City of Dublin

Office of the City Manager
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Memo

To: Members of Dublin City Council

From: Marsha I. Grigsby, City Manager

Date: January 24, 2013

Initiated By: Angel L. Mumma, Deputy City Manager/Director of Finance
Dana McDaniel, Deputy City Manager/Director of Economic Development

Re: Ordinance No. 04-13 and Ordinance No. 05-13 – An Ordinance Establishing a Tax Increment Financing Area (Ohio University) within Franklin County (Ordinance 04-13) and Union County (Ordinance 05-13).

Background

On April 23, 2012, City Council approved Ordinance No. 22-12 authorizing the execution of an economic development agreement (EDA) with Ohio University. Ohio University agreed to purchase two existing buildings and associated land at 7001 and 7003 Post Road and make the necessary design and renovations for the purpose of opening and operating a branch of the University's College of Osteopathic Medicine. If certain conditions in the EDA are met, the City will be required to convey certain parcels of land owned by the City (Exhibit A) to Ohio University.

The following summarizes the three subareas and the stipulations surrounding each in terms of the Economic Development Agreement:

Subarea One – The City agreed to convey Subarea One to Ohio University as soon as the University acquired the property at 7001 and 7003 Post Road. Ohio University further agreed to complete the design, renovation and development of the property and open and operate the Heritage College of Osteopathic Medicine by September 1, 2015. If those requirements are not met, then the University is required to immediately reconvey Subarea One to the City.

> Status Update: Ohio University acquired the property at 7001 and 7003 Post Road in July 2012 and Subarea One was subsequently conveyed to the University. In December, Ohio University announced that it had received accreditation for the Dublin campus of the Heritage College of Osteopathic Medicine.
>
> Ohio University has filed preliminary plan review information with the State of Ohio for construction on the site.

Subarea Two – The City agreed to convey Subarea Two to Ohio University as soon as (i) a master plan for the Property (Subareas One, Two and Three), which complies with the EAZ and the City's associated codes and ordinances has been prepared and submitted by the University and approved by the City and (ii) the University has opened and is operating the College of Osteopathic Medicine on the Ohio University Property. This is to be accomplished no later than December 31, 2018. Ohio University may submit a project to the City for its review and approval prior to December 31, 2018.

Subarea Three – The EDA proposes that the City will retain ownership of Subarea Three. Subarea Three will consist of commercial office development, with a focus on attracting research and development, medical and/or hotel and conference center uses, any of which will be supportive to Ohio University or any surrounding development and will be taxable for purposes of real property taxation. Ohio University can propose to the City any project for Subarea three on or before December 31, 2023. If the City determines that such a project had not previously been proposed to the City and that the project will be supportive of the overall development of the area, the City has agreed that it will then enter into negotiations with the developer of that project for the conveyance of such portion(s) of Subarea Three as may be required to facilitate that project. If the City successfully completes that conveyance and the project is successfully constructed and opened for operation, the City has agreed to remit to Ohio University an amount equal to 50% of the difference of the aggregate sale price at which the City conveys the portion(s) of Subarea Three to the project developer less the aggregate purchase price paid by the City to acquire those portion(s) of Subarea Three.

Likewise, the City can advance such projects for Subarea Three that are appropriate for Subarea Three and subject to the reasonable approval of Ohio University, and if such a project is successfully constructed and opened for operation, the City, in this case, will not be required to remit any payment to the University .

Ohio University may develop the northern portion of Subarea Three (the Hotel/Conference Center Site) in partnership with an independent third-party development/management company. In this case, Ohio University shall convey to the City an economic interest in the Hotel/Conference Center Site equal to 50% of Ohio University's economic interest in the same Site.

Summary

The EDA provides that the City shall create a tax increment financing area to facilitate the construction of certain required public improvements, as defined within the TIF Ordinance. While Ohio University is generally exempt from paying real property taxes, the TIF exemption will apply to any applicable real property, which is otherwise subject to real property taxation.

