

EXHIBIT
ANNEXATION AGREEMENT

This Annexation Agreement (this “Agreement”) is made and entered into this ___ day of November, 2009, by and **among** Mill District, LLC, an Ohio limited liability company (“Mill”), 150 East Broad Street, Suite 100, Columbus, Ohio, 43215, and 1919 Lancaster Road, LLC, an Ohio limited liability company (“1919 Lancaster Road”), 150 East Broad Street, Suite 100, Columbus, Ohio, 43215 (Mill and 1919 Lancaster Road, collectively, the “Property Owners”), and the Village of Granville, Ohio, an Ohio municipal corporation (the “Village”).

IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in this Agreement, and pursuant to the Village’s home rule powers, the parties agree as follows:

Section 1. **Recitals**

- A. The Property Owners are the owners of approximately 5.01 acres of land located on the east side of Lancaster Road (also known as South Main Street), being more fully described on **Exhibit A** attached hereto and incorporated herein (collectively, the “Properties”).
- B. The Property Owners desire and propose to have the Properties annexed to the Village pursuant to and in accordance with Section 1155.04 **of the Village Code (Annexations)** and this Agreement.
- C. The Properties are not within the corporate limits of any municipality but will be contiguous to the corporate limits of the Village once the Kiwanis Properties (Tax Parcel #019-044682-00.000 and #019-043590-00.000) and Village Properties (Tax Parcel #019-043590-02.000 and # 019-043590-01.000) have been annexed with the Properties.
- D. The Village and the Property Owners desire to annex the Properties to the Village in order to obtain municipal services, including sanitary sewer and water services, and zoning necessary to support the appropriate development of the Properties **in an environmentally sensitive manner**.
- E. The Village desires to annex the Properties in order to obtain and serve the economic potential of the Properties for the benefit of its citizens and residents.
- F. The Property Owners desire and propose to develop the Properties consistent with the Site Plan attached hereto as **Exhibit B** (the “Site Plan”), and as a mixed use development.
- G. The Village and the Property Owners desire that the **Properties** be developed and used only in compliance with this Agreement.

- H. The Village, after due and careful consideration, has concluded that the annexation, zoning, development, and use of the Properties pursuant to and in accordance with this Agreement would further enable the Village to control the development of the area and would serve the best interests of the Village.
- I. The Village has reviewed and considered the proposed development of the Properties, including the Site Plan, and have found it to be consistent with the character and quality of existing development patterns in the Village and with the provisions of the Comprehensive Plan.

Section 2. **Expedited Type II Annexation**

- A. **Annexation Process.** The Property Owners are the fee owners of their respective Properties. The Property Owners shall prepare and they hereby agree to file with the Licking County Commissioners an Expedited Type II petition(s) to annex the Properties (and other properties necessary for statutorily required contiguity) to the Village pursuant to the provisions of Ohio Revised Code Section 709.023, *et.seq.*
1. The Property Owners shall pay all costs associated with the filing and processing of the annexations before the Licking County Commissioners.
 2. The Village shall enact the statutorily required municipal service resolution and buffer resolution and shall provide, if necessary, witnesses for the hearing before the Licking County Commissioners and otherwise support the annexations.
 3. The Village shall accept the annexations of the Properties in the event the Licking County Commissioners approve such petition.
 4. In the event of a legal challenge to the Commissioners' approval of the annexation or appeal of the Commissioners' disapproval of the annexation of the Properties, the Village **shall**, to the extent legally permissible, join in all legal proceedings as a party, in coordination with the Property Owners' counsel.
- B. **Effective Date of Annexation.** The annexation of the Properties (and any contiguous rights-of-way) shall not become effective before the date of recordation of this Agreement with the Licking County Recorder's Office.

Section 3. **Zoning of the Properties**

- A. The Properties shall be annexed to the Village under the interim zoning classification of, General Business District of Granville Township, which is the existing zoning classification for the Properties. The interim zoning classification shall apply to the Properties until such time as the Village adopts a permanent zoning classification for the Properties.
- B. Within sixty (60) days of the effective date of the Annexation Ordinance, the Village

shall adopt an ordinance amending the Village's zoning map to classify the Properties in conformance with Chapter 1143 (Amendments) and Section 1155.04 (Annexations) **of the Village Code**. The Properties shall be zoned in conformance with the Comprehensive Plan and in consideration of the existing Township zoning classification and existing use of the Properties.

