RESOLUTION 2015-36

A RESOLUTION AUTHORIZING THE MAYOR OF THE VILLAGE OF MINERVA PARK TO ENTER INTO A PRE-ANNEXATION AGREEMENT WITH M/I HOMES OF CENTRAL OHIO, LLC AND DECLARING AN EMERGENCY

WHEREAS, M/I Homes of Central Ohio, LLC is in contract to purchase approximately 102 acres on Minerva Lake Road which is contiguous with the boundaries of the Village;

WHEREAS, M/I Homes of Central Ohio, LLC desires to purchase and develop the approximately 102 acres;

WHEREAS, the Village has negotiated a written Pre-Annexation Agreement with M/I Homes of Central Ohio, LLC setting forth each party’s respective rights and duties.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF MINERVA PARK, OHIO, THAT:

Section 1. That Council authorizes the Mayor to enter into a Pre-Annexation Agreement in a form substantially similar to the Pre-Annexation Agreement attached hereto as Exhibit A and incorporated herein by reference, to provide for annexation of the approximately 102 acre parcel to be purchased and developed by M/I Homes of Central Ohio, LLC and located on Minerva Lake Road;

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in open meeting of this Council and that any and all deliberations of this Council that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements of the laws of the State of Ohio.

Section 3. Council declares this to be an emergency measure for the health, safety and welfare of the residents of Minerva Park, such emergency arising out of the imperative necessity to commence the annexation and zoning in compliance with the terms of the Pre-Annexation Agreement. Wherefore, this Resolution shall take effect and be in force immediately upon passage by Council.

Lynn Eisentraut, Mayor

First Reading: September 14, 2015
Second Reading: September 21, 2015
Third Reading: October 12, 2015
Passed: October 12, 2015

Jeffrey Wilcheck, Fiscal Officer

Jennifer Coghlan, Solicitor
**PRE-ANNEXATION AGREEMENT**

This Pre-Annexation Agreement (this “Agreement”) is made and entered into so as to be effective on the last date of signature by a party hereto (the “Effective Date”), by and between

**M/I HOMES OF CENTRAL OHIO, LLC**, an Ohio limited liability company (“M/I”) and the

**VILLAGE OF MINERVA PARK, OHIO**, an Ohio municipal corporation organized and existing under the Constitution and laws of the State of Ohio (“Village”), under the circumstances summarized in the following recitals. M/I and the Village may be referred to herein individually as a “Party” or together as the “Parties”.

**RECITALS:**

**WHEREAS**, M/I is in contract to purchase approximately 102.4+/- acres of land that on the Effective Date are located on Franklin County Auditor Tax Parcel Numbers 110-000006, 110-000480, 110-000802, 113-001016, 113-001041, 113001050, 113-001051, and 113-001053 (generally depicted on Exhibit A and referred to herein as the “Property”), portions of which are located within the corporate boundaries of the Village and other portions of which are contiguous with the boundaries of the Village, as more particularly described herein; and

**WHEREAS**, the portions of the Property that are located outside of the boundaries of the Village would benefit from certain Village services, including, but not necessarily limited to, water services, sanitary sewer services, police protection, fire/EMS/rescue services and comprehensive planning and zoning services; and

**WHEREAS**, the Village is capable of providing and desires to provide its municipal services to the unincorporated portions of the Property if such property is annexed to the Village; and

**WHEREAS**, the Parties agree that it is in their mutual interests during the annexation process to enter into this Agreement to memorialize their understandings and guide the annexation and zoning process with respect to the development of the Property for the mutual benefit of M/I and the Village.

**NOW THEREFORE**, in consideration of the covenants and agreements contained herein, M/I and the Village covenant and agree as follows:

**Section 1. Annexation.** A portion of the Property, containing 3.2+/- acres which are identified in Exhibit A and consist of parcels that are known on the Effective Date as Franklin
County Auditor Tax Parcel Numbers 113-001016-00, 113-001041-00, 113-001050-00, 113-001051-00, and 113-001053-00 (the “Incorporated Land”), is located within the corporate limits of the Village. The remainder of the Property, containing 99.2+/- acres which are identified in Exhibit A and consist of parcels that are known on the Effective Date as Franklin County Auditor Tax Parcel Numbers 110-000006-00, 110-000480-00, and 110-000802-00 (the “Unincorporated Land”), is not located within the corporate limits of the Village and therefore will need to be annexed to the municipality. M/I and the Village agree that M/I shall be responsible for preparing and pursuing the approval of an annexation petition that, once approved and accepted by relevant governmental authorities, will serve to provide for the annexation of the Unincorporated Land to the Village in accordance with this Section 1.