The proposed TIF is a non-school TIF, meaning that for any year in which property is exempt from real property taxation pursuant to the TIF Ordinance, both Dublin City School District and Tolles Career and Technical Center (collectively, the "Schools") will each receive payments in an amount equal to the amount which each School would have otherwise received as real property tax payments if the TIF Ordinance was not passed. Payments under the TIF Ordinance are calculated the same as property taxes and are distributed to both Schools at the same time as real property tax revenues are distributed. As required by law, both Schools have received notification of this pending legislation.

As you are aware, other governmental jurisdictions are impacted by the establishment of TIF areas and the resulting real property tax exemption. However, in this case, the majority of the property included in Subareas One and Two is or will be transferred from one tax-exempt entity (City of Dublin) to another tax-exempt entity (Ohio University), so there is no monetary impact to other entities in establishing the TIF area. The property purchased at 7001 and 7003 Post Road by Ohio University from 7001 Post Road, LLC will likely go from being taxable parcels to exempted parcels;

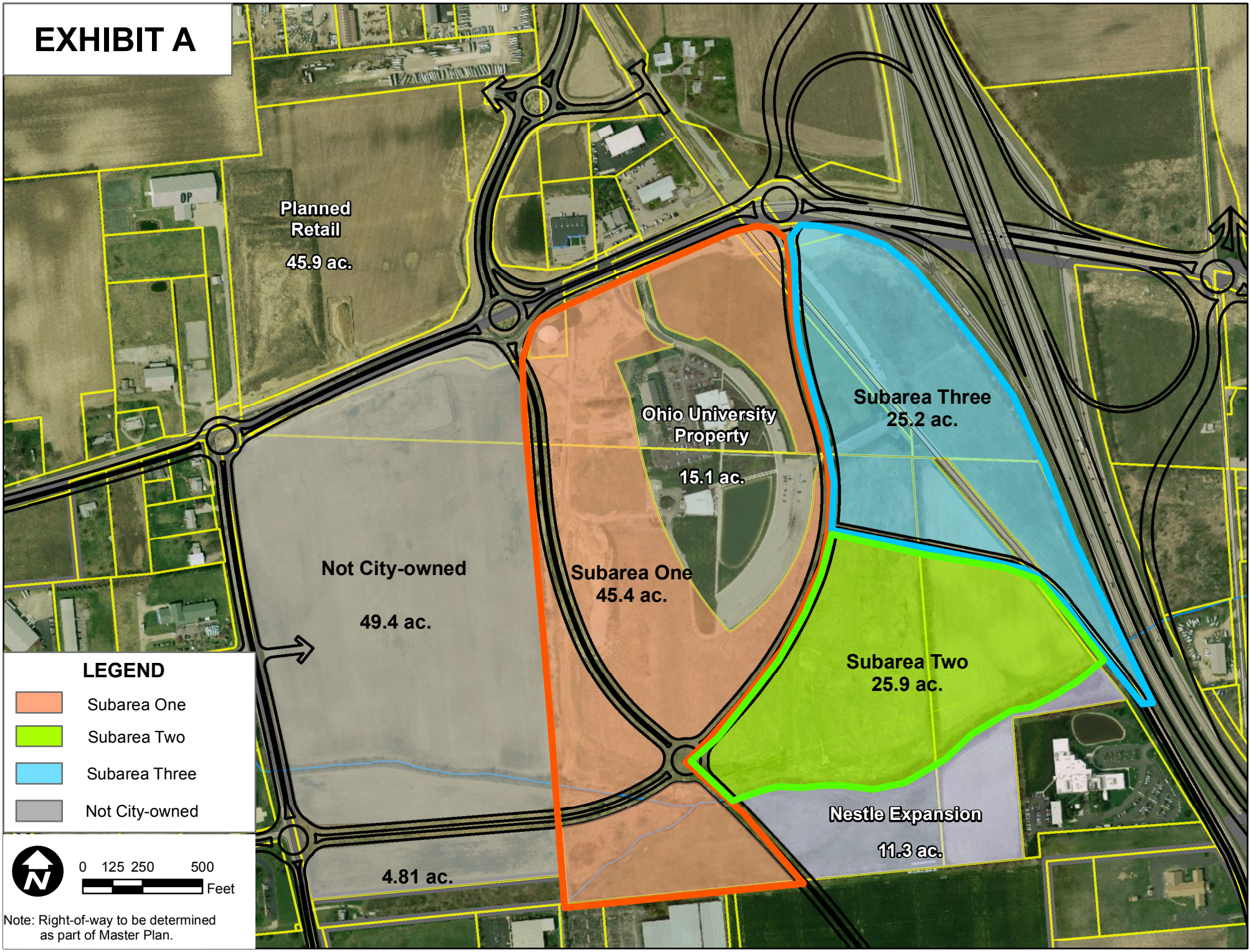
the inclusion of these two parcels within the TIF will have no impact on other governmental jurisdictions.

