RECORD OF ORDINANCES

Dayton Legal Blank, Inc. Form No. 30043

Ordinance No. 115-14 Passed _____, 20____

AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT AND TAX INCREMENT FINANCING AGREEMENT TO FACILITATE THE CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT AND PROVIDE FOR THE CONSTRUCTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS RELATING THERETO.

WHEREAS, Casto Tuller LLC (the "*Company*") has acquired or has the option to acquire certain property in the Bridge Street District and desires to construct a residential development upon that property; and

WHEREAS, the Company has determined that certain public infrastructure improvements will need to be constructed to facilitate that residential development; and

WHEREAS, consistent with the Bridge Street District Area Plan and to facilitate the construction of the Company's residential development, the City has determined to enter into the proposed Development and Tax Increment Financing Agreement [and Infrastructure Agreement] to provide for the construction of public infrastructure improvements relating to that residential development.

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 Development and Tax Increment Financing Agreement by and between the City and the Company, in the form presently on file with the Clerk of Council, providing for, among other things, the construction of certain public infrastructure improvements in consideration for the Company's agreement to construct a residential development within the Bridge Street District, is hereby approved and authorized with changes therein not inconsistent with this Ordinance and not substantially adverse to this City and which shall be approved by the City Manager. The City Manager, for and in the name of this City, is hereby authorized to execute that Development and Tax Increment Financing Agreement, provided further that the approval of changes thereto by that official, and their character as not being substantially adverse to the City, shall be evidenced conclusively by the execution thereof. This Council further authorizes the City Manager, for and in the name of the City, to execute any amendments to the Development and Tax Increment Financing Agreement, which amendments are not inconsistent with this Ordinance and not substantially adverse to this City.

Section 2. This Council further hereby authorizes and directs the City Manager, the Director of Law, the Director of Finance, the Clerk of Council, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance.

Section 3. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in open meetings of this Council or committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

Section 4. This Ordinance shall be in full force and effect on the earliest date permitted by law.

Passed this _____ day of _____, 2015.

_____
Mayor - Presiding Officer

Attest:

_____
Clerk of Council

Passed: _____, 2014

Effective: _____, 2014

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: December 4, 2014

Initiated By: Terry Foegler, Director of Strategic Initiatives/Special Projects
Angel L. Mumma, Director of Finance

Re: **Ordinance No. 115 -14 – Development and Tax Increment Finance Agreement with Casto Tuller LLC**

Background

Ordinance No. 115-14 authorizes the City Manager to enter into the attached Development and Tax Increment Finance Agreement ("Agreement") with Casto Tuller LLC ("Developer") for a multi-phase project known as Tuller Flats. The Developer is in contract to purchase a portion of certain real property located within the Bridge Street District ("BSD"), known as the "Thomas" parcel, has an option to purchase the balance of the "Thomas" parcel, and has an option to purchase a portion of the "Byers" parcel as part of a previous assignment agreement with the City ("Developer Property").

The project and the terms of this agreement are consistent with the non-binding Letter of Intent (LOI) authorized by City Council for this project on October 27, 2014. The LOI and the related staff reports described the general parameters of the project and the key terms of, and rationale for this agreement. The major purpose of the Agreement is to provide the broad financial framework by which the City's and the Developer's respective public and private improvement obligations are established. If approved, the agreement will then enable the developer to prepare more detailed plans for the project (based upon these economic and other parameters of this agreement) and proceed through the City's development review and approval process. The Agreement does not substitute for, or supersede any of the City's applicable development review and approval processes. In addition to the parameters of the public and private improvements, this agreement also provides for the terms of a recommended land exchange between the City and the Developer, as previously outlined in the non-binding LOI.

While the exhibits to the agreement reference Phases I, II and III, the Agreement only establishes the obligations relating to the Phase I development.

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

<u>Phase I Private Improvements</u>
Developer agrees to develop the property with approximately 420 upscale multi-family residential

units with a minimum taxable value of $20 million. The actual valuation is expected to be higher, but this value forms the basis for guaranteed minimum TIF Service payments. Approximately 280 of these units shall be constructed no later than December 31, 2016. The Developer shall make commercially reasonable efforts to construct the remaining 140 units no later than December 31, 2017.

Phase I Public Improvements

The City agrees to design and construct, at its expense, John Shields Parkway, one of the Bridge Street District's "signature" streets, from Tuller Ridge Drive to Village Parkway as well as Graham Street. The estimated cost to design and construct these roadways is $10.1 million. As part of the agreement, the City agrees to construct this portion of John Shields Parkway so that it is open for use by the time a certificate of occupancy is issued for the Phase I development.

Additionally, the City will contribute to the cost of constructing McCune Avenue, Watson Street, and Deardorf Street, which exceeds $1,150,000. However, the City's contribution is limited to $2,500,000 (i.e. the City will fund the amount that exceeds $1,150,000 but is less than or equal to $3,650,000). The Developer will be responsible for any costs in excess of $3,650,000 that are not the result of the City's desire to include additional improvements/specifications beyond what would otherwise be customary for the BSD street network.

Rights-of-Way

The Developer agrees that it will dedicate or provide to the City at no cost all rights-of-way and easements located within the Property and necessary for the construction of the Phase 1 Public Improvements.

Park/Land Exchange

The City currently owns a 3.5 acre parcel along the existing Tuller Ridge Drive. Consistent with the approved Letter of Intent with the Developer (approved by City Council at the October 27, 2014 Council meeting), this agreement provides for 1.4± acres of the City-owned parcel ("City Exchange Property") to be exchanged with the Developer for 1.3± acres of additional open space and greenway within the Phase I Property. The Developer would develop the City Exchange Property with multi-family units to help frame this important signature parkway, and the associated greenway, following the City's approval of those plans. The City will utilize the Developer Exchange Property for the purpose of providing a greenway, parkland, and associated public improvements along John Shields Parkway.

Future Development

The Developer has an option to acquire approximately 8± additional acres located to the east/northeast of the Developer Land (Phase II Property). If the option is exercised, the Developer anticipates developing the property with housing that would be different in design from the Phase I project, and which would also include more mixing of uses within the development.

Additionally, as authorized by Ordinance 11-14, the City has acquired the former Byers Chevrolet Property. In the Assignment Agreement between Commercial Site Acquisitions, Inc. (an affiliated entity of the Developer), Commercial Site Acquisitions, Inc. retained an option to acquire a portion

of the real property located to the north of the right-of-way for John Shields Parkway (Phase III Northern Property). If the option is exercised, the Developer (or Commercial Site Acquisitions, Inc.) anticipates developing this property with mixed-use development, with the density and mixing of used to be determined at a later date.

Since the developer has worked with the City to help realign the proposed John Shields Parkway (which will now provide development opportunities along both sides of the parkway), it is anticipated that the City will also provide the developer with rights to acquire an additional portion of the Byers Property that will be located to the south of the right-of-way and the adjacent greenway for John Shields Parkway (Phase III Southern Property). If this occurs, it is expected the Developer will develop this area with mixed-use development.

Should Phase II and Phase III (both Northern and Southern Properties) developments occur, the City and the Developer will negotiate separate written agreements which will provide for the construction and financing of those public improvements. Such agreements will be presented to City Council for consideration at the appropriate time.

It is important to note that regardless of the development phase, the developer is required to follow all Bridge Street District Code processes and fulfill all requirements of the Code, as well as all other applicable development regulations. If any portion of the Project does not meet the Code requirements, the Developer must seek and obtain the approval of waivers for such portions of the Project through the appropriate reviewing and approval body.

Tax Increment Financing
The agreement provides that the 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
The Developer and subsequent successors agree to make Service Payments attributable to their respective period 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 the fourth full calendar year next succeeding the calendar year in which the first building permit is issued for a structure on the Phase 1 Property. For example, if the first building permit is issued in 2015, the first Minimum Service Payment would be computed based on the applicable real property tax rates for tax year 2018, with Minimum Service Payments being due and payable in 2019. The minimum service payment obligation will no longer apply to the Developer at such time as the appraised value of the TIF Property equals 130% or more of the value used to calculate the Minimum Service Payment Obligation for a period of four (4) consecutive tax years.

Impact on Schools

This property is within the defined area covered by the Bridge Street District Cooperative Agreement between the Dublin City School District (DCS) and the City. As a reminder, the Cooperative Agreement permits the City to authorize various tax incentives, including TIFs, within the BSD that provide for the following (for each incentive authorized):

- Years 1-15 – DCS agrees to forego 100% of the applicable real estate taxes with respect to the improvements to any particular parcel within the applicable tax incentive district.

- Years 16-30 – DCS will receive 10% of what it would have received if the applicable tax incentive district had not been in place.

In exchange for this TIF structure, the City has agreed to compensate DCS in the amount of $1.5 million each year from 2014 through 2045, and $2.0 million in 2046 for a total of $50 million.

Additionally, as part of the Cooperative Agreement, DCS waived any right to receive notification of the passage of any Ordinance or legislation authorizing the real property tax exemptions. However, school district personnel have been notified of this proposed development.

For the purposes of projecting potential service payments, the developer has agreed that the Minimum Service Payments will be based upon a taxable value for the Phase I private improvements of $20 million. Based on the current millage, it is estimated that at completion of Phase I, the TIF will generate approximately $702,000 annually in years 1-15 and $655,000 annually in years 16-30. It is important to note that these minimum payment guarantees are lower than the actual anticipated valuations and are intended to provide a "floor" for projecting future TIF revenues. These service payments will provide funding for the public infrastructure improvements included in the Agreement, as well as other Bridge Street District infrastructure improvements that will be identified within the TIF Ordinances.

Recommendation

Staff recommends that Ordinance No. 115-14 be adopted by City Council at the second reading/public hearing on January 5, 2015.

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 between the CITY OF DUBLIN, OHIO (the "*City*"), a municipal corporation duly organized and validly existing under the Constitution and the laws of the State of Ohio (the "*State*") and its Charter, and CASTO TULLER LLC (the "*Developer*" and together with City, the "*Parties*"), an Ohio limited liability company, under the circumstances summarized in the following recitals.

