City of Dublin

Office of the City Manager
5200 Emerald Parkway • Dublin, OH 43017-1090
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Memo

To: Members of Dublin City Council

From: Marsha I. Grigsby, City Manager

Date: June 6, 2013

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

Re: **Ordinance 39-13 – Development and Tax Increment Financing Agreement with Vrable Land Holding Dublin LLC**

Background

Ordinance 39-13, which was postponed on May 20 to the June 10 meeting at the request of Mr. Vrable, authorizes the City Manager to enter into the attached Development and Tax Increment Financing Agreement ("Agreement") with Vrable Land Holding Dublin, LLC and its successors and assigns ("Developer"). The redlined version of this Agreement is attached, highlighting proposed changes. The following summarizes key changes in the Agreement since it was introduced at the May 6, 2013 Council meeting:

1. Proposed Project (Pg. 2 of agreement.) and **7. (a) iii.** (Pg. 9 of agreement.) Proposes the completion date of the skilled nursing facility to be April 30, 2015 instead of December 31, 2014.

2. (b). John Shields Parkway, Phase II. (Pg. 3 of agreement.) Language has been added to the end of this section allowing the developer to install an access drive between John Shields Parkway, Phase I and Riverside Drive, prior to December 31, 2018. The cost for installation and removal of this access drive will be the responsibility of the Developer.

2. (c). Mooney Street, Phase I. iii. (Pg. 4 of agreement.) Language has been added to recognize that the Developer may transfer the land between Mooney Street, Phase I and existing Riverside Drive. Therefore, this language acknowledges that the obligation to construct Mooney Street, Phase I, will carry with the land. Additionally, the Developer acknowledges that this same property, if developed, must develop in accordance with the Bridge Street District Code. Several references to the land holder of the property between Mooney Street and existing Riverside Drive, Tuller Henderson, LLC, have been added throughout the Agreement.

Recommendation

Staff recommends Council approval of Ordinance No. 39-13 at the second reading/public hearing on June 10, 2013.

DEVELOPMENT AND TAX INCREMENT FINANCING AGREEMENT

THIS DEVELOPMENT AND TAX INCREMENT FINANCING AGREEMENT (the "Agreement") is made and entered into as of the last date of signature below (the "Effective Date") by and among the **CITY OF DUBLIN, OHIO** (the "City"), a charter municipal corporation organized and existing under the constitution and the laws of the State of Ohio and its Charter, **VRABLE LAND HOLDING DUBLIN LLC** ("~~Vrable~~Developer"), an Ohio limited liability company having its address at 3248 W. Henderson Road, Columbus, Ohio 43220 ~~(Vrable and its successors and assigns are hereinafter referred to as the "Developer").~~, **TULLER HENDERSON LLC** ("Tuller Henderson"), an Ohio limited liability company having its address at 3248 W. Henderson Road, Columbus, Ohio 43220.

W I T N E S S E T H:

WHEREAS, the Developer owns approximately 6.34 acres of real property generally located to the east of Riverside Drive, to the west of Tuller Ridge Drive, and to the south of and adjacent to Tuller Road within the municipal boundaries of the City, as depicted in **Exhibit A** (the "Property," with each current or future tax parcel of the Property referred to herein as a "Parcel," and together, with all such tax parcels, the "Parcels"); and

WHEREAS, Tuller Henderson owns approximately various properties. City, Developer, and Tuller Henderson agree that this Development and Tax Increment Financing Agreement only refers to approximately 4.56___ acres of real property generally located to the east of Riverside Drive, to the west of Mooney Street, and to the south of and adjacent to Tuller Road within the municipal boundaries of the City, as depicted in **Exhibit A** (the "TH Property") and excludes all other holdings or assets of Tuller Henderson, LLC; and

WHEREAS, the Developer intends to develop the Property with skilled nursing facility uses, assisted living uses, and office uses (collectively, the "Project") in accordance with the zoning and preliminary development plan approval from the City by Ordinance 06-12 (the "Preliminary Development Plan"), as modified by a final development plan as submitted to and approved by The Planning and Zoning Commission on February 21, 2013 (the "Final Development Plan"); and

WHEREAS, the City, Tuller Henderson and the Developer desire to facilitate the construction of new public streets and water line improvements to be constructed on the southern and western perimeter of the Property and ~~adjacent real property~~the southern and eastern perimeter of the TH Property (as further described in Section 2, the "Public Improvements"); and

WHEREAS, the City contemplates adopting an ordinance (such ordinance, if and when adopted, the "TIF Ordinance") declaring that 100% of the increase in the assessed value of the Property subsequent to the effective date of the TIF Ordinance (the "Improvement", and an "Improvement" as defined in Ohio Revised Code Section 5709.40) is to be a public purpose and exempt from taxation in accordance with the requirements of Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (collectively, the "TIF Statutes"); and

WHEREAS, the TIF Ordinance is expected to provide that the owner(s) of the Property

make service payments in lieu of taxes with respect to any Improvement on the Property (the "Service Payments"), all pursuant to and in accordance with the TIF Statutes; and

WHEREAS, to support the construction of the Public Improvements, the Developer has agreed to make minimum service payments with respect to the Property (the "Minimum Service Payments") to supplement the Service Payments as necessary; and

WHEREAS, the City and the Developer desire to enter into this Agreement to provide for the collection of the Service Payments and the Minimum Service Payments to enable the financing, construction, installation and maintenance of the Public Improvements as contemplated herein, and to memorialize their mutual understandings with regard to the manner in which the Project initially will be developed; and

WHEREAS, Tuller Henderson desires to join this Agreement, and the Developer and the City desire that Tuller Henderson joins this Agreement, to further secure the financing, construction, installation and maintenance of the Public Improvements as contemplated herein, particularly the construction of Mooney Street as further described in Section 2(c);

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties hereto agree to the foregoing and as follows:

1. Proposed Project. The City by Ordinance __-1_ has approved the rezoning of the Property which permits its development in substantial conformance with the Preliminary Development Plan. The Developer will be solely responsible for the costs of the Project, including, without limitation, all private infrastructure improvements servicing the Project required by City Code or necessary to adequately serve the Property, such as the removal, installation, construction, and maintenance of all private stormwater improvements and detention facilities. Development of the Project will occur in substantial conformance with the Final Development Plan, as that plan may be amended from time to time. The Developer will substantially complete development of the Project by ~~December 31, 2014~~April 30, 2015. Developer warrants that the actual total construction value of the private improvements for the Project will not be less than $14 million.

2. Public Improvements. The City and the Developer hereby agree that the following infrastructure improvements benefit and serve the Property and other real property in the vicinity of the Property, and will be implemented as provided below:

(a) John Shields Parkway, Phase I. The first phase of a new public street (as depicted in **Exhibit B**, "John Shields Parkway") will extend from Tuller Ridge Road on the east to a point along the eastern edge of the planned Mooney Street (described below). The City will design and construct the first phase of John Shields Parkway at its sole expense. The first phase will be constructed in accordance with the Bridge Street District Code, the associated transportation and utilities plan, and the Final Development Plan for the Project. The City will use commercially reasonable efforts to complete John Shields Parkway by the time the Developers receive a certificate of occupancy for the Project.

(b) John Shields Parkway, Phase II. The second phase of John Shields Parkway (as depicted in **Exhibit B**) will extend from the terminus of the first phase on the east to Riverside Drive, as it currently exists or may be realigned, on the west. The City will design and construct the second phase of John Shields Parkway at its sole expense, and will use commercially reasonable efforts to complete construction in tandem with the re-location of Riverside Drive but no later than December 31, 2018. The exact design and placement of the second phase will be at the sole discretion of the City. If the City does not complete the second phase by December 31, 2018, or abandons the second phase, then the City and the Developer, at the Developer's request, will negotiate in good faith to provide any necessary access to Riverside Drive. Should the Developer desire access from John Shields Parkway, Phase I to Riverside Drive prior to December 31, 2018, the Developer may install an access drive at Developer's own expense. All designs for this access drive must be approved by the City Engineer prior to installation. The Developer must remove this access drive, at Developer's expense, prior to the commencement of John Shields Parkway, Phase II construction.

(c) Mooney Street, Phase I. The first phase of a new public street (as depicted in **Exhibit B**, "Mooney Street") will extend from Tuller Road on the north to John Shields Parkway on the south. Construction for Mooney Street will be as follows:

i. Construction. ~~*[Final provisions for Mooney construction obligations are still being finalized, and will be included before final Council action is taken]*~~The Developer and Tuller Henderson will design and construct Mooney Street at their sole expense contemporaneously with the development of the TH Property. The Developer and Tuller Henderson must submit plans for Mooney Street contemporaneously with the submission of plans for the development of the TH Property. Plans and specifications for Mooney Street are subject to the reasonable review and approval of the City. Unless waived by the City, the design and construction of Mooney Street must be in accordance with the Bridge Street District Code, the associated transportation and utilities plan and the approved Final Development Plan for the Project. Developer and Tuller Henderson each reserve the right to file a waiver with the City for the construction of Mooney Street. The City will consider, among other relevant factors, the devaluation of the TH Property when making its determination regarding the grant of the waiver. The construction of Mooney Street does not obligate the Developer or Tuller Henderson to construct any improvements to John Shields Parkway or Tuller Road.

ii. Waterline. The Developer and Tuller Henderson will design and construct a water line in conjunction with the design and construction of Mooney Street at ~~its~~their sole expense, in accordance with the Bridge Street District Code, the associated transportation and utilities plan, and the Final Development Plan for the Project and for the development of the ~~property between Mooney Street and the existing Riverside Drive~~TH Property, each as approved by City Council. Plans and specifications for the water line are subject to the review and approval of the City in its sole discretion and the City reserves the right to modify the design of the water line. The Developer and Tuller Henderson will

submit plans for the water line upon request of the City and complete construction of the water line ~~by a date reasonably determined by the City to be~~ in conjunction with the development of the ~~property between the Mooney Street and the Riverside Drive right of way~~TH Property.

iii. Transfer. The City understands that Tuller Henderson may convey the TH Property in the future. If Tuller Henderson transfers this property, the City and Tuller Henderson agree that all of the obligations set forth in this Section 2(c) will become the obligations of the future transferee. It is intended that the obligations set forth in this Section 2(c) will be included in the declaration of covenants set forth in **Exhibit C** and construed as covenants which run with the land and will be binding upon and inure to the benefit of the respective heirs, personal representatives, successors, transferees and assigns of the parties hereto. Tuller Henderson further agrees that no deed restrictions will be placed in the transfer documents that are inconsistent with the Bridge Street Code and that all future construction will be in accordance with the Bridge Street Code.

(d) Nothing in this Agreement makes the Developer responsible for the installation and/or removal of sanitary, storm sewer and/or water facilities located or to be located within John Shields Parkway and/or relocated Riverside Drive.

3. Coordination between the City and the Developer. The City and the Developer agree to closely coordinate their respective design and construction efforts relative to the grades between the Public Improvements adjoining the Property. Each party will bear its own costs associated with this effort.

4. Tax Increment Financing Area.

(a) General. The Developer will reasonably cooperate with the City in the creation of a tax increment financing area including the Property.

(b) Covenant to Make Payments in Lieu of Taxes. The Developer, on behalf of itself and any subsequent owner of each Parcel (an owner of a Parcel, during its respective period of ownership, is referred to herein as an "Owner," and all such owners are referred to collectively as the "Owners"), hereby covenant to make Service Payments attributable to their respective period of ownership of that Parcel, all pursuant to and in accordance with the requirements of the TIF Statutes, and any subsequent amendments or supplements thereto, the TIF Ordinance and this Agreement.

Service Payments will be made semiannually to the County Treasurer of Franklin County, Ohio (or to such Treasurer's designated agent for collection of the Service Payments) on or before the final dates for payment of real property taxes for the Parcel. 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.

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 the Parcel (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 TIF Ordinance, 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 to a Parcel pursuant to this Agreement. Nothing contained herein limits or impairs an Owner's right or ability, under applicable law, to challenge or contest the assessed value of a Parcel.

(c) Minimum Service Payments. The Property is subject to a minimum service payment obligation (the "Minimum Service Payment Obligation"), which constitutes a minimum service payment obligation under Ohio Revised Code Section 5709.91 and which for each calendar year will be —an amount equal to the $14 million of market value for the Property, multiplied by 35% and the then current applicable real property tax rates for the Property, less the amount the City is required to pay with respect to the Property to the Dublin City School District and the Central Ohio Joint Vocational School District in that year under the TIF Ordinance. The Minimum Service Payment Obligation is effective beginning calendar year 2016. The Minimum Service Payment Obligation terminates at the end of the tax year in which the Owners of the Property have paid Service Payments (including any related Property Tax Rollback Payments) and Minimum Service Payments (as defined below) with respect to the Property in an amount equal to the lesser of: (i) the cost of John Shields Parkway paid by the City (including interest thereon at a rate of 2.5% per year), ~~plus (ii)~~or (ii) $2,000,000.00, plus, in each case, the amount the City is required to pay with respect to the Property to the Dublin City School District and the Central Ohio Joint Vocational School District through that tax year under the TIF Ordinance. The Minimum Service Payment Obligation will be divided among the Parcels in accordance with the relative value from time to time of each Parcel as recorded on the tax list and duplicate of the Franklin County Auditor. If the Service Payments and Property Tax Rollback Payments payable to the City on a Parcel in any calendar year, less the amount the City is required to pay with respect to that Parcel to the Dublin City School District and the Central Ohio Joint Vocational School District in that year under the TIF Ordinance, are less than the Minimum Service Payment Obligation for that Parcel for that calendar year, the City will prepare and send an invoice for the amount by which the Minimum Service Payment Obligation for that Parcel exceeds those Service Payments and Property Tax Rollback Payments (such difference, the "Minimum Service Payments") to the Owner of the Parcel at its registered address for tax bills. The Owner must pay the Minimum Service Payments invoiced to the City pursuant to payment instructions set forth in the invoice in immediately available funds within 30 days of its delivery. The City may assess a 10% administrative fee and interest accruing at an annual rate of 10% on any Minimum Service Payments not paid within 35 days of the delivery of the invoice. The City may certify delinquent Minimum Service Payments, fees and interest to the Franklin County Auditor for collection on real property tax bills. Any late payments of amounts so certified 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.

(d) Declaration of Covenants; Priority of Lien. It is intended and agreed, and it will be so provided by the Developer in a declaration relating to the Property (the "Declaration") recorded by the Developer within 30 days following the date of this Agreement and substantially in the form attached hereto as **Exhibit C**, that the covenants provided in this Section and, with respect to the TH Property, the covenants set forth in Section 2(c) 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 Owner with respect to that Owner's period of ownership of a Parcel or the owner of the TH Property, as applicable, whether or not this Agreement remains in effect or whether or not such provision is included by an Owner or owner of the TH Property in any deed to such Owner's or 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~~.~~ or, with respect to the TH Property, until satisfaction of the obligations of the Developer and Tuller Henderson set forth in Section 2(c).

Such covenants running with the land will have priority over any other lien or encumbrance on the Property~~, the TH Property~~, and any improvements thereon, except for such title exceptions as are approved in writing by the City, and the Developer ~~and Tuller Henderson~~ will~~, upon the City's request,~~ cause any and all holders of mortgages or other liens existing on the ~~Property or the TH~~ Property as of the time of recording of the Declaration to subordinate such mortgage or lien to those covenants running with the land. The Developer acknowledges that the provisions of Ohio Revised Code Section 5709.91, 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, will apply to this Agreement and to the Property and any improvements thereon.

At the City's option and within 30 days of its request, the Developer ~~and Tuller Henderson~~ hereby ~~agrees~~agrees to provide such title evidence, 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 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 Owner's obligations under this Agreement and termination of the Owner's obligation to make the Service Payments and Minimum Service Payments, the City will, upon the request of the Owner of a Parcel, execute an instrument in recordable form evidencing such termination and releasing the covenants running with the land set forth in the Declaration with respect to that Parcel. Upon satisfaction of the obligations set forth in Section 2(c), the City will, upon the request of the owner of the TH Property, execute an instrument in recordable form evidencing termination of the Declaration as to the TH Property and releasing the covenants running with the land set forth in the Declaration with respect to the TH Property.