Pursuant to the EDA, development within the northern portion of Subarea Three (the Hotel/Conference Center Site) is expected to be taxable for purposes of real property taxation. However, if Ohio University develops the Hotel/Conference Center Site in partnership with a third-party development/management company and it is determined at the time of development of the Hotel/Conference Center Site that the underlying real property will be exempt from real property taxation, Ohio University has agreed to pay, or cause to be paid, annually to the City, an amount equal to the aggregate of the service payments, which would have been payable pursuant to the TIF Ordinance if such Hotel/Conference Center Site was subject to real property taxation.

Recommendation

The TIF area is located in both Franklin and Union Counties. Staff recommends that Ordinance No. 04-13 (for the portion of the property located within Franklin County) and Ordinance No. 05-13 (for the portion of the property located within Union County) be adopted by City Council at the second reading/public hearing on February 11, 2013.

EXHIBIT A



Note: Right-of-way to be determined as part of Master Plan.

RECORD OF ORDINANCES

Dayton Legal Blank, Inc. Form No. 30043

Ordinance No. 05-13 Passed _____, 20____

AN ORDINANCE DECLARING THE IMPROVEMENT TO CERTAIN PARCELS OF REAL PROPERTY TO BE A PUBLIC PURPOSE AND EXEMPT FROM TAXATION; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND AND PROVIDING FOR THE COLLECTION AND DEPOSIT OF SERVICE PAYMENTS INTO THAT FUND; SPECIFYING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS DIRECTLY BENEFITING THE PARCELS; AND AUTHORIZING MAKE-WHOLE COMPENSATION PAYMENTS TO THE DUBLIN CITY SCHOOL DISTRICT AND THE TOLLES CAREER & TECHNICAL CENTER.

WHEREAS, Ohio Revised Code Sections 5709.40 to 5709.43 (collectively, the "*TIF Statutes*") authorize the legislative authority of a municipal corporation, by ordinance, to declare the improvement to each parcel of real property located within the municipal corporation to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, provide for the distribution of the applicable portion of such service payments to the city, local, or exempted village, and joint vocational school district, establish a municipal public improvement tax increment equivalent fund for the deposit of the those service payments, and specify public infrastructure improvements made, to be made or in the process of being made that directly benefit, or that once made will directly benefit, those parcels; and

WHEREAS, this City Council has determined to declare the improvements to certain parcels of real property, which parcels are further identified and depicted in Exhibit A attached hereto (each, as currently or subsequently configured, individually, a "*Parcel*" and collectively, the "*Parcels*") to be a public purpose; and

WHEREAS, this City Council desires to provide for the public infrastructure improvements described in Exhibit B attached hereto (collectively, the "*Public Infrastructure Improvements*"); and

WHEREAS, this City Council has determined that a portion of the service payments shall be paid to the Dublin City School District ("*Dublin City School District*") in an amount equal to the real property taxes that the Dublin City School District would have been paid if the Improvement (as defined herein) to each Parcel had not been exempted from taxation pursuant to this Ordinance; and

WHEREAS, this City Council has also determined that a portion of the service payments shall be paid to the Tolles Career & Technical Center ("*Tolles Career & Technical Center*") in an amount equal to the real property taxes that the Tolles Career & Technical Center would have been paid if the Improvement to each Parcel had not been exempted from taxation pursuant to this Ordinance; and

WHEREAS, notice of this proposed Ordinance has been delivered to the Boards of Education of the Dublin City School District and the Tolles Career & Technical Center in accordance with and within the time period prescribed in Ohio Revised Code Sections 5709.40 and 5709.83; and

