of the covenants contained in this Declaration are covenants running with the land and will, in any event and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the City against each Parcel, as applicable, any improvements thereon and the Owner of the Parcel.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed and effective as of \_\_\_\_\_, 2023.

SIMMS THE GABLES OF HH, LTD,  
an Ohio limited liability company

By: Charles V. Simms Development Corp.,  
an Ohio corporation

By: \_\_\_\_\_  
Charles H. Simms, President

STATE OF OHIO ) SS:  
COUNTY OF MONTGOMERY )

This is an acknowledgement clause. No oath or affirmation was administered to the signer.  
On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me a Notary Public personally appeared Charles H. Simms, President of Charles V. Simms Development Corp, an Ohio corporation, the Member of Simms The Gables of HH, Ltd, an Ohio limited liability company, and acknowledged the execution of the foregoing instrument, and that the same is his voluntary act and deed on behalf of said company.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the date and year aforesaid.

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Notary Public

**Exhibit A**

**AI-9453**

**New Business H.  
City Manager**

**City Council Meeting**

**Meeting Date:** 08/28/2023

County Assessments Authorization - Sidewalk/Lighting/Delinquent Utility

**Submitted By:** Jim Bell

**Department:** Finance

**Division:** Accounting

**Council Committee Review?:** Council  
Work  
Session

**Date(s) of Committee Review:** 08/22/2023

**Audio-Visual Needs:** None

**Emergency Legislation?:** Yes

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

An Ordinance Approving Individual Assessments Amounts And Directing The Director Of Finance Or His/Her Designee To Certify The Amounts To The Applicable County Auditor For Collection, And Declaring An Emergency.  
(first reading)

**Purpose and Background**

Montgomery County requires all communities to pass separate legislation for assessments that are to be added to the tax duplicate. Therefore, before the City can assess property for such things as annual sidewalk assessments, grass/weed charges, property maintenance abatement, unpaid water and sewer, etc., the City must pass legislation specifically identifying the property and the amount of the assessment. Assessments are based on collection for City services previously provided; therefore, City Staff are asking that this item be passed as an emergency.

Exhibit A, which provides all details of the assessments, is attached. Sidewalk assessment payoffs have been made by residents over the past month and the amounts listed on Exhibit A are for those properties for which no payoffs were received for the work performed. Additionally, City Staff request waiving of the second reading and approval of this legislation at the City Council Meeting on August 28, 2023, because that is the last opportunity to present assessments for the 2023 property tax bills that residents will receive in 2024.

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**Fiscal Impact**

**Source of Funds:** N/A

**Cost:** N/A

**Recurring Cost? (Yes/No):** N/A

**Funds Available in Current Budget? (Yes/No):** N/A

**Financial Implications:**

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**Attachments**

Ordinance  
Exhibit A

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CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE NO. 2023-O-

APPROVING INDIVIDUAL ASSESSMENTS AMOUNTS AND DIRECTING THE DIRECTOR OF FINANCE OR HIS/HER DESIGNEE TO CERTIFY THE AMOUNTS TO THE APPLICABLE COUNTY AUDITOR FOR COLLECTION, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Section 6, Article XVIII of the Ohio Constitution the General Assembly has enacted general laws stating purposes for which municipalities may assess specially benefited property; and

WHEREAS, these laws include Ohio Revised Code Sections 727.01, 727.011, 727.012, 727.013, 729.06, 729.11, 1710.01(h) and others, which authorize the City to levy and collect special assessments upon the abutting, adjacent, and contiguous, or other specially benefited, lots or lands in the municipal corporation, for among other things, any part of the cost connected with the improvement of any street, public road, place, boulevard, parkway, or park entrance or an easement of the municipal corporation; sidewalk construction; sewers; sewage disposal works and treatment plants, sewage pumping stations, water treatment plants, water pumping stations, reservoirs, and water storage tanks or standpipes, together with the facilities and appurtenances necessary and proper therefore; drains, storm-water retention basins, watercourses, water mains, or laying of water pipe; lighting; any part of the cost and expense of planting, maintaining, and removing shade trees thereupon; any part of the cost and expense of constructing, maintaining, repairing, cleaning, and enclosing ditches; and

WHEREAS, for such approved assessments, the County Auditor is to act at the direction, or on behalf, of a municipality with respect to collection of such assessments R.C. 727.30; (R.C. 727.33); and

WHEREAS, the General Assembly has also enacted laws that require a County Auditor to act at the direction, or on behalf, of a municipality with respect to collection of certain costs assessed to properties including but not limited to R.C 743.04, 715.261 and 731.51-54; and

WHEREAS, as a result of the foregoing, the City of Huber Heights has passed, and will in the future pass, laws to assess real property for all or part of the cost of a public improvement and/or certain permitted costs of abatement or collection, including but not limited to Ordinance No. 97-O-997 codified as Huber Heights Code Section 175.04 Assessments for Capital Improvement Projects (for sanitary sewer, water, sidewalks and drive aprons, roadways and storm sewers); Ordinance No. 90-O-419 codified as Huber Heights Code Section 919.01 (street lighting); Ordinance No. 2009-O-1771 codified as Huber Heights Code Section 929.16 (unpaid water service); Ordinance No. 1996-O-856 codified as Huber Heights Code Section 923.08 (unpaid sanitary sewer); Ordinance No. 2002-O-1325 codified as Huber Heights Code Section 922.32 (stormwater); Ordinance No. 2014-O-2096 codified as Huber Heights Code Section 521.11 (nuisance in the right of way); Huber Heights Code Section 911.02 (sidewalk repair); Ordinance No. 2002-O-1324 and No. 2011-O-1897 (weed cutting assessment); Huber Heights Code Sections 925.05 (lower Rip Rap Road sewer district assessment), 952.04 (nuisance abatement for false alarms), 521.081, (littering and deposit of garbage) and such other ordinances or resolutions that may be passed from time to time pursuant to these codified laws; and

WHEREAS, in order to better track and account for authorized legal assessments and the amounts due to the City, City Council has determined it is in the best interest of the citizens to pass this Ordinance setting forward the applicable properties and assessment amounts to be certified to the County for collection; and

WHEREAS, the assessments set forth in Exhibit A have been authorized by the City Council of the City of Huber Heights and are required by law to be assessed and collected by the County on behalf of the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Huber Heights, Ohio that:

Section 1. The properties set forth on the attached Exhibit A, which is incorporated herein by this reference, are to be assessed in the amount also set forth on the applicable section of Exhibit A unless payment is made within the time frame set forth in the applicable section of Exhibit A.

