

RECORD OF ORDINANCES

Ordinance No. 3797

Passed: March 25, 2025

AN ORDINANCE DETERMINING TO PROCEED WITH THE SPECIAL ASSESSMENT PROJECT AT 128 SOUTH ELM STREET, 134 SOUTH ELM STREET, 9 PIERCE AVENUE, AND 15 PIERCE AVENUE IN WEST CARROLLTON, OHIO INVOLVING THE ACQUISITION, CONSTRUCTION, AND IMPROVEMENT OF AN AIR QUALITY FACILITY AND DECLARING AN EMERGENCY.

WHEREAS, Trojon Real Estate, LLC (together with all future owners of the Project Site, as defined below, the "Owner" or "Petitioner"), as the fee title owner of certain real property located at 128 South Elm Street, 134 South Elm Street, 9 Pierce Avenue, and 15 Pierce Avenue in West Carrollton, Ohio (the "Project Site"), has executed and delivered to the West Carrollton City Council a Petition to Request the Levy of a Special Assessment, a copy of which is attached hereto and incorporated herein as Attachment A to the Resolution of Necessity, as defined below (the "Petition"); and

WHEREAS, prior to the passage of this ordinance, Council duly adopted a resolution attached hereto and incorporated herein declaring the necessity of developing and implementing an air quality facility as defined in Ohio Revised Code ("R.C.") Section 3706.01 (the "Project", as more fully described in the Petition) located on the Project Site (the "Resolution of Necessity"), which provides for the levying and collection of special assessments to be assessed on the Project Site sufficient to pay the costs of the Project; and

WHEREAS, all statutory procedural requirements for the imposition of special assessments on the Project Site, including, without limitation, the right to make claims for damages alleged to result from and objections to the Project have been waived by the Owner, as owner of 100 percent of the Project Site, and no claims for damages have been filed.

NOW, THEREFORE, THE MUNICIPALITY OF WEST CARROLLTON, OHIO, HEREBY ORDAINS:

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined herein or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity, an unsigned copy of which is attached hereto and incorporated herein to this ordinance as Attachment A.

Section 2. That Council declares its intention to permit the Petitioner to proceed with the acquisition, construction, and improvement of the Project described in the Petition attached hereto and incorporated here in as Attachment B and the Resolution of Necessity. The Project shall be located entirely on the real property referenced in Petition Exhibit A Description of Property located at 128 South Elm Street, 134 South Elm Street, 9 Pierce Avenue, and 15 Pierce Avenue in West Carrollton, Ohio in West Carrollton, Ohio (the "Project Site"), and shall be made in accordance with the provisions of the Resolution of Necessity and with the plans, specifications, and estimates of cost previously approved and now on file with the Clerk of Council.

Section 3. That the assessment of the Special Assessments to pay costs of the Project, which are estimated to be in an amount not to exceed \$251,850 (i.e., \$219,000 aggregate special assessment plus 15%), which include, without limitation, the payment of principal of and interest on bonds issued by the Authority to pay the costs of the Project and other interest, financing, and issuance expenses and the Authority administrative fees and expenses, or otherwise to pay costs of the

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Authorized Improvements (as defined in the Petition) in anticipation of the receipt of the Special Assessments, shall be assessed against the Project Site in the manner and in the number of installments provided in the Petition and the Resolution of Necessity. Each Special Assessment payment represents the payment of a portion of the principal of and interest on obligations issued to pay the costs of the Project and administrative costs associated with the financing. The Special Assessments shall be assessed against the Project Site in tax years 2025 through 2049 for collection in calendar years 2026 through 2050. In addition to the Special Assessments, the County Auditor of Montgomery County, Ohio (the "County Auditor"), may impose a special assessment collection fee with respect to each installment payment, which amount, if imposed, will be added to the Special Assessments by the County Auditor.

Section 4. That the estimated Special Assessments for costs of the Project, which have been prepared and filed with the Clerk of Council in accordance with the Resolution of Necessity attached hereto and incorporated herein, are adopted, and that the usefulness of the air quality facility is determined to exceed 25 years.