WHEREAS, this City and Ohio University have heretofore entered into an Economic Development Agreement dated June 1, 2012 (the "*Economic Development Agreement*") relating to the Parcels which provides, in part, that the City may pass this Ordinance and thereby exempt the Improvement (as defined herein) to each Parcel from real property taxation, but such Agreement further provides that so long as Ohio University owns any such Parcel and such Parcel is otherwise exempt from real property taxation in accordance with Ohio Revised Code Section 5709.08 (the "*Government Property Exemption Statute*"), then any Improvement to such Parcel shall continue to be exempt from real property taxation pursuant to the Government Property Exemption Statute (such Improvement being referred to herein as a "*Tax Exempted Improvement*") and the real property tax exemption authorized by this

Ordinance shall be subordinated to the real property tax exemption authorized by the Government Property Exemption Statute.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Dublin, _____ of its elected members concurring, that:

Section 1. Authorization of Tax Exemption. This City Council hereby finds and determines that 100% of the increase in assessed value of each Parcel subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "*Improvement*" as defined in Ohio Revised Code Section 5709.40(A)) is hereby declared to be a public purpose and shall be exempt from taxation in accordance with Ohio Revised Code Section 5709.40(B) for a period commencing for such Parcel with the first tax year that begins after the effective date of this Ordinance and in which an Improvement due to the construction of a new structure on such Parcel first appears, or would have first appeared but for the real property tax exemption granted pursuant to the Government Property Exemption Statute, on the tax list and duplicate of real and public utility property for such Parcel and ending on the earlier of (a) thirty (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 the TIF Statutes (the "*TIF Exemption*").

The TIF Exemption for any Parcel granted pursuant to this Section 1 and the payment obligations for that Parcel established pursuant to Section 2 of this Ordinance for any Tax Exempted Improvement are subject and subordinate to the Government Property Exemption Statute for so long and to the extent as Ohio University owns that Parcel and the Tax Exempted Improvement is exempt from real property taxation pursuant to the Government Property Exemption Statute.

The Economic Development Agreement provides that if it is determined at the time of development of the Hotel/Conference Center Site (as defined in the Economic Development Agreement) that the underlying real property will be exempt from real property taxation, Ohio University will execute an agreement with the City pursuant to which Ohio University will agree to pay, or cause to be paid, annually to the City an amount equal to the aggregate of the Service Payments which would have been payable pursuant to this Ordinance if such Hotel/Conference Center Site was subject to real property taxation. It is not the City's intention that this Ordinance should be interpreted as a waiver of the City's right to receive the aforementioned payments from Ohio University in connection with the development of the Hotel/Conference Center Site and this Ordinance shall not be interpreted in such a manner.

Section 2. Service Payments. Pursuant to Ohio Revised Code Section 5709.42, the owner of each Parcel is hereby required to and shall make service payments in lieu of taxes with respect to the Improvement allocable thereto to the Treasurer of Union County, Ohio (the "*County Treasurer*") on or before the final dates for payment of real property taxes. The service payments in lieu of taxes shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and collected against that Improvement if it were not exempt from taxation pursuant to Section 1 of this Ordinance, including any penalties and interest (collectively, the "*Service Payments*"). The Service Payments, and any other payments with respect to each Improvement that are received by the County Treasurer in connection with the reductions required by Ohio Revised Code Sections 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "*Property Tax Rollback Payments*"), shall be allocated and distributed in accordance with Section 4 of this Ordinance.

Section 3. TIF Fund. This City Council hereby establishes, pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, the Ohio University Municipal Public Improvement Tax Increment Equivalent Fund (the "*TIF Fund*"). The TIF Fund shall be maintained in the custody of the City and shall receive

all distributions to be made to the City pursuant to Section 4 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of each Parcel and so deposited pursuant to Ohio Revised Code Section 5709.42 shall be used solely for the purposes authorized in the TIF Statutes or this Ordinance. The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved and any incidental surplus funds remaining therein transferred to the City's General Fund, all in accordance with Ohio Revised Code Section 5709.43.