- C. The Village hereby approves the Site Plan, ~~attached hereto as Exhibit "B" and incorporated herein~~. The Village agrees that the Site Plan is reasonable and desirable, that it complies with the Village's plans and goals for the future growth of the Village and would serve the best interests of the Village.
- D. In connection with its approval of the Site Plan, the Village agrees to support or grant the following variances or waivers (and any others that may be determined at a later point to be necessary to implement the Site Plan):
1. those related to the applicable lot coverage requirements to conform with the Site Plan;
 2. those related to applicable setback and build-to line requirements to conform with the Site Plan, including, without limitation, those set forth in the "Transportation Corridor Overlay District";
 3. those related to allowable density for the Site Plan;
 4. those limiting lot sizes to a maximum of five (5) acres;
 5. those requiring that buildings must be a minimum of two (2) stories in appearance and those that require specific roof pitches **or prohibit flat roofs in areas where mechanical systems are housed** on the buildings on the Site Plan;
 6. those prohibiting single tenants in excess of 4,000 gross square feet on the Site Plan;
 7. those relating to maximum number of parking spaces (as relating to each parcel individually and all parcels collectively);
 8. those requiring parking spaces to be in excess of 9 feet in width by 18 feet in length;
 9. **those limiting the number of curb cuts, including, without limitation, the provisions of Section 1176.04 of the Transportation Corridor Overlay District; and**
 - 10.** those related to the approval of restaurants as a permitted use (and not as a conditional use) in the new and existing buildings on the Properties. In furtherance, thereof, the Village agrees to make changes to its zoning code to

provide that a restaurant is a permitted use (and not a conditional use) within the pertinent zoning classification; provided, however, that no drive-up, drive-through or drive-in facility shall be permitted for ~~any restaurant~~ food or beverage service.

- E. If any amendments to the Village~~'s~~ zoning code are made after the date hereof and prior to the completion of construction of the buildings shown on the Site Plan (except as contemplated by this Agreement ~~in Section 5~~), the Village agrees that the current standards in the Village zoning code related only to lot coverage requirements, setback requirements, parking requirements, building size limitations, and permitted and conditional uses apply to the Properties and the Properties can be completed in compliance with the Site Plan.
- F. The Village recognizes, acknowledges and approves of the existing non-conforming status of the Properties owned by 1919 Lancaster Road and included in the annexation area (including but not limited to the existing buildings and existing curb cuts as further indicated below, and existing uses).
1. The Property Owners shall have the right to maintain the existing curb cuts for the Properties, with the exception of the southernmost curb cut from Lancaster Road (also known as South Main Street) which will be converted to a right-in only access point, concurrent with the first phase of development of the Site Plan.
 2. The Property Owners can renovate, in conformance with the applicable architectural requirements of the Village zoning code, the exterior of the existing office building located on the property owned by 1919 Lancaster Road and as currently shown on the Site Plan. In performing any such renovations, the above-grade building footprint cannot be expanded to exceed the footprint as shown on the Site Plan or 8,000 square feet, whichever is less.
 3. The Village acknowledges and grandfathers the existing drive-thru location on the property owned by 1919 Lancaster Road, and as further indicated on the Site Plan (i.e. on the south side of the existing office building), for non-food and non-beverage uses.

Section 4. **Approval of Development, Engineering, and Landscaping Plans and Plats; Environmental Considerations**

- A. ~~Approval of Development Plan, Engineering Plan, and Landscaping Plan.~~ Immediately after the approval of the annexation by the Village and the rezoning of the Properties as contemplated by this Agreement, the Village shall proceed with the process related to the formal review and approval of the development plan, engineering plan, and landscaping plan for the proposed development in accordance with the provisions of the Village Code.

B. Environmental Considerations. The Village and the Property Owners agree that the land to be developed is environmentally sensitive because it is located above the Raccoon Valley Aquifer, it is a short distance from Raccoon Creek and two lakes, and a portion of the Properties is located in the flood hazard zone.

1. In recognition of the Properties' environmental sensitivity, the Village and the Property Owners will strive to use environmentally friendly methods to develop the Properties and the surrounding infrastructure.

2. The Property Owners shall hire an environmental consultant selected by them to review and assess the proposed bioswale and other environmental issues related to the Properties' development.