(e) Exemption Application. The Developer agrees to prepare, execute and file of all necessary applications and supporting documents to obtain from time to time the exemption granted by the TIF Ordinance to enable the City to collect Service Payments with respect to the Property. The City agrees to cooperate with the Developer in preparing and filing such applications and supporting documents. The City and the Developer each agree to perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain that 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 that exemption or the Service Payments.

(f) Estoppel Certificate. Within 45 days after a request from an Owner of a Parcel or the owner of the TH Property, the City will execute and deliver to that Owner, owner or any proposed purchaser, mortgagee or lessee of the Parcel or TH Property, a certificate stating that with respect to the Parcel or TH Property, as applicable, if the same is true: (i) that this Agreement is in full force and effect; (ii) that the requesting Owner or owner is not in default under any of the terms, covenants or conditions of this Agreement, or, if that Owner or owner is in default, specifying same; and (iii) such other matters as that Owner or owner reasonably requests.

(g) Information Reporting. The Developer will 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 Developer with the terms of this Agreement. Any information supplied to such Tax Increment Review Council will be provided solely for the purpose of monitoring the Developer's compliance with this Agreement.

The Developer further covenants 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. Any information supplied to the City will be provided solely for the purpose of enabling the City to comply with this requirement.

(h) Nondiscriminatory Hiring Policy. With respect to operations within the City, the Developer will comply with the City's nondiscriminatory hiring policy adopted pursuant to Ohio Revised Code Section 5709.832. In furtherance of that policy, the Developer agrees not to deny any individual employment located upon any of its Parcels solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

5. Representations and Warranties of the City. The City represents and warrants as of the date of delivery of this Agreement that:

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

(b) It will have duly accomplished all conditions necessary to be accomplished by it prior to the execution and delivery of this Agreement and to constitute this Agreement as a valid and binding obligation of the City enforceable in accordance with its terms.

(c) It is not in violation of or in conflict with any provision of the laws of the State of Ohio that would impair its ability to observe and perform its covenants, agreements and obligations under this Agreement.

(d) It has and will have full power and authority to (i) execute, deliver, observe and perform this Agreement and all other instruments and documents executed and delivered by the City in connection herewith and (ii) enter into, observe and perform the transactions contemplated in this Agreement and those other instruments and documents.

(e) It has or will have duly authorized the execution, delivery, observance and performance of this Agreement.

6. Representations and Warranties of the Developer~~. The~~ and Tuller Henderson. Each of the Developer and Tuller Henderson represents and warrants as of the date of delivery of this Agreement that:

(a) It (i) is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Ohio and (ii) has all requisite power and authority and all necessary licenses and permits to own and operate the Property and the Project, or the TH Property, as applicable, and to carry on its business as now being conducted and as presently proposed to be conducted.

(b) It has the authority and power to execute and deliver this Agreement, perform its obligations hereunder and, with respect to the Developer only, construct ~~its portion of~~ the Project;

(c) Its execution and delivery of this Agreement and its compliance with all of the provisions hereof (i) will not conflict with or result in any breach of any of the provisions of, or constitute a default under, any agreement, its articles of incorporation, organization, code of regulations, operating agreement or other formative document, or other instrument to which it is a party or by which it may be bound, or any license, judgment, decree, law, statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over it or any of its activities or properties, and (ii) have been duly authorized by all necessary action on its part.

(d) There are no actions, suits, proceedings, inquiries or investigations pending, or to its knowledge threatened, against or affecting it in any court or before any governmental authority or arbitration board or tribunal that challenges the validity or enforceability of, or seeks to enjoin performance of, this Agreement or the construction of the Project, or if successful would materially impair its ability to perform its obligations under this Agreement or to construct the Project.

(e) It is in compliance with State of Ohio campaign financing laws contained in Ohio Revised Code Chapter 3517.

(f) No event has occurred and no condition exists with respect to ~~Developer~~it that would constitute a default under this Agreement or that, with the lapse of time or with the giving of notice or both, would constitute a default under this Agreement.

7. Events of Default and Remedies.

(a) Events of Default. Any one or more of the following constitutes an "Event of Default" under this Agreement:

i. The Developer or Tuller Henderson fails to perform or observe any material obligation punctually and as due under this Agreement, provided that if a Force Majeure event causes the failure, the Developer or Tuller Henderson may receive an additional period of time as is reasonably necessary to perform or observe the material obligation in light of the event if ~~the Developer~~it notifies the City of the potential event and the extent of the delay promptly after becoming aware of the event;

ii. The Developer fails to pay any Service Payment or Minimum Service Payment when due;

iii. The Developer fails to complete the Project by ~~December 31, 2014~~April 30, 2015, and in accordance with the terms of the Final Development Plan;

iv. The Developer or Tuller Henderson makes a representation or warranty in this Agreement that is materially false or misleading at the time it is made.

v. The Developer or Tuller Henderson files a petition for the appointment of a receiver or a trustee with respect to it or any of its property;

vi. The Developer or Tuller Henderson makes a general assignment for the benefit of creditors;

vii. A court enters an order for relief pursuant to any Chapter of Title 11 of the U.S. Code, as the same may be amended from time to time, with the Developer or Tuller Henderson as debtor; or

viii. The Developer or Tuller Henderson files an insolvency proceeding with respect to itself or any proceeding with respect to itself for compromise, adjustment or other relief under the laws of any country or state relating to the relief of debtors.

As used in this Section, "Force Majeure" means any event that is not within the control of the Developer, Tuller Henderson or its employees, contractors, subcontractors and material

suppliers, including the following: acts of God; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; nuclear accidents; fires; restraint of government and people; explosions; and partial or entire failure of utilities.

(b) General Right to Cure. Except with regard to the Developer's obligation to make Service Payments and Minimum Service Payments under Section 4 of this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions, by any party hereto, the Developer or Tuller Henderson will, upon written notice from the City, proceed, as soon as reasonably possible, to cure or remedy such default or breach, and, in any event, within 30 days after receipt of such notice. In the event such default or breach is of such nature that it cannot be cured or remedied within said 30-day period, then in such event the Developer or Tuller Henderson will upon written notice from the City commence its actions to cure or remedy said breach within said 30-day period, and proceed diligently thereafter to cure or remedy said breach.

(c) Remedies. If Developer fails to make Service Payments or Minimum Service Payments under Section 4 of this Agreement or the Developer or Tuller Henderson fails to cure any other Event of Default pursuant to Subsection 8(b), the City may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach. Such remedies include, but are not limited to: (i) terminating the City's obligations under this Agreement, (ii) instituting proceedings to compel specific performance by the Developer or Tuller Henderson and (iii) any other rights and remedies available at law, in equity or otherwise to collect all amounts then becoming due or to enforce the performance of any obligation under this Agreement.

(d) Costs of Enforcement. If an action is brought by the City for the enforcement of any provision of this Agreement, the ~~Developers~~Developer or Tuller Henderson, as applicable, will pay to the City all costs and other expenses that become payable as a result thereof, including without limitation, reasonable attorneys' fees and expenses.

8. Notices. All notices or other correspondence relating to this Agreement must be in writing (including e-mail or facsimile) and must be delivered or sent guaranteed overnight delivery, by facsimile or e-mail (to be followed by personal or overnight guaranteed delivery, of requested) or by postage prepaid registered or certified mail, return receipt requested, and will be deemed to be given for purposes of this Agreement on the date such writing is received by the intended recipient. Unless otherwise specified in a notice sent in accordance with this section, all communications in writing must be given to the parties at the following addresses:

(a) As to the City:

City of Dublin, Ohio
Attn: City Manager
5200 Emerald Parkway
Dublin, Ohio 43017

(b) As to the Developer and Tuller Henderson:

Vrable Land Holdings Dublin LLC/Tuller Henderson LLC
3248 W. Henderson Road
Columbus, Ohio 43220
Attn: ~~_____~~Jim Muckle

and

Jim Muckle, General Counsel
Vrable Land Holdings Dublin LLC/Tuller Henderson LLC
3248 W. Henderson Road
Columbus, OH 43220

9. Successors; Assignment; Amendments, Changes and Modifications. This Agreement is binding upon the Developer, Tuller Henderson and ~~its~~their respective successors in interest and the City and its successors in interest. This Agreement may not be assigned by the Developer, Tuller Henderson or the City without the consent of the other; provided, however, that nothing in this Agreement prevents the Developer from transferring ownership of all or a portion of the Property, or Tuller Henderson from transferring ownership of all or a portion of the TH Property, to another person or entity so long as the Declaration is then in effect with respect to the Property or TH Property transferred. This Agreement may only be amended by written instrument executed by ~~both~~each of the City, Tuller Henderson and the Developer.

10. Extent of Covenants; No Personal Liability. All covenants, stipulations, obligations and agreements of the parties contained in this Agreement are effective and enforceable to the extent authorized and permitted by applicable law; provided, however, that the City's financial obligations under this Agreement are not a debt or general obligation of the City and are subject to the City Council's appropriation of the funds necessary therefor. No such covenant, stipulation, obligation or agreement will be deemed a covenant, stipulation, obligation or agreement of any present or future member, officer, agent, or employee of any of the parties hereto in their individual capacity.

11. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, said provision will be fully severable. This Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never formed a part of this Agreement and the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement.

12. Separate Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered will be an original, but all such counterparts will together constitute one and the same instrument.

13. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the matters covered herein and supersedes prior agreements and understandings between the parties on this subject matter.

14. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Ohio.

[Signature lines found on next pages.]

IN WITNESS WHEREOF, the City, Tuller Henderson and the Developer have caused this Development and Tax Increment Financing Agreement to be executed in their respective names by their duly authorized officers as of the last date set forth below.

CITY OF DUBLIN, OHIO

By:_____

Printed: Marsha Grigsby

Title: City Manager

Date:_____

Approved as to Form:

By:_____

Printed: Stephen J. Smith

Title: Law Director

Date:_____

~~VRABLE HOLDING DUBLIN LLC~~

~~By:~~

~~Printed:~~

~~Title:~~

~~Date:~~

FISCAL OFFICER'S CERTIFICATE

The undersigned, Deputy City Manager and Director of Finance of the City under the foregoing Agreement, certifies hereby that the moneys required to meet the obligations of the City under the foregoing Agreement during Fiscal Year 2013 have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2013