W I T N E S S E T H:

WHEREAS, the City has prepared a strategy for comprehensive development within an area of the City generally known as the Bridge Street District (the "*Bridge Street District*") and that strategy was effected by the approval of the Bridge Street District Area Plan therefor by the City on July 1, 2013; and

WHEREAS, the City has endeavored to work collaboratively with public entities, including the Dublin City School District and the Tolles Career and Technical Center, and private entities to plan for and facilitate the development of the Bridge Street District, and in furtherance of that effort, the City has entered into a compensation agreement with each of those school districts which permits the City to create tax increment financing areas from time to time within the Bridge Street District; and

WHEREAS, the City owns certain real property located within the Bridge Street District (which real property is depicted on **EXHIBIT A** which is attached hereto and incorporated herein by reference and referred to herein as the "*City Land*"); and

WHEREAS, the Developer is in contract or has an option to purchase certain real property located within the Bridge Street District as described in this Agreement (which real property is depicted on **EXHIBIT A** and referred to herein as the "*Developer Land - Contract*" and together with the City Land, is referred to herein as the "*Property*"); and

WHEREAS, the City and the Developer desire to facilitate the construction of new Public Improvements (as such term is defined in Section 3) in and around the Property which will facilitate the expected phasing of the development (the phasing of the development of the Property is depicted on **EXHIBIT B** which is attached hereto and incorporated herein by reference); and

WHEREAS, the City passed Ordinances No. _____ (the "*5709.40 TIF Ordinance*") and No. _____ (the "*5709.41 TIF Ordinance*" and together with the 5709.40 TIF Ordinance, the "*TIF Ordinance*") on _____, 201___ which declared that 100% of the increase in the assessed value of the portion of the Property which is or will be subject to real property taxation (the "*TIF Property*") subsequent to the effective date of the TIF Ordinance to be a public purpose and exempt from taxation (the "*TIF Exemption*") in accordance with the requirements of Ohio Revised Code Sections 5709.40 and 5709.41 (each as applicable), 5709.42 and 5709.43 (collectively, the "*TIF Statutes*"); and

WHEREAS, the TIF Ordinance provides that the owners of the TIF Property will make service payments in lieu of taxes with respect to the TIF Property (the "*Service Payments*") pursuant to and in accordance with Ohio Revised Code Section 5709.42; and

WHEREAS, the 5709.40 TIF Ordinance specifies certain public infrastructure improvements (which will include but shall not be limited to the Public Improvements) made, to be made or in the process of being made that directly benefit, or that once made will directly benefit, the TIF Property; and

WHEREAS, to support the construction of the Public Improvements, the Developer has agreed to make minimum service payments with respect to the TIF 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, design, construction and maintenance of the Public Improvements as contemplated herein, and to memorialize their mutual understandings with regard to the manner in which the Property, the Phase 1 Private Improvements (as such term is defined in Section 3) and the Public Improvements will be developed;

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

Section 1. **General Agreement and Term**. For the reasons set forth in the Recitals hereto, which Recitals are incorporated herein by reference as a statement of the public purposes of this Agreement and the intended arrangements between the Parties, the Parties shall cooperate in the manner described herein to facilitate the construction of the Phase 1 Private Improvements and the Public Improvements. This Agreement shall become effective as of the Effective Date and shall continue until the Parties have satisfied their respective obligations as set forth in this Agreement, unless sooner terminated in accordance with the provisions set forth herein

Section 2. **Representations and Warranties of the Parties**.

(a) The City represents and warrants as of the date of delivery of this Agreement that:

(i) 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.

(ii) 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.

(iii) 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.

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

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

(b) The Developer represents and warrants as of the date of delivery of this Agreement that:

(i) It (A) is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Ohio and (B) has all requisite power and authority and all necessary licenses and permits to own and operate the Developer Land - Contract (and any other portion of the Property hereafter acquired by the Developer) and the Phase 1 Private Improvements and to carry on its business as now being conducted and as presently proposed to be conducted.

(ii) It has the authority and power to execute and deliver this Agreement and perform its obligations hereunder.

(iii) Its execution and delivery of this Agreement and its compliance with all of the provisions hereof (A) 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 (B) have been duly authorized by all necessary action on its part.

(iv) 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 Public Improvements and Phase 1 Private Improvements, or if successful would materially impair its ability to perform its obligations under this Agreement or to construct the Phase 1 Private Improvements.

(v) To the best of Developer's knowledge, it is in compliance with State of Ohio campaign financing laws contained in Ohio Revised Code Chapter 3517. For purposes of this Agreement, the term "to the best of Developer's knowledge" shall mean to the actual knowledge of C.H. Waterman, in his capacity as legal counsel to Developer, without a duty to investigate.

(vi) No event has occurred and no condition exists with respect to it that would constitute an Event of Default (as such term is defined in Section 6(a)) under this

Agreement or that, with the lapse of time or with the giving of notice or both, would constitute an Event of Default under this Agreement.

(vii) It will comply with all laws and regulations (including, without limitation, zoning and permitting laws and regulations) applicable to its development of the Developer Land - Contract (and any other portion of the Property hereafter acquired by the Developer) and the Phase 1 Private Improvements, as applicable.

Section 3. **Development of the Property**. The City and the Developer agree to work cooperatively to develop the Property with certain public improvements (which are depicted on **EXHIBIT C-1** and described on **EXHIBIT C-2**, both of which are attached hereto and incorporated herein by reference and referenced to herein as the "*Public Improvements*") and the Phase 1 Private Improvements in a manner consistent with the objectives of the Bridge Street District Area Plan, included in the Community Plan and associated zoning regulations. The Developer acknowledges that the City has adopted the Bridge Street District Code and various other development and construction regulations which are codified in the City's Code of Ordinances and are applicable to the development of the Property (such Code and other development and construction regulations being referred to herein as the "*BSD Regulations*") and agrees that it will be required to follow and fulfill all of the BSD Regulations and related processes. The Developer agrees that the Phase 1 Private Improvements will be constructed in a manner which is consistent with generally accepted construction industry standards and guidelines applicable to similar projects and in conformity with installation guidelines as may be recommended by the various manufacturers of the building materials. If any portion of the Phase 1 Private Improvements does not meet the requirements of the BSD Regulations, the Developer acknowledges that it will be required to obtain the approval of waivers for such portion(s) of the Phase 1 Private Improvements through the appropriate reviewing body.

(a) Phase 1 Development.

(i) *Private Improvements*. The Developer is in contract to purchase the Developer Land - Contract. The Developer intends to develop the Developer Land - Contract and the City Exchange Property (as such term is defined in Section 3(b) below) (together, the Developer Land - Contract and the City Exchange Property shall be collectively referred to herein as the *"Phase 1 Property"* which is also depicted on **EXHIBIT B**) as detailed in this Agreement. The Developer agrees that no later than thirty-five (35) days following approval by the City of all necessary plans for the development of the Phase 1 Property as required by the BSD Regulations, provided that such plans are satisfactory to the Developer and, once approved and legally effective, will allow the Developer to file an application with the City for building permits to construct the Phase 1 Private Improvements without further legislative or administrative action or approval by the City, the Developer will acquire the Developer Land - Contract. The foregoing obligation to acquire the Developer Land - Contract may be terminated by the Developer in the event that the (A) present owner (as of the Effective Date) of the Developer Land - Contract fails to fulfill its obligation to sell the Developer Land - Contract to the Developer for reasons other than the occurrence of a breach of (or uncured default under) the purchase and sale agreement between the Developer and the owner that is caused by the Developer or (B) aforementioned City approval does not become legally effective on

or before September 1, 2015. Once the Developer Land - Contract and the City Exchange Property are acquired by the Developer, the Developer will make commercially reasonable efforts to develop the Phase 1 Property to include a minimum of 420 upscale multi-family residential units (or such other maximum number of units which are permitted via the City's approval process) in conformance with the requirements of the BSD Regulations (the "*Phase 1 Private Improvements*"), subject to any modifications or waivers from those provisions that have been duly approved by the City. Approximately 280 of these units shall be constructed no later than December 31, 2016. The Developer shall make commercially reasonable efforts to construct the remainder of the units no later than December 31, 2017, subject to delays which shall be permissible based on market conditions, Force Majeure (as such term is defined in Section 6(b)) events, or any restrictions on the building of units based on the City's fire code.

The Developer shall be permitted to terminate this Agreement at any time in the event that it does not receive approvals from the City that will allow it to develop and construct at least 420 units on the Phase 1 Property in substantial conformance with the site plan that is attached hereto and incorporated herein by reference as **EXHIBIT E**, to be further reviewed and approved in accordance with the procedures of the BSD Regulations (the *"Site Plan"*), or in the event that the Developer does not acquire the Developer Land - Contract on or before September 1, 2015. The Developer acknowledges and agrees that the City shall not be obligated to commence construction of the Public Improvements until the Developer has notified the City in writing that it will not be exercising its right to terminate this Agreement in accordance with this paragraph. In the event of a termination pursuant to this paragraph, the Parties shall be relieved of all of their obligations to one another pursuant to this Agreement.

(ii) <u>*Public Improvements*</u>.

(A) *Public Improvements; Infrastructure Agreement.* The City and the Developer hereby agree that the Public Improvements will benefit and serve the Property and other real property in the vicinity of the Property, and will be implemented as provided in a separate Infrastructure Agreement by and between the City and the Developer (the "*Infrastructure Agreement*") which the Parties shall make reasonable good faith efforts to negotiate and have fully executed on or before the date that is sixty (60) days following the Effective Date. The Parties agree that the Infrastructure Agreement will provide for the construction of McCune Avenue, Watson Street, and Deardorf Street (each as depicted on **EXHIBIT C-1**). The Parties agree that the City will separately provide for the design, bidding and construction of John Shields Parkway and Graham Street (each as depicted on **EXHIBIT C-1**) and the provisions relating thereto shall not be included in the Infrastructure Agreement. The City shall complete construction of John Shields Parkway so that it is open for use by the general public by the date of the City's issuance of the first temporary or permanent certificate of occupancy for a residential unit on the Property.