Section 5. Development of the Properties

A. General Restrictions. Subject to the particular provisions of this Agreement, development of the Properties, except for minor alternations due to final engineering and site work approved by the Village Manager or the Village Engineer, as appropriate, shall be pursuant to and in accordance with the following:

1. This Agreement
2. The Site Plan
3. The Final Engineering Plan
4. The Final Landscaping Plan
5. The Village Zoning Code
6. The Village Subdivision Code
7. The Village Building Code
8. The Construction and Material Specifications and Engineering Design Guidelines of the Village
9. Other Requirements of Law (Local, State and Federal)

B. Easements. Easements and future rights-of-way are indicated on the Easement and Future Right-of-Way Plan ("Easement and **Future** Right-of-Way Plan"), attached hereto as **Exhibit C** and incorporated herein, and shall be provided pursuant to the following conditions:

1. The Property Owners shall grant to the Village an easement within the northern portion of Mill's property for a future roadway corridor (the "Northern Roadway Corridor"), as indicated in the Easement and **Future** Right-of-Way Plan.
2. The Property Owners shall grant to the Village a 25 foot easement on the eastern edge of the Properties for utility lines and a future roadway corridor to serve the adjacent property owners' properties (the "Eastern Roadway Corridor"), as indicated in the Easement and **Future** Right-of-Way Plan.

3. The Property Owners shall grant to the Village an easement on the eastern and southeastern edges of the Properties for a future roadway corridor that will run south to provide a connection with River Road (the “Southeastern Roadway Corridor”), as indicated in the Easement and Right-of-Way Plan.

In the event that a public road ultimately is constructed by the Village within the Northern Roadway Corridor, the Eastern Roadway Corridor and the Southeastern Roadway Corridor, then the property contained within such easement areas shall be dedicated to the Village as public rights-of-way for such purposes.

C. Rights-of-Way. The Village agrees to adjust the existing right-of-way of Lancaster Road (South Main Street) and River Road, as follows:

1. Lancaster Road (South Main Street). The right-of-way along Lancaster Road (South Main Street) shall be adjusted to show a consistent right-of-way line, along the entire frontage of the Properties, a total of ~~thirty-seven and a half (37.5²)~~ feet from the centerline. This adjustment may be subject to the approval of the Ohio Department of Transportation.
2. River Road. The right-of-way along River Road shall be adjusted to show a consistent right-of-way line, along the entire frontage of the Properties, a total of ~~thirty (30²)~~ feet from the centerline. **This adjustment may be subject to the approval of the Ohio Department of Transportation.**

D. Extension and Installation of Utility Lines

The Village **shall** extend main water and sewer lines to the northernmost boundary of the Properties and then south along Lancaster Road (South Main Street) to River Road and then east along River Road to the easternmost boundary of the Properties as shown on the attached Utility Plan (**the** “Utility Plan”), which is attached hereto as **Exhibit D**. The cost of extending the lines **shall** be broken into the following segments:

1. Water Line
 - a. To extend the water main from its current location on the north side of Raccoon Creek to the northernmost boundary of the Kiwanis property. (This cost **shall** be borne by the Village but ~~this cost~~ shall be reimbursed to the Village through impact fees to be charged to all future water customers that benefit from this extension including the Property Owners. The proportionate share of the cost shall be based on the projected average daily water demand of the customer compared to the capacity of the water main and shall be paid by the customer at the time that tap fees are collected for the customer’s connection.)

- b. To extend the water main along the frontage of the Kiwanis property. (This cost **will** be assessed to the Kiwanis Club, but may be deferred until a later date.)
- c. To extend the water main along from the southern end of the Kiwanis property to the northernmost boundary of the Properties. (This cost **shall** be borne by the Village.)
- d. To extend the water main from the northernmost boundary of the Properties south along Lancaster Road (South Main Street) to River Road and then east along River Road to the easternmost boundary of the Properties as shown on the Site Plan. (This cost **shall** be assessed to the Property Owners and the Property Owners agree to sign a related petition for assessment.)
- e. The Village **shall** bear the cost of oversizing the water main but this cost shall be reimbursed to the Village through impact fees charged to all future water customers that would benefit from the oversizing. “Oversizing” is defined as an increase in the diameter of the water main from eight (8) inches to twelve (12) inches to accommodate additional water customers. Because the Property Owners would not be among those future water customers that would benefit from the oversizing, this cost **shall** not be charged to them.

