
[SPACE ABOVE FOR RECORDER'S USE]

GRANT OF EASEMENTS

(encroachments upon portions of Green and Race Streets)

This Grant of Easements is granted as of the Effective Date (as defined on the signature page hereof) by the **CITY OF CINCINNATI**, an Ohio municipal corporation, 801 Plum Street, Cincinnati, OH 45202 (the "**City**"), in favor of **OTR HOLDINGS, INC.**, an Ohio nonprofit corporation, with a tax mailing address of 1203 Walnut Street, Fourth Floor, Cincinnati, OH 45202 ("**Grantee**").

Recitals:

A. By virtue of a *General Warranty Deed* recorded on September 6, 2019, in OR 13996, Page 2428, Hamilton County, Ohio Records, Grantee holds title to certain real property located at 1701 Race Street, Cincinnati, OH 45202, as more particularly described on Exhibit A (*Legal Description – Benefitted Properties*) hereto ("**1701 Race Street**").

B. By virtue of a *Limited Warranty Deed* recorded on April 4, 2017, in OR 13388, Page 2307, Hamilton County, Ohio Records, Grantee holds title to certain real property located at 1703 Race Street, Cincinnati, OH 45202, as more particularly described on Exhibit A hereto ("**1703 Race Street**").

C. By virtue of a *Limited Warranty Deed* recorded on April 4, 2017, in OR 13388, Page 2307, Hamilton County, Ohio Records, Grantee holds title to certain real property located at 1705 Race Street, Cincinnati, OH 45202, as more particularly described on Exhibit A hereto ("**1705 Race Street**", and collectively with 1701 Race Street and 1703 Race Street, the "**Benefitted Properties**", and each a "**Benefitted Property**", as applicable).

D. The City owns the adjoining Race Street and Green Street public rights-of-way, which are under the management of the City's Department of Transportation and Engineering ("**DOT**").

E. Grantee has requested the City to grant easements for step encroachments in and across portions of the Race Street and Green Street public rights-of-way (each, an "**Encroachment**", and collectively, the "**Encroachments**").

F. The City Manager, in consultation with DOT, has determined that (i) the easements will not have an adverse effect on the City's retained interest in the Race Street and Green Street public rights-of-way, and (ii) granting the easements will not have an adverse effect on the usability or accessibility of any existing Race Street and Green Street public right-of-way facilities.

G. The City's Real Estate Services Division has determined that the fair market value of the easements, as determined by professional appraisal, is \$190, which Grantee has agreed to pay.

H. City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the easement at its meeting on May 20, 2022.

I. Cincinnati City Council approved the easement by Ordinance No. [____]-2022, passed on [____], 2022.

NOW THEREFORE, the parties do hereby agree as follows:

1. Grant of Easements. The City does hereby grant to Grantee, on the terms and conditions set forth herein, the following three easements for the Encroachments: (i) a non-exclusive encroachment easement as an appurtenance to and for the benefit of 1701 Race Street to use, maintain, repair, reconstruct, replace, and remove a step in and upon the Green Street public right-of-way, as more particularly identified and depicted as “**Easement #1**” on Exhibit B (Survey) and described on Exhibit C (Legal Descriptions) hereto; (ii) a non-exclusive encroachment easement as an appurtenance to and for the benefit of 1703 Race Street to use, maintain, repair, reconstruct, replace, and remove a step in and upon the Race Street public right-of-way, as more particularly identified and depicted as “**Easement #2**” on Exhibit B and described on Exhibit C hereto; and, (iii) a non-exclusive encroachment easement as an appurtenance to and for the benefit of 1705 Race Street to use, maintain, repair, reconstruct, replace, and remove steps and associated handrails in and upon the Race Street public right-of-way, as more particularly identified and depicted as “**Easement #3**” on Exhibit B and described on Exhibit C hereto. Easement #1, Easement #2, and Easement #3 shall each be referred to herein individually as an “**Easement**”, and collectively as the “**Easements**” or “**Easement Areas**”, as applicable. Grantee shall not make any modifications to the Encroachments within the Easement Areas without the City’s prior written consent. Grantee acknowledges and agrees that it has conducted its own due diligence to familiarize itself with the condition and characteristics of the Easement Areas. The City has not made any representations or warranties concerning the title, condition, or characteristics of the Easement Areas or the suitability or fitness of the Easement Areas for any purpose. Grantee acknowledges and agrees that it is not relying upon any such representations or warranties from the City. Without limitation of the foregoing, under no circumstances shall the City be responsible or liable for any pre-existing environmental conditions affecting the Easement Areas.