Section 2. In the event a payment for the amount or any portion of the amount set forth in Exhibit A is received by the City prior to final assessment date set forth in Exhibit A, which is the same date set forth in the notice sent to such property owner, the Director of Finance or his/her designee is authorized to remove or revise such assessment from Exhibit A prior to certification to the County Auditor.

Section 3. The Director of Finance or his/her designee is instructed to certify this Ordinance, including the final assessed properties in Exhibit A, to the applicable County Auditor for collection.

Section 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 5. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare and for the further reason that finalizing and certifying assessment at the earliest time is necessary to timely establish a lien and protect the City’s interest in payment of amounts owed to the City; therefore, this Ordinance shall take full force and effect immediately upon its adoption by Council.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2023;  
\_\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

EXHIBIT 'A'						
Project No	Project Desc	Parcel ID	Address	Total to be Assessed	Tax Year	Begin Collection
31500	Grass/Weeds	P70 00202 0526	4150 Navajo Ave	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 00202 0526	4150 Navajo Ave	\$376.00	2023	February 2024
31500	Grass/Weeds	P70 00202 0581	Rip Rap Rd (SW corner of Navajo	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 00202 0604	6333 Blackfoot St.	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 00202 0604	6333 Blackfoot St.	\$355.40	2023	February 2024
31500	Grass/Weeds	P70 00306 0018	7210 Kirkview Dr	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 00306 0018	7210 Kirkview Dr	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 00306 0018	7210 Kirkview Dr	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 00410 0016	4885 Lodgeview Drive	\$355.40	2023	February 2024
31500	Grass/Weeds	P70 00411 0026	7690 Rustic Woods Drive	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 00512 0037	5919 Timbergate Trl	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 00512 0037	5919 Timbergate Trl	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 00512 0037	5919 Timbergate Trl	\$355.40	2023	February 2024
31500	Grass/Weeds	P70 00607 0002	4435 Lesion Ave	\$345.10	2023	February 2024
31500	Grass/Weeds	P70 00908 0008	5230 Monitor Drive	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 00908 0008	5230 Monitor Drive	\$324.50	2023	February 2024
31500	Grass/Weeds	P70 00613 0004	4427 Kilridge Rd	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 00613 0004	4427 Kilridge Rd	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 00613 0004	4427 Kilridge Rd	\$324.50	2023	February 2024
31500	Grass/Weeds	P70 00615 0018	4572 Komer Dr.	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 00615 0018	4572 Komer Dr.	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 00615 0018	4572 Komer Dr.	\$355.40	2023	February 2024
31500	Grass/Weeds	P70 01006 0008	5046 Sabra Avenue	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 01114 0031	7051 Troy Manor Rd	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 01401 0037	4707 Neptune Ln	\$376.00	2023	February 2024
31500	Grass/Weeds	P70 01402 0027	5307 Packard Drive	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 01404 0041	5470 Naughton Dr.	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 01404 0054	4874 Neptune Ln	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 01408 0005	5689 Botkins Rd	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 01411 0037	5773 Botkins Rd	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 01411 0037	5773 Botkins Rd	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 01515 0013	4877 Fishburg Rd	\$334.80	2023	February 2024

31850	Trash/Litter	P70 01411 0037	5773 Botkins Rd	\$358.22	2023	February 2024
31850	Trash/Litter	P70 01507 0009	5584 Storck Drive	\$659.00	2023	February 2024
31850	Trash/Litter	P70 01508 0013	5637 Copley Circle	\$543.64	2023	February 2024
31850	Trash/Litter	P70 01818 0018	6538 Glen Ivy Drive	\$629.14	2023	February 2024
31850	Trash/Litter	P70 01935 0007	5442 Misty Ln	\$504.59	2023	February 2024
31850	Trash/Litter	P70 01914 0035	7220 Belle Plain Drive	\$360.30	2023	February 2024
				\$5,709.10		
Project No	Project Desc	Parcel ID	Address	Total to be Assessed	Tax Year	Begin Collection
31950	Property Maintenance	P70 00202 0604	6333 Blackfoot Street	\$3,711.92	2023	February 2024
31950	Property Maintenance	P70 00614 0001	5264 Mariner Drive	\$1,728.01	2023	February 2024
31950	Property Maintenance	P70 01006 0020	4601 Powell Road	\$555.39	2023	February 2024
31950	Property Maintenance	P70 01405 0018	4901 Nebraska Ave	\$574.41	2023	February 2024
31950	Property Maintenance	P70 01408 0005	5669 Botkins Road	\$1,062.83	2023	February 2024
31950	Property Maintenance	P70 01502 0008	4560 Pennyston Ave	\$430.21	2023	February 2024
31950	Property Maintenance	P70 01515 0013	4877 Fishburg Road	\$533.36	2023	February 2024
31950	Property Maintenance	P70 01702 0019	6905 Morley Ln	\$1,151.21	2023	February 2024
				\$9,777.26		
Project No	Project Desc	Parcel ID	Address	Total to be Assessed	Tax Year	Begin Collection
32066	Sidewalk Program	P70 01706 0004	7142 Mandrake Dr	\$345.51	2024	February 2024
32066	Sidewalk Program	P70 01706 0004	7142 Mandrake Dr	\$345.51	2025	February 2024
32066	Sidewalk Program	P70 01706 0004	7142 Mandrake Dr	\$345.51	2026	February 2026
32066	Sidewalk Program	P70 01706 0004	7142 Mandrake Dr	\$345.51	2027	February 2027
32066	Sidewalk Program	P70 01706 0004	7142 Mandrake Dr	\$345.51	2028	February 2028
32066	Sidewalk Program	P70 01706 0005	7153 Mandrake Dr	\$270.05	2024	February 2024
32066	Sidewalk Program	P70 01706 0005	7153 Mandrake Dr	\$270.05	2025	February 2025
32066	Sidewalk Program	P70 01706 0005	7153 Mandrake Dr	\$270.05	2026	February 2026
32066	Sidewalk Program	P70 01706 0005	7153 Mandrake Dr	\$270.05	2027	February 2027
32066	Sidewalk Program	P70 01706 0005	7153 Mandrake Dr	\$270.05	2028	February 2028
32066	Sidewalk Program	P70 01706 0011	7129 Mandrake Dr	\$53.78	2024	February 2024
32066	Sidewalk Program	P70 01706 0011	7129 Mandrake Dr	\$53.78	2025	February 2025
32066	Sidewalk Program	P70 01706 0011	7129 Mandrake Dr	\$53.78	2026	February 2026
32066	Sidewalk Program	P70 01706 0011	7129 Mandrake Dr	\$53.78	2027	February 2027

