

PRE-ANNEXATION AGREEMENT

This Pre-Annexation Agreement (this “Agreement”) is entered into, by and between the CITY OF POWELL, OHIO, an Ohio charter municipal corporation (hereinafter “City”), and VERONA LLC, an Ohio limited liability company (hereinafter “Developer”).

PURPOSE

Developer owns those certain tracts of land known as Shamrock Golf Course and the Gregory Russell Property consisting of a total of approximately 113.597 acres located between Powell Road and Seldom Seen Road, Liberty Township, Delaware County, Ohio, and being more particularly described in Exhibit “A” attached hereto and incorporated herein, subject to approval of the exact legal description by the Delaware County Map Room Department of the Delaware County Engineer (the “Property”), which Property is contiguous with the boundaries of the City of Powell.

Developer has caused the Property to be rezoned by Liberty Township to permit the development thereon of a residential community to be known as “Verona” (the “Approved Township Zoning”) and has caused the Property to be fully engineered with such final engineering approved by Delaware County, Ohio (the “Approved County Engineering”).

The City and the Developer have discussed the mutual benefits if Developer annexes the Property to the City in order to provide Developer the most cost-effective solution to provide sanitary sewer service to its site and to assist the City in providing a regional sanitary sewer service solution to this and other developments within the City. The Property would benefit from City services including, assistance in providing sanitary services to the Property and police protection, and City would benefit from increased tax revenues and assistance in providing sanitary sewer services to other developments within the City. As described in more detail in the following sections of this Agreement, City can offer its municipal services to the Property if the Property is annexed to City. The mutual purposes of City and Developer can be accomplished through the annexation of the Property to City.

The City and Liberty Township, a political subdivision duly organized and validly existing under the laws of the State of Ohio (the “Township”) have entered into an Annexation Agreement pursuant to Sections 709.022 and 709.192 of the Ohio Revised Code, as amended (“ORC”) (the “Annexation Agreement”), pursuant to the terms of which, the City and the Township have agreed that the Property shall be annexed to the City.

Therefore, in order to gain mutual benefits, City and Developer covenant and agree as follows:

1. Annexation Petition. Developer has or will prepare and file with the Delaware Board of County Commissioners (“Commissioners”), within thirty (30) days after the date of execution and delivery of this Agreement, an annexation petition seeking the annexation of the Property into City

pursuant to Section 709.022 of the Ohio Revised Code, as amended, appointing David W. Fisher as the petitioner's agent in connection therewith. A copy of the Annexation Agreement shall be attached to and accompany the annexation petition, as required by Section 709.022 ORC. Developer agrees that all costs and expenses in petitioning for the annexation will be borne by Developer. Once this Agreement is signed and accepted by City, Developer agrees that it will not remove its name from the petition and will continue to support the annexation; provided, however, Developer's continued cooperation in the annexation of the Property shall be subject to and conditioned upon City's performance of its duties and obligations as set forth in this Agreement. Developer will provide statutorily required affidavits for presentation to the Commissioners in support of annexation of the Property and, if necessary, Developer or its agents or assigns will testify regarding the merits of the annexation at the hearing held before the Commissioners.

2. Service Resolution and Other Assistance. To the extent required by Ohio law, City agrees to enact the appropriate City Service Resolution stating the services that will be provided to the Property. To the extent required, City agrees to provide witnesses for the hearing before the Commissioners, to provide affidavits in support of its Service Resolution, and otherwise provide all reasonable assistance requested by Developer in pursuing the annexation of the Property as herein set forth and as provided in the Annexation Agreement. It is not expected that there will be any legal challenge to the Commissioners' approval of the annexation; however, City shall, to the extent legally permissible, join all legal proceedings as a party in coordination with Developer and its legal counsel.

3. Zoning. The Property is currently zoned under the Liberty Township zoning ordinance granting the Property the Approved Township Zoning. City and Developer acknowledge and agree that the Zoning Code of the City permits the City to annex the Property as currently zoned pursuant to the Approved Township Zoning. Upon annexation, as provided in the Annexation Agreement, the City will accept and implement the Approved Township Zoning as the zoning for the Property and will permit the Property to be developed pursuant to the Approved Township Zoning, subject to the further provisions of the Annexation Agreement, and the annexation ordinance adopted by the City shall expressly state, confirm and reconfirm that the Approved Township Zoning shall be the approved and final zoning for the Property in the City. No further planning or zoning review, fees, other requirements or standards will be required by the City beyond administration of the Approved Township Zoning and standard fees for building permits.

