



Office of the City Manager
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Memo

To: Members of Dublin City Council
From: Marsha I. Grigsby, City Manager
Date: December 31, 2014
Initiated By: Terry Foegler, Director of Strategic Initiatives and Special Projects
Philip K. Hartmann, Assistant Law Director
Re: Ordinance 04-15 – Development and Land Exchange Agreement with COTA

Background

The roadway network for the Bridge Street District includes an important signature loop system throughout the District that will help distribute pedestrians, bicycles, motorized vehicles, and transit. The December 2014 City Council right-of-way purchase authorization from the Wendy's International Corporate headquarters site, as well as the previous Council authorized acquisition from the Dale Holdings property just west of the Wendy's site, constitute key portions of this loop system on the east side of the Scioto River. This segment of the loop has been preliminarily identified as Bridge Park Avenue, a roadway which will also provide a direct connection between Riverside Drive and Sawmill Road. The northern portion of this loop on the east side of the river in the Bridge Street district will be John Shields Parkway, the first segment of which is now under construction adjacent to the Vrable long-term health care facility. The City's purchase of the former Byers Chevrolet site in 2014 will also accommodate a portion of the future John Shields Parkway.

Although significant pieces of the needed right-of-way will likely be provided by private development projects as they are implemented (as is proposed with the Casto Tuller Flats project), some sites (like the Byers and Wendy's sites mentioned above) will require City acquisition. Another such property requiring City acquisition for the future extension of the Park Avenue is the current COTA Park and Ride facility on Dale Drive. The City has been working closely with officials from COTA to identify an alternate site for the current Park and Ride facility, as well as to negotiate the terms of a land exchange that would provide the current COTA site to the City for needed right-of-way, and provide a future COTA Park and Ride facility elsewhere in Dublin. The Development and Land Exchange Agreement being authorized by Ordinance 04-15 provides the locations, framework and business terms for accomplishing both the needed land exchange and the development of a new Park and Ride Facility.

Development and Land Exchange Agreement

The current COTA Park and Ride facility on Dale Avenue (identified as the "COTA Exchange Property" in Exhibit B) provides 84 parking spaces, one curb cut, on-site lighting and a patron shelter, and encompasses 1.205 acres. The COTA buses pick up and drop off riders by stopping on Dale Drive, and therefore do not pull into the Park and Ride site. The proposed alignment of Bridge Park Avenue crosses the entire COTA site from east to west, and leaves no usable residual for a Park and Ride facility, as shown in Exhibit B.

An array of options for the relocated Park and Ride were explored with COTA officials, including the possibilities for using existing excess City-owned land. As a result of these efforts, the

recommended site was identified. It includes 3.326 acres, located on the northeast corner of the recently completed Emerald Parkway/Bright Road roundabout. This site (identified in the agreement as the "City Exchange Property" in Exhibit A) was purchased as part of the right-of-way needed for this recently completed roundabout and the land is not needed for additional planned roadway improvements. The site is currently zoned R-1, Restricted Suburban Residential District; however, the Future Land Use Map and Bright Road Area Plan within the Community Plan recommend the site be used for Neighborhood Office. The current Suburban Office and Institutional District zoning designation provides for Park and Ride facilities as a Conditional Use, and therefore, the site will be need to be rezoned and the required Conditional Use approval secured. As part of the Development Agreement, the City will lead these efforts to obtain the needed approvals. Obviously, obtaining such approvals are contingencies before any construction contract can be awarded. The Planning staff is scheduling meetings with neighbors of the proposed new facility to initiate these efforts, with the initial public informational meeting scheduled for Wednesday, January 7 at 6:30 pm at the Hard Road Fire Station.

In effect, the primary terms of the Agreement are as follows (although not necessarily in this order):

- COTA delivers its "COTA Exchange Property" shown in Exhibit B on Dale Drive to the City of Dublin
- City of Dublin provides the "City Exchange Property" shown in Exhibit A to COTA for an expanded new Park and Ride facility (approximately 170 spaces).
- City oversees the design and construction of new Park and Ride facility on the new site, and pays the costs associated with replacing the 84 parking spaces being lost on the current COTA Park and Ride facility.
- COTA reimburses the City for the costs associated with the design and construction of all parking spaces in excess of the 84 replacement spaces, and for the land which exceeds that which is required to accommodate an 84-parking space facility at the new location (with such excess currently estimated at 1.326 excess acres, but this may be adjusted based upon floodplain and related development limitations).
- Appraisals for both sites have established that the per-acre values are generally comparable (\$220,000 per acre), so the amount of excess land to be purchased by COTA will be valued at the appraised value of that excess land (currently estimated at approximately \$ 291,720).
- Current design and construction cost estimates (based on preliminary design concepts) indicate that the cost of the entire 170-space facility will be \$1,270,000, of which approximately \$780,000 is the estimated cost for the 84 replacement Park and Ride parking spaces. These costs and their allocations are being refined as the design progresses, and construction bids are secured.

Although there may be some final proposed refinements to the Agreement provided at Council's second reading of Ordinance 04-15, these are not anticipated to be substantive, but rather reflective of the more detailed cost and cost allocation information.

Recommendation

Staff recommends approval of Ordinance 04-15 at the second reading/public hearing on January 26, 2015.

RECORD OF ORDINANCES

Ordinance No. 04-15

Passed _____, 20____

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A DEVELOPMENT AND REAL ESTATE EXCHANGE AGREEMENT AND THE NECESSARY CONVEYANCE DOCUMENTATION TO ACQUIRE 1.20 ACRES, MORE OR LESS, FEE SIMPLE INTEREST FROM CENTRAL OHIO TRANSIT AUTHORITY ("COTA") LOCATED ADJACENT TO AND NORTH OF DALE DRIVE IN EXCHANGE FOR 3.326 ACRES, MORE OR LESS, FEE SIMPLE INTEREST OWNED BY THE CITY LOCATED EAST OF EMERALD PARKWAY AND NORTH OF BRIGHT ROAD FOR THE REPLACEMENT OF A COTA PARK AND RIDE.