(B) *City Contribution*. Based upon the estimated values of the Phase 1 Private Improvements and the Minimum Service Payment Obligation (as defined in Section 5) of the Developer, the City's contribution to the construction of the Public Improvements shall equal the sum of (1) the Cost of the Work (as such term is defined in the next paragraph) of John Shields Parkway and Graham Street plus (2) the portion of the Cost of the Work of McCune Avenue, Watson Street, and Deardorf Street which exceeds $1,150,000; *provided, however*, the City's obligation to make payments in accordance with this clause (2) shall not exceed an aggregate payment of $2,500,000 (*e.g.* the City shall be responsible for the portion of that Cost of the Work described in clause (2) which exceeds $1,150,000 but is less than or equal to $3,650,000). The City's obligation to pay the Cost of the Work as described in clauses (1) and (2) of this paragraph is collectively referred to as the "*City Contribution*". The portion of the City Contribution relating to the Cost of the Work described in clause (2) will be disbursed pursuant to the terms of the Infrastructure Agreement.

For purposes of this Agreement, the term "*Cost of the Work*" means the actual costs of the design and construction of the Public Improvements. Cost of the Work may include construction labor and material costs, related permit and inspection fees, design and engineering fees as approved by the City Engineer, site preparation costs, legal fees related to the review of project construction documents, and other costs necessary and appurtenant thereto, all of which shall be directly related to the Public Improvements and none of which may be commingled with the costs of any Phase I Private Improvements.

It is the intent of the City and the Developer that McCune Avenue, Watson Street, and Deardorf Street will be constructed to include those general specifications set forth on **EXHIBIT C-3**, and the Parties acknowledge that the respective contributions of the City and the Developer as described above are based on reasonable estimates of the costs to construct McCune Avenue, Watson Street, and Deardorf Street as of the Effective Date. To the extent that the aggregate cost to construct McCune Avenue, Watson Street, and Deardorf Street exceeds $3,650,000 due to the City's desire to include improvements or specifications for the construction of these public streets in addition to those which are listed on **EXHIBIT C-3**, the payment of such excess costs shall be the sole responsibility of the City.

(C) *Rights-of-Way; Construction Easements*. To the extent that the City does not currently own the right-of-way required for the construction of the Public Improvements, the Developer agrees that, at the appropriate time after it acquires the Property, it will dedicate or provide to the City (at no cost to the City) all rights-of-way and easements located within the Property and necessary for the construction of the Public Improvements, as applicable upon request of the City in accordance with the approved plans, including, without limitation, any necessary construction easements.

(b) Park/Land Exchange. The City presently owns certain real property that is part of the Property and consisting of 1.4± acres (which real property is depicted on **EXHIBIT E** which is attached hereto and incorporated herein by reference and referred to herein as the "*City Exchange Property*"). The City's vision for John Shields Parkway is such that it desires this improved right-of-way to include a "greenway" along this thoroughfare. To facilitate this vision, it desires to convey ownership of the City Exchange Property by and through a limited warranty deed to the Developer in exchange for the conveyance of certain real property to be acquired by the Developer consisting of 1.3± acres (which real property is depicted on **EXHIBIT E** which is attached hereto and incorporated herein by reference and referred to herein as the "*Developer Exchange Property*"). The exchange of these properties shall occur at the same time that the Village Green North is dedicated to the City as contemplated in Section 3(e), or at such other earlier date and time as the Parties may otherwise mutually agree. Following the completion of the land exchange and subject to any delays caused by Force Majeure (as such term is defined in Section 6(b)) events, the Developer agrees that it will commence the development of the City Exchange Property with multi-family residential units in accordance with plans approved by the City within two hundred seventy (270) days following the later of (i) the first date when the approval of all plans for the development of the City Exchange Property have been approved by the City and are legally effective so as to allow for the Developer to file an application for a building permit to construct multi-family residential units on the City Exchange Property or (ii) the date when construction of John Shields Parkway has been completed so as to be open for use by the general public; *provided, however*, the Developer agrees that if development on the City Exchange Property has not commenced within two (2) years following the exchange, the City shall have the right, upon thirty (30) days prior written notice to the Developer, to require Developer to promptly convey the City Exchange Property to the City at a sale price which shall be equal to the then fair market value of the City Exchange Property. If the Developer and the City are unable to agree on the fair market value of the City Exchange Property, then the fair market value shall be determined by an appraiser that is mutually agreed upon by the Developer and the City. For purposes of this paragraph, development of the City Exchange Property shall be deemed to have "commenced" when the installation of a building pad for one or more buildings to be constructed on the City Exchange Property has been completed. The City agrees to utilize the Developer Exchange Property for the purpose of providing a greenway and associated Public Improvements along John Shields Parkway. For purposes of this Agreement, the land values of the City Exchange Property and the Developer Exchange Property shall be deemed to be equal.

Prior to consummating the land exchange contemplated in the immediately preceding paragraph, the Developer and its designees shall be permitted to enter upon the City Exchange Property for the purpose of undertaking physical due diligence investigations thereon. Should such investigations reveal any objectionable environmental, soil or other conditions on the City Exchange Property, the Developer shall notify the City in writing and the City agrees to make reasonable efforts to remedy such conditions. The Developer shall indemnify the City from and against all claims or damages caused by it or its designees as a result of such entry upon the City Exchange Property, and should it fail to obtain ownership of the City Exchange Property it will restore the land to a substantially similar condition as existed prior to the entry. In addition, prior to the consummation of the land exchange, the Developer shall be permitted to review any encumbrances on title to City Exchange Property and make objections to the City on the same. City agrees to make reasonable efforts to cure any such objections. The Parties shall be

responsible for the payment of any conveyance fees or other similar charges resulting from the conveyance of real property to the other Party. The Developer shall be responsible for paying recording fees relating to the deed of the City Exchange Property.

(c) Future Development. The Developer and/or its affiliate presently have the following rights to acquire certain additional real property located near the Property:

(i) The Developer has an option to acquire approximately 8± acres of real property located to the east/northeast of the Developer Land - Contract (which real property is depicted on **EXHIBIT B** which is attached hereto and incorporated herein by reference and referred to herein as the "*Phase 2 Property*"). Should the Developer exercise such option and acquire the Phase 2 Property, the Developer expects that it will develop the Phase 2 Property as a mixed-use development in conformance with the requirements of the BSD Regulations and the applicable zoning classification that applies thereto (unless waivers or deviations from such requirements are granted by the City as permitted thereunder), with a density that will be determined at a later date; and

(ii) The Developer has an option in favor of Commercial Site Acquisitions, Inc., an affiliated entity of the Developer, heretofore granted by the City pursuant to that certain Assignment and Assumption Agreement, originally dated March 14, 2014 (the "*Assignment Agreement*"), pursuant to which the City assumed rights from the Developer to acquire certain real property that was identified in the Assignment Agreement (which real property is depicted on **EXHIBIT B** which is attached hereto and incorporated herein by reference and referred to herein as the "*Phase 3 Property*"). The City has acquired ownership of the Phase 3 Property in accordance with the Assignment Agreement and therefore Commercial Site Acquisitions, Inc. now enjoys an option to acquire a portion of the real property located to the north of the right-of-way for John Shields Parkway within the Phase 3 Property (which real property is depicted on **EXHIBIT B** which is attached hereto and incorporated herein by reference and referred to herein as the "*Phase 3 Northern Property*"). Should Commercial Site Acquisitions, Inc. exercise such option and acquire the Phase 3 Northern Property, then the Developer expects that Commercial Site Acquisitions, Inc. or the Developer will develop the Phase 3 Northern Property as a mixed-use development in conformance with the requirements of the BSD Regulations and the zoning classification that is applicable thereto (unless waivers or deviations from such requirements are granted by the City as permitted thereunder), with a density uses that will be determined at a later date.

The Developer shall have the sole discretion to elect to exercise or not to exercise either or both of the options described in subsections (i) and (ii) above. In the event that either or both of these options are exercised so that the Developer obtains ownership of the Phase 2 Property and/or the Phase 3 Northern Property, then the Developer and the City agree that it is likely that additional public improvements will need to be constructed to serve private development on such properties. The Parties' respective responsibilities concerning the construction and financing of such public improvements shall be detailed in separate written agreements that are mutually agreed upon in the future and are not intended to be dealt with in this Agreement.

Due to recent adjustments to the likely alignment of John Shields Parkway across the Phase 3 Property, the Developer desires to obtain the right to purchase from the City an additional portion of the Phase 3 Property that will be located to the south of the right-of-way for John Shields Parkway and its abutting greenway (which real property is depicted on **EXHIBIT B** which is attached hereto and incorporated herein by reference and referred to herein as the "*Phase 3 Southern Property*"), and the City desires to negotiate with the Developer to provide it with this right. The City and the Developer agree to work cooperatively and in good faith to negotiate and execute a written amendment to the Assignment Agreement no later than sixty (60) days following the Effective Date to provide the Developer with the right to purchase the Phase 3 Southern Property on similar terms as it enjoys with respect to the purchase of the Phase 3 Northern Property. The Developer shall have the sole discretion to elect to exercise or not to exercise the aforementioned option. In the event that this option is exercised so that the Developer obtains ownership of the Phase 3 Southern Property, then the Developer and the City agree that it is likely that additional public infrastructure will need to be constructed to serve private development on that property. The Parties' respective responsibilities concerning the construction and financing of such public improvements shall be detailed in separate written agreements that are mutually agreed upon in the future and are not intended to be dealt with in this Agreement.

(e) Provision of Required Open Space. Pursuant to the Dublin City Code, in conjunction with the development of the Property the Developer will be required to dedicate land to the City for use as parkland. In order to meet this requirement, the Developer agrees that it shall dedicate to the City 1.9± acres of real property located to the north of John Shields Parkway (which real property is depicted on **EXHIBIT E** which is attached hereto and incorporated herein by reference and referred to herein as the "*Village Green North*"). Such dedication shall be made after such time as the Developer has received legally effective approvals from the City that will allow the Developer to apply for building permits to develop and construct multi-family residential units on the Property. This parkland may be dedicated to the City through the execution of a final plat for the portion of John Shields Parkway that extends through the Property as well as for McCune Avenue, Watson Street, and Deardorf Street. Following the dedication of Village Green North, the City agrees that prior to improving this real property the City will engage the Developer in discussions regarding these improvements and the programming for this parkland.