A. Petition for Annexation. M/I agrees to prepare or has already prepared, at its sole cost and expense, an annexation petition, map, legal description, and other related information, as may be required by the Ohio Revised Code (“ORC”), to annex the Property to the Village (such petition and accompanying materials to be referred to herein as the “Annexation Petition”). An “Expedited Type II” annexation procedure, as provided in ORC Section 709.023, shall be utilized and pursued with respect to the Unincorporated Land. M/I agrees that it will cause (or already has caused) the owners of the Unincorporated Land (as of the Effective Date) to execute the Annexation Petition, and that it will execute or cause to be executed by the current owners of the Unincorporated Land (as the case may be) any other documents reasonably necessary to effectuate the annexation as may be required by law. The Annexation Petition shall appoint an attorney, chosen by M/I, as the petitioner’s agent (the “Agent”). M/I shall cause (or has caused) the Agent to file the Annexation Petition with the Board of County Commissioners of Franklin County, Ohio (the “Commissioners”). M/I agrees that it shall be responsible for the payment of all costs and expenses in petitioning for and pursuing the approval of the annexation. The Village will use good faith efforts to support the annexation of the Unincorporated Land to the Village throughout the annexation process. M/I’s obligation to pursue the annexation of the Unincorporated Land to completion shall be conditioned upon the Village providing its continued support of the annexation.

B. Village Service Resolution. Pursuant to and in accordance with relevant provisions of the ORC, it is the Village’s intention to enact and approve a service resolution (“Service Resolution”) stating that municipal services will be provided to the Property upon
annexation in the same manner as such services are provided to real property that is already located within the Village’s corporate limits. Such services shall include, but not necessarily be limited to, water service, sanitary sewer service, and police and fire protection, and trash removal service. The Village is statutorily required to, and fully intends to, act to approve the Service Resolution no later than the date that is twenty (20) days after the date that the annexation petition is (or was) filed by M/I with the Commissioners. The Service Resolution, once adopted, shall be immediately certified and provided to the Agent, and M/I shall cause the Agent to file it with the Clerk of the Commissioners.

C. Approval of Annexation Petition; Acceptance of Annexation. Once the Service Resolution has been filed with the Clerk of the Commissioners, M/I shall cause its Agent to diligently pursue the approval of the Annexation Petition by the Commissioners. Once the Annexation Petition is approved by the Commissioners, M/I shall cause its Agent or the Clerk of the Board of Commissioners to deliver the transcript of proceedings (i.e., the Annexation Petition, a certified copy of the Commissioners’ resolution to approve the Annexation Petition, and all other relevant documents as required by the ORC) to the Clerk of the Village Council. The Clerk of the Village shall then cause the transcript of proceedings to be laid before the Village Council at the first regular meeting occurring after the expiration of 60 days from receipt of the transcript, as required by the ORC. It is the parties understanding that Village Council will undertake three readings of annexation acceptance legislation and take appropriate action to vote on the annexation of the Unincorporated Land to the Village at a regularly scheduled or special meeting within 120 days of the transcript being lain before it, as required by the ORC.

Section 2. Zoning and Related Entitlements. The present use of the Property is a golf course with related accessory uses and open space. M/I’s intended use of the Property is as a single-family residential community to be developed in substantial conformance with the site plan that is attached hereto and incorporated herein by reference as Exhibit B (the “Site Plan”). In addition, M/I intends to convey 14.6+/- acres of the Property (the “Future School Site”) to the Westerville City School District (the “School District”) pursuant to a separate written agreement between M/I and the School District. M/I has been informed that the School District intends for the Future School Site to be developed and operated with an elementary school. In addition, during the phasing of the construction of the single-family portion of the development project,
M/I intends to allow for a 9-hole portion of the golf course that currently operates on the Property to remain open and operating for the 2016 golf season.

