



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: Dana L. McDaniel, City Manager 

Date: May 4, 2017

Initiated By: Angel L. Mumma, Director of Finance

Re: Ordinance No. 25-17 – An Ordinance Authorizing the City Manager to Execute a First Amendment to a Tax Increment Financing Agreement and an Infrastructure Agreement Each Originally Entered into by the City of Dublin in Connection with the Tartan West Development via Ordinance 09-04.

Summary

On March 15, 2004, City Council approved Ordinance 09-04, which established the Tartan West TIF District and authorized the creation of the Tartan West Tax Increment Equivalent Fund. That Ordinance also authorized the execution of a Tax Increment Financing (TIF) Agreement and an Infrastructure Agreement, both of which were between the City and Tartan Development Company (West), LLC (the Developer).

The TIF Agreement specifically described the following public infrastructure improvements that were to be constructed by the City and those that were to be constructed by the Developer.

Category A – City to Construct

Avery-Muirfield Rd./Brand Rd.

Hyland-Croy Rd./Brand Rd.

Avery Rd./Brand Rd.

Post Rd./Hyland-Croy Rd.

Glick Rd./Avery Rd./ Manley Rd. Roundabout

Estimated Cost: \$5,538,133

Actual Cost through December 31, 2016: \$7,949,128

Category B – Developer to Construct

Water Tower

Booster Station

Hyland-Croy Pedestrian Tunnel

Sewer line to the site

Water line oversizing (along Hyland-Croy Rd.)

Public park development

Sewer line oversizing (through site)

Bike paths

Fees

Estimated Cost: \$4,365,745

Actual Cost through December 31, 2016: \$6,026,000

Category C – Developer to Construct

Club Dr.

Other roadway improvements on Hyland-Croy Rd., Manley Rd.

Manley Rd. pedestrian tunnel

Glick Rd. cul-de-sac/Roma Dr.

Water line along Hyland-Croy Rd. to serve only Tartan West

Sewer line through site to serve only Tartan West

Interest costs

Fees

Estimated Cost: \$4,949,357

Actual Cost through December 31, 2016: \$6,598,887

All public improvements outlined in each of the three categories were to be funded from revenue received from the service payments generated within the Tartan West TIF. With respect to the specific reimbursement of the costs, the Infrastructure Agreement stated the City was to first be reimbursed for the costs of the Category A and Category B improvements. (Note: while the Developer constructed the Category B improvements, the Infrastructure Agreement provided that "upon submittal of a written requisition for the cost of work related to Public Infrastructure Improvements – Category B Work," the City would remit payment in accordance with the written requisition within 21 days.) Furthermore, the Category C work was to be reimbursed only after the City had been reimbursed from monies deposited into the TIF Fund for the Category A and B expenditures.

The actual costs incurred by the City and Developer in connection with the construction of the various public infrastructure improvements in each of the three categories were higher than the original estimates identified in the TIF Agreement. Additionally, TIF revenues received to date have been lower than what was originally forecasted at the time these agreements were executed.

Over the course of the past few years, representatives of the Developer and the City have engaged in numerous discussions related to the timing of repayment of the infrastructure costs based on the actual revenues received and expenditures incurred as compared to those provided for during the planning of the Tartan West development and the subsequent TIF and Infrastructure Agreements. As a result of those discussions, the Developer and City staff have come to a consensus that it is in the best interest of both parties to suggest modifications to the

reimbursement schedule provided in the Infrastructure Agreement. The modification would provide reimbursement based on the following:

1. **First**, Dublin will be reimbursed for \$5,538,133 of the actual costs of the Public Improvements – Category A,
2. **Second**, Dublin will be reimbursed for \$4,365,745 of the actual costs of the Public Improvements – Category B,
3. **Third**, Tartan West will be reimbursed for \$4,949,357 of the actual costs of the Public Improvements – Category C,
4. **Fourth**, Dublin will be reimbursed for the actual costs of the Public Improvements – Category A in excess of the amount in **First** above, provided that any amount to be paid at this stage which relates to the Avery Road/Brand Road intersection improvements will be capped at \$2,235,000,
5. **Fifth**, Dublin will be reimbursed for the actual costs of the Public Improvements – Category B in excess of the amount in **Second** above,
6. **Sixth**, Tartan West will be reimbursed for the actual costs of the Public Improvements – Category C in excess of the amount in **Third** above,
7. **Seventh**, Dublin will be reimbursed for the actual costs of the Avery Road/Brand Road intersection improvements which exceed \$2,235,000, and
8. **Eighth**, Tartan West will be reimbursed for the interest which has accrued on the actual costs of the Public Improvements – Category C, provided that interest will stop accruing once payments commence under **Third** above.