The Developer agrees that either prior to or following the dedication of any parkland to the City, it will grade, top soil and seed such parkland in a manner which is reasonably acceptable to the City. If the grading, top soiling, and seeding of such parkland has not occurred prior to the dedication of the parkland to the City, then the Developer shall have the continuing obligation to complete this work prior to the issuance of the first certificate of occupancy for a multi-family building on the Property and the City shall grant to the Developer a license to enter upon the parkland to complete this work. The City acknowledges that certain portions of Village Green North will be affected by the construction of John Shields Parkway, and to the extent that the construction of John Shields Parkway is continuing at the time Village Green North is dedicated to the City, the Developer shall have no responsibility for grading, top soiling, or seeding such portion(s) of Village Green North that are within the work limits for the John Shields Parkway construction project.

Section 4. **Cost Overruns for Public Improvements; Completion Guaranty.** Notwithstanding anything to the contrary in this Agreement and subject to the limitations set forth in Section 3(a)(ii)(B), the Developer will fund the costs of the installation of such portion of the Public Improvements (with the exception of John Shields Parkway and Graham Street, which shall be the responsibility of the City) that are in excess of the City Contribution. The Developer acknowledges that other than as provided in Section 3(a)(ii)(B), the City shall have no obligation to complete construction of the Public Improvements, nor any obligation to pay costs of constructing the Public Improvements except from the City Contribution. The City Contribution will be appropriated by the City on or before the date of commencement of construction of the Public Improvements.

Subject to the limitations contained in Section 3(a)(ii)(B), if the costs of the Public Improvements (other than the costs to construct John Shields Parkway and Graham Street) are in excess of the City Contribution, the Developer guarantees the completion of, and will fund the remaining costs of, constructing all Public Improvements pursuant to the Infrastructure Agreement. The guaranty obligations of the Developer under this paragraph are absolute and unconditional and are not subject to set-off, and payments under the guaranty will be made by the Developer at the times and in the amounts specified by the City, but in no event prior to thirty (30) days following the delivery of written notice by the City to the Developer detailing the sums that are due.

If the Developer does not complete the construction of all Public Improvements for which it is responsible, the Developer must apply for and comply with any required zoning and/or permit reviews for the resulting amendments to the interim site conditions such that proper vehicular, pedestrian, and bicycle circulation and access to the public way are maintained until such time as those streets are constructed.

Section 5. **Tax Increment Financing Area.**

(a) General. The Developer will reasonably cooperate with the City in the creation of one or more tax increment financing areas, which will include the TIF Property. The tax increment financing area(s) encompassing the TIF Property will be created pursuant to either Ohio Revised Code Section 5709.40(B) or Section 5709.41 and will provide the Dublin City School District and the Tolles Career and Technical Center with compensation as heretofore agreed to by the City, the Dublin City School District and the Tolles Career and Technical Center. The Developer acknowledges and agrees that the 5709.40 TIF Ordinance will specify certain public infrastructure improvements (which will include but shall not be limited to the Public Improvements) made, to be made or in the process of being made that directly benefit, or that once made will directly benefit, the TIF Property and the costs of which may be paid from Service Payments.

(b) Statutory Service Payments. The Developer, for itself and its successors, as the owner of the TIF Property, agree to make Service Payments attributable to their respective period of ownership of the TIF Property, 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, and as further set forth in the Declaration (as defined in division (e) of this Section).

(c) Minimum Service Payments. The TIF 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.

Commencing with the First Year of Minimum Service Payments (as defined in this paragraph) and continuing until the first date when the cost of the Public Improvements (but not including the costs of public infrastructure improvements that are outside of those included within the definition of this term) has been paid in full (including the retirement of any related City securities) and all reimbursements have been remitted to the City from Service Payments as contemplated in this Agreement, the Minimum Service Payment Obligation for the TIF Property for each calendar year will be an amount equal to (i) $20 million (which represents the Developer's guaranteed minimum market value for the Phase 1 Property) multiplied by 35% and further multiplied by the then current applicable effective real property tax rate for the TIF Property, less (ii) the sum of Service Payments and Property Tax Rollback Payments anticipated to be collected by the City in that calendar year under the TIF Ordinance and in respect of the TIF Property; *provided* that the Minimum Service Payment Obligation shall not equal less than zero dollars. For the limited purpose of illustrating the correct manner in which to perform the calculation in subsection (i), if the effective tax rate is 100.25466 mills, then the calculation would be as follows: $20,000,000 x .35 x 0.10025466 = $701,782.59. The foregoing Minimum Service Payment Obligation shall no longer apply to the Developer at such time as the appraised value of the TIF Property, as determined from time-to-time by the Franklin County, Ohio Auditor, equals 130% (i.e., $26 million) or more of the value used to calculate the Minimum Service Payment Obligation (i.e., $20 million) as detailed above for a period of four (4) consecutive tax years.

The "*First Year of Minimum Service Payments*" shall be the fourth full calendar year next succeeding the calendar year in which the first building permit is issued for a structure on the Parcels. *For example*, if the first building permit is issued in 2015, the first Minimum Service Payment would be computed based on the applicable real property tax rates for tax year 2018 with the Minimum Service Payment being due and payable in 2019.

In any calendar year, the Minimum Service Payment Obligation attributable to each parcel comprising the TIF Property will be equal to that parcel's assessed value divided by the assessed value of all parcels comprising the TIF Property, each as recorded on the tax list and duplicate of Franklin County, Ohio for the preceding calendar year and then multiplied by the Minimum Service Payment Obligation. If a Minimum Service Payment Obligation exists with respect to a parcel in any calendar year, the City will prepare and send an invoice for the amount of the Minimum Service Payment Obligation for that parcel (such amount, the "*Minimum Service Payments*") to the owner for that 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 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 TIF Property is subject to an action that would foreclose the lien created by the Declaration (such as a property tax foreclosure action), and provided that the TIF Property is still subject to the Minimum Service Obligation at the time that such foreclosure becomes effective, 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 (until the TIF Exemption terminates) based on the then current value of the TIF Property (as determined by the Franklin County Auditor) and then current real property tax rates applicable to the TIF Property.

(d) Use of TIF Funds. The City will use the Service Payments, Minimum Service Payments and Property Tax Rollback Payments it receives with respect to the TIF Property for any purpose authorized by the TIF Ordinance and the TIF Statutes, including but not limited to, for those purposes detailed in this Agreement and making payments to the Dublin City School District and the Tolles Career and Technical Center and reimbursing the City for the City Contribution.

(e) Declaration of Covenants; Priority of Lien. It is intended and agreed, and it will be so provided by the Developer or other owner of the TIF Property in a declaration relating to an applicable portion of the TIF Property (which shall be substantially in the form attached hereto as **EXHIBIT D** and is referred to herein as the "*Declaration*") recorded by the Developer or such other owner, within 30 days following the first date when (i) this Agreement has become effective, (ii) the legislation approving both the TIF Ordinance has been passed by Dublin City Council and becomes legally effective, and (iii) the declarant is the owner of the applicable portion of the TIF Property, that the covenants provided in that Declaration are covenants running with the land. The covenants set forth in the Declaration are hereby incorporated into this Agreement by this reference. No payment of the City Contribution will be made until a Declaration is recorded as a covenant running with the land with respect to the Developer Land - Contract, with priority over any other liens or encumbrances to which the Developer Land – Contract is subject other than those in favor of or approved in writing by the City.

Upon satisfaction of the obligation of an owner of all or any portion of the TIF Property to make the Service Payments and Minimum Service Payments, the City will, upon the request of the owner, 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 owner's property.

(f) Exemption Applications. The Developer agrees to prepare, execute and file 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 TIF 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.

(g) Estoppel Certificate. Within a reasonable time not to exceed 45 days after a request from an owner of all or a portion of the TIF Property, the City will execute and deliver to that owner or any proposed purchaser, mortgagee or lessee of that TIF Property, a certificate stating that with respect to that TIF Property, 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.

(h) Information Reporting. The Developer covenants to cooperate in all reasonable ways with, and provide necessary and reasonable information to, the designated Tax Increment Review Council to enable that Tax Increment Review Council to review and determine annually during the term of this Agreement the Developer's compliance 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) or Ohio Revised Code Section 5709.41(E) to the Director of the Ohio Development Services Agency on or before March 31 of each year the exemption for the TIF Property provided by the TIF Ordinance is in effect. Any information supplied to the City will be provided solely for the purpose of enabling the City to comply with this requirement.

(i) Non Discriminatory Hiring Policy. With respect to operations within the City, the Developer will 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, the Developer will agree that it will not deny any individual employment solely on the basis of race, religion, sex, disability, color, national origin or ancestry.

(j) Prohibition of Conversion of Multi-Family Units. The Developer will not convert any portion of any apartment development located upon the TIF Property into a condominium development or development other than one subject to real property taxation as commercial property during the applicable period of the TIF Exemption for the TIF Property. More specifically, no condominium conversion shall occur on any portion of the TIF Property until 30 years after the effective date of the TIF Exemption established by the Ohio Department of Taxation for the TIF Property unless otherwise agreed by the Parties in writing. A "*condominium conversion*" means the conversion of ownership of any units in a residential housing building consisting of two or more units or the conversion of any residential housing building that is or was previously occupied as a rental residential unit or building to single ownership in which a residential unit or the residential building may be sold individually.

Section 6. **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 pay any Service Payment or Minimum Service Payment when due;

(ii) The Developer or the City makes a representation or warranty in this Agreement that is materially false or misleading at the time it is made;

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

(iv) The Developer makes a general assignment for the benefit of creditors;

(v) 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;

(vi) 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;

(vii) The Developer fails to perform or observe any other material obligation punctually and as due under this Agreement, provided that if a Force Majeure (as such term is defined below) 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 it notifies the City of the potential event and the extent of the delay promptly after becoming aware of the event; or

(viii) The City fails to perform or observe any other material obligation punctually and as due under this Agreement, provided that if a Force Majeure (as such term is defined below) event causes the failure, the City may receive an additional period of time as is reasonably necessary to perform or observe the material obligation in light of the event if it notifies the Developer of the potential event and the extent of the delay promptly after becoming aware of the event.

