



Office of the City Manager
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Memo

To: Members of Dublin City Council
From: Dana L. McDaniel, City Manager
Date: June 4, 2015
Initiated By: Terry Foegler, Director of Strategic Initiatives and Special Projects
Philip K. Hartmann, Assistant Law Director
Re: Ordinance No. 40-15 - Authorizing COTA Real Estate Exchange Agreements

Background

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

Although significant pieces of the needed right-of-way will likely be provided by private development projects as they are implemented (as is moving forward with the Casto Tuller Flats project), some sites (like the Byers and Wendy's sites mentioned above) will require City acquisition. Another such property requiring City acquisition for the future extension of Bridge Park Avenue is the current COTA Park and Ride facility on Dale Drive. The City has been working closely with officials from COTA for some time to identify an alternate site for the current Park and Ride facility, as well as to negotiate the terms of a land exchange that would provide the current COTA site to the City for needed right-of-way, and provide a future COTA Park and Ride facility elsewhere in Dublin. The proposed Real Estate Exchange Agreement being authorized by Ordinance 40-15 provides the location, framework and business terms for accomplishing both the needed land exchange and the development of a new Park and Ride Facility.

Development and Land Exchange Agreement

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

Options for the relocated Park and Ride were explored with COTA officials, including the possibilities for using existing excess City-owned land. As a result of these efforts, a soon-to-be city-owned site located very near the current Park and Ride Facility has been identified as the appropriate location, and is acceptable to COTA. The permanent site includes approximately 0.815 acres and is located 300 feet east of the current location. In addition, in order to be able to move more quickly and avoid some of the expected traffic disruption associated with the major city roadway projects progressing in the area (Riverside Drive realignment and the SR 161 /Riverside Drive roundabout), COTA has agreed to temporarily relocate to the City-owned land on Village Parkway, on a portion of the former Byer automobile dealership. The terms of this temporary relocation to the former Byers site are included within the attached License Agreement. Both the temporary and permanent locations will require the approval of conditional use permits to allow Park and Ride facilities, and those reviews are scheduled to go before the Planning Commission on June 11.

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

- COTA delivers its "COTA Parcel" as shown in Exhibit A of the attached Real Estate Purchase Agreement, located on Dale Drive, to the City of Dublin. The goal is to complete this purchase by June 23 of this month.
- City of Dublin provides the "City Exchange Property" shown in Exhibit C of the same agreement to COTA for a new Park and Ride facility (approximately 84 spaces). The city would proceed immediately with the design of the planned improvements, with completion estimated by June 30, 2016.
- City oversees the design and construction of new Park and Ride facility on the new site, and pays the costs associated with replacing the 84 parking spaces being lost on the current COTA Park and Ride facility.
- Current design and construction cost estimates (based on preliminary design concepts) indicate that the cost of the entire 84-space facility will be \$800,000 to \$850,000.
- Regarding the temporary relocation to the former Byers Site, the City will have the improvements for the relocation to Byers completed by August 15, 2015. COTA would continue its operations on its current site until those improvements to the Byers site are completed. The estimated cost for these short term improvements is under \$75,000. A second move on the Byers site will occur when the city begins its utility construction work associated with the new John Shields Parkway next fall, but the costs associated with that move are incidental. Plans for both temporary relocations to the "Interim Sites" are depicted in Exhibit A of the License Agreement.

Although there may be some minor final proposed refinements to the Agreements provided at Council's second reading of Ordinance 40-15, but these are not anticipated to be substantive.

Recommendation

Staff recommends approval of Ordinance 40-15 by emergency at the second reading/public hearing on June 22, 2015.

RECORD OF ORDINANCES

40-15

Ordinance No. _____

Passed _____, 20____

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A REAL ESTATE EXCHANGE AGREEMENT AND THE NECESSARY CONVEYANCE DOCUMENTATION TO ACQUIRE 1.20 ACRES, MORE OR LESS, FEE SIMPLE INTEREST FROM THE CENTRAL OHIO TRANSIT AUTHORITY ("COTA") LOCATED ADJACENT TO AND NORTH OF DALE DRIVE IN EXCHANGE FOR 0.815 ACRES, MORE OR LESS, TO BE OWNED BY THE CITY LOCATED ADJACENT TO AND WEST OF DALE DRIVE AND NORTH OF STATE ROUTE 161 FOR THE REPLACEMENT OF A COTA PARK AND RIDE, AND DECLARING AN EMERGENCY.

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

WHEREAS, COTA is the owner of certain real property consisting of approximately 1.205 acres of land, known as Franklin County Auditor's Tax Parcel Identification Number 273-009155 (the "COTA Exchange Property" as depicted on Exhibit "A" of the Real Estate Exchange Agreement); and

WHEREAS, the City filed an eminent domain action on August 12, 2014 styled Dublin v. Dale Drive Properties, et al. (14-CV-008369) ("Dale Drive Matter") to acquire a property from a parcel, which is directly adjacent to the east of the COTA Exchange Property for the purpose of constructing a north and south road connection between the existing Tuller Ridge and Dale Drive; and

WHEREAS, the City intends to transfer approximately 0.815 acres of the Dale Drive property as depicted in Exhibit "C" ("City Exchange Parcel") of the Real Estate Exchange Agreement in exchange for the COTA Exchange Property. The transfer of the City Exchange Parcel will occur within thirty (30) days after the City secures title in the Dale Drive matter; and

WHEREAS, this settlement is brought about by the City's need to acquire the COTA Exchange Property, which currently is utilized as a Park and Ride, for the construction of a new east-west roadway that will eventually establish an important connection from relocated Riverside Drive to Sawmill Road, as depicted in the City's Thoroughfare Plan; and

WHEREAS, the City will construct a replacement park and ride on the City Exchange Parcel; and

WHEREAS, the City and COTA now desire to approve the attached Real Estate Exchange Agreement and accompanying temporary License Agreement.

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

Section 1. City Council hereby approves the attached Real Estate Exchange Agreement and accompanying temporary License Agreement with COTA.

Section 2. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City, and for the further reason that this Ordinance is required to be immediately effective in order to facilitate the orderly and timely development of the public infrastructure improvements enumerated herein. This ordinance shall therefore be in full force and effect immediately upon its passage.

Passed this _____ day of _____, 2015.

Mayor – Presiding Officer

ATTEST:

Clerk of Council

REAL ESTATE EXCHANGE AGREEMENT

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

Background Information

A. COTA is the owner of certain real property consisting of approximately 1.205 acres of land, known as Franklin County Auditor's Parcel Identification Number 273-009155 (the "COTA Parcel"), as depicted on Exhibit "A" and incorporated herein and made a part hereof.