_____
Angel L. Mumma
Deputy City Manager/Director of Finance
City of Dublin, Ohio

VRABLE HOLDING DUBLIN LLC

By: _____

Printed: _____

Title: _____

Date: _____

TULLER HENDERSON LLC

By: _____

Printed: _____

Title: _____

Date: _____

Exhibit A

DESCRIPTION OF PROPERTY

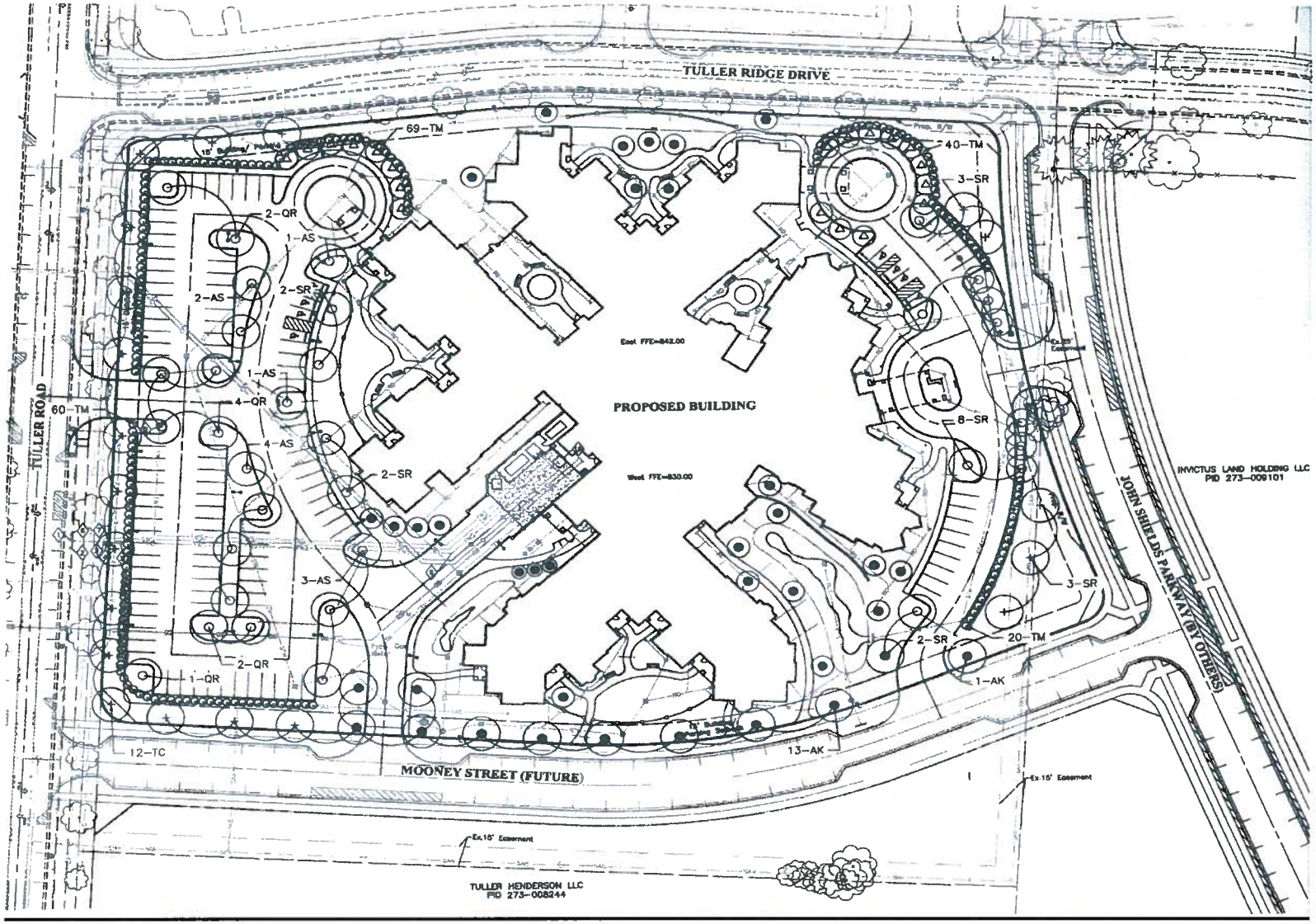

Exhibit B

DESCRIPTION OF PUBLIC IMPROVEMENTS

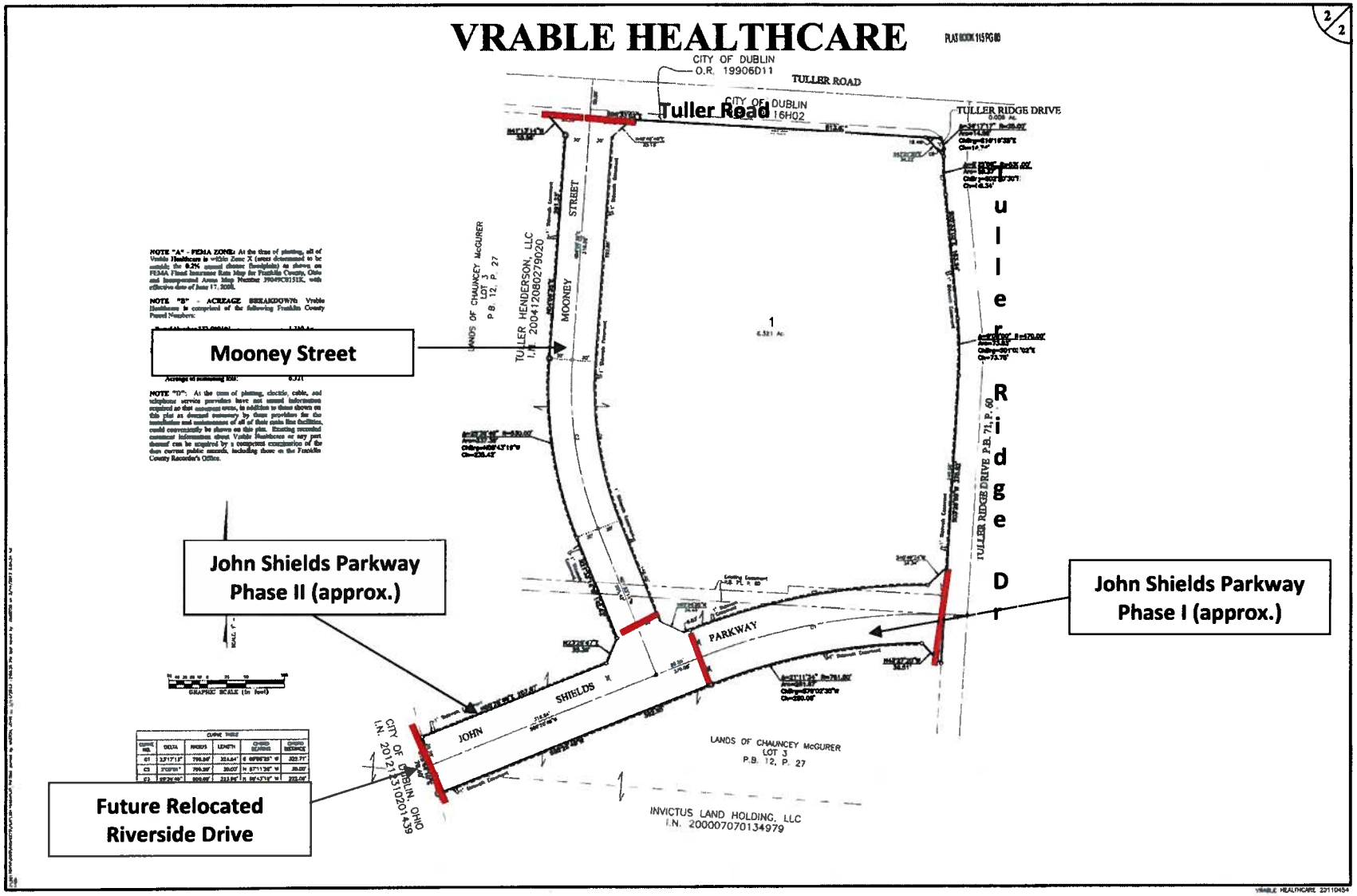

Exhibit C

FORM OF DECLARATION

TAX INCREMENT FINANCING DECLARATION OF COVENANTS

This TAX INCREMENT FINANCING DECLARATION OF COVENANTS (this "Declaration") is made ~~byVrable~~by Vrable Land Holding Dublin LLC, an Ohio limited liability company having its address at 3248 W. Henderson Road, Columbus, Ohio 43220~~,~~ ("Declarant~~").~~") and Tuller Henderson LLC ("Tuller Henderson"), an Ohio limited liability company having its address at 3248 W. Henderson Road, Columbus, Ohio 43220.

W I T N E S S E T H:

WHEREAS, the Declarant has acquired certain parcels of real property located in the City of Dublin, Ohio (the "City"), a description of which real property is attached hereto as Exhibit A (with each parcel as now or hereafter configured, a "Parcel"), having acquired such fee simple title by instruments No.201304180064407 and 201304180064406 recorded in the Office of the Recorder of Franklin County, Ohio (the "County Recorder"); and

WHEREAS, the City, by its Ordinance No. [_____] passed [_____](the "Ordinance"), has declared that one hundred percent (100%) of the increase in the assessed value of each Parcel subsequent to the effective date of the Ordinance (such increase hereinafter referred to as the "Improvement" as further defined in Ohio Revised Code Section 5709.40 and the Ordinance) is a public purpose and is exempt from taxation (such exemption referred to herein as the "TIF Exemption") for a period commencing with the first tax year that begins after the effective date of the Ordinance and in which an Improvement first appears 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 Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (collectively, the "TIF Statutes") and the Ordinance; and

WHEREAS, the TIF Ordinance provides that the owner of the Parcel make service payments in lieu of taxes with respect to any Improvement on that Parcel (the "Service Payments"), all pursuant to and in accordance with the TIF Statutes and the Ordinance; and

WHEREAS, the Declarant, Tuller Henderson and the City entered into a Development and Tax Increment Financing Agreement dated as of _____, 2013 (the "Agreement"); and

WHEREAS, the Agreement creates an obligation that the owner of the Parcel make minimum service payments with respect to that Parcel (the "Minimum Service Payments"); and

WHEREAS, Tuller Henderson owns various properties. City, Developer, and Tuller Henderson agree that this Declaration only refers to approximately 4.56 acres of real property generally located to the east of Riverside Drive, to the west of Mooney Street, and to the south of and adjacent to Tuller Road within the municipal boundaries of the City.~~Tuller Henderson has~~

~~acquired certain parcels of real property located in the City,~~ a description of which real property is attached hereto as Exhibit B (the "TH Property"), having acquired such fee simple title by instruments No. _____ and _____ recorded in the Office of the County Recorder; ~~and~~ and excludes all other holdings or assets of Tuller Henderson, LLC; and

WHEREAS, this Declaration is being made and filed of record pursuant to Section 2(c) and Section 4 of that Agreement; and

WHEREAS, Tuller Henderson is joining this Declaration for the limited purpose of ensuring that its covenants contained in Section 2(c) of the Agreement are covenants that run with the land; and

NOW, THEREFORE, each of the Declarant and Tuller Henderson, for itself and its successors and assigns to or of the Parcel or the TH Property, respectively, hereby declares that the foregoing recitals are incorporated into this Declaration by this reference and that the Parcel or the TH Property it owns 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. **Service Payments.** The Declarant agrees to make Service Payments for the Parcel it owns attributable to its period of ownership of that Parcel, all pursuant to and in accordance with the requirements of the TIF Statutes, the Ordinance, the Agreement and any subsequent amendments or supplements thereto.

Service Payments for the Parcel will be made semiannually to the Treasurer of Franklin County, Ohio (or to such county treasurer's designated agent for collection of the Service Payments), on or before the date on which real property taxes would otherwise be due and payable for that Parcel. 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.

Service Payments for the Parcel will be made in accordance with the requirements of the TIF Statutes and the Ordinance and 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 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 (the "Property Tax Rollback Payments")) had the TIF Exemption not been granted, including any penalties and interest. A Declarant will not, under any circumstances, be required for any tax year to pay both real property taxes and Service Payments with respect to the Improvement to a Parcel pursuant to this Declaration.

In addition to the obligation to make Service Payments, Declarant agrees to a minimum service payment obligation (the "Minimum Service Payment Obligation") for the Parcel it owns, all pursuant to and in accordance with the requirements of the TIF Statutes, the Ordinance, the Agreement and any subsequent amendments or supplements thereto. The Minimum Service Payment Obligation constitutes a minimum service payment obligation under Ohio Revised Code Section 5709.91. The total Minimum Service Payment Obligation due for all Parcels for

any calendar year is an amount equal to ~~an amount equal to~~the $14 million of market value for the Parcel, multiplied by 35% and the then current applicable real property tax rates for ~~theParcel~~the Parcel, less the amount the City is required to pay with respect to the Parcels to the Dublin City School District and the Central Ohio Joint Vocational School District in that year under the TIF Ordinance. The Minimum Service Payment Obligation is effective beginning calendar year 2016. The Minimum Service Payment Obligation terminates at the end of the tax year in which the Declarants have paid Service Payments (including any related Property Tax Rollback Payments) and Minimum Service Payments (as defined below) with respect to the Parcel in an amount equal to the lesser of: (i) the cost of John Shields Parkway paid by the City (including interest thereon at a rate of 2.5% per year), or (ii) $2,000,000.00, plus ~~(ii)~~, in each case, the amount the City is required to pay with respect to the Parcel to the Dublin City School District and the Central Ohio Joint Vocational School District through that tax year under the Ordinance. The Parcel's share of the Minimum Service Payment Obligation in any calendar year will be equal to that Parcel's assessed value divided by the assessed value of all Parcels, each as recorded on the tax list and duplicate of Franklin County for the preceding calendar year. If the Service Payments and Property Tax Rollback Payments payable to the City on a Parcel in any calendar year, less the amount the City is required to pay with respect to that Parcel to the Dublin City School District and the Central Ohio Joint Vocational School District in that year under the TIF Ordinance, are less than the Minimum Service Payment Obligation for that Parcel for that calendar year, the City will prepare and send an invoice for the amount by which the Minimum Service Payment Obligation for that Parcel exceeds those Service Payments and Property Tax Rollback Payments (such difference, the "Minimum Service Payments") to the Declarant for that Parcel at its registered address for tax bills. The Declarant must pay the Minimum Service Payments invoiced to the City pursuant to payment instructions set forth in the invoice in immediately available funds within 30 days of its delivery. The City may assess a 10% administrative fee and interest accruing at an annual rate of 10% on any Minimum Service Payments not paid within 35 days of the delivery of the invoice. The City may certify delinquent Minimum Service Payments, fees and interest to the Franklin County Auditor for collection on real property tax bills. Any late payments of amount so certified 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. In the event that the Parcel is subject to an action that would foreclosure the lien created by this Declaration (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 Parcel (as determined by the Franklin County Auditor) and then current real property tax rates applicable to the Parcel.

Section 2. **Exemption Applications.** The Declarant further 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. The Declarant authorizes the City to file any applications necessary to obtain from time to time the TIF Exemption for each Parcel it owns.

Section 3. **Provision of Information.** The Declarant 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 each Declarant with the terms of the Agreement.

The Declarant 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 4. **Nondiscriminatory Hiring Policy.** The Declarant agrees to comply with the City's policies adopted pursuant to Ohio Revised Code Section 5709.832 to ensure that recipients of tax exemptions practice nondiscriminatory hiring in its operations. In furtherance of that policy, each Declarant agrees that it will not deny any individual employment solely on the basis of race, religion, sex, disability, color, national origin or ancestry.

Section 5. **Mooney Street.** The Declarant and Tuller Henderson agree to fulfill all of their obligations set forth in Section 2(c) of the Agreement, which are hereby included in this Declaration by this reference as if fully set forth herein.

Section 6. **Covenants to Run With the Land.** The Declarant ~~agrees~~and Tuller Henderson agree that ~~the~~each of its covenants contained in this Declaration shall be covenants running with the land and that they shall, 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 each Parcel or TH Property, as applicable, any improvements thereon and the owner of the Parcel or TH Property, as applicable, 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.

The Declarant and Tuller Henderson further ~~agrees~~agree that all covenants herein, whether or not these covenants are included by any owner of a Parcel or TH Property in any deed to that owner's successors and assigns, shall be binding upon each subsequent owner and shall be enforceable the City, and that any future owner of that Parcel or TH Property, or any successors or assigns of a Declarant or Tuller Henderson, shall be treated as a Declarant or Tuller Henderson, respectively, with respect to that Parcel or TH Property, as applicable, for all purposes of this Declaration.

The Declarant further agrees that ~~the~~its covenants herein will remain in effect so long as the Service Payments can be collected pursuant to the TIF Statutes and the Ordinance unless otherwise modified or released in writing by the City in a written instrument filed in the Official Records of the County Recorder.

Tuller Henderson agrees that all of its covenants herein remain in effect until such time as the covenants set forth in Section 2(c) of the Agreement have been satisfied.

The Declarant ~~and Tuller Henderson~~ further ~~agrees~~agrees that the covenants herein have priority over any other lien or encumbrance on any Parcel ~~or TH Property~~ it owns and any improvements thereon, except for such title exceptions as are approved in writing by the City, and the Declarant ~~or Tuller Henderson~~ will~~, upon the City's request,~~ cause any and all holders of mortgages or other liens existing on each Parcel ~~or TH Property~~ it owns as of the time of recording of this Declaration to subordinate such mortgage or lien to those covenants running with the land. The Declarant acknowledges that the provisions of Ohio Revised Code Section 5709.91, 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.

At the City's option and at its request, the Declarant ~~and Tuller Henderson~~ hereby ~~agrees~~agrees to provide such title evidence with respect to the Parcel ~~or TH Property~~ it owns, 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 those which are approved in writing by the City.

~~[Remainder of page intentionally left blank. Signature page follows.]~~

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

VRABLE LAND HOLDING DUBLIN LLC

By:_____

Printed:_____

Title:_____

STATE OF OHIO)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by _____, _____ of Vrable Land Holding Dublin LLC, 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

_____ **TULLER HENDERSON LLC**

_____ By: _____

_____ Printed: _____

_____ Title: _____

STATE OF OHIO _____)

_____) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by _____, _____ of Tuller Henderson LLC, 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: Greg Daniels
Squire Sanders (US) LLP
41 S. High Street, Suite 2000
Columbus, Ohio 43215

RECORD OF ORDINANCES

Dayton Legal Blank, Inc. Form No. 30043

Ordinance No. 39-13 Passed _____, 20____

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A DEVELOPMENT AND TAX INCREMENT FINANCING AGREEMENT WITH VRABLE LAND HOLDING DUBLIN LLC RELATING TO THE DEVELOPMENT OF APPROXIMATELY 6.34 ACRES OF REAL ESTATE GENERALLY LOCATED EAST OF RIVERSIDE DRIVE, WEST OF TULLER RIDGE DRIVE AND SOUTH AND ADJACENT TO TULLER ROAD.

WHEREAS, the Developer owns approximately 6.34 acres of real property generally located to the east of Riverside Drive, to the west of Tuller Ridge Drive, and to the south of and adjacent to Tuller Road within the municipal boundaries of the City (the "Property"); and

WHEREAS, the Developer intends to develop the Property with skilled nursing facility uses, assisted living uses, and office uses (collectively, the "Project") in accordance with the zoning and preliminary development plan approval from the City by Ordinance 06-12, modified by a final development plan as submitted to and approved by the Dublin Planning and Zoning Commission on February 21, 2013; and

WHEREAS, the City and the Developer desire to facilitate the construction of new public streets and water line improvements to be constructed on the southern and western perimeter of the Property and adjacent real property; and

WHEREAS, the City contemplates adopting an ordinance (the "TIF Ordinance") declaring that 100% of the increase in the assessed value of the Property subsequent to the effective date of the TIF Ordinance (the "Improvement" and an "Improvement" as defined in Ohio Revised Code Section 5709.40) is to be a public purpose and exempt from taxation, in accordance with the requirements of Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43; and

WHEREAS, the TIF Ordinance is expected to provide that the owner of the Property make service payments in lieu of taxes with respect to any Improvement on the Property, all pursuant to and in accordance with the TIF Statutes; and

WHEREAS, to support the construction of the Public Improvements, the Developer has agreed to make minimum service payments with respect to the Property (the "Minimum Service Payments") to supplement the Service Payments as necessary; and

WHEREAS, the City and the Developer desire to enter into this Agreement to provide for the collection of the Service Payments and the Minimum Service Payments to enable the financing, construction, installation and maintenance of the Public Improvements as contemplated herein, and to memorialize their mutual understandings with regard to the manner in which the Project initially will be developed.

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

Section 1. The City Manager is hereby authorized to enter into a Development and Tax Increment Financing Agreement similar to the one attached hereto as Exhibit "A" with Vrable Land Holding LLC.

Section 2. 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

City of Dublin

Office of the City Manager
5200 Emerald Parkway • Dublin, OH 43017-1090
Phone: 614-410-4400 • Fax: 614-410-4490

Memo

To: Members of Dublin City Council

From: Marsha I. Grigsby, City Manager

Date: May 16, 2013

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

Re: **Ordinance 39-13 – Development and Tax Increment Finance Agreement with Vrable Land Holding Dublin LLC**

Background

Ordinance 39-13 authorizes the City Manager to enter into the attached Development and Tax Increment Finance Agreement ("Agreement") with Vrable Land Holding Dublin, LLC. and its successors and assigns ("Developer"). The redlined version of this Agreement is attached highlighting proposed changes. The following summarizes key changes being proposed in the Agreement:

> **2. (b). John Shields Parkway, Phase II.** Language has been added to the end of this section allowing the developer to install an access drive between John Shields Parkway, Phase I and Riverside Drive, prior to December 31, 2018. The cost for installation and removal of this access drive will be the responsibility of the Developer.
>
> **2. (c). Mooney Street, Phase I. iii.** Language has been added to recognize that the Developer may transfer the land between Mooney Street, Phase I and existing Riverside Drive. Therefore, this language acknowledges that the obligation to construct Mooney Street, Phase I, will carry with the land. Additionally, the Developer acknowledges that this same property, if developed, must develop in accordance with the Bridge Street District Code. Several references to the land holder of the property between Mooney Street and existing Riverside Drive, Tuller Henderson, LLC, have been added throughout the Agreement.