As used in this Section, "*Force Majeure*" means any event that is not within the control of the Developer or the City or their respective employees, contractors, including, but not limited to, 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. In the event of an Event of Default described in division (a)(vii) of this Section, the defaulting Party will, upon written notice from the non-defaulting Party, proceed, as soon as reasonably possible, to cure or remedy such Event of Default or breach, and, in any event, within 30 days after receipt of such notice. In the event such Event of

Default or breach is of such nature that it cannot be cured or remedied within said 30-day period, then in such event the defaulting Party will upon written notice from the non-defaulting Party 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. Upon the occurrence and continuation of an Event of Default (except during any applicable cure period as described in division (c) of this Section), the non-defaulting party may institute such proceedings against the defaulting Party 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 non-defaulting Party's obligations under this Agreement, provided that prior to terminating this Agreement the non-defaulting Party shall deliver an additional written notice to the defaulting Party indicating its intent to terminate and providing the defaulting Party with an additional 30 days to cure the default before the termination becomes effective, (ii) instituting proceedings to compel specific performance by the defaulting Party 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 Developer, and only to the extent that the Developer is found to be in default or breach of this Agreement, 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.

Section 7. **Miscellaneous**.

(a) Assignment. Except as expressly provided hereunder, this Agreement may not be assigned without the prior written consent of the non-assigning party. Notwithstanding the foregoing, the Developer shall be permitted to assign its rights and obligations under this Agreement to an affiliated business entity of the Developer, and in addition the Developer shall be permitted to sell and convey all or a portion of the Property that is under its ownership to another person or entity, provided that the Developer assigns all of its rights and obligations under this Agreement to the person or entity acquiring said real property. With respect to any portion of the Property under its ownership, the Developer shall remain responsible for all obligations under this Agreement with respect that portion of the Property until an assignment and assumption agreement is fully executed by both the Developer and the acquiring person or entity which provides for the assumption of all right and obligations hereunder by the assignee. The Developer shall deliver written notice of any assignment of its rights and obligations under this Agreement to the City within five (5) business days after such assignment is completed.

The City agrees to cooperate with any reasonable assignment request by one or more of the Developer's lenders and the City Manager is authorized to execute and deliver reasonable and customary instruments requested by such lender to evidence the City's acknowledgement or consent to that assignment and the lender's collateral interest in this Agreement.

(b) Binding Effect. The provisions of this Agreement shall be binding upon the successors and/or assigns of the Parties.

(c) Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

(d) Day for Performance. Wherever herein there is a day or time period established for performance and such day or the expiration of such time period is a Saturday, Sunday or legal holiday, then such time for performance shall be automatically extended to the next business day.

(e) Entire Agreement. Together with the Assignment Agreement and the Infrastructure Agreement, this Agreement constitutes the entire Agreement between the Parties on the subject matter hereof and supersedes all prior negotiations, agreements and understandings, both written and oral, between the Parties with respect to such subject matter. This Agreement may not be amended, waived or discharged except in an instrument in writing executed by the Parties.

(f) Executed Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to constitute an original, but all of which together shall constitute but one and the same instrument. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts. Signatures transmitted by facsimile or electronic means are deemed to be original signatures.

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

(h) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without regard to its principles of conflicts of laws. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Developer, its employees and agents, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Franklin County, Ohio.

(i) Notices. Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other Party at the address set forth in this Agreement or any addendum to or counterpart of this Agreement, or to such other address as the recipient shall have previously notified the sender of in writing, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to

have been received when the return receipt is signed or refused. For purposes of this Agreement, notices shall be addressed to:

To the City at:	City of Dublin, Ohio 5200 Emerald Parkway Dublin, Ohio 43017 Attention: City Manager
To the Developer at:	Casto Tuller LLC 250 Civic Center Drive Suite 500 Columbus, Ohio 43215 Attention: General Counsel

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.

(j) No Waiver. No right or remedy herein conferred upon or reserved to any Party is intended to be exclusive of any other right or remedy, and each and every right or remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing upon the occurrence of any event of default hereunder. The failure of any Party to insist at any time upon the strict observance or performance of any of the provisions of this Agreement or to exercise any right or remedy as provided in this Agreement shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof. Every right and remedy given by this Agreement to the Parties hereto may be exercised from time to time and as often as may be deemed expedient by the parties hereto, as the case may be.

(k) Ohio Laws. Any reference to a section or provision of the Constitution of the State, or to a section, provision or chapter of the Ohio Revised Code shall include such section, provision or chapter as modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this paragraph if it constitutes in any way an impairment of the rights or obligations of the Parties under this Agreement.

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

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

(n) Survival of Representations and Warranties. All representations and warranties of the Parties in this Agreement shall survive the execution and delivery of this Agreement.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURE PAGES FOLLOW)

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 and Correctness:

By:_____

Printed: Stephen J. Smith

Title: Law Director

Date:_____

FISCAL OFFICER'S CERTIFICATE

The undersigned, 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 2014 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: _____, 2014

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

CASTO TULLER LLC,
an Ohio limited liability company

By:_____

Printed:_____

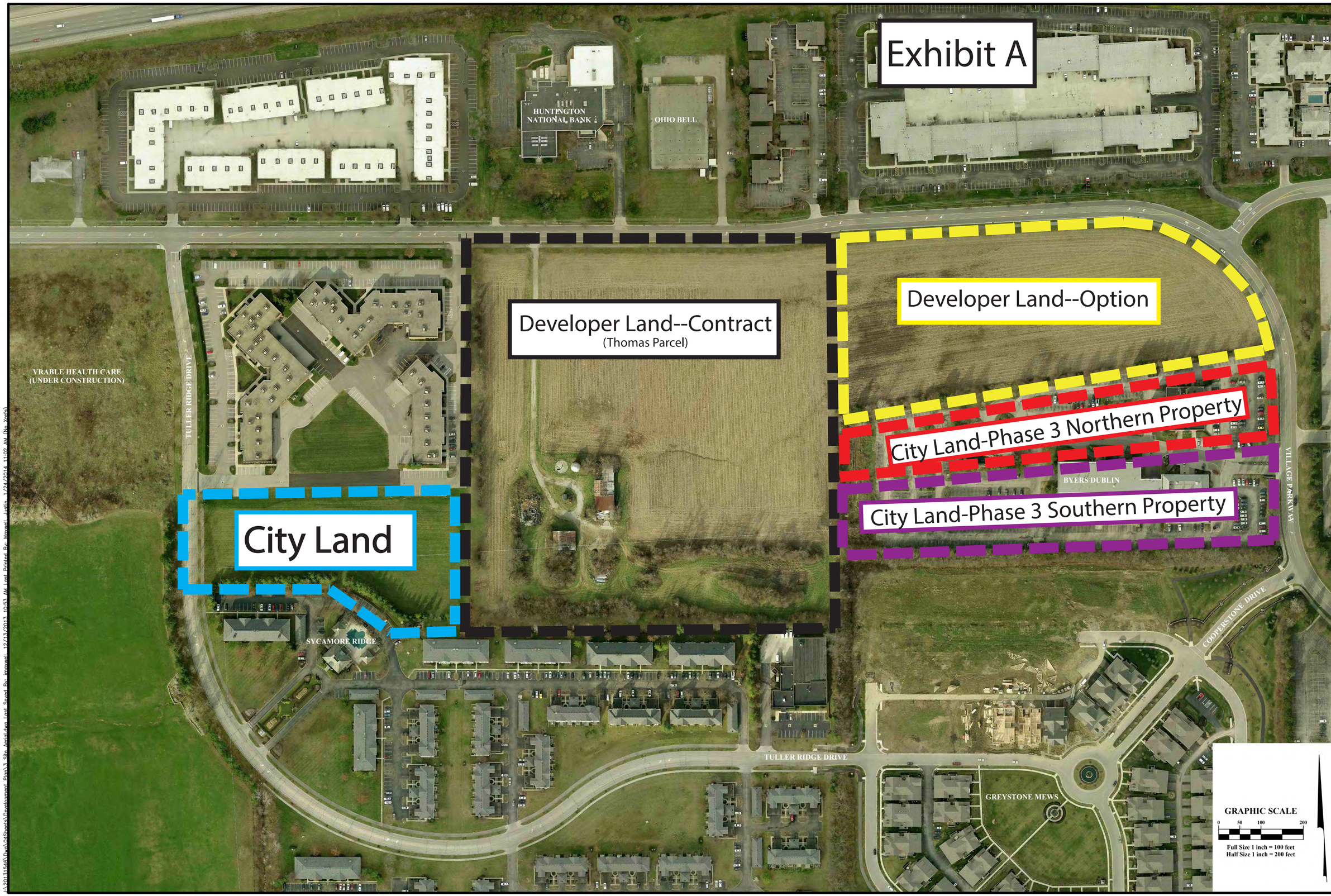
Title:_____

Date:_____

EXHIBIT A

DEPICTION OF PROPERTY OWNERSHIP

[This Depiction will only highlight the portion of the Property currently owned by the City and the portion of the Property to be acquired by the Developer]



REVISIONS

MARK	DATE	DESCRIPTION

CASTO

CITY OF DUBLIN, FRANKLIN COUNTY, OHIO
DEVELOPMENT PLAN
FOR
TULLER ROAD
SITE AERIAL

EMH&T
Evans, Mechwart, Hambleton & Tilton, Inc.
Engineers • Surveyors • Planners • Scientists
5500 New Albany Road, Columbus, OH 43054
Phone: 614.775.4500 Toll Free: 888.775.3648
emht.com

DATE
January 24, 2014

SCALE
Full Size: 1" = 100'
Half Size: 1" = 200'