A. **Zoning: Final Development Plan.** The Incorporated Land is presently zoned with an R-3 zoning classification under the Codified Ordinances of Minerva Park (the “Village Code”). Upon annexation to the Village and without further action to rezone it, the Unincorporated Land would have a PRD – Planned Residential District zoning designation pursuant to the Village Code. The Village agrees that, contemporaneously or at any time following the filing of the Annexation Petition with the Commissioners, it will accept an application from M/I to rezone the Property (a “Zoning Application”) into the Planned Residential District (PRD) zoning classification as provided in the Village Code, to allow for the development of single-family homes and to provide for the future development of a school, both in substantial conformance with the Site Plan. The Zoning Application shall include a “Preliminary Development Plan” and a “Development Standards Text,” as such terms are defined in and as required by Chapter 1253 of the Village Code. M/I may elect, in its sole discretion and at the same time as it files the Zoning Application with the Village, to file an application for partial or complete final development plan (a “Final Development Plan Application”) review and approval of its development of the Property, which may or may not include the School Site. If the application for review and approval of the Final Development Plan Application is filed at the same time as the Zoning Application, it is contemplated that the Village will process, review, and take action on the Final Development Plan Application in accordance with the procedure required in the Village Code, but any action to approve the Final Development Plan Application by the Village’s Planning Commission (the “Planning Commission”) shall be conditioned upon the approval of the Zoning Application by the Village Council.

Upon filing, the Village Council intends to take action to refer the Zoning Application to the Planning Commission for its review and consideration in accordance with the applicable provisions of the Village Code. Such review and consideration shall occur during the pendency of the annexation process for the Unincorporated Land that is contemplated in Section 1 above. By signing this Pre-annexation Agreement, the Village confirms its conceptual support of (and desire to proceed in good faith to receive and consider in more detail the Zoning Application and Final Development Plan Application materials for) the Site Plan as well as the architectural
character of the homes to be built on the Property as demonstrated in Exhibit C, which is attached hereto and incorporated herein by reference (the “Architectural Character Images”). The Village confirms that the conceptual Site Plan and Architectural Character Images are consistent with and in furtherance of the planning and zoning plans, and principles and objectives of the Village.

It is the good faith intent of M/I and the Village, and is of material importance to M/I’s decision to proceed with the development of the Property, that the Village Council considers legislation to approve the Zoning Application (a “Zoning Legislation”) at the same meeting as (but after) the Village Council considers separate legislation to accept the annexation of the Unincorporated Land (an “Acceptance Legislation”). The Village acknowledges that, before Village Council may act to accept the Annexation Petition, it must wait a minimum of sixty (60) days after the Annexation Petition has been approved by the Commissioners and a copy of the record of the Commissioners’ action is filed with the Clerk of the Village and laid before Council (see ORC Section 709.04). The Village further acknowledges that it must act to accept the Annexation within 120 days of the Commissioners’ transcript being lain before it or the Annexation will be effectively denied. Upon the request of M/I, the Village agrees that it will delay action on the Acceptance Legislation until such time as action can be taken by the Village Council on the Zoning Legislation at the same meeting at which action will be taken on the Acceptance Legislation. Action shall be taken by the Village Council on the Zoning Legislation only after such time as the Village Council has acted to approve the Acceptance Legislation.

If, for any reason, the Zoning Legislation cannot (or, in M/I’s sole discretion, is not anticipated to) be approved in a form or substance acceptable to M/I, the Village agrees, at the request of M/I, to permit M/I to withdraw its request to annex the property to the Village and/or to forbear from acceptance of the annexation by allowing the 120-day period referenced in the immediately preceding paragraph to expire, thus effectively rejecting the annexation of the Property. If action is taken by the Village Council to approve the Acceptance Legislation but the Zoning Legislation is not approved, then the Village agrees, at M/I’s request: (i) to reconsider the Acceptance Legislation and to rescind, repeal, and reject the approval of the annexation of the Unincorporated Land within fourteen (14) days of the date of the Village Council taking action to disapprove the Zoning Legislation, at the request of M/I; or (ii) to detach/de-annex the Property from the Village in accordance with the procedures of the ORC.
B. Procedure.

i. Compliance Statement. Nothing in this Agreement shall absolve the Parties hereto from the responsibility to comply with the zoning and development plan process before the Planning Commission and the Village Council as required by the Village Code.

ii. Council Action. The obligations of and agreements by the Village contained herein shall be effective and enforceable upon the approval of all necessary legislation and/or motions by the Village Council. It is acknowledged that the initial legislation approving this Agreement is merely the first in a series of legislative acts implementing this Agreement.