Section 4. Distributions. Pursuant to the TIF Statutes, the County Treasurer is requested to distribute the Service Payments and Property Tax Rollback Payments as follows:

(a) to the Dublin City School District, an amount equal to the amount the Dublin City School District would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to each Parcel if the Improvement had not been exempt from taxation pursuant to this Ordinance;

(b) to the Tolles Career & Technical Center, an amount equal to the amount the Tolles Career & Technical Center would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to each Parcel if the Improvement had not been exempt from taxation pursuant to this Ordinance;

(c) to the City, all remaining amounts for further deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including payment of debt service on any debt issued to pay those costs.

All distributions required under this Section 4 are requested to be made at the same time and in the same manner as real property tax distributions.

Section 5. Public Infrastructure Improvements. This City Council hereby designates the Public Infrastructure Improvements and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit, or that once made will directly benefit, the Parcels.

Section 6. Further Authorizations. This City Council hereby authorizes and directs the City Manager, the Director of Finance, the Director of Law, the Director of Development, the Clerk of Council or other appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments and the Property Tax Rollback Payments. This City Council further hereby authorizes and directs the City Manager, the Director of Finance, the Director of Law, the Director of Development, the Clerk of Council or other appropriate officers of the City to prepare and sign all documents and instruments and to take any other actions as may be appropriate to implement this Ordinance.

Section 7. Tax Incentive Review Council. The applicable Tax Incentive Review Council, with the membership of that Council to be constituted in accordance with Section 5709.85 of the Ohio Revised Code, shall, in accordance with Section 5709.85 of the Ohio Revised Code, review annually all exemptions from real property taxation granted by this Ordinance and any other such matters as may properly come before that Council, all in accordance with Ohio Revised Code Section 5709.85.

Section 8. Filings with Ohio Development Services Agency. Pursuant to Ohio Revised Code Section 5709.40(I), the City Manager is hereby directed to deliver a copy of this Ordinance to the Director of the Ohio Development Services Agency within fifteen days after its effective date. Further, and on or before March 31 of each year that the Tax Exemption remains in effect, the Economic Development

Director or other authorized officer of the City is directed to prepare and submit to the Director of the Ohio Development Services Agency the status report required under Ohio Revised Code Section 5709.40(I).

Section 9. Open Meetings. This City Council finds and determines that all formal actions of this City Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Council or its committees, and that all deliberations of this City Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Ohio Revised Code Section 121.22.

Section 10. Effective Date. This Ordinance shall be in full force and effect on the earliest date permitted by law.

Passed this _____ day of _____, 2013.

_____
Mayor - Presiding Officer

ATTEST:

_____
Clerk of Council

EXHIBIT A

PARCELS

The shaded area on the following map specifically identifies and depicts the Parcels and constitutes part of this **EXHIBIT A**. The Parcels include, without limitation, the following tax parcels: 39-0001003000, 39-0001003100, 39-0001003101, 39-0001004000 and 39-0001004001 (as they exist in the County Auditor's records on February _____, 2013).