JOB NO.
2013-1546

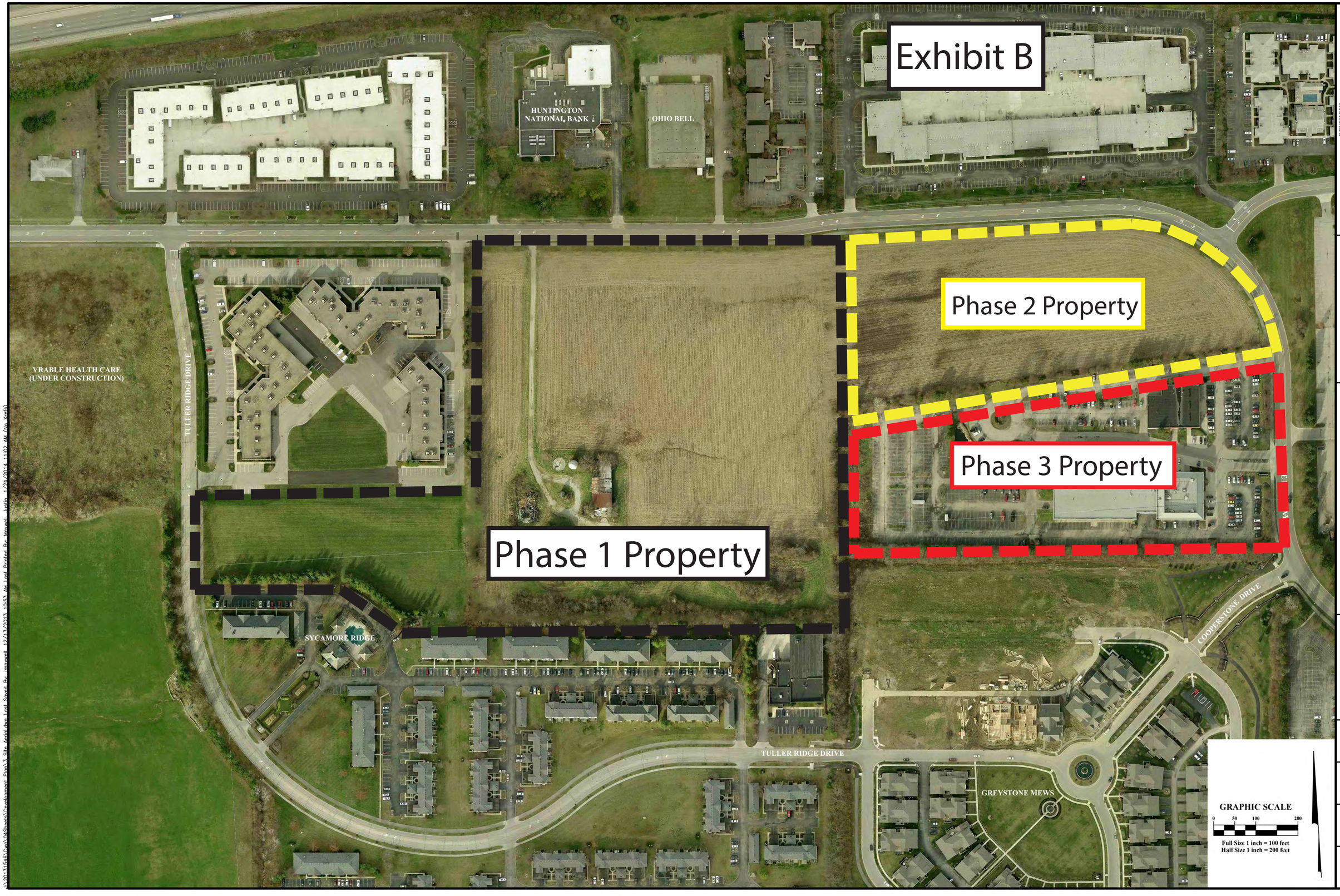
SHEET
3/18

J:\2013\1546\Dwg\06Sheets\Development Plan\3_Site Aerial.dwg Last Saved By: mowell 12/13/2013 10:53 AM Last Printed By: Mowell, Justin 1/24/2014 11:02 AM (No Xrefs)

EXHIBIT B

DEPICTION OF PROPERTY DEVELOPMENT PHASES

[This Depiction will only highlight the phasing of the development across the Property]



REVISIONS

MARK	DATE	DESCRIPTION

CASTO

CITY OF DUBLIN, FRANKLIN COUNTY, OHIO
DEVELOPMENT PLAN
FOR
TULLER ROAD
SITE AERIAL

EMH&T
Evans, Mechwart, Hambleton & Tilton, Inc.
Engineers • Surveyors • Planners • Scientists
5500 New Albany Road, Columbus, OH 43054
Phone: 614.775.4500 Toll Free: 888.775.3648
emht.com

DATE
January 24, 2014

SCALE
Full Size: 1" = 100'
Half Size: 1" = 200'

JOB NO.
2013-1546

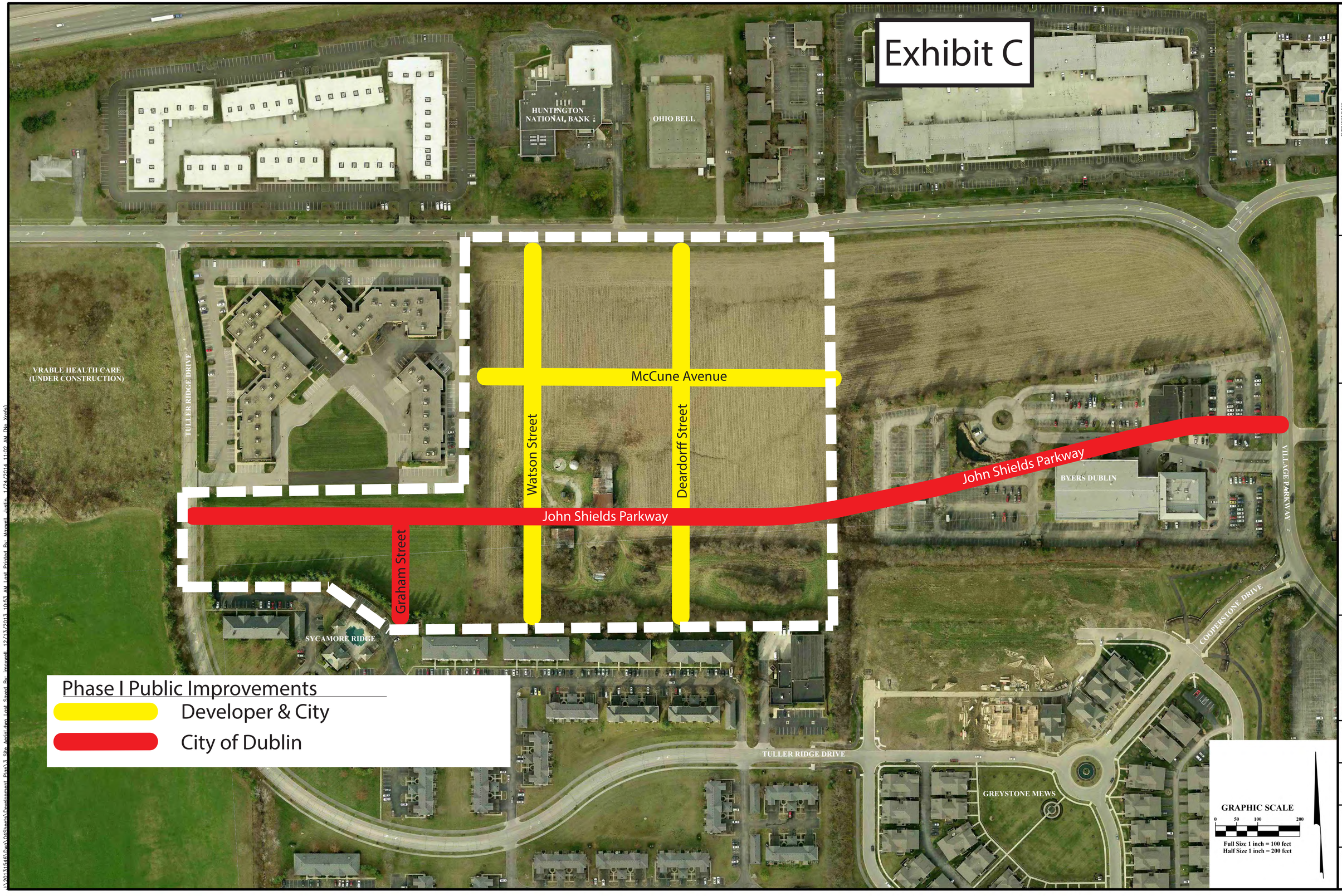
SHEET
3/18

EXHIBIT C-1

DEPICTION OF PUBLIC IMPROVEMENTS

[This Depiction will only highlight the Public Improvements to be constructed on the Property]

Exhibit C



REVISIONS			
MARK	DATE	DESCRIPTION	

CASTO

CITY OF DUBLIN, FRANKLIN COUNTY, OHIO
DEVELOPMENT PLAN
FOR
TULLER ROAD
SITE AERIAL

EMH&T
Evans, Mechwart, Hambleton & Tilton, Inc.
Engineers • Surveyors • Planners • Scientists
5500 New Albany Road, Columbus, OH 43054
Phone: 614.775.4500 Toll Free: 888.775.3648
emht.com

DATE
January 24, 2014

SCALE
Full Size: 1" = 100'
Half Size: 1" = 200'

JOB NO.
2013-1546

SHEET
3/18

EXHIBIT C-2

DESCRIPTION OF PUBLIC IMPROVEMENTS

The following Public Improvements must be designed and built in a manner that is consistent with the requirements of the Bridge Street District Area Plan included in the City's Community Plan as approved by Dublin City Council and associated zoning and development regulations and conditions of approval of applicable applications for development:

Public Improvements:

1) The installation and construction of John Shields Parkway between the termini as shown in the preceding **EXHIBIT C-1**.

2) The installation and construction of Graham Street between the termini as shown in the preceding **EXHIBIT C-1**.

3) The installation and construction of McCune Avenue between the termini as shown in the preceding **EXHIBIT C-1**.

4) The installation and construction of Watson Street between the termini as shown in the preceding **EXHIBIT C-1**.

5) The installation and construction of Deardorf Street between the termini as shown in the preceding **EXHIBIT C-1**.

In addition to pavement, curbs, and other improvements, the aforementioned street improvements that are part of Public Improvements include, but are not limited to, the following improvements if and to the extent located in the public right of way or easements dedicated to the City: sidewalks, bicycle facilities, landscaping, street trees, street lighting, utilities installation, burial and relocation, water, storm sewer, sanitary sewer and stormwater management facilities, fiber optics, and tie-ins to existing parking fields, etc., all as further set forth in the Constuction Documents defined in the Infrastructure Agreement.

Further, the public infrastructure improvements that are expected to be identified in the TIF Ordinance as directly benefitting the TIF Property will include, but shall not be limited to, the Public Improvements described in this **EXHIBIT C-2**. Examples of additional public infrastructure improvements that may be included in the TIF Ordinance but are outside of the scope of the Public Improvements may include, but are not limited to, constructing and installing streets, turn lanes, bridges or tunnels, any pumping mechanisms required for a tunnel or other items as necessary, retaining walls, railing, curbs and gutters, public utilities which include water mains, fire hydrants, sanitary sewer, storm sewer and water improvements, lighting, burial of utility lines, gas, electric and communications service facilities (including fiber optics), street lighting and signs, business signage restoration or improvements, medians, viaducts, sidewalks, bikeways, and landscaping (including scenic fencing and irrigation), traffic signs and signalization, erosion and sediment control measures, grading, drainage and other related work, and including design and other related costs, preparation of environmental documents,

engineering, any right-of-way or real estate acquisition, survey work, soil engineering, inspection fees and construction staking, any other necessary site improvements, and in each case, all other costs and improvements necessary and appurtenant thereto.