Section 5. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including but not limited to Section 121.22 of the Ohio Revised Code.

Section 6. That, in compliance with R.C. Section 319.61, the Clerk of Council is hereby directed to deliver a certified copy of this ordinance to the County Auditor within fifteen days after the date of its passage.

Section 7: This Ordinance is declared to be an emergency necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of the Charter, become effective immediately. The reason for the emergency is to ensure that the Authority can consider the issuance of the bonds to be secured by the Special Assessments and allow the work on the Project to proceed at the earliest possible time.

Passed: March 25, 2025



Mayor

Attest: Tracy Moore
Clerk of Council

Effective Date: March 25, 2025

RECORD OF RESOLUTIONS

Resolution No. 16-2025

Passed: _____ 2025

A RESOLUTION DECLARING THE NECESSITY OF THE SPECIAL ASSESSMENT PROJECT AT 128 SOUTH ELM STREET, 134 SOUTH ELM STREET, 9 PIERCE AVENUE, AND 15 PIERCE AVENUE IN WEST CARROLLTON, OHIO; APPROVING A PETITION FOR SPECIAL ASSESSMENTS RELATING TO THE SPECIAL ASSESSMENT PROJECT AT 128 SOUTH ELM STREET, 134 SOUTH ELM STREET, 9 PIERCE AVENUE, AND 15 PIERCE AVENUE; AND AUTHORIZING THE CITY MANAGER TO EXECUTE A COOPERATIVE AGREEMENT WITH THE OHIO AIR QUALITY DEVELOPMENT AUTHORITY RELATING TO THE SPECIAL ASSESSMENT PROJECT AT 128 S. ELM ST., 134 SOUTH ELM STREET, 9 PIERCE AVENUE, AND 15 PIERCE AVENUE, PURSUANT TO OHIO REVISED CODE SECTION 3706.051.

WHEREAS, Trojon Real Estate, LLC (together with all future owners of the Project Site, as defined below, the "Owner" or "Petitioner"), as the fee title owner of certain real property referenced in Petition Exhibit A Description of Property located at 128 South Elm Street, 134 South Elm Street, 9 Pierce Avenue, and 15 Pierce Avenue in West Carrollton, Ohio (the "Project Site"), which is to be assessed for the improvements described in this resolution pursuant to Ohio Revised Code ("R.C.") Chapter 727 (collectively, the "Act"), has executed and delivered to Council a Petition to Request the Levy of a Special Assessment, a copy of which is attached hereto and incorporated herein as Attachment A (the "Petition"); and

WHEREAS, pursuant to the Petition, the Owner has proposed the necessity of special assessments to pay the costs of developing and implementing an air quality facility (as defined in R.C. Section 3706.01) comprised of the Authorized Improvements (as defined in the Petition), specifically benefitting the Project Site (the "Project"); and

WHEREAS, in the Petition the Owner requests that the Project be paid for by special assessments assessed upon the Project Site in an amount sufficient to pay the costs of the Project, which is estimated to be an amount not to exceed \$251,850 (i.e., \$219,000 aggregate special assessment plus 15%), plus interest thereon (the "Special Assessments"); and

WHEREAS, pursuant to the Act and R.C. Section 3706.051, the City may to enter into an agreement with the Ohio Air Quality Development Authority (the "Authority") and levy special assessments upon property specially benefited by an air quality facility; and

WHEREAS, Council has determined (i) the Special Assessments are conducive to the public health, convenience, and welfare of this City and the inhabitants of West Carrollton; (ii) the Project Site is specially benefited by the Special Assessments; (iii) the Special Assessments have been petitioned for by the owner of 100 percent of the Project Site; and accordingly, has determined it necessary to approve the Petition; and

WHEREAS, Council has determined to authorize the City Manager to enter into an agreement with the Authority pursuant to the Act and R.C. Section 3706.051 in substantially the form of agreement, subject to revisions proposed or approved by the Law Director, attached hereto and incorporated herein as Attachment B (the "Agreement"), which Agreement provides for the issuance of bonds by the Authority; now, therefore,

RECORD OF RESOLUTIONS

Resolution No. 16-2025

Passed: _____ 2025

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WEST CARROLLTON, MONTGOMERY COUNTY, OHIO:

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined herein or by reference to another document shall have the meaning assigned to it in the Petition, which Petition, together with the Agreement, are hereby approved and accepted, and copies of which are attached hereto and incorporated herein this resolution as Attachment A and Attachment B, respectively.