2. Termination. Notwithstanding anything herein to the contrary, the Easements shall automatically terminate (i) upon the complete or respective partial demolition, without rebuilding within 1 year of such demolition, of the Encroachments within the Easement Areas, such that the Easements would be rendered unnecessary; (ii) upon written notice from the City if the City determines that it needs the Easement Areas or any portion thereof for a municipal purpose, including, without limitation, to comply with Americans with Disabilities Act (“**ADA**”) regulations or accessibility standards; or (iii) upon written notice from the City if the City determines that the Encroachments are creating a public safety issue, such as noncompliance with ADA accessibility regulations, or contributing to adverse impacts on the usability or accessibility of any public right-of-way facilities, if Grantee does not abate or begin to take efforts to mitigate the public safety issue in a timely manner consistent with the degree of harm posed by the public safety issue.

3. Maintenance and Repairs. At no cost to the City, Grantee shall maintain the Encroachments in a continuous state of good and safe condition and repair. Grantee acknowledges that there may be existing easements, utility lines, and related facilities in the vicinity of the Easement Areas (“**Third-Party Utility Lines**”). In connection with Grantee’s maintenance, repair, and use of the Encroachment, Grantee shall not interfere with the access of utility companies to maintain and repair the Third-Party Utility Lines and shall, at Grantee’s expense, promptly repair any and all damage to Third-Party Utility Lines caused by Grantee, its agents, employees, contractors, subcontractors, tenants, licensees, or invitees. Any relocation of Third-Party Utility Lines necessitated by the construction, maintenance, repair, reconstruction, or removal

of the Encroachments under this instrument shall be handled entirely at Grantee's expense. All activities undertaken by Grantee under this instrument shall be in compliance with all applicable codes, laws, and other governmental standards, policies, guidelines and requirements.

4. Insurance: Indemnification. At all times, and in addition to whatever other insurance and bond requirements the City may from time to time require, Grantee shall maintain or cause to be maintained a policy of Commercial General Liability insurance, with an insurance company reasonably acceptable to the City and naming the City as an additional insured, in an amount not less than \$1,000,000 per occurrence, combined single limit/\$1,000,000 aggregate, or in such greater amount as the City may from time to time require. Grantee shall furnish to the City a certificate of insurance evidencing such insurance upon the City's request and, in any event, prior to undertaking any construction activities within the Easement Areas. Grantee hereby waives all claims and rights of recovery against the City, and on behalf of Grantee's insurers, rights of subrogation, in connection with any damage to the Encroachments, no matter how caused. Grantee shall defend (with counsel reasonably acceptable to the City), indemnify, and hold the City harmless from and against any and all claims, actions, losses, costs (including, without limitation, reasonable attorneys' fees), liability and damages suffered or incurred by, or asserted against, the City in connection with the use, construction, maintenance, repair, and all other matters associated with the Encroachments.

5. Default. If Grantee, its successors-in-interest, or assigns fail to perform any required work under this instrument and fail to address the same to DOTE's satisfaction within thirty (30) days after receiving written notice thereof from DOTE, the City shall have right to perform such work, at Grantee's expense, payable within ten (10) days after receiving an invoice from DOTE evidencing the amount due. Grantee, its successors-in-interest, or assigns shall be liable to DOTE for the payment of such work. Any outstanding amount due under this instrument shall create a lien on the respective Benefitted Property until fully paid. At the City's option, the City may file an affidavit in the Hamilton County, Ohio Recorder's office to memorialize any outstanding amounts due under this instrument.

6. Covenants Running with the Land. The provisions hereof shall run with the land and shall inure to the benefit of and be binding upon the City, Grantee, and their respective successors-in-interest and assigns.