WHEREAS, the City of Dublin (the "City") is preparing to construct a roadway grid system in the Bridge Street District (the "Project"); and

WHEREAS, the City is the owner of certain real properties consisting of approximately 3.326 acres of land, known as Franklin County Auditor's Tax Property Identification Numbers 273-008632, 273-008633 and 273-008634 (the "City Exchange Property") as depicted on Exhibit "A," and COTA is the owner of certain real property consisting of approximately 1.205 acres of land, known as Franklin County Auditor's Tax Parcel Identification Number 273-009155 (the "COTA Exchange Property as depicted on Exhibit "B"; and

WHEREAS, the City and COTA agreed on a settlement brought about by the City's need to acquire COTA Exchange Property, which currently is utilized as a Park and Ride, for the construction of a new east-west roadway that will eventually establish an important connection from relocated Riverside Drive to Sawmill Road, as depicted in the City's Thoroughfare Plan. The City agreed to transfer the City Exchange Property to COTA, and COTA agreed to transfer the COTA Exchange Property to the City as outlined by the terms in the attached Development and Real Estate Exchange Agreement.

WHEREAS, the Parties acknowledge that COTA desires a Park and Ride replacement facility on the City Exchange Property that is substantially larger than the one located on the COTA Exchange Parcel and COTA will reimburse the City for the excess land, design and construction costs associated with the enlarged Park and Ride facility.

WHEREAS, the City and COTA now desire to memorialize the terms of the Agreement through the execution of this Agreement, subject to the terms herein set forth.

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 execute the Development and Real Estate Exchange Agreement in substantially the same form as the one attached hereto, with changes not inconsistent with this Ordinance, not substantially adverse to the City and which shall be approved by the City Manager. The approval of changes thereto by the City Manager and their character as not being substantially adverse to the City, shall be evidenced conclusively by her execution thereof.

Section 2. This Ordinance shall therefore take effect upon the earliest date permitted by Law.

Passed this _____ day of _____, 2014.

Mayor – Presiding Officer

ATTEST:

Clerk of Council

DEVELOPMENT AND LAND EXCHANGE AGREEMENT

THIS DEVELOPMENT AND LAND EXCHANGE AGREEMENT (this “Agreement”) is made and entered into on this _____ day of _____, 2015 (the “Effective Date”), by and between **CENTRAL OHIO TRANSIT AUTHORITY (“COTA”)**, whose mailing address is 33 North High Street, Columbus, Ohio 43215 and the **CITY OF DUBLIN, OHIO**, an Ohio municipal corporation (the “City”), whose mailing address is 5200 Emerald Parkway, Dublin, Ohio 43017. The City and COTA may hereinafter be referred to individually as a “Party”, or collectively as the “Parties”.

Background Information

A. The City is the owner of certain real properties consisting of approximately 3.326 acres of land, known as Franklin County Auditor’s Tax Property Identification Numbers 273-008632, 273-008633 and 273-008634 (the “City Exchange Property”) as depicted on Exhibit “A” and incorporated herein and made a part hereof; and COTA is the owner of certain real property consisting of approximately 1.205 acres of land, known as Franklin County Auditor’s Tax Parcel Identification Number 273-009155 (the “COTA Exchange Property”), as depicted on Exhibit “B” and incorporated herein and made a part hereof.

B. The City and COTA agreed on a settlement brought about by the City’s need to acquire COTA Property for the construction of a new east-west roadway that will eventually establish an important connection from relocated Riverside Drive to Sawmill Road, as depicted in the City’s Thoroughfare Plan. The City agreed to transfer the City Exchange Property to COTA, and COTA agreed to transfer the COTA Exchange Property to the City as outlined by the terms herein.

C. The City agrees prior to closing to sponsor the City Exchange Property before the City’s Planning and Zoning Commission and other bodies to obtain any and all needed zoning, conditional use permit and other permits as may be necessary to allowing the City Exchange Property to be utilized by COTA as a park and ride as substantially depicted in Exhibit “C”. COTA will fully cooperate and support these efforts by the City.

D. The City simultaneous with the rezoning will continue to finalize the design of the park and ride (“Facilities”) on the City Exchange Parcel with COTA’s input and approval.

E. COTA and the City agree to close on their respective Exchange Property upon completion of the City Exchange property for use as a COTA park and ride facility.

F. The City will construct the Facilities on the City Exchange Property. COTA and the City agree to work together in good faith to have the Facilities ready for COTA to move and use by the COTA’s service change date of May 4, 2015. If the Parties fail to meet the May 4, 2015 deadline, COTA agrees to work in good faith to negotiate with its union to allow a move date earlier than the next service date. Should COTA fail to negotiate a move date prior to the next service date, COTA agrees to move and cease operations of a park and ride on the COTA Exchange Property by [next service date].

G. The Parties acknowledge that COTA desires a Park and Ride replacement facility on the City Exchange Property that is substantially larger than the one located on the COTA Exchange Parcel and COTA will reimburse the City for the excess land, design and construction costs associated with the enlarged Park and Ride facility up to the agreed upon amount as outlined by the terms herein.

H. The Parties acknowledge that the City will be reimbursed by COTA an estimated _____ Dollars (\$ _____), based on the design and construction estimates in Exhibit "D". This reimbursement estimate can deviate up to ten (10%) percent based on the actual accepted bid ("Guaranteed Maximum Sum").