B. The City needs to acquire the COTA Parcel for the construction of a new east-west roadway, *inter alia*, that will eventually establish an important connection from relocated Riverside Drive to Sawmill Road, as depicted in the City's Thoroughfare Plan.

C. The City is the owner of certain real property consisting of approximately 9.922 acres of land, which is part of Franklin County Auditor's Parcel Identification Number 273-009088. The City agrees to relocate COTA as necessary to portions of this parcel (the "Interim Parcels") as outlined in Exhibit "B1 and B2", through the use of a mutually agreed upon license, for a period currently estimated at twelve (12) or less months to allow the City to move forward with its proposed improvements and provide COTA uninterrupted park and ride services in this area of the City.

D. The City filed an eminent domain action on August 12, 2014 styled Dublin v. Dale Drive Properties, et al. (14-CV-008369) ("Dale Drive Matter") to acquire certain property from a parcel which is directly adjacent to the east of the COTA Parcel for the purpose of constructing a north and south road connection between the existing Tuller Ridge and Dale Drive.

E. A portion of the parcel in the Dale Drive Matter consists of approximately 0.815 acres (the "City Parcel") and the City intends to transfer this portion to COTA in exchange for the COTA Parcel. The transfer of the City Parcel will occur within thirty (30) days after the City secures title in the Dale Drive Matter. The City will use its best efforts to secure title for City Parcel within the pending eminent domain action as soon as possible, including among other approaches, proposing to the court the bifurcation of the final financial settlement from the transfer of title to the City, as a means of helping transfer title of the site to COTA at the earliest possible date. Under no circumstances shall COTA experience an interruption in its transit services as a result of the City while waiting for completion of construction on the City Exchange Parcel.

F. Additionally, the City owns a portion of right of way adjacent to the southwest corner of this property and agrees to vacate a portion of this right of way as may be deemed necessary by the Parties for the build out and use of the property as a park and ride.

G. The City agrees to act as the applicant before the City's Planning and Zoning Commission and/or other bodies to obtain any and all zoning, conditional use approvals and other permits as may be necessary to allow the Interim Parcels and the City Parcel to be utilized by COTA as a park and ride as substantially depicted in Exhibit "C". COTA will fully cooperate and support these efforts by the City.

H. The City simultaneously with the pursuit of the conclusion of the Dale Drive Matter will continue to finalize the design of the park and ride on the City Parcel with COTA's input and approval.

I. COTA and the City agree to close on the COTA Parcel by no later than June 24, 2015, and agree to use their best efforts to close prior to that date.

J. The City at its sole cost and expense will construct a replacement park and ride on the City Parcel. COTA and the City agree to work together in good faith to have the park and ride completed within twelve (12) months of the closing on the COTA Parcel. The City guarantees access to COTA employees and passengers to the City Parcel upon completion of the park and ride at no additional expense to COTA.

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

Statement of Agreement

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

ARTICLE I **PREPARATION AND MOVE TO INTERIM PARCELS**

1.01 COTA's Move to City Interim Parcels: On a date mutually agreeable to the Parties, but no later than August 15, 2015 if the City has completed the agreed upon Phase 1 improvements to the interim parcel depicted in Exhibit B1, COTA agrees to cease any and all operations on the COTA Parcel and move to the interim parcel depicted in Exhibit B1.

On a date mutually agreeable to the Parties, but no later than November 15, 2015 if the City has completed the agreed upon Phase 2 improvements to the interim parcel

depicted in Exhibit B2, COTA agrees to cease any and all operations on the COTA Parcel and move to the interim parcel depicted in Exhibit B2.

1.02 City Improvement of Interim Parcels: The City and COTA have explored the feasibility of providing a satisfactory interim park and ride facility on the City Interim Parcels, and agree that the site is suitable for such a purpose. The Parties will agree upon a plan for the improvements to this site as depicted in Exhibit B1 and B2. The City shall perform all improvements necessary to allow the use of the Interim Parcels as a park and ride while the new facility is being constructed on the City Parcel and make such Interim Parcels available to COTA at no cost.

1.03 Insurance: COTA hereby represents that it has comprehensive public liability insurance, property damage insurance and workers compensation insurance in full force and effect with a reputable insurance carrier, registered to do business in Ohio that would cover any and all claims related to COTA's use of the Interim Parcels as a park and ride. Notwithstanding the foregoing, COTA may self-insure any and all of the insurance requirements set forth in this agreement.

ARTICLE II **EXCHANGE OF LAND**

2.01 Transfer. The City hereby agrees that it shall cause the City Parcel to be transferred and deeded to COTA, and COTA hereby agrees that it shall cause the COTA Parcel to be transferred and deeded to the City, upon the terms and conditions of this Agreement.

2.02 Contingencies. This Agreement shall be contingent upon (a) the City obtaining approval of the Agreement by Dublin City Council on or before June 22, 2015 (b) COTA obtaining approval of the Agreement by COTA's Board of Trustees on or before June 24, 2015, (c) the City obtaining the requisite zoning approvals from the City for the City Interim Parcels and the City Parcel so that both parcels can be used as a park and ride during the time periods enumerated herein and (d) the City acquiring title to the City Parcel in the Dale Drive Matter.

2.03 Terms of Sale. The Parties agree that no cash will be paid by or to either Party except as otherwise provided for in this Agreement. The City and COTA agree that the transfer of the properties contemplated herein shall be a money-free exchange, and for the purposes of such exchange, the City Parcel and COTA Parcel shall be considered to be of equal value such that neither Party shall be required to pay a purchase price to the other Party in connection with the transfer of same.

2.04 Closing Date. The COTA Parcel shall be closed and deeded to the City on or before June 24, 2015. The City Parcel shall be closed and deeded to COTA within thirty (30) days following the settlement or final Court resolution or transfer of title for the parcel to the City in the Dale Drive Matter, which Closing dates may be extended in writing by mutual agreement of the Parties and shall be extended by such time. If the closing does not occur on the respective closing date for any reason, then respective Party may, at its option, pursue specific performance of this Agreement.

2.05 Closing Costs. At the closings, the City and COTA shall apportion, adjust, prorate and pay the following items in the manner hereinafter set forth:

A. **Real Estate Taxes and Assessments.** The City shall pay or cause to be paid to the Franklin County Treasurer all delinquent real estate taxes, together with penalties and interest thereon, all real estate taxes for years prior to Closing and real estate taxes for the year of closing, all assessments which are a lien against the City Parcel.

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

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

(ii) All associated cost of recording the general warranty deed transferring title in the COTA Parcel to the City and the City Parcel to COTA;

(iii) The cost of obtaining the City Survey and the COTA Survey; and

(iv) The fee, if any, charged by the Title Insurance Company for closing the transactions contemplated herein.

