

RESOLUTION NO. 52-13
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Brooks Compton ON THE 4th
DAY OF November, 2013.

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A DEVELOPMENT AGREEMENT WITH CORNERSTONE DEVELOPERS, LTD. FOR PROPERTY LOCATED IN THE CITY OF CENTERVILLE CONSISTING OF APPROXIMATELY 228.5 ACRES LOCATED NORTH AND SOUTH OF I-675.

WHEREAS, the City of Centerville and Cornerstone Developers, LTD, the Owner and Developer of property located in City of Centerville both north and south of Interstate 675, have successfully negotiated a Development Agreement to allow property to be developed in the City and for the construction of both private and public improvements; and

WHEREAS, this Council has determined that it would be in the best interests of the citizens of Centerville to enter into said Agreement.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

SECTION 1. That the City Manager is authorized and directed to enter into a Development Agreement with Cornerstone Developers, LTD to allow for the development of property located in City of Centerville, consisting of approximately 228.5 acres along the north and south sides of I-675, in accordance with the terms of said agreement, a copy of which is attached hereto as Exhibit "A" and incorporated herein.

SECTION 2. This Resolution is to take effect at the earliest time allowed by law.

PASSED THIS 4th day of November, 2013.

C. Mark Keupel
Mayor of the City of
Centerville, Ohio

ATTEST:

Debra A. James
Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 52-13, passed by the Council of the City of Centerville, Ohio on the 4th day of November, 2013.

Debra A. James
Clerk of the Council

Approved as to form, consistency
with existing ordinances, the
charter & constitutional provisions
Department of Law
Scott A. Liberman
Municipal Attorney

DEVELOPMENT AGREEMENT

by and between

CITY OF CENTERVILLE, OHIO

And

CORNERSTONE DEVELOPERS, LTD.

relating to

CORNERSTONE OF CENTERVILLE DEVELOPMENT

dated as of

_____, 2013

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "*Agreement*") is made and entered into this ___ day of _____, 2013 (the "*Effective Date*"), by and between the CITY OF CENTERVILLE, OHIO ("*City*"), a municipal corporation duly organized and validly existing under the Constitution and the laws of the State of Ohio (the "*State*") and its Charter, and CORNERSTONE DEVELOPERS, LTD ("*Developer*" and together with City, the "*Parties*") an Ohio limited liability company, under the circumstances summarized in the following recitals:

RECITALS

A. Developer is the owner of the land and improvements thereon located in the City of Centerville, Ohio, consisting of approximately 157 acres, as described on Exhibit A hereto (the "*North Parcel*") and the land consisting of approximately 71.5 acres as described on Exhibit B hereto (the "*South Parcel*") (the North Parcel and the South Parcel, collectively, the "*Project Site*").

B. Developer desires to develop the Project Site by constructing or causing to be constructed retail, office and residential improvements thereupon as shown on the Conceptual Development Plan attached as Exhibit C (the "*Private Improvements*").

C. In order to serve the Private Improvements, Developer desires to work with the City in widening one or more existing public streets, constructing new public streets, constructing new water and sewer lines, and constructing other public infrastructure, as described generally on Exhibit D hereto (collectively, the "*Public Improvements*").

D. The construction of the Public Improvements will require the acquisition of additional property for the extension of a public street to the Project Site, which is the Additional Property as defined herein, and Developer has asked the City for assistance in acquiring the Additional Property through eminent domain proceedings if necessary.

E. The construction of the Private Improvements and the Public Improvements, the acquisition of the Additional Property, and all other associated work, are referred to herein collectively as the "*Development*."

F. Developer anticipates completing the Development in multiple phases, beginning in the fourth quarter of 2013 and continuing for an estimated 10-15 years.

G. Plans and specifications for the Private Improvements have not yet been developed and therefore Developer has not yet determined the estimated cost of constructing the Private Improvements; however Developer estimates that the as-built appraised value of the Private Improvements will be in excess of \$120 million.

H. Developer and the City estimate that the cost of constructing the Public Improvements will consist of approximately \$7.75 million of roadways and other improvements that are located on and will primarily serve the North Parcel and approximately \$3.25 million of roadways and other improvements that are located on and will primarily serve the South Parcel (collectively, the "*Interior Public Improvements*") and approximately \$14 million of roadway,

utility and other improvements related to or adjacent to the Development, as described in Exhibit D hereto, which benefit the Development and also enhance the overall traffic and street infrastructure in the I-675/Feedwire Road/Wilmington Pike/Clyo Road area (the "*Exterior Public Improvements*"). The City has agreed to fund the construction of both the Interior Public Improvements and the Exterior Public Improvements subject to the terms and conditions of this Agreement, including the City's approval of the phasing of the construction of the public and private improvements.

I. Developer and the City have agreed on the initial phase of the Development which is located on a portion of the North Parcel ("*Phase I*") as shown on the site plan attached hereto as Exhibit E. Phase I will entail approximately \$16.3 million of Private Improvements. Phase I will also entail approximately \$2.4 million of Interior Public Improvements and \$4.2 million of Exterior Public Improvements. A detailed scope of the Phase I Public Improvements is attached as Exhibit F.

J. The City anticipates that it will issue bonds and/or bond anticipation notes to pay a portion of the cost of the Interior Public Improvements and the Exterior Public Improvements on the various Phases of the Project, such debt being collectively referred to herein as the "*City Debt*."

K. Pursuant to Sections 5709.40(B), 5709.42 and 5709.43 of the Ohio Revised Code (collectively, the "*TIF Statutes*") and to facilitate the financing of the Public Improvements, the City has enacted an ordinance (the "*TIF Ordinance*") to declare the Improvement (as defined in Section 5709.40(A) of the Ohio Revised Code) to certain portions of the North Parcel and South Parcel identified on Exhibit G attached hereto and incorporated by reference herein (such parcels being collectively referred to as the "*TIF Parcels*" and the owners of the TIF Parcels being collectively referred to as the "*TIF Parcel Owners*") to be a public purpose and exempt from taxation for a period of thirty (30) years, require the TIF Parcel Owners to make service payments in lieu of taxes, provide for the distribution of the applicable portion of such service payments to the Sugarcreek Local School District and the Greene County Vocational School District (collectively, the "*School Districts*"), establish a municipal public improvement tax increment equivalent fund for the deposit of the remainder of such service payments and specify the Public Improvements as improvements that will directly benefit the TIF Parcels. The parties acknowledge that the TIF Ordinance may need to be amended to reflect the terms and conditions established in this Agreement (the "*Amended TIF Ordinance*").

L. Developer has agreed, pursuant to the terms of this Agreement, for itself and its successors as TIF Parcel Owners with respect to the TIF Parcels, to make service payments with respect to the TIF Parcels (together with all related interest and penalties thereon for the nonpayment of such service payments, collectively, the "*Statutory Service Payments*") in lieu of real property taxes on the Improvements to the TIF Parcels.

M. The Amended TIF Ordinance will authorize the Statutory Service Payments and the Minimum Service Payments (collectively, the "*Service Payments*") to be used for the payment of the costs of the Interior Public Improvements and the Exterior Public Improvements, including the payment of Debt Service on the City Debt and costs related to the issuance thereof, which City Debt, subject to this Agreement, will be authorized and issued from time to time by

the City pursuant to additional legislation of the City Council, and the City intends to use the Service Payments to provide for the payment of the City Debt and such other uses as may be permitted by the Amended TIF Ordinance.

N. The parties desire to enter into this Agreement on the terms as hereinafter set forth to provide for the Development, the issuance by the City of the City Debt to pay for the Public Improvements and the collection of the Service Payments to provide for the payment of and/or reimburse the City for Debt Service on the City Debt.

O. Execution of this Agreement has been authorized by City Council by Resolution No. _____, duly passed on _____, 2013 (the "*Authorizing Legislation*").

ARTICLE I - DEFINITIONS

In addition to the defined terms set forth elsewhere in this Agreement, the following terms shall, for purposes of this Agreement, have the meanings set forth below.

"Acceptable Bank" – means any state or federally chartered bank that, at the time such bank is required to deliver a Letter of Credit, has been assigned a rating by Moody's Investors Service, Inc. at least equal to "A1" or by Standard & Poor's Rating Services at least equal to "A", each with respect to the long term, unsecured debt of the bank.

"Additional Property" – means the real property described in Section 8.1. and Exhibit I.

"Additional Property Costs" – has the meaning set forth in Section 8.1.

"Adjoining Parcels" – has the meaning set forth in Section 13.3.

"Affiliate" – means an entity controlling, controlled by, or under common control with Developer.

"Agreement" – means this Development Agreement by and between City and Developer and dated as of the Effective Date.

"Amended TIF Ordinance" – has the meaning set forth in Recital K.

"Amount Available for Debt Service" – means, collectively, (a) the amount on deposit in the TIF Fund and (b) any other monies which the City expects to be available for the payment of Debt Service (including proceeds from City Debt issued for the purpose of refunding then outstanding City Debt but excluding any amounts drawn under the Letter of Credit).

"Annual Deposit in the TIF Fund" – has the meaning set forth in Section 5.

"Authorizing Legislation" – has the meaning set forth in Recital O.

"CED" – has the meaning set forth in Section 14.5.

"Centerville Community Improvement Corporation (CCIC)" – means the Centerville Community Improvement Corporation, an Ohio nonprofit corporation.

"City" – means the City of Centerville, Ohio, an Ohio municipal corporation.

"City Council" – means the City Council of City.

"City of Centerville Unified Development Ordinance (UDO)" – means the Unified Development Ordinance of City, as amended and supplemented from time to time.

"City Debt" – has the meaning set forth in Recital J.

"Commencement Date" – has the meaning set forth in Section 5.1.

"Community Entertainment District" – means a community entertainment district as defined by Section 4301.80 of the Ohio Revised Code.

"Conceptual Development Plan" – means the conceptual development plan for the Project Site and the Private Improvements to be constructed thereon which is attached hereto as Exhibit C and incorporated herein by reference.

"Contingency Period" – has the meaning set forth in Section 5.1.

"County Auditor" – means the County Auditor of Greene County, Ohio.

"County Recorder" – means the County Recorder of Greene County, Ohio.

"County Treasurer" – means the County Treasurer of Greene County, Ohio.

"Coverage Ratio" – means that for any calendar year, the sum of the Statutory Service Payments and Property Tax Rollback Payments collected by the City in that calendar year is equal to or greater than the product of (i) 1.30 multiplied by (ii) the Debt Service payable in that calendar year.

"Debt Service" – means the payments of interest and principal due and payable from time to time pursuant to the terms of the City Debt.

"Debt Service Deficiency" – has the meaning set forth in Section 6.6.

"Declaration" – means the Declaration of Covenants, Conditions, and Restrictions to be prepared by Developer which, among other terms, will create each MPOA, and shall be recorded by Developer with the County Recorder.

"Developer" – means Cornerstone Developers, LTD., an Ohio limited liability company, its successors and/or assigns.

"Development" – has the meaning set forth in Recital E.

"Effective Date" – means the date as defined in the preamble of this Agreement.

"Exterior Public Improvements" – means the Public Improvements described as such in Recital H and Exhibit D.

"Final Exterior Plans" – has the meaning set forth in Section 9.1.

"Final Interior Plans" – has the meaning set forth in Section 9.1.

"Improvements" – has the meaning set forth in Recital K.

"Interior Public Improvements" – means the Public Improvements described as such in Recital H and Exhibit D.

"Letter of Credit" – has the meaning set forth in Section 6.6.

"Letter of Credit Amount" – has the meaning set forth in Section 6.6(b).

"Master Property Owners Association" or "MPOA" – means the master property owners' association to be created by Developer pursuant to the Declaration and Section 14.3 of this Agreement. Separate Declarations and MPOAs will be established for the North Parcel and the South Parcel.

"Maximum Amount" – has the meaning set forth in Section 7.4.

"Minimum Service Payment Obligation" – has the meaning set forth in Section 6.4.

"Minimum Service Payments" – has the meaning set forth in Section 6.4.

"MPOA Organizational Documents" – means the documents providing for the creation of the MPOA, including but not limited to, the Declaration and By-laws.

"Multi-Family Parcel" – means the portion of the North Parcel which is one of the TIF Parcels described on Exhibit G attached to this Agreement.

"North Parcel" – means the real property described in Exhibit A attached to this Agreement.

"Notice Address" – means:

as to City: City of Centerville, Ohio
 100 W. Spring Valley Road
 Centerville, OH 45458
 Telephone: (937) 433-7151
 Facsimile: (937) 428-4763

with a copy to: Scott A. Liberman, Esq.
 Altick & Corwin Co., L.P.A.
 Suite 1590
 One South Main Street
 Dayton, Ohio 45402-1104

as to Developer: Cornerstone Developments, LTD.
3475 Newmark Drive
Miamisburg, Ohio 45342
Attention: George R. Oberer, Jr.

with a copy to: Robert M. Curry, Esq.
Thompson Hine LLP
10050 Innovation Dr., Suite 400
Dayton, Ohio 45342

"Oberer Affiliate" – means an entity controlled by, controlling, or under common control with Oberer Construction Managers, Ltd., a member and the Manager of Developer.

"OCM" – means Oberer Construction Managers, Ltd., an affiliate of Developer.

"Phase" – means, individually, each separate component part of the Project which component will necessarily include the coordinated construction and installation of the Private Improvements and the Interior Public Improvements and Exterior Public Improvements, all of which will be identified in accordance with this Agreement.

"Phase I" – means the initial phase of the Development on the North Parcel as shown on the site plan attached hereto as Exhibit E.

"Phase I Borrowing" – has the meaning set forth in Section 6.4.

"Phase I Public Improvements" – means, collectively, the Phase I Interior Public Improvements and the Phase I Exterior Public Improvements, as described on Exhibit F.

"Planning Commission" – means the Planning Commission of City.

"Project Site" – means collectively, the North Parcel and the South Parcel.

"Property Tax Rollback Payments" – has the meaning set forth in Section 7.3.

"Public Improvements" – means, collectively, the Interior Public Improvements and the Exterior Public Improvements, as further described in Exhibit D.

"School Compensation Agreement" – has the meaning set forth in Section 5.1.

"School Districts" – has the meaning set forth in Recital K.

"Service Payments" – means collectively, the Statutory Service Payments and the Minimum Service Payments.

"South Parcel" – means the real property described in Exhibit B attached to this Agreement.

"State" – means the State of Ohio.

"Statutory Service Payments" – has the meaning set forth in Recital L.

"TIF" – means the tax increment financing proposed to be established with respect to the TIF Parcels pursuant to the TIF Ordinance.

"TIF Declaration" – means the Tax Increment Financing Declaration and Mortgage to be prepared by City and shall be recorded by Developer with the County Recorder.

"TIF Exemption" – has the meaning set forth in Section 7.1.

"TIF Fund" – has the meaning set forth in Section 7.8.

"TIF Ordinance" – has the meaning set forth Recital K.

"TIF Parcels" – means the parcels identified on Exhibit G.

"TIF Parcel Owners" – means the owners from time to time with a fee simple interest in the TIF Parcels.

"Township" – means Sugarcreek Township (Greene County), Ohio.

"Township Compensation Agreement" – has the meaning set forth in Section 7.9.

ARTICLE II - DEVELOPMENT QUALITY COMMITMENT

In light of the large scale of the Project, its locations at a strategically important commercial node of the City and the region, its lasting, significant impact on the entire region, and with the collaborative efforts of the City and Developer detailed in this Agreement, both parties acknowledge that ensuring a high level of development quality is critically important to both parties and the greater community. As evidenced by the City's agreements herein, the parties acknowledge the joint responsibility to create a distinctive development.

To that end, the parties commit themselves to developing a project that not only adheres to the City's minimum, applicable development standards, but exceeds them in a manner as described herein. In fulfilling this commitment, the Developer will encourage the construction of buildings and uses that utilize quality architectural design and materials. The use of brick, stone, and other natural materials will be encouraged for the building, signage, and streetscape material palettes while the use of EFIS, concrete block products, metal siding, and other similar materials will be limited and utilized more as accent materials than the predominate exterior components (certain other materials, like siding that imitates wood lap siding such as aluminum or vinyl siding or siding that imitates brick or stone, is deemed inappropriate unless approved on a case-by-case basis as provided in the UDO). The incorporation of four-sided architecture will be of paramount importance. Large expanses of featureless walls will be discouraged. However, it is understood that loading docks, utility boxes and service areas are a necessary and utilitarian part of any building's functionality. These areas will be located in an inconspicuous area as is practical and will utilize appropriate landscape screening where practical to assist in minimizing the visual impact of these areas. The use of accent lighting, awnings, landscaping, and other features should enhance the architectural theme of all buildings.

The developed environment will also encourage shared vehicular access points along main roads and drives while also encouraging, but not requiring, the use of shared parking. The parties acknowledge they will promote pedestrian travel, access management, and limit areas of empty parking fields within the project, to the extent possible. Users along Feedwire Road and Wilmington Pike will strive to mitigate the impacts that drive-thru windows, vehicle queuing, canopies, parking, and other utilitarian appurtenances have upon the development's thematic design and character. Equally important in ensuring the level of development quality committed to by the parties will be the installation and maintenance of unique landscape, hardscape, and lighting features throughout the development that further tie the project's design theme together while also screening and/or enhancing certain features of the project in order to create the unique and special elements that will set this project apart from conventional commercial strip developments. This will be accomplished, in part, through the establishment of professionally designed landscaped and mounded areas along the perimeter of the project as well as throughout its interior. As detailed in Section 14.3 of this Agreement, uniform maintenance and upkeep of these enhancement areas will be provided by the Developer and/or a Master Property Owners' Association.

Adherence to this development quality commitment, as mentioned previously, will benefit both parties. The City and Developer shall work cooperatively to uphold this shared commitment.

This section is intended to be implemented by Developer's voluntary adoption of appropriate standards and not as consent to the establishment of additional zoning conditions by the City.

ARTICLE III - GENERAL AGREEMENT AND TERM

Section 3.1 General Agreement Among Parties. For the reasons set forth in the Recitals hereto, which Recitals are incorporated herein by reference as a statement of the public purposes of this Agreement and the intended arrangements between the Parties, the Parties shall cooperate in the manner described herein to facilitate the construction of the proposed development.

Section 3.2 Term of Agreement. This Agreement shall become effective as of the Effective Date and shall continue until the Parties have satisfied their respective obligations as set forth in this Agreement, unless sooner terminated in accordance with the provisions set forth herein.