2. Sewer Line

- a. To extend the sewer main from the manhole that is located north of Old River Road to the northernmost boundary of the Properties. (This cost **shall** be borne by the Village.)
- b. To extend the sewer main from the northernmost boundary of the Properties south along Lancaster Road (South Main Street) to River Road and then east along River Road to the easternmost boundary of the Properties as shown on the Site Plan. (This cost **shall** be assessed to the Property Owners and the Property Owners agree to sign a related petition for assessment.)
- c. The Village **shall** bear the cost of oversizing the sewer line but this cost shall be reimbursed to the Village through impact fees charged to all future sewer customers that would benefit from the oversizing. “Oversizing” is defined as an increase in the diameter of the sewer line from eight (8) inches to twelve (12) inches to accommodate additional water customers. (Because the Property Owners would not be among those future water customers that would benefit from the oversizing, this cost **shall** not be charged to them.)

3. Agreement to **Alternative Public Financing or Assessments**. The Property Owners agree to accept **special assessments or other** public financing alternatives for the financing of the construction of the water and sewer mains as outlined in this **Section**.
- E. **Utility Services**. Utility easements shall be granted to the Village for utility services over, on, and across the Properties, as shown on the Utility Plan for the purposes of enforcing applicable laws, making repairs, installing and servicing utilities, and providing temporary and emergency services. The Village agrees to provide to the Property Owners or the Properties, at the same rates, fees and charges as its other customers within the same Utility District whether the Utility District currently exists or is established at a later date (provided, however, subject to the provisions of this Agreement), municipal services **to the Properties** as follows:
1. **Water**. The Village shall provide for the Properties adequate municipal water facilities, including fire pressure and flows, to service the Properties for the proposed uses.
 2. **Sanitary Sewer**. The Village shall provide adequate municipal sanitary sewer facilities to service the Properties for the proposed uses.
 3. **Storm Sewer**. The Property Owners shall cause the storm sewer system to be designed and constructed to service the Properties in accordance with the current storm water management requirements of the Village, **which follows the Stormwater Management Manual and supplements thereto developed by the Mid-Ohio Regional Planning Commission**, and the **Ohio** Environmental Protection Agency (the "**OEPA**"). **The Village shall grant or obtain any easements necessary for the construction of any needed storm sewer system for the Properties in the event such easements cannot be obtained after reasonable effort by the Property Owners.** Should any difficulties arise with the storm water requirements, the Village shall work to solve the difficulties with the Property Owners. In designing the storm sewer system management plan for the Properties, the Property Owners will make reasonable attempts to incorporate low impact development design for on-site storm water management solutions.
 4. **Flood Hazard Area. The Property Owners and Village agree that the flood hazard zone that applies to the Properties shall not change upon annexation and shall, consistent with Township and County flood regulations, include the "1% future conditions annual chance flood" area.**
- F. **Roads**. The Village supports the following roadway plans and terms for the Properties as follows:
1. As provided in Section 5 hereof, the Property Owners shall grant to the Village easements for the area of the Northern Roadway Corridor, the Eastern Roadway Corridor, and the Southeastern Roadway Corridor. **The environmental**

~~consultant shall review roadway design for its environmental impact and consistency with the Comprehensive Plan. (Covered in Item 4.B.2)~~