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

(vi) All other miscellaneous closing costs, if any.

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

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

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

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

2.06 General Warranty Deed. The City and COTA shall convey to the other a fee simple title to the respective parcel by validly executed, recordable general warranty deeds, free and clear of

all liens and encumbrances, except the Permitted Encumbrances applicable to each parcel and as stated within each instrument.

2.07 Possession. Notwithstanding Closing on the COTA Parcel, COTA may continue to occupy the COTA Parcel at no cost to COTA until the interim parcel depicted in Exhibit B1 is prepared for COTA's use as a temporary park and ride to COTA's sole satisfaction without interruption of COTA services. Once the interim parcel depicted in Exhibit B1 improvements are completed to COTA's satisfaction, COTA shall have the right to enter and occupy the Interim Parcel pursuant to a License Agreement that shall be executed simultaneously with this Agreement.

COTA may continue to occupy the interim parcel depicted in Exhibit B1 at no cost to COTA until the interim parcel depicted in Exhibit B2 is prepared for COTA's use as a temporary park and ride to COTA's sole satisfaction without interruption of COTA services. Once the interim parcel depicted in Exhibit B2 improvements are completed to COTA's satisfaction, COTA shall have the right to enter and occupy the interim parcel depicted in Exhibit B2 pursuant to a License Agreement that shall be executed simultaneously with this Agreement.

The Parties anticipate occupancy of the Interim Parcels depicted in Exhibit B1 and B2 lasting no longer than twelve (12) months. COTA acknowledges that significant City roadway improvements are currently underway near the COTA Parcel. The City will ensure that City projects do not materially interfere with COTA's right to operate on the COTA Parcel until such time as the interim parcel depicted in Exhibit B1 is prepared for COTA's temporary occupancy. Additionally, the City will ensure that City projects do not materially interfere with COTA's right to operate on the interim parcel depicted in Exhibit B1 until such time as the interim parcel depicted in Exhibit B2 is prepared for COTA's temporary occupancy.

After closing, the City may, however, sell, plat, seek development approvals and otherwise encumber the COTA Parcel, so long as such actions do not materially interfere with COTA's right to operate on the COTA Parcel as a park and ride until such time as the Interim Parcels are prepared for COTA's temporary occupancy.

2.08 Inspections. The City and any agent or representative of the City shall have the right, at any time after the date of this Agreement to enter the COTA Parcel for any purpose, including, without limitation, inspecting the COTA Parcel and the physical condition of any improvements located on the COTA Parcel provided the City, its agents and representatives do not interfere with COTA's operation of its park and ride.

2.09 Representations and Warranties of COTA. COTA represents and warrants to the City that:

A. COTA possesses full right, power and authority to execute, deliver and perform this Agreement, and when executed all parties possessing an interest in the COTA Parcel shall be lawfully bound pursuant to the terms, covenants and conditions of this Agreement.

B. COTA has and will have on the Closing Date fee simple title to the COTA Parcel, subject only to title commitment exceptions, and COTA has full right and power to convey the COTA Parcel to the City.

C. No lease affects all or any part of the COTA Parcel and no person(s) occupies all or any part of the COTA Parcel.

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

E. Through and until the date of Closing, COTA shall not enter into any easement, lease or other contract pertaining to the COTA Parcel without the prior written consent of the City.

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

2.10 Representations and Warranties of the City. The City represents and warrants to COTA that:

A. The City possesses full right, power and authority to execute, deliver and perform this Agreement, and when executed all parties possessing an interest in the City Parcel shall be lawfully bound pursuant to the terms, covenants and conditions of this Agreement.

B. The City will have on the Closing Date fee simple title to the City Parcel, subject only to title commitment exceptions, and City will have the full right and power to convey the City Parcel to COTA.

C. No lease affects all or any part of the City Parcel and no person(s) occupies all or any part of the City Parcel.

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

E. Through and until the date of Closing, the City shall not enter into any easement, lease or other contract pertaining to the City Parcel without the prior written consent of the City.

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

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

2.12 The Parties Agreement to Take "AS IS." The Parties represents to each other that neither knows or will know, has examined or will examine, and has investigated or will investigate in accordance with the terms of this Agreement to the full satisfaction of the respective Party the physical nature and condition of the respective Parcel, the improvements thereon, and the fixtures and appurtenances annexed thereto, agreed to be transferred to the respective Party hereunder; that neither Party nor any agent, attorney, employee, or representative have made any representation whatsoever regarding the subject matter of this sale, or any part thereof, including (without limiting the generality of the foregoing) representations as to the physical nature or condition of the respective Parcel transferred hereunder; and that the respective Party, in executing, delivering, and/or performing its duties and obligations under this Agreement, does not rely upon any statement and/or information to whomsoever made or given, directly or indirectly, verbally or in writing, by any individual, firm, or corporation as to the

physical nature and condition of the respective Parcel. The Parties agrees to take the respective parcel "AS IS," as of the date hereof reasonable wear and tear excepted.

ARTICLE III
DESIGN AND CONSTRUCTION OF THE PARK AND RIDE

3.01 General Considerations. As additional consideration herein, the City will design and construct a park and ride on the City Parcel at its sole cost and expense.

3.02 Design and Construction of the Park and Ride. The City will use its best efforts to deliver the Park and Ride within twelve (12) months of the closing on the COTA Parcel.

A. Dublin covenants and agrees:

- (1) To hire and manage the design and construction of the park and ride and to award all contracts pursuant to Dublin Charter Section 8.04 (b). COTA, at its sole discretion, may assist the City in determining the lowest, responsive and responsible bidder;
- (2) To timely share in the design and construction of the park and ride with COTA for input and approval. The design will include sufficient parking to replace the existing parking on the COTA Parcel (a minimum of eighty-four (84) parking spaces). Specifically, COTA shall have the right to review and approve the bid specifications making sure the specifications are suitable for COTA's intended use of the City Parcel;
- (3) To conduct a preconstruction conference and invite COTA;
- (4) To vacate, a small portion of right of way adjacent to the southwest corner of this City Parcel as deemed necessary by the mutual approval of the Parties for the build out of the City Parcel as the contemplated park and ride. The City authorizes the City Manger to execute any and all documents needed to cause this vacation to be recorded and effective;
- (5) To exercise or cause to be exercised its normal oversight for construction projects it performs and hire a third party to oversee the construction and provide inspections;
- (6) To make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions hereafter delivered, and do all other things which may be necessary or advisable for the design and construction of the park and ride, all in conformity with all applicable governmental laws, rules and regulations;

- (7) To allow COTA access to the City Parcel upon 24-hours' advance notice following the effective date of this Agreement and access with or without notice at all times once the work commences so long as COTA does not interfere with the construction of the park and ride;
- (8) To warrant that the work shall be free from defects in materials and workmanship for a period of one year after final written acceptance of the work by COTA, not including any damage that is the result of normal wear and tear or misuse by COTA or its customers. To submit to COTA all change orders that have been submitted by the construction contractor for COTA's records;
- (9) To conduct a Phase I environmental study in accordance with the ASTM Standard E 1527-13 to identify known or recognizable environmental liabilities associated with past or present environmental practices and remedy any environmental issues identified in the study prior to the work; and
- (10) To assume and pay for the cost of work as outlined herein.