Recommendation

Staff recommends Council approval of Ordinance No. 39-13 at the second reading/public hearing on May 20, 2013.

DEVELOPMENT AND TAX INCREMENT FINANCING AGREEMENT

THIS DEVELOPMENT AND TAX INCREMENT FINANCING AGREEMENT (the "Agreement") is made and entered into as of the last date of signature below (the "Effective Date") by and among the **CITY OF DUBLIN, OHIO** (the "City"), a charter municipal corporation organized and existing under the constitution and the laws of the State of Ohio and its Charter, **VRABLE LAND HOLDING DUBLIN LLC** ("~~Vrable~~Developer"), an Ohio limited liability company having its address at 3248 W. Henderson Road, Columbus, Ohio 43220 ~~(Vrable and its successors and assigns are hereinafter referred to as the "Developer").~~, **TULLER HENDERSON LLC** ("Tuller Henderson"), an Ohio limited liability company having its address at 3248 W. Henderson Road, Columbus, Ohio 43220.

W I T N E S S E T H:

WHEREAS, the Developer owns approximately 6.34 acres of real property generally located to the east of Riverside Drive, to the west of Tuller Ridge Drive, and to the south of and adjacent to Tuller Road within the municipal boundaries of the City, as depicted in **Exhibit A** (the "Property," with each current or future tax parcel of the Property referred to herein as a "Parcel," and together, with all such tax parcels, the "Parcels"); and

WHEREAS, Tuller Henderson owns approximately ___ acres of real property generally located to the east of Riverside Drive, to the west of Mooney Street, and to the south of and adjacent to Tuller Road within the municipal boundaries of the City, as depicted in **Exhibit A** (the "TH Property"); and

WHEREAS, the Developer intends to develop the Property with skilled nursing facility uses, assisted living uses, and office uses (collectively, the "Project") in accordance with the zoning and preliminary development plan approval from the City by Ordinance 06-12 (the "Preliminary Development Plan"), as modified by a final development plan as submitted to and approved by The Planning and Zoning Commission on February 21, 2013 (the "Final Development Plan"); and

WHEREAS, the City, Tuller Henderson and the Developer desire to facilitate the construction of new public streets and water line improvements to be constructed on the southern and western perimeter of the Property and ~~adjacent real property~~the southern and eastern perimeter of the TH Property (as further described in Section 2, the "Public Improvements"); and

WHEREAS, the City contemplates adopting an ordinance (such ordinance, if and when adopted, the "TIF Ordinance") declaring that 100% of the increase in the assessed value of the Property subsequent to the effective date of the TIF Ordinance (the "Improvement", and an "Improvement" as defined in Ohio Revised Code Section 5709.40) is to be a public purpose and exempt from taxation in accordance with the requirements of Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (collectively, the "TIF Statutes"); and

WHEREAS, the TIF Ordinance is expected to provide that the owner(s) of the Property make service payments in lieu of taxes with respect to any Improvement on the Property (the "Service Payments"), all pursuant to and in accordance with the TIF Statutes; and

WHEREAS, to support the construction of the Public Improvements, the Developer has agreed to make minimum service payments with respect to the Property (the "Minimum Service Payments") to supplement the Service Payments as necessary; and

WHEREAS, the City and the Developer desire to enter into this Agreement to provide for the collection of the Service Payments and the Minimum Service Payments to enable the financing, construction, installation and maintenance of the Public Improvements as contemplated herein, and to memorialize their mutual understandings with regard to the manner in which the Project initially will be developed; and

WHEREAS, Tuller Henderson desires to join this Agreement, and the Developer and the City desire that Tuller Henderson joins this Agreement, to further secure the financing, construction, installation and maintenance of the Public Improvements as contemplated herein, particularly the construction of Mooney Street as further described in Section 2(c);

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties hereto agree to the foregoing and as follows:

1. Proposed Project. The City by Ordinance __-1_ has approved the rezoning of the Property which permits its development in substantial conformance with the Preliminary Development Plan. The Developer will be solely responsible for the costs of the Project, including, without limitation, all private infrastructure improvements servicing the Project required by City Code or necessary to adequately serve the Property, such as the removal, installation, construction, and maintenance of all private stormwater improvements and detention facilities. Development of the Project will occur in substantial conformance with the Final Development Plan, as that plan may be amended from time to time. The Developer will substantially complete development of the Project by December 31, 2014. Developer warrants that the actual total construction value of the private improvements for the Project will not be less than $14 million.

2. Public Improvements. The City and the Developer hereby agree that the following infrastructure improvements benefit and serve the Property and other real property in the vicinity of the Property, and will be implemented as provided below:

(a) John Shields Parkway, Phase I. The first phase of a new public street (as depicted in **Exhibit B**, "John Shields Parkway") will extend from Tuller Ridge Road on the east to a point along the eastern edge of the planned Mooney Street (described below). The City will design and construct the first phase of John Shields Parkway at its sole expense. The first phase will be constructed in accordance with the Bridge Street District Code, the associated transportation and utilities plan, and the Final Development Plan for the Project. The City will use commercially reasonable efforts to complete John Shields Parkway by the time the Developers receive a certificate of occupancy for the Project.

(b) John Shields Parkway, Phase II. The second phase of John Shields Parkway (as depicted in **Exhibit B**) will extend from the terminus of the first phase on the east to Riverside

Drive, as it currently exists or may be realigned, on the west. The City will design and construct the second phase of John Shields Parkway at its sole expense, and will use commercially reasonable efforts to complete construction in tandem with the re-location of Riverside Drive but no later than December 31, 2018. The exact design and placement of the second phase will be at the sole discretion of the City. If the City does not complete the second phase by December 31, 2018, or abandons the second phase, then the City and the Developer, at the Developer's request, will negotiate in good faith to provide any necessary access to Riverside Drive. Should the Developer desire access from John Shields Parkway, Phase I to Riverside Drive prior to December 31, 2018, the Developer may install an access drive at Developer's own expense. All designs for this access drive must be approved by the City Engineer prior to installation. The Developer must remove this access drive, at Developer's expense, prior to the commencement of John Shields Parkway, Phase II construction.

(c) Mooney Street, Phase I. The first phase of a new public street (as depicted in **Exhibit B**, "Mooney Street") will extend from Tuller Road on the north to John Shields Parkway on the south. Construction for Mooney Street will be as follows:

i. Construction. ~~*[Final provisions for Mooney construction obligations are still being finalized, and will be included before final Council action is taken]*~~The Developer and Tuller Henderson will design and construct Mooney Street at their sole expense contemporaneously with the development of the TH Property. The Developer and Tuller Henderson must submit plans for Mooney Street contemporaneously with the submission of plans for the development of the TH Property. Plans and specifications for Mooney Street are subject to the reasonable review and approval of the City. Unless waived by the City, the design and construction of Mooney Street must be in accordance with the Bridge Street District Code, the associated transportation and utilities plan and the approved Final Development Plan for the Project. Developer and Tuller Henderson each reserve the right to file a waiver with the City for the construction of Mooney Street. The City will consider, among other relevant factors, the devaluation of the TH Property when making its determination regarding the grant of the waiver. The construction of Mooney Street does not obligate the Developer or Tuller Henderson to construct any improvements to John Shields Parkway or Tuller Road.

ii. Waterline. The Developer and Tuller Henderson will design and construct a water line in conjunction with the design and construction of Mooney Street at ~~its~~their sole expense, in accordance with the Bridge Street District Code, the associated transportation and utilities plan, and the Final Development Plan for the Project and for the development of the ~~property between Mooney Street and the existing Riverside Drive~~TH Property, each as approved by City Council. Plans and specifications for the water line are subject to the review and approval of the City in its sole discretion and the City reserves the right to modify the design of the water line. The Developer and Tuller Henderson will submit plans for the water line upon request of the City and complete construction of the water line by a date reasonably determined by the City to

be in conjunction with the development of the ~~property between the Mooney Street and the Riverside Drive right of way~~TH Property.

iii. Transfer. The City understands that Tuller Henderson may convey the TH Property in the future. If Tuller Henderson transfers this property, the City and Tuller Henderson agree that all of the obligations set forth in this Section 2(c) will become the obligations of the future transferee. It is intended that the obligations set forth in this Section 2(c) will be included in the declaration of covenants set forth in **Exhibit C** and construed as covenants which run with the land and will be binding upon and inure to the benefit of the respective heirs, personal representatives, successors, transferees and assigns of the parties hereto. Tuller Henderson further agrees that no deed restrictions will be placed in the transfer documents that are inconsistent with the Bridge Street Code and that all future construction will be in accordance with the Bridge Street Code.

(d) Nothing in this Agreement makes the Developer responsible for the installation and/or removal of sanitary, storm sewer and/or water facilities located or to be located within John Shields Parkway and/or relocated Riverside Drive.

3. Coordination between the City and the Developer. The City and the Developer agree to closely coordinate their respective design and construction efforts relative to the grades between the Public Improvements adjoining the Property. Each party will bear its own costs associated with this effort.

4. Tax Increment Financing Area.

(a) General. The Developer will reasonably cooperate with the City in the creation of a tax increment financing area including the Property.

(b) Covenant to Make Payments in Lieu of Taxes. The Developer, on behalf of itself and any subsequent owner of each Parcel (an owner of a Parcel, during its respective period of ownership, is referred to herein as an "Owner," and all such owners are referred to collectively as the "Owners"), hereby covenant to make Service Payments attributable to their respective period of ownership of that Parcel, all pursuant to and in accordance with the requirements of the TIF Statutes, and any subsequent amendments or supplements thereto, the TIF Ordinance and this Agreement.

Service Payments will be made semiannually to the County Treasurer of Franklin County, Ohio (or to such Treasurer's designated agent for collection of the Service Payments) on or before the final dates for payment of real property taxes for the Parcel. 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.

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 the Parcel (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 TIF Ordinance, 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 to a Parcel pursuant to this Agreement. Nothing contained herein limits or impairs an Owner's right or ability, under applicable law, to challenge or contest the assessed value of a Parcel.

(c) Minimum Service Payments. The Property is subject to a minimum service payment obligation (the "Minimum Service Payment Obligation"), which constitutes a minimum service payment obligation under Ohio Revised Code Section 5709.91 and which for each calendar year will be ~~—~~an amount equal to the $14 million of market value for the Property, multiplied by 35% and the then current applicable real property tax rates for the Property, less the amount the City is required to pay with respect to the Property to the Dublin City School District and the Central Ohio Joint Vocational School District in that year under the TIF Ordinance. The Minimum Service Payment Obligation is effective beginning calendar year 2016. The Minimum Service Payment Obligation terminates at the end of the tax year in which the Owners of the Property have paid Service Payments (including any related Property Tax Rollback Payments) and Minimum Service Payments (as defined below) with respect to the Property in an amount equal to the lesser of: (i) the cost of John Shields Parkway paid by the City (including interest thereon at a rate of 2.5% per year), ~~plus (ii)~~or (ii) $2,000,000.00, plus, in each case, the amount the City is required to pay with respect to the Property to the Dublin City School District and the Central Ohio Joint Vocational School District through that tax year under the TIF Ordinance. The Minimum Service Payment Obligation will be divided among the Parcels in accordance with the relative value from time to time of each Parcel as recorded on the tax list and duplicate of the Franklin County Auditor. If the Service Payments and Property Tax Rollback Payments payable to the City on a Parcel in any calendar year, less the amount the City is required to pay with respect to that Parcel to the Dublin City School District and the Central Ohio Joint Vocational School District in that year under the TIF Ordinance, are less than the Minimum Service Payment Obligation for that Parcel for that calendar year, the City will prepare and send an invoice for the amount by which the Minimum Service Payment Obligation for that Parcel exceeds those Service Payments and Property Tax Rollback Payments (such difference, the "Minimum Service Payments") to the Owner of the Parcel at its registered address for tax bills. The Owner must pay the Minimum Service Payments invoiced to the City pursuant to payment instructions set forth in the invoice in immediately available funds within 30 days of its delivery. The City may assess a 10% administrative fee and interest accruing at an annual rate of 10% on any Minimum Service Payments not paid within 35 days of the delivery of the invoice. The City may certify delinquent Minimum Service Payments, fees and interest to the Franklin County Auditor for collection on real property tax bills. Any late payments of amounts so certified 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.

(d) Declaration of Covenants; Priority of Lien. It is intended and agreed, and it will be so provided by the Developer in a declaration relating to the Property (the "Declaration") recorded by the Developer within 30 days following the date of this Agreement and substantially in the form attached hereto as **Exhibit C**, that the covenants provided in this Section and, with respect to the TH Property, the covenants set forth in Section 2(c) 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 Owner with respect to that Owner's period of ownership of a Parcel or the owner of the TH Property, as applicable, whether or not this Agreement remains in effect or whether or not such provision is included by an Owner or owner of the TH Property in any deed to such Owner's or 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~~.~~ or, with respect to the TH Property, until satisfaction of the obligations of the Developer and Tuller Henderson set forth in Section 2(c).

Such covenants running with the land will have priority over any other lien or encumbrance on the Property, the TH Property, and any improvements thereon, except for such title exceptions as are approved in writing by the City, and the Developer and Tuller Henderson will~~, upon the City's request,~~ cause any and all holders of mortgages or other liens existing on the Property or the TH Property as of the time of recording of the Declaration to subordinate such mortgage or lien to those covenants running with the land. The Developer acknowledges that the provisions of Ohio Revised Code Section 5709.91, 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, will apply to this Agreement and to the Property and any improvements thereon.

At the City's option and within 30 days of its request, the Developer and Tuller Henderson hereby ~~agrees~~agree to provide such title evidence, 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 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 Owner's obligations under this Agreement and termination of the Owner's obligation to make the Service Payments and Minimum Service Payments, the City will, upon the request of the Owner of a Parcel, execute an instrument in recordable form evidencing such termination and releasing the covenants running with the land set forth in the Declaration with respect to that Parcel. Upon satisfaction of the obligations set forth in Section 2(c), the City will, upon the request of the owner of the TH Property, execute an instrument in recordable form evidencing termination of the Declaration as to the TH Property and releasing the covenants running with the land set forth in the Declaration with respect to the TH Property.

(e) Exemption Application. The Developer agrees to prepare, execute and file of all necessary applications and supporting documents to obtain from time to time the exemption

granted by the TIF Ordinance to enable the City to collect Service Payments with respect to the Property. The City agrees to cooperate with the Developer in preparing and filing such applications and supporting documents. The City and the Developer each agree to perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain that 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 that exemption or the Service Payments.

(f) Estoppel Certificate. Within 45 days after a request from an Owner of a Parcel or the owner of the TH Property, the City will execute and deliver to that Owner, owner or any proposed purchaser, mortgagee or lessee of the Parcel or TH Property, a certificate stating that with respect to the Parcel or TH Property, as applicable, if the same is true: (i) that this Agreement is in full force and effect; (ii) that the requesting Owner or owner is not in default under any of the terms, covenants or conditions of this Agreement, or, if that Owner or owner is in default, specifying same; and (iii) such other matters as that Owner or owner reasonably requests.

(g) Information Reporting. The Developer will 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 Developer with the terms of this Agreement. Any information supplied to such Tax Increment Review Council will be provided solely for the purpose of monitoring the Developer's compliance with this Agreement.

The Developer further covenants 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. Any information supplied to the City will be provided solely for the purpose of enabling the City to comply with this requirement.

(h) Nondiscriminatory Hiring Policy. With respect to operations within the City, the Developer will comply with the City's nondiscriminatory hiring policy adopted pursuant to Ohio Revised Code Section 5709.832. In furtherance of that policy, the Developer agrees not to deny any individual employment located upon any of its Parcels solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

5. Representations and Warranties of the City. The City represents and warrants as of the date of delivery of this Agreement that:

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

(b) It will have duly accomplished all conditions necessary to be accomplished by it prior to the execution and delivery of this Agreement and to constitute this Agreement as a valid and binding obligation of the City enforceable in accordance with its terms.

(c) It is not in violation of or in conflict with any provision of the laws of the State of Ohio that would impair its ability to observe and perform its covenants, agreements and obligations under this Agreement.

(d) It has and will have full power and authority to (i) execute, deliver, observe and perform this Agreement and all other instruments and documents executed and delivered by the City in connection herewith and (ii) enter into, observe and perform the transactions contemplated in this Agreement and those other instruments and documents.