I. The City and COTA now desire to memorialize the terms of the Agreement through the execution of this Agreement, subject to the terms herein set forth.

Statement of Agreement

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and COTA agree to the foregoing Background Information and incorporate it as part of the Agreement herein and as follows:

ARTICLE I **EXCHANGE OF LAND**

1.01 Transfer. The City hereby agrees that it shall cause the City Exchange Property to be transferred and deeded to COTA, and COTA hereby agrees that its shall cause the COTA Exchange Property to be transferred and deeded to the City, upon the terms and conditions of this Agreement. COTA agrees to pay to the City the difference in the appraised value of the City Exchange Property for the identified "excess" acreage transferred to COTA as part of the City Exchange Property. The "excess" acreage is defined as the acreage on the City Exchange Property which is in excess of the property needed to construct the Facilities sufficiently sized to replace the eighty four (84) spaces located on the COTA Exchange Property. The "excess" acreage is currently estimated to be **1.326 acres**.

1.02 Contingencies. This Agreement shall be contingent upon (a) the City obtaining approval of the Agreement by Dublin City Council within _____ () days following the Effective Date, (b) COTA obtaining approval of the Agreement by COTA's Board of Trustees within _____ () days following the Effective Date and (c) the City obtaining the requisite zoning approvals from the City for the City Exchange Property so the City Exchange Property can be used as park and ride facilities.

ARTICLE II
EVIDENCE OF TITLE

2.01 Title Examination. Within fifteen (15) days after the Effective Date, the City and COTA each may obtain, at its own expense, a letter report (“Letter Report”) or an ALTA Commitment for Title Insurance (1966) (the “Title Commitment”) issued by Multi-State Title Agency, LLC (“Title Insurance”), which Letter Report or Title Commitment shall show all recorded liens and encumbrances affecting the City Exchange Property or the COTA Exchange Property, as the case may be, and shall include copies of all documents referenced in the Letter Report or Title Commitment. The Letter Report or Title Commitment obtained by the City shall show in COTA good and marketable title to the COTA Exchange Property, and the Letter Report or Title Commitment obtained by COTA shall show in the City good and marketable title to the City Exchange Property, free and clear of all liens, charges, encumbrances and clouds of title, whatsoever, except the following (“Permitted Encumbrances”):

- (a) Those created or assumed by the City as to COTA Exchange Property or COTA as to the City Exchange Property;
- (b) Zoning ordinances;
- (c) Legal highways and public rights-of-way;
- (c) Real estate taxes which are liens on the respective properties, but which are not yet due and payable; and
- (d) Covenants, restrictions, conditions and easements of record acceptable to the City in the case of the COTA Exchange Property and to COTA in the case of the City Exchange Property.

The Letter Report or the Title Commitment, as the case may be, shall fully and completely disclose all easements, rights-of-way, and any appurtenant rights and easements affecting the City Exchange Property and/or the COTA Exchange Property, as applicable, and shall show the results of a special tax search and examination for any financing statements filed of record which may affect the properties.

2.02 Title Insurance. At the Closing (as hereinafter defined), the City shall deliver to COTA title insurance coverage for the City Exchange Property. The City may purchase, at its own expense, title insurance coverage for the COTA Exchange Property.

2.03 Title Defects:

- (a) In the event that an examination of either the Title Commitment/Letter Report or COTA Survey discloses any matter adversely affecting title to the COTA Exchange Property, or if title to the COTA Exchange Property is not marketable, as determined by Ohio law with reference to the Ohio State Bar Association’s Standards of Title Examination, or if the COTA Exchange Property is subject to liens, encumbrances, easements, conditions, restrictions, reservations or other matters not specifically excepted by the terms of this Agreement, or in the event of any encroachment or other defect shown by the COTA Survey (the foregoing collectively referred to as, “COTA Exchange Property Defects”), the City shall, within ten (10) days following the later of the City’s receipt of

both the Title Commitment/Letter Report and COTA Survey, provide COTA with written notice of any such Defects to which the City is objecting. COTA shall have ten (10) days following receipt of such written notice to cure or remove any such COTA Exchange Property Defects to the reasonable satisfaction of the City.

(b) In the event that an examination of either the Title Commitment/Letter Report or the City Survey discloses any matter adversely affecting title to the City Exchange Property, or if title to the City Exchange Property is not marketable, as determined by Ohio law with reference to the Ohio State Bar Association's Standards of Title Examination, or if the City Exchange Property is subject to liens, encumbrances, easements, conditions, restrictions, reservations or other matters not specifically excepted by the terms of this Agreement, or in the event of any encroachment or other defect shown by the City Survey (the foregoing collectively referred to as, "City Exchange Property Defects"), COTA shall, within ten (10) days following the later of COTA's receipt of both the Title Commitment/Letter Report and City Survey, provide the City with written notice of any such City Exchange Property Defects to which COTA is objecting. The City shall have ten (10) days following receipt of such written notice to cure or remove any such City Exchange Property Defects to the reasonable satisfaction of COTA.

ARTICLE III **CLOSING; POSSESSION**

3.01 Closing Date. The property exchange contemplated herein shall be closed through the offices of Multi-State Title Agency, LLC or as otherwise decided by the City and COTA (the "Closing") within thirty (30) days following the substantial completion of the construction of the Facility on the City Exchange Property, which Closing date may be extended in writing by mutual agreement of the Parties and shall be extended by such time, if any, as is necessary to cure any COTA Property Defects and/or City Property Defects, as set forth in Section 2.03 hereof. The Closing shall be at such time as the City and COTA may mutually agree upon.