2. To service the Properties until such time (if any) as the future public road is constructed within the Northern Roadway Corridor, the Property Owners will construct a private access roadway to service the Properties as shown on the Site Plan (the "Private Access Roadway"). ~~The first 100 linear feet of the Private Access Roadway will be built to public road standards at the time of building construction on the Properties.~~ The ~~continuation of the~~ Private Access Roadway will not be constructed to public road standards, and will be built to provide temporary vehicular access to the Properties until such time as the Village determines that it is in the public's best interest to construct a extend the public roadway to the east and then south to connect with River Road, as anticipated for and provided for in this Agreement
 3. ~~In addition to the construction of the private access road to public road standards,~~ The Property Owners agree to will contribute 50% of the cost of constructing the remainder of the northern roadway to public standards if and when the future public road is constructed within the Northern Roadway Corridor. Other than as provided in the foregoing sentence, the Property Owners shall have no responsibility for, and neither the Properties nor the Property Owners shall be assessed or charged for, the cost of any other roadway improvements, including, without limitation, any roads in the Northern Roadway Corridor, the Eastern Roadway Corridor or the Southeastern Roadway Corridor.
 4. The Property Owners shall construct a new 8 foot wide multi-use path from the northernmost boundary of the Properties adjacent to Lancaster Road and then across the Properties and connecting to the easternmost boundary of the properties adjacent to River Road in the location indicated on the Site Plan, with the actual location of the path to be determined in conjunction with the approval of the development plan. The construction of the multi-use path shall be completed prior to the issuance of an occupancy permit for any new structure.
 5. Future public roadways and pathways to be built within the rights-of-way areas shall be constructed in conformance with the applicable subdivision requirements of the Village of Granville that are in existence at the time of construction of those improvements.
- G. Tax Increment Financing District(s). When the annexation of the Properties to the Village is complete, and the zoning of the Properties in accordance with the Site Plan is finally approved by the Village, then, if requested and initiated by the Village, the Property Owners shall consent to the creation of one or more tax increment financing districts [the "TIF District(s)"] that will include the Properties and possibly other properties. The TIF District(s) shall collect tax revenues from the improvement of the Properties in accordance with Ohio Revised Code Chapter 5709 and shall utilize these funds to finance

improvements to the surrounding area. In conjunction with the formation of the TIF District(s), the Property Owners shall cooperate fully with the Village and shall undertake any actions reasonably requested by the Village to assist in the formation of the TIF District(s).

H. **Lot Split.** The Village **shall** approve a lot split which divides parcel 01904728000000 from parcels 0190423601000 and 019497820000 to create two (2) separate parcels.

I. **Changes in the Site Plan During Development.**

1. **Minor Adjustments.** During the construction and development of the Properties, the Village Manager may authorize in his or her sole discretion minor adjustments to the Site Plan, when the adjustments are necessary in light of technical or engineering considerations.
2. **Major Adjustments.** Any major adjustment to the Site Plan not specifically listed in or approved pursuant to this Agreement shall be considered to be a major adjustment and shall be granted only after application to, and approval by, the Village Council; by ordinance. The Village Council shall require that the application for major adjustment be considered at a public hearing before the Village Council or any other board or commission as the Village Council shall require.

J. **Applicability of Amendments to the Village Zoning Code.** No amendments to the **Village zoning code** that are adopted after the effective date of this Agreement shall affect the Site Plan as it applies to the Properties during the term of this Agreement except as follows:

1. Amendments expressly required by this Agreement;
2. Amendments to which the Property Owners have expressly consented; and
3. If any amendments to the Village's zoning code are made after the date hereof and prior to the completion of construction of the buildings shown on the Site Plan (except as contemplated by this Agreement), the Village agrees that the current standards in the **Village's** zoning code related only to lot coverage requirements, setback requirements, parking requirements building size limitations, and permitted and conditional uses shall apply to the Properties and the Properties can be completed in compliance with the Site Plan.

Section 6. **Improvements**

A. **Property Owners' Duty to Construct Private Improvements.** The Property Owners shall, at their sole cost and expense, construct and install all of the private improvements on the Properties, as shown on the Site Plan, including without limitation the proposed eight (8)

foot multi use path and the placement underground of all power lines and other utility wires.

B. Public Dedication and Acceptance of Specified Improvements. The Property Owners shall construct and dedicate to the Village, prior to the issuance of an occupancy permit for any new structure, the following public improvements:

1. The eight (8') foot multi use path. The Property Owners shall provide an ~~bike path~~ easement for the public use of the multi-use path. The Property Owners also shall dedicate the multi-use path to the Village if the Village makes such a request at a later date.
2. The Property Owners shall also record easements on the Properties as they apply to all public utility lines, and for the Northern Roadway Corridor, Eastern Roadway Corridor and Southeastern Roadway Corridor. The Northern Roadway Corridor, Eastern Roadway Corridor, and Southeastern Roadway Corridor easements shall remain in effect until such time as the Village determines that a public roadway should be built within these Corridors to service the Properties, adjacent properties, and all other properties along Old River Road and River Road, at which time the Property Owners shall dedicate this land to the Village for the creation of a public roadway.