Using conservative revenue estimates, it is anticipated that the service payments received within the Tartan West TIF area will be sufficient to compensate the City of Dublin for all expenditures incurred in connection with this development. Additionally, under this proposal, it is anticipated that the Developer will begin receiving reimbursement for Category C expenditures earlier than provided for in the original Infrastructure Agreement.

Recommendation

Staff recommends that Ordinance No. 25-17 be adopted by City Council at the second reading/public hearing on May 22, 2017.

RECORD OF ORDINANCES

Ordinance No. 25-17

Passed _____, 20____

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A FIRST AMENDMENT TO A TAX INCREMENT FINANCING AGREEMENT AND AN INFRASTRUCTURE AGREEMENT EACH ORIGINALLY ENTERED INTO BY THE CITY OF DUBLIN IN CONNECTION WITH THE TARTAN WEST DEVELOPMENT VIA ORDINANCE 09-04.

WHEREAS, this Council heretofore passed Ordinance No. 09-04 on March 15, 2004 (the "*TIF Ordinance*") which, among other matters, provided for the creation of the Tartan West Incentive District and the related Tartan West Project Municipal Public Improvement Tax Increment Equivalent Fund, declared that 100% of the increase in assessed value of certain real property subsequent to the effective date of the TIF Ordinance to be a public purpose and declared to be exempt from taxation, and required that any owners of such real property make semiannual service payments in lieu of taxes with respect to the increase in assessed valuation, all in accordance with Ohio Revised Code Sections 5709.40, *et seq.*; and

WHEREAS, pursuant to the authorizations in the TIF Ordinance, the City and Tartan Development Company (West), LLC ("*Tartan West*") entered into the Tax Increment Financing Agreement, dated May 21, 2004 (the "*TIF Agreement*") and the Infrastructure Agreement, dated May 21, 2004 (the "*Infrastructure Agreement*"), which agreements, among other matters, generally provided for the construction of various public infrastructure improvements in and around the Tartan West Incentive District and the disbursement of certain TIF revenues to the City and Tartan West to provide for the payment of or reimbursement for the costs of those public infrastructure improvements; and

WHEREAS, on December 7, 2006 and consistent with the Infrastructure Agreement, Tartan West provided notification to the City that Tartan West had assigned to the Tartan Development Company (TIF), LLC (the "*Developer*") its right to receive certain of those TIF revenues under the TIF Agreement and the Infrastructure Agreement, and the City consented to that assignment; and

WHEREAS, the City and the Developer have agreed that for various reasons, the actual costs incurred by the City and the Developer in connection with the construction of the various public infrastructure improvements were higher than what was originally estimated in the TIF Agreement and the Infrastructure Agreement, and the TIF revenues received to date have been lower than what was originally forecasted at the time the TIF Agreement and the Infrastructure Agreement were executed; and

WHEREAS, due to variations in revenues and expenditures as compared to the City's and the Developer's original expectations, the City and the Developer have agreed to amend the TIF Agreement and the Infrastructure Agreement to provide for a modified prioritization of the application of TIF revenues to the costs incurred by the City and the Developer in connection with the various public infrastructure improvements; and

WHEREAS, consistent with the TIF Agreement and the Infrastructure Agreement, and for the further reasons aforesaid, the City and the Developer have determined to enter into the proposed First Amendment to Tax Increment Financing Agreement and Infrastructure Agreement Relating to Tartan West Development (the "*First Amendment*");

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 First Amendment by and between the City and the Developer, in the form presently on file with the Clerk of Council, providing for, among other things, a modified prioritization of the application of TIF revenues to the costs incurred by the City and the Developer in connection with the various public infrastructure improvements, is hereby approved and authorized with changes therein not inconsistent with this

RECORD OF ORDINANCES

Ordinance No. 25-17

Passed Page 2 of 2, 20

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 First Amendment, 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 First Amendment, 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.