3.02 Possession. The City shall be entitled to possession of the COTA Exchange Property on the next COTA service change date following the completion of the building of the Facilities on the City Exchange Property or such other date as COTA may provided as outlined in the Background Information above. COTA shall be entitled to possession of the CITY Exchange Property upon the City's completion of the building of the Facilities on the City Exchange Property allowing COTA to provide continuing services through the building of the Facilities.

3.03 Limited Warranty Deed and Easements. At the Closing, the City shall convey to the COTA fee simple title to the City Exchange Property identified in Exhibit "A", and COTA shall convey to the City fee simple title to the COTA Exchange Property identified in Exhibit "B", by validly executed, recordable limited warranty deed, free and clear of all liens and encumbrances, except the Permitted Encumbrances applicable to each Exchange Property and as stated within each instrument.

3.04 Adjustments at Closing. At the Closing, the City and COTA shall apportion, adjust, prorate and pay the following items in the manner hereinafter set forth:

(a) Real Estate Taxes and Assessments. The City and COTA shall pay to the Franklin County Treasurer all delinquent real estate taxes, if any, together with penalties and interest thereon, all assessments which are a lien against their respective Exchange Property as of the date of Closing (both current and reassessed, whether due or to become due and not yet payable), all real estate taxes for years prior to Closing and real estate taxes for the year of Closing, prorated through the date of Closing, applicable to the respective Exchange Property. The proration of undetermined taxes shall be based upon a three hundred sixty-five (365) day year and on the last available tax rate, giving due regard to applicable exemptions, recently voted millage, change in tax rate or valuation (as a result of this transaction or otherwise), whether or not the same have been certified. The estimated proration of real estate taxes paid by each Party at the Closing shall be final;

(b) The City's Expenses. The City shall, at the Closing (unless previously paid), pay the following expenses:

(i) The cost of furnishing the Title Commitment/Letter Report for the COTA Exchange Property, and the premium for any owner's policy of title insurance for the COTA Exchange Property desired by the City;

(ii) The cost of all municipal services and public utility charges (if any) applicable to the City Exchange Property due through the date of Closing;

(iii) The cost of recording the limited warranty deed transferring title in the COTA Exchange Property to the City;

(iv) The fee charged by the Title Insurance for closing the transactions contemplated herein;

(v) The cost of furnishing the Title Commitment/Letter Report for the City Exchange Property, and the premium for any owner's policy of title insurance for the City Exchange Property desired by the COTA; and

(vi) The cost of recording the limited warranty deed transferring title in the City Exchange Property to COTA.

(c) COTA's Expenses. COTA shall, at the Closing (unless previously paid), pay the following:

(i.) The cost of all municipal services and public utility charges (if any) applicable to the COTA Exchange Property due through the date of Closing.

(d) Other Closing Costs. All other closing costs and expenses not herein referenced and not specifically attributable to either Party shall be paid by the City.

(e) Brokers. Each Party represents and warrants to the other Party that neither Party has dealt with or through any real estate broker or real estate agent that is claiming, or which may be entitled to claim, a commission or fee for services relating to this Agreement.

3.05 Other Documents. The Parties agree that such other documents as may be legally necessary or appropriate to carry out the terms of this Agreement shall be executed and delivered by the appropriate party to the Title Insurance Agency at Closing. Such documents shall include, but not be limited to, a settlement statement, affidavits regarding liens, unrecorded matters and possession as may be reasonably requested by the Title Insurance Agency.

ARTICLE IV **WARRANTIES AND REPRESENTATIONS OF THE PARTIES**

4.01 Warranties and Representation. In addition to any other representations or warranties contained in this Agreement, the Parties hereby represent and warrant as follows with respect to the Exchange Property they are conveying to the other Party:

- (a) There are no leases in effect for the Property;
- (b) The Party is the owner of title to the Property, free and clear of any third-party lien;
- (c) Neither the Party nor any agent, employee or representative of the Party, has received any notice or notices, either orally or in writing, from any municipal, county, state or any other governmental agency or body, of any zoning, fire, health, environmental or building violation, or violation of any laws, ordinances, statutes or regulations relating to pollution or environmental standards, which have not heretofore been disclosed to the other Party or otherwise corrected;
- (d) The execution, delivery and performance of this Agreement, and the consummation of the transaction contemplated hereby, will not result in any breach of, or constitute any default under, or result in the imposition of any lien or encumbrance against the Property, under any agreement or other instrument to which the Party is a party or by which the Party might be bound;
- (e) No other person or entity other than the Party currently owns or has any legal or equitable interest in the Property and no other person or entity other than the other Party has or will have any right to acquire the Property, or any portion thereof;
- (f) The execution, delivery and performance by the Party of this Agreement and the performance by the Party of the transactions contemplated hereunder, and the conveyance and delivery by the Party to the other Party of possession and title to the respective

Exchange Property have each been duly authorized by such persons or authorities as may be required, and on the date of Closing, the Party shall provide the other Party with certified resolutions, or other instruments, in form satisfactory to the other Party, evidencing such authorization;

(g) Through and until the date of Closing, neither Party shall not enter into any easement, lease or other contract pertaining to the respective Exchange Property without the prior written consent of the other Party;

(h) The Party has not used, generated, discharged, released or stored, and will not use, generate, discharge, release or store, any Hazardous Substances on, in or under the respective Exchange Property, and have received no notice and have no knowledge of the presence in, on or under the respective Exchange Property of any such Hazardous Substances; (ii) to the best of the Party's knowledge, there are no, and will not be, any underground storage tanks at the respective Exchange Property, whether owned by the Party or its predecessors in interest; and (iii) to the best of the Party's knowledge, there are no Hazardous Substances, and will not be, on, in or under the respective Exchange Property. "Hazardous Substances" means all "hazardous substances" (as defined in the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. paragraph 9601 et seq. and the regulations promulgated pursuant thereto, as amended); any other toxic or hazardous waste, material or substance as defined under any other federal, state or local law, rule, regulation or ordinance; petroleum products; asbestos and asbestos-containing material; mold; electrical equipment which contains any oil or dielectric fluid containing polychlorinated biphenyls; and any other pollutant or environmental contaminant; and

(i) The City and COTA are not a "Foreign Person" as that term is defined in the Foreign Investment in Property Tax Act.