C. Standards Applicable to Improvements.

1. General Standards. All improvements shall be designed and constructed pursuant to, and in accordance with, the Construction and Material Specifications and Engineering Design Guidelines of the Village, and to the satisfaction of the Village Engineer.
2. Prosecution of Work. The Property Owners and all of their contractors shall prosecute the work diligently, continuously, in full compliance with, and as required by or pursuant to this Agreement, until the work is properly completed.
3. Engineering and Inspection Services. The Property Owners shall reimburse the Village for all reasonable engineering and inspection services provided by the Village Engineer specifically related to this project that are incurred from and after the date of this Agreement.
4. Issuance of Occupancy Permits. The Village shall have the absolute right to withhold any certificate of occupancy at any time the Property Owners are in violation of or are not in full compliance with any term of this Agreement.

Section 7. Fees and Dedications

A. Fees Associated with Annexation and Recordation. The Property Owners shall pay all fees, charges, and contributions related to the filing, processing, and recordation of this

Agreement and the annexation of the Properties. These fees shall be paid before any zoning permits are issued by the Village for the Properties.

- B. Extension of Water Line Across Raccoon Creek. In accordance with Section 5(D)(1)(a) above, the Property Owners shall pay impact fees for their proportionate share of the cost of extending the water main from its current location on the north side of Raccoon Creek to the northernmost boundary of the Kiwanis property. The proportionate share of the cost shall be based on the projected average daily water demand of the Property Owners compared to the capacity of the water main and shall be paid by the Property Owners at the time that tap fees are collected for the Property Owners' connections.
- C. Extension of Water Line Along Perimeter of Properties. In accordance with Section 5(D)(1)(d) above, the Property Owners shall pay the cost of extending the water line from the northernmost boundary of the Properties south along Lancaster Road to River Road and then east along River Road to the easternmost boundary of the Properties as shown on the Site Plan.
- D. Extension of Sewer Line Along Perimeter of Properties. In accordance with Section 5(D)(2)(b) above, the Property Owners shall pay the cost of extending the sewer line from the northernmost boundary of the Properties south along Lancaster Road to River Road and then east along River Road to the easternmost boundary of the Properties as shown on the Site Plan.
- E. Village Fees. In addition to all other costs, payments, fees, charges, contributions, or dedications required by this Agreement, the Property Owners shall pay to the Village all application, inspection, and permit fees related to the Properties, all water and sewer general connection fees, tap-on fees, and capacity charges, and all other fees, charges, and contributions normally required of similar developments by the Village.
- F. Dedications. The Property Owners shall dedicate easements and rights-of-way as required by this Agreement and consistent with the Easement and Future Right-Of-Way Plan, ~~which is attached hereto as Exhibit "C"~~.
- G. Dedication Subject to Existing Encumbrances. All easements and rights-of-way contemplated to be granted by the Property Owners under this Agreement shall be granted subject to all easements, encumbrances, restrictions, conditions, covenants, and reservations of record at the time of the granting of such easements and rights-of-way existing on the effective date of this agreement.**

Section 8. Nature, Survival, and Transfer of Obligations

All obligations assumed by the Property Owners under this Agreement shall be binding on the Property Owners and their respective successors in interest. To assure that the Property Owners' successors in interest have notice of this Agreement and the obligations created by it, the Property Owner shall deposit with the Village Council Clerk, contemporaneously with the

Village's approval of this Agreement, any consents or other documents necessary to authorize the Village to record this agreement in the office of the Recorder of Licking County.

Section 9. **Term**

This Agreement shall be in full force and effect from and after the effective date of the Annexation Ordinance for **ten (10)** years, or until final completion of all new structures and modifications to the Properties as indicated on the Site Plan, whichever occurs first.

Section 10. **Enforcement**

The parties to this Agreement may, in law or equity, by suit, action, mandamus, or any other proceeding, including without limitation specific performance, enforce or compel the performance of this Agreement. In addition to every other remedy permitted by law for the enforcement of the terms of this Agreement, the Village shall be entitled to withhold the issuance of building permits or certificates of occupancy for any and all buildings and structures within the Properties at any time when the Property Owners have failed or refused to meet fully any of their obligations under this Agreement. In the event of a judicial proceeding brought by one party to this Agreement against the other party to this Agreement pursuant to this Section 10, the prevailing party shall be entitled to reimbursement from the unsuccessful party of all costs and expenses, including without limitation reasonable attorneys' fees, incurred in connection with the judicial proceeding.