ARTICLE IV - REPRESENTATIONS AND COVENANTS OF THE PARTIES

Section 4.1 Representations and Covenants of City. City represents and covenants that:

(a) It is a municipal corporation duly organized and validly existing under the Constitution and applicable laws of the State of Ohio (the "*State*") and its Charter.

(b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to City which would impair its ability to carry out its obligations contained in this Agreement.

(c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the knowledge of City, that execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to City, including its Charter, and does not and will not conflict with or result in a default under any agreement or instrument to which City is a party or by which it is bound.

(d) This Agreement to which it is a Party has, by proper action, been duly authorized, executed and delivered by City and all steps necessary to be taken by City have been taken to constitute this Agreement, and the covenants and agreements of City contemplated herein are valid and binding obligations of City, enforceable in accordance with their terms.

(e) Other than the lawsuit captioned, *Sugarcreek Township v. City of Centerville*, currently pending in the Second District Court of Appeals, there is no litigation pending or to its knowledge threatened against or by the City wherein an unfavorable ruling or decision would materially adversely affect the City's ability to carry out its obligations under this Agreement.

(f) It will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement by any successor public body.

(g) The Authorizing Legislation has been duly passed and is in full force and effect as of the Effective Date.

Section 4.2 Representations and Covenants of Developer. Developer represents and covenants that:

(a) It is a for profit limited liability company duly organized and validly existing under the applicable laws of the State.

(b) It is not in violation of or in conflict with any provisions of the laws of the City, State or of the United States of America applicable to Developer which would impair its ability to carry out its obligations contained in this Agreement.

(c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the knowledge of Developer, that execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to Developer, and does not and will not conflict with or result in a default under any agreement or instrument to which City is a party or by which it is bound.

(d) This Agreement to which it is a Party has, by proper action, been duly authorized, executed and delivered by Developer and all steps necessary to be taken by Developer have been taken to constitute this Agreement, and the covenants and agreements of Developer

contemplated herein are valid and binding obligations of City, enforceable in accordance with their terms.

(e) There is no litigation pending or to its knowledge threatened against or by Developer wherein an unfavorable ruling or decision would materially adversely affect Developer's ability to carry out its obligations under this Agreement.

(f) It will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement by any successor public entity.

(g) It owns good and marketable fee simple title to the Project Site.

(h) It, each of its members, each spouse of its members, each child of its members, and each political action committee affiliated with Developer complies with Ohio Revised Code Section 3517.13 limiting political contributions.

ARTICLE V - CONTINGENCIES

Section 5.1 Contingencies. The obligations of the City and Developer under this Agreement are conditioned upon the satisfaction of the following contingencies within ninety (90) days after the Effective Date (the "*Contingency Period*"):

(a) the City Council shall have passed the TIF Ordinance, it shall have become fully effective, and any applicable referendum period shall have expired.

(b) Developer shall have recorded the TIF Declaration with the County Recorder and provided written evidence of such recordation to the City.

(c) The City and Sugarcreek Local School District (on behalf of the School Districts) shall have entered into a compensation agreement limiting the compensation to the School Districts pursuant to the TIF Statutes to (i) twenty-five percent (25%) of the Statutory Service Payments, plus the other amounts indicated in Section 7.5(c) of this Agreement, collected from the TIF on all portions of the TIF Parcels other than the Multi-Family Parcel (the "*School Compensation Agreement*") and (ii) 100% of the Statutory Service Payments collected from the Multi-Family Parcel to which the School Districts would otherwise have been entitled to payment but for the TIF.

(d) The City shall have passed an ordinance authorizing the execution of a Construction Manager at Risk Agreement with OCM, as contemplated by Section 10.2.

(e) The City shall have passed the ordinance establishing the CED as contemplated by Section 14.5.

The Contingency Period may be extended by Developer by a period of ninety (90) days by notice to the City prior to the expiration of the original ninety (90) day period.

Either party shall have the right to terminate this Agreement if these contingencies are not satisfied to its reasonable satisfaction prior to the expiration of the Contingency Period, or any

extension(s). If the contingencies are not satisfied in whole or in part, but neither party elects to terminate this Agreement, then the parties shall proceed without the additional financial support contemplated by these contingencies, but shall continue to use their best efforts to secure other sources of funding for the Development. The date when the contingencies have been satisfied or waived (including the expiration of the Contingency Period if neither party has elected to terminate this Agreement), shall constitute the "*Commencement Date*" under this Agreement.

ARTICLE VI - FINANCING OF THE PUBLIC IMPROVEMENTS

Section 6.1 Total Commitment. Subject to the satisfaction of all terms and conditions of this Agreement, the City agrees to incur City Debt and allocate net proceeds of the City Debt in an amount not to exceed \$7.75 million to finance the Interior Public Improvements on the North Parcel, an amount not to exceed \$3.25 million to finance the Interior Public Improvements on the South Parcel, and an amount not to exceed \$14 million to finance Exterior Public Improvements. The parties acknowledge that these are maximum amounts that may be reduced if the projected TIF revenues do not support the full amount of each borrowing at the Coverage Ratio provided in this Agreement, or if the City is able to fund certain of the Public Improvements from grants or other sources not yet identified. The City Debt shall include, in addition to such amounts, two (2) years of capitalized interest on the City Debt and the related costs of issuance of the City Debt as and when issued by the City.

Section 6.2 Phasing. The Parties agree that the Development contemplated by this Agreement is intended to be designed, financed, constructed and installed in Phases over an extended period of time and that the various obligations of the Parties set forth herein are also anticipated to be satisfied in Phases. At the commencement of each Phase, the maximum amount of funding available for Public Improvements in that Phase will be based on the anticipated TIF-eligible value of completed Private Improvements that will generate annual TIF revenues (net of School and/or Township compensation, if applicable) sufficient to fund One Hundred Thirty Percent (130%) of the estimated annual Debt Service on the City Debt to be issued for the Public Improvements in that Phase. For such purpose, if the City Debt consists of short-term notes, the Debt Service on such notes will be determined as if the notes were issued as long-term bonds as of their issuance date, based upon the reasonable estimates of the City's bond underwriter, bond counsel or financial advisor as to the estimated term and interest rates. Where possible, the funding shall follow an 11/14 ratio between the Interior Public Improvements and the Exterior Public Improvements.

Section 6.3 Allocation between North Parcel and South Parcel. Unless otherwise agreed by Developer and the City, City Debt for Interior Public Improvements will be allocated on the basis of up to \$7.75 million for Interior Public Improvements on the North Parcel and up to \$3.25 million for Interior Public Improvements on the South Parcel. Up to \$14 million of the net proceeds of the City Debt for Exterior Public Improvements shall be allocated between the North Parcel and the South Parcel as determined by the City based upon the traffic studies that relate to the Phases of development, the availability of TIF revenues from the various Phases, and other relevant factors. Developer shall be solely responsible for any Interior Public Improvements that are not covered by the net proceeds made available by the City. The City shall have the responsibility for any additional funding required for the Exterior Public Improvements above the funding allocated pursuant this Agreement, recognizing that the City

has procured a grant for a portion of the Feedwire Road widening costs and has agreed to supplement the funding of the Exterior Public Improvements through TIF revenues from other developments in the City that will also benefit from the Exterior Public Improvements.

Section 6.4 Phase I Obligations. Developer and the City agree that Phase I of the Development shall be as shown on Exhibit E attached to this Agreement ("*Phase I*"). Developer will use commercially reasonable efforts, in accordance with its business judgment and taking into consideration market conditions, tenant commitments, and other factors, to complete Private Improvements in Phase I on or before December 31, 2015, having a taxable value of at least \$16.3 million. As part of Phase I and subject to Sections 6.1 and 6.6, the City will issue City Debt in the total amount of \$4.0 million, inclusive of capitalized interest and costs of issuance (the "*Phase I Borrowing*"). Net proceeds of the Phase I Borrowing shall be allocated 44% to Interior Public Improvements and 56% to Exterior Public Improvements. A description of the Phase I Public Improvements (both the Interior Public Improvements and the Exterior Public Improvements) is set forth on Exhibit F attached hereto. If the amount necessary to fund the Interior Public Improvements or the Exterior Public Improvements in Phase I is less than the amount allocated as provided above, any remaining net proceeds of the Phase I Borrowing may be applied to, or the balance of the Phase I Borrowing may be allocated to, the payment of other Exterior Public Improvements for Phase I or future Phases, with the intent to use such excess in accordance with the desired 11/14 ratio between Interior Public Improvements and Exterior Public Improvements. The Exterior Public Improvements in Phase I include Feedwire Road improvements for which the City will receive grant funding for a portion of the costs. With respect to the off-site sewer line being extended to the North Parcel from east of I-675, Developer may pursue a protection agreement from Greene County allowing the recovery of construction costs from off-site third party users who tap into the extended sewer service. No TIF proceeds are to be used for these sewer line costs.

Section 6.5 City Debt for Phase I Borrowing. Once all of the conditions set forth in this Agreement for issuance of the Phase I Borrowing have been satisfied, the City's Finance Department shall initiate the steps necessary for the issuance of the Phase I Borrowing. The City will act in good faith to issue the Phase I Borrowing within thirty (30) days following the satisfaction of the contingencies set forth in Section 5.1, but in no event sooner than 90 days following the Effective Date. It is contemplated that the City will initially fund such costs of the Phase I Public Improvements through the issuance of bonds or one or more series of notes to be renewed from time to time for a period of up to five years until the Phase I Public Improvements are complete. The City will consult with the Developer as to the timing of the conversion of the notes to long term bonds, if utilized, but the City reserves the right to determine when to implement such conversions. If Developer or the City is able to secure grants or other sources of funds for the completion of Public Improvements that were contemplated to be funded pursuant to this Agreement, such that Developer does not require the entire Phase I Borrowing, the Parties shall endeavor to identify qualifying costs for which the TIF Funds may be used on other Exterior Public Improvements either in Phase I or for Public Improvements in future Phases of the Development.

Section 6.6 Letter of Credit.

(a) Developer agrees that contemporaneous with the delivery of the Phase I Borrowing and upon the issuance of any subsequent City Debt in connection with any subsequent Phase, Developer will deliver a letter of credit to the City which shall be issued by an Acceptable Bank and which shall have an initial term of at least one (1) year (the "*Letter of Credit*"). Developer shall pay all costs associated with the delivery, maintenance, replacement and renewal of the initial Letter of Credit and any subsequent Letter of Credit. The Letter of Credit shall be irrevocable and shall name City or such other entity as designated by City as the sole beneficiary.

(b) Developer agrees that until such time as the Coverage Ratio is satisfied for all City Debt, Developer will maintain the Letter of Credit in order that the amount available to be drawn against the Letter of Credit by City or its designee on any date, shall be equal to three (3) years of Debt Service payments on the Maximum Amount of the City Debt, calculated on the basis of the anticipated principal and interest payments that will be due on the bonds (as opposed to interest-only payments due when the bond anticipation notes are outstanding).

(c) At least 15 days prior to the expiration of any Letter of Credit, Developer shall deliver to City either (i) written acknowledgment from the provider of the existing Letter of Credit that the existing Letter of Credit has automatically renewed for an additional one (1) year period or (ii) a subsequent Letter of Credit with an expiration date of not earlier than one (1) year from the date of the issuance of the subsequent Letter of Credit.

(d) If on the thirtieth day prior to any date on which Debt Service is payable on the City Debt, the Amount Available for Debt Service is not sufficient to pay the Debt Service on the Maximum Amount of that City Debt, the City shall notify Developer of the amount of the deficiency (a "*Debt Service Deficiency*") prior to the twentieth day prior to date on which Debt Service is payable, and Developer shall remit to the City an amount equal to that Debt Service Deficiency no later than the fifteenth day prior to the date on which Debt Service is payable.

(e) If on the fourteenth day prior to the date on which Debt Service is payable, the City has not received the amount of the Debt Service Deficiency (if any) from Developer, the City will be entitled to draw on the Letter of Credit in an amount sufficient, together with the Amount Available for Debt Service, to pay the Debt Service Deficiency (if any). Any amount drawn on the Letter of Credit shall be used solely to pay the Debt Service on City Debt. Within fifteen (15) calendar days following any draw on the Letter of Credit, Developer shall restore the amount available to be drawn under such Letter of Credit to the Letter of Credit Amount. Developer acknowledges and agrees that any failure by City to notify Developer of any Debt Service Deficiency in accordance with this Section 6.6(e) shall not impair the City's right to draw on the Letter of Credit.

(f) Developer, at its option, may substitute cash for the Letter of Credit in whole or in part. Any cash collateral substituted for the Letter of Credit shall be held by the City to ensure that the City will have access to the cash in a manner equivalent to the City's ability to draw on the Letter of Credit, and that the cash is held in a manner that will be outside of Developer's control and not subject to bankruptcy claims. The City will hold the funds in a separate account,

provide reporting of the account status to Developer, and distribute any earnings on the cash to Developer provided Developer is not in Default. The Letter of Credit shall remain in place for at least ninety (90) days after cash is transferred to the City.

(g) City agrees that it shall record the amount of monies deposited into the TIF Fund in each calendar year (for each calendar year, the aggregate deposit being referred to as the "*Annual Deposit in the TIF Fund*"). If the Annual Deposit in the TIF Fund for each of two (2) consecutive calendar years equals or exceeds the Coverage Ratio in each of those calendar years, then subject to subsection 6.6(i), Developer shall no longer be required to maintain the Letter of Credit pursuant to this Agreement and the City will cooperate with Developer to terminate the Letter of Credit (and/or refund to Developer any cash in lieu thereof, if applicable). If at any time the City Debt may be paid down and the Developer is willing to fund the pay down in order to achieve the Coverage Ratio, the City shall cooperate with Developer in implementing the pay down.

(h) If Developer shall fail to establish, maintain, restore or renew the Letter of Credit with an Acceptable Bank in accordance with the provisions of this Section 6.6, or provide cash in lieu thereof as provided herein, such failure shall constitute an event of default and City shall be entitled to pursue any and all remedies now or hereafter existing at law or in equity to enforce such performance, which may include, but shall not be limited to drawing the entire stated amount of the Letter of Credit. The City acknowledges that drawing upon the Letter of Credit or cash in lieu thereof does not constitute an event of default if Developer restores such Letter of Credit or the cash funds in accordance with the terms hereof.

(i) If Developer's obligation to maintain the Letter of Credit shall have terminated in accordance with subsection 6.6(g) and Developer later proposes that the City issue additional City Debt to pay the costs of additional Public Improvements, then Developer shall be required to establish a new Letter of Credit in accordance with this Section 6.6 (or cash in lieu thereof pursuant to Section 6.6(f)) and maintain that Letter of Credit (or cash in lieu thereof) in the manner provided in this Section 6.6 until such time as the Coverage Ratio is satisfied for all of the then outstanding City Debt.

Section 6.7 City Debt for Subsequent Phases. Following the issuance of the Phase I Borrowing, the City shall not be obligated to issue any additional City Debt in connection with a successive phase of the Development unless the City has determined in its sole discretion that (a) the Coverage Ratio has been satisfied or will be satisfied [based on the City's review of work in progress, commitments for transactions (which may be in the form of redacted copies of purchase agreements, letters of intent or the like) and similar information] for the then outstanding City Debt, (b) the projected annual Statutory Service Payments and Property Tax Rollback Payments to be received by the City in connection with any existing Private Improvements and the Private Improvements proposed to be constructed in connection with such successive phase will be sufficient to satisfy the Coverage Ratio for all outstanding City Debt no later than five (5) years following the anticipated completion of those Private Improvements proposed to be constructed, (c) Developer shall have the ability to increase, and upon issuance of such additional City Debt will have increased, the Letter of Credit Amount to an amount sufficient to provide coverage for the payment of the Maximum Amount of Debt Service until the projected Service Payments and Property Tax Rollback Payments are realized and (d) City

Council will approve the issuance of such City Debt and the issuance of such City Debt will not cause the City to exceed any legal debt limitations or otherwise impair the City's ability to issue debt required by the City for other City purposes. In exercising its discretion and approval rights under this Section, the City will base its decisions on its analysis of the factors described in Section 6.7 (a) through (d) and not arbitrarily withhold its approvals.

Section 6.8 Special Assessments. To supplement the funds available to Developer for the payment of the costs of construction of public improvements on the North Parcel and/or the South Parcel, Developer may establish voluntary special assessments by petition pursuant to Section 727.06 of the Ohio Revised Code with respect to the payment of costs of constructing such public improvements on the North Parcel and/or the South Parcel (but not to support any City Debt) or other public improvements that may be financed by special assessments under applicable law. The special assessments may include amounts to finance sewer and/or water line extensions by the Greene County Commissioners. The total amount of the special assessments shall not exceed \$3.5 million plus any interest on any associated indebtedness. The City shall reasonably cooperate in the levying of the special assessments, but the City shall not be obligated to pay for or otherwise issue any indebtedness for the purpose of paying the costs of the public improvements requested by such special petition. If requested by Developer, the City agrees to reasonably cooperate with Developer to assign such special assessments to a port authority or other governmental issuer of such indebtedness for the purpose of paying the costs of the public improvements requested by such special assessment petition. To the extent practical, and as allowed by law, individual purchasers of parcels of land that are subject to the special assessment shall be permitted to prepay their share of the special assessment and, in that event, be released from further obligations as to the special assessments.

Section 6.9 Other Financing. The Parties agree that it is the mutual interest of both Parties to pursue other financing sources to cover the cost of the Public Improvements that may be acceptable to the Parties, and the Parties agree to cooperate with each other in pursuing other funding opportunities. The Parties agree that if other monies, including, but not limited to, State legislatively approved sources or from Greene County, Ohio, become available in the future which may lawfully be applied to the costs of the Public Improvements, then each Party agrees to make good faith, reasonable efforts to negotiate for the use of those funds in a manner that will lessen the need for TIF funding under this Agreement, by providing a source of funds for Exterior Public Improvements and/or Interior Public Improvements that the Parties would otherwise be required to pay. If such funds are paid to Developer for its discretionary use in connection with Public Improvements for the Project Site, or are excess funds available, for example, because the Public Improvements to which the funding was committed have been fully paid for, then such funds shall be used toward the payment of the City Debt if the TIF Revenues in any such year are insufficient to provide for the payment of debt service on the City Debt, with 50% of the excess funds to be applied toward the portion of the City Debt relating to the Interior Public Improvements and 50% to be applied to the portion of the City Debt relating to the Exterior Public Improvements.