31500	Grass/Weeds	P70 01611 0034	7066 Claybeck Drive	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 01616 0028	5956 Cornica Drive	\$354.80	2023	February 2024
31500	Grass/Weeds	P70 01616 0028	5956 Cornica Drive	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 01702 0010	6905 Morley Ln	\$345.10	2023	February 2024
31500	Grass/Weeds	P70 01702 0010	6905 Morley Ln	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 01714 0019	7044 Hubbard Drive	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 01714 0019	7044 Hubbard Drive	\$355.40	2023	February 2024
31500	Grass/Weeds	P70 01718 0007	5656 Bellefontaine Rd	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 01801 0034	5901 Lancer Ct	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 01817 0018	6552 Milhoff Drive	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 01817 0018	6552 Milhoff Drive	\$345.10	2023	February 2024
31500	Grass/Weeds	P70 01603 0025	7018 Longford Rd	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 01603 0025	7018 Longford Rd	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 01915 0025	7257 Cosner Dr	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 01920 0037	8124 Mount Charles	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 02021 0009	5685 Fox Trace Ct	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 02021 0009	5685 Fox Trace Ct	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 02021 0009	5685 Fox Trace Ct	\$324.50	2023	February 2024
31500	Grass/Weeds	P70 02027 0020	5675 Cottonwood Ct	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 02027 0020	5675 Cottonwood Ct	\$324.50	2023	February 2024
31500	Grass/Weeds	P70 02211 0112	3020 Burr Oak Drive	\$355.40	2023	February 2024
31500	Grass/Weeds	P70 03068 0125	6260 Bellefontaine Rd	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 03012 0055	6480 Brandt Pike	\$396.60	2023	February 2024
31500	Grass/Weeds	P70 04002 0028	6340 Shult Rd	\$314.20	2023	February 2024
31500	Grass/Weeds	P70 04003 0131	5553 Old Troy Pike	\$334.80	2023	February 2024
31500	Grass/Weeds	P70 04009 0053	7745 Bridgewater Road	\$314.20	2023	February 2024
31500	Grass/Weeds	Right of Way	Silver Oak Entry/Fishburg R.O.W.	\$395.60	2023	February 2024
				\$19,639.91		
Project No	Project Desc	Parcel ID	Address	Total to be Assessed	Tax Year	Begin Collection
31850	Trash/Litter	P70 00105 0022	5700 Mallard Drive	\$394.78	2023	February 2024
31850	Trash/Litter	P70 00115 0015	5413 Lefino Court	\$356.18	2023	February 2024
31850	Trash/Litter	P70 01009 0008	5046 Sabra Ave	\$428.28	2023	February 2024
31850	Trash/Litter	P70 01408 0042	5701 Belmar Drive	\$999.89	2023	February 2024
31850	Trash/Litter	P70 01408 0042	5701 Belmar Drive	\$475.08	2023	February 2024

32066	Sidewalk Program	P70 01706 0011	7129 Mandrake Dr	\$53.78	2028	February 2028
32066	Sidewalk Program	P70 01706 0012	7125 Mandrake Dr	\$60.05	2024	February 2024
32066	Sidewalk Program	P70 01706 0012	7125 Mandrake Dr	\$60.05	2025	February 2025
32066	Sidewalk Program	P70 01706 0012	7125 Mandrake Dr	\$60.05	2026	February 2026
32066	Sidewalk Program	P70 01706 0012	7125 Mandrake Dr	\$60.05	2027	February 2027
32066	Sidewalk Program	P70 01706 0012	7125 Mandrake Dr	\$60.05	2028	February 2028
32066	Sidewalk Program	P70 01706 0013	7121 Mandrake Dr	\$163.48	2024	February 2024
32066	Sidewalk Program	P70 01706 0013	7121 Mandrake Dr	\$163.48	2025	February 2025
32066	Sidewalk Program	P70 01706 0013	7121 Mandrake Dr	\$163.48	2026	February 2026
32066	Sidewalk Program	P70 01706 0013	7121 Mandrake Dr	\$163.48	2027	February 2027
32066	Sidewalk Program	P70 01706 0013	7121 Mandrake Dr	\$163.48	2028	February 2028
32066	Sidewalk Program	P70 01707 0003	7154 Mandrake Dr	\$56.17	2024	February 2024
32066	Sidewalk Program	P70 01707 0003	7154 Mandrake Dr	\$56.17	2025	February 2025
32066	Sidewalk Program	P70 01707 0003	7154 Mandrake Dr	\$56.17	2026	February 2026
32066	Sidewalk Program	P70 01707 0003	7154 Mandrake Dr	\$56.17	2027	February 2027
32066	Sidewalk Program	P70 01707 0003	7154 Mandrake Dr	\$56.17	2028	February 2028
32066	Sidewalk Program	P70 01707 0004	7158 Mandrake Dr	\$195.19	2024	February 2024
32066	Sidewalk Program	P70 01707 0004	7158 Mandrake Dr	\$195.19	2025	February 2025
32066	Sidewalk Program	P70 01707 0004	7158 Mandrake Dr	\$195.19	2026	February 2026
32066	Sidewalk Program	P70 01707 0004	7158 Mandrake Dr	\$195.19	2027	February 2027
32066	Sidewalk Program	P70 01707 0004	7158 Mandrake Dr	\$195.19	2028	February 2028
32066	Sidewalk Program	P70 01707 0005	7162 Mandrake Dr	\$46.31	2024	February 2024
32066	Sidewalk Program	P70 01707 0005	7162 Mandrake Dr	\$46.31	2025	February 2025
32066	Sidewalk Program	P70 01707 0005	7162 Mandrake Dr	\$46.31	2026	February 2026
32066	Sidewalk Program	P70 01707 0005	7162 Mandrake Dr	\$46.31	2027	February 2027
32066	Sidewalk Program	P70 01707 0005	7162 Mandrake Dr	\$46.31	2028	February 2028
32066	Sidewalk Program	P70 01707 0007	7172 Mandrake Dr	\$123.28	2024	February 2024
32066	Sidewalk Program	P70 01707 0007	7172 Mandrake Dr	\$123.28	2025	February 2025
32066	Sidewalk Program	P70 01707 0007	7172 Mandrake Dr	\$123.28	2026	February 2026
32066	Sidewalk Program	P70 01707 0007	7172 Mandrake Dr	\$123.28	2027	February 2027
32066	Sidewalk Program	P70 01707 0007	7172 Mandrake Dr	\$123.28	2028	February 2028
32066	Sidewalk Program	P70 01707 0008	7180 Mandrake Dr	\$114.58	2024	February 2024
32066	Sidewalk Program	P70 01707 0009	7180 Mandrake Dr	\$114.58	2025	February 2025
32066	Sidewalk Program	P70 01707 0009	7180 Mandrake Dr	\$114.58	2026	February 2026
32066	Sidewalk Program	P70 01707 0009	7180 Mandrake Dr	\$114.58	2027	February 2027
32066	Sidewalk Program	P70 01707 0009	7180 Mandrake Dr	\$114.58	2028	February 2028



























































































































