(e) It has or will have duly authorized the execution, delivery, observance and performance of this Agreement.

6. Representations and Warranties of the Developer~~. The~~ and Tuller Henderson. Each of the Developer and Tuller Henderson represents and warrants as of the date of delivery of this Agreement that:

(a) It (i) is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Ohio and (ii) has all requisite power and authority and all necessary licenses and permits to own and operate the Property and the Project, or the TH Property, as applicable, and to carry on its business as now being conducted and as presently proposed to be conducted.

(b) It has the authority and power to execute and deliver this Agreement, perform its obligations hereunder and, with respect to the Developer only, construct ~~its portion of~~ the Project;

(c) Its execution and delivery of this Agreement and its compliance with all of the provisions hereof (i) will not conflict with or result in any breach of any of the provisions of, or constitute a default under, any agreement, its articles of incorporation, organization, code of regulations, operating agreement or other formative document, or other instrument to which it is a party or by which it may be bound, or any license, judgment, decree, law, statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over it or any of its activities or properties, and (ii) have been duly authorized by all necessary action on its part.

(d) There are no actions, suits, proceedings, inquiries or investigations pending, or to its knowledge threatened, against or affecting it in any court or before any governmental authority or arbitration board or tribunal that challenges the validity or enforceability of, or seeks to enjoin performance of, this Agreement or the construction of the Project, or if successful would materially impair its ability to perform its obligations under this Agreement or to construct the Project.

(e) It is in compliance with State of Ohio campaign financing laws contained in Ohio Revised Code Chapter 3517.

(f) No event has occurred and no condition exists with respect to ~~Developer~~it that would constitute a default under this Agreement or that, with the lapse of time or with the giving of notice or both, would constitute a default under this Agreement.

7. Events of Default and Remedies.

(a) Events of Default. Any one or more of the following constitutes an "Event of Default" under this Agreement:

i. The Developer or Tuller Henderson fails to perform or observe any material obligation punctually and as due under this Agreement, provided that if a Force Majeure event causes the failure, the Developer or Tuller Henderson may receive an additional period of time as is reasonably necessary to perform or observe the material obligation in light of the event if ~~the Developer~~it notifies the City of the potential event and the extent of the delay promptly after becoming aware of the event;

ii. The Developer fails to pay any Service Payment or Minimum Service Payment when due;

iii. The Developer fails to complete the Project by December 31, 2014, and in accordance with the terms of the Final Development Plan;

iv. The Developer or Tuller Henderson makes a representation or warranty in this Agreement that is materially false or misleading at the time it is made.

v. The Developer or Tuller Henderson files a petition for the appointment of a receiver or a trustee with respect to it or any of its property;

vi. The Developer or Tuller Henderson makes a general assignment for the benefit of creditors;

vii. A court enters an order for relief pursuant to any Chapter of Title 11 of the U.S. Code, as the same may be amended from time to time, with the Developer or Tuller Henderson as debtor; or

viii. The Developer or Tuller Henderson files an insolvency proceeding with respect to itself or any proceeding with respect to itself for compromise, adjustment or other relief under the laws of any country or state relating to the relief of debtors.

As used in this Section, "Force Majeure" means any event that is not within the control of the Developer, Tuller Henderson or its employees, contractors, subcontractors and material suppliers, including the following: acts of God; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; nuclear

accidents; fires; restraint of government and people; explosions; and partial or entire failure of utilities.

(b) General Right to Cure. Except with regard to the Developer's obligation to make Service Payments and Minimum Service Payments under Section 4 of this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions, by any party hereto, the Developer or Tuller Henderson will, upon written notice from the City, proceed, as soon as reasonably possible, to cure or remedy such default or breach, and, in any event, within 30 days after receipt of such notice. In the event such default or breach is of such nature that it cannot be cured or remedied within said 30-day period, then in such event the Developer or Tuller Henderson will upon written notice from the City commence its actions to cure or remedy said breach within said 30-day period, and proceed diligently thereafter to cure or remedy said breach.

(c) Remedies. If Developer fails to make Service Payments or Minimum Service Payments under Section 4 of this Agreement or the Developer or Tuller Henderson fails to cure any other Event of Default pursuant to Subsection 8(b), the City may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach. Such remedies include, but are not limited to: (i) terminating the City's obligations under this Agreement, (ii) instituting proceedings to compel specific performance by the Developer or Tuller Henderson and (iii) any other rights and remedies available at law, in equity or otherwise to collect all amounts then becoming due or to enforce the performance of any obligation under this Agreement.

(d) Costs of Enforcement. If an action is brought by the City for the enforcement of any provision of this Agreement, the ~~Developers~~Developer or Tuller Henderson, as applicable, will pay to the City all costs and other expenses that become payable as a result thereof, including without limitation, reasonable attorneys' fees and expenses.

8. Notices. All notices or other correspondence relating to this Agreement must be in writing (including e-mail or facsimile) and must be delivered or sent guaranteed overnight delivery, by facsimile or e-mail (to be followed by personal or overnight guaranteed delivery, of requested) or by postage prepaid registered or certified mail, return receipt requested, and will be deemed to be given for purposes of this Agreement on the date such writing is received by the intended recipient. Unless otherwise specified in a notice sent in accordance with this section, all communications in writing must be given to the parties at the following addresses:

(a) As to the City:

City of Dublin, Ohio
Attn: City Manager
5200 Emerald Parkway
Dublin, Ohio 43017

(b) As to the Developer and Tuller Henderson:

Vrable Land Holdings Dublin LLC/Tuller Henderson LLC
3248 W. Henderson Road
Columbus, Ohio 43220
Attn: _____

and

Jim Muckle, General Counsel
Vrable Land Holdings Dublin LLC/Tuller Henderson LLC
3248 W. Henderson Road
Columbus, OH 43220

9. Successors; Assignment; Amendments, Changes and Modifications. This Agreement is binding upon the Developer, Tuller Henderson and ~~its~~their respective successors in interest and the City and its successors in interest. This Agreement may not be assigned by the Developer, Tuller Henderson or the City without the consent of the other; provided, however, that nothing in this Agreement prevents the Developer from transferring ownership of all or a portion of the Property, or Tuller Henderson from transferring ownership of all or a portion of the TH Property, to another person or entity so long as the Declaration is then in effect with respect to the Property or TH Property transferred. This Agreement may only be amended by written instrument executed by ~~both~~each of the City, Tuller Henderson and the Developer.

10. Extent of Covenants; No Personal Liability. All covenants, stipulations, obligations and agreements of the parties contained in this Agreement are effective and enforceable to the extent authorized and permitted by applicable law; provided, however, that the City's financial obligations under this Agreement are not a debt or general obligation of the City and are subject to the City Council's appropriation of the funds necessary therefor. No such covenant, stipulation, obligation or agreement will be deemed a covenant, stipulation, obligation or agreement of any present or future member, officer, agent, or employee of any of the parties hereto in their individual capacity.

11. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, said provision will be fully severable. This Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never formed a part of this Agreement and the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement.

12. Separate Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered will be an original, but all such counterparts will together constitute one and the same instrument.

13. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the matters covered herein and supersedes prior agreements and understandings between the parties on this subject matter.

14. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Ohio.

[Signature lines found on next pages.]

IN WITNESS WHEREOF, the City, Tuller Henderson and the Developer have caused this Development and Tax Increment Financing Agreement to be executed in their respective names by their duly authorized officers as of the last date set forth below.

CITY OF DUBLIN, OHIO

By:_____

Printed: Marsha Grigsby

Title: City Manager

Date:_____

Approved as to Form:

By:_____

Printed: Stephen J. Smith

Title: Law Director

Date:_____

~~VRABLE HOLDING DUBLIN LLC~~

~~By:~~

~~Printed:~~

~~Title:~~

~~Date:~~

FISCAL OFFICER'S CERTIFICATE

The undersigned, Deputy City Manager and Director of Finance of the City under the foregoing Agreement, certifies hereby that the moneys required to meet the obligations of the City under the foregoing Agreement during Fiscal Year 2013 have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2013

_____
Angel L. Mumma
Deputy City Manager/Director of Finance
City of Dublin, Ohio

VRABLE HOLDING DUBLIN LLC

By: _____

Printed: _____

Title: _____

Date: _____

TULLER HENDERSON LLC

By: _____

Printed: _____

Title: _____

Date: _____

Exhibit A

DESCRIPTION OF PROPERTY

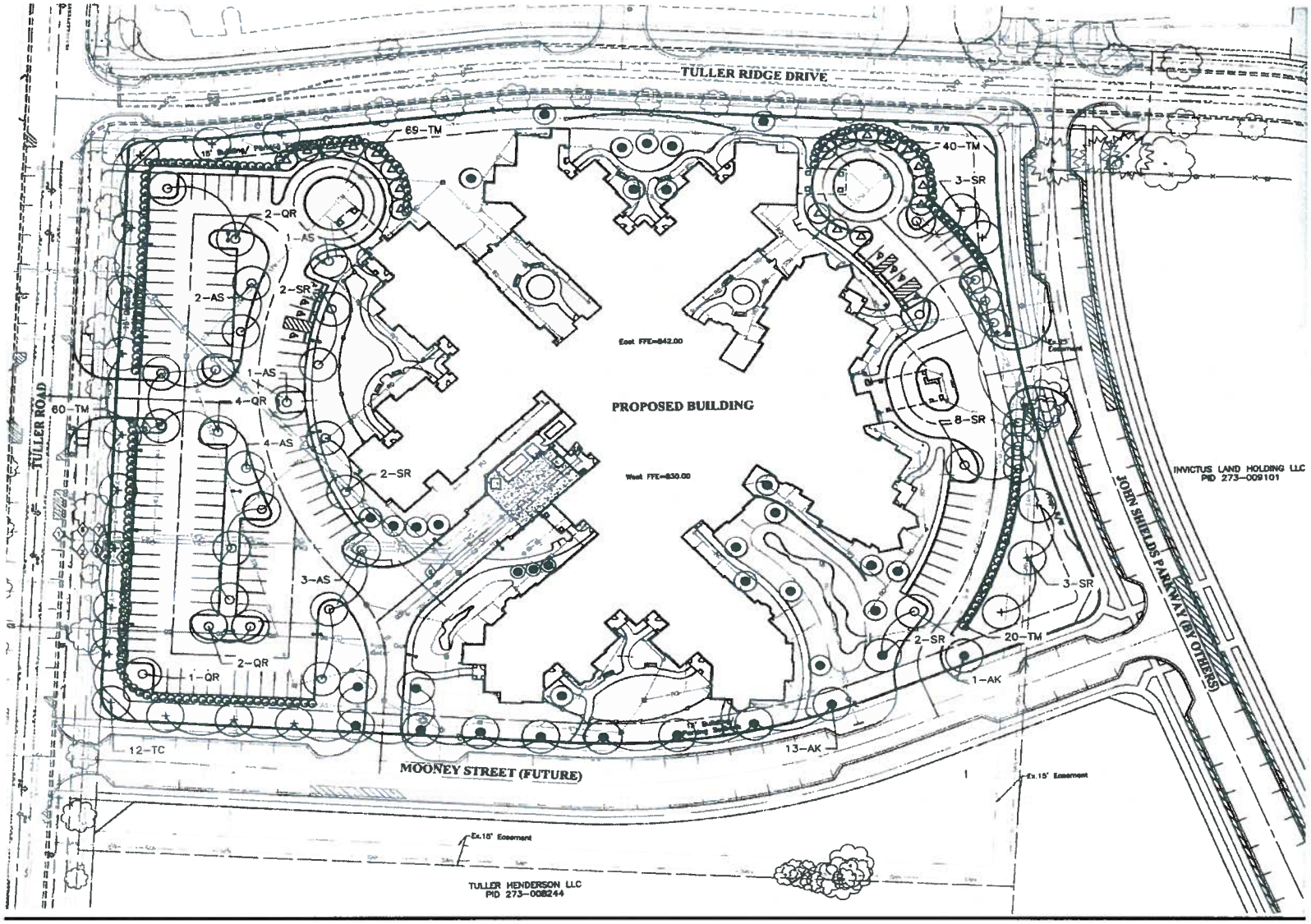

Exhibit B

DESCRIPTION OF PUBLIC IMPROVEMENTS

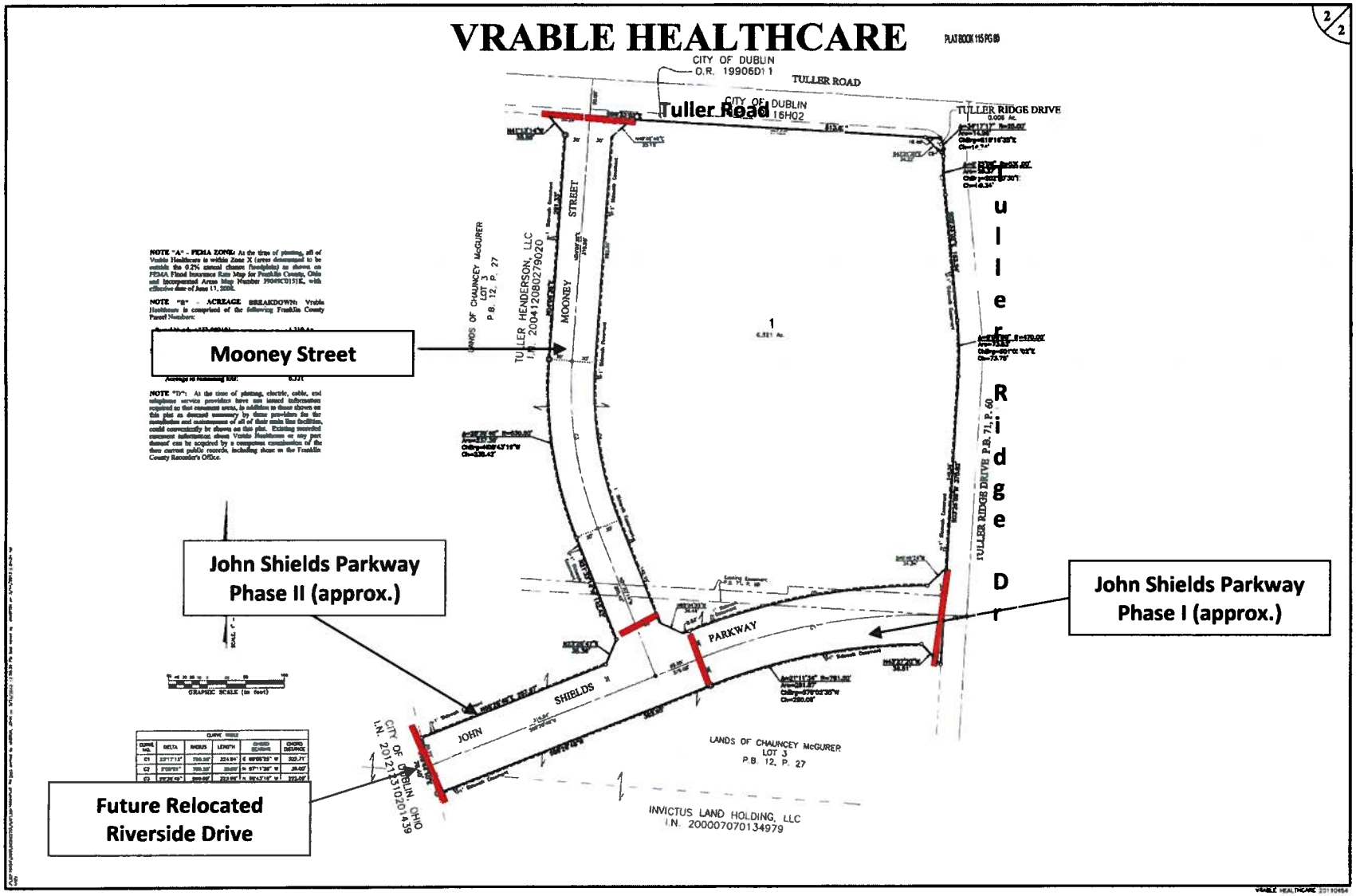

Exhibit C

FORM OF DECLARATION

TAX INCREMENT FINANCING DECLARATION OF COVENANTS

This TAX INCREMENT FINANCING DECLARATION OF COVENANTS (this "Declaration") is made ~~byVrableby~~ Vrable Land Holding Dublin LLC, an Ohio limited liability company having its address at 3248 W. Henderson Road, Columbus, Ohio 43220~~,~~ ("Declarant~~").~~") and Tuller Henderson LLC ("Tuller Henderson"), an Ohio limited liability company having its address at 3248 W. Henderson Road, Columbus, Ohio 43220.