ARTICLE VII - TAX INCREMENT FINANCING

Section 7.1 General. Developer agrees to cooperate in the creation of a tax increment financing area on the TIF Parcels, and the City has determined that it is necessary and

appropriate and in its best interests of the City to (i) create a tax increment financing area, which area shall include the TIF Parcels, (ii) declare that the Improvement to each TIF Parcel is a public purpose and that 100% of that Improvement be declared exempt from taxation (the "*TIF Exemption*") for a period commencing with the first tax year that begins after the effective date of the TIF Ordinance and in which an Improvement due to the construction of a new structure on that TIF Parcel first appears on the tax list and duplicate of real and public utility property and ending on the earlier of (A) thirty (30) year after such TIF Exemption commenced or (B) the date on which the City can no longer require Statutory Service Payments, all in accordance with the requirements of the TIF Statutes, the TIF Ordinance and the Amended TIF Ordinance and (iii) provide for Developer, and its successors and assigns, to make Service Payments with respect to the TIF Parcels to pay the costs of the construction of Public Improvements, for distribution to the School Districts, and if applicable, for distribution to the Township.

Section 7.2 Establishment of TIF. The City agrees that promptly following the Commencement Date, the City will begin to take all necessary actions required to pass the Amended TIF Ordinance, as permitted by all applicable laws and judicial decisions.

Section 7.3 Statutory Service Payments. Developer, for itself and its successors as TIF Parcel Owners with respect to the TIF Parcels, agree to make Statutory Service Payments attributable to their respective period of ownership of the TIF Parcels, all pursuant to and in accordance with the requirements of the TIF Statutes, and any subsequent amendments or supplements thereto, the Amended TIF Ordinance and this Agreement.

Statutory Service Payments will be made semiannually to the County Treasurer (or to such County Treasurer's designated agent for collection of the Statutory Service Payments) on or before the final dates for payment of real property taxes for the TIF Parcels. Any late payments will bear penalties and interest at the then current rate established under Ohio Revised Code Sections 323.121 and 5703.47 or any successor provisions thereto, as the same may be amended from time to time.

Statutory Service Payments will be made in accordance with the requirements of the TIF Statutes and the Amended TIF Ordinance and, for the TIF Parcels, will be in the same amount as the real property taxes that would have been charged and payable against the Improvement to the TIF Parcels (after credit for any other payments received by the City under Ohio Revised Code Sections 319.302, 321.24, 323.152 and 323.156, or any successor provisions thereto, as the same may be amended from time to time, and are referred to herein as the "*Property Tax Rollback Payments*") if it were not exempt from taxation pursuant to the Amended TIF Ordinance, including any penalties and interest. No TIF Parcel Owner will, under any circumstances, be required for any tax year to pay both real property taxes and Statutory Service Payments with respect to any portion of the Improvement, whether pursuant to Ohio Revised Code Section 5709.42, the Amended TIF Ordinance or this Agreement.

Section 7.4 Minimum Service Payments. Developer, for itself and its successors as TIF Parcel Owners with respect to the TIF Parcels, agree to also pay "*Minimum Service Payments.*" The aggregate amount of Minimum Service Payments which will be due in any calendar year shall equal the difference between (a) the sum of (i) 100% of the Debt Service allocable to the City Debt issued for Interior Public Improvements due in any calendar year, plus

(ii) 60% of the Debt Service allocable to the City Debt issued for the Exterior Public Improvements due in any calendar year, plus (iii) any administration expenses relating to such portions of the City Debt and the TIF (items (i) through (iii), collectively, the "*Maximum Amount*"), less (b) the sum of (i) the aggregate amount of Statutory Service Payments anticipated to be on deposit in the TIF Fund in that calendar year, (ii) the amount available to be drawn under the Letter of Credit in that calendar year to pay Debt Service, plus (iii) proceeds from City Debt issued for the purpose of refunding such portions of then outstanding City Debt (any amount in excess of zero dollars for any calendar year shall equal the "*Minimum Service Payment Obligation*").

As soon as reasonably possible during each calendar year, the City will determine if a Minimum Service Payment Obligation shall exist for the next succeeding calendar year. In making such determination the City shall take into account the assessed valuation of all Private Improvements that have then been completed and the Statutory Service Payments the City expects to receive. In the event that the City determines that a Minimum Service Payment Obligation shall exist, the City shall promptly notify Developer. As required by the County Auditor, on or about the second Monday in September, the City shall certify the Minimum Service Payment Obligation to the County Auditor. In the event the Auditor is unwilling or unable to accept such certification and to collect the Minimum Service Payment Obligation, Developer and the City shall execute any and all documents and shall take any and all actions necessary so that the City receives the benefits intended with respect to such Minimum Service Payments. Any Minimum Service Payments received by the City shall be used for the purpose of paying Debt Service and any administrative expenses, including but not limited to those expenses listed in Ohio Revised Code Section 133.15, relating to the City Debt and the TIF.

Developer hereby agrees that the Minimum Service Payment Obligation shall be supported by a lien on the TIF Parcels pursuant to Ohio Revised Code Sections 5709.91 and 323.11 (the "*Minimum Service Payment Obligation Lien*") and the TIF Declaration, and Developer shall take any and all actions as reasonably requested by the City to further evidence such Minimum Service Payment Obligation. Developer and the City shall execute such declarations and other documents and take all actions necessary to provide the City the benefits of the Minimum Service Payment Obligation.

The City agrees with respect to each TIF Parcel, that upon the occurrence of: (i) the date Developer or an Affiliate transfers title to a TIF Parcel to an unrelated party and a certificate of occupancy is issued for a completed building on such TIF Parcel as contemplated by the Conceptual Development Plan, or (ii) the date Developer or an Affiliate executes a lease or leases for at least eighty percent (80%) of the leasable space in a completed building as contemplated by the Conceptual Development Plan on a TIF Parcel to one or more unrelated party(ies) and the building in which the leased space is located is substantially completed (except for interior build-out to be completed by the tenant(s)), the City shall release such TIF Parcel from the Minimum Service Payment Obligation and the Minimum Service Payment Obligation Lien, and the City shall execute such modifications to declarations and other documents and take all actions necessary to provide Developer the benefit of such City release.

A release of any TIF Parcel from the Minimum Service Payment Obligation and the Minimum Service Payment Obligation Lien shall not release any other TIF Parcel from the

Minimum Service Payment Obligation Lien, and the remaining TIF Parcels shall be subject to the Minimum Service Payment Obligation Lien until the earlier of: (i) the satisfaction of the Coverage Ratio not on a phase by phase basis but for the total amount of City Debt that may be funded pursuant to this Agreement until Developer has released any right to funding for future phases or (ii) the release of a TIF Parcel pursuant to the preceding paragraph. The City shall execute all declarations, modifications to declarations and other documents and take all actions necessary to provide for each City release. Developer shall execute all declarations, modifications to declarations and other documents and take all actions necessary to revise Developer's obligations with respect to any remaining TIF Parcels not subject to the City release in order to provide the City the benefits of the Minimum Service Payment Obligation and the Minimum Service Payment Obligation Lien.

Developer, for itself and its successors as TIF Parcel Owners with respect to the TIF Parcels, agrees to the Minimum Service Payment Obligation, and covenants to file the TIF Declaration and the TIF lien in the real property records of the County in order to provide that the Minimum Service Payment Obligation runs with the TIF Parcels.

Section 7.5 Use of TIF Funds. The Parties agrees that the Statutory Service Payments from the TIF, net of any compensation payments under the School Compensation Agreement and, if applicable, the Township Compensation Agreement, shall be used for the purpose and in the order of priority as follows:

(a) *first*, those Statutory Service Payments received in the then current calendar year shall be used to pay Debt Service on the City Debt which is due and payable in the then current calendar year or otherwise reimburse the City for such prior Debt Service payments;

(b) *second*, those Statutory Service Payments received in excess of the payment required by the *first* paragraph in the then current calendar year shall be used to reimburse Developer for any (i) unreimbursed draws theretofore made under the Letter of Credit or (ii) direct payments theretofore made by Developer, each for the purpose of paying Debt Service;

(c) *third*, to the extent the Statutory Service Payments received exceed a coverage ratio of 1.25 x, and after the payments in the *first* and *second* paragraphs, 50% of any excess shall be used to provide any required payments under the School Compensation Agreement;

(d) *fourth*, those Statutory Service Payments received in excess of all payment(s) required by *first*, *second* and *third* paragraph in the then current calendar year shall be used to reimburse the TIF Parcel Owners for the payment of Minimum Service Payments previously paid by such Owners;

(e) *fifth*, those Statutory Service Payments received in excess of all payment(s) required by *first*, *second*, *third* or *fourth* paragraph in the then current calendar year, shall be used, at the City's election, and in such proportions as the City may determine, (i) to be held by the City in escrow as additional security, beyond the Letter of Credit and without in any way limiting Developer's obligations with respect to the Letter of Credit, for the payment of the City Debt when due, (ii) to prepay such indebtedness in whole or in part; or (iii) to pay, or reimburse the City, for costs of the City's share of the Exterior Public Improvements, as set forth on

Exhibit E, to the extent of any shortfalls incurred by the City that were not funded through the City Debt; and

(f) *sixth*, those Statutory Service Payments received in excess of all payment(s) required by *first, second, third, fourth* or *fifth* paragraph in the then current calendar year, shall be used to pay, or reimburse the City, for costs of any other Exterior Public Improvements undertaken by the City with reference to the tax increment financing area.

Section 7.6 TIF Declaration. It is intended and agreed, and it will be so provided by Developer in a declaration relating to the TIF Parcels (the "*TIF Declaration*") recorded by Developer within fifteen (15) days of the Effective Date and substantially in the form attached hereto as Exhibit J, that the covenants provided in Sections 7.3, 7.4, 7.6, 7.7, 7.11, 7.12 and 7.13 of this Agreement are covenants running with the land and that they will, in any event and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity for the benefit and in favor of and enforceable by the City against any TIF Parcel Owner with respect to that Owner's period of ownership of any TIF Parcel, whether or not this Agreement remains in effect or whether or not such provision is included by a TIF Parcel Owner in any deed to such Owner's successors and assigns. It is further intended and agreed that these agreements and covenants will remain in effect for the full period of exemption permitted in accordance with the requirements of the TIF Statutes and the TIF Ordinance enacted pursuant thereto.

Such covenants running with the land will have priority over any other lien or encumbrance on the TIF Parcels and any improvements thereon, except for such title exceptions as are approved in writing by the City, and Developer will, upon the City's request, cause any and all holders of mortgages or other liens existing on the TIF Parcels as of the time of recording the TIF Declaration to subordinate such mortgage or lien to those covenants running with the land. The parties acknowledge that the provisions of Ohio Revised Code Section 5709.91, which specify that the Service Payments will be treated in the same manner as taxes for all purposes of the lien described in Ohio Revised Code Section 323.11, including, but not limited to, the priority of the lien and the collection of Service Payments will apply to this Agreement and to the TIF Parcels and any improvements thereon.

At the City's option and within fifteen (15) days of its request, Developer hereby agrees to provide such title evidence by a national title company acceptable to the City, at no cost to the City, as is necessary to demonstrate to the City's satisfaction that the covenants running with the land provided in the TIF Declaration are prior and superior to any other liens, encumbrances or other title exceptions, except for those which are approved in writing by the City.

Upon satisfaction of the TIF Parcel Owners' obligations under this Agreement and termination of the Owner's obligation to make the Service Payments, the City will, upon the request of the Owners of the TIF Parcels, execute an instrument in recordable form evidencing such termination and releasing the covenants running with the land set forth in the TIF Declaration with respect to the TIF Parcels.

Section 7.7 Exemption Application. The City and Developer agree to cooperate in the preparation, execution and filing of all necessary applications and supporting documents to

obtain from time to time the TIF Exemption and to enable the City to collect the Service Payments with respect to the TIF Parcels. The City and Developer each agree to perform such acts as are reasonably necessary or appropriate in effect, claim, reserve and maintain the TIF Exemption and collect the Service Payments, including, without limitation, joining in the execution of all documentation and providing any necessary certificate required in connection with the TIF Exemption or the Service Payments.

Section 7.8 Tax Increment Equivalent Fund. The City and Developer acknowledge that the TIF Ordinance will create a Municipal Public Improvement Tax Increment Equivalent Fund (the "*TIF Fund*") to be maintained in the custody of the City. The City and Developer acknowledge that the TIF Fund shall receive all Service Payments and Property Tax Rollback Payments payable to the City (after providing for the payments to the School Districts and the Township as may be required by the TIF Ordinance) in respect of the TIF Parcels, with all such Service Payments and Property Tax Rollback Payments deposited into the TIF Fund being used to pay the costs of the Public Improvements. Any incidental surplus remaining in the TIF Fund shall be disposed of as provided in Section 5709.43 of the Ohio Revised Code.

Section 7.9 Township Compensation Agreement. The Parties agree that the City and Developer may negotiate a compensation agreement with Sugarcreek Township with respect to fire and/or EMS services for an initial period (the "*Township Compensation Agreement*").

Section 7.10 Estoppel Certificate. Within twenty (20) days after a request from any TIF Parcel Owner, the City will execute and deliver to that Owner or any proposed purchaser, mortgagee or lessee of any TIF Parcel, a certificate stating that with respect to the TIF Parcel, if the same is true: (a) that this Agreement is in full force and effect; (b) that the requesting TIF Parcel Owner is not in default under any of the terms, covenants or conditions of this Agreement, or, if that TIF Parcel Owner is in default, specifying same; and (c) such other matters as that TIF Parcel Owner reasonably requests.

Section 7.11 Information Reporting. The TIF Parcel Owners covenant to cooperate in all reasonable ways with, and provide necessary and reasonable information to, the designated Tax Increment Review Council to enable that Tax Increment Review Council to review and determine annually during the term of this Agreement the compliance of the TIF Parcel Owners with the terms of this Agreement.

The TIF Parcel Owners further covenant to cooperate in all reasonable ways with, and provide necessary and reasonable information to the City to enable the City to submit the status report required by Ohio Revised Code Section 5709.40(I) to the Director of the Ohio Development Services Agency on or before March 31 of each calendar year within the term of the Agreement. Any information supplied to the City will be provided solely for the purpose of enabling the City to comply with this requirement.

Section 7.12 Non Discriminatory Hiring Policy. With respect to operations within the City, each TIF Parcel Owner will comply with the City's nondiscriminatory hiring policy as shall be set forth in the TIF Ordinance and adopted pursuant to Ohio Revised Code Section 5709.832. In furtherance of that policy, the TIF Parcel Owners agree not to deny any individual

employment located upon the TIF Parcels solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

Section 7.13 Prohibition of Conversion of Multi-Family Residential. Developer shall not convert any portion of any apartment development located upon the TIF Parcels into a condominium development during the applicable period of the TIF Exemption. More specifically, no condominium conversion shall occur on any TIF Parcel until 30 years after the effective date of the TIF Exemption established by the Ohio Department of Taxation for the TIF Parcel. A "condominium conversion" means the conversion of ownership of any units in a residential housing building consisting of two or more units or the conversion of any residential housing building that is or was previously occupied as a rental residential unit or building to single ownership in which a residential unit or the residential building may be sold individually.

ARTICLE VIII - ACQUISITION OF ADDITIONAL PROPERTY

Section 8.1 Acquisition of Additional Property Needed for Public Improvements. Prior to the commencement of the Phase of the Development that includes the South Parcel, the City shall use reasonable efforts to acquire rights to purchase the land adjacent to the South Parcel needed for the extension of the proposed public road opposite Miami Valley Drive, as shown on Exhibit I hereto (the "*Additional Property*") through negotiations with the owner(s) of the Additional Property. If, after exercising reasonable good faith efforts, the City is unable to acquire rights to purchase all of the Additional Property prior to the commencement of such Phase, then the City shall pursue the acquisition of the Additional Property through eminent domain proceedings using its best efforts to obtain rights necessary for the commencement of the Public Improvements on the Additional Property within the time schedule contemplated by this Agreement. All costs incurred by the City (including attorney fees) in acquiring the Additional Property by purchase or by eminent domain (collectively, the "*Additional Property Costs*") shall be payable from the proceeds from the City Debt or, if any of such costs are not deemed eligible by the City's bond counsel, such costs (as estimated by the City and approved by Developer) shall be borne equally by the Parties.

In addition, to the extent that the traffic study and the resulting Public Improvements approved by the Parties require additional easements or right-of-way acquisitions that relate to the Exterior Public Improvements, the City shall acquire the additional easements and/or rights-of-way the costs of which shall be deemed part of the costs of the Exterior Public Improvements and be funded hereunder in the same manner (and not in addition to) other Exterior Public Improvements.

ARTICLE IX - PREPARATION OF PHASE I PLANS AND SPECIFICATIONS

Section 9.1 Preparation of Phase I Plans and Specifications. The parties acknowledge that Developer will separately contract for the engineering of the Phase I Interior Public Improvements and will obtain such plans at its sole expense, not as part of any public funding. Nevertheless, the City shall have the right to review and approve the plans and specifications for the Phase I Interior Public Improvements so as to assure compliance with all applicable City requirements. The plans and specifications for the Phase I Interior Public Improvements, as reviewed and approved by the City (including any and all changes thereto

reflected on properly-executed change orders) are referred to herein as the "*Final Interior Plans*."

Following the Commencement Date, the City shall begin preparing preliminary plans and specifications for the Phase I Exterior Public Improvements. The plans and specifications for the Phase I Exterior Public Improvements shall be prepared by an experienced architectural or engineering firm selected by the City in accordance with a qualifications process permitted by law. The City shall provide the preliminary plans and specifications for the Phase I Exterior Public Improvements to Developer for review and comment. The parties agree to work diligently and cooperatively with each other in order that the plans and specifications for the Phase I Exterior Public Improvements can be finalized as expeditiously as possible. The plans and specifications for the Phase I Exterior Public Improvements, as reviewed by Developer (including any and all changes thereto reflected on properly-executed change orders) are referred to herein as the "*Final Exterior Plans*".