7. Governing Law; Severability. This instrument shall be governed by and construed in accordance with the laws of the City of Cincinnati and the State of Ohio. If any provisions hereof are determined to be invalid or unenforceable by a court of law, the remainder of this instrument shall not be affected thereby, and all other provisions of this instrument shall be valid and enforceable to the fullest extent permitted by law.

8. Notices. All notices given hereunder shall be in writing and shall be sent by U.S. certified or registered mail, return receipt requested, or delivered by a recognized courier service, or by personal delivery, to the parties at their respective addresses set forth in the introductory paragraph hereof, or such other address as either party may specify from time to time by notice given in the manner prescribed herein. All notices to the City shall be addressed to the Office of the City Manager, and a copy of each such notice shall simultaneously be delivered to: Department of Transportation and Engineering, Attn: Director, Room 450. In the event of an alleged breach by the City of this instrument, a copy of each notice of breach shall simultaneously be delivered to the Office of the City Solicitor, 801 Plum Street, Room 214, Cincinnati, OH 45202.

9. Coordinated Report Conditions (CR #10-2022). The following additional conditions shall apply:

a. DOTE:

- i. 1705 Race Street: The step encroachment shall provide 5 feet continual minimum pedestrian clearance, from vertical face to utility poles and other appurtenances. Handrails shall turn down and not protrude further into the sidewalk space.
 - ii. A DOTE street opening permit, obtained by a DOTE-licensed street contractor, is required for all private improvements in the public right-of-way. All improvements in the public right-of-way must be built to City standards, policies, and guidelines. Application for permits may be made at Room 425, City Hall, 801 Plum Street. Please note that plan drawings (2 sets), to be reviewed by DOTE, must be attached to the permit application
- b. Greater Cincinnati Water Works ("GCWW"): There are active service branches (H-49019, H-16209, and H-236786) on Green and Race Streets within the Benefitted Properties near the Easement Areas. Caution must be exercised to avoid any damage during construction. GCWW records suggests the branches are outside of the Easement Areas. If during construction, Grantee finds the branch is within the limits of the Easement Areas, Grantee must maintain GCWW access to the control valve. This may require abandoning the existing branch and purchasing a new branch in a new location.
- c. Altafiber: There are existing underground telephone facilities at this location. The existing facilities must remain in place, in service and able to be accessed. Any damage done to the facilities, or any work done to relocate the facilities as a result as of this request, will be handled entirely at Grantee's expense.

10. Counterparts and Electronic Signatures. This instrument may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original. This instrument may be executed and delivered by electronic signature; any original signatures that are initially delivered electronically shall be physically delivered as soon as reasonably possible.

11. Exhibits. The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Legal Description - Benefitted Properties*
Exhibit B – *Survey*
Exhibit C – *Legal Descriptions*

Executed by the parties on the respective date of acknowledgement listed below, effective as the later of such dates (the "Effective Date").

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

Date: _____, 2022

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022 by _____, the _____ of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form by:

Assistant City Solicitor

[Grantee Signature Page Follows]

ACCEPTED AND AGREED TO BY:

OTR HOLDINGS, INC.,
an Ohio nonprofit corporation

By: _____

Printed Name: _____

Title: _____

Date: _____, 2022

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022 by _____, the _____ of **OTR HOLDINGS, INC.**, an Ohio nonprofit corporation, on behalf of the corporation. The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

This instrument prepared by:
City of Cincinnati Law Department
801 Plum Street, Suite 214
Cincinnati, OH 45202

EXHIBIT A
to Grant of Easements
LEGAL DESCRIPTION - BENEFITTED PROPERTIES

Property Address: 1701 Race Street
Auditor's Parcel No.: 094-0008-0164

Situated in the City of Cincinnati, County of Hamilton, and State of Ohio, and being part of Block F in Findlay & Garrard's Subdivision as recorded in Deed Book 47, page 319, of Hamilton County, Ohio Records and being more particularly described as follows:

Beginning at the Northwest corner of Green and Race Streets; running thence Westwardly along Green Street 100 feet; thence Northwardly and parallel with Race Street 25 feet; thence Eastwardly and parallel with Green Street, 100 feet to Race Street; thence Southwardly along Race Street, 25 feet to the place of beginning.