4. Engineering. The Property has been fully and finally engineered pursuant to the Approved County Engineering. The City has reviewed the Approved County Engineering and covenants and agrees that upon annexation of the Property to the City, the City will accept the Approved Township Engineering as the final approved engineering for the Property and will permit the Property to be developed pursuant to the Approved County Engineering. No further engineering review will be required by the City beyond administration of the Approved County Engineering.

5. Developer may proceed with Development. Due to the fact that pursuant to the terms of the Annexation Agreement and this Agreement, - the City has agreed to permit the Developer to

proceed with the development of the Property in accordance with the Approved Township Zoning and the Approved County Engineering, Developer shall be permitted to proceed with full scale development activities on the Property during the pendency of the annexation of the Property.

6. Sanitary Sewer Agreement. In order to facilitate Developer annexing the Property to the City, the City covenants and agrees to the following agreements pertaining to providing sanitary sewer services to the Property:

- (a) The Property shall be served by a sanitary sewer system installed as depicted in black on the attached Exhibit "B" (the "Sewer System").
- (b) The Sewer System shall be installed at the sole cost and expense of the City or others, and Developer shall incur no direct cost or expense in connection with the installation of the Sewer System, beyond the standard tap and capacity fees for sanitary sewer services charged by the Delaware County Sanitary Sewer Department.
- (c) City and Developer agree to negotiate in good faith to determine the appropriate amount, period of time and millage rate to generate future funding to reimburse the City for advancing the funds for the portion of the sanitary sewer system on the Property, and to cooperate in placing a voluntary assessment on the property prior to the sale of any lots or parcels by Developer.

7. Incorporation into Annexation Legislation. All relevant provisions of this Agreement, including, but not limited to, all commitments of the City with respect to Approved Township Zoning, Approved County Engineering and Sewer System, shall be incorporated in the legislation accepting the annexation into the City or the City shall not accept the annexation.

8. No Representation or Warranty as to Economic Impact. Developer does not warrant or represent the development of the Property or the economic performance of the Property.

9. Condition Precedent; Series of Legislative Actions. Developer and City acknowledge and agree that this Agreement is not effective until approved by formal action of the City Council and shall take effect immediately upon such approval. The initial legislation approving this Agreement is merely the first in a series of legislative acts by the City implementing this Agreement. All subsequent City Council actions implementing this Agreement shall be considered in furtherance of this initial City Council action.

10. Miscellaneous.

(a) This Agreement and the rights and obligations of the parties hereunder shall be subject to the terms and conditions hereof and shall inure to the benefit of and be binding on their respective successors and assigns. Developer shall be permitted to assign its rights and obligations

under this Agreement to the successors and assigns of Developer initially acquiring or succeeding to the ownership of the Property.

(b) This Agreement supersedes any and all prior agreements, arrangements, negotiations, letters of understandings and acknowledgments between City and Developer, or any related party, relative to matters contained herein whether oral or written. No amendment, modification or alteration of this Agreement shall be valid unless in writing and signed by the parties hereto.

(c) If for any reason any one or more articles, sections, sentences, clauses or parts of this Agreement are held invalid by any court of law or duly authorized public body, such determination shall not affect, impair or invalidate the remaining provisions of this Agreement but shall be confined in its operation to the specific articles, sections, sentences, clauses or parts of this Agreement held invalid and the invalidity of any article, section, sentence, clause or part of the Agreement in any one or more instances shall not prejudice in any way the validity of the Agreement in any other instance nor shall such finding alter the understandings of both parties as to the intent of this Agreement and both parties agree to use their best efforts to bring to fruition the results contemplated in this Agreement regardless of the findings of any court of law or other duly authorized public body.

(d) This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

(e) This Agreement may be executed in multiple counterparts each of which shall be deemed an original and all of which taken together shall constitute one and the same agreement.