ARTICLE X - CONSTRUCTION PHASE

Section 10.1 Hiring of Construction Manager at Risk for Phase I Interior Public Improvements. The City agrees to enter into a contract with Oberer Construction Managers, Ltd. ("*OCM*"), an Oberer Affiliate, to construct the Phase I Interior Public Improvements in accordance with the Final Interior Plans. Under such agreement (the "*Construction Manager at Risk Agreement*"), (i) OCM shall guarantee the completion of the Phase I Interior Public Improvements for a fixed sum equal to the net proceeds of the City Debt available for the construction of the Phase I Interior Public Improvements, as provided in Section 6.4; (ii) any additional costs to complete the Phase I Interior Public Improvements shall be borne by Developer and Developer shall be a party to the Construction Manager at Risk Agreement to establish its funding obligation and its agreement to disburse funds as necessary to meet its share of the cost of the Phase I Interior Public Improvements on a pro rata basis; (iii) OCM shall establish a bidding process for the work covered by the Phase I Interior Public Improvements that complies with the City's bidding requirements and shall award bids through this competitive process in accordance with all legal requirements imposed on OCM by the City; (iv) OCM shall provide warranties of the work consistent with the requirements of applicable law and City requirements and (v) the fee payable to OCM from proceeds of the City Debt made available for the Phase I Interior Public Improvements shall be the sum of One Dollar (\$1.00). The City will cooperate with Developer in establishing a list of approved contractors and subcontractors to participate in the competitive bidding process. No such subcontractors may be listed on the Federal Debarred List or the State Debarred List. The Parties acknowledge that the City's authorization of the Construction Manager at Risk Agreement will require the City's adoption of an appropriate ordinance or resolution which the City will promptly process in accordance with its normal procedures, the passage of which is a contingency under Section 5.1.

Section 10.2 Construction of Phase I Exterior Public Improvements. The City agrees to construct the Phase I Exterior Public Improvements in accordance with the Final Exterior Plans. The City will employ its normal bidding process for the award of contracts and subcontracts for such work. The City acknowledges the critical time deadlines involved in making the Project Site ready for construction and opening of Developer's initial major tenant, and agrees to cooperate with Developer in establishing benchmarks and deadlines for the

contractors so selected. The City agrees to consider including in its bid award requirements for liquidated damages for delay, recognizing that Developer will be subject to damages of a similar nature if the work is delayed. The City likewise agrees to endeavor to render decisions promptly so as to avoid delays, and to permit Developer or its representatives to participate in project meetings, review the status of construction in the field and in such meetings, and otherwise endeavor to keep the work on schedule or expedited as appropriate. If Developer determines that the work needs to be expedited and is willing to pay overtime or other costs to expedite the work, the City will cooperate in so permitting and requiring its contractors to perform the expedited work.

Section 10.3 Applicable Laws; Prevailing Wages. OCM as to the Phase I Interior Public Improvements and the City as to the Phase I Exterior Public Improvements shall obtain and maintain all necessary City and other governmental permits, licenses and other governmental approvals and shall comply with all applicable federal, state and local laws, codes, ordinances and other governmental requirements applicable to the construction of the Phase I Public Improvements. Without limiting the foregoing, the City and OCM, respectively, shall comply, and shall cause all contractors working on the Public Improvements to comply, with all applicable prevailing wage requirements.

Section 10.4 Inspection of Work. During construction, both Parties, their employees and agents shall have the right at all reasonable times to enter upon the Project Site and the adjoining public rights of way to examine and inspect the progress of construction of the Phase I Public Improvements and to determine whether each party is complying with its obligations hereunder. The City shall provide testing services through an engineering firm selected by the City, such testing to be of a nature and at intervals required by law or reasonably necessary for projects of a similar type.

Section 10.5 Mechanic's Liens. OCM and the City shall endeavor to not permit any mechanics' or other liens to be filed against the Project Site during the construction of the Phase I Public Improvements, and each shall follow Ohio's Mechanic's Lien law.

Section 10.6 Project Information. Upon completion of construction of the Phase I Exterior Public Improvements, the City shall provide Developer with (i) a complete set of the Final Exterior Plans for the Phase I Exterior Public Improvements and copies of any and all change orders, and such other pertinent documents or reports previously obtained by the City relating to the Phase I Exterior Public Improvements, including a set of electronic as-built plans developed from the project engineer's "redlined" set of drawings in AutoCAD (.dwg) file form, and (ii) verification of actual construction costs for the Phase I Exterior Public Improvements. OCM likewise shall be required to provide the same documents and information to the City as to the Phase I Interior Public Improvements. Upon completion of each Phase of construction for the Private Improvements, Developer shall provide the City with verification of the actual construction costs for such phase of the Private Improvements; provided, however, that if Developer must obtain such information from a third party (e.g., from a tenant or owner of a pad site at the Project Site), and such third party refuses to provide construction cost information to Developer on the basis that the information is confidential, Developer's obligation under this sentence shall be limited to providing the City with whatever construction cost information Developer is reasonably able to obtain, together with estimates to the best of Developer's ability

with respect to the construction cost information Developer is unable to obtain from the third parties.

ARTICLE XI - DEDICATION OF NEW PUBLIC RIGHT-OF-WAY AND EASEMENTS

Section 11.1 Dedication of Additional Right-of-Way. At each appropriate stage of the Development as reasonably required by the City, Developer, at its expense, shall prepare one or more dedication plats and all other documents required by the Greene County Auditor for the purpose of dedicating the Phase I Public Improvements (to the extent not previously dedicated) to the public. At such time as the Planning Commission and City Council have accepted the dedication, Developer shall file a record plat in the Greene County Recorder's office. Developer acknowledges that the Feedwire Road dedication may require prompt action.

Section 11.2 Dedication of Easements. The parties intend that certain of the Public Improvements will be located on easements dedicated to the City, in order that the City and the MPOA may have concurrent rights in such areas, such that the City, upon the occurrence of a default by the MPOA in fulfilling its maintenance obligations after notice and a reasonable opportunity to cure the default, will have the right (in addition to any other rights the City may have under applicable codes and regulations) to enter upon the easement area and perform the necessary work. The areas in question may include, without limitation, landscape easement areas adjacent to rights-of-way and retention/detention easement areas. By virtue of the easement rights held by the City, the City will have the authority to enforce its remedies set forth in Section 15.3.

ARTICLE XII - SUGARCREEK TOWNSHIP TIF

The parties acknowledge that Sugarcreek Township may have rights with respect to a tax increment financing that purports to include the South Parcel. Developer agrees to use reasonable efforts to resolve any such rights of the Township through appropriate means which may include exercising its rights under Section 5709.74(B) of the Ohio Revised Code.

ARTICLE XIII - FUTURE PHASES

Section 13.1 Future Phases. Provided that Developer is making reasonable progress, as determined by the City, toward completion of the Private Improvements on the prior Phases, Developer shall have the right to request the City to proceed with the construction of the Public Improvements for the subsequent phases of the Development, subject to the conditions set forth in Section 6.2 and Section 6.7. The City will fund the Public Improvements for the subsequent phases of the Development through the issuance of additional City Debt on the same terms and conditions as are provided in this Agreement with respect to the Phase I Public Improvements. The costs of the Public Improvements for the subsequent phases of the Development shall include engineering and design costs for those Public Improvements, as well as costs of financing and capitalized interest, shall be paid from proceeds of the additional City Debt. The Parties acknowledge that the Development is anticipated to be phased over a 10-15 year period. This could change, however, based on market factors, and the Parties agree to be flexible in accelerating or delaying the subsequent Phases.

Section 13.2 Other Applicable Terms. All terms of this Agreement that apply to the Phase I Public Improvements shall apply to the Public Improvements in the subsequent phases.

Section 13.3 Future Annexations. During the time that the TIF is in effect, Developer and any Oberer Affiliates agree to bring into the City parcels L32000100030000800, L32000100010011900 and L32000100010005300 (the "*Adjoining Parcels*") located in the vicinity of the Property, should Developer or an Oberer Affiliate acquire an interest in any of the Adjoining Parcels. The City acknowledges that this provision does not apply to any other properties, including, but not limited to, properties separately owned by Dille Laboratories Corporation, not currently located in the City.

ARTICLE XIV - DEVELOPMENT OF PROJECT SITE

Section 14.1 General Provision Relating to Proposed Development. Promptly following the Commencement Date, Developer agrees to proceed with all reasonable dispatch to develop the Project Site in a manner consistent with this Agreement and use its best efforts to construct the Private Improvements with a minimum value as set forth in Recital G.

Section 14.2 Zoning.

(a) **Proposed Development Zoning.** City and Developer agree that the Conceptual Development Plan reflects the preliminary development plan (defined by the UDO) approved by the City as part of the PUD zoning for the Project Site. Developer acknowledges and agrees that it will be required to prepare and submit for approval, final development plan applications for the various phases of the overall development of the Project Site, in accordance with the UDO where applicable and subject to Article II of this Agreement. Where the Conceptual Development Plan contains modifications or variations from the UDO, the City staff will pledge to cooperate and attempt to find reasonable modifications or variations on the final development plans, specifically including support of the Village concept proposed by Developer for a portion of the Project Site, and the establishment of a 300-unit multi-family (for lease product) area on the Project Site. The City agrees to cooperate with Developer in all matters requiring Ohio Department of Transportation review or approval. Subject to traffic study results, and without implying any contractual obligation that would be binding upon the Planning Commission or City Council, the City does not intend to deny full access or eliminate left turns from the North Parcel onto Wilmington Pike, nor is the City opposed to additional traffic signals, as long as such turns and/or signalization are strongly supported by the qualified traffic studies.

(b) **Proposed Timing.** City and Developer agree that the Project Site will be developed in phases and therefore, Developer may periodically submit separate final development plan applications for the various phases of the Project Site, all of which will be subject to the approval process described in Section 14.2(a). Final development plan application(s) submitted for approval of each phase must be self-sufficient for zoning and subdivision purposes and not dependent on a subsequent approval and/or development of any other portion of the Project Site for roadway access or utilities.

Section 14.3 Master Property Owners' Association.

(a) **Creation and Organizational Documents.** Developer agrees that prior to the conveyance of any parcel to third parties for development; it will create or cause the creation of a Master Property Owners Association (MPOA) for the North Parcel and a separate MPOA for the South Parcel. Developer agrees that the MPOA Organizational Documents will provide that the MPOA will be responsible for all matters for which a property owners' association customarily has responsibility. Developer agrees that City shall have the right to review and approve the MPOA Organizational Documents, which approval shall not be unreasonably withheld or delayed. City agrees to provide comments and/or approval relative to the MPOA Organizational Documents in a timely manner.

(b) **City's Rights Under Declaration.** The Parties agree that, among other terms which may be included in the Declaration for each MPOA and subject to the Centerville Municipal Code regulations regarding property maintenance and related codes, the Declaration shall provide the following:

- i. City shall have the right, without effect of waiver or delay, to perform the obligations of the MPOA as prescribed in Section 14.4, which performance by City may be effected following delivery of notice by City to the MPOA that the MPOA has failed to perform its obligations under this Agreement and such failure shall continue for the notice period established in the MPOA Declaration; *provided, however*, City agrees that it will delay pursuit of such obligations if in the City's reasonable determination, Developer or MPOA is proceeding expeditiously to complete such obligations;
- ii. City shall have the right to impose fees against the MPOA which fees shall be reasonably related to City's cost of effecting such performance as described in Section 14.4;
- iii. In the event that City performs the obligations of the MPOA pursuant to Section 14.4, City shall have the right, if the MPOA does not remit payment of such fees within thirty (30) days following the delivery of an invoice by City to the MPOA, to (a) enforce all of the rights of the MPOA under the Declaration, including the right to assess property owners for their respective shares of the costs as determined under the Declaration and file liens on the property(ies) that fail to pay their respective shares and/or (b) institute legal proceedings against the MPOA and/or the owner of any real property within the North Parcel or South Parcel, as applicable to recover said unpaid fees; and
- iv. City shall reserve the right to pursue all other rights and remedies at law or in equity which it may have against the MPOA, including, but not limited to, the City's rights and normal procedures under its property maintenance code. All of these rights and remedies at law are subject to change and

shall not conflict with any of the City's Municipal Code sections. Where there is a conflict, the City's codes shall take precedence over the MPOA.

Section 14.4 Maintenance Responsibilities. Developer agrees that it shall be responsible and, after the MPOA is created, the MPOA shall be responsible, for the following:

(a) **Maintenance of Pathways and Common Greenspace.** Paying the costs of and undertaking responsibility for designing, installing, planting, maintaining, including irrigation, weeding, repairing, and replacing all paths and bikeways, grass and other plantings, and lighting, street furniture, signage, mounding and other similar common structures within all common greenspace areas shown on the Conceptual Development Plan, which areas shall be specifically delineated upon final development plan approval(s).

(b) **Park Area.** The Parties acknowledge that the approved preliminary plan for the North Parcel includes the creation of a park of approximately 22 acres that will include an amphitheater and other amenities. The park land will be credited toward Developer's obligation to create open space in the Project Site. Developer may elect to retain this space as a common amenity of the MPOA, but it is more likely that Developer will convey the park area to a public park entity, following consultation with the City. In such case, Developer may elect to allow the park entity to handle all maintenance of the park improvements. It is important to maintain a level of maintenance of the park facilities comparable to the remainder of the development, Developer and/or the MPOA may enter into a maintenance agreement similar to the one described in Section 14.4(a), in which the public authority pays for a base level of maintenance, Developer and/or the MPOA assumes the maintenance responsibilities and Developer and/or the MPOA bears the costs necessary to provide the enhanced maintenance beyond the level normally provided by the public authority. Developer and/or the MPOA will consult with and keep the City apprised of all such arrangements.

(c) **Insurance.** The party which is then responsible for the maintenance obligations set forth in this Section 14.4 shall continuously, during the term of this Agreement, maintain general liability coverage and other coverages as are appropriate for an operator of similar improvements in the area and shall deliver certificates evidencing all such policies to City on or before January 1st of each year and every calendar year during the term of this Agreement and while the development is in existence. The cost of any and all litigation incurred by City, related to such improvements, including but not limited to defense under Section 723.01 of the Ohio Revised Code, shall be the responsibility of Developer, or, after its creation, the MPOA. All such policies shall name the City as an additional insured.

Section 14.5 Establishment of a Community Entertainment District(s). Developer's concept for the Project Site calls for a mixed-use of residential, office, retail, restaurant, entertainment, and hotels, which shall be of benefit to the City of Centerville and surrounding communities. The combination of the various uses within the proposed Development, including restaurants, nightclubs, and other similar establishments, are recognized as a pivotal part of the Development's success. It is anticipated that Developer will submit an Application for a Community Entertainment District ("*CED*") pursuant to Section 4301.80 of the Ohio Revised Code. The City and Developer hereby agree that so long as Developer and the Application meet the statutory requirements of Section 4301.80 of the Ohio Revised Code, City Council will

cooperate in processing the Application for the CED in accordance with the applicable law and procedures, the passage of which is a contingency under Section 5.1. As a condition to such approval, Developer shall subject the Project Site to a prohibition on sexually oriented businesses in a manner reasonably acceptable to the City.

Section 14.6 Transfer of Brown Road Property to City by Developer. Following the Commencement Date, Developer agrees to transfer good and marketable fee simple title for the portion of the North Parcel owned by Developer generally encompassing the eastbound lane of Brown Road to the Centerville Community Improvement Corporation (CCIC). Subject to the receipt of applicable governmental approvals, Developer agrees to finalize said transfer of real property as soon as is practicable. Upon transfer, the CCIC will take all necessary steps to annex the transferred real property into the City of Centerville. The transfer of land described is acknowledged by the Parties as the best and most expedient means by which to ensure the entire Project Site and its proposed public roadway access points will ultimately reside within the corporate boundaries of the City of Centerville. If Developer is unable to obtain all governmental approvals necessary to record the deed prior to the expiration of the Contingency Period, Developer shall either take such legal action as may be appropriate to obtain such approvals or pursue the annexation of the Brown Road right-of-way area, to the centerline of the road, into the City of Centerville.

Section 14.7 Detachment. Upon and after execution of this Agreement and provided that this Agreement remains in effect, Developer agrees not to take any actions without approval of City to petition or otherwise permit the detachment of the Project Site or a portion thereof from the corporate boundaries of City.

ARTICLE XV - REMEDIES

Section 15.1 Developer's Default. The occurrence of any of the following shall be an "event of default" under this Agreement:

(a) The dissolution of Developer or the filing of any bankruptcy or insolvency proceedings by or against Developer, the appointment of a receiver (temporary or permanent) for Developer, the attachment of, levy upon, or seizure by legal process of any property of Developer, or the insolvency of Developer; or

(b) The failure of Developer to perform or observe any obligation, duty, or responsibility under this Agreement, and failure by Developer to correct such failure within thirty (30) days after Developer's receipt of written notice thereof from the City; provided, however, that if the nature of the default is such that it cannot reasonably be cured within thirty (30) days, Developer shall not be in default so long as Developer commences to cure the default within such thirty day period and thereafter diligently completes such cure within ninety (90) days after Developer's receipt of the City's initial notice of default. The foregoing notwithstanding, if Developer's failure to perform or observe any obligation, duty, or responsibility under this Agreement creates a dangerous condition or otherwise constitutes an emergency as determined by the City, an event of default shall be deemed to have occurred if Developer fails to take corrective action immediately upon discovering such dangerous condition or emergency.

Section 15.2 City's Remedies. Upon the occurrence of an event of default under this Agreement, the City shall be entitled to (i) suspend funding during the continuance of the default, (ii) take such actions in the way of "self help" as the City determines to be reasonably necessary or appropriate to cure or lessen the impact of such default, all at the expense of Developer, and (iii) exercise any and all other rights and remedies under this Agreement or available at law or in equity, including without limitation pursuing an action for specific performance. Developer shall be liable for all costs and damages, including without limitation attorneys fees, suffered or incurred by the City as a result of a default of Developer under this Agreement or the City's termination of this Agreement. Within five (5) business days after the expiration or sooner termination of this Agreement, Developer shall deliver to the City a complete set of as-built drawings (to the extent that the Public Improvements have been completed), surveys, title reports, environmental reports, soil studies, warranty documentation, instructions, operating manuals, and all other written materials, records and other documents that are in Developer's possession or under Developer's control, or prepared or acquired in the course of Developer's engagement by the City, copies of all third-party contracts entered into by Developer in connection with the construction of the Public Improvements, and a complete set of the Final Plans for the Public Improvements and any and all change orders relating thereto. The failure of the City to insist upon the strict performance of any covenant or duty, or to pursue any remedy, under this Agreement shall not constitute a waiver of the breach of such covenant or of such remedy.