W I T N E S S E T H:

WHEREAS, the Declarant has acquired certain parcels of real property located in the City of Dublin, Ohio (the "City"), a description of which real property is attached hereto as Exhibit A (with each parcel as now or hereafter configured, a "Parcel"), having acquired such fee simple title by instruments No.201304180064407 and 201304180064406 recorded in the Office of the Recorder of Franklin County, Ohio (the "County Recorder"); and

WHEREAS, the City, by its Ordinance No. [_____] passed [_____](the "Ordinance"), has declared that one hundred percent (100%) of the increase in the assessed value of each Parcel subsequent to the effective date of the Ordinance (such increase hereinafter referred to as the "Improvement" as further defined in Ohio Revised Code Section 5709.40 and the Ordinance) is a public purpose and is exempt from taxation (such exemption referred to herein as the "TIF Exemption") for a period commencing with the first tax year that begins after the effective date of the Ordinance and in which an Improvement first appears 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 Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (collectively, the "TIF Statutes") and the Ordinance; and

WHEREAS, the TIF Ordinance provides that the owner of the Parcel make service payments in lieu of taxes with respect to any Improvement on that Parcel (the "Service Payments"), all pursuant to and in accordance with the TIF Statutes and the Ordinance; and

WHEREAS, the Declarant, Tuller Henderson and the City entered into a Development and Tax Increment Financing Agreement dated as of _____, 2013 (the "Agreement"); and

WHEREAS, the Agreement creates an obligation that the owner of the Parcel make minimum service payments with respect to that Parcel (the "Minimum Service Payments"); and

WHEREAS, Tuller Henderson has acquired certain parcels of real property located in the City, a description of which real property is attached hereto as Exhibit B (the "TH Property"), having acquired such fee simple title by instruments No. _____ and _____ recorded in the Office of the County Recorder; and

WHEREAS, this Declaration is being made and filed of record pursuant to Section 2(c) and Section 4 of that Agreement; and

WHEREAS, Tuller Henderson is joining this Declaration for the limited purpose of ensuring that its covenants contained in Section 2(c) of the Agreement are covenants that run with the land; and

NOW, THEREFORE, each of the Declarant and Tuller Henderson, for itself and its successors and assigns to or of the Parcel or the TH Property, respectively, hereby declares that the foregoing recitals are incorporated into this Declaration by this reference and that the Parcel or the TH Property it owns 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. **Service Payments.** The Declarant agrees to make Service Payments for the Parcel it owns attributable to its period of ownership of that Parcel, all pursuant to and in accordance with the requirements of the TIF Statutes, the Ordinance, the Agreement and any subsequent amendments or supplements thereto.

Service Payments for the Parcel will be made semiannually to the Treasurer of Franklin County, Ohio (or to such county treasurer's designated agent for collection of the Service Payments), on or before the date on which real property taxes would otherwise be due and payable for that Parcel. 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.

Service Payments for the Parcel will be made in accordance with the requirements of the TIF Statutes and the Ordinance and 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 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 (the "Property Tax Rollback Payments")) had the TIF Exemption not been granted, including any penalties and interest. A Declarant will not, under any circumstances, be required for any tax year to pay both real property taxes and Service Payments with respect to the Improvement to a Parcel pursuant to this Declaration.

In addition to the obligation to make Service Payments, Declarant agrees to a minimum service payment obligation (the "Minimum Service Payment Obligation") for the Parcel it owns, all pursuant to and in accordance with the requirements of the TIF Statutes, the Ordinance, the Agreement and any subsequent amendments or supplements thereto. The Minimum Service Payment Obligation constitutes a minimum service payment obligation under Ohio Revised Code Section 5709.91. The total Minimum Service Payment Obligation due for all Parcels for any calendar year is an amount equal to ~~an amount equal to~~the $14 million of market value for the Parcel, multiplied by 35% and the then current applicable real property tax rates for ~~theParcel~~the Parcel, less the amount the City is required to pay with respect to the Parcels to the Dublin City School District and the Central Ohio Joint Vocational School District in that year

under the TIF Ordinance. The Minimum Service Payment Obligation is effective beginning calendar year 2016. The Minimum Service Payment Obligation terminates at the end of the tax year in which the Declarants have paid Service Payments (including any related Property Tax Rollback Payments) and Minimum Service Payments (as defined below) with respect to the Parcel in an amount equal to the lesser of: (i) the cost of John Shields Parkway paid by the City (including interest thereon at a rate of 2.5% per year), or (ii) $2,000,000.00, plus ~~(ii)~~, in each case, the amount the City is required to pay with respect to the Parcel to the Dublin City School District and the Central Ohio Joint Vocational School District through that tax year under the Ordinance. The Parcel's share of the Minimum Service Payment Obligation in any calendar year will be equal to that Parcel's assessed value divided by the assessed value of all Parcels, each as recorded on the tax list and duplicate of Franklin County for the preceding calendar year. If the Service Payments and Property Tax Rollback Payments payable to the City on a Parcel in any calendar year, less the amount the City is required to pay with respect to that Parcel to the Dublin City School District and the Central Ohio Joint Vocational School District in that year under the TIF Ordinance, are less than the Minimum Service Payment Obligation for that Parcel for that calendar year, the City will prepare and send an invoice for the amount by which the Minimum Service Payment Obligation for that Parcel exceeds those Service Payments and Property Tax Rollback Payments (such difference, the "Minimum Service Payments") to the Declarant for that Parcel at its registered address for tax bills. The Declarant must pay the Minimum Service Payments invoiced to the City pursuant to payment instructions set forth in the invoice in immediately available funds within 30 days of its delivery. The City may assess a 10% administrative fee and interest accruing at an annual rate of 10% on any Minimum Service Payments not paid within 35 days of the delivery of the invoice. The City may certify delinquent Minimum Service Payments, fees and interest to the Franklin County Auditor for collection on real property tax bills. Any late payments of amount so certified 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. In the event that the Parcel is subject to an action that would foreclosure the lien created by this Declaration (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 Parcel (as determined by the Franklin County Auditor) and then current real property tax rates applicable to the Parcel.

Section 2. **Exemption Applications.** The Declarant further 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. The Declarant authorizes the City to file any applications necessary to obtain from time to time the TIF Exemption for each Parcel it owns.

Section 3. **Provision of Information.** The Declarant 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 each Declarant with the terms of the Agreement.

The Declarant 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 4. **Nondiscriminatory Hiring Policy.** The Declarant agrees to comply with the City's policies adopted pursuant to Ohio Revised Code Section 5709.832 to ensure that recipients of tax exemptions practice nondiscriminatory hiring in its operations. In furtherance of that policy, each Declarant agrees that it will not deny any individual employment solely on the basis of race, religion, sex, disability, color, national origin or ancestry.

Section 5. **Mooney Street.** The Declarant and Tuller Henderson agree to fulfill all of their obligations set forth in Section 2(c) of the Agreement, which are hereby included in this Declaration by this reference as if fully set forth herein.

Section 6. **Covenants to Run With the Land.** The Declarant ~~agrees~~and Tuller Henderson agree that ~~the~~each of its covenants contained in this Declaration shall be covenants running with the land and that they shall, 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 each Parcel or TH Property, as applicable, any improvements thereon and the owner of the Parcel or TH Property, as applicable, 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.

The Declarant and Tuller Henderson further ~~agrees~~agree that all covenants herein, whether or not these covenants are included by any owner of a Parcel or TH Property in any deed to that owner's successors and assigns, shall be binding upon each subsequent owner and shall be enforceable the City, and that any future owner of that Parcel or TH Property, or any successors or assigns of a Declarant or Tuller Henderson, shall be treated as a Declarant or Tuller Henderson, respectively, with respect to that Parcel or TH Property, as applicable, for all purposes of this Declaration.

The Declarant further agrees that ~~the~~its covenants herein will remain in effect so long as the Service Payments can be collected pursuant to the TIF Statutes and the Ordinance unless otherwise modified or released in writing by the City in a written instrument filed in the Official Records of the County Recorder.

Tuller Henderson agrees that all of its covenants herein remain in effect until such time as the covenants set forth in Section 2(c) of the Agreement have been satisfied.

The Declarant and Tuller Henderson further ~~agrees~~agree that the covenants herein have priority over any other lien or encumbrance on any Parcel or TH Property it owns and any improvements thereon, except for such title exceptions as are approved in writing by the City, and the Declarant or Tuller Henderson will~~, upon the City's request,~~ cause any and all holders of mortgages or other liens existing on each Parcel or TH Property it owns as of the time of

recording of this Declaration to subordinate such mortgage or lien to those covenants running with the land. The Declarant acknowledges that the provisions of Ohio Revised Code Section 5709.91, 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.

At the City's option and at its request, the Declarant and Tuller Henderson hereby ~~agrees~~agree to provide such title evidence with respect to the Parcel or TH Property it owns, 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 those which are approved in writing by the City.

~~[Remainder of page intentionally left blank. Signature page follows.]~~

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

VRABLE LAND HOLDING DUBLIN LLC

By:_____

Printed:_____

Title:_____

STATE OF OHIO)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by _____, _____ of Vrable Land Holding Dublin LLC, 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

TULLER HENDERSON LLC

By:_____

Printed:_____

Title:_____

STATE OF OHIO)

_____) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by _____, _____ of Tuller Henderson LLC, 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: Greg Daniels
Squire Sanders (US) LLP
41 S. High Street, Suite 2000
Columbus, Ohio 43215

City of Dublin

Office of the City Manager
5200 Emerald Parkway • Dublin, OH 43017-1090
Phone: 614-410-4400 • Fax: 614-410-4490

Memo

To: Members of Dublin City Council

From: Marsha I. Grigsby, City Manager

Date: May 2, 2013

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

Re: **Ordinance 39-13 – Development and Tax Increment Finance Agreement with Vrable Land Holding Dublin LLC**

Background

Ordinance 39-13 authorizes the City Manager to enter into the attached Development and Tax Increment Finance Agreement with Vrable Land Holding Dublin LLC and its successors and assigns ("Developer"). Developer intends to develop the +/- 6.34 acre property located at the southwest corner of Tuller Road and Tuller Ridge Drive with skilled nursing, assisted living and office uses. The development will occur in accordance with the preliminary development plan approved by City Council Ordinance 06-12 and final development plan approved by the Dublin Planning and Zoning Commission on February 21, 2013. The Agreement requires Developer to donate certain real property for new roads and sets forth the responsibilities of each party for the construction of certain roads and utilities. Additionally, the Agreement provides that the City shall undertake a tax increment financing pursuant to TIF Statutes to facilitate the construction of certain public improvements, as defined within the Ordinance.

The following provides a general summary of key points of the proposed Agreement and by no means are all inclusive:

Proposed Project
Developer agrees to develop the property as a skilled nursing, assisted living and office use project with a minimum value of at least $14 million.

Donation of Property by Developer
Developer has donated, at no cost to the City, the property necessary to construct the proposed John Shields Parkway from Tuller Ridge Drive to the newly realigned Riverside Drive and for the proposed Mooney Street from Tuller Road to the new John Shields Parkway. The property was donated as a result of the final development plan approval and recorded plat.

Construction of New Roads
The City agrees to design and construct, at its expense, the new John Shields Parkway in two phases. Total estimated cost to design and construct John Shields Parkway is $2,000,000. Developer agrees to design and construct, at its expense, Mooney Street in the future contemporaneously with the development of the property between the proposed Mooney Street and Riverside Drive.

Waterline
Developer will design and construct, at its expense, the necessary waterline needed to serve the development.

Sanitary Sewer
Sanitary sewer is currently present at the site. Developer will extend the necessary lateral(s) to the existing sanitary sewer.

Tax Increment Financing
Developer will reasonably cooperate with the City in the creation of a tax increment financing area, which will include the property to be developed.

Payments in Lieu of Taxes
Developer and subsequent successors and assigns covenant to make Service Payments attributable to their respective periods of ownership to enable the financing, construction, installation and maintenance of the Public Improvements as set forth in the proposed Agreement. These Service Payments will be determined and provided by the increase in the assessed value of the Property subsequent to the effective date of the TIF Ordinance and in accordance with the TIF Statutes and Ordinance.

Minimum Service Payments
The minimum service payment obligation is effective beginning calendar year 2016 and will terminate at the end of the tax year in which the total Service Payments paid equals the cost of John Shields Parkway paid by the City (including interest thereon at a rate of 2.5% per year).

Impact on Schools
Staff has been in discussion with Dublin City Schools regarding the creation of a Bridge Street District TIF, which would include this development. The TIF Ordinance, when brought forward for Council consideration, will indicate the impact, if any, on Dublin City Schools and Tolles Career & Technical Center.

Increased Investment
Council's action to authorize this Agreement will encourage significant investment by the Developer, resulting in increased investment in the community and a high quality skilled nursing and assisted living facility. The facility will create 125 new jobs with an estimated total payroll of $4,000,000, annually. Additionally, the donation of certain right-of-way and the design and construction of a portion of the new John Shields Parkway using Tax Increment Financing will assist in setting certain conditions in support of the Bridge Street District vision.

Recommendation

Staff recommends Council approval of Ordinance No. 39-13 at the public hearing/second reading on May 20, 2013.

DEVELOPMENT AND TAX INCREMENT FINANCING AGREEMENT

THIS DEVELOPMENT AND TAX INCREMENT FINANCING AGREEMENT (the "Agreement") is made and entered into as of the last date of signature below (the "Effective Date") by and among the **CITY OF DUBLIN, OHIO** (the "City"), a charter municipal corporation organized and existing under the constitution and the laws of the State of Ohio and its Charter, **VRABLE LAND HOLDING DUBLIN LLC** ("Vrable"), an Ohio limited liability company having its address at 3248 W. Henderson Road, Columbus, Ohio 43220 (Vrable and its successors and assigns are hereinafter referred to as the "Developer").

W I T N E S S E T H:

WHEREAS, the Developer owns approximately 6.34 acres of real property generally located to the east of Riverside Drive, to the west of Tuller Ridge Drive, and to the south of and adjacent to Tuller Road within the municipal boundaries of the City, as depicted in **Exhibit A** (the "Property," with each current or future tax parcel of the Property referred to herein as a "Parcel," and together, with all such tax parcels, the "Parcels"); and

WHEREAS, the Developer intends to develop the Property with skilled nursing facility uses, assisted living uses, and office uses (collectively, the "Project") in accordance with the zoning and preliminary development plan approval from the City by Ordinance 06-12 (the "Preliminary Development Plan"), as modified by a final development plan as submitted to and approved by The Planning and Zoning Commission on February 21, 2013 (the "Final Development Plan"); and

WHEREAS, the City and the Developer desire to facilitate the construction of new public streets and water line improvements to be constructed on the southern and western perimeter of the Property and adjacent real property (as further described in Section 2, the "Public Improvements");

WHEREAS, the City contemplates adopting an ordinance (such ordinance, if and when adopted, the "TIF Ordinance") declaring that 100% of the increase in the assessed value of the Property subsequent to the effective date of the TIF Ordinance (the "Improvement", and an "Improvement" as defined in Ohio Revised Code Section 5709.40) is to be a public purpose and exempt from taxation in accordance with the requirements of Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (collectively, the "TIF Statutes"); and

WHEREAS, the TIF Ordinance is expected to provide that the owner(s) of the Property make service payments in lieu of taxes with respect to any Improvement on the Property (the "Service Payments"), all pursuant to and in accordance with the TIF Statutes; and

WHEREAS, to support the construction of the Public Improvements, the Developer has agreed to make minimum service payments with respect to the Property (the "Minimum Service Payments") to supplement the Service Payments as necessary;

WHEREAS, the City and the Developer desire to enter into this Agreement to provide for the collection of the Service Payments and the Minimum Service Payments to enable the

financing, construction, installation and maintenance of the Public Improvements as contemplated herein, and to memorialize their mutual understandings with regard to the manner in which the Project initially will be developed;

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties hereto agree to the foregoing and as follows:

1. Proposed Project. The City by Ordinance __-1_ has approved the rezoning of the Property which permits its development in substantial conformance with the Preliminary Development Plan. The Developer will be solely responsible for the costs of the Project, including, without limitation, all private infrastructure improvements servicing the Project required by City Code or necessary to adequately serve the Property, such as the removal, installation, construction, and maintenance of all private stormwater improvements and detention facilities. Development of the Project will occur in substantial conformance with the Final Development Plan, as that plan may be amended from time to time. The Developer will substantially complete development of the Project by December 31, 2014. Developer warrants that the actual total construction value of the private improvements for the Project will not be less than $14 million.