31200	Lighting	P70 02211 0067	4215	SILVER OAK WAY	\$	42.11	2023	February 2024
31200	Lighting	P70 02211 0068	4221	SILVER OAK WAY	\$	42.11	2023	February 2024
31200	Lighting	P70 02211 0069	4227	SILVER OAK WAY	\$	42.11	2023	February 2024
31200	Lighting	P70 02211 0070	4233	SILVER OAK WAY	\$	42.11	2023	February 2024
31200	Lighting	P70 02211 0071	6013	WHITE OAK WAY	\$	63.15	2023	February 2024
31200	Lighting	P70 02211 0072	6009	WHITE OAK WAY	\$	63.15	2023	February 2024
31200	Lighting	P70 02211 0073	6005	WHITE OAK WAY	\$	63.15	2023	February 2024
31200	Lighting	P70 02211 0074	4173	SILVER OAK WAY	\$	63.15	2023	February 2024
31200	Lighting	P70 02211 0075	4167	SILVER OAK WAY	\$	63.15	2023	February 2024
31200	Lighting	P70 02211 0076	4161	SILVER OAK WAY	\$	63.15	2023	February 2024
31200	Lighting	P70 02211 0077	4170	SILVER OAK WAY	\$	63.15	2023	February 2024
31200	Lighting	P70 02211 0078	4164	SILVER OAK WAY	\$	63.15	2023	February 2024
31200	Lighting	P70 02211 0079	4158	SILVER OAK WAY	\$	63.15	2023	February 2024
31200	Lighting	P70 02211 0080	3062	BURR OAK	\$	63.15	2023	February 2024
31200	Lighting	P70 02211 0081	3056	BURR OAK	\$	63.15	2023	February 2024
31200	Lighting	P70 02211 0082	3050	BURR OAK	\$	63.15	2023	February 2024
31200	Lighting	P70 02211 0083	3059	BURR OAK	\$	63.15	2023	February 2024
31200	Lighting	P70 02211 0084	3053	BURR OAK	\$	63.15	2023	February 2024
31200	Lighting	P70 02211 0085	3047	BURR OAK	\$	63.15	2023	February 2024
31200	Lighting	P70 03907 0009	5980	FISHBURG	\$	22.94	2023	February 2024
31200	Lighting	P70 03909 0039	7200	BRANDT PIKE	\$	26.87	2023	February 2024
31200	Lighting	P70 03909 0043	7161	BRANDT PIKE	\$	26.84	2023	February 2024
31200	Lighting	P70 03909 0142	7161	BRANDT PIKE	\$	26.84	2023	February 2024
31200	Lighting	P70 03911 0037	5870	FISHBURG	\$	22.94	2023	February 2024
31200	Lighting	P70 03911 0040	5870	FISHBURG	\$	22.94	2023	February 2024
31200	Lighting	P70 03911 0041	5856	FISHBURG	\$	22.94	2023	February 2024
31200	Lighting	P70 03911 0042	5828	FISHBURG	\$	22.94	2023	February 2024
31200	Lighting	P70 03911 0043	5960	FISHBURG	\$	22.94	2023	February 2024
31200	Lighting	P70 03911 0045	5970	FISHBURG	\$	22.94	2023	February 2024
31200	Lighting	P70 03911 0048	5828	FISHBURG	\$	22.94	2023	February 2024
31200	Lighting	P70 03911 0049	5926	FISHBURG	\$	22.94	2023	February 2024
31200	Lighting	P70 03912 0017		FISHBURG	\$	24.32	2023	February 2024
31200	Lighting	P70 03912 0017		FISHBURG	\$	24.32	2023	February 2024
31200	Lighting	P70 03912 0020	5566	CHAMBERSBURG	\$	25.32	2023	February 2024
31200	Lighting	P70 03912 0023	5119	FISHBURG	\$	25.68	2023	February 2024
31200	Lighting	P70 03912 0024	5131	FISHBURG	\$	25.68	2023	February 2024