Section 15.3 City's Default. The occurrence of any of the following shall be an "event of default" under this Agreement:

(a) The dissolution of City or the filing of any bankruptcy or insolvency proceedings by or against City, the appointment of a receiver (temporary or permanent) for City, the attachment of, levy upon, or seizure by legal process of any property of City, or the insolvency of City; or

(b) The failure of City to perform or observe any obligation, duty, or responsibility under this Agreement, and failure by City to correct such failure within thirty (30) days after City's receipt of written notice thereof from Developer; provided, however, that if the nature of the default is such that it cannot reasonably be cured within thirty days, City shall not be in default so long as City commences to cure the default within such thirty day period and thereafter diligently completes such cure within ninety (90) days after City's receipt of Developer's initial notice of default. The foregoing notwithstanding, if City's failure to perform or observe any obligation, duty, or responsibility under this Agreement creates a dangerous condition or otherwise constitutes an emergency as determined by Developer, an event of default shall be deemed to have occurred if City fails to take corrective action immediately upon discovering such dangerous condition or emergency.

Section 15.4 Developer's Remedies. Upon the occurrence of an event of default by the City, Developer, at its option, may, but shall not be obligated to, enforce, or avail itself of, any remedies available at law or in equity. In addition to the foregoing, Developer may enforce the obligations of the City hereunder by writ of mandamus. The failure of Developer to insist upon the strict performance of any covenant or duty, or to pursue any remedy, under this Agreement shall not constitute a waiver of the breach of such covenant or of such remedy.

Section 15.5 Other Rights and Remedies; No Waiver by Delay. The Parties shall each have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of, and its remedies under, this Agreement; provided, that any delay by either Party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Agreement shall not operate as a waiver of such rights or to deprive it of or limit such right in any way; nor shall any waiver in fact made by either Party with respect to any specific default by the other Party under this Agreement be considered or treated as a waiver of the rights of such Party with respect to any other defaults by the other party this under Agreement or with respect to the particular default except to the extent specifically waived in writing. It is the further intent of this provision that neither Party should be constrained, so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Agreement because of concepts of waiver, laches, or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved.

Section 15.6 Force Majeure. Except as otherwise provided herein, no Party shall be considered in default in its obligations to be performed hereunder, if delay in the performance of such obligations is due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, acts of God, acts of terrorism or of the public enemy, acts or delays of the other party, fires, floods, unusually severe weather, epidemics, freight embargoes, unavailability of materials, strikes or delays of contractors, subcontractors or materialmen but not including lack of financing capacity; it being the purpose and intent of this paragraph that in the event of the occurrence of any such enforced delay, the time or times for performance of such obligations shall be extended for the period of the enforced delay; *provided however*, that the Party seeking the benefit of the provisions of this Section 15.6 shall within fourteen (14) days after the beginning of such enforced delay, notify the other Party in writing thereof and of the cause thereof and of the duration thereof or, if a continuing delay and cause, the estimated duration thereof, and if the delay is continuing on the date of notification, within thirty (30) days after the end of the delay, notify the other Party in writing of the duration of the delay.

ARTICLE XVI - MISCELLANEOUS

Section 16.1 Indemnification. Developer hereby agrees to indemnify and hold City harmless and agrees to defend City from and against any and all claims, losses, damages, demands, liabilities, obligations, penalties, actions or rights of action, judgments, suits, costs, expenses, or disbursements of any kind or nature which may arise as a result of (a) breach of this Agreement by Developer, (b) anything done or omitted to be done through the negligence of intentional act of Developer or of its staff, agents or employees, or (c) any action of Developer or any of its officers, directors, employees, or agents, which action requires the approval of City and such has not been obtained. City shall promptly give Developer written notice, at the address provided in this Agreement, of any and all claims, losses, damages, demands, liabilities, obligations, penalties, actions or rights of actions, judgments, suits, costs, expenses, or disbursements of any kind or nature for which City seeks indemnification. The obligations of Developer pursuant to this Section 16.1 shall survive termination of this Agreement without limitation.

Section 16.2 Notice. Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents, or approvals given, required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other party at the Notice Address set forth in this Agreement, or to such other address as the recipient shall have previously notified the sender of it in writing, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to have been received when the return receipt is signed or refused. Any process, pleadings, notice of other paper served upon the Parties shall be sent by registered or certified mail at their respective Notice Address, or to such other address or addresses as may be furnished by one party to the other.

Section 16.3 Extent of Covenants; No Personal Liability. All covenants, obligations and agreements of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of any Party other than in his or her official capacity, and neither the members of the legislative body of the City nor any official executing this Agreement nor any present or future member, officer, agent or employee of Developer shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution thereof or by reason of the covenants, obligations or agreements of the Parties contained in this Agreement.

Section 16.4 Severability. If any provision of this Agreement, or any covenant, obligations or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. If any provision, covenant, obligation or agreement shall be subject to more than one interpretation, such interpretation shall be used to make this Agreement effective. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 16.5 Binding Effect Against Successors and Assigns. The provisions of this Agreement shall be binding upon the successors or assigns of the Parties, including successive successors and assigns.

Section 16.6 Recitals and Exhibits. The Parties acknowledge and agree that the facts and circumstances as described in the Recitals and Exhibits hereto are an integral part of this Agreement and as such are incorporated herein by reference.

Section 16.7 Entire Agreement. This Agreement (including the Exhibits) embodies the entire agreement and understanding of the Parties relating to the subject matter herein and therein and may not be amended, waived or discharged except in an instrument in writing executed by the Parties.

Section 16.8 Executed Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to constitute an original, but all of which together shall constitute but one and the same instrument. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

Section 16.9 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio or applicable federal law, All claims, counterclaims, disputes and other matters in question between any of the Parties and their respective agents and employees, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Montgomery County, Ohio.

Section 16.10 Assignment. This Agreement may not be assigned without the prior written consent of all non-assigning Parties.

Section 16.11 Survival of Representations and Warranties. All representations and warranties of the Parties in this Agreement shall survive the execution and delivery of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Signed by the Parties as of the Effective Date.

APPROVED AS TO FORM:

City Attorney

CITY:

THE CITY OF CENTERVILLE, OHIO, an
Ohio municipal corporation

By: _____
Gregory Horn, City Manager

DEVELOPER:

CORNERSTONE DEVELOPERS, LTD., an
Ohio limited liability company

By: Oberer Construction Managers, Ltd., an
Ohio limited liability company, its
Manager

By: _____
George R. Oberer, Jr., Manager

STATE OF OHIO)
) SS:
COUNTY OF MONTGOMERY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by Gregory Horn, City Manager on behalf of the City of Centerville, Ohio, an Ohio municipal corporation.

Notary Public

STATE OF OHIO)
) SS:
COUNTY OF MONTGOMERY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by George R. Oberer, Jr., Manager of Oberer Construction Managers, Ltd., an Ohio limited liability company, on behalf of the limited liability company as Manager of Cornerstone Developers, LTD., an Ohio limited liability company.

Notary Public

This Instrument Prepared By:
Robert M. Curry, Esq.
Thompson Hine LLP
10050 Innovation Dr., Suite 400
Dayton, Ohio 45342

List of Exhibits

- A North Parcel Description**
- B South Parcel Description**
- C Conceptual Development Plan**
- D Public Improvements**
- E Phase I Site Plan**
- F Description of Phase I Public Improvements/Scope and Budget**
- G TIF Parcels**
- H Map of Tax Increment Financing Area**
- I Additional Property**
- J TIF Declaration**

EXHIBIT A

NORTH PARCEL DESCRIPTION

TRACT I:

Situate in Section 9, Township 2, Range 6, Township of Sugarcreek, County of Greene, State of Ohio, and being a tract of land conveyed to Charles A. Dille, Trustee as recorded in Official Record 1187, Page 425 (all references to deeds, microfiche, plats, surveys, etc. refer to the records of the Greene County Recorders Office, unless noted otherwise) and being more particularly bounded and described as follows:

Commencing for reference at an iron pin (found) in a monument box at the Northwest corner of said Section 9;

thence along the north line of said Section 9, said line being the south line of a tract of land conveyed to Sugarcreek Golf Course, Inc. as recorded in Official Record 696, Page 488, South eighty-eight degrees thirty-eight minutes forty-nine seconds East (S88°38'49"E) for one hundred thirty-one and 28/100 feet (131.28') to the TRUE POINT OF BEGINNING of the herein described tract of land;

thence continuing along the north line of said Section 9, and in part along the south line of said Sugarcreek Golf Course land, and in part along the south line of a tract of land conveyed to Ellen McDonald as recorded in Official Record 1460, Page 317, South eighty-eight degrees thirty-eight minutes forty-nine seconds East (S88°38'49"E) for one thousand forty-seven and 62/100 feet (1047.62');

thence South four degrees forty-six minutes fifty-eight seconds West (S04°46'58"W) (passing an iron pin set at fifteen and 03/100 feet (15.03') and another iron pin set at two thousand six hundred seventy-three and 91/100 feet (2673.91')) for a total distance of two thousand six hundred ninety-three and 95/100 feet (2693.95') to a point on the south line of the Northwest Quarter of said Section 9;

thence along the south line of the Northwest Quarter of said Section 9, North eighty-nine degrees zero minutes twelve seconds West (N89°00'12"W) for one thousand one hundred seven and 71/100 feet (1107.71') to the southeast corner of a tract of land conveyed to Greene County Commissioners as recorded in Official Record 743, Page 436;

thence along said Greene County Commissioners land for the following four (4) courses:

1. North zero degrees fifty-nine minutes forty-eight seconds East (N00°59'48"E) for twenty-five and 00/100 feet (25.00') to an iron pin set;
2. North eighty-nine degrees zero minutes twelve seconds West (N89°00' 12"W) for six and 68/100 feet (6.68') to an iron pin set at a point of curvature;
3. on a curve to the right with a radius of twenty-five and 00/100 feet (25.00') for an arc distance of forty and 92/100 feet (40.92'), [chord bearing North forty-two degrees six minutes thirty-eight seconds West (N42°06'38"W) for thirty-six and

50/100 feet (36.50'), delta angle of said curve being ninety-three degrees forty-seven minutes eight seconds (93°47'08") to an iron pin set at a point of tangency;

4. North four degrees forty-six minutes fifty-six seconds East (N04°46'56"E) for two thousand six hundred five and 27/100 feet (2605.27') to an iron pin set;

thence in part along said Greene County Commissioners land and in part along the south line of another tract of land conveyed to Greene County Commissioners as recorded in Official Record 743, Page 434, North seventy-four degrees forty-seven minutes ten seconds East (N74°47'10"E) for one hundred one and 58/100 feet (101.58') to an iron pin set;

thence along the east of the Greene County Commissioners land recorded in Official Record 743, Page 434, North one degree eighteen minutes thirty-six seconds East (N01°18'36"E) for fifteen and 00/100 feet (15.00') to the **TRUE POINT OF BEGINNING**, containing seventy and 525/1000 (70.525) acres, more or less. The existing right-of-way for Brown Road contains 0.361 acres, more or less. The existing right-of-way for Feedwire Road contains 0.509 acres more or less. The existing right-of-way recorded in Deed Book 436, Page 485 contains 0.004 acres, more or less. This results in a net area of 69.651 acres, more or less, subject however to all covenants, conditions, restrictions, reservations, and easements contained in any instrument of record pertaining to the above described tract of land.

This description was prepared from a field survey performed in March 2005 by Horizon Surveying, Inc., with bearings based upon the Ohio State Plane Coordinate System (South Zone). The survey upon which this description is based is recorded in Greene County Surveyors Record Number 38, Page 37.

Parcel Nos. L49-1-1-2 and L32-1-2-1

TRACT II:

Situate in Section 9, Township 2, Range 6, Township of Sugarcreek and City of Centerville, County of Greene, State of Ohio, and being part of a tract of land conveyed to Dille Laboratories Corporation as recorded in Deed Book 244, Page 419, part of another tract of land conveyed to Dille Laboratories Corporation as recorded in Deed Book 285, Page 620 and part of another tract of land conveyed to Dille Laboratories Corporation as recorded in Deed Book 318, Page 343 (all references to deeds, microfiche, plats, surveys, etc. refer to the records of the Greene County Recorders Office, unless noted otherwise) and being more particularly bounded and described as follows:

Commencing for reference at an iron pin (found) in a monument box at the Northwest corner of said Section 9;

thence along the north line of said Section 9, in part along the south line of a tract of land conveyed to Sugarcreek Golf Course, Inc. as recorded in Official Record 696, Page 488, and in part along the south line of a tract of land conveyed to Ellen McDonald as recorded in Official Record 1460, Page 317, South eighty-eight degrees thirty-eight minutes forty-nine seconds East (S88°38'49"E) for one thousand one hundred seventy-eight and 90/100 feet (1178.90') to the **TRUE POINT OF BEGINNING** of the herein described tract of land;

thence continuing along the north line of said Section 9, and in part along the south line of said Ellen McDonald land, in part along the south line of Brown's Run Subdivision as recorded in Plat Cabinet 34, Slide 366B, and in part along the south line of a tract of land conveyed to Katherine A. and Reginald B. O'Hara as recorded in Official Record 1397, page 657, South eighty-eight degrees thirty-eight minutes forty-nine seconds East (S88°38'49"E) for one thousand three hundred eighty-one and 51/100 feet (138.51') to an iron pin set in the west limited access right-of-way line of Interstate Route 675 as established by Deed Book 513, Page 662 and Official Record 204, Page 524;

thence along said west limited access right-of-way line for the following ten (10) courses:

1. South four degrees fifty-seven minutes thirty seconds East (S04°57'30"E) for five hundred sixty-two and 15/100 feet (562.15') (witness an iron pin found North 48° East for 1.37 feet from said corner);
2. South one degree nine minutes three seconds East (S01°09'03"E) for three hundred eighty-nine and 71/100 feet (389.71') to an iron pin set;
3. South two degrees fifty-five minutes eleven seconds West (S02°55'11"W) for three hundred six and 40/100 feet (306.40') (witness an iron pin found North 32° East for 0.63 feet from said corner);
4. South forty-nine degrees forty-two minutes forty-five seconds West (S49°42'45"W) for fifty-seven and 23/100 feet (57.23') (witness an iron pin found North 20° East for 0.63 feet from said corner);
5. South thirty-three degrees forty-nine minutes twenty-seven seconds East (S33°49'27"E) for sixty-nine and 73/100 feet (69.73') (witness an iron pin found North 21° East for 0.47 feet from said corner);
6. South two degrees fifty-five minutes eleven seconds West (S02°55'11"W) for ninety-five and 68/100 feet (95.68') (witness an iron pin found North 6° East for 0.58 feet from said corner);
7. South twenty-three degrees thirteen minutes one second West (S23°13'01"W) for one hundred ninety-three and 27/100 (193.27') to an iron pin set;
8. South four degrees twenty-seven minutes eighteen seconds West (S04°27'18"W) for one hundred ninety-two and 14/100 (192.14') to an iron pin set;
9. South twenty-one degrees eleven minutes fifty-four seconds West (S21°11'54"W) for three hundred seventy-nine and 62/100 feet (379.62') (witness an iron pin found North 84° West for 0.29 feet from said corner);
10. South twenty-seven degrees one minute fourteen seconds West (S27°01'14"W) for four hundred thirty-six and 90/100 feet (436.90') to a point in the north limited access right-of-way line of Feedwire Road as established by Deed Book 513, Page 654 (witness an iron pin found North 29° West for 0.32 feet from said corner);

thence along said north limited access right-of-way line for the following six (6) courses:

1. North eighty-eight degrees fifty minutes thirty-one seconds West (N88°50'31"W) for two hundred ninety-two and 23/100 feet (292.23') to an iron pin set;
2. South eighty degrees four minutes forty-seven seconds West (S80°04'47"W) for one hundred one and 98/100 feet (101.98') to an iron pin set;
3. North eighty-five degrees forty-four minutes fifty-two seconds West (N85°44'52"W) for one hundred and 12/100 feet (100.12") (witness a P.K. Nail found South 68° East for 0.54 feet from said corner);
4. South eighty-two degrees fifty-one minutes thirty-two seconds West (S82°51'32"W) for two hundred two and 24/100 (202.24') to an iron pin set;
5. South seventy-three degrees sixteen minutes seventeen seconds West (S73°16'17"W) for one hundred fifty-seven and 83/100 feet (157.83') to an iron pin set;
6. South one degree twenty-three minutes twenty-three seconds West (S01°23'23"W) for twenty-five and 00/100 feet (25.00') to a point on the south line of the Northwest Quarter of said Section 9;

thence along the south line of the Northwest Quarter of said Section 9, North eighty-nine degrees zero minutes twelve seconds West (N89°00'12"W) for three hundred sixty-five and 13/100 feet (365.13') to the southeast corner of a tract of land conveyed to Charles A. Dille, Trustee as recorded in Official Record 1187, Page 425;

thence along the east line of said Dille Trust land, North four degrees forty-six minutes fifty-eight seconds East (N04°46'58"E) (passing a Mag Nail set at twenty and 04/100 feet (20.04) and another iron pin set at two thousand six hundred seventy-eight and 92/100 feet (2678.92') for a total distance of two thousand six hundred ninety-three and 95/100 feet (2693.95') to the TRUE POINT OF BEGINNING, containing eighty-six and 432/1000 (86.432) acres, more or less. The existing right-of-way for Brown Road contains 0.476 acres, more or less. The existing right-of-way for Feedwire Road contains 0.167 acres, more or less. This results in a net area of 85.789 acres, more or less, subject however to all covenants, conditions, restrictions, reservations, and easements contained in any instrument of record pertaining to the above described tract of land. ** ABOVE 84.16 Ac Annexed into City of Centerville 10-13-2006 1.285 Ac REMAIN IN Sugarcreek Township R/W.

This description was prepared from a field survey performed in March, 2005, with bearings based upon the Ohio State Plane Coordinate System (South Zone). Paul F. MacCullum, Ohio Professional Surveyor No. 7561.