Nothwithstanding the foregoing, **Exhibit C-3** to the Agreement sets forth the agreed upon improvements and specifications for Watson Street, McCune Avenue, and Deardorff Street.

EXHIBIT C-3

SPECIFICATIONS OF PUBLIC IMPROVEMENTS

Exhibit C - 3

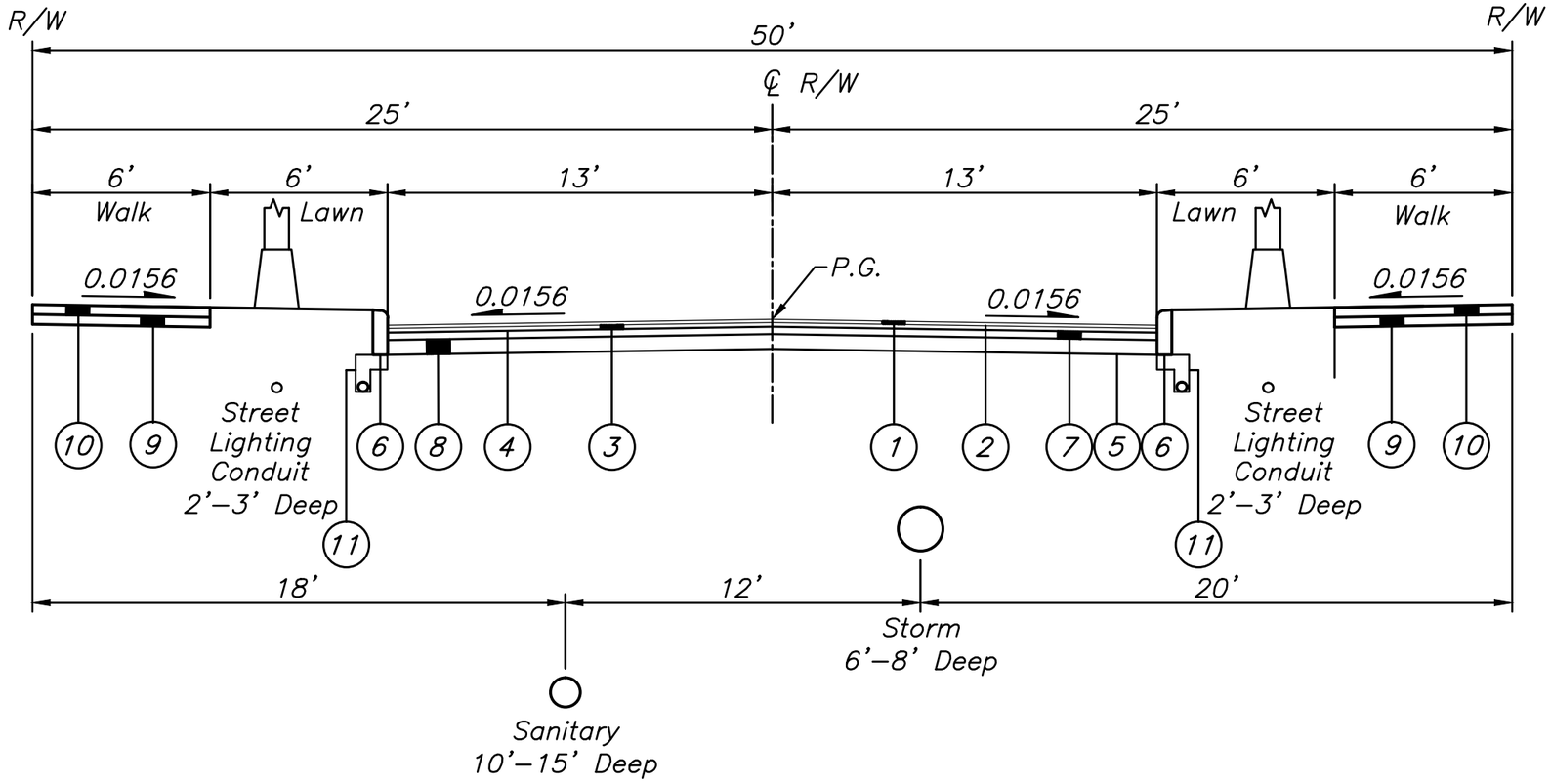
Tuller Flats 50' R/W

Preliminary Estimate of Project Cost

Description	Estimated Cost/ Linear Foot
Roadway Subtotal	$254
Granite Curb Subtotal	$112
Erosion Control Subtotal	$28
Drainage Subtotal	$207
Pavement Subtotal	$118
Traffic Control Subtotal	$17
Lighting Subtotal	$70
Street Trees Subtotal	$50
Sanitary Sewer Subtotal	$120
Water Quality & Detention Subtotal	$72
Miscellaneous Subtotal	$74
Construction Cost Total	**$1,122**
Contingency	$112
Design & Surveying	$135
Project Management	$67
TOTAL COST INCL. SOFT COSTS	**$1,436**

*** Note City Inspection Fees and Plan Review will be reimbursed as TIF revenue becomes available.**

Street	Linear Foot	Total Cost
Watson	857	1,230,789
McCune	857	1,230,789
Deardorff	857	1,230,789
	2571	3,692,367
	Developer Funded	1,150,000
	City Funded	2,500,000



Graham, Watson, Deardorf & McCune (50' R/W)

LEGEND

1. Item 448 – 1.25" Asphalt Concrete Surface Course (Medium Traffic), PG64–22
2. Item 407 – NTSS–1HM Trackless Tack Coat for Intermediate Course (0.06 Gal/Sq. Yd.)
3. Item 448 – 1.75" Asphalt Concrete Intermediate Course (Medium Traffic), PG64–22
4. Item 407 – NTSS–1HM Trackless Tack Coat (0.08 Gal./Sq. Yd.)
5. Item 204 – Subgrade Compaction and Proof Rolling
6. Item 609 – Granite Curb (18" x 6")
7. Item 301 – 3" Asphalt Concrete Base, PG64–22
8. Item 304 – 6" Aggregate Base
9. Item 304 – 4" Aggregate Base
10. Item 608 – 4" Concrete Walk
11. Item 605 – 4" Underdrain

DATE: December 4, 2014

SCALE: 1" = 5'

JOB NO.: 2013-1546

CITY OF DUBLIN, FRANKLIN COUNTY, OHIO
EXHIBIT
FOR
TULLER FLATS
50' R/W TYPICAL SECTION

EMHT
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EXHIBIT D

FORM OF DECLARATION

TAX INCREMENT FINANCING DECLARATION OF COVENANTS

This TAX INCREMENT FINANCING DECLARATION OF COVENANTS (this "*Declaration*") is made by [NAME OF CASTO ENTITY], an Ohio limited liability company having its address at 250 Civic Center Drive, Suite 500, Columbus, Ohio 43215 (the "*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 **ATTACHMENT A** (with each parcel as now or hereafter configured, a "*Parcel*", and collectively, the "*Parcels*"), having acquired such fee simple title by instrument No. _____ recorded in the Official Records of the Office of the Recorder of Franklin County, Ohio (the "*County Recorder*"), as O.R. _____, Page _____; and

WHEREAS, the Declarant contemplates making or having made private improvements to the Parcels; and

WHEREAS, the City, by its Ordinance No. _____ passed _____, 2014 (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][5709.41] 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][5709.41], 5709.42 and 5709.43 (collectively, the "*TIF Statutes*") and the Ordinance; and

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

WHEREAS, the 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*") which Service Payments will be used to make payments to the Dublin City School District and Tolles Career and Technical Center and to pay costs of the Public Improvements, 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 _____, 2014 (the "*Agreement*"), a copy of which may be

obtained from the office of the City Manager of the City at 5200 Emerald Parkway, Dublin, Ohio 43017; and

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

WHEREAS, this Declaration is being made and filed of record pursuant to Section 5 of that Agreement.

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

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

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

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

Section 4. **Minimum Service Payments.** In addition to the obligation to make Service Payments, the Owners agree to a minimum service payment obligation (the "*Minimum Service Payment Obligation*") for each Parcel owned by such respective Owner, 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 Owners agree that the Minimum

Service Payment Obligation constitutes a minimum service payment obligation under Ohio Revised Code Section 5709.91 and shall be supported by a lien on the Parcels pursuant to Ohio Revised Code Sections 5709.91 and 323.11. The total Minimum Service Payment Obligation due for all Parcels for any calendar year will be an amount equal to (a) $20 million (which represents Developer's guaranteed minimum market value for the Phase 1 Property) multiplied by 35% and further multiplied by the then current applicable real property tax rate for the Parcels less (b) the sum of Service Payments and Property Tax Rollback Payments anticipated to be collected by the City in that calendar year under the TIF Ordinance and in respect of the Property; *provided* that the Minimum Service Payment Obligation shall not equal less than zero dollars. For the limited purpose of illustrating the correct manner in which to perform the calculation in subsection (i), if the effective tax rate is 100.25466 mills, then the calculation would be as follows: $20,000,000 x .35 x 0.10025466 = $701,782.59. The foregoing Minimum Service Payment Obligation shall no longer apply to the Developer at such time as the appraised value of the Property, as determined from time-to-time by the Franklin County, Ohio Auditor, equals 130% (i.e., $26 million) or more of the value used to calculate the Minimum Service Payment Obligation (i.e., $20 million) as detailed above for a period of four (4) consecutive tax years. The Minimum Service Payment Obligation is effective commencing with the First Year of Minimum Service Payments (as defined in this paragraph) and continuing until the first date when the cost of the Public Improvements (as defined in the Agreement, but not including the costs of any other public infrastructure improvements that are not included within this definition.) has been paid in full (including the retirement of any related City securities) and all reimbursements have been remitted to relevant parties from Service Payments as contemplated in the Agreement. The "*First Year of Minimum Service Payments*" shall be the fourth full calendar year next succeeding the calendar year in which the first building permit is issued for a structure on the Parcels. *For example*, if the first building permit is issued in 2015, the first Minimum Service Payment would be computed based on the applicable real property tax rates for tax year 2018 with the Minimum Service Payment being due and payable in 2019.