iii. Permits. M/I shall be responsible for obtaining, at its sole cost and expense, all necessary permits from all levels of government to allow it to develop the Property consistent with the approved Zoning Application and Development Plan Application, except that, once the Future School Site is conveyed to the School District, then the School District, and not M/I, will obtain all necessary permits from all levels of government to allow the School District to develop the Future School Site in a manner that is consistent with the approved Zoning Application and the relevant approved Final Development Plan Application.

iv. Fees. M/I agrees to pay to the Village, at the time each application is filed with the Village, all application fees required by Village Code relating to the filing and processing of the Zoning Application, Final Development Plan Application (other than for the Future School Site), and other applications for any other permits that are required to be obtained from the Village when developing the Property.

v. Special Meetings. The Village agrees that it will use good faith efforts to hold special meetings of the Planning Commission and Village Council in addition to the regularly scheduled meetings for the purpose of reviewing, considering, and voting upon the Acceptance Legislation, the Zoning Legislation, the TIF Legislations, the Plat Applications, any other ordinance that may be necessary to fulfill the Parties’ obligations under this Agreement, and related applications. M/I shall be permitted to request the scheduling of such special meetings and shall provide all necessary information, documents, and plans needed for such special meetings at the time of the request, and the
Village will reasonably accommodate such requests subject to the availability of a quorum of the members of the Planning Commission and Village Council (as the case may be). Provided that the Annexation Petition has been timely filed with and acted upon by the Commissioners, the Village shall act upon the Acceptance Legislation, the Zoning Legislation, and the TIF Legislation (as such term is defined in Section 3.A) on or before 120 days after receipt of the transcript of the County Commissioners’ approval of the annexation from the Clerk of the County Commissioners.

Section 3. Tax Increment Financing District.

A. Creation of TIF District. The Village agrees to make best efforts to have the Village Council approve legislation to create a tax increment financing district (a “TIF District”) which will include the Property. The TIF District will be created pursuant to Ohio Revised Code Section 5709.40(B) and is contemplated to be a so-called “non-school” TIF District which will allow the School District to continue to collect all taxes that would otherwise be paid to it in the absence of the existence of the TIF District. The legislation to create the TIF District (the “TIF Legislation”) shall be acted upon by the Village Council at the same meeting as it acts upon the Acceptance Legislation and the Zoning Legislation. The Village Council shall act upon the TIF Legislation after such time as it acts on the Acceptance Legislation.

B. Statutory Service Payments. M/I, for itself and its successors and assigns in interest to ownership of all or any portion of the Property, and subject to it first obtaining ownership of the Property, agrees to make “Service Payments” attributable to their respective periods of ownership of the Property, all pursuant to and in accordance with the TIF Legislation and this Agreement and the requirements of applicable law, and any subsequent amendments or supplements thereto, and as further set forth in the Declaration (as defined in Section 3.E below). For purposes of this Agreement, the term “Service Payments” shall be defined to mean “payments in lieu of real property taxes which shall be directed by applicable governmental authorities to a designated fund created as part of or subsequent to the passage of the TIF Legislation, and which are to be used by the Village for the purpose of funding the costs of public infrastructure improvements that are described in the TIF Legislation and as permitted by relevant provisions of the ORC.”
C. **Public Infrastructure Improvements.** The Village and M/I agree that the TIF Legislation will specify certain public infrastructure improvements that are to be made to directly benefit the Property and shall provide that the costs of the same may be paid from Service Payments. M/I agrees that it shall front the payment of the costs of the following public infrastructure improvements (the “Public Infrastructure Improvements”) and shall be reimbursed for such costs by and through the use of Service Payments as described in Section 4 below:

(i) Construction of (and acquisition of the public right-of-way for) the public street to be known as Far View Drive between the existing right-of-way for State Route 161 to the Property, on the east side of the Hawthorn Elementary School property as it exists on the Effective Date, in the general location shown in Exhibit D, which is attached hereto and incorporated herein by reference (“Far View Road”). Far View Road shall have a right-of-way width of fifty (50) feet and a pavement width of twenty-six (26) feet, subject to adjustments as may be approved as part of the Plat Applications (as such term is defined in Section 6.B below) to accommodate the final design of this improvement. In addition to pavement, Far View Road may include all or some of the following related improvements as approved as part of the Zoning Application, the Development Plan Application, and/or Plat Applications: Street lights, landscaping, street signage, utilities, storm water management improvements, sidewalks, and other improvements that are customary when constructing a public street;