B. COTA covenants and agrees:

- (1) To review and provide written approval of the scope, schedule, budgets and design documents associated with the park and ride within thirty (10) days of submission;
- (2) To review and provide comments or written approval of submitted design plans of the park and ride within ten (10) calendar days of City submission;
- (3) Upon completion of the construction, the City shall request a final inspection by COTA. If there are items included in the project design and construction that must be completed or remedied by the City, as reasonably determined by COTA in its sole discretion, the City shall perform the work within thirty days (30) to the extent practicable upon being provided with written notice of the same by COTA that identifies the items that remain to be completed. Final completion shall be deemed to have occurred when all work included in the scope of work has passed final inspection by the third party inspector.

ARTICLE IV
NOTICES AND COOPERATION WITH PENDING MATTERS

4.01 Notices. Notice from one Party to another relating to this Agreement shall be deemed effective if made in writing and delivered to the recipient's address set forth below by any of the following means: (i) hand delivery, (ii) registered or certified U.S. mail, postage prepaid, with

return receipt requested, or (iii) Federal Express, UPS, or like overnight courier service. Notice made in accordance with this Section 4.01 shall be deemed delivered when delivered by hand, upon receipt or refusal of receipt if mailed by registered or certified U.S. mail, or the next business day after deposit with an overnight courier service if delivered for next day delivery. The Parties agree that electronic mail shall not constitute a permitted form of notice under this Section 4.01. All notices shall be addressed as follows:

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

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

- B. If intended for the City, to:
City of Dublin
5200 Emerald Parkway
Dublin, Ohio 43017
Attn: Dana McDaniel, City Manager

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

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

4.02 Pending Zoning Matters. Certain development approvals are currently pending before the City Planning and Zoning Commission and City Council that involve the COTA Parcel. COTA agrees to cooperate fully with the City to support and effectuate the pending zoning matter.

4.03 Pending Eminent Domain Dale Drive Matter. The City has taken physical possession of the City Parcel in the pending Dale Drive Matter. The Dale Drive Matter is still pending as an *in rem* proceeding with the only remaining issue to determine the value of the real property taken by the City therein. Notwithstanding the foregoing, COTA agrees, if needed, to cooperate and support the City in such proceedings.

ARTICLE V
MISCELLANEOUS PROVISIONS

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

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

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

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

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

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

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

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

{The remainder of this page is intentionally left blank}

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

CITY:

CITY OF DUBLIN, OHIO,
an Ohio municipal corporation

COTA:

CENTRAL OHIO TRANSIT AUTHORITY
an Ohio Regional Transit Authority

By: _____
Dana L. McDaniel, City Manager

By: _____
W. Curtis Stitt, President and CEO

Approved as to Form and Correctness:

By: _____
Stephen J. Smith, Law Director

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 2015 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: _____, 2015

Angel Mumma
Director of Finance
City of Dublin, Ohio

EXHIBIT "A"

COTA PARCEL

EXHIBIT A

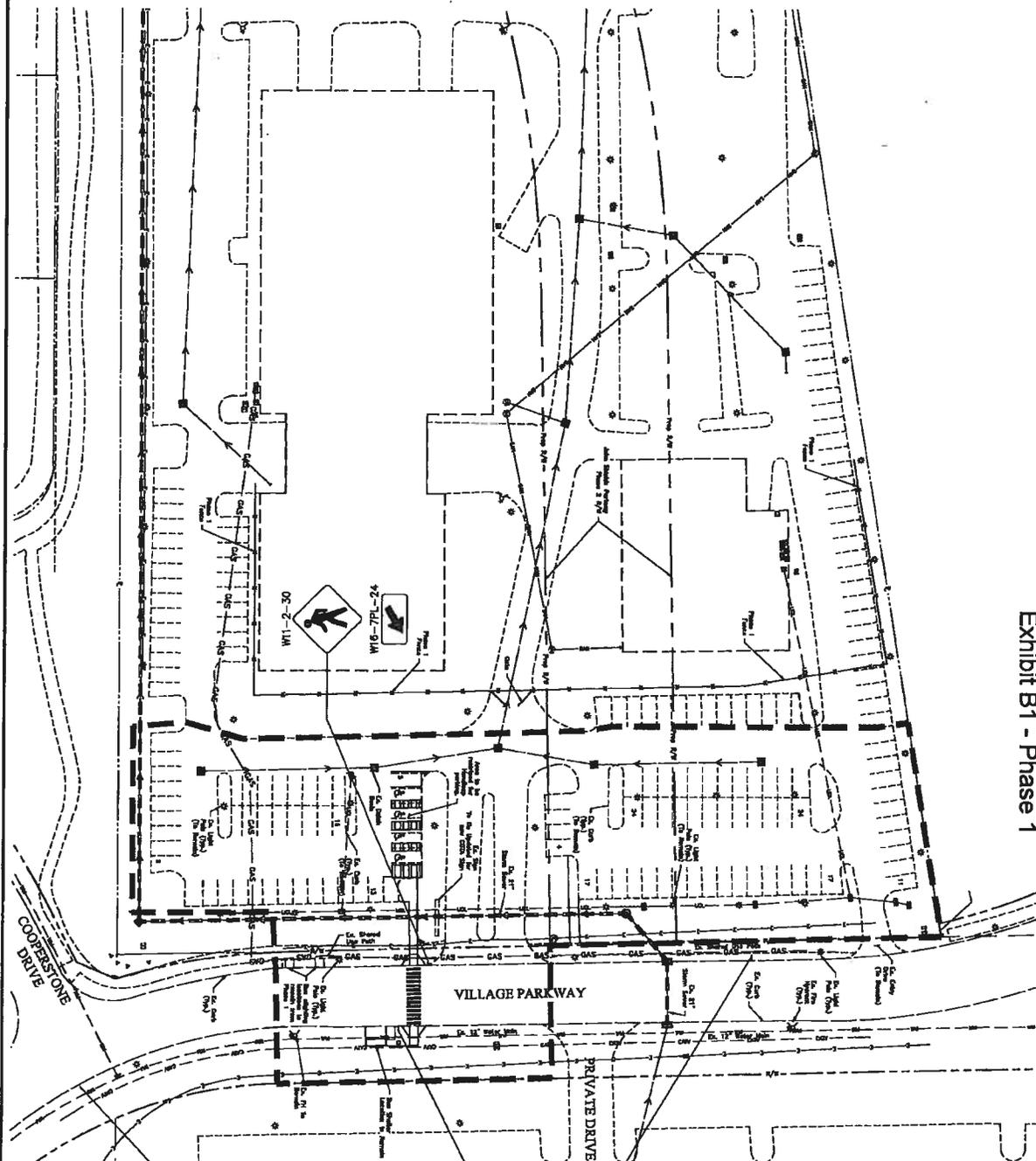
COTA Parcel



EXHIBIT "B1 and 2"