31200	Lighting	P70 03912 0025	5075	FISHBURG	\$	25.68	2023	February 2024
31200	Lighting	P70 03912 0032	5528	CHAMBERSBURG	\$	25.32	2023	February 2024
31200	Lighting	P70 03912 0040		FISHBURG	\$	24.32	2023	February 2024
31200	Lighting	P70 03912 0047	5620	CHAMBERSBURG	\$	25.32	2023	February 2024
31200	Lighting	P70 04001 0006	6225	TAYLORSVILLE	\$	22.54	2023	February 2024
31200	Lighting	P70 04001 0022	6430	TAYLORSVILLE RD	\$	26.02	2023	February 2024
31200	Lighting	P70 04001 0024	6430	TAYLORSVILLE RD	\$	26.02	2023	February 2024
31200	Lighting	P70 04001 0025	6489	TAYLORSVILLE RD	\$	26.02	2023	February 2024
31200	Lighting	P70 04001 0028	6524	TAYLORSVILLE RD	\$	26.02	2023	February 2024
31200	Lighting	P70 04001 0049	6548	TAYLORSVILLE RD	\$	26.02	2023	February 2024
31200	Lighting	P70 04001 0050	6500	TAYLORSVILLE RD	\$	26.02	2023	February 2024
31200	Lighting	P70 04001 0054	6422	TAYLORSVILLE RD	\$	26.02	2023	February 2024
31200	Lighting	P70 04001 0060	6388	TAYLORSVILLE RD	\$	26.02	2023	February 2024
31200	Lighting	P70 04001 0078	6273	TAYLORSVILLE	\$	22.54	2023	February 2024
31200	Lighting	P70 04003 0008	4760	FISHBURG	\$	24.54	2023	February 2024
31200	Lighting	P70 04003 0010	4840	FISHBURG	\$	24.54	2023	February 2024
31200	Lighting	P70 04003 0011	4850	FISHBURG	\$	24.54	2023	February 2024
31200	Lighting	P70 04003 0012	4866	FISHBURG	\$	24.54	2023	February 2024
31200	Lighting	P70 04003 0013	4882	FISHBURG	\$	24.54	2023	February 2024
31200	Lighting	P70 04003 0015	5854	PENNSWOOD	\$	564.22	2023	February 2024
31200	Lighting	P70 04003 0026	5508	OLD TROY PIKE	\$	23.21	2023	February 2024
31200	Lighting	P70 04003 0061	4876	FISHBURG	\$	24.54	2023	February 2024
31200	Lighting	P70 04003 0062	4788	FISHBURG	\$	24.54	2023	February 2024
31200	Lighting	P70 04003 0071	5560	OLD TROY PIKE	\$	23.21	2023	February 2024
31200	Lighting	P70 04003 0104	4704	FISHBURG	\$	24.54	2023	February 2024
31200	Lighting	P70 04003 0109	4782	FISHBURG	\$	24.54	2023	February 2024
31200	Lighting	P70 04003 0113	4712	FISHBURG	\$	24.54	2023	February 2024
31200	Lighting	P70 04003 0118	4750	FISHBURG	\$	24.54	2023	February 2024
31200	Lighting	P70 04003 0122	4882	FISHBURG	\$	24.54	2023	February 2024
31200	Lighting	P70 04003 0145	5854	PENNSWOOD	\$	1,314.49	2023	February 2024
31200	Lighting	P70 04003 0154	4830	FISHBURG	\$	24.54	2023	February 2024
31200	Lighting	P70 04004 0007	6865	OLD TROY PIKE	\$	31.85	2023	February 2024
31200	Lighting	P70 04004 0014	6855	OLD TROY PIKE	\$	31.85	2023	February 2024
31200	Lighting	P70 04004 0019	6815	OLD TROY PIKE	\$	31.85	2023	February 2024
31200	Lighting	P70 04004 0037	6875	OLD TROY PIKE	\$	31.85	2023	February 2024
31200	Lighting	P70 04005 0007	4928	TAYLORSVILLE RD	\$	36.48	2023	February 2024

31200	Lighting	P70 04005 0055	5201	TAYLORSVILLE RD	\$	36.48	2023	February 2024
31200	Lighting	P70 04005 0061	5086	TAYLORSVILLE RD	\$	36.48	2023	February 2024
31200	Lighting	P70 04005 0065	5239	TAYLORSVILLE ROAD	\$	89.14	2023	February 2024
31200	Lighting	P70 04005 0097	7737	WAYNETOWNE COURT	\$	793.38	2023	February 2024
31200	Lighting	P70 04005 0098		TAYLORSVILLE ROAD	\$	26.96	2023	February 2024
31200	Lighting	P70 04005 0100		TAYLORSVILLE ROAD	\$	281.38	2023	February 2024
31200	Lighting	P70 04005 0104	7764	WAYNETOWNE COURT	\$	29.20	2023	February 2024
31200	Lighting	P70 04005 0118	5229	TAYLORSVILLE ROAD	\$	29.48	2023	February 2024
31200	Lighting	P70 04005 0121		WAYNETOWNE COURT	\$	54.45	2023	February 2024
31200	Lighting	P70 04005 0126	5227	TAYLORSVILLE ROAD	\$	33.88	2023	February 2024
31200	Lighting	P70 04006 0020	8275	ST. RT. 202	\$	34.39	2023	February 2024
31200	Lighting	P70 04006 0021	8980	OLD TROY PIKE	\$	34.39	2023	February 2024
31200	Lighting	P70 04006 0022	8970	OLD TROY PIKE	\$	34.39	2023	February 2024
31200	Lighting	P70 04006 0110	5475	KELLENBURGER	\$	34.39	2023	February 2024
31200	Lighting	P70 04006 0114	5475	KELLENBURGER	\$	34.39	2023	February 2024
31200	Lighting	P70 04009 0007	4725	TAYLORSVILLE RD	\$	27.07	2023	February 2024
31200	Lighting	P70 04009 0030	4401	TAYLORSVILLE RD	\$	27.07	2023	February 2024
31200	Lighting	P70 04009 0048	4782	TAYLORSVILLE RD	\$	23.21	2023	February 2024
31200	Lighting	P70 04009 0053		TAYLORSVILLE RD	\$	27.07	2023	February 2024
31200	Lighting	P70 04009 0054	7745	BRIDGEWATER	\$	27.07	2023	February 2024
31200	Lighting	P70 04009 0055	7571	BRIDGEWATER	\$	27.07	2023	February 2024
31200	Lighting	P70 04009 0056	7749	BRIDGEWATER	\$	27.07	2023	February 2024
31200	Lighting	P70 04009 0061	7751	BRIDGEWATER	\$	27.07	2023	February 2024
31200	Lighting	P70 04009 0076	7650	TIMBERCREST	\$	27.07	2023	February 2024
31200	Lighting	P70 04009 0081	4470	TAYLORSVILLE RD	\$	27.07	2023	February 2024
31200	Lighting	P70 04009 0084	4514	TAYLORSVILLE RD	\$	27.07	2023	February 2024
31200	Lighting	P70 50007 0008	7566	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0009	7568	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0010	7570	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0011	7572	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0012	7574	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0013	7576	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0014	7578	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0015	7582	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0016	7584	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0017	7586	MOUNT HOOD	\$	10.39	2023	February 2024