Section 11. **Not a Debt of the Village**

Notwithstanding anything to the contrary contained herein, each covenant, agreement or obligation of the Village in this Agreement that requires the expenditure of funds by on or behalf of the Village shall be (a) limited to the sources described herein, or (b) when such a source is not specified, limited to funds duly appropriated by the Village Council for the purpose and certified as to availability by the Village's Director of Finance pursuant to Ohio Revised Code Section 5705.40, and in neither case shall constitute a general obligation or debt of the Village. Anything in this Agreement to the contrary notwithstanding, this Agreement does not constitute a general obligation, debt or bonded indebtedness or a pledge of the faith and credit or taxing power of the Village, and the other parties hereto shall have no right to have excises, ad valorem taxes or other taxes levied by the Village for the fulfillment of the Village's obligations hereunder. Nothing herein shall be deemed to prohibit the Village from lawfully using, of its own volition, any of its general resources for the fulfillment of any of the terms and conditions of this Agreement.

Section 12. **General Provisions**

- A. **Notice.** Any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid. Unless otherwise provided in this Agreement, notices shall be deemed received after the first to occur of (a) with an overnight courier as evidenced

by a receipt of deposit; or (b) the date that is three (3) business days after deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Section, each party to this Agreement shall have the right to change the address or the addressee, or both, for all future notices and communications to them, but no notice of a change of addressee or address shall be effective until actually received.

Notices and communications to the Village shall be addressed to, and delivered at, the following address:

Village of Granville
P.O. Box 514
Granville, Ohio 43023
Attention: Village Manager

Notices and communications to the Property Owners shall be addressed to, and delivered at, the following addresses:

Mill District, LLC
150 East Broad Street
Suite 100
Columbus, Ohio 43215
Attention: Timothy Rollins

1919 Lancaster Road, LLC
150 East Broad Street
Suite 100
Columbus, Ohio 43215
Attention: Timothy Rollins

- B. Time of the Essence. Time is of the essence in the performance of this Agreement.
- C. Rights Cumulative. Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other rights, remedies, and benefits allowed by law.
- D. Non-waiver. None of the parties hereto shall be under any obligation to exercise any of the rights granted to it in this Agreement. The failure of a party to exercise at any time any right granted to such party shall not be deemed or construed to be waiver of that right, nor shall the failure void or affect such party's right to enforce that right or any other right.
- E. Consents. Unless otherwise provided in this Agreement, whenever the consent, permission, authorization, approval, acknowledgement, or similar indication of assent of any party to this Agreement, or of any duly authorized officer, employee, agent, or representative of any party to this Agreement, is required in this Agreement, the consent, permission, authorization, approval, acknowledgement, or similar indication of assent shall be in writing.
- F. Governing Law. This Agreement shall be governed by, and enforced in accordance with, the laws of the State of Ohio.

- G. Severability. It is hereby expressed to be the intent of the parties to this Agreement that should any provision, agreement, or portion of this Agreement or its application to any party or property be held invalid by a court of competent jurisdiction, the remaining provisions of this Agreement and the validity, enforceability, and application to any party or property shall not be impaired thereby, but the remaining provisions shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Agreement to the greatest extent permitted by applicable law.
- H. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any and all prior agreements and negotiations between the parties, whether written or oral, relating to the subject matter of this Agreement.
- I. Interpretation. This Agreement shall be construed without regard to the identity of the party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement shall be construed as though all parties to this Agreement participated equally in the drafting of this Agreement. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.
- J. Exhibits. Exhibits "A" through "D" attached to this Agreement are, by this reference, incorporated in, and made a part of this Agreement. In the event of a conflict between an exhibit and the text of this Agreement, the text of the Agreement shall control.
- K. Amendments and Modifications. No amendment or modification to this Agreement shall be effective until it is reduced to writing and approved and executed by all parties to this Agreement in accordance with all applicable statutory procedures.
- L. Changes in Laws. Unless otherwise provided in this Agreement, any reference to the requirements of law shall be deemed to include any modifications of, or amendments to, the requirements of law that may occur in the future.
- M. Authority to Execute. The Village hereby warrants and represents to the Property Owners that the persons executing this Agreement on its behalf have been properly authorized to do so by the Village. Each of the Property Owners hereby warrants and represents to the Village (i) that it is the record and beneficial owner of fee simple title to its respective portion of the Properties (subject to all easements, encumbrances, restrictions, conditions, covenants, and reservations of record existing on the effective date of this agreement.), (ii) that no other person has any legal, beneficial, contractual, or security interest in its respective portion of the Properties (other than easements, encumbrances, restrictions, conditions, covenants, and reservations of record existing on the effective date of this agreement.), (iii) that it has the full and complete right, power, and authority to enter into this Agreement and to agree to the terms, provisions, and conditions set forth in this Agreement and to bind its respective portion of the Properties as set forth, in this Agreement, (iv) that all legal actions needed to authorize the execution, delivery, and performance of this Agreement have been taken, and (v) that neither the execution of this Agreement nor the performance of the