All representations and warranties set forth in this Article IV shall be true and correct as of the date hereof and as of the Closing Date, and at Closing, if requested by a Party, the other Party shall so certify the same, in writing, in form reasonably requested by the other Party.

4.02 Breach of Warranties Prior to Closing. If, during the pendency of this Agreement, either Party determines that any warranty or representation given to the other Party under this Agreement shall be untrue, incorrect or misleading, in whole or in part, the same shall constitute a default hereunder. In such event, the Party claiming default may give written notice thereof and shall thereafter have such rights and remedies as may be available as provided herein, at law or in equity, including, but not limited to, the right to terminate this Agreement and receive compensation for damages or to proceed to Closing for the completion of this transaction.

ARTICLE V

DESIGN AND CONSTRUCTION OF THE FACILITIES

5.01 General Considerations. In consideration of the commitment of the City to designing and constructing the Facilities on the City Exchange Property, COTA agrees to reimburse Dublin for

all of the incremental design and construction costs, up to the Guaranteed Maximum Sum, relating to the additional facilities that are associated with providing any additional facilities as well and any additional parking spaces in excess of the eighty-four (84) parking spaces located on the park and ride on the COTA Exchange Property as depicted in the attached Exhibit "C".

5.02 Design and construction of the Facilities. The Parties will use their best efforts to deliver the Facilities by May 4, 2015.

- (a) Dublin covenants and agrees:
- (1) To hire and manage the design and construction of the Facilities and to award all contracts to the lowest and best bidder pursuant to Dublin Charter Section 8.04 (b). COTA, at its sole discretion, may assist the City in determining the lowest, responsive and responsible bidder.
 - (2) To timely share the design and construction of the Facilities with COTA for input and approval. Specifically, COTA shall have the right to review and approve the bid specifications making sure the specifications are suitable for COTA's intended use of the City Exchange Property.
 - (3) The City shall conduct a preconstruction conference and invite COTA;
 - (4) The City agrees to exercise or cause to be exercised its normal oversight for construction projects it performs and hire a third party to oversee the construction and provide inspections. The City warrants that the Work shall be free from defects in materials and workmanship (without regard to the standard of care exercised in its performance) for a period of one year after final written acceptance of the Work by COTA.
 - (5) To make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions hereafter delivered, and do all other things which may be necessary or advisable for the design and construction of the Facilities, all in conformity with all applicable governmental laws, rules and regulations.
 - (6) Pursuant to the provisions of this Agreement, to provide for the payment of all fees, costs and expenses incurred in the design and building of the Facilities within thirty (30) days of receipt of the monthly invoices.
 - (7) The construction drawings and building cost will contain estimates of quantities that are associated with providing additional facilities as well any additional parking spaces in excess of the eighty-four (84) parking spaces and facilities located on the COTA Exchange Property.
 - (8) To submit reimbursement request to COTA on a monthly basis that are associated with providing any additional facilities as well and any additional

parking spaces in excess of the eighty-four (84) parking spaces located on the park and ride on the COTA Exchange Property as outlined in the attached Exhibit "C".

- (9) To allow COTA access to the City Exchange Property upon 24-hours' advance notice following the effective date of this agreement and access to the property with or without notice at all times once the Work commences;
 - (10) To submit to COTA all change orders that have been submitted by the construction contractor for COTA's records.
 - (11) To assume and pay for the cost of work in excess of the guaranteed maximum sum except to the extent that excess costs are made necessary as a result of COTA's request for changes to the work that are outside of the original scope of work.
- (b) COTA covenants and agrees:
- (1) To review and provide written approval of the scope, schedule, budgets and design documents associated with the Facilities within thirty (10) days of submission;
 - (2) To review and provide comments or written approval of submitted design plans of the Facilities within ten (10) calendar days of Dublin submission;
 - (3) Upon the City providing construction contract invoices that are applicable to the work and copies the proof of payment to the contractor and suppliers who performed work or supplied materials for the work, COTA shall Reimburse Dublin for all of the incremental design and construction costs relating to the Facilities, up to the Guaranteed Maximum Sum that are associated with providing any additional facilities as well and any additional parking spaces in excess of the eighty-four (84) parking spaces located on the park and ride on the COTA Exchange Property as outlined in the attached Exhibit "C" within thirty (30) days of receipt of a reimbursement request from the City.
 - (4) Upon completion of the construction, the City shall request a final inspection by COTA. If there are items included in the project design and construction that must be completed or remedied by the City, as reasonably agreed to by COTA and the City, the City shall perform the work within a reasonable time upon being provided with written notice of the same by COTA that identifies the items that remain to be completed. Final completion shall be deemed to have occurred when all work included in the scope of work has passed final inspection by the third party inspector; and a final accounting of the cost of the work has been provided to COTA by the City.