2. Public Improvements. The City and the Developer hereby agree that the following infrastructure improvements benefit and serve the Property and other real property in the vicinity of the Property, and will be implemented as provided below:

(a) John Shields Parkway, Phase I. The first phase of a new public street (as depicted in **Exhibit B**, "John Shields Parkway") will extend from Tuller Ridge Road on the east to a point along the eastern edge of the planned Mooney Street (described below). The City will design and construct the first phase of John Shields Parkway at its sole expense. The first phase will be constructed in accordance with the Bridge Street District Code, the associated transportation and utilities plan, and the Final Development Plan for the Project. The City will use commercially reasonable efforts to complete John Shields Parkway by the time the Developers receive a certificate of occupancy for the Project.

(b) John Shields Parkway, Phase II. The second phase of John Shields Parkway (as depicted in **Exhibit B**) will extend from the terminus of the first phase on the east to Riverside Drive, as it currently exists or may be realigned, on the west. The City will design and construct the second phase of John Shields Parkway at its sole expense, and will use commercially reasonable efforts to complete construction in tandem with the re-location of Riverside Drive but no later than December 31, 2018. The exact design and placement of the second phase will be at the sole discretion of the City. If the City does not complete the second phase by December 31, 2018, or abandons the second phase, then the City and the Developer, at the Developer's request, will negotiate in good faith to provide any necessary access to Riverside Drive.

(c) Mooney Street, Phase I. The first phase of a new public street (as depicted in **Exhibit B**, "Mooney Street") will extend from Tuller Road on the north to John Shields Parkway on the south. Construction for Mooney Street will be as follows:

i. Construction. *[Final provisions for Mooney construction obligations are still being finalized, and will be included before final Council action is taken]*

ii. Waterline. The Developer will design and construct a water line in conjunction with the design and construction of Mooney Street at its sole expense, in accordance with the Bridge Street District Code, the associated transportation and utilities plan, and the Final Development Plan for the Project and for the development of the property between Mooney Street and the existing Riverside Drive, each as approved by City Council. Plans and specifications for the water line are subject to the review and approval of the City in its sole discretion and the City reserves the right to modify the design of the water line. The Developer will submit plans for the water line upon request of the City and complete construction of the water line by a date reasonably determined by the City to be in conjunction with the development of the property between the Mooney Street and the Riverside Drive right of way.

(d) Nothing in this Agreement makes the Developer responsible for the installation and/or removal of sanitary, storm sewer and/or water facilities located or to be located within John Shields Parkway and/or relocated Riverside Drive.

3. Coordination between the City and the Developer. The City and the Developer agree to closely coordinate their respective design and construction efforts relative to the grades between the Public Improvements adjoining the Property. Each party will bear its own costs associated with this effort.

4. Tax Increment Financing Area.

(a) General. The Developer will reasonably cooperate with the City in the creation of a tax increment financing area including the Property.

(b) Covenant to Make Payments in Lieu of Taxes. The Developer, on behalf of itself and any subsequent owner of each Parcel (an owner of a Parcel, during its respective period of ownership, is referred to herein as an "Owner," and all such owners are referred to collectively as the "Owners"), hereby covenant to make Service Payments attributable to their respective period of ownership of that Parcel, all pursuant to and in accordance with the requirements of the TIF Statutes, and any subsequent amendments or supplements thereto, the TIF Ordinance and this Agreement.

Service Payments will be made semiannually to the County Treasurer of Franklin County, Ohio (or to such Treasurer's designated agent for collection of the Service Payments) on or before the final dates for payment of real property taxes for the Parcel. 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.

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 the Parcel (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 TIF Ordinance, 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 to a Parcel pursuant to this Agreement. Nothing contained herein limits or impairs an Owner's right or ability, under applicable law, to challenge or contest the assessed value of a Parcel.

(c) Minimum Service Payments. The Property is subject to a minimum service payment obligation (the "Minimum Service Payment Obligation"), which constitutes a minimum service payment obligation under Ohio Revised Code Section 5709.91 and which for each calendar year will be an amount equal to $14 million of market value for the Property, multiplied by 35% and the then current applicable real property tax rates for the Property, less the amount the City is required to pay with respect to the Property to the Dublin City School District and the Central Ohio Joint Vocational School District in that year under the TIF Ordinance. The Minimum Service Payment Obligation is effective beginning calendar year 2016. The Minimum Service Payment Obligation terminates at the end of the tax year in which the Owners of the Property have paid Service Payments (including any related Property Tax Rollback Payments) and Minimum Service Payments (as defined below) with respect to the Property in an amount equal to: (i) the cost of John Shields Parkway paid by the City (including interest thereon at a rate of 2.5% per year), plus (ii) the amount the City is required to pay with respect to the Property to the Dublin City School District and the Central Ohio Joint Vocational School District through that tax year under the TIF Ordinance. The Minimum Service Payment Obligation will be divided among the Parcels in accordance with the relative value from time to time of each Parcel as recorded on the tax list and duplicate of the Franklin County Auditor. If the Service Payments and Property Tax Rollback Payments payable to the City on a Parcel in any calendar year, less the amount the City is required to pay with respect to that Parcel to the Dublin City School District and the Central Ohio Joint Vocational School District in that year under the TIF Ordinance, are less than the Minimum Service Payment Obligation for that Parcel for that calendar year, the City will prepare and send an invoice for the amount by which the Minimum Service Payment Obligation for that Parcel exceeds those Service Payments and Property Tax Rollback Payments (such difference, the "Minimum Service Payments") to the Owner of the Parcel at its registered address for tax bills. The Owner must pay the Minimum Service Payments invoiced to the City pursuant to payment instructions set forth in the invoice in immediately available funds within 30 days of its delivery. The City may assess a 10% administrative fee and interest accruing at an annual rate of 10% on any Minimum Service Payments not paid within 35 days of the delivery of the invoice. The City may certify delinquent Minimum Service Payments, fees and interest to the Franklin County Auditor for collection on real property tax bills. Any late payments of amounts so certified 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.

(d) Declaration of Covenants; Priority of Lien. It is intended and agreed, and it will be so provided by the Developer in a declaration relating to the Property (the "Declaration") recorded by the Developer within 30 days following the date of this Agreement and substantially in the form attached hereto as **Exhibit C**, that the covenants provided in this Section 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 Owner with respect to that Owner's period of ownership of a Parcel, whether or not this Agreement remains in effect or whether or not such provision is included by an 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.

Such covenants running with the land will have priority over any other lien or encumbrance on the Property and any improvements thereon, except for such title exceptions as are approved in writing by the City, and the Developer will, upon the City's request, cause any and all holders of mortgages or other liens existing on the Property as of the time of recording of the Declaration to subordinate such mortgage or lien to those covenants running with the land. The Developer acknowledges that the provisions of Ohio Revised Code Section 5709.91, 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, will apply to this Agreement and to the Property and any improvements thereon.

At the City's option and within 30 days of its request, the Developer hereby agrees to provide such title evidence, 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 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 Owner's obligations under this Agreement and termination of the Owner's obligation to make the Service Payments and Minimum Service Payments, the City will, upon the request of the Owner of a Parcel, execute an instrument in recordable form evidencing such termination and releasing the covenants running with the land set forth in the Declaration with respect to that Parcel.

(e) Exemption Application. The Developer agrees to prepare, execute and file of all necessary applications and supporting documents to obtain from time to time the exemption granted by the TIF Ordinance to enable the City to collect Service Payments with respect to the Property. The City agrees to cooperate with the Developer in preparing and filing such applications and supporting documents. The City and the Developer each agree to perform such acts as are reasonably necessary or appropriate to effect, claim, reserve and maintain that 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 that exemption or the Service Payments.

(f) Estoppel Certificate. Within 45 days after a request from an Owner of a Parcel, the City will execute and deliver to that Owner or any proposed purchaser, mortgagee or lessee of the Parcel, a certificate stating that with respect to the Parcel, if the same is true: (i) that this Agreement is in full force and effect; (ii) that the requesting Owner is not in default under any of the terms, covenants or conditions of this Agreement, or, if that Owner is in default, specifying same; and (iii) such other matters as that Owner reasonably requests.

(g) Information Reporting. The Developer will 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 Developer with the terms of this Agreement. Any information supplied to such Tax Increment Review Council will be provided solely for the purpose of monitoring the Developer's compliance with this Agreement.

The Developer further covenants 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. Any information supplied to the City will be provided solely for the purpose of enabling the City to comply with this requirement.

(h) Nondiscriminatory Hiring Policy. With respect to operations within the City, the Developer will comply with the City's nondiscriminatory hiring policy adopted pursuant to Ohio Revised Code Section 5709.832. In furtherance of that policy, the Developer agrees not to deny any individual employment located upon any of its Parcels solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

5. Representations and Warranties of the City. The City represents and warrants as of the date of delivery of this Agreement that:

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

(b) It will have duly accomplished all conditions necessary to be accomplished by it prior to the execution and delivery of this Agreement and to constitute this Agreement as a valid and binding obligation of the City enforceable in accordance with its terms.

(c) It is not in violation of or in conflict with any provision of the laws of the State of Ohio that would impair its ability to observe and perform its covenants, agreements and obligations under this Agreement.

(d) It has and will have full power and authority to (i) execute, deliver, observe and perform this Agreement and all other instruments and documents executed and delivered by the

City in connection herewith and (ii) enter into, observe and perform the transactions contemplated in this Agreement and those other instruments and documents.

(e) It has or will have duly authorized the execution, delivery, observance and performance of this Agreement.

6. Representations and Warranties of the Developer. The Developer represents and warrants as of the date of delivery of this Agreement that:

(a) It (i) is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Ohio and (ii) has all requisite power and authority and all necessary licenses and permits to own and operate the Property and the Project and to carry on its business as now being conducted and as presently proposed to be conducted.

(b) It has the authority and power to execute and deliver this Agreement, perform its obligations hereunder and construct its portion of the Project;

(c) Its execution and delivery of this Agreement and its compliance with all of the provisions hereof (i) will not conflict with or result in any breach of any of the provisions of, or constitute a default under, any agreement, its articles of incorporation, organization, code of regulations, operating agreement or other formative document, or other instrument to which it is a party or by which it may be bound, or any license, judgment, decree, law, statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over it or any of its activities or properties, and (ii) have been duly authorized by all necessary action on its part.

(d) There are no actions, suits, proceedings, inquiries or investigations pending, or to its knowledge threatened, against or affecting it in any court or before any governmental authority or arbitration board or tribunal that challenges the validity or enforceability of, or seeks to enjoin performance of, this Agreement or the construction of the Project, or if successful would materially impair its ability to perform its obligations under this Agreement or to construct the Project.

(e) It is in compliance with State of Ohio campaign financing laws contained in Ohio Revised Code Chapter 3517.

(f) No event has occurred and no condition exists with respect to Developer that would constitute a default under this Agreement or that, with the lapse of time or with the giving of notice or both, would constitute a default under this Agreement.

7. Events of Default and Remedies.

(a) Events of Default. Any one or more of the following constitutes an "Event of Default" under this Agreement:

i. The Developer fails to perform or observe any material obligation punctually and as due under this Agreement, provided that if a Force Majeure event

causes the failure, the Developer may receive an additional period of time as is reasonably necessary to perform or observe the material obligation in light of the event if the Developer notifies the City of the potential event and the extent of the delay promptly after becoming aware of the event;

ii. The Developer fails to pay any Service Payment or Minimum Service Payment when due;

iii. The Developer fails to complete the Project by December 31, 2014, and in accordance with the terms of the Final Development Plan;

iv. The Developer makes a representation or warranty in this Agreement that is materially false or misleading at the time it is made.

v. The Developer files a petition for the appointment of a receiver or a trustee with respect to it or any of its property;

vi. The Developer makes a general assignment for the benefit of creditors;

vii. A court enters an order for relief pursuant to any Chapter of Title 11 of the U.S. Code, as the same may be amended from time to time, with the Developer as debtor; or

viii. The Developer files an insolvency proceeding with respect to itself or any proceeding with respect to itself for compromise, adjustment or other relief under the laws of any country or state relating to the relief of debtors.

As used in this Section, "Force Majeure" means any event that is not within the control of the Developer or its employees, contractors, subcontractors and material suppliers, including the following: acts of God; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; nuclear accidents; fires; restraint of government and people; explosions; and partial or entire failure of utilities.

(b) General Right to Cure. Except with regard to the Developer's obligation to make Service Payments and Minimum Service Payments under Section 4 of this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions, by any party hereto, the Developer will, upon written notice from the City, proceed, as soon as reasonably possible, to cure or remedy such default or breach, and, in any event, within 30 days after receipt of such notice. In the event such default or breach is of such nature that it cannot be cured or remedied within said 30-day period, then in such event the Developer will upon written notice from the City commence its actions to cure or remedy said breach within said 30-day period, and proceed diligently thereafter to cure or remedy said breach.

(c) Remedies. If Developer fails to make Service Payments or Minimum Service Payments under Section 4 of this Agreement or fails to cure any other Event of Default pursuant

to Subsection 8(b), the City may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach. Such remedies include, but are not limited to: (i) terminating the City's obligations under this Agreement, (ii) instituting proceedings to compel specific performance by the Developer and (iii) any other rights and remedies available at law, in equity or otherwise to collect all amounts then becoming due or to enforce the performance of any obligation under this Agreement.

(d) Costs of Enforcement. If an action is brought by the City for the enforcement of any provision of this Agreement, the Developers will pay to the City all costs and other expenses that become payable as a result thereof, including without limitation, reasonable attorneys' fees and expenses.

8. Notices. All notices or other correspondence relating to this Agreement must be in writing (including e-mail or facsimile) and must be delivered or sent guaranteed overnight delivery, by facsimile or e-mail (to be followed by personal or overnight guaranteed delivery, of requested) or by postage prepaid registered or certified mail, return receipt requested, and will be deemed to be given for purposes of this Agreement on the date such writing is received by the intended recipient. Unless otherwise specified in a notice sent in accordance with this section, all communications in writing must be given to the parties at the following addresses:

(a) As to the City:

City of Dublin, Ohio
Attn: City Manager
5200 Emerald Parkway
Dublin, Ohio 43017

(b) As to the Developer:

Vrable Land Holdings Dublin LLC
3248 W. Henderson Road
Columbus, Ohio 43220
Attn: _____

and

Jim Muckle, General Counsel
Vrable Land Holdings Dublin LLC
3248 W. Henderson Road
Columbus, OH 43220

9. Successors; Assignment; Amendments, Changes and Modifications. This Agreement is binding upon the Developer and its successors in interest and the City and its successors in interest. This Agreement may not be assigned by the Developer or the City without the consent of the other; provided, however, that nothing in this Agreement prevents the Developer from transferring ownership of all or a portion of the Property to another person or entity so long as

the Declaration is then in effect with respect to the Property transferred. This Agreement may only be amended by written instrument executed by both the City and the Developer.

10. Extent of Covenants; No Personal Liability. All covenants, stipulations, obligations and agreements of the parties contained in this Agreement are effective and enforceable to the extent authorized and permitted by applicable law; provided, however, that the City's financial obligations under this Agreement are not a debt or general obligation of the City and are subject to the City Council's appropriation of the funds necessary therefor. No such covenant, stipulation, obligation or agreement will be deemed a covenant, stipulation, obligation or agreement of any present or future member, officer, agent, or employee of any of the parties hereto in their individual capacity.

11. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, said provision will be fully severable. This Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never formed a part of this Agreement and the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement.

12. Separate Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered will be an original, but all such counterparts will together constitute one and the same instrument.

13. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the matters covered herein and supersedes prior agreements and understandings between the parties on this subject matter.

14. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Ohio.

[Signature lines found on next pages.]