Parcel Nos. L49-1-1-3 and L32-1-2-2

EXHIBIT B

SOUTH PARCEL DESCRIPTION

Situate in Section 9, Township 2, Range 6, Township of Sugarcreek and City of Centerville, County of Greene, State of Ohio, and being part of a tract of land conveyed to Dille Laboratories Corporation as recorded in Deed Book 306, Page 322 (all references to deeds, microfiche, plats, surveys, etc. refer to the records of the Greene County Recorders Office, unless noted otherwise) and being more particularly bounded and described as follows:

Beginning at an iron pin set at the southeast corner of the southwest quarter of said Section 9, said point being in the north line of a tract of land conveyed to Wendell E. Spears as recorded in Official Record 323, Page 217;

thence along the south line of said Section 9 and in part along the north line of said Spears land and in part along the north line of a tract of land conveyed to The Board of Sugarcreek Township Trustees as recorded in Official Record 375, Page 636, North eighty-nine degrees zero minutes twenty-six seconds West (N89°00'26"W) for one thousand seven hundred twenty-three and 47/100 feet (1723.47') to an iron pin set at the southeast corner of a tract of land conveyed to Christ Evangelical Brethren Church as recorded in Deed Book 333, Page 534;

thence along the lines of said Church land for the following two (2) courses:

1. North zero degrees fifty-nine minutes thirty-four seconds East (N00°59'34"E) for three hundred forty-seven and 83/100 feet (347.83') to an iron pin set;
2. North eighty-nine degrees zero minutes twenty-six seconds West (N89°00'26"W) for one thousand one hundred eighty and 53/100 feet (1180.53') to an iron pin set in the east limited access right-of-way line of Interstate Route 675 as established by Deed Book 513, Page 658;

thence along said limited access right-of-way line for the following seven (7) courses:

1. North fifteen degrees nineteen minutes forty-one seconds East (N15°19'41"E) for three hundred fifty-seven and 44/100 feet (357.44') to an iron pin set;
2. North forty-four degrees thirty-six minutes forty-six seconds East (N44°36'46"E) for two hundred seventy-six and 56/100 feet (276.56') to an iron pin set;
3. North fifty-five degrees thirty-two minutes twenty-one seconds East (N55°32'21"E) for one hundred five and 95/100 feet (105.95') to an iron pin set;
4. North sixty-six degrees fifty minutes thirty-three seconds East (N66°50'33"E) for eight hundred fifty-one and 36/100 feet (851.36') to an iron pin set;
5. North eighty-two degrees fifty-six minutes forty-seven seconds East (N82°56'47"E) for two hundred sixty-four and 05/100 feet (264.05') to an iron pin set;

6. North sixty-four degrees fifty-nine minutes fifty-seven seconds East (N64°59'57"E) for two hundred sixty-five and 99/100 feet (265.99') to an iron pin set;
7. North thirty-five degrees fifty-nine minutes forty-six seconds East (N35°59'46"E) for two hundred thirty and 70/100 feet (230.70') to an iron pin found at the southwest corner of Five Seasons as recorded in Plat Cabinet 30 Slide 571B;

thence along said Five Seasons for the following two (2) courses:

1. South thirty-six degrees twenty-one minutes twenty-seven seconds East (S36°21'27"E) for five hundred sixteen and 56/100 feet (516.56') to an iron pin set;
2. South eighty-six degrees zero minutes seventeen seconds East (S86°00'17"E) (passing an iron pin set at 851.42') for a total distance of eight hundred eighty-five and 82/100 feet (885.82') to point in the east line of the southwest quarter of said Section 9, Phillip M. & Sharon L. Herres as recorded in Deed Book 551, Page 903 and Official Record 500, Page 414;

thence along the east line of said southwest quarter and part along the west line of said Herres land, in part along the west line of Sugar Leaf Section 2 as recorded in Plat Cabinet 33, Slide 773A, and in part along the west line of Sugar Leaf Section 1 as recorded in Plat Cabinet 33, Slide 619B, South four degrees nineteen minutes thirty-seven seconds West (S04°19'37"W) for one thousand one hundred ninety-one and 61/100 feet (1191.61') to the POINT OF BEGINNING, containing seventy-one and 482/1000 (71.482) acres, more or less. The existing right-of-way for Possum Run Road contains 0.339 acres, more or less, resulting in a net area of 71.143 acres, more or less, subject however to all covenants, conditions, restrictions, reservations, and easements contained in any instruments of record pertaining to the above described tract of land. **ABOVE 70.935 Ac Annexed into City of Centerville 10-20-2006 0.87 Ac REMAIN IN Sugarcreek Twp. R/W.

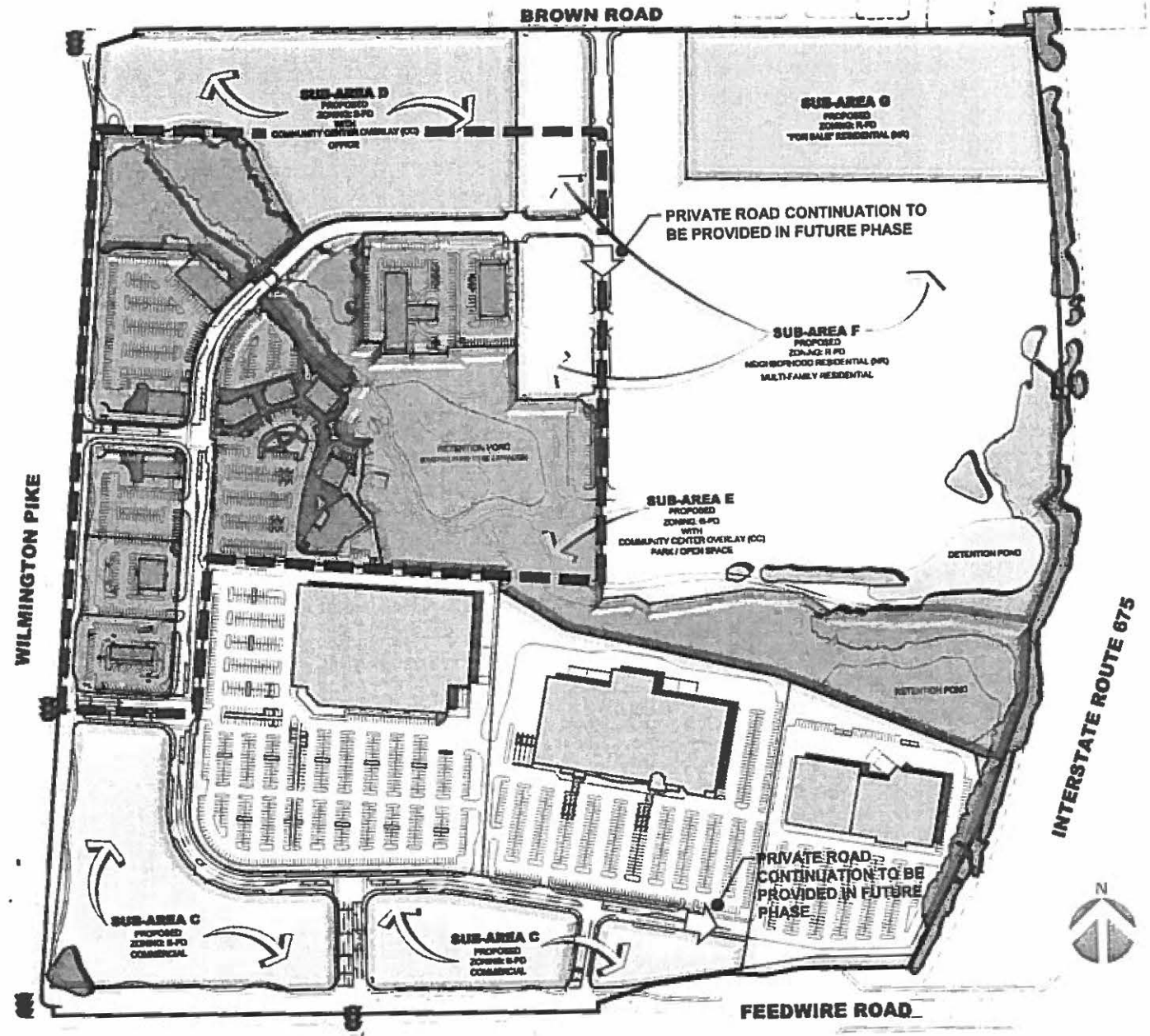
This description was prepared from a field survey performed in March, 2005, with bearings based upon the Ohio State Plane Coordinate System (South Zone). Paul F. MacCullum, Ohio Professional Surveyor No. 7561.

Parcel Nos. L49-1-1-12 and L32-1-2-3

EXHIBIT C CONCEPTUAL SITE PLAN - NORTH

-  Sub-Area A
"Village Retail"
-  Sub-Area B
"Anchor Retail"
-  Sub-Area C
"Outlot Pad Sites"
-  Sub-Area D
"Office Village"
-  Sub-Area E
"Park/Open Space"
-  Sub-Area F
"Multi-Family Residential"
-  Sub-Area G
"For Sale Residential"
-  Village Center Area

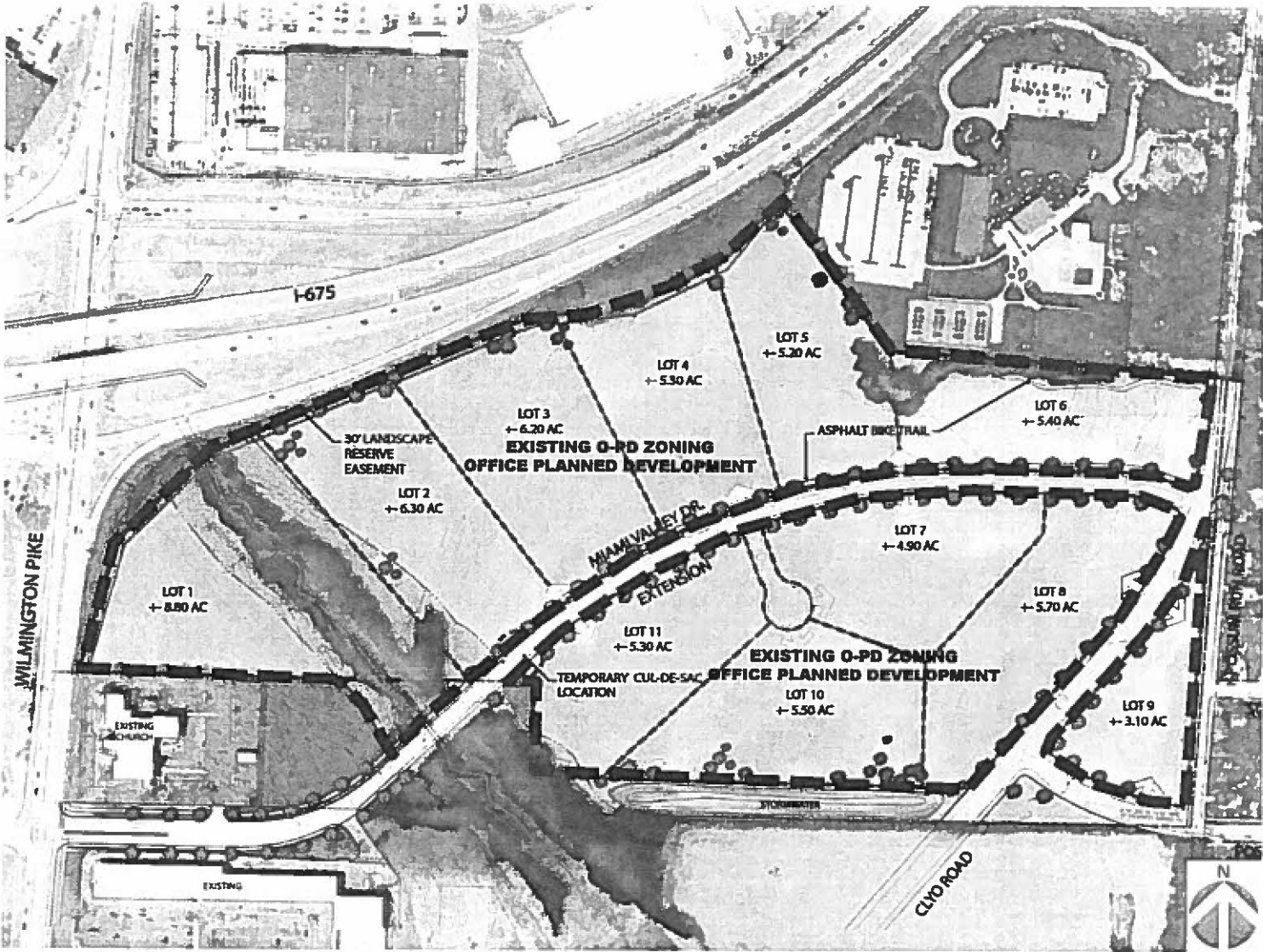
Note:
This plan represents the approved Preliminary Development Plan with conditions dated August 29, 2013. Buildings, parking, lot lines and Sub-Area boundaries shown are for illustrative purposes only.



**EXHIBIT C
CONCEPTUAL SITE PLAN - SOUTH**




**Office Planned
Development**





Note:
This plan represents the approved Preliminary Development Plan with conditions dated February 19, 2013. Lot lines and other improvements shown are for illustrative purposes only.

EXHIBIT D PUBLIC IMPROVEMENTS - NORTH

 Existing Public Street Improvements

 New Public Streets And Related Public Infrastructure Improvements

 New Public Park Improvements. Exact limits to be determined

 This area is subject to review by bond council as the improvement may not be TIF eligible

 Public Water Lines

 Public Sewer Lines (Proposed Assessment Project)

Note:
This plan is schematic in nature. All improvements shown are for illustrative purposes only. The final location of all improvements will be defined on the Final Development Plan.

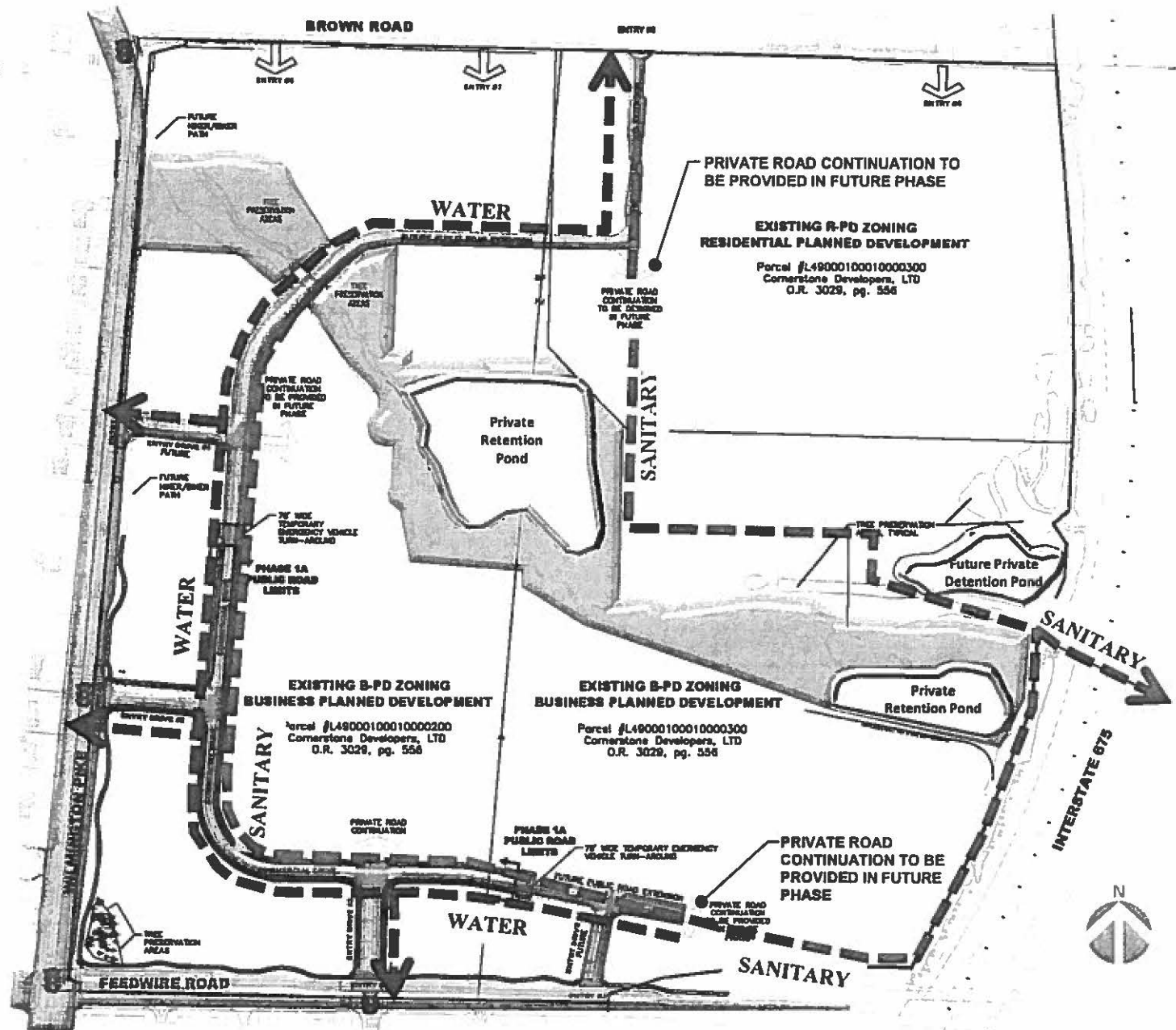







EXHIBIT D PUBLIC IMPROVEMENTS - SOUTH

-  Existing Public Street Improvements
-  New Public Streets And Related Public Infrastructure Improvements
-  Public Water Lines
-  Public Sewer Lines
-  Existing Public Sewer Line

Note:
This plan represents the approved Preliminary Development Plan with conditions dated February 19, 2013. Lot lines and other improvements shown are for illustrative purposes only. The utilities depicted are schematic in nature. Final location of all improvements will be defined on the Final Development Plan.