31200	Lighting	P70 50007 0018	7588	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0019	7590	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0020	7592	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0021	7594	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0036	7630	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0037	7632	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0038	7634	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0039	7636	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0040	7638	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0041	7640	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50007 0042	7642	MOUNT HOOD	\$	10.39	2023	February 2024
31200	Lighting	P70 50205 0001	5745	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0002	5743	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0003	5741	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0004	5747	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0005	5753	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0006	5751	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0007	5749	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0008	5755	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0009	5761	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0010	5759	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0011	5757	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0012	5763	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0013	5769	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0014	5767	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0015	5765	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0016	5771	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0017	5737	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0018	5735	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0019	5733	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0020	5739	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0021	5737	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0022	5737	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0023	5735	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0024	5731	TROY VILLA	\$	10.02	2023	February 2024
31200	Lighting	P70 50205 0025	5721	TROY VILLA	\$	10.02	2023	February 2024





31200	Lighting	P70 51323 0085	4187	PHEASANT COURT	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0089	4197	PHEASANT COURT	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0089	4199	PHEASANT COURT	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0091	4081	VITEK DRIVE	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0092	4083	VITEK DRIVE	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0094	4093	VITEK DRIVE	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0095	4095	VITEK DRIVE	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0097	4105	VITEK DRIVE	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0098	4107	VITEK DRIVE	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0100	4117	VITEK DRIVE	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0101	4119	VITEK DRIVE	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0103	4129	VITEK DRIVE	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0104	4131	VITEK DRIVE	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0106	4141	VITEK DRIVE	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0107	4143	VITEK DRIVE	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0109	4215	BIRD DOG COURT	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0110	4217	BIRD DOG COURT	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0112	4249	VITEK DRIVE	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0113	4251	VITEK DRIVE	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0115	4200	PHEASANT COURT	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0116	4202	PHEASANT COURT	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0118	4209	PHEASANT COURT	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0119	4211	PHEASANT COURT	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0122	4173	VITEK DRIVE	\$	14.20	2023	February 2024
31200	Lighting	P70 51323 0123	4179	VITEK DRIVE	\$	14.20	2023	February 2024
TOTAL LIGHTING						\$306,223.56		

**AI-9454**

**New Business I.  
City Manager**

**City Council Meeting**

**Meeting Date:** 08/28/2023

Issuance of Notes (Renewal) - \$1,662,000

**Submitted By:** Jim Bell

**Department:** Finance

**Division:** Accounting

**Council Committee Review?:** Council  
Work  
Session

**Date(s) of Committee Review:** 08/22/2023

**Audio-Visual Needs:** None

**Emergency Legislation?:** No

**Motion/Ordinance/  
Resolution No.:**

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**Agenda Item Description or Legislation Title**

An Ordinance Providing For The Issuance And Sale Of Notes In The Maximum Principal Amount Of \$1,662,000 In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying The Costs Of Acquiring Approximately 51 Acres Of Real Property Near The Intersection Of Brandt Pike And Executive Boulevard And Providing For The Site Preparation Thereof, All In Support Of Economic Development And Job Creation Within The City.  
(first reading)

**Purpose and Background**

The legislation attached was prepared by Squire, Patton & Boggs, acting as bond counsel for the City of Huber Heights, so that notes that were originally issued in 2019 for the purchase of the Lehman property can be renewed for an additional year. The original note for the Lehman property was for \$3,750,000. A portion of the property was sold this year for \$2,088,000, therefore, only the remaining principal of \$1,662,000 will need to be financed for the next year.

City Staff request that the second reading of the legislation be waived so this non-emergency legislation can be effective in thirty days. The current notes mature on September 29, 2023. If the notes are not approved at the meeting on August 28, then an emergency clause will need to be added for the second reading.

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**Fiscal Impact**

**Source of Funds:** TED Fund

**Cost:** \$7,500

**Recurring Cost? (Yes/No):** No

**Funds Available in Current Budget? (Yes/No):** Yes

**Financial Implications:**

Estimated issuance costs of \$7,500 would be needed for the note to renew the financing for the 2019 land purchase out of the Transformative Economic Development Fund in 2023. The interest payment for the maturing note was included in the 2023 City Budget.

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**Attachments**

Engagement Letter



August 3, 2023

**VIA E-MAIL**

Bryan Chodkowski  
Interim City Manager  
City of Huber Heights, Ohio  
6131 Taylorsville Road  
Huber Heights, Ohio 45424

**Re: City of Huber Heights, Ohio  
(Not to Exceed) \$1,662,000 Special Obligation Nontax Revenue Notes, Series 2023A  
(Federally Taxable)**

Dear Bryan:

We are pleased that the City of Huber Heights, Ohio (the “City”) has requested Squire Patton Boggs (US) LLP (the “Firm”) to serve as the City’s bond counsel in connection with the issuance of the referenced unvoted, special obligation bond anticipation notes (the “Notes”).

The Firm’s services will include those customarily provided by bond counsel in connection with issues such as the Notes, including the rendering of our legal opinion (the “Bond Opinion”), provided that the proceedings for the issuance of the Notes have been completed to our satisfaction. The Bond Opinion will address the legality, validity and binding effect of the Notes, the source of payment and security for the Notes, and certain tax aspects of the Notes under the laws of the State of Ohio. The Firm will address the Bond Opinion to the City and will deliver it on the date that the City delivers the Notes in exchange for their purchase price. For those legal services, the Firm shall be paid just and reasonable compensation in an amount not expected to exceed \$7,500, and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services.

As the City’s bond counsel, the Firm represents the City. The City is the Firm’s client, and an attorney-client relationship will exist between the Firm and the City. We assume that all other parties to the transaction will retain such counsel as they deem necessary and appropriate to represent their interests in this transaction. We further assume that all other parties understand that, in this transaction, we represent only the City, that we are not counsel to any other party, and that we are not acting as an intermediary among the parties. Our representation of the City will not, however, affect our responsibility to render an objective Bond Opinion.

Over 40 Offices across 4 Continents

Squire Patton Boggs (US) LLP is part of the international legal practice Squire Patton Boggs, which operates worldwide through a number of separate legal entities.

Please visit [squirepattonboggs.com](http://squirepattonboggs.com) for more information.