Property Address: 1703 Race Street
Auditor's Parcel No.: 094-0008-0165

SITUATE IN THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, VIZ: LOT 2, BLOCK "F", WHICH WAS LAID OUT BY GENERAL JAMES FINDLAY AND J.D. GARARD, RECORDED IN BOOK 47, PAGE 319, OF THE HAMILTON COUNTY, OHIO RECORDS, COMMENCING AT A POINT TWENTY-FIVE (25) FEET NORTH OF GREEN STREET ON THE WEST SIDE OF RACE STREET; THENCE WESTWARDLY PARALLEL WITH GREEN STREET ONE HUNDRED (100) FEET; THENCE NORTHWARDLY PARALLEL WITH RACE STREET TWENTY-FIVE (25) FEET; THENCE EASTWARDLY PARALLEL WITH GREEN STREET ONE HUNDRED (100) FEET; THENCE SOUTHWARDLY ALONG RACE STREET TWENTY-FIVE (25) FEET TO THE PLACE OF BEGINNING.

Property Address: 1705 Race Street
Auditor's Parcel No.: 094-0008-0166

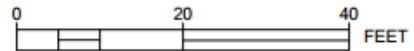
Situated in Cincinnati, Hamilton County, Ohio, and being Lot 3 of Block "F", Findlay and Garrard's Subdivision, Deed Book 47, Page 319, Recorder's Office.

Beginning at a point in the West line of Race Street which lies 50 feet North of the North line of Green Street, measured along the West line of Race Street; thence South 73° 56' West 100 feet; thence North 16° West 20 feet; thence North 73° 56' East 100 feet; thence South 16° East 20 feet to a point of beginning.

EXHIBIT B
to Grant of Easements
SURVEY

SURVEY DATA:

HORIZONTAL DATUM – DERIVED FROM THE OHIO STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD83 (2011). SAID BEARINGS ORIGINATED FROM SAID COORDINATE SYSTEM BY GPS OBSERVATIONS AND OBSERVATIONS OF SELECTED STATIONS IN THE NATIONAL GEODETIC SURVEY CONTINUOUSLY OPERATING REFERENCE STATION (NGS CORS) NETWORK.



LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	1.25	S10°04'49"E
L2	4.00	S79°55'11"W
L3	1.25	N10°04'49"W
L4	4.00	N79°55'11"E
L5	27.95	S79°55'11"W
L6	5.00	N10°00'22"W
L7	1.25	N79°59'38"E
L8	5.00	S10°00'22"E
L9	1.25	S79°59'38"W
L10	37.24	N10°00'22"W
L11	6.25	N10°00'22"W
L12	4.30	N79°59'38"E
L13	6.25	S10°00'22"E
L14	4.30	S79°59'38"W
L15	58.09	N10°00'22"W