INTERIM PARCELS

Exhibit B1 - Phase 1



PHASE 1 NOTES:
 - Existing signs shall be updated for new COTA sign.
 - Phases 1 and Phase 2 shall be located and signed during Phase 1.
 - Existing landscaping to be removed and replaced.

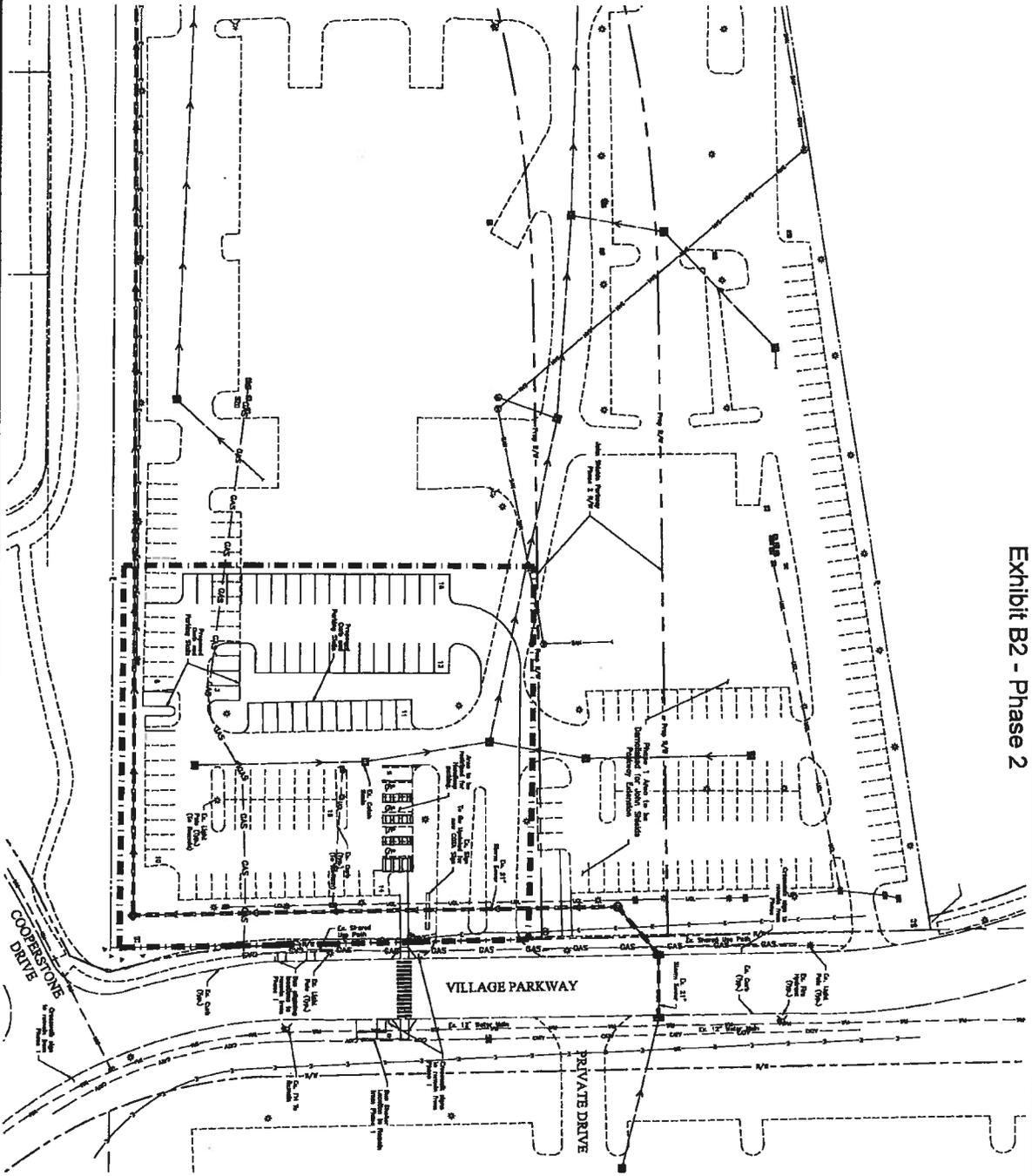
W11-2-30
 W18-2-24
 200 FT

GRAPHIC SCALE
 1" = 20' HOR
 1" = 40' VERT

SITE DATA TABLE
 Phase 1, Worksheet 2 of 2

<p>EMHT ENGINEERING, ARCHITECTURE & INTERIOR DESIGN 10000 W. STATE ST., SUITE 100 COLUMBUS, OH 43240 (614) 297-2000 www.emht.com</p>	<p>CITY OF DUBLIN, FRANKLIN COUNTY, OHIO PRIVATE SITE IMPROVEMENT PLAN FOR INTERIM COTA PARK AND RIDE PHASE 1</p>		<p>REVISIONS</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>		NO.	DATE	DESCRIPTION									
	NO.	DATE	DESCRIPTION													
<p>DATE: June 1, 2015</p> <p>SCALE: As Shown</p> <p>APP'D: [Signature]</p> <p>2/3</p>	<p>DATE: June 1, 2015</p> <p>SCALE: As Shown</p> <p>APP'D: [Signature]</p> <p>2/3</p>	<p>DATE: June 1, 2015</p> <p>SCALE: As Shown</p> <p>APP'D: [Signature]</p> <p>2/3</p>	<p>DATE: June 1, 2015</p> <p>SCALE: As Shown</p> <p>APP'D: [Signature]</p> <p>2/3</p>													

Exhibit B2 - Phase 2



PHASE 2 NOTES:
 - Utility lines to be shown up and
 - Phase 1 building area to be demolished with
 - The building and South Building will be
 - A new transformer will be set for the building
 and parking.