Each 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 and then multiplied by the Minimum Service Payment Obligation. If a Minimum Service Payment Obligation exists with respect to a Parcel in any calendar year, the City will prepare and send an invoice for the amount of the Minimum Service Payment Obligation for that Parcel (such amount, the "*Minimum Service Payments*") to the Owner for that 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 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 foreclose the lien created by this Declaration (such as a property tax foreclosure action), and provided that the Parcel is still

subject to the Minimum Service Obligation at the time that such foreclosure becomes effective, 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 (until the TIF Exemption terminates) 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 5. **Preservation of Exemption**. Notwithstanding anything to the contrary set forth in this Agreement, neither City nor any Owner, nor their respective successors, assigns or transferees, shall take any action that may endanger or compromise the status of or cause the revocation of the TIF Exemption, including, without limitation, the conversion of the multi-family apartments to condominiums.

Section 6. **Failure to Make Payments**. Should any Owner of any Parcel fail to make any payment required hereunder, such Owner shall pay, in addition to the payments it is required to pay hereunder, such amount as is required to reimburse the City for any and all reasonably and actually incurred costs, expenses and amounts (including reasonable attorneys' fees) required by the City to enforce the provisions of the Agreement and this Declaration against that Owner.

Section 7. **Prohibition of Conversion of Multi-Family Units.** The Owners will not convert any portion of any apartment development located upon the Parcels into a condominium development or development other than one subject to real property taxation as commercial property during the period of the TIF Exemption for the Parcels. More specifically, no condominium conversion shall occur on the Parcels until 30 years after the effective date of the TIF Exemption established by the Ohio Department of Taxation for the Parcels unless otherwise agreed by the City and the Developer in a written and recorded amendment to this Declaration. A "*condominium conversion*" means the conversion of ownership of any units in a residential housing building consisting of two or more units or the conversion of any residential housing building that is or was previously occupied as a rental residential unit or building to single ownership in which a residential unit or the residential building may be sold individually. In the event that any Owner converts the multi-family units located on a Parcel in contravention of this covenant, and provided that the Parcel is still subject to the Minimum Service Obligation at the time that such foreclosure becomes effective, 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 8. **Exemption Applications.** Each Owner 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 Owners authorize the City to file any applications necessary to obtain from time to time the TIF Exemption for each Parcel it owns.

Section 9. **Provision of Information.** The Owners agree 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 the compliance of each Owner with the terms of this Declaration during the term of the TIF Exemption for the Parcel.

The Owners further agree 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)][5709.41(E)] to the Director of the Ohio Development Services Agency on or before March 31 of each year.

Section 10. **Nondiscriminatory Hiring Policy.** The Owners agree 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 Owner agrees that it will not deny any individual employment solely on the basis of race, religion, sex, disability, color, national origin or ancestry.

Section 11. **Covenants to Run With the Land.** The Owners agree that each of their covenants contained in this Declaration 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 each Parcel, as applicable, 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 Owners further agree that all covenants herein, whether or not these covenants are included by any owner of a Parcel in any deed to that owner's successors and assigns, are binding upon each subsequent owner and are enforceable by the City, and that any future owner of that Parcel, or any successors or assigns of an Owner, will be treated as a Declarant, with respect to that Parcel for all purposes of this Declaration.

The Owners further agree that their 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. At any time when this Declaration is no longer in effect, the City agrees to cooperate with any reasonable request by the Owner(s) to execute (for recording by such Owner(s)) an instrument to evidence this fact.

Each Owner further agrees that, unless otherwise agreed by the City in a written and recorded amendment to this Declaration, the covenants herein have priority over any other lien or encumbrance on any Parcel it owns and any improvements thereon, except for encumbrances, easements and restrictions applying to such Parcels and of record at the time that this Declaration is recorded, except that, each Owner will cause any and all holders of mortgages or other liens existing on each Parcel it owns as of the time of recording of this Declaration to subordinate such mortgage or lien to 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, each Owner 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 Permitted Encumbrances.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed and effective as of _____, 2014.

[CASTO TULLER LLC]

By:_____

Printed:_____

Title:_____

STATE OF OHIO)
) ss
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2014, by _____, _____ of [Casto Tuller 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: Christopher J. Franzmann, Esq.
Squire Patton Boggs (US) LLP
41 S. High Street, Suite 2000
Columbus, Ohio 43215

EXHIBIT E

DEPICTION OF PARK AND OPEN SPACES

Exhibit E

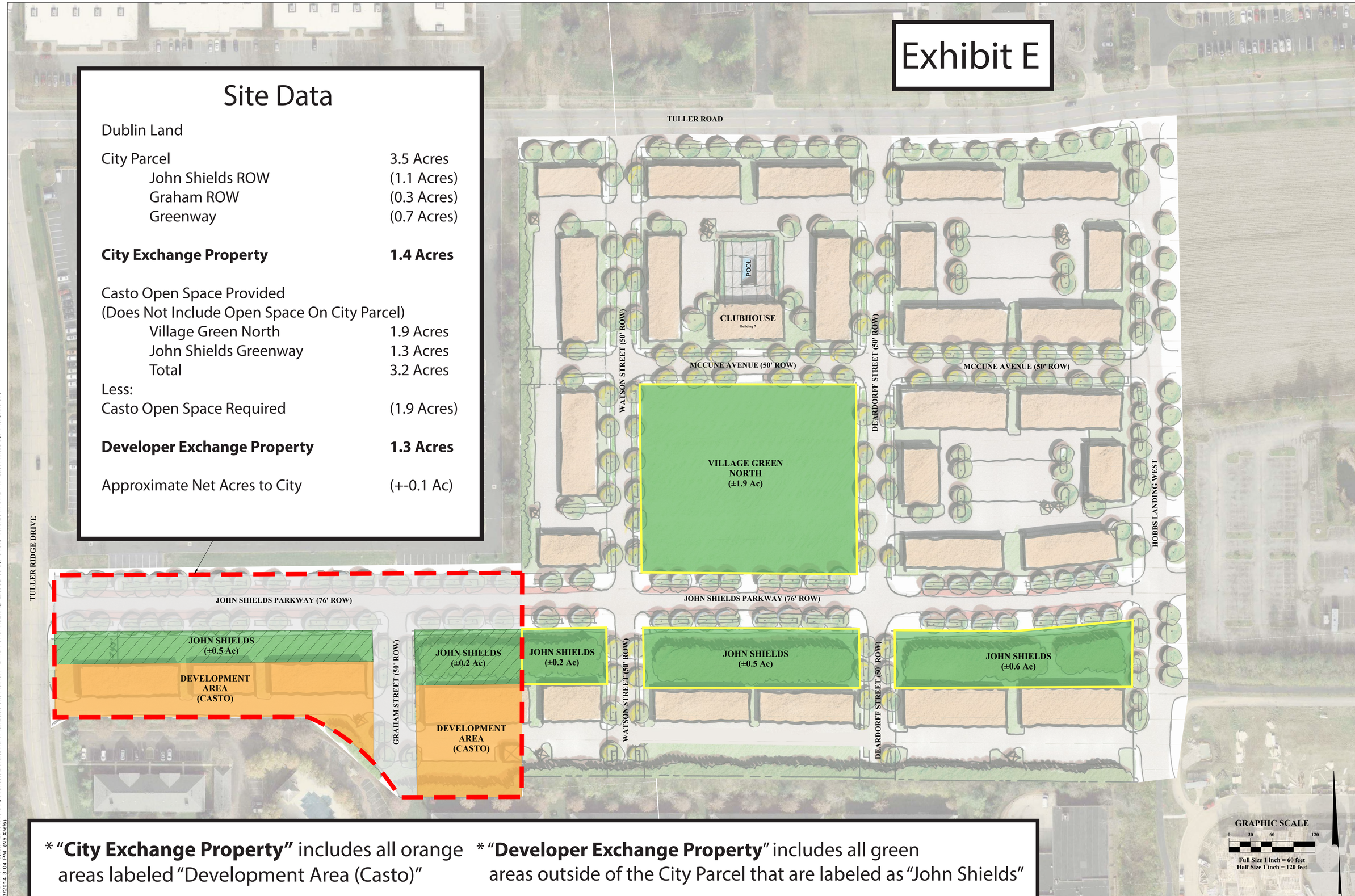
Site Data

Dublin Land

City Parcel	3.5 Acres
John Shields ROW	(1.1 Acres)
Graham ROW	(0.3 Acres)
Greenway	(0.7 Acres)
City Exchange Property	**1.4 Acres**

Casto Open Space Provided
(Does Not Include Open Space On City Parcel)

Village Green North	1.9 Acres
John Shields Greenway	1.3 Acres
Total	3.2 Acres
Less:	
Casto Open Space Required	(1.9 Acres)
Developer Exchange Property	**1.3 Acres**
Approximate Net Acres to City	(+-0.1 Ac)



* "**City Exchange Property**" includes all orange areas labeled "Development Area (Casto)"

* "**Developer Exchange Property**" includes all green areas outside of the City Parcel that are labeled as "John Shields"

REVISIONS

MARK	DATE	DESCRIPTION

CASTO

CITY OF DUBLIN, FRANKLIN COUNTY, OHIO
BASIC SITE PLAN
FOR
TULLER FLATS
CITY PARCEL

EMH&T
Evans, Mechwart, Hambleton & Tilton, Inc.
Engineers • Surveyors • Planners • Scientists
5500 New Albany Road, Columbus, OH 43054
Phone: 614.775.4500 Toll Free: 888.775.3648
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DATE
October 3, 2014

SCALE
Full Size: 1" = 50'
Half Size: 1" = 120'

JOB NO.
20131546

SHEET
SP-2

\\CMHDATA01\Project\01\20131546\Dwg\04Sheets\Development Plan\Basic Site Plan\CITY LAND PURCHASE.dwg Last Saved By: aflick, 10/3/2014 3:42 PM Last Printed By: Flick, Andrew, 10/3/2014 3:04 PM (No Xrefs)