Section 2. That the West Carrollton City Council (a) declares the necessity of the Project, the costs of which shall be secured by the Special Assessments, as provided in the Petition, and (b) finds it necessary to specially assess the Project Site referenced in Petition Exhibit A Description of Property to support an air quality facility in accordance with the submitted plans, specifications, and estimates of cost. The Petition includes a listing of the parcel(s) of real property owned by the Owner to be assessed and is incorporated herein by reference.

Section 3. That the City Manager or her designee is authorized to execute the Agreement substantially in the form now on file with the Clerk of Council, together with any modifications as may be necessary, subject to any and all terms and conditions that the City Manager or her designee finds appropriate, to effectuate the purpose of the Petition and R.C. Section 3706.051; provided, that any such modification shall not, in the judgment of the City Manager, be adverse to the City.

Section 4. That the costs of the Project, as set forth in the Petition, shall be assessed in proportion to the benefits upon the Project Site, and the Special Assessments for the Project shall be assessed and paid as specified in the Petition. The portion of the costs of the Project allocable to the City will be zero percent. The City does not intend to issue securities in anticipation of the levy of the Special Assessments.

Section 5. That the City's Finance Director and/or her designee is authorized to cause to be prepared and filed in the office of the Clerk of Council the estimated Special Assessments and the cost of the Project in accordance with the method of assessment set forth in the Petition and this resolution.

Section 6. That the Special Assessments shall be levied and paid in fifty semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition. The Owner has waived the right to pay the Special Assessments in cash within thirty days after the first publication of the notice of the assessing ordinance.

Section 7. That the Owner has waived notice of the adoption of this resolution and the filing of the estimated Special Assessments upon the filing of the estimated Special Assessments with the Clerk of Council under R.C. Section 727.13.

Section 8. That Council hereby accepts and approves the waivers contained in the Petition of all further notices, hearings, claims for damages, rights to appeal and other rights of property owners under the law, including, without limitation, those specified in the Ohio Constitution, R.C. Chapter 727, R.C. Chapter 1710, and the Charter of the City of West Carrollton, Ohio, and consents to the

RECORD OF RESOLUTIONS

Resolution No. 16-2025

Passed: _____ 2025

immediate imposition of the Special Assessments upon the Project Site.

Section 9. That it is hereby found and determined that all formal actions of Council concerning and relating to the passage of this resolution were adopted in an open meeting of Council, and that all deliberations of Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including R.C. Section 121.22.

Section 10. That this resolution shall be effective immediately upon passage to ensure that the Ohio Air Quality Development Authority can consider the issuance of the bonds to be secured by the Special Assessments and allow the work on the Project to proceed at the earliest possible time.

Passed: _____

Mayor

Attest: _____
Clerk of Council

Effective Date: _____

**PETITION TO REQUEST THE
LEVY OF A SPECIAL ASSESSMENT**

TO THE COUNCIL OF THE CITY OF WEST CARROLLTON, OHIO:

The undersigned, **Trojon Real Estate, LLC**, a(n) State of Ohio Limited Liability Corporation, (the "**Owner**") represents and warrants that it is, on the date of this Petition and on the date of submission of this Petition to the Council of the City of West Carrollton, Ohio ("**Council**"), the owner of fee simple title to the real property described in Exhibit A attached hereto and incorporated herein by this reference ("**Property**"), and that the Property includes one hundred percent (100%) of the area and lots and lands benefited by and to be assessed for the improvements hereinafter described ("**Assessed Lands**").