ARTICLE VI
NOTICES

6.01 Notices. Notice from one Party to another relating to this Agreement shall be deemed effective if made in writing and delivered to the recipient's address set forth below by any of the following means: (i) hand delivery, (ii) registered or certified U.S. mail, postage prepaid, with return receipt requested, or (iii) Federal Express, UPS, or like overnight courier service. Notice made in accordance with this Section 5.01 shall be deemed delivered when delivered by hand, upon receipt or refusal of receipt if mailed by registered or certified U.S. mail, or the next business day after deposit with an overnight courier service if delivered for next day delivery. The Parties agree that electronic mail shall not constitute a permitted form of notice under this Section 5.01. All notices shall be addressed as follows:

- (a) If intended for COTA, to:
Central Ohio Transit Authority
33 North High Street
Columbus, Ohio 43215
Attn: Mike Bradley, Vice President of Planning and Service Development

With a copy to:

Central Ohio Transit Authority
33 North High Street
Columbus, Ohio 43215
Attn: Gary Tober, Senior Associate Counsel

- (b) If intended for the City, to:
City of Dublin
5200 Emerald Parkway
Dublin, Ohio 43017
Attn: Marsha Grigsby, City Manager

With a copy to:

Frost Brown Todd, LLC
10 W. Broad Street, Suite 2300
Columbus, Ohio 43215
Attn: Philip K. Hartmann

The Parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices; certificates, requests or other communications shall be sent.

ARTICLE VII
MISCELLANEOUS PROVISIONS

7.01 Survival. The warranties, representations, covenants and agreements set forth in this Agreement shall not be cancelled by performance under this Agreement, but shall survive the Closing and the delivery of the deed of conveyance hereunder.

7.02 Governing Law. This Agreement is being executed and delivered in the State of Ohio and shall be construed and enforced in accordance with the laws of the State of Ohio. For all litigation, disputes and controversies which may arise out of or in connection with this Agreement, the undersigned hereby waive the right to trial by jury and consent to the jurisdiction of the courts of Franklin County, Ohio.

7.03 Entire Agreement. This Agreement constitutes the entire contract between the Parties hereto, and may not be modified except by an instrument in writing signed by both Parties, and this Agreement supersedes all previous agreements, written or oral, if any, between the Parties.

7.04 Time of Essence. Time is of the essence of this Agreement in all respects.

7.05 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their respective heirs, legal representatives, successors and assigns.

7.06 Invalidity. In the event that any provision of this Agreement shall be held to be invalid, the same shall not affect in any respect whatsoever the validity of the remainder of this Agreement.

7.07 Waiver. No waiver of any of the provisions of this Agreement shall be deemed, nor shall the same constitute a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing waiver. No waiver shall be binding, unless executed, in writing, by the Party making the waiver.

7.08 Headings. The section headings contained in this Agreement are for convenience only and shall not be considered for any purpose in construing this Agreement. As used in this Agreement, the masculine, feminine and neuter genders, and the singular and plural numbers shall be each deemed to include the other whenever the context so requires.

The Parties have hereunto subscribed their names on the day and year first aforesaid.

CITY:

CITY OF DUBLIN, OHIO,
an Ohio municipal corporation

COTA:

CENTRAL OHIO TRANSIT AUTHORITY
an Ohio Regional Transit Authority

By: _____
Marsha I. Grigsby, City Manager

By: _____
W. Curtis Stitt, President and CEO

EXHIBIT A

CITY EXCHANGE PROPERTY



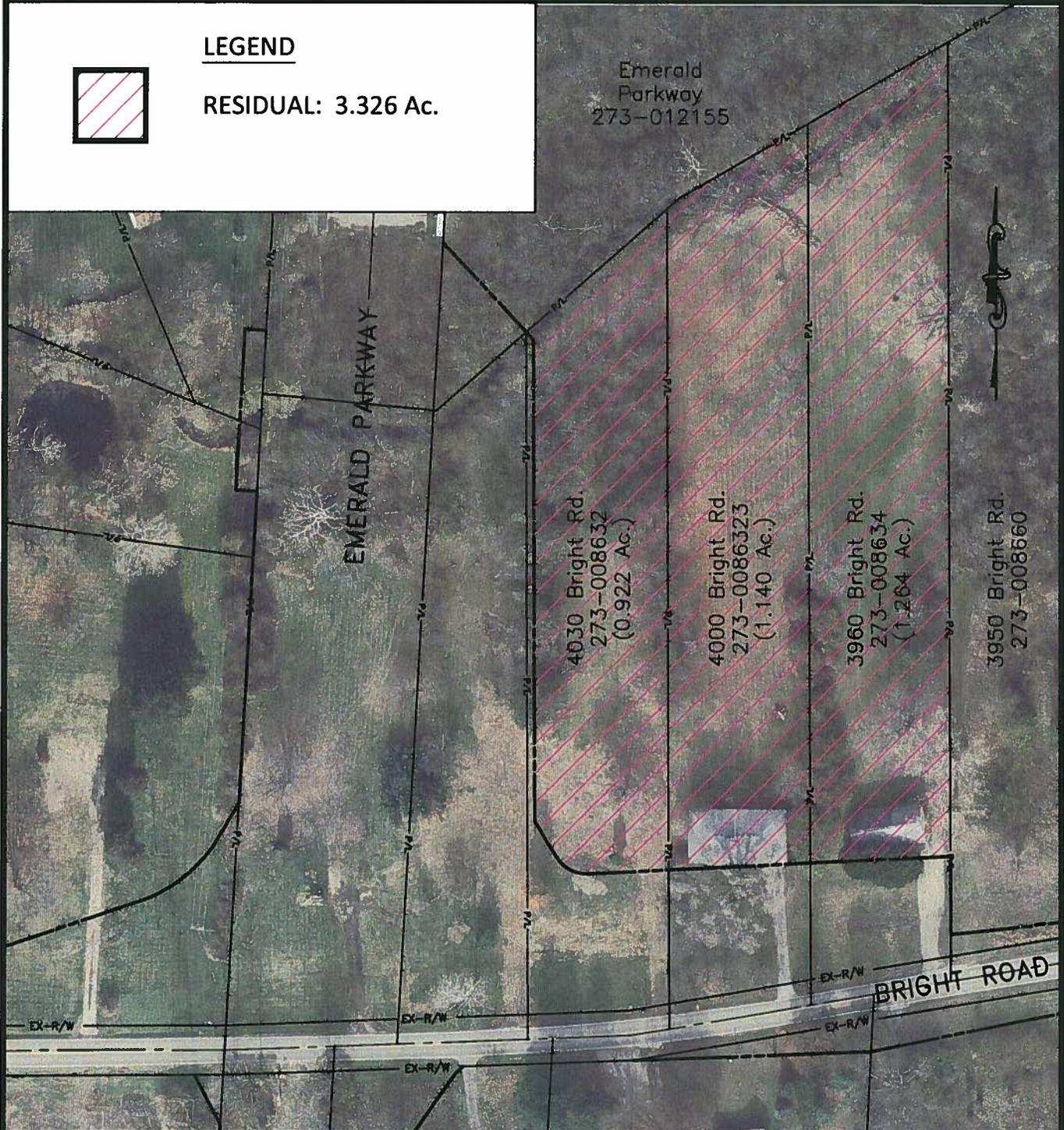
5800 Shier Rings Road • Dublin, Ohio 43016-1236
 Phone (614)410-4800 • Fax (614)410-4899