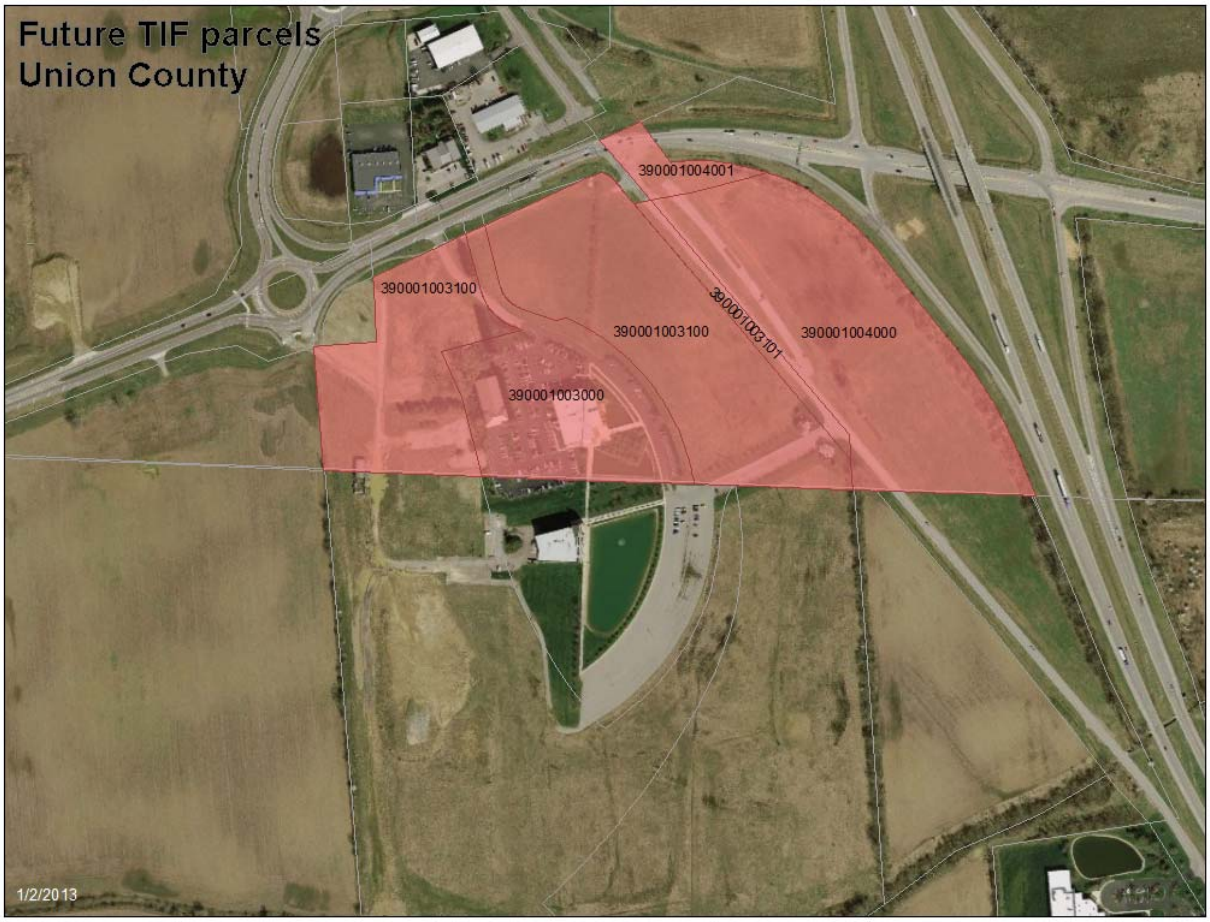


EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements include the construction of the following improvements on or near the Parcels that will directly benefit the Parcels and all related costs of permanent improvements (including, but not limited to, those costs listed in Section 133.15(B) of the Ohio Revised Code):

- roadway and other infrastructure improvements within the West Innovation District, including those improvements indicated in the Economic Advancement Zone Area (EAZ) Plan,
- relocation of Eiterman Road,
- improvements to the intersection of SR 161 and Eiterman Road,
- addition of lanes along US 33/SR 161 between I-270 and the Avery-Muirfield Drive interchange and from the Avery-Muirfield Drive interchange to the SR 161/Post Road interchange,
- reconstruction of the I-270/US 33 interchange,
- interchange improvements at US 33/SR 161/Post Road, including the widening of existing roadways, the addition of turn lanes and signal improvements,
- improvements to the SR 161/Post Road and Hyland-Croy Road intersection,
- improvements to the SR 161/Cosgray Road intersection,
- widening of Shier-Rings Road from Avery Road to Houchard Road, and
- widening of Cosgray Road from SR 161 south to the future extension of Tuttle Crossing Boulevard,

together with constructing and installing turn lanes, bridges or tunnels, any pumping mechanisms required for a tunnel or other items as necessary, retaining walls, railing, curbs and gutters, public utilities which include water mains, fire hydrants, sanitary sewer, storm sewer and water improvements, lighting, burial of utility lines, gas, electric and communications service facilities (including fiber optics), street lighting and signs, business signage restoration or improvements, medians, viaducts, sidewalks, bikeways, landscaping (including scenic fencing and irrigation) and other visual enhancements, traffic signs and signalization, erosion and sediment control measures, grading, drainage and other related work, and including design and other related costs, preparation of environmental documents, engineering, any right-of-way or real estate acquisition, survey work, soil engineering, inspection fees and construction staking, any other necessary site improvements, and in each case, all other costs and improvements necessary and appurtenant thereto.