Petition for Authorized Improvements. The Owner (together with its grantees or transferees, and its and their successors and assigns as owners of any of the lots and lands included in the Assessed Lands, "**Owners**"), hereby respectfully petition the Council for the improvements which constitute an air quality facility as further described in Exhibit B attached hereto, which Exhibit is incorporated herein by this reference (collectively, "**Authorized Improvements**"), as the same are further described and detailed in the plans, specifications, profiles and estimates of cost (collectively, "**Plans**") filed in the office of the Clerk of Council of the City of West Carrollton, Ohio ("**City**") prior to or concurrently with the filing of this Petition.

Costs to be Assessed; Period of Assessment. The undersigned further requests, on behalf of the Owners, that 100% of the total assessable cost of the Authorized Improvements, determined subject to and as further described herein and in the Plans ("**Assessable Cost**"), be assessed upon the lots and lands constituting the Assessed Lands, with such assessments ("**Special Assessments**") to be allocated and assessed to the Assessed Lands in proportion to the benefits received, as further described herein, and to be payable, when levied, semi-annually for not more than **twenty (20)** years. The Owner requests that the Special Assessments be collected semi-annually but understands that the Special Assessments will be collected as determined by the Montgomery County Auditor.

The Assessable Cost of the Authorized Improvements may include, if so elected by the City, any one or more of the following costs:

(a) all costs ("**Direct Costs**") incurred with respect to the design, engineering, acquisition, construction, installation and equipping of the Authorized Improvements;

(b) all costs ("**Indirect Costs**") incurred in connection with the preparation, levy, collection and enforcement of the Special Assessments and the financing of the Authorized Improvements including, without limitation, the following: (i) County Auditor and Treasurer collection fees, (ii) with respect to the issuing or servicing of any revenue, general obligation or other debt obligations, including without limitation revenue bonds to be issued by the Ohio Air Quality Development Authority ("**OAQDA**") to finance costs of the Authorized Improvements under an agreement with the City/Township, in anticipation of collection of the Special Assessments (whether or not also issued in anticipation of other revenues) or otherwise, to finance the Authorized Improvements, subject to the limitations established in the ordinance levying the

assessments (or such other ordinances as may be applicable), together with any bond service charges or other like charges, administrative expenses and transaction costs.

Estimated Assessments. In connection with this Petition and in furtherance of the purposes hereof, the Owner acknowledges that it has reviewed the Plans, including the estimated costs of the Authorized Improvements (including any debt service relating thereto) and the estimated useful life of the Authorized Improvements, and now on file with the Clerk of Council. In connection with this Petition and in furtherance of the purposes hereof, the Owner further acknowledges that it has reviewed the estimated Special Assessments to be levied for the Authorized Improvements, including all estimated costs to be included therein which are now on file with the Clerk of Council, and acknowledges and agrees that the estimated Special Assessments have been determined in accordance with this Petition.

Benefit. The undersigned Owner acknowledges and agrees that the Special Assessments as contemplated herein do not exceed the benefit to be received by the Assessed Lands as a result of the Authorized Improvements. The Owner acknowledges that these Special Assessments are fair, just and equitable and are being imposed at the Owner's specific request.

Acknowledgments, Consents and Waivers. The Owner hereby waives notice and publication of all resolutions, legal notices, and hearings provided for in the Ohio Revised Code with respect to the Authorized Improvements and the Special Assessments, particularly those in Ohio Revised Code Chapter 727 and consents to proceeding with the Authorized Improvements. Without limiting the foregoing, the Owner specifically waives any notices and rights under the following Ohio Revised Code Sections:

- The right to notice of the adoption of the Resolution of Necessity under Ohio Revised Code Sections 727.13 and 727.14;
- The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06, including the right to consider the Special Assessments authorized by this Petition within the limitations contained in Ohio Revised Code Sections 727.03 and 727.06 applicable to the Special Assessments and any other special assessments properly levied now or in the future;
- The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- The right to notice that bids or quotations for the Authorized Improvements may exceed estimates by 15%;
- The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251; and
- The right to notice of the passage of the Assessing Ordinance under Ohio Revised Code Section 727.26.