(ii) Construction of all public streets shown on the Site Plan, subject to relevant approvals that are necessary to be obtained from the Village, with right-of-way widths of fifty (50) feet and pavement widths of twenty-six (26) feet, subject to adjustments as may be approved as part of the Plat Applications (as such term is defined in Section 6.B below) to accommodate the final design of these improvements. In addition to pavement, these public streets may include all or some of the following related improvements as approved as part of the Zoning Application, the Development Plan Application, and/or Plat Applications: Street lights, landscaping, street signage, utilities, storm water management improvements, sidewalks, and other improvements that are customary when constructing a public street;
(iii) The creation and improvement of public parkland within the boundaries of the Property, and the costs of acquiring such land; and

(iv) The repair and/or replacement of the dam located as shown in Exhibit E (attached hereto and incorporated herein by reference), so that it is brought into compliance with all applicable laws.

D. Use of TIF Funds. The Village will use the Service Payments that it receives from the TIF District for any purpose authorized by the TIF Legislation including, but not limited to, those purposes detailed in this Agreement. Notwithstanding the foregoing, the Service Payments deposited in the Village’s TIF Fund shall be used in a manner consistent with Section 4 below until such time as M/I has been reimbursed in full as described in that provision.

E. Declaration of Covenants; Priority of Lien. M/I shall cause to be executed and recorded with the Office of the Recorder of Franklin County, Ohio, a declaration against the Property that provides a covenant running with the land that requires M/I and its successors and assigns in interest to all or any portion of the Property to pay Service Payments in accordance with the requirements of this Agreement and the TIF Legislation. This declaration shall be in a form that is mutually acceptable to M/I and the Village and shall be recorded on or before the thirtieth (30th) day following the later of (i) the date when legislation approving the TIF Legislation becomes legally effective, and (iii) the date when M/I closes on its purchase of the Property. No reimbursement payments shall be made to M/I until such time as the Declaration has been recorded against the Property. Upon satisfaction of the obligation of an owner of all or any portion of the Property to make the Service Payments, the Village will, upon the request of the owner, execute an instrument in recordable form evidencing such termination and releasing the covenants running with the land set forth in the Declaration with respect to that owner’s property.

F. Exemption Applications. M/I agrees to prepare, execute, and file all necessary applications and supporting documents in order to obtain from time to time the exemption granted by the TIF Legislation to enable the Village to collect Service Payments with respect to the Property. The Village agrees to cooperate with M/I in preparing and filing such applications and supporting documents. The Village and M/I each agree to perform such acts as are
reasonably necessary or appropriate to effect, claim, reserve and maintain that exemption and collect the Service Payments, including, without limitation, joining in the execution of all documentation required in connection with that exemption or the Service Payments.

G. **Estoppel Certificate.** Within a reasonable time not to exceed thirty (30) days after a request from an owner of all or a portion of the Property, the Village will execute and deliver to that owner or any proposed purchaser, mortgagee, or lessee of all or any portion of the Property, a certificate stating that with respect to that real property, if the same is true: (i) that this Agreement is in full force and effect; (ii) that the requesting owner is not in default under any of the terms, covenants or conditions of this Agreement, or, if that owner is in default, specifying the nature of the default; and (iii) such other matters as that owner reasonably requests.

H. **Information Reporting.** M/I, on behalf of itself and its successors and assigns in interest to the Property, covenants to cooperate in all reasonable ways with, and provide necessary and reasonable information to, the designated Tax Increment Review Council to enable that Tax Increment Review Council to review and determine annually during the term of this Agreement compliance with the terms of this Agreement by the relevant owner(s) of the Property. Any information supplied to such Tax Increment Review Council will be provided solely for the purpose of monitoring compliance with this Agreement. M/I, on behalf of itself and its successors and assigns in interest to the Property, further covenants to cooperate in all reasonable ways with, and provide necessary and reasonable information to the Village to enable the Village to submit the status report required by Ohio Revised Code Section 5709.40(I) or Ohio Revised Code Section 5709.41(E) to the Director of the Ohio Development Services Agency on or before April 31st of each year that the exemption for the Property provided by the TIF Legislation is in effect. Any information supplied to the Village will be provided solely for the purpose of enabling the Village to comply with this requirement.