STEVE BANTA/TABLE
 Phase 2 Working Plan 16 August

DATE June 1, 2012	DRAWN AS BENTLEY	PROJECT 2011-0000	SHEET 3/3	CITY OF BERLIN, FRANKLIN COUNTY, OHIO PRIVATE SITE IMPROVEMENT PLAN FOR INTERIM COTA PARK AND RIDE PHASE 2	REVISIONS NO. DATE DESCRIPTION
					REVISIONS NO. DATE DESCRIPTION

EXHIBIT "C"

PARK AND RIDE SITE DEPICTION ON CITY PARCEL

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "Agreement") is made and entered into on this _____ day of _____, 2015 (the "Effective Date"), by and between the **CITY OF DUBLIN, OHIO**, an Ohio municipal corporation (the "City" or "Licensor"), whose mailing address is 5200 Emerald Parkway, Dublin, Ohio 43017 and **CENTRAL OHIO TRANSIT AUTHORITY** ("COTA" or "Licensee"), a political subdivision of the state of Ohio, whose mailing address is 33 North High Street, Columbus, Ohio 43215.

BACKGROUND INFORMATION

WHEREAS, COTA is the owner of certain real property consisting of approximately 1.205 acres of land, known as Franklin County Auditor's Parcel Identification Number 273-009155 (the "COTA Parcel");

WHEREAS, the Licensor needs to acquire the COTA Parcel for the construction of a new east-west roadway, *inter alia*, that will eventually establish an important connection from relocated Riverside Drive to Sawmill Road, as depicted in the City's Thoroughfare Plan;

WHEREAS, the Licensor is the owner of certain real property consisting of approximately 9.922 acres of land, which is part of Franklin County Auditor's Parcel Identification Number 273-009088. The Licensor agrees to relocate COTA as necessary to a portions of this parcel (the "Interim Parcels" or singularly the "Interim Parcel"), through the use of a mutually agreed upon license, for approximately twelve (12) months to allow the Licensor to move forward with its proposed improvements, provide COTA uninterrupted park and ride service in this area of the City and to develop a .815 acre portion of Franklin County Auditor's Parcel Identification Number 273-008842 (the "City Parcel") for COTA's longer term use;

WHEREAS, the City, with COTA's full cooperation, agrees to act as the applicant before the City's Planning and Zoning Commission and/or other bodies to obtain any and all zoning, conditional use approvals and other permits as may be necessary to allow the Interim Parcels to be utilized by COTA as a park and ride;

WHEREAS, the Parties acknowledge that the City is currently designing the new John Shields Parkway along the northern portion of Franklin County Auditor's Parcel Identification Number 273-009088, which contains the Interim Parcels (Exhibit "A1 and A2"), and that construction of that roadway will commence during this 12 month occupancy period. By utilizing the two Interim Parcels in a phased manner, as contemplated herein, the roadway construction will not directly affect the use of the Interim Parcels by COTA;

WHEREAS, the Parties agree to continue to mutually assess the opportunities to establish location(s) on Interim Parcels which will meet the needs of COTA and not interfere with the City's plans to proceed with the construction of John Shields Parkway during the term of this Agreement and the location(s) and the planned improvements associated with the Interim Parcels; and

WHEREAS, COTA and the City agree to execute this Agreement on the Interim Parcels concurrently with the execution of the REPA.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Licensor and the Licensee covenant, agree and obligate themselves to the foregoing Background Information and as follows:

1. Term. Licensor hereby grants to Licensee, at no cost to Licensee, a license to use the Interim Parcels commencing on August 15, 2015 or as otherwise provided in the Real Estate Exchange Agreement and expiring twelve (12) months thereafter (the "Term") unless the City Parcel has not been completed for use as a COTA park and ride as required by the REPA. In the event the City Parcel has not been completed for use as a park and ride, this License Agreement shall automatically continue on a month to month basis until the City Parcel construction is complete to COTA's sole satisfaction. Under no circumstances shall COTA experience an interruption in its transit services as a result of the City while waiting for completion of construction on the City Exchange Parcel.

2. Property. Licensor hereby grants Licensee, the right to occupy the Interim Parcels as depicted in Exhibit "A1 and A2" as follows: On a date mutually agreeable to the Parties, but no later than August 15, 2015 if the City has completed the agreed upon improvements to the Interim Parcel depicted in Exhibit A1 (Phase 1); and on a date mutually agreeable to the Parties, but no later than November 15, 2015 (Phase 2) if the City has completed the agreed upon improvements to the Interim Parcel depicted in Exhibit A2.

3. Defined Property Use. Licensee shall begin possession of the Interim Parcels after the closing on the COTA Parcel and within one week after the City has completed the agreed upon Phase 1 improvements to the Interim Parcel depicted in Exhibit A1 and then the Phase 2 Interim Parcel depicted in A2, as defined in the Purchase Agreement and herein, which are required to accommodate COTA's use of the Interim Parcels for a park and ride facility. Licensee shall be permitted to use the Interim Parcels only for a park and ride

4. Improvements to the Interim Parcels. The City and COTA will cooperate on the design of the improvements needed to the Interim Parcels to facilitate its use as a short term park and ride. The improvements are expected to consist of spot pavement repair, crack sealing, pavement striping, and asphalt walkway connection to Village Parkway, concrete pad for bus shelter, shrub removal, concrete walk, sufficient lighting as determined by COTA and provided at the City's expense and COTA signage. Shelter is anticipated to be installed by COTA. The City anticipates completion of the Phase 1 interim improvements by August 15, 2015 or sooner, and completion of the Phase 2 improvements (which includes a building demolition on the Phase 2 site) by November 15, 2015, depending on the final agreed upon scope of the Improvements.

5. Assignment and Sub-licensing. Licensee may not assign, sell, transfer or encumber, directly or indirectly, by merger, consolidation, operation of law or otherwise, this Agreement or sub-license all or any part of the Interim Parcels without Licensor's prior consent, such consent not to be unreasonably withheld, conditioned or delayed. A direct or indirect assignment, sale, transfer, pledge or encumbrance of any stock or, partnership, membership or

other ownership interests, or voting rights of, in or otherwise with respect to Licensee shall be deemed an assignment of this Agreement.