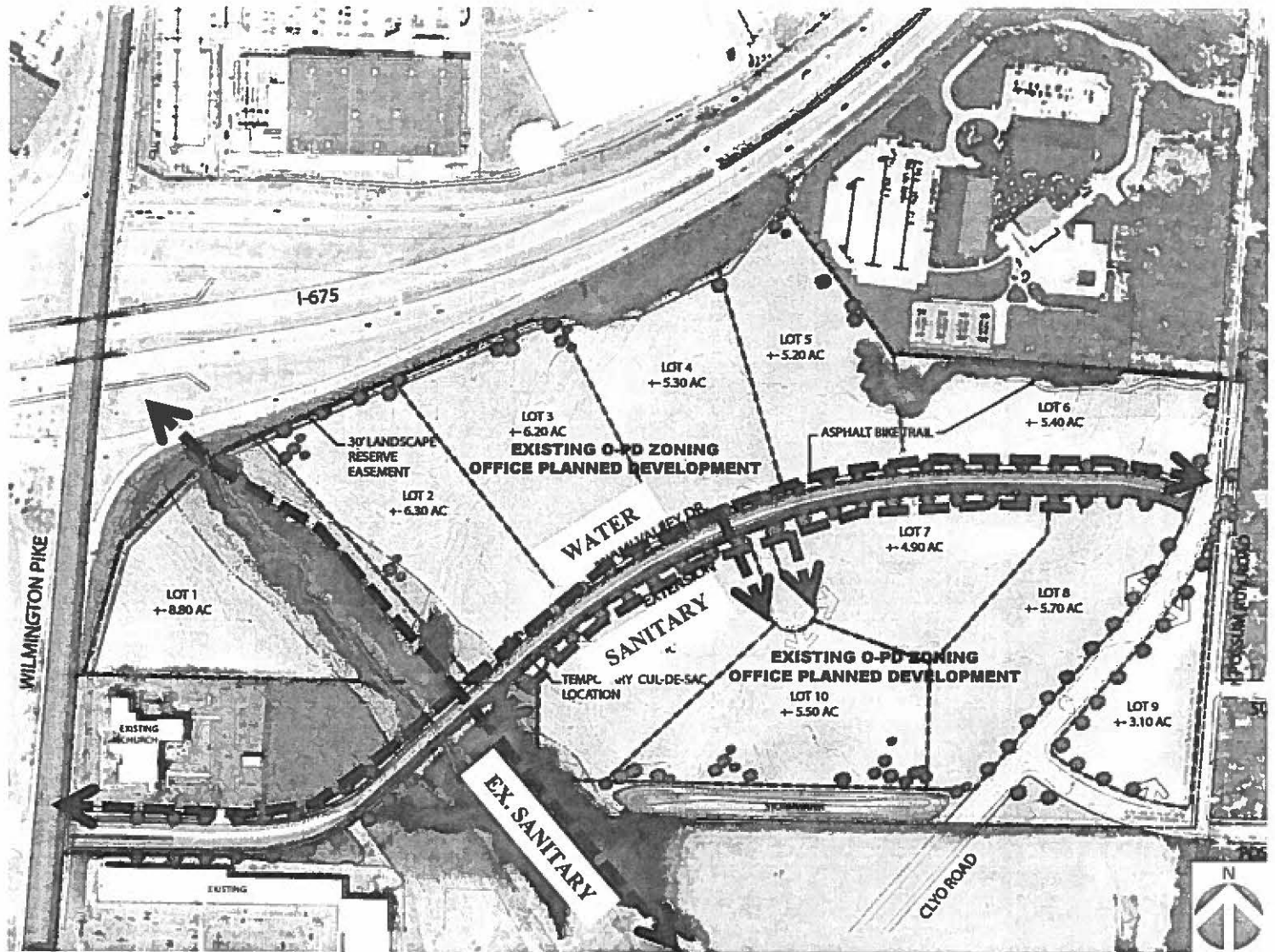
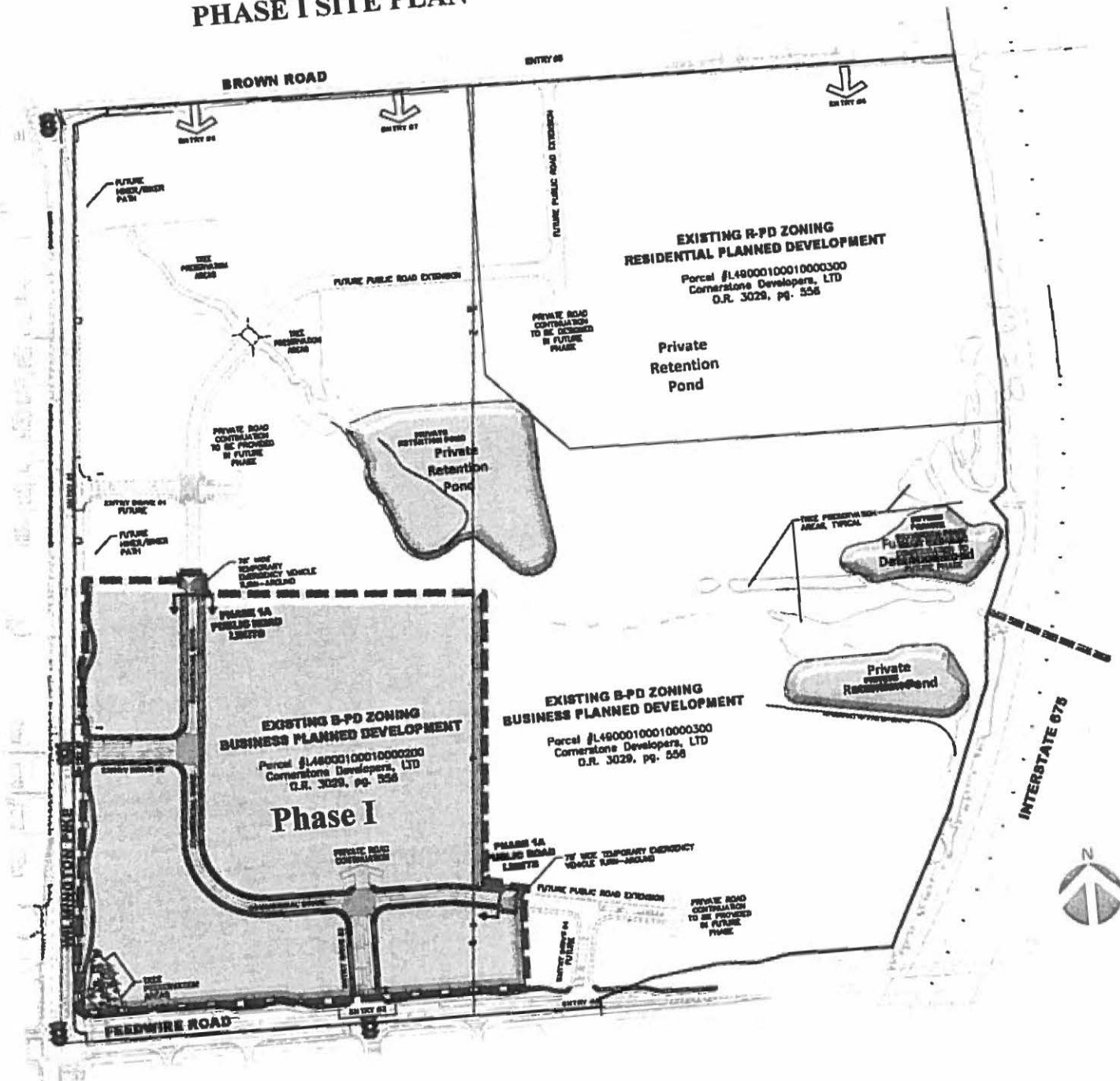


EXHIBIT E PHASE I SITE PLAN

 Phase I Limits






Note:
This plan is schematic in nature. All improvements shown are for illustrative purposes only. The final location of all improvements will be defined on the Final Development Plan.




EXHIBIT F PHASE I PUBLIC IMPROVEMENTS

Interior Public Improvements: *Approximately \$2.4 million

-  New Public Streets And Related Public Infrastructure Improvements
-  Public Water Lines
-  Public Sewer Lines (Proposed Assessment Project)

Exterior Public Improvements: *Approximately \$4.2 million

-  Existing Public Street Improvements

*Amount of public cost funding is subject to Sections 6.2 and 6.7 of the Development Agreement

Note:
This plan is schematic in nature. All improvements shown are for illustrative purposes only. The final location of all improvements will be defined on the Final Development Plan.

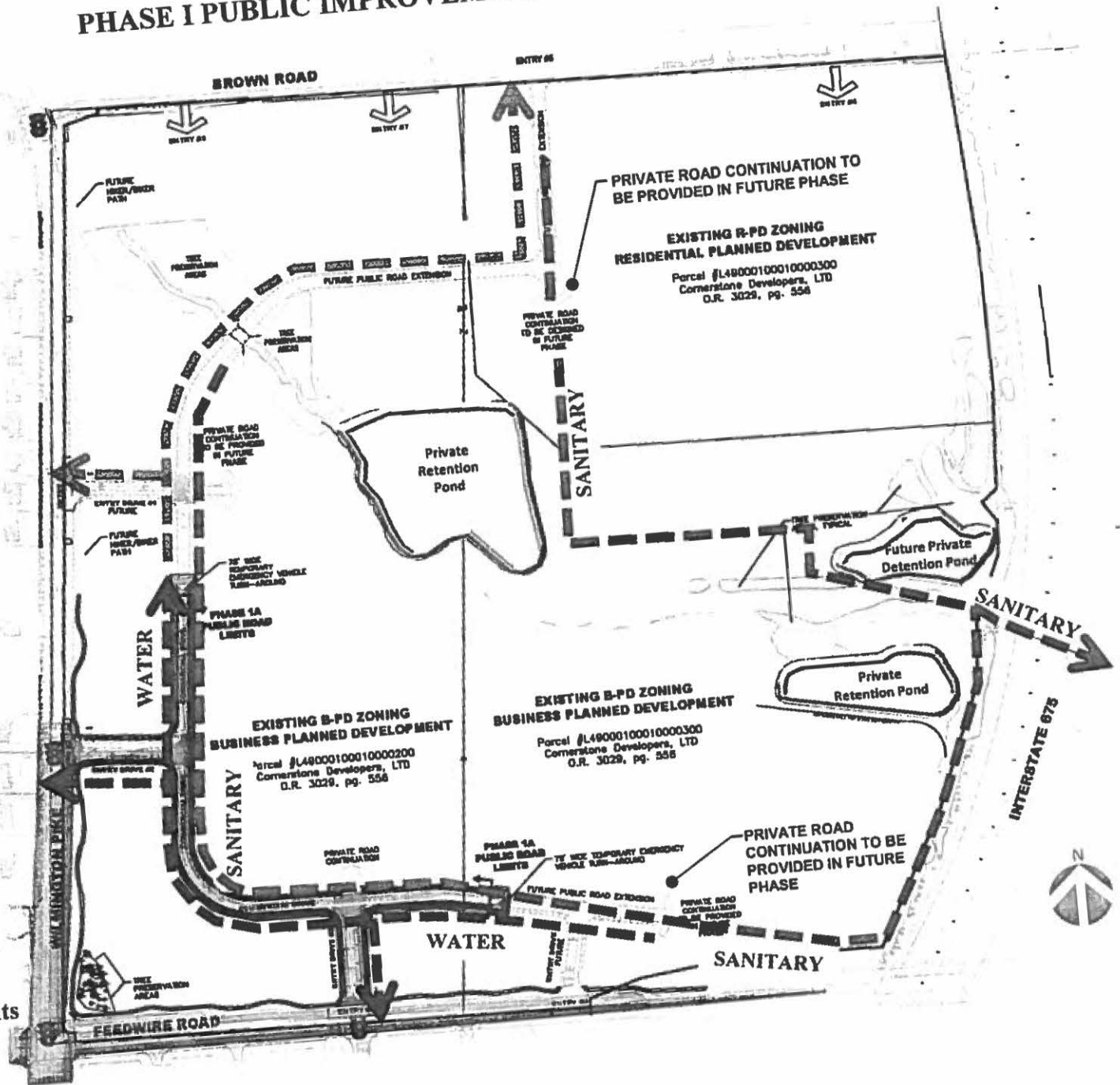
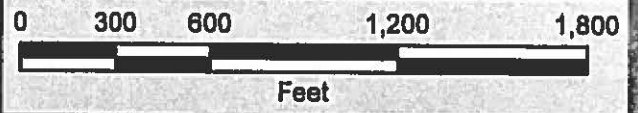


Exhibit G TIF Parcels

Legend

-  TIF Parcels
-  Parcels

November 2013



L49000100010000200
5300 Wilmington Pike
Owner: Cornerstone Developers LTD
Acres: 68.236

L49000100010000300
4401 Feedwire Rd.
Owner: Cornerstone Developers LTD
Acres: 83.195

L49000100010001200
Along Clio Rd, East of Wilmington Pike
Owner: Cornerstone Developers LTD
Acres: 70.935

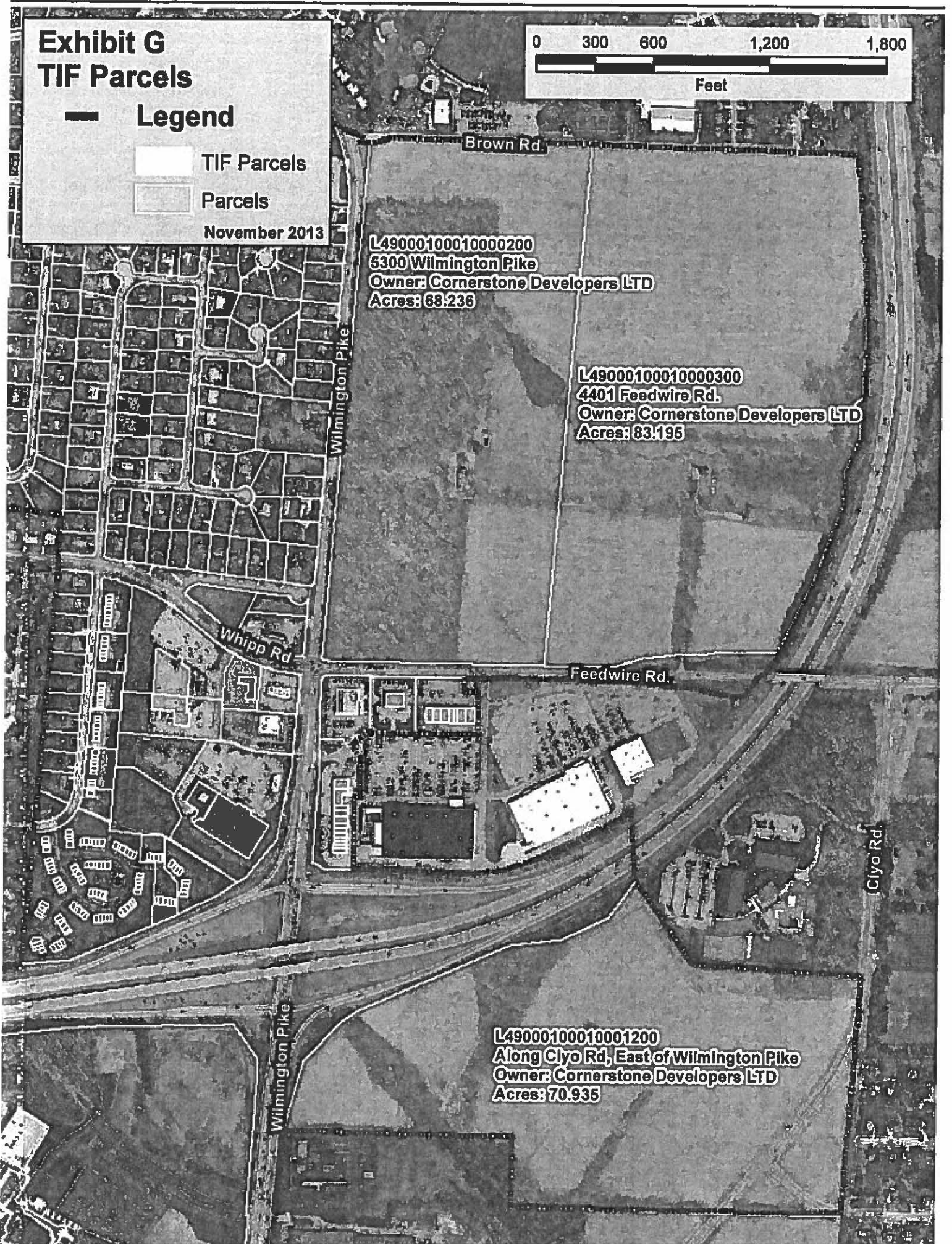
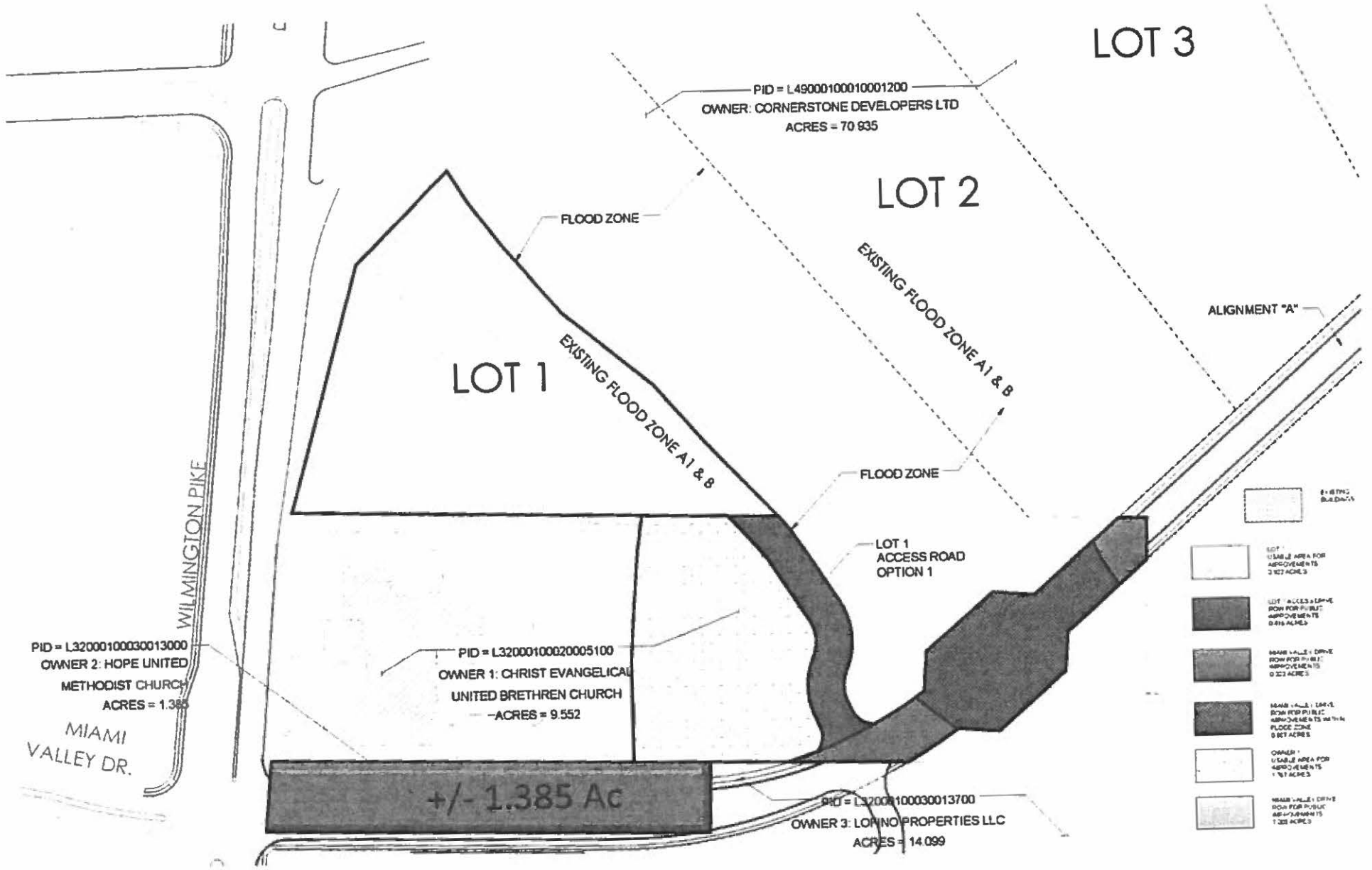


EXHIBIT I ADDITIONAL PROPERTY



- EXISTING BUILDINGS
- LOT 1 USABLE AREA FOR IMPROVEMENTS 2.927 ACRES
- LOT 1 ACCESS DRIVE ROW FOR PUBLIC IMPROVEMENTS 0.816 ACRES
- MAIN ACCESS DRIVE ROW FOR PUBLIC IMPROVEMENTS 0.227 ACRES
- MAIN ACCESS DRIVE ROW FOR PUBLIC IMPROVEMENTS IN THE FLOOD ZONE 0.827 ACRES
- OWNER 1 USABLE AREA FOR IMPROVEMENTS 1.767 ACRES
- MAIN ACCESS DRIVE ROW FOR PUBLIC IMPROVEMENTS 1.385 ACRES

EXHIBIT J

TAX INCREMENT FINANCING DECLARATION OF COVENANTS AND MORTGAGE

This TAX INCREMENT FINANCING DECLARATION OF COVENANTS AND MORTGAGE (this "*Declaration*") is made by CORNERSTONE DEVELOPERS, LTD, an Ohio limited liability company with its principal office located at _____ (the "*Declarant*").