Covenants of Owners. In consideration of the special benefits conferred by the Authorized Improvements, the undersigned Owner covenants and agrees that it will (so long as it is an Owner of Assessed Lands), and that each other Owner will, pay promptly all Special Assessments levied

against those Assessed Lands owned by such Owner as they come due and before they become delinquent, and further agrees that the determination by the Council of the Special Assessments to be imposed against the Assessed Lands will be final, conclusive and binding upon each and all of the Assessed Lands and each such Owner (except as may be subsequently amended by the Council to establish the final amount of said Special Assessments).

The undersigned Owner further covenants and agrees, so long as the Obligations remain outstanding and/or any Special Assessments remain unpaid, upon the transfer of any of the Assessed Lands or any portion thereof to any transferee: (a) to disclose the existence of any outstanding Special Assessments for the Authorized Improvements, (b) to pay or cause to be paid prior to any such transfer, as a condition to the effectiveness of the delivery of any deed or instrument of transfer, all Special Assessments then or theretofore due and payable with respect to the Assessed Lands to be transferred, and (c) to require that each such transferees in writing agree to make such payments, make such disclosure to any subsequent transferee and require subsequent transferees to take on the same obligations. As a condition to any transfer of Assessed Lands while any of the Special Assessments remain unpaid, the deed or instrument of transfer to any transferee shall provide for (i) the acquisition of such property subject to any outstanding Special Assessments imposed on such property and for the waiver by such transferee of any rights that the undersigned Owner has waived pursuant to this Petition and (ii) the requirement that each transferee from time to time of any of the Assessed Lands covenant to include in the deed or instrument of transfer to any subsequent transferee the conditions described in clause (i) of this sentence so long as any such Special Assessments remain unpaid; provided, that if a declaration conforming to the requirements of this Petition shall have been recorded with respect to all of the Assessed Lands, the deed or instrument of transfer may instead make specific reference to that declaration. For purposes of this Petition, the term “transfer” shall include any transfer or assignment of either the controlling voting interest, or of all or substantially all of the economic interest, in any entity formed for the purpose of owning (or otherwise owning) one or more parcels included in the Assessed Lands as all or a substantial part of the assets of such entity, but excluding a collateral assignment for security purposes only.

Additional Agreements and Waivers of Owners: To the extent, if any, not included above, the undersigned Owner further waives any and all irregularities and defects in the proceedings for the Special Assessments, the issuance or incurrence of the Obligations, and the certification, collection and enforcement of the Special Assessments and the lien thereof.

The undersigned Owner further consents and agrees that all legislation required to be enacted to permit the Authorized Improvements to commence immediately be enacted at one Council meeting, including the resolution of necessity specified in Section 727.12 of the Revised Code, the ordinance to proceed specified in Section 727.23 of the Revised Code and the assessing ordinance specified in Section 727.25 of the Revised Code, and further consents and requests that the Special Assessments shall be levied and may be collected before the actual cost of the Authorized Improvements is ascertained. The Owner, and each of the Owners, specifically agrees that it will not contest, in a judicial or administrative proceeding the Special Assessments levied against the Assessed Lands for the Authorized Improvements.

Petition Binds all Future Owners. Whether or not expressly stated herein, each and every covenant, agreement, representation, warranty, certification, verification, waiver, imposition or other condition or term of this Petition made by the undersigned Owner is and shall constitute a covenant running with the Assessed Lands, made for and on behalf of each Owner from time to

time of any and all of the Assessed Lands, and each of their successors and assigns, as if each such Owner (or successor or assign) had owned the Assessed Lands on the dates of this Petition and its submission to Council, and had joined in the execution hereof. The undersigned Owner hereby acknowledges and affirms, for itself and on behalf of each Owner from time to time, that (i) it intends that the City rely on each covenant, agreement, representation, warranty, certification, verification, waiver, imposition or other condition or term of this Petition, and (ii) if the City elects to levy the Special Assessments and otherwise take the actions contemplated hereby, that the City is acting in consideration of each such covenant, agreement, representation, warranty, certification, verification, waiver, imposition or other condition or term of this Petition.