6. Notices or Demands. Except as otherwise provided herein, all notices or demands hereunder shall be in writing and shall be deemed to have been duly given and made when sent by registered or certified mail, or upon receipt if sent by express courier service, return receipt requested, at the respective addresses set out below:

If intended for COTA, to:

Central Ohio Transit Authority
33 North High Street
Columbus, Ohio 43215

Attn: Mike Bradley, Vice President of Planning and Service Development

With a copy to:

Central Ohio Transit Authority
33 North High Street
Columbus, Ohio 43215

Attn: Gary Tober, Senior Associate Counsel

If intended for the City, to:

City of Dublin
5200 Emerald Parkway
Dublin, Ohio 43017

Attn: Dana McDaniel, City Manager

With a copy to:

Frost Brown Todd, LLC
10 W. Broad Street, Suite 2300
Columbus, Ohio 43215

Attn: Philip K. Hartmann

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

7. Severability. If any one or more of the provisions contained herein shall for any reason be held unenforceable in any respect by any court of law, such unenforceability shall not affect any other provision of this Agreement, but this Agreement shall then be construed as if such unenforceable provision or provisions had never been contained herein.

8. Disclaimer of Consequential Damages. In no event shall Licensor be liable to Licensee for any punitive, indirect, consequential damages suffered by it, or any third party

claiming on behalf of or through Licensee, in connection with any breach of this Agreement or provision of services by Licensor.

9. Governing Law. The construction, interpretation and performance of this Agreement shall be governed by the laws of the State of Ohio.

10. Section and Paragraph Headings. The section and paragraph headings are included only for the convenience of the parties and are not part of this Agreement and shall not be used to interpret the meaning of provisions contained herein or the intent of the parties hereto.

11. Entire Agreement; Amendments. This Agreement constitutes the entire agreement between Licensor and Licensee relative to the license to use the Interim Parcels, and may be altered or amended only by an instrument in writing signed by both parties hereto.

12. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the respective heirs, administrators, executors, successors and permitted assigns of the parties hereto; provided, however, that this provision shall not be construed to allow an assignment or sub-licensing by Licensee which is specifically prohibited.

13. Time of Essence. Time is of the essence in the performance of this Agreement.

14. Risk of Loss. The parties agree that Licensee shall conduct its activities on City's property at its own risk and that the City is not responsible or liable for the protection or safety of Licensee's passengers and/or their property except to the extent that liability or damage arises as the result of the actions of Licensor.

This Agreement shall not in any way change, amend or alter the legal rights and duties of Licensor and Licensee as provided by law. Licensee shall, subject to the limitations expressly and implicitly provided in Ohio Revised Code Section 2744.05, be responsible for damages, costs, and liabilities which arise as the result of the use of the Leased Premises by Licensee, its employees, agents and customers except to the extent that such damages, costs and liabilities arise out of, are caused by, or result from the actions of Licensor. Either party may insure against any loss or damage occurring on the parking lot, but any such insurance shall be for the sole benefit of the party carrying such insurance and under the sole control of such party, so the other party shall have no benefits thereunder.

15. Maintenance. Licensee shall: (i) maintain the bus stop located on the Interim Parcels in good order during the Term; (ii) relinquish use of the Interim Parcels upon expiration of the Agreement; (iii) provide for snow removal and the removal of all litter, trash and other refuse from the Interim Parcels during the term and leave the Interim Parcels in a good and safe condition, reasonable wear and tear caused by Licensee's transit operations excepted; and (iv) use the Interim Parcels for its transit operations and in accordance with all laws, rules, regulations and ordinances of all governmental authorities applicable thereto.

Licensor shall be responsible the maintenance of the parking area, lighting and drive lanes.

16. Multiple Counterparts. To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature or acknowledgment of, or on behalf of, each party, or that the signature of all persons required to bind any party, or the acknowledgment of such party, appears on each counterpart. All counterparts shall collectively constitute a single instrument.

IN WITNESS WHEREOF, this License Agreement is executed as of the date set forth above.

CITY:

COTA:

CITY OF DUBLIN, OHIO,
an Ohio municipal corporation

CENTRAL OHIO TRANSIT AUTHORITY
an Ohio Regional Transit Authority

By: _____
Dana L. McDaniel, City Manager

By: _____
W. Curtis Stitt, President and CEO

Approved as to Form and Correctness:

By: _____
Stephen J. Smith, Law Director

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 2015 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.