**Section 4. Priority for Use of Service Payments; Reimbursement.** The Village and M/I agree to negotiate in good faith with regard to a Tax Increment Financing Agreement providing generally that, subject to the reimbursement limitation described in the next sentence and before being used for any other purpose, available Service Payments shall be prioritized such
that M/I shall be reimbursed for the costs of constructing the Public Infrastructure Improvements (the “Public Infrastructure Improvement Costs”) within a commercially reasonable time not to exceed __ years and/or the parties shall consider reimbursing M/I with interest. Furthermore, the Village and M/I agree that the amount of the Public Infrastructure Improvement Costs that shall be reimbursed to M/I shall not exceed Four Million and 00/100 Dollars ($4,000,000.00) (the “Reimbursement Maximum”). For purposes of this Agreement, the term “Public Infrastructure Improvement Costs” shall include the actual costs of the design and construction of the Public Infrastructure Improvements including, but not necessarily limited to, real property acquisition costs, construction labor and materials costs, related permit and inspection fees, design and engineering fees, site preparation costs, legal fees related to the review of project construction documents, and other costs necessary and appurtenant thereto. After such time as the Public Infrastructure Improvements Cost has been reimbursed to M/I in full, the Village shall be permitted to use all remaining Service Payments collected from the TIF District for any purpose that it determines in its sole discretion and as permitted by the TIF Legislation.

Section 5. Reporting and Payment. On or before April 1st and September 1st of each calendar year following the date when the construction of Far View Road has been completed by M/I so that it is open for vehicular use by the general public, M/I shall deliver to the Village a written summary (the “Cost Reimbursement Summary”) detailing (i) the amount of funds that have been expended to date by M/I to pay the Public Infrastructure Improvement Costs, (ii) detailed invoices for such costs incurred to date, and (iii) the amount of reimbursements of the Public Infrastructure Improvement Costs which have been received by M/I to date as provided in this Agreement. The aforementioned data shall be calculated as of the immediately preceding March 1st for the April 1st Cost Reimbursement Summary and as of the immediately preceding August 1st for the September 1st Cost Reimbursement Summary. The Village shall review the document and shall deliver to M/I any written objections that it may have to the same no later than ten (10) business days after its receipt of each Cost Reimbursement Summary. M/I and the Village shall then work cooperatively and in good faith to resolve the objection(s) within ten (10) business days of delivery of the same. Each of M/I and the Village agree to provide to each other such other written information, data, invoices, or
similar documentation as reasonably requested by the other to effectuate the purposes of this Agreement and to verify the Parties’ compliance with the terms hereof.

Once collection of Service Payments from the TIF District has commenced, the Village shall use these funds to make reimbursement payments to M/I twice per year in accordance with the terms of the Tax Increment Financing Agreement. Payment shall be made to M/I no later than May 1st of each year based on the calculations provided in the April 1st Cost Reimbursement Summary and no later than October 1st of each year based on the calculations provided in the August 1st Summary.

Section 6. Additional Agreements and Obligations. In addition to other matters addressed in this Agreement, the Parties further agree as follows:

A. Street Connection to Maplewood Drive. The Site Plan will include an easement for a public street and does not foreclose the possibility of the construction of a public street that will connect an internal public street to be constructed within the Property to an existing public street to the west of the Property (such public street connection to be referred to herein as the “Minerva Park South Connector”). If constructed, a portion of the Minerva Park South Connector will be located on a parcel of real property that is known on the Effective Date as Franklin County Auditor Parcel Number 113-000501, which is owned by the Village (such parcel to be referred to herein as the “Village Parcel”). In the event that the Minerva Park South Connector is constructed, the Village agrees to dedicate a 50-foot wide portion of the Village Parcel for use in the construction and operation of the Minerva Park South Connector as part of the Final Plat (as such term is defined in Section 5.B below) for that phase of the subdivision. The Village also agrees that it shall not voluntarily convey any rights in the portion of the Village Property on which the anticipated right-of-way for the Minerva Park South Connector will be located at any time while this Agreement is effective.