IN WITNESS WHEREOF, the City and the Developer have caused this Development and Tax Increment Financing Agreement to be executed in their respective names by their duly authorized officers as of the last date set forth below.

CITY OF DUBLIN, OHIO

By:_____

Printed: Marsha Grigsby

Title: City Manager

Date:_____

Approved as to Form:

By:_____

Printed: Stephen J. Smith

Title: Law Director

Date:_____

VRABLE HOLDING DUBLIN LLC

By:_____

Printed:_____

Title:_____

Date:_____

FISCAL OFFICER'S CERTIFICATE

The undersigned, Deputy City Manager and Director of Finance of the City under the foregoing Agreement, certifies hereby that the moneys required to meet the obligations of the City under the foregoing Agreement during Fiscal Year 2013 have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2013

_____

Angel L. Mumma
Deputy City Manager/Director of Finance
City of Dublin, Ohio

Exhibit A

DESCRIPTION OF PROPERTY

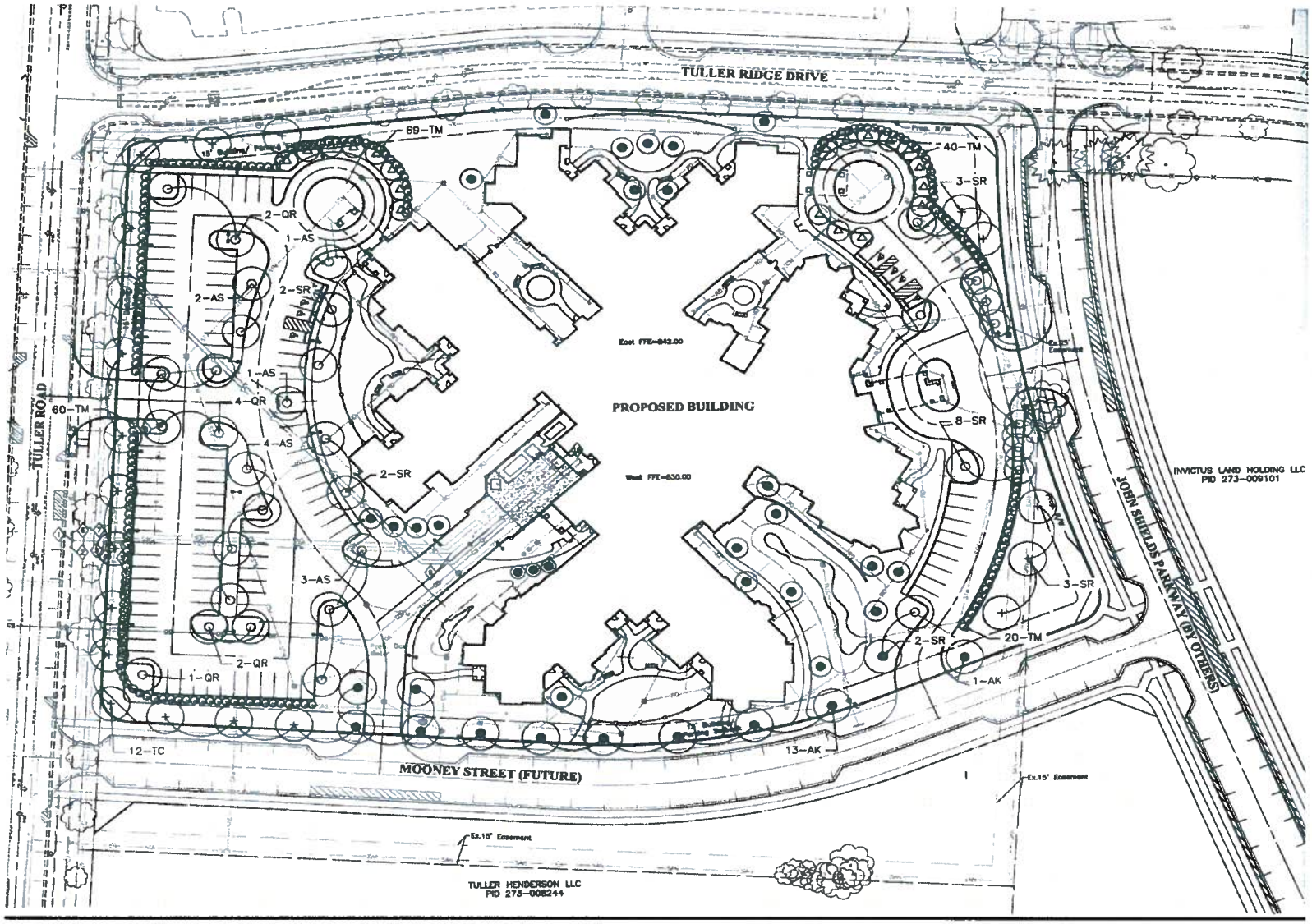

Exhibit B

DESCRIPTION OF PUBLIC IMPROVEMENTS

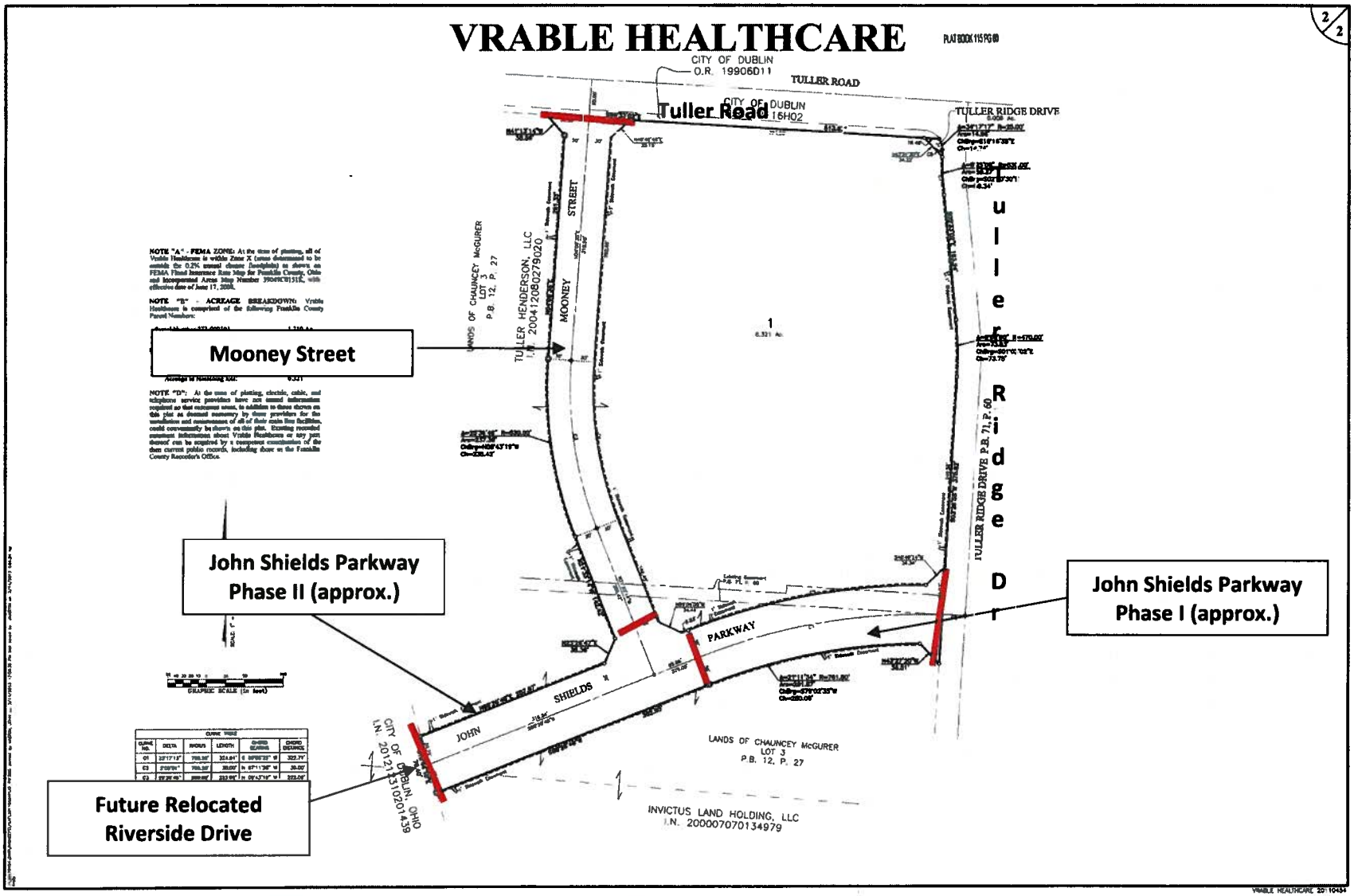

Exhibit C

FORM OF DECLARATION

TAX INCREMENT FINANCING DECLARATION OF COVENANTS

This TAX INCREMENT FINANCING DECLARATION OF COVENANTS (this "Declaration") is made byVrable Land Holding Dublin LLC, an Ohio limited liability company having its address at 3248 W. Henderson Road, Columbus, Ohio 43220, ("Declarant").

W I T N E S S E T H:

WHEREAS, the Declarant has acquired certain parcels of real property located in the City of Dublin, Ohio (the "City"), a description of which real property is attached hereto as Exhibit A (with each parcel as now or hereafter configured, a "Parcel"), having acquired such fee simple title by instruments No.201304180064407 and 201304180064406 recorded in the Office of the Recorder of Franklin County, Ohio (the "County Recorder"); and

WHEREAS, the City, by its Ordinance No. [_____] passed [_____](the "Ordinance"), has declared that one hundred percent (100%) of the increase in the assessed value of each Parcel subsequent to the effective date of the Ordinance (such increase hereinafter referred to as the "Improvement" as further defined in Ohio Revised Code Section 5709.40 and the Ordinance) is a public purpose and is exempt from taxation (such exemption referred to herein as the "TIF Exemption") for a period commencing with the first tax year that begins after the effective date of the Ordinance and in which an Improvement first appears 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 Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (collectively, the "TIF Statutes") and the Ordinance; and

WHEREAS, the TIF Ordinance provides that the owner of the Parcel make service payments in lieu of taxes with respect to any Improvement on that Parcel (the "Service Payments"), all pursuant to and in accordance with the TIF Statutes and the Ordinance; and

WHEREAS, the Declarant and the City entered into a Development and Tax Increment Financing Agreement dated as of _____, 2013 (the "Agreement"); and

WHEREAS, the Agreement creates an obligation that the owner of the Parcel make minimum service payments with respect to that Parcel (the "Minimum Service Payments"); and

WHEREAS, this Declaration is being made and filed of record pursuant to Section 4 of that Agreement;

NOW, THEREFORE, the Declarant, for itself and its successors and assigns to or of the Parcel, hereby declares that the foregoing recitals are incorporated into this Declaration by this reference and that the Parcel it owns 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. **Service Payments.** The Declarant agrees to make Service Payments for the Parcel it owns attributable to its period of ownership of that Parcel, all pursuant to and in accordance with the requirements of the TIF Statutes, the Ordinance, the Agreement and any subsequent amendments or supplements thereto.

Service Payments for the Parcel will be made semiannually to the Treasurer of Franklin County, Ohio (or to such county treasurer's designated agent for collection of the Service Payments), on or before the date on which real property taxes would otherwise be due and payable for that Parcel. 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.

Service Payments for the Parcel will be made in accordance with the requirements of the TIF Statutes and the Ordinance and 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 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 (the "Property Tax Rollback Payments")) had the TIF Exemption not been granted, including any penalties and interest. A Declarant will not, under any circumstances, be required for any tax year to pay both real property taxes and Service Payments with respect to the Improvement to a Parcel pursuant to this Declaration.

In addition to the obligation to make Service Payments, Declarant agrees to a minimum service payment obligation (the "Minimum Service Payment Obligation") for the Parcel it owns, all pursuant to and in accordance with the requirements of the TIF Statutes, the Ordinance, the Agreement and any subsequent amendments or supplements thereto. The Minimum Service Payment Obligation constitutes a minimum service payment obligation under Ohio Revised Code Section 5709.91. The total Minimum Service Payment Obligation due for all Parcels for any calendar year is an amount equal to an amount equal to $14 million of market value for the Parcel, multiplied by 35% and the then current applicable real property tax rates for theParcel, less the amount the City is required to pay with respect to the Parcels to the Dublin City School District and the Central Ohio Joint Vocational School District in that year under the TIF Ordinance. The Minimum Service Payment Obligation is effective beginning calendar year 2016. The Minimum Service Payment Obligation terminates at the end of the tax year in which the Declarants have paid Service Payments (including any related Property Tax Rollback Payments) and Minimum Service Payments (as defined below) with respect to the Parcel in an amount equal to: (i) the cost of John Shields Parkway paid by the City (including interest thereon at a rate of 2.5% per year), plus (ii) the amount the City is required to pay with respect to the Parcel to the Dublin City School District and the Central Ohio Joint Vocational School District through that tax year under the Ordinance. The Parcel's share of the Minimum Service Payment Obligation in any calendar year will be equal to that Parcel's assessed value divided by the assessed value of all Parcels, each as recorded on the tax list and duplicate of Franklin County for the preceding calendar year. If the Service Payments and Property Tax Rollback Payments payable to the City on a Parcel in any calendar year, less the amount the City is required to pay

with respect to that Parcel to the Dublin City School District and the Central Ohio Joint Vocational School District in that year under the TIF Ordinance, are less than the Minimum Service Payment Obligation for that Parcel for that calendar year, the City will prepare and send an invoice for the amount by which the Minimum Service Payment Obligation for that Parcel exceeds those Service Payments and Property Tax Rollback Payments (such difference, the "Minimum Service Payments") to the Declarant for that Parcel at its registered address for tax bills. The Declarant must pay the Minimum Service Payments invoiced to the City pursuant to payment instructions set forth in the invoice in immediately available funds within 30 days of its delivery. The City may assess a 10% administrative fee and interest accruing at an annual rate of 10% on any Minimum Service Payments not paid within 35 days of the delivery of the invoice. The City may certify delinquent Minimum Service Payments, fees and interest to the Franklin County Auditor for collection on real property tax bills. Any late payments of amount so certified 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. In the event that the Parcel is subject to an action that would foreclosure the lien created by this Declaration (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 Parcel (as determined by the Franklin County Auditor) and then current real property tax rates applicable to the Parcel.

Section 2. **Exemption Applications.** The Declarant further 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. The Declarant authorizes the City to file any applications necessary to obtain from time to time the TIF Exemption for each Parcel it owns.

Section 3. **Provision of Information.** The Declarant 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 each Declarant with the terms of the Agreement.

The Declarant 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 4. **Nondiscriminatory Hiring Policy.** The Declarant agrees to comply with the City's policies adopted pursuant to Ohio Revised Code Section 5709.832 to ensure that recipients of tax exemptions practice nondiscriminatory hiring in its operations. In furtherance of that policy, each Declarant agrees that it will not deny any individual employment solely on the basis of race, religion, sex, disability, color, national origin or ancestry.

Section 5. **Covenants to Run With the Land.** The Declarant agrees that the covenants contained in this Declaration shall be covenants running with the land and that they shall, 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 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.

The Declarant 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, shall be binding upon each subsequent owner and shall be enforceable the City, and that any future owner of that Parcel or any successors or assigns of a Declarant shall be treated as a Declarant with respect to that Parcel for all purposes of this Declaration.

The Declarant further agrees that the covenants herein will remain in effect so long as the Service Payments can be collected pursuant to the TIF Statutes and the Ordinance unless otherwise modified or released in writing by the City in a written instrument filed in the Official Records of the County Recorder.

The Declarant 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 such title exceptions as are approved in writing by the City, and the Declarant will, upon the City's request, 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 those covenants running with the land. The Declarant acknowledges that the provisions of Ohio Revised Code Section 5709.91, 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.

At the City's option and at its request, the Declarant hereby agrees to provide such title evidence with respect to the Parcel it owns, 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 those which are approved in writing by the City.

[Remainder of page intentionally left blank. Signature page follows.]

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

VRABLE LAND HOLDING DUBLIN LLC

By:_____

Printed:_____

Title:_____

STATE OF OHIO)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by _____, _____ of Vrable Land Holding Dublin LLC, 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: Greg Daniels
Squire Sanders (US) LLP
41 S. High Street, Suite 2000
Columbus, Ohio 43215