**EMERALD PARKWAY
 PHASE 8**
 3960, 4000 & 4030
 BRIGHT ROAD
 DUBLIN, OHIO 43017

LEGEND



RESIDUAL: 3.326 Ac.

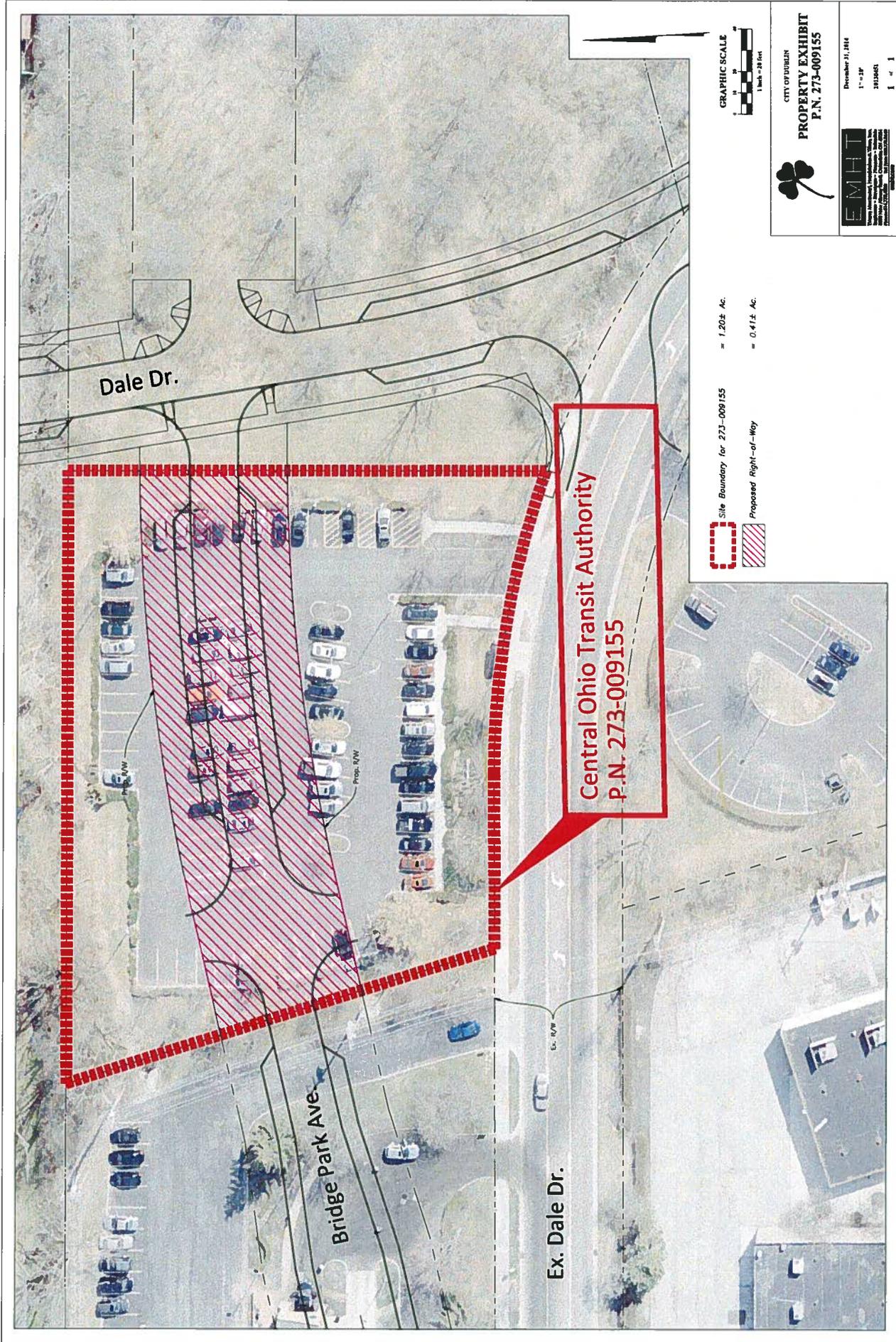


DRAWN	CHECKED	DATE:	JOB NO.
MSS		08/05/14	07-008



EXHIBIT B

COTA EXCHANGE PROPERTY



1/27/2015 10:41 AM \\p05hwd\0-Drawn\Exhibit\Property\Authority\Authority\Exhibit\2014-12-31\Property\Exhibit - P.N.273-009155\Map\Map Sheet\01.mxd 12/27/2014 10:41 AM Last Printed By: [Name Redacted]

