

## MODIFIED SETTLEMENT AGREEMENT

This MODIFIED SETTLEMENT AGREEMENT ("Agreement") is presented this 10<sup>th</sup> day of JUNE, 2025 to the duly authorized officials of AMHERST TOWNSHIP ("Township") by AMHERST CONSOLIDATED PROPERTIES LLC ("Developer").

### BACKGROUND

1. Developer has proposed developing approximately 264.23 acres situated in Amherst Township at the Southeast corner of S.R. 58 and the Ohio Turnpike, specifically comprised of the following tax parcel identification numbers:

#### PPNs

05-00-054-000-053;  
05-00-054-000-005;  
05-00-047-000-004  
05-00-046-000-045  
05-00-047-000-029;  
05-00-055-000-017;  
05-00-055-000-029;  
05-00-055-000-018;  
05-00-055-000-015

(hereinafter the "Property")

2. Developer sought a variance and intended to have the Property rezoned from its former zoning classifications, as they are set forth in the Township's Zoning Resolution and as illustrated in the Zone Map, of *General Business* (GB-1) and *Agricultural Residential* (R-AG) to *Planned Development District* (PDD) (hereinafter, "*Sandstone*").

3. Prior to rezoning, however, Developer requested the Township's Board of Zoning Appeals ("BZA") to grant an *area* variance from the Zoning Resolution's 600-acre minimum acre requirement for PDD use.

4. Following a public meeting held December 5, 2019, and by way of a written decision of December 27, 2019 the BZA denied the variance request.

5. Developer timely appealed the BZA's decision pursuant to Ohio Revised Code Chapters 2505 and 2506, identified and herein incorporated by reference as *Amherst Consolidated Properties, LLC, et al. v. Amherst Township Board of Zoning Appeals, et al.*, Lorain County Court of Common Pleas Case No. 20 CV 200199, docketed with the Honorable Christopher R. Rothgery (hereinafter "the Litigation").

6. Developer initially proposed the *Sandstone* PDD Development of the Property as substantially set forth in Exhibit 2, attached to the Original Settlement Agreement, and identified as "Conceptual General Development Plan," prepared by Bramhall Engineering and Surveying Company, dated 9-24-2019.

7. Exhibit 2 was formally presented by Developer to the BZA at its public meeting and so made part of the record of the Litigation.

8. The parties subsequently entered into that certain Settlement Agreement dated March 11, 2021 (the "Original Settlement Agreement") whereby the Property was rezoned from General Business (GB-1) and Agricultural Residential (R-AG) to Planned Development District (PDD)("Sandstone").

9. The parties desire to modify the Original Settlement Agreement so as to amend the chart of permitted and Accessory Uses in the Business Hub Subdistrict found in Schedule 1204 of the Township's Zoning Resolution to include additional Permitted Uses and Conditionally Permitted Uses in the GB-1 District as provided by Schedule 1002 of the Township's Zoning Resolution. Permanent Parcel Number 05-00-047-000-080, which will include an automotive vehicle service station, may include the Permitted Uses and Conditionally



Permitted Uses in the GB-1 District as provided by Schedule 1002 of the Township's Zoning Resolution, excluding Kennels, Nursing Homes, Outdoor display of goods for sale (garden supply, nursery, landscaping, lumber, etc), Automobile and other vehicle sales, Automobile repair garage, Mobile home and recreational vehicle sales/service, Adult uses, Libraries, museums, Outdoor commercial recreation, Gas well, and Public utility transmission substations.

10. All other areas of the Business Hub Subdistrict may include the Permitted Uses and Conditionally Permitted Uses in the GB-1 District as provided by Schedule 1002 of the Township's Zoning Resolution, excluding Kennels, Outdoor display of goods for sale (garden supply, nursery, landscaping, lumber, etc), Outdoor storage of materials used in association with principal use, Automobile and other vehicle sales, Automobile repair garage, Car Wash, Mobile home and recreational vehicle sales/service, Adult uses, Libraries, museums, Outdoor commercial recreation, Gas well, and Public utility transmission substations. Nursing Homes will be a permitted use if an agreement defraying the cost of providing First Responder and Emergency Medical Services is reached between the Board of Trustees and Nursing Home ownership.

#### AGREEMENT

11. Subject to the applicable provisions of Ohio Revised Code Title 5, and more specifically O.R.C. §505.07 and Common Pleas Court approval, this Modified Settlement Agreement proposes to resolve any remaining issues in the Litigation in a fair and reasonable manner as will benefit the Parties mutually and as will conduce to the public health, welfare and safety, as set forth herein below:

12. To the extent that informal discussions held to date have sought to reach an amicable resolution of the zoning issues regarding the proposed *Sandstone* PDD Development of

the Property, the following enumerated conditions are to be incorporated into the Original Settlement Agreement as new Section 23 (this new Section 23 and the Original Settlement Agreement shall be collectively referred to as the "Settlement Agreement"):

13. 23. For the *Sandstone* PDD Development, the chart of permitted and Accessory Uses in the Business Hub Subdistricts found in Schedule 1204 of the Township's Zoning Resolution shall also include Permitted Uses and Conditionally Permitted Uses in the GB-1 District as provided by Schedule 1002 of the Township's Zoning Resolution excluding Kennels, Outdoor display of goods for sale (garden supply, nursery, landscaping, lumber, etc), Outdoor storage of materials used in association with principal use, Automobile and other vehicle sales, Automobile repair garage, Car wash, Mobile home and recreational vehicle sales/service, Adult uses, Libraries, museums, Outdoor commercial recreation, Gas well, and Public utility transmission substations. Nursing Homes will be a permitted use if an agreement defraying the cost of providing First Responder and Emergency Medical Services is reached between the Board of Trustees and Nursing Home ownership.

Executed as the date of first written above:

AMHERST CONSOLIDATED  
PROPERTIES, LLC

BY: 

THOMAS J. OSTER

ITS: MANAGER

AMHERST TOWNSHIP

By: 

NEIL J. LYNCH

ITS: CHAIRMAN AMHERST  
TOWNSHIP BOARD OF TRUSTEES  
RESOLUTION NO. 16-4-25