B. Platting. Prior to commencing construction of any of the public streets within the boundaries of the Property, the public street to be known as Far View Road, and/or the Minerva Park South Connector, M/I shall be required to file and submit applicable fees, for approval by the Village, preliminary plat and final plat applications (together, the “Plat Applications”) to establish such public streets in accordance with the Village Code. The preliminary plat application and the final plat application may be filed at the same time or, if permitted by Village
Code, combined into a single application. The Village Council intends to take action to refer the Plat Applications to the Planning Commission for its review and consideration in accordance with the applicable provisions of the Village Code. The Village shall diligently process the Plat Application(s) within the applicable timelines set forth in the Village Code so that they may be acted upon promptly and without unreasonable delay. At such time as the Plat Applications have been approved and the final plat that was included in the Plat Applications (the “Final Plat”) is legally effective, the Parties shall execute the Final Plat and it shall be recorded by M/I at its sole cost and expense before commencing development of the Property.

C. Phasing. M/I shall be permitted to develop the Property in phases, with such phasing to be detailed in the Final Development Plan Application. The Village acknowledges that a portion of the Property may be operated through the end of the 2016 calendar year as a 9-hole golf course with associated parking areas, a clubhouse, maintenance buildings, and related amenities. The Final Development Plan Application shall provide details concerning which of the existing golf course improvements will remain in operation as contemplated in the preceding sentence.

D. Marketing Sign. The Village agrees that, subject to the approval of the Acceptance Legislation and the Zoning Legislation, M/I shall be permitted to install, construct, maintain, and operate a sign (a “Marketing Sign”) for the purpose of marketing homes that are to be or have been constructed on the Property within the public right-of-way of Far View Road at or near its intersection with the right-of-way for State Route 161. The Marketing Sign may also include space to identify the School Site. In addition, M/I shall be permitted to install, construct, maintain, and operate an entry sign or similar entry feature that is consistent with Village entry features (in either case, an “Entry Feature”) that identifies the residential community to be developed on the Property as well as the school to be developed on the Future School Site. The proposed specifications for (and location and design of) the Marketing Sign and Entry Feature shall be included in a Final Development Plan Application. Once the Marketing Sign and/or Entry Feature are approved as part of a Final Development Plan Application, the Parties agree to work cooperatively and in good faith to negotiate and execute a license agreement, right-of-way encroachment agreement, or similar agreement that shall allow for the installation, construction, maintenance, and operation of the Marketing Sign and/or Entry Feature within the right-of-way of Far View Road in accordance with the terms of this Agreement. Such agreement shall
provide that the Marketing Sign shall be removed after such time as M/I has sold the last home that it has the right to construct on the Property. An entry feature will be designed to be a permanent structure.

E. **Green Space.** Following its development in accordance with an approved Final Development Plan Application, certain areas of the Property will remain as green space and/or parkland that will be accessible to residents in M/I’s planned community and to other residents of the Village. The Final Plat shall designate such areas as “Reserve Areas.” The Reserve Areas shall be improved by M/I with grass, landscaping, leisure trails, and other amenities as shown in the approved Final Development Plan Application. Nothing herein shall be read to require M/I to install, construct, or operate playground equipment, picnic shelters, ball fields, or other amenities that are typical of a so-called “active park,” it being acknowledged by the Village and M/I that the Reserve Areas are intended to remain natural in appearance subject to the installation of certain improvements that will provide for pedestrian access to these areas. The Reserve Areas may be improved in phases as contemplated in Section 5.C above.

M/I and the Village will discuss whether to dedicate ownership of all or any of the Reserve Areas to the Village, free-of-charge, either by and through its execution and recording of the Final Plat or at any other time following the date when the Final Plat is recorded and/or whether such reserve areas will be owned and maintained in part or in full by a homeowners’ association. If the parties ultimately determine to convey the Reserve Areas to the Village, M/I shall be required to dedicate ownership of all of the Reserve Areas to the Village within a reasonable amount of time following the date of the closing on the last sale of a home located on the Property by M/I to a third party. During all times when it owns a particular Reserve Area, M/I shall be responsible for the maintenance of the improvements thereon at its sole cost and expense. Following any conveyance of a Reserve Area to the Village, a forced and funded homeowners’ association (an “HOA”) that applies to all owners of residential lots within the Property shall be responsible for maintaining and paying the costs of maintaining the Reserve Area and the Final Plat, deed, or other instrument of conveyance that serves to transfer the relevant Reserve Area to the Village shall contain language to this effect. M/I shall cause the HOA to be formed, reasonably funded, and operating prior to conveying ownership of any Reserve Area to the Village.
Section 7. Contingencies. M/I’s obligations to develop the Property in accordance with the Site Plan and the Architectural Character Images, as well as its obligations to install and construct the Public Infrastructure Improvements and to front and/or otherwise pay the costs thereof, all as provided in this Agreement, shall be contingent upon the satisfaction (or waiver, in writing) of all of the following:

A. The Annexation Petition shall have been approved by the Commissioners;
B. The Acceptance Legislation, the Zoning Legislation, the TIF Legislation, and the ordinance(s) approving the Plat Application(s) shall have been duly approved by the Village upon terms that are acceptable to M/I in its sole discretion and shall be legally effective. Each of the aforementioned ordinances shall be deemed to include terms that are acceptable to M/I if, with respect to a particular ordinance, M/I does not raise an objection to the approval of the same at the meeting when the Village Council votes on said ordinance, provided that M/I has been given prior notice of the meeting;
C. The Final Development Plan Application shall have been approved by the Planning Commission so as to allow for the development and construction of at least 257 single-family homes (or such other number of homes as M/I may agree) on the Property and one (1) school and related improvements on the Future School Site, and shall be legally effective;
D. M/I shall have obtained ownership of the necessary right-of-way to construct Far View Road; and
E. M/I shall have purchased the Property from the persons, entities, and/or trusts that own the Property on the Effective Date.

Section 8. Miscellaneous.
A. Intent of Parties. [INTENTIONALLY OMITTED]
B. Cancellation or Termination. This Agreement may be cancelled or otherwise terminated only by mutual written agreement of the Parties hereto or otherwise pursuant to the terms of this Agreement.
C. Remedies. [INTENTIONALLY OMITTED]
D. Enforcement. [INTENTIONALLY OMITTED]
F. **Assignment of Agreement.** M/I shall not assign this Agreement, or any part thereof or any duty, obligation, privilege or right granted under this Agreement, without the express written consent of the Village, which shall not unreasonably be withheld.

G. **Relative Rights.** The rights and obligations of the parties hereunder shall be subject to the terms and conditions hereof, and will inure to the benefit of, and be binding on, the respective successors and assigns.

H. **Entire Agreement; Merger Clause; Statement of Incorporation.** It is agreed that the Agreement merges all of the oral negotiations, representations, discussions and understandings between the Parties, their legal counsel, agents, or representatives. This Agreement contains the entire Agreement of the Parties with respect to its subject matter. All documents related to this Agreement and/or attached hereto as exhibits or addendums shall be incorporated into this Agreement by reference as if fully set out at length herein.

I. **Severability.** [INTENTIONALLY OMITTED]

J. **Cooperation.** The Village will cooperate with M/I to obtain any required and/or necessary permits for the development of the Property or the fulfillment of the Parties’ obligations hereunder from any government or governmental agency that is not a party to this Agreement.

K. **Modifications or Amendment of Agreement.** No modifications, amendments, alterations, or additions shall be made to this Agreement except in a writing signed by all Parties hereto.

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

M. **Executed Counterparts.** This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same agreement. It shall not be necessary in proving the validity of this Agreement to produce or account for more than one of such counterparts. The Parties may deliver executed versions of this Agreement and any amendments or addendums hereto by electronic means (e.g., pdf or similar format delivered by electronic mail), and such electronic versions shall be deemed to be original versions of this Agreement.
N.  **Captions.** The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

O.  **Survival of Representations and Warranties.** All representations and warranties of M/I and the Village in this Agreement shall survive the execution and delivery of this Agreement.

P.  **Time.** Time shall be of the essence in doing and performing all things to be done under the terms of this Agreement.

[Signature page follows]
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives on the dates that are indicated below.

VILLAGE OF MINERVA PARK, OHIO, an Ohio municipality

By: __________________________
Printed: Lynn Elsesser
Title: Village Mayor
Date: 10/22/15

Approved as to Form:

By: __________________________
Print Name: Jennifer A. Crayton
Title: Village Solicitor

M/I HOMES OF CENTRAL OHIO, LLC, an Ohio limited liability company

By: __________________________
Printed: Molly Jams
Title: Assistant General Counsel
Date: October 22, 2015
# INDEX OF EXHIBITS

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