Bryan Chodkowski  
August 3, 2023  
Page 2

The City's proposed issuance of the Notes may involve an original purchaser and perhaps other parties. The Firm conducts a national practice in the area of public finance that involves the representation of issuers, underwriters and other parties in the issuance of governmental debt obligations. In addition, the Firm conducts a national and international corporate law practice that includes the representation of financial institutions and other businesses in transactions, litigation and other matters. As a result of the extent and diversity of that practice, the Firm may currently represent or may have represented the original purchaser of the Notes or other parties involved in the issuance of the Notes in matters unrelated to the City or its issuance of the Notes. The Firm may also commence such representations during the time it is serving the City as bond counsel for the Notes. Considering the lack of relationship that such other matters have to the City or to its issuance of the Notes, the Firm does not expect any such other representations to conflict with its fulfillment of its professional obligations to the City as bond counsel for the Notes. We request that the City, by signing and returning a copy of this letter, acknowledge and consent to the Firm's serving the City as bond counsel for the issuance of the Notes though the Firm serves, may have served or may serve other parties to that issuance in other, unrelated matters.

The Firm appreciates the opportunity to represent the City in this transaction. Please signify that the City desires for the Firm to proceed with this engagement as described in this letter by signing a copy of this letter and returning it to us. Please retain the original for the City's files.

Very truly yours,

*Christopher J. Franzmann*

Christopher J. Franzmann

CJF/pf

**Engagement Letter Accepted:**

**CITY OF HUBER HEIGHTS, OHIO**

By: 

Printed: Bryan Chodkowski

Title: Interim City Manager

Dated: 8/16/23

CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE NO. 2023-O-

PROVIDING FOR THE ISSUANCE AND SALE OF NOTES IN THE MAXIMUM PRINCIPAL AMOUNT OF \$1,662,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING THE COSTS OF ACQUIRING APPROXIMATELY 51 ACRES OF REAL PROPERTY NEAR THE INTERSECTION OF BRANDT PIKE AND EXECUTIVE BOULEVARD AND PROVIDING FOR THE SITE PREPARATION THEREOF, ALL IN SUPPORT OF ECONOMIC DEVELOPMENT AND JOB CREATION WITHIN THE CITY.

WHEREAS, the City of Huber Heights, Ohio (the “City”) is authorized by virtue of the laws of the State of Ohio, including, without limitation, Section 13 of Article VIII, Ohio Constitution, and Chapter 165, Ohio Revised Code (the “Act”), among other things, to issue bonds or notes to acquire, construct, equip, furnish, or improve a “project” as defined in Section 165.01, Ohio Revised Code, for the purpose of creating or preserving jobs and employment opportunities and improving the economic welfare of the people of the City and of the State of Ohio; and

WHEREAS, to facilitate the creation of jobs and employment opportunities and improving the economic welfare of the people of the City and of the State of Ohio, the City has determined to issue the Notes (described below) to pay the costs of acquiring approximately 51 acres of real property near the intersection of Brandt Pike and Executive Boulevard and provide for the site preparation thereof (the “Project”); and

WHEREAS, pursuant to Ordinance No. 2022-O-2546 passed August 22, 2022, notes in anticipation of bonds in the principal amount of \$3,750,000 dated September 30, 2022 (the “Outstanding Notes”), were issued for the purpose described in Section 2, to mature on September 29, 2023; and

WHEREAS, this City Council finds and determines that the City should retire the Outstanding Notes with the proceeds of the Notes described in Section 4 and other funds available to the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Huber Heights, Ohio that:

Section 1. This City Council hereby determines that the Project is a “project” as defined in the Act and is consistent with the purposes of Section 13 of Article VIII of the Ohio Constitution; that the utilization of the Project is in furtherance of the purposes of the Act and will benefit the people of the City and of the State by creating and preserving jobs and employment opportunities and improving the economic welfare of the people of the City and of the State; and that the amount necessary to finance the Project will require the issuance, sale and delivery of the Notes (as defined below), which Notes shall be issued in anticipation of the Bonds (as defined below), and which Notes shall be payable and secured as provided herein.

Section 2. It is necessary to issue bonds of this City in the maximum principal amount of \$1,662,000 (the “Bonds”) for the purpose of paying the costs of acquiring approximately 51 acres of real property near the intersection of Brandt Pike and Executive Boulevard and providing for the site preparation thereof, all in support of economic development and job creation within the City.

Section 3. The Bonds shall be dated approximately September 1, 2024, shall bear interest at the now estimated rate of 6.00% per year, payable semiannually until the principal amount is paid, and are estimated to mature in twenty (20) annual principal installments on December 1 of each year and in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable shall be substantially equal. The first principal payment on the Bonds is estimated to be December 1, 2025.

The Director of Finance may determine if it is in the best interest of and financially advantageous to the City that the Notes shall be subject to optional redemption by and at the sole option of the City, in whole or in part, on any date prior to maturity and at such redemption price, plus accrued interest to the redemption date, all of which terms shall be set forth in the Certificate of Award.

If the City is the registered holder of all of the Notes, notice of redemption may be provided by the Director of Finance to the City in such manner and at such time as is determined by the Director of Finance to be in the best interest of the City. If the preceding sentence does not apply, notice of redemption, identifying the Notes or portions thereof, to be called, shall be mailed by certified mail to the registered holders thereof not less than thirty (30) days prior to the date of redemption.

Notice having been provided or mailed in the manner provided in the preceding paragraph hereof, the Notes and portions thereof called for redemption shall become due and payable on the redemption date, and upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus accrued interest to the redemption date. If moneys for the redemption of all of the Notes or portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Director of Finance, as paying agent, on the redemption date, so as to be available therefor on that date and, if notice of redemption has been provided or deposited in the mail as aforesaid, then from and after the redemption date those Notes or portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been provided or deposited in the mail as aforesaid, those Notes or portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption.

Section 4. It is necessary to issue, and this Council determines that notes in the maximum principal amount of \$1,662,000 (the “*Notes*”) shall be issued in anticipation of the issuance of the Bonds for the purpose described in Section 2 and to retire, together with other funds available to the City, the Outstanding Notes and to pay any financing costs. The principal amount of Notes to be issued (not to exceed the stated maximum amount) shall be determined by the Director of Finance in the certificate awarding the Notes (the “*Certificate of Award*”) as the amount which, along with other available funds of the City, is necessary to provide for the retirement of the Outstanding Notes and to pay any financing costs. The Notes shall be dated the date of issuance and shall mature not more than one year following the date of issuance, *provided* that the Director of Finance shall establish the maturity date in the Certificate of Award. The Notes shall bear interest at a rate not to exceed 7.00% per year (computed on the basis of a 360-day year consisting of twelve 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award. The Notes shall be issued pursuant to the Act, the Charter of the City, this Ordinance and the Certificate of Award.