Authority to Sign. The undersigned signatory represents and warrants that they have full right and authority to sign this Petition and no other signatures or approvals are required.

[Signature Page Follows]

OWNER:

Trojan Real Estate, LLC

Name: Chris Trochelman
Its: Owner, Trojan Real Estate, LLC

Dated: 24 February 2025

STATE OF OHIO)
COUNTY OF Greene)

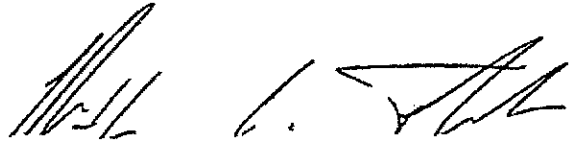
The foregoing instrument was acknowledged before me this 24th day of February, 2025 by Christopher Trochelman, owner of Trojan Real Estate, a(n) LLC, on behalf of the owner. This is an acknowledgment, and no oath or affirmation was administered to the signer with regard to this acknowledgment.



Cheryl M. Ferguson
Notary Public
My commission expires: June 26, 2029

OWNER:

Trojon Real Estate, LLC



Name: Chris Trochelman

Its: Owner, Trojon Real Estate, LLC

Dated: 24 February 2025

STATE OF OHIO)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____,
20__ by _____, _____ of _____, a(n)
_____, on behalf of the _____. This is an acknowledgment, and no
oath or affirmation was administered to the signer with regard to this acknowledgment.

Notary Public
My commission expires: _____

EXHIBIT A
DESCRIPTION OF PROPERTY

Property for Parcel(s): **K48 00109, 0087,0088,0105,0106**

Situate in the City of West Carrollton, County of Montgomery, State of Ohio and being all of Lots 457, 458, 484, 483 and part of Lot 482 of the revised and consecutive number of Lots on the Plat of the City of West Carrollton, and vacated alleys, being more particularly described as follows:

Beginning with a railroad spike at the intersection of the Easterly right of way line of Elm Street and the Southerly right of way line of the New York Central Railroad;

Thence in a Northeasterly direction along the Southerly right of way lien of said railroad, a distance of 274.45 feet to an iron pin, said railroad and the North Westerly extensions of the Southwesterly line of Lot Number 482;

Thence in a Southeasterly direction, parallel to and 20.00 feet East of the Southwesterly line of Lot Number 482, a distance of 91.00 feet to an iron pin;

Thence continuing in a Southeasterly direction a distance of 65.55 feet to an iron pin in the Northerly right of way line of Pierce Avenue, said pin being 13.90 feet West of the most Easterly corner of Lot Number 482;

Thence in a Southwesterly direction along the Northerly right of way line of Pierce Avenue, a distance of 106.70 feet to an iron pin being the most Southerly corner of Lot Number 484;

Thence in a Northwesterly direction along the Southwesterly line of Lot Number 484, a distance of 5 1.83 feet to an iron pin, said pin being the intersection of the Southwesterly lien of Lot Number 484 and the Northeasterly extension of the Southeasterly line of Lot Number 458;

Thence in a Southwesterly direction along the Southeasterly line of Lot Number 458 and its extension a distance of 156.00 feet to an iron pin in the Easterly right of way line of Elm Street, said pin also being the most Southerly corner of Lot Number 458;

Thence in a Northwesterly direction along the Easterly right of way line of Elm Street, a distance of 123.07 feet to the place of beginning.

Subject to all legal highways, easements and restrictions of record.

Together with an easement for ingress and egress being 5.00 feet in width taken by parallel lines off the Northeasterly lines of the above described tract.

**EXHIBIT B
AUTHORIZED IMPROVEMENTS**

This project will upgrade some of the roof sections to a new cool roof with additional insulation. In addition, the project will include a new solar array.

EXHIBIT C
ESTIMATED ASSESSMENTS

<u>Aggregate Special Assessment</u>	<u>Semi-Annual Installment of Special Assessment</u> (i.e., this amount is to be paid 40 times over a 20-year period)
\$ 219,000	\$ 12,500