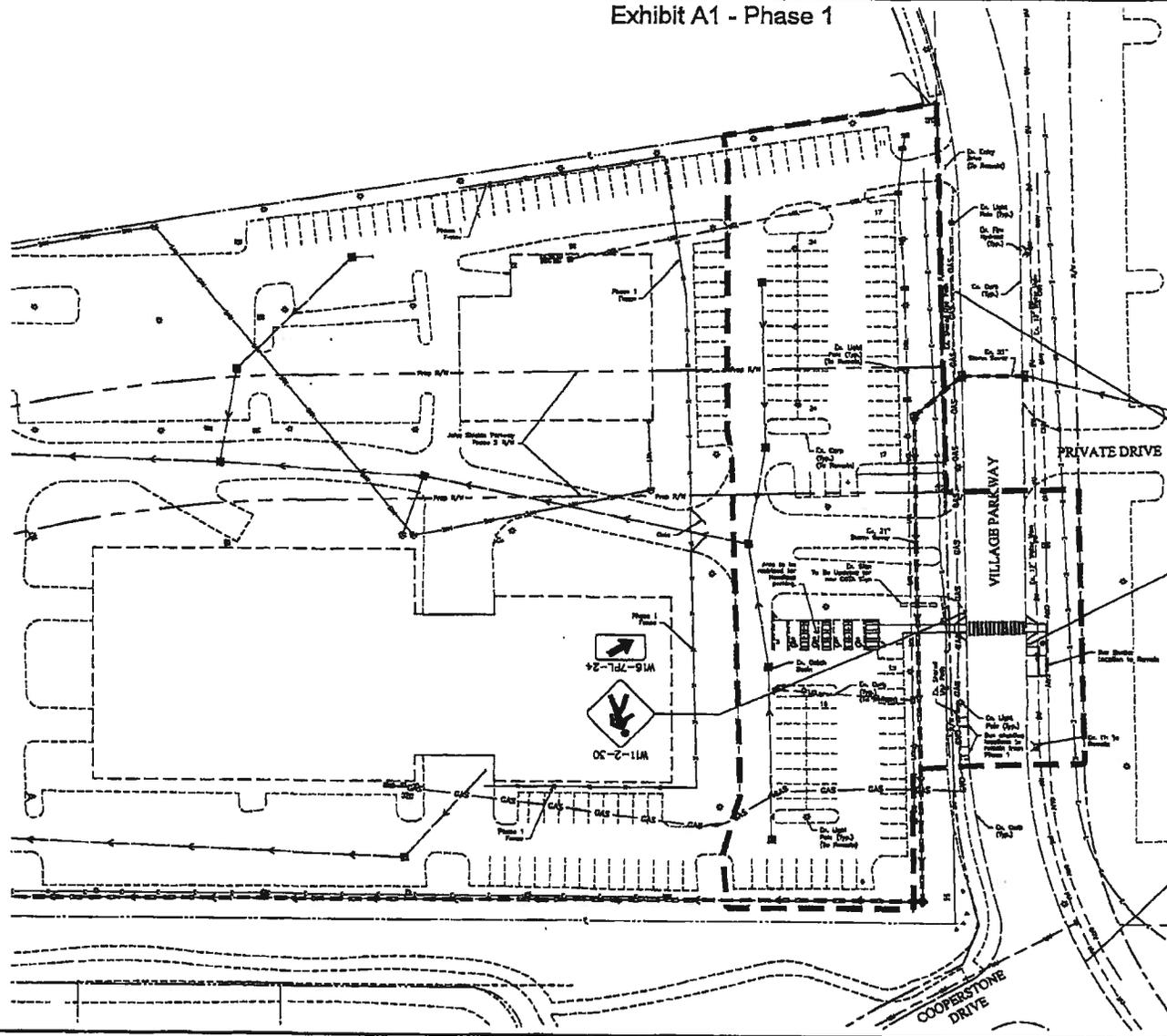
Dated: _____, 2015

Angel Mumma
Director of Finance
City of Dublin, Ohio

EXHIBIT "A1 and 2"

Interim Parcels

Exhibit A1 - Phase 1



W16-2-24
200 FT



W11-2-30
W16-7PL-24



OC-2-11A

PHASE 1 NOTES:
 - Existing signs shall be updated for new ADA signs.
 - Phase 1 and Phase 2 areas to be sealed and striped during Phase 1.
 - Existing landscaping to be cleaned up and preserved.



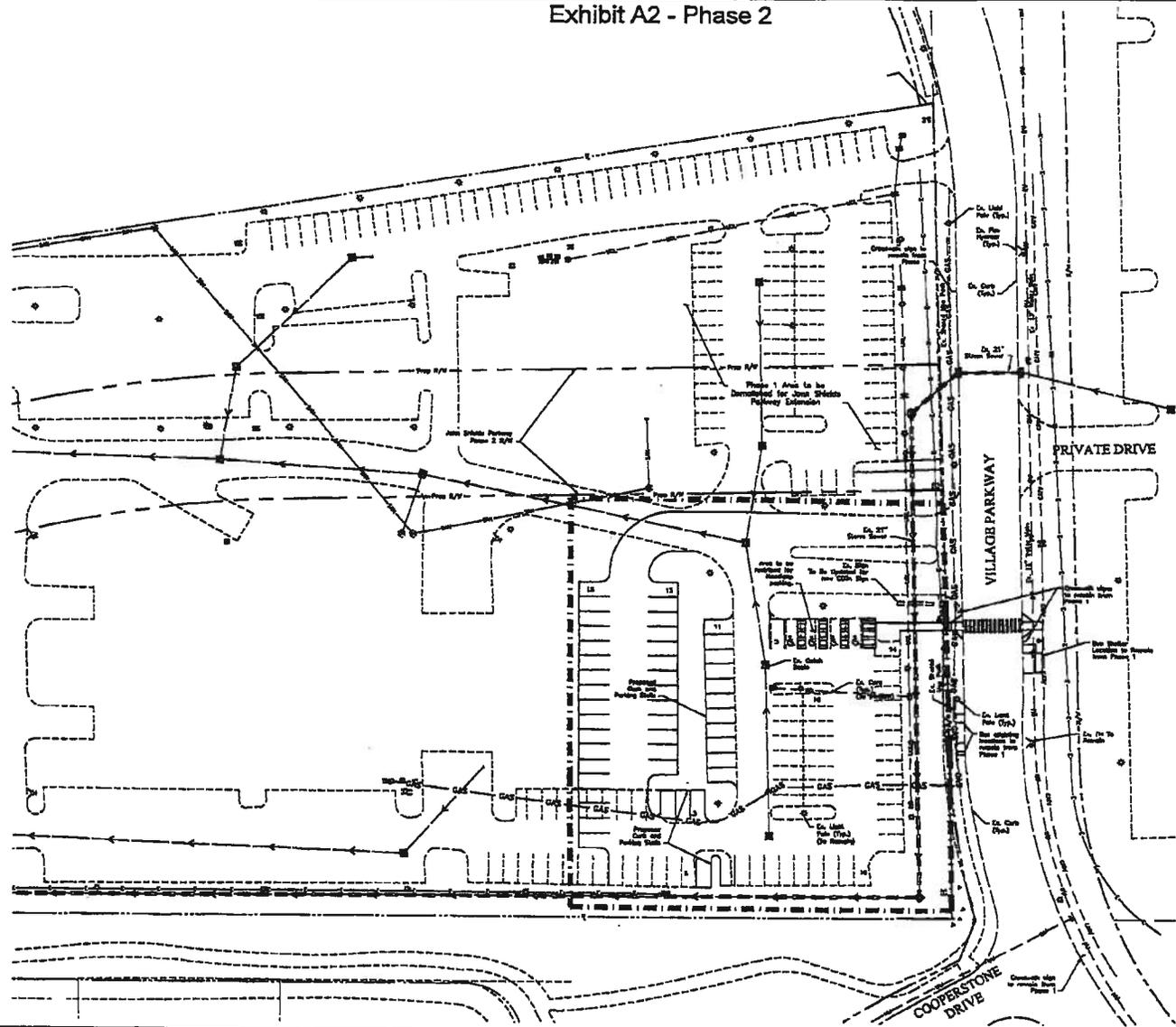
W11-2-30
W16-2-24
200 FT



SITE DATA TABLE
 Phase 1 Parking Lot 49 Spaces

MAXIMUM DATA TABLE PROFILES
CITY OF PUBLIC TRAVEL COUNTY, OHIO PRIVATE SITE IMPROVEMENT PLAN INTERIM COTA PARK AND RIDE PHASE 1
DATE
Phase 1, 2018
SCALE
As Shown
JOB NO.
2018-020
SHEET
2/3

Exhibit A2 - Phase 2



PHASE 2 NOTES:

- Existing Landscaping to be cleaned up and pruned.
- Phase 1 parking area to be demolished with Joint Station Parkway Phase 2 project.
- The Metro and State Buildings will be demolished for Phase 2.
- A new transformer will be set for the existing site lighting.



SITE DATA TABLE

Phase 2 Parking Lot 90 Spaces

DATE	June 1, 2018
SCALE	As Shown
DWG. NO.	2018-0018
REVISED	3/3
CITY OF DALLAS TRAMWAY COURTS, GRID PRIVATE SITE IMPROVEMENT PLAN INTERIM COTA PARK AND RIDE PHASE 2	