obligations assumed by the Property Owners will (a) result in a breach or default under any agreement to which the Property Owner is a party or to which its respective portion of the Properties is bound or (b) violate any statute, law, restriction, court order, or agreement to which such Property Owner or its respective portion of the Properties are subject.

- N. No Third Party Beneficiaries. No claim as a third party beneficiary under this Agreement by any party shall be made, or be valid, against the Village or the Property Owners.
- O. Recording. After the Property Owners have paid an amount sufficient to cover the cost of recording this Agreement, all necessary plats, the affidavit of service of notice as required by Section 709.32 of the Ohio Revised Code, and the Annexation Ordinance, the Village shall promptly cause this Agreement to be recorded in the office of the Recorder of Licking County.

Section 13. Village Council Action

This Agreement, and the obligations of the parties set forth herein, shall be effective and enforceable upon the approval by Village Council (“Council”) of ordinance(s) duly passed and signed into law by the Mayor and the expiration of all referendum periods thereto. It is acknowledged that the legislation approving this Agreement is merely the first in a series of legislative acts necessary to implement this Agreement. The Property Owners reserve the right to request that Village Council defeat the ordinance accepting the proposed annexation of the Properties to the Village and, upon such request of the Property Owners, Village Council shall be obligated to act to deny the annexation of the Properties to the Village after the expiration of the sixty (60) day waiting period. All subsequent necessary Village Council acts in the implementation of compliance with this Agreement shall be deemed in furtherance of this initial Village Council action. In the event (i) the Village is unable, after notice and failure to cure within sixty (60) days, to comply with this Agreement after the annexation of the Properties to the Village, (ii) the Properties are not rezoned in the manner contemplated by this Agreement and in a manner acceptable to the Property Owners in their sole discretion within sixty (60) days after the date of acceptance of this annexation by Village Council, or (iii) a referendum petition is filed against the approved rezoning, then the Property Owners shall have the right and option to file a complaint with the Licking County Court of Common Pleas to de-annex the Properties from the Village as set forth in Ohio Revised Code Section 709.41, and the Village shall consent thereto by the execution of an Agreed Entry.

IN WITNESS WHEREOF, the undersigned have set their hands to duplicates hereof, on the day and year first above written.

MILL DISTRICT, LLC,
an Ohio limited liability company

By: _____
Its: _____

1919 LANCASTER ROAD, LLC,
an Ohio limited liability company

By: _____
Its: _____

VILLAGE OF GRANVILLE,
an Ohio municipal corporation

By: _____
Its: Village Manager

Approved as to Form: _____
Village Law Director

STATE OF OHIO
COUNTY OF FRANKLIN: SS

Before me, a Notary Public, personally came Mill District, LLC, by _____
_____, its _____, who acknowledged the foregoing Agreement as his
voluntary act and deed on behalf of Mill District, LLC.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal on
this ___ day of November, 2009.

Notary Public

STATE OF OHIO
COUNTY OF FRANKLIN: SS

Before me, a Notary Public, personally came 1919 Lancaster Road, LLC, by
_____, its _____, who acknowledged the foregoing Agreement as his
voluntary act and deed on behalf of 1919 Lancaster Road, LLC.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal on
this ___ day of November, 2009.

Notary Public

STATE OF OHIO
COUNTY OF LICKING: SS

Before me, a Notary Public, personally came the Village of Granville, an Ohio municipal corporation, by _____, its Village Manager, who acknowledged the foregoing Agreement as his/her voluntary act and deed on behalf of the Village of Granville.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal on this ____ day of November, 2009.

Notary Public

EXHIBIT A
PROPERTIES

[copy attached]

EXHIBIT B

SITE PLAN

[copy attached]

EXHIBIT C

EASEMENT AND FUTURE RIGHT-OF-WAY PLAN

[copy attached]

EXHIBIT D
UTILITY PLAN

[copy attached]