Section 5. The debt charges on the Notes shall be payable in lawful money of the United States of America or in Federal Reserve funds of the United States of America and shall be payable at the office of the Director of Finance.

Section 6. The Notes shall be signed by the City Manager and Director of Finance, in the name of the City and in their official capacities, *provided* that one of those signatures may be a facsimile. The entire principal amount shall be represented by a single note, which shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon its face the purpose, in summary terms, for which it is issued and that it is issued pursuant to the Act, the Charter of the City, this Ordinance and the Certificate of Award.

Section 7. The Notes are offered at a purchase price, not less than par, as shall be determined by the Director of Finance, plus any accrued interest, to the Director of Finance, as the officer having responsibility for investment of public funds pursuant to the Charter of the City. The Director of Finance shall cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the original purchaser, to the original purchaser upon payment of the purchase price. The City Manager, the Director of Finance, the City Attorney, the Clerk of Council and other City officials, as appropriate, and any person serving in an interim or acting capacity for any such official, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. Any actions heretofore taken by the City Manager, the Director of Finance, the City Attorney, the Clerk of Council or other City official, as appropriate, in doing any and all acts necessary in connection with the issuance and sale of the Notes are hereby ratified and confirmed.

Section 8. The proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. Any portion of those proceeds representing premium or accrued interest shall be paid into the Bond Fund (as described below).

Section 9. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

Section 10. The Notes are special obligations of the City, the principal of and interest on which are payable solely from the proceeds of the Bonds and by a pledge of and lien on the Nontax Revenues established by and as provided in this Ordinance which are on deposit in the Bond Fund, all as described below. The City covenants that to the extent the Notes will not be paid fully from Nontax Revenues, it will do all things necessary for the issuance of the Bonds or renewal bond anticipation notes in an appropriate amount to provide for the payment of the principal of and interest on the Notes on the maturity date of the Notes.

There was heretofore created by the City a separate account within the Bond Retirement Fund named the Economic Development Bond Retirement Account (the “*Bond Fund*”) into which Nontax Revenues shall be deposited in accordance with the following provisions.

The City hereby covenants and agrees that on or before any date on which principal or interest is payable on the Notes it shall deposit into the Bond Fund from Nontax Revenues selected by the City or proceeds from the Bonds or renewal bond anticipation notes as determined by the City, an amount equal to the amount of principal and/or interest due on the Notes on that date, less, in the discretion of the City, any interest earnings or other moneys accumulated in the Bond Fund which have not theretofore been used as a credit against a prior payment obligation. Moneys in the Bond Fund shall be used solely and exclusively to pay principal and interest on City obligations payable from the Nontax Revenues.

The City hereby covenants and agrees that so long as the Notes are outstanding, it will appropriate and maintain sufficient Nontax Revenues each year to make each payment due under this Section 10 and to pay principal and interest when due; *provided, however*, the amount of such appropriation may be reduced by the amount of any Bonds or renewal bond anticipation notes issued for the purpose of refunding the Notes and payments due hereunder and under the Notes are payable solely from the proceeds of the Bonds and the Nontax Revenues, which Nontax Revenues are hereby selected by the City pursuant to Section 165.12 of the Ohio Revised Code as moneys that are not raised by taxation. The Notes are not secured by an obligation or pledge of any moneys raised by taxation. The Notes do not and shall not represent or constitute a debt or pledge of the faith or credit or taxing power of the City, and the registered owners of the Notes have no right to have taxes levied by the City for the payment of principal of and interest on the Notes.

Nothing herein shall be construed as requiring the City to use or apply to the payment of principal of and interest on the Notes any funds or revenues from any source other than proceeds of the Bonds and Nontax Revenues. Nothing herein, however, shall be deemed to prohibit the City, of its own volition, from using, to the extent that it is authorized by law to do so, any other resources for the fulfillment of any of the terms, conditions or obligations of this Ordinance or of the Notes.

For purpose of this Ordinance, “*Nontax Revenues*” shall mean all moneys of the City which are not moneys raised by taxation, to the extent available for such purposes, including, but not limited to the following: (a) grants from the United States of America and the State of Ohio; (b) payments in lieu of taxes now or hereafter authorized by State statute; (c) fines and forfeitures which are deposited in the City’s General Fund; (d) fees deposited in the City’s General Fund from properly imposed licenses and permits; (e) investment earnings on the City’s General Fund and which are credited to the City’s General Fund; (f) investment earnings of other funds of the City that are credited to the City’s General Fund; (g) proceeds from the sale of assets which are deposited in the City’s General Fund; (h) rental income which is deposited in the City’s General Fund; (i) gifts and donations; and (j) proceeds from the sale of any portion of the Project.

Section 11. The Director of Finance is authorized and directed to provide the notification required by Section 165.03(D) of the Ohio Revised Code to the Director of the Ohio Department of Development.

Section 12. The legal services of the law firm of Squire Patton Boggs (US) LLP are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Notes and securities issued in renewal of the Notes and rendering at delivery related legal opinions, all as set forth in the form of engagement letter from that firm which is now on file in the office of the Clerk of Council. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State of Ohio, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services, that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.

Section 13. The services of Bradley Payne, LLC, as municipal advisor, are hereby retained. The municipal advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Notes. In rendering those municipal advisory services, as an independent contractor, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State of Ohio, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those municipal advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those municipal advisory services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.

Section 14. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding special obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

Section 15. This City Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Council or any of its committees, and that all deliberations of this City Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.

Section 16. This Ordinance shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2023;  
\_\_\_\_ Yeas; \_\_\_\_\_ Nays.

Effective Date:

AUTHENTICATION:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**CERTIFICATE**

The undersigned, Clerk of Council of the City of Huber Heights, Ohio, hereby certifies that the foregoing is a true and correct copy of Ordinance No. 2023-O-\_\_\_\_\_ passed by the City Council of the City of Huber Heights, on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Clerk of Council