(f) No provisions of this Agreement shall be in violation of the Annexation Agreement and this Agreement shall be read, construed and interpreted as advancing the transactions contemplated by the Annexation Agreement.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

Signature Page Follows

This Agreement shall be effective on the date last signed below.

CITY:

THE CITY OF POWELL:

By: _____

Stephen A. Lutz, City Manager

Date of Execution: _____

DEVELOPER:

VERONA LLC:

By: _____

Vincent Romanelli, Authorized Signer

Date of Execution: _____

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{00187188-9}

EXHIBIT "A"

PROPERTY

**ANNEXATION OF 1.647 ACRES
Liberty Township
To
City of Powell**

Situate in the State of Ohio, County of Delaware, Township of Liberty, lying in Farm Lot 9 of Quarter Township 3, Township 3 North, Range 19 West of the United States Military District, being part of a 1.642 acre tract conveyed to Gregory A. Russell by deed of record in Official Record _____, Page _____, and part of the right-of-way area of Seldom Seen Road (width varies), (all records herein of the Recorders Office, Delaware County, Ohio) and being more particularly described as follows.

Beginning at an angle point in the existing City of Powell corporation line as established by Ordinance No. 2002-30, of record in Plat Cabinet 2, Slide 790, Instrument Number 2002-00036498, marking the intersection of the westerly line of Lot 393 of "Seldom Seen Heights" a subdivision of record in Plat Book 7, Page 95 and the original northerly right-of-way line of Seldom Seen Road (Township Road 121);

Thence South 02°51'12" West, a distance of 40.68 feet, along the westerly line of Lot 393 and the extension across Seldom Seen Road to a point on the southerly right-of-way line of said Seldom Seen Road;

Thence South 87°08'48" East, a distance of 58.09 feet, along the southerly right-of-way of Seldom Seen Road to a point marking the intersection with the easterly line of the 1.642 acre tract;

Thence follow two (2) courses and distances along the 1.642 acre tract;

1. South 02°52'29" West, a distance of 529.37 feet, to a point
2. North 87°07'31" West, a distance of 130.00 feet, to a point at the southwesterly corner of the said 1.642 acre tract, being on the easterly line of Lot 24 as shown and delineated on the subdivision plat of "Chippewa Park Subdivision" of record in Plat Book 4, Page 179 and conveyed to Margaret L. White;

Thence North 02°52'29" East a distance of 570.00 feet, along the westerly line of the 1.642 acre tract, a line common to easterly line of said Lot 24 and the extension to the existing corporation line;

Thence South 87°08'48" West a distance of 71.90 feet, along the existing City of Powell Corporation line to the **Point Beginning**, containing 1.647 acres, more or less, of which 0.068 acres lie within the right-of-way of Seldom Seen Road.

The bearings shown hereon are based on the bearing of North 87°08'48" West for the centerline of Seldom Seen Road from a GPS network of field observations performed in November 2012 from an actual field survey of a 1.642 acre tract.

This description was based on an actual field survey of a 1.642 acre tract performed by Stantec in November 2012. This plat is intended to only represent territory to be annexed to the City of Powell and not for transfer of real property. This plat does not constitute a boundary survey



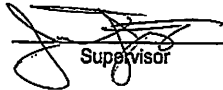
STANTEC CONSULTING SERVICES INC.

Robert J. Sands 01/07/13
Robert J. Sands Date
Professional Survey No. S-8053

**DELAWARE COUNTY ENGINEER
Map Department**

I hereby certify the within to be a true
copy of the original on file in the Map Department

**Chris E. Bauserman, P.E., P.S.,
County Engineer**

 _____
Supervisor

1-10-13
Date

**ANNEXATION OF 111.95 ACRES
Liberty Township
To
City of Powell**

Situate in the State of Ohio, County of Delaware, Township of Liberty, lying in Farm Lots 9 and 12 of Quarter Township 3, Township 3 North, Range 19 West of the United States Military District, being part of an original 10.333 acre tract and all of that 0.138 conveyed to Gregory A. Russell by deed of record in Deed Volume 652, Page 431, and a 104.0077 acre tract conveyed to Ganzfair Investment, Inc. by deed of record in Deed Volume 541, Page 711, (all records herein of the Recorders Office, Delaware County, Ohio) and being more particularly described as follows:

Beginning at an angle point in the existing City of Powell corporation line as established by Ordinance No. _____, of record in Plat Cabinet _____, Slide _____, Instrument Number _____ on the southerly right-of-way line of Seldom Seen Road (Township Road 121) width varies, marking the intersection with the easterly line of a 1.642 acre tract conveyed to Gregory A. Russell by deed of record in Official Record _____, Page _____;

Thence South 87°08'48" East, a distance of 292.48 feet, along the southerly right-of-way line of Seldom Seen Road a point marking the intersection with the westerly line of 1 acre tract conveyed to Sarath B. and Penny L. Edupuganti by deed of record in Deed Book 483, Page 763;

Thence the following two (2) courses and distances along the lines common to the 10.333 acre and 1 acre tracts:

1. South 02°52'29" West, a distance of 391.10 feet, to a point at the southwesterly corner of said 1 acre tract;
2. South 87°08'18" East, a distance of 109.06 feet, to a point at the southeast corner of the 1 acre tract on the westerly line of the subdivision of "Big Bear Farms Section 2 Part 2";

Thence South 02°35'32" West, a distance of 537.25 feet, along the line common to the 10.333 acre tract and "Big Bear Farms Section 2 Part 2" to a point at the southeast corner of 10.333 acre tract a common corner to the 104.0077 acre tract;

Thence the following three (3) courses and distances along the lines common to the 104.0077 acre tract and the subdivisions of "Big Bear Farms Section 2 Part 2", "Big Bear Farms Section 2 Part 1", "Big Bear Farms Section 1 Part 2":

1. South 02°36'04" West, a distance of 1820.55 feet, to a point;
2. North 88°10'53" West, a distance of 370.45 feet, to a point;
3. South 02°33'06" West, a distance of 1320.30 feet, to a point marking the intersection with the northerly right-of-way of West Powell Road (State Route 750), width varies;

Thence North 87°10'58" West, a distance of 1207.95 feet, along the northerly right-of-way line of West Powell Road to a point marking the intersection with the westerly line of the 104.0077 acre tract a line common to a 2.26 acre tract conveyed to Vincent J. Margello Jr. by deed of record in Official Record 6419, Page 1395;

Thence the following two (2) courses and distances along lines common to the 104.0077 acre and 2.26 acre tracts and the easterly line of "Wedgewood Park" subdivision:

1. North 02°09'33" East, a distance of 1319.69 feet, to a point;
2. North 02°49'11" East, a distance of 1828.08 feet, to a point at the northwest corner of the 104.0077 acre tract, on the southerly line of "Chippewa Park Subdivision"

Thence South 87°10'06" East, a distance of 1046.25 feet, along the line common to the 104.0077 acre tract and "Chippewa Park Subdivision" to a point at the southwest corner of the 10.333 acre tract;

Thence North 02°52'29" East, a distance of 399.24 feet, along the line common to the 10.333 acre tract and "Chippewa Park Subdivision" to a point at the southwesterly corner of the 1.642 acre tract, being an angle point in the said existing City of Powell corporation line;

Thence the following two (2) courses and distances along the lines common to the 1.642 acre tract and the existing City of Powell corporation line:

1. South 87°07'31" East, a distance of 130.00 feet, to an angle point
2. North 02°52'29" East a distance of 529.37 feet, to the Point of Beginning, containing 111.95 acres, more or less.

The bearings shown hereon are based on the bearing of North 87°08'48" West for the centerline of Seldom Seen Road from a GPS network of field observations performed in November 2012 from an actual field survey of a 1.642 acre tract.

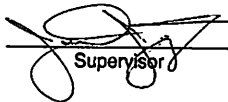
This plat was based on an actual field survey of a 1.642 acre tract performed by Stantec in November 2012. This plat is intended to only represent territory to be annexed to the City of Powell and not for transfer of real property. This plat does not constitute a boundary survey.

 STANTEC CONSULTING SERVICES INC.
Robert J. Sands 01/27/13
Robert J. Sands Date
Professional Survey No. S-8053

DELAWARE COUNTY ENGINEER
Map Department

I hereby certify the within to be a true copy of the original on file in the Map Department

Chris E. Bauserman, P.E., P.S.,
County Engineer

 Supervisor
1-10-13 Date