WITNESSETH:

WHEREAS, the Declarant has acquired certain parcels of real property located in the City of Centerville, Ohio (the "*City*"), a description of which real property is attached hereto as **EXHIBIT A** (each parcel as now or hereafter configured, a "*Parcel*", and collectively, the "*Parcels*"), having acquired such fee simple title by an instrument recorded in the Official Records of the Office of the Recorder of Greene County, Ohio (the "*County Recorder*"), as instrument number _____; and

WHEREAS, the Declarant contemplates making or having made private improvements to the Parcels, including, but not limited to, a multi-family residential development on the Parcels; and

WHEREAS, the City, by its Ordinance No. _____ (the "*TIF Ordinance*"), has declared that 100% of the increase in the assessed value of each Parcel subsequent to the effective date of the TIF Ordinance (such increase hereinafter referred to as the "*Improvement*," as further defined in Section 5709.40 of the Ohio Revised Code and the TIF Ordinance) is a public purpose and is exempt from taxation for a period commencing with the first tax year that begins after the effective date of the TIF Ordinance and in which an Improvement, due to the construction of a new structure on that Parcel, first appears on the tax list and duplicate of real and public utility property for such Parcel (the "*TIF Exemption*") and ending on the earlier of (a) 30 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code (the "*TIF Statutes*") and the TIF Ordinance; and

WHEREAS, it is necessary to construct or to cause to be constructed certain public infrastructure improvements (the "*Public Improvements*") specified in the TIF Ordinance, which the Declarant agrees will directly benefit the Parcels; and

WHEREAS, the City has determined to issue bonds (the "*City Debt*") to fund those Public Improvements; and

WHEREAS, the City has determined that it is necessary and appropriate and in the best interests of the City to provide for the owner of each Parcel to make service payments in lieu of taxes with respect to that Parcel (the "*Service Payments*"), which Service Payments will be used to pay costs of debt service on the City Debt and costs of construction of the Public Improvements and distributed to the Bellbrook-Sugarcreek Local School District and the Greene County Vocational School District (collectively, the "*School Districts*"), all pursuant to and in accordance with the TIF Statutes and the TIF Ordinance; and

WHEREAS, the Declarant and the City entered into a Development Agreement dated _____, 2013 (the "*Agreement*"), a copy of which may be obtained from the office of the City Manager of the City at 100 West Spring Valley Road, Centerville, Ohio 45458; and

WHEREAS, this Declaration is being made and filed of record pursuant to Section 7.6 of the Agreement;

NOW, THEREFORE, the Declarant, for itself and its successors and assigns to or of each Parcel (collectively, the "*Owners*" and individually, each an "*Owner*"), hereby declares that the forgoing recitals are incorporated into this Declaration by this reference and that the Parcels and any improvements thereon will be held, developed, encumbered, leased, occupied, improved, built upon, used and conveyed subject to the terms and provisions of this Declaration:

Section 1. Defined Terms. Any terms which are used but not defined herein shall have the meaning as set forth in the Agreement.

Section 2. Development of the Parcels. The Owners agree to develop the Parcels in the manner described in the Agreement.

Section 3. Service Payments. Each Owner will make the Service Payments attributable to its period of ownership of any Parcel, all pursuant to and in accordance with the requirements of the TIF Statutes, the TIF Ordinance and any subsequent amendments or supplements thereto. Service Payments will be made semiannually to the County Treasurer of Greene County, Ohio (or to such Treasurer's designated agent for collection of the Service Payments) on or before the due dates for payment of real property taxes for each Parcel, until expiration of the TIF Exemption. Any late payments will bear penalties and interest at the then current rate established under Sections 323.121 and 5703.47 of the Ohio Revised Code or any successor provisions thereto, as the same may be amended from time to time. Service Payments will be made in accordance with the requirements of the TIF Statutes and the TIF Ordinance and, for each Parcel, will be in the same amount as the real property taxes that would have been charged and payable against the Improvement to that Parcel (after credit for any other payments received by the City under Sections 319.302, 321.24, 323.152 and 323.156 of the Ohio Revised Code, or any successor provisions thereto, as the same may be amended from time to time, with such payments referred to herein as the "*Property Tax Rollback Payments*") if it were not exempt from taxation pursuant to the TIF Exemption, including any penalties and interest. No Owner will, under any circumstances, be required for any tax year to pay both real property taxes and Service Payments with respect to any portion of the Improvement, whether pursuant to Section 5709.42 of the Ohio Revised Code or the Agreement; *provided, however*, this shall not preclude payment of any sum otherwise required to be paid under the Agreement.

Section 4. Minimum Service Payments. The Owners agree to also pay "*Minimum Service Payments.*" The aggregate amount of Minimum Service Payments which will be due in any calendar year shall equal the difference between (a) the sum of (i) 100% of the Debt Service allocable to the City Debt issued for Interior Public Improvements due in any calendar year, plus (ii) 60% of the Debt Service allocable to the City Debt issued for the Exterior Public Improvements due in any calendar year, plus (iii) any administration expenses relating to such portions of the City Debt and the TIF (items (i) through (iii), collectively, the "*Maximum*

Amount"), less (b) the sum of (i) the aggregate amount of Statutory Service Payments anticipated to be on deposit in the TIF Fund in that calendar year, (ii) the amount available to be drawn under the Letter of Credit in that calendar year to pay Debt Service, plus (iii) proceeds from City Debt issued for the purpose of refunding such portions of then outstanding City Debt (any amount in excess of zero dollars for any calendar year shall equal the "*Minimum Service Payment Obligation*").

In accordance with the Agreement, as soon as reasonably possible during each calendar year, the City will determine if a Minimum Service Payment Obligation shall exist for the next succeeding calendar year. In making such determination the City shall take into account the assessed valuation of all Improvements and the Service Payments the City expects to receive. In the event that the City determines that a Minimum Service Payment Obligation shall exist, the City shall promptly notify the Owners. Any Minimum Service Payments received by the City shall be used for the purpose of paying the debt service due on the City Debt and any administrative expenses relating to the City Debt and the Tax Exemption.

The Owners hereby agree that the Minimum Service Payment Obligation shall be supported by a lien on the Parcels pursuant to Ohio Revised Code Sections 5709.91 and 323.11 (the "*Minimum Service Payment Obligation Lien*") and this Declaration, and the Owners shall take any and all actions as reasonably requested by the City to further evidence such Minimum Service Payment Obligation. The Owners shall execute such declarations and other documents and take all actions necessary to provide the City the benefits of the Minimum Service Payment Obligation.

If an Owner fails to timely pay any sums required in this Section 4, such Owner specifically and irrevocably waives all procedures established or required by law to levy and collect such sum(s) as Minimum Service Payment and does hereby agree that such sum(s) due may be levied and assessed against the Parcels upon the City's Director of Finance's written notification to the Greene County Auditor.

In the event that the Parcels are subject to an action that would foreclose the lien of the Minimum Service Payment Obligation (such as a property tax foreclosure action), the City may declare immediately due and payable all Minimum Service Payments projected to be due in the then current year or any future year based on the then current value of the Parcels (as determined by the Greene County Auditor) and then current real property tax rates applicable to the Parcels.

Upon the occurrence of: (i) the date Developer or an Affiliate transfers title to a Parcel to an unrelated party and a certificate of occupancy is issued for a completed building on such Parcel as contemplated by the Conceptual Development Plan, or (ii) the date Developer or an Affiliate executes a lease or leases for at least eighty percent (80%) of the leasable space in a completed building as contemplated by the Conceptual Development Plan on a Parcel to one or more unrelated parties and the building in which the leased space is located is substantially completed (except for interior build-out to be completed by the tenant(s)), the City shall release such Parcel from the Minimum Service Payment Obligation and the Minimum Service Payment Obligation Lien, and the City has agreed to execute such modifications to declarations and other documents and take all actions necessary to provide Developer the benefit of such City release.

A release of any Parcel from the Minimum Service Payment Obligation and the Minimum Service Payment Obligation Lien shall not release any other Parcel from the Minimum Service Payment Obligation Lien, and the remaining Parcels shall be subject to the Minimum Service Payment Obligation Lien until the earlier of: (i) the satisfaction of the Coverage Ratio not on a phase by phase basis but for the total amount of City Debt that may be funded pursuant the Agreement until Developer has released any right to funding for future phases or (ii) the release of a Parcel pursuant to the preceding paragraph. The City has agreed to execute all declarations, modifications to declarations and other documents and take all actions necessary to provide for each City release. Developer shall execute all declarations, modifications to declarations and other documents and take all actions necessary to revise Developer's obligations with respect to any remaining Parcels not subject to the City release in order to provide the City the benefits of the Minimum Service Payment Obligation and the Minimum Service Payment Obligation Lien

Section 5. Mortgage Covenants. The Owners hereby encumber and grant, with mortgage covenants, to the City the Parcels. The mortgage covenants contained in this Section 5 are given, upon the statutory condition, to secure the payment of the Minimum Service Payments described in Section 4 hereof. "*Statutory condition*" is defined in Section 5302.14 of the Ohio Revised Code and provides generally that, if the Owners pay the principal and interest secured by the mortgage contained herein, perform the other obligations secured by that mortgage and the conditions of any prior mortgage, pay all the taxes and assessments, maintain insurance against fire and other hazards, and do not commit or suffer waste, then the mortgage contained herein is void.

The Declarant excepts from the mortgage covenants the following (the "*Permitted Encumbrances*"): (a) all legal highways; (b) all zoning and building laws, ordinances, and regulations; (c) all real estate taxes and assessments not yet due and payable and (d) easements and restrictions of record at the time this Declaration is recorded.

If any Owner fails to pay or perform when due any of its obligations under this Declaration, then the City has the right to foreclose on the Owner's Parcels under this Declaration.

The City acknowledges that each Owner may, from time to time, subject its Parcels to one or more mortgages securing the debt or other obligations of the Owner.

Section 6. Preservation of Exemption. Notwithstanding anything to the contrary set forth in this Agreement, neither City nor any Owner, nor their respective successors, assigns or transferees, shall take any action that may endanger or compromise the status of or cause the revocation of the TIF Exemption, including, without limitation, the conversion of the multi-family apartments to condominiums.

Section 7. Failure to Make Payments. Should any Owner of any Parcel fail to make any payment required hereunder, such Owner shall pay, in addition to the payments it is required to pay hereunder, such amount as is required to reimburse the City for any and all reasonably and actually incurred costs, expenses and amounts (including reasonable attorneys' fees) required by the City to enforce the provisions of the Agreement and this Declaration against that Owner.

Section 8. Exemption Applications. Each Owner agrees to cooperate in the preparation, execution and filing of all necessary applications to obtain from time to time the TIF Exemption and to enable the City to collect Service Payments with respect to each Parcel it owns. Each Owner authorizes the City to file any applications necessary to obtain from time to time the TIF Exemption for each Parcel it owns.

Section 9. Provision of Information. Each Owner agrees to cooperate in all reasonable ways with, and provide necessary and reasonable information to, the designated Tax Incentive Review Council to enable that Tax Incentive Review Council to review and determine annually during the term of the Agreement the compliance of the Owner with the terms of the Agreement.

Each Owner further agrees to cooperate in all reasonable ways with, and provide necessary and reasonable information to the City to enable the City to submit the status report required by Ohio Revised Code Section 5709.40(I) to the Director of the Ohio Development Services Agency on or before March 31 of each year.

Section 10. Non Discriminatory Hiring Policy. Each Owner agrees that it will comply with the City's nondiscriminatory hiring policy as set forth in the TIF Ordinance and adopted pursuant to Ohio Revised Code Section 5709.832. In furtherance of that policy, the each Owner agrees not to deny any individual employment located upon the Parcels solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

Section 11. Prohibition of Conversion of Multi-Family Residential. Each Owner agrees that it shall not convert any portion of any apartment development located upon the Parcels into a condominium development during the applicable period of the TIF Exemption. More specifically, no condominium conversion shall occur on any Parcel until the TIF Exemption in respect of that Parcel shall have expired. A "*condominium conversion*" means the conversion of ownership of any units in a residential housing building consisting of two or more units or the conversion of any residential housing building that is or was previously occupied as a rental residential unit or building to single ownership in which a residential unit or the residential building may be sold individually.

Section 12. Development of Single Family Residential. In accordance with the Agreement, the City and the Declarant have acknowledged that some portion(s) of the Parcels may be developed into single family residential development at some point prior to the expiration of the TIF Exemption. Each Owner agrees that it will not proceed with a single family residential development until such time as the City shall have amended the TIF Ordinance to exclude the Parcels upon which such development shall be located.

Section 13. Covenants to Run With the Land. Each Owner agrees that each of its covenants contained in this Declaration are covenants running with the land and that they are, in any event and without regard to technical classification or designation, legal or otherwise, binding to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the City against each Parcel, any improvements thereon and the Owner of the Parcel, without regard to whether the City has at any time been, remains or is an owner of any land or interest therein to, or in

favor of, which these covenants relate. The City has the right in the event of any breach of any covenant herein contained to exercise all of the rights and remedies and to maintain all actions or suits at law or in equity or in other proper proceedings to which it may be entitled to cure that breach.

Each Owner further agrees that all covenants herein, whether or not these covenants are included by any Owner of a Parcel in any deed to that Owner's successors and assigns, are binding upon each subsequent Owner and are enforceable the City, and that any future Owner of that Parcel, or any successors or assigns of an Owner, will be treated as the Declarant, with respect to that Parcel for all purposes of this Declaration.

Each Owner further agrees that its covenants herein will remain in effect until the expiration of the TIF Exemption unless otherwise modified or released in writing by the City in a written instrument filed in the Official Records of the County Recorder pursuant to the terms of the Agreement.

Each Owner further agrees that the covenants herein have priority over any other lien or encumbrance on any Parcel it owns and any improvements thereon, except for Permitted Encumbrances, and each Owner will cause any and all holders of mortgages or other liens existing on each Parcel it owns as of the time of recording of this Declaration to subordinate such mortgage or lien to the covenants contained herein. Each Owner acknowledges that the provisions of Section 5709.91 of the Ohio Revised Code, which specify that the Service Payments and the Minimum Service Payments will be treated in the same manner as taxes for all purposes of the lien described in Ohio Revised Code Section 323.11 including, but not limited to, the priority of the lien and the collection of Service Payments and Minimum Service Payments applies to the Parcels and any improvements thereon.

Upon recordation of this Declaration, Declarant shall provide to the City such title evidence with respect to the Parcels, at no cost to the City, as is necessary to demonstrate to the City's satisfaction that the covenants running with the land provided in this Declaration are prior and superior to any other liens, encumbrances or other title exceptions, except for Permitted Encumbrances.

(THIS SPACE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed and effective as of _____, 2013.

CORNERSTONE DEVELOPERS, LTD

By: _____

Printed: _____

Title: _____

STATE OF OHIO)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2013,
by _____, _____ of Cornerstone Developers, LTD, an Ohio limited
liability company, on behalf of said company.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official
seal on the date and year aforesaid.

Notary Public

This instrument is prepared by: Christopher J. Franzmann
 Squire Sanders (US) LLP
 41 S. High Street, Suite 2000
 Columbus, Ohio 43215

EXHIBIT A
Legal Description

AMENDED CHANGE

Section 6.9 Other Financing. The Parties agree that it is the mutual interest of both Parties to pursue other financing sources to cover the cost of the Public Improvements that may be acceptable to the Parties, and the Parties agree to cooperate with each other in pursuing other funding opportunities. The Parties agree that if other monies, including, but not limited to, State legislatively approved sources or from Greene County, Ohio, become available to the Developer in the future which may lawfully be applied to the costs of the Phase I Public Improvements, then each Party agrees to make good faith, reasonable efforts to negotiate for the use of those funds in a manner that will lessen the need for contributions by the Parties to the cost of the Phase I Public Improvements. To the extent other public sources provide a benefit to the Developer,* the Parties agree to work toward an equalization of benefits.

*in Phase I,