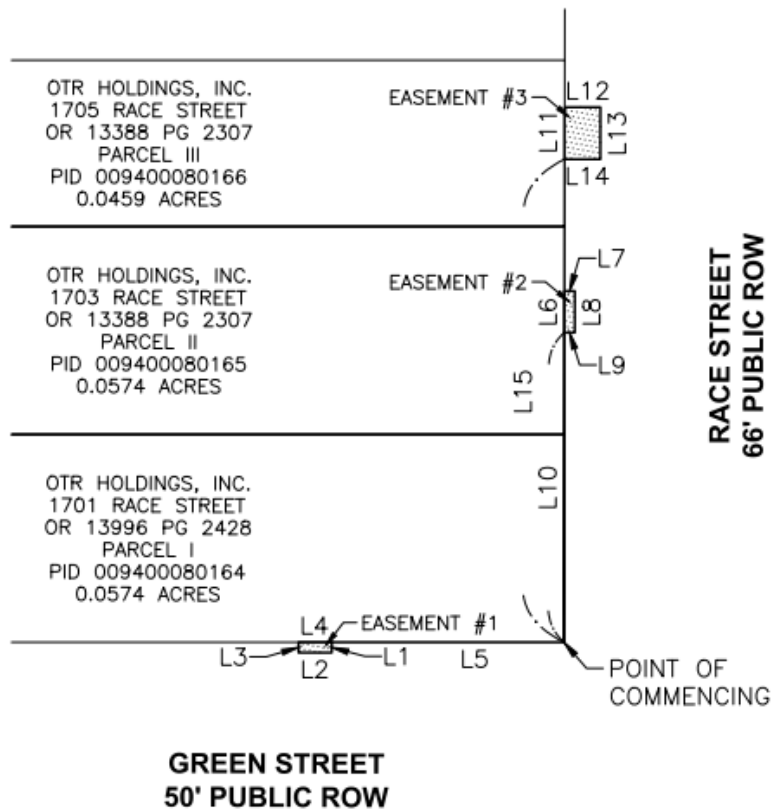


EXHIBIT C
to Grant of Easements
LEGAL DESCRIPTIONS

STEP EASEMENT #1
HAMILTON COUNTY, OHIO
APRIL 1, 2022

Situate in Section 13, Township 3 East, Range 2 North, in the City of Cincinnati, County of Hamilton, State of Ohio, and being over the right of way of Green Street, a 50' wide public right of way (all references to deeds, microfiche, plats, surveys, etc. refer to the records of the Hamilton County Recorder's Office, unless noted otherwise) and being more particularly bounded and described as follows:

Commencing for reference at the southeast corner of a 0.0574 acre tract of land (Parcel I) as conveyed to OTR Holdings, Inc. by deed recorded in Official Record Volume 13996, page 2428, said point being the intersection of the north right of way line of said Green Street (50' public right of way) and the west right of way line of Race Street (66' public right of way);

thence along the south line of said Parcel I and the north right of way line of said Green Street, South seventy-nine degrees fifty-five minutes eleven seconds West (S79°55'11"W), for twenty-seven and 95/100 feet (27.95') to the TRUE POINT OF BEGINNING;

thence leaving said lines and across said Green Street, South ten degrees four minutes forty-nine seconds East (S10°04'49"E), for one and 25/100 feet (1.25');

thence continuing across said Green Street, South seventy-nine degrees fifty-five minutes eleven seconds West (S79°55'11"W), for four and 00/100 feet (4.00');

thence continuing across said Green Street, North ten degrees four minutes forty-nine seconds West (N10°04'49"W), for one and 25/100 feet (1.25') to the south line of said Parcel I and the north right of way line of said Green Street;

thence along said lines, North seventy-nine degrees fifty-five minutes eleven seconds East (N79°55'11"E), for four and 00/100 feet (4.00') to the TRUE POINT OF BEGINNING, containing 5 square feet, more or less.

Bearings are based upon the Ohio State Plane Coordinate System, South Zone, NAD83 (2011). Said bearings originated from said coordinate system by GPS observations and observations of selected stations in the National Geodetic Survey Continuously Operating Reference Station (NGS CORS) Network.

This description was prepared under the direction of Michael Jay Wilson, Ohio Registered Surveyor No. 8281, of Woolpert Inc., based upon a field survey performed during September, 2021.



Michael Jay Wilson 4/18/2022
Michael Jay Wilson Date
Ohio Registered Surveyor No. 8281

EXHIBIT C (Cont.)

**STEP EASEMENT #2
HAMILTON COUNTY, OHIO
APRIL 1, 2022**

Situate in Section 13, Township 3 East, Range 2 North, in the City of Cincinnati, County of Hamilton, State of Ohio, and being over the right of way of Race Street, a 66' wide public right of way (all references to deeds, microfiche, plats, surveys, etc. refer to the records of the Hamilton County Recorder's Office, unless noted otherwise) and being more particularly bounded and described as follows:

Commencing for reference at the southeast corner of a 0.0574 acre tract of land (Parcel I) as conveyed to OTR Holdings, Inc. by deed recorded in Official Record Volume 13996, page 2428, said point being the intersection of the north right of way line of Green Street (50' public right of way) and the west right of way line of said Race Street (66' public right of way);

thence along the east line of said Parcel I, the east line of a 0.0574 acre tract of land (Parcel II) as conveyed to OTR Holdings, Inc. by deed recorded in Official Record Volume 13388, page 2307, and the west right of way line of said Race Street, North ten degrees zero minutes twenty-two seconds West (N10°00'22"W), for thirty-seven and 24/100 feet (37.24') to the TRUE POINT OF BEGINNING;

thence continuing along said lines, North ten degrees zero minutes twenty-two seconds West (N10°00'22"W), for five and 00/100 feet (5.00');

thence leaving said lines and across said Race Street, North seventy-nine degrees fifty-nine minutes thirty-eight seconds East (N79°59'38"E), for one and 25/100 feet (1.25');

thence continuing across said Race Street, South ten degrees zero minutes twenty-two seconds East (S10°00'22"E), for five and 00/100 feet (5.00');

thence continuing across said Race Street, South seventy-nine degrees fifty-nine minutes thirty-eight seconds West (S79°59'38"W), for one and 25/100 feet (1.25') to the TRUE POINT OF BEGINNING, containing 6.25 square feet, more or less.

Bearings are based upon the Ohio State Plane Coordinate System, South Zone, NAD83 (2011). Said bearings originated from said coordinate system by GPS observations and observations of selected stations in the National Geodetic Survey Continuously Operating Reference Station (NGS CORS) Network.

This description was prepared under the direction of Michael Jay Wilson, Ohio Registered Surveyor No. 8281, of Woolpert Inc., based upon a field survey performed during September, 2021.



Michael Jay Wilson 4/1/2022
Michael Jay Wilson Date
Ohio Registered Surveyor No. 8281

EXHIBIT C (Cont.)

**STEP EASEMENT #3
HAMILTON COUNTY, OHIO
APRIL 1, 2022**

Situate in Section 13, Township 3 East, Range 2 North, in the City of Cincinnati, County of Hamilton, State of Ohio, and being over the right of way of Race Street, a 66' wide public right of way (all references to deeds, microfiche, plats, surveys, etc. refer to the records of the Hamilton County Recorder's Office, unless noted otherwise) and being more particularly bounded and described as follows:

Commencing for reference at the southeast corner of a 0.0574 acre tract of land (Parcel I) as conveyed to OTR Holdings, Inc. by deed recorded in Official Record Volume 13996, page 2428, said point being the intersection of the north right of way line of Green Street (50' public right of way) and the west right of way line of said Race Street (66' public right of way);

thence along the east line of said Parcel I, the east line of a 0.0574 acre tract of land (Parcel II) and the east line of a 0.0459 acre tract of land (Parcel III) as conveyed to OTR Holdings, Inc. by deed recorded in Official Record Volume 13388, page 2307, and the west right of way line of said Race Street, North ten degrees zero minutes twenty-two seconds West (N10°00'22"W), for fifty-eight and 9/100 feet (58.09') to the TRUE POINT OF BEGINNING;

thence continuing along said lines, North ten degrees zero minutes twenty-two seconds West (N10°00'22"W), for six and 25/100 feet (6.25');

thence leaving said lines and across said Race Street, North seventy-nine degrees fifty-nine minutes thirty-eight seconds East (N79°59'38"E), for four and 30/100 feet (4.30');

thence continuing across said Race Street, South ten degrees zero minutes twenty-two seconds East (S10°00'22"E), for six and 25/100 feet (6.25');

thence continuing across said Race Street, South seventy-nine degrees fifty-nine minutes thirty-eight seconds West (S79°59'38"W), for four and 30/100 feet (4.30') to the POINT OF BEGINNING, containing 26.875 square feet, more or less.

Bearings are based upon the Ohio State Plane Coordinate System, South Zone, NAD83 (2011). Said bearings originated from said coordinate system by GPS observations and observations of selected stations in the National Geodetic Survey Continuously Operating Reference Station (NGS CORS) Network.

This description was prepared under the direction of Michael Jay Wilson, Ohio Registered Surveyor No. 8281, of Woolpert Inc., based upon a field survey performed during September, 2021.



Michael Jay Wilson 4/1/2022
Michael Jay Wilson Date
Ohio Registered Surveyor No. 8281