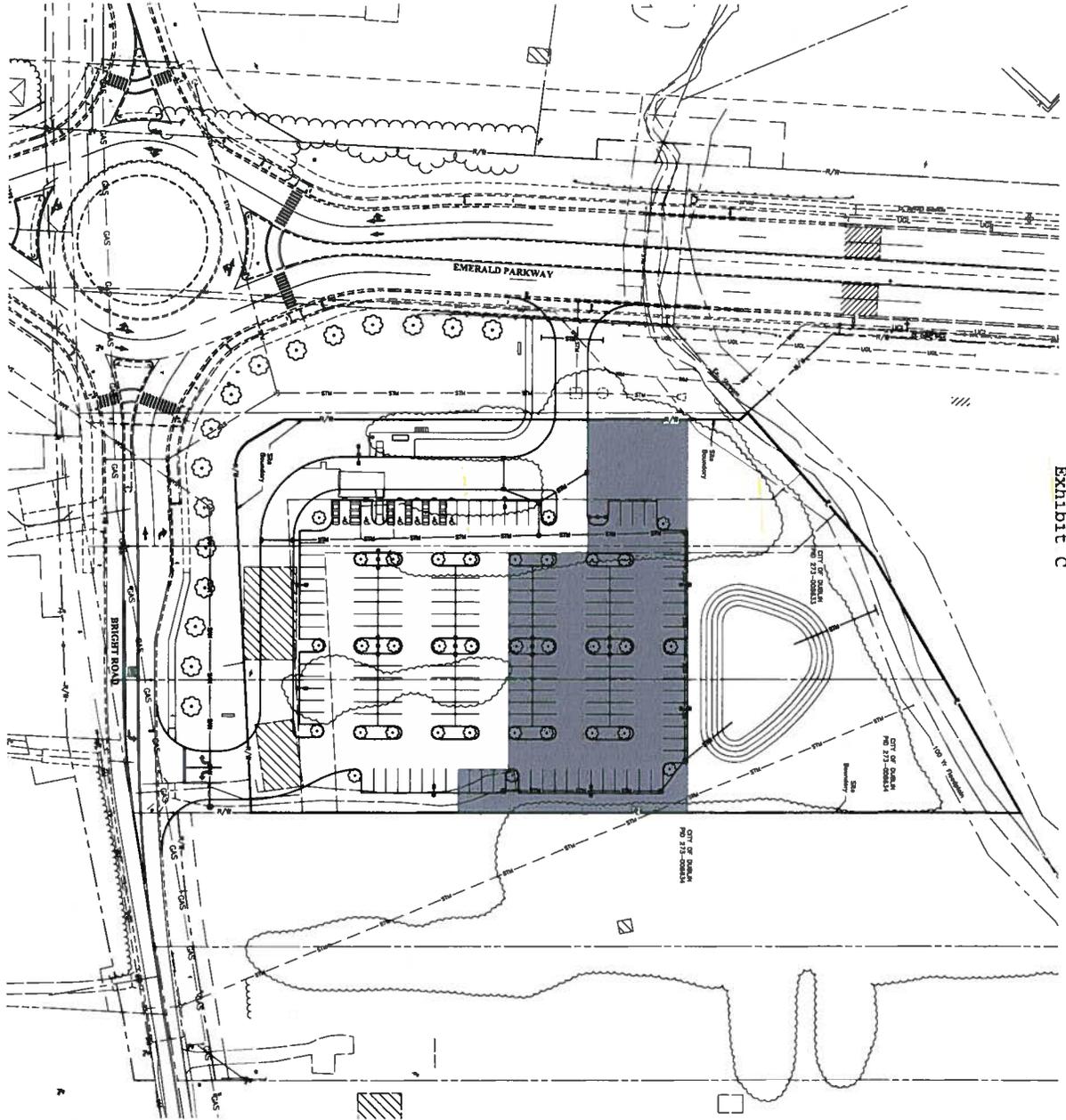


Exhibit C

SITE DATA	
Site Area	31.13 Acres
Total Impervious Area	143,000 sq ft (3.25 Acres)
Building Area	42,200 sq ft
Existing ADA, ADA and ADA Parking Spaces	94
Proposed ADA, ADA and ADA Parking Spaces	170



<p>DATE: November 17, 2014</p> <p>SCALE: 1" = 40'</p> <p>PROJECT: 2014-0008</p> <p>1/1</p>	<p>EMHT</p> <p>Engineering, Mechanical, Electrical & Plumbing</p> <p>10000 North State Road, Dublin, OH 43017</p> <p>614-770-0000</p>	<p>CITY OF DUBLIN, FRANKLIN COUNTY, OHIO</p> <p>PRELIMINARY SITE PLAN</p> <p>FOR</p> <p>COTA PARK AND RIDE</p> <p>BRIGHT ROAD</p>	<p>REVISIONS</p>										
			<table border="1"> <thead> <tr> <th>MARK</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	MARK	DATE	DESCRIPTION							
MARK	DATE	DESCRIPTION											

EXHIBIT D

**DESIGN AND CONSTRUCTION ESTIMATES &
COST ALLOCATION**

<i>Total Estimated Design Costs</i>	\$126,869
<i>Total Estimated Construction Costs</i>	<u>\$1,140,618</u>
Total	\$1,267,487

Cost allocation based on division of stormwater retention, access, site lighting, landscaping and other site appurtenance needs.

City of Dublin	\$778,280	(61%)
Central Ohio Transit Authority	\$489,207	(39%)