Signed:

Mayor - Presiding Officer

Attest:

Clerk of Council

Passed: _____, 2017

Effective: _____, 2017

**FIRST AMENDMENT TO
TAX INCREMENT FINANCING AGREEMENT AND
INFRASTRUCTURE AGREEMENT RELATING TO
TARTAN WEST DEVELOPMENT**

This FIRST AMENDMENT TO TAX INCREMENT FINANCING AGREEMENT AND INFRASTRUCTURE AGREEMENT RELATING TO TARTAN WEST DEVELOPMENT (the “*First Amendment*”), is made and entered into as of the ____ day of _____, 2017 (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 laws of the State of Ohio (the “*State*”) and its Charter and TARTAN DEVELOPMENT COMPANY (TIF), LLC (the “*Developer*”), a limited liability company duly organized and validly existing under the laws of the State. The City and the Developer may hereinafter be referred to individually as a “*Party*,” or collectively as the “*Parties*.”

RECITALS:

WHEREAS, the City’s City Council passed Ordinance No. 09-04 on March 15, 2004 (the “*TIF Ordinance*”) which, among other matters, provided for the creation of the Tartan West Incentive District (the “*TIF District*”) and the related Tartan West Project Municipal Public Improvement Tax Increment Equivalent Fund (the “*TIF Fund*”), declared that 100% of the increase in assessed value of the real property located within the TIF District subsequent to the effective date of the TIF Ordinance to be a public purpose and declared to be exempt from taxation, and required that any owners of real property located within the TIF District make semiannual service payments in lieu of taxes with respect to the increase in assessed valuation (the “*Service Payments*” as such term was similarly defined in the TIF Ordinance), all in accordance with Ohio Revised Code Sections 5709.40, *et seq.*; and

WHEREAS, pursuant to the authorizations in the TIF Ordinance, the City and Tartan Development Company (West), LLC (“*Tartan West*”) entered into the Tax Increment Financing Agreement, dated May 21, 2004 (the “*TIF Agreement*”) and the Infrastructure Agreement, dated May 21, 2004 (the “*Infrastructure Agreement*”), which agreements, among other matters, generally provided for the construction of various public infrastructure improvements in and around the TIF District and the disbursement of the “*TIF Revenues*” (which term is used herein to collectively refer to the Service Payments and the Property Tax Rollback Payments (as such term was defined and similarly used in the TIF Ordinance) which are deposited into the TIF Fund) to the City and Tartan West to provide for the payment of or reimbursement for the costs of those public infrastructure improvements; and

WHEREAS, on December 7, 2006 and consistent with the Infrastructure Agreement, Tartan West provided notification to the City that Tartan West had assigned to the Developer its right to receive TIF Revenues under the TIF Agreement and the Infrastructure Agreement, and the City consented to that assignment (which assignment is attached hereto as **EXHIBIT A** and referred to herein as the “*Assignment*”); and

WHEREAS, except as described in this First Amendment, the City, Tartan West and/or the Developer have constructed or provided for the construction of the various public infrastructure

improvements identified on Exhibit C to the TIF Agreement and Exhibit A to the Infrastructure Agreement; and

WHEREAS, the Parties have agreed that for various reasons, the actual costs incurred by the City and the Developer in connection with the construction of the various public infrastructure improvements were higher than what was originally estimated in the TIF Agreement and the Infrastructure Agreement, and the TIF Revenues received to date have been lower than what was originally forecasted at the time the TIF Agreement and the Infrastructure Agreement were executed; and

WHEREAS, due to variations in revenues and expenditures as compared to the Parties' original expectations, the Parties have agreed to amend the TIF Agreement and the Infrastructure Agreement to provide for a modified prioritization of the application of TIF Revenues to the costs incurred by each Party in connection with the various public infrastructure improvements; and

WHEREAS, the City's City Council passed Ordinance No. _____ on _____, 2017 to, among other things, provide for the modified prioritization of the application of TIF Revenues and to authorize the execution of this First Amendment;

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter described, the City and the Developer agree and bind themselves as follows:

Section 1. Reconciliation of Certain Definitions. For purposes of this First Amendment, the following defined terms are reconciled between the TIF Agreement, the Infrastructure Agreement and this First Amendment:

(a) The defined term "*Public Improvements – Category A*" shall be used herein to refer to the same public infrastructure improvements which are referred to and defined in the (i) TIF Agreement as the Public Improvements – Category A and (ii) Infrastructure Agreement as the City Constructed Public Infrastructure Improvements,

(b) The defined term "*Public Improvements – Category B*" shall be used herein to refer to the same public infrastructure improvements which are referred to and defined in the (i) TIF Agreement as the Public Improvements – Category B and (ii) Infrastructure Agreement as the Public Infrastructure Improvements – Category B, and

(c) The defined term "*Public Improvements – Category C*" shall be used herein to refer to the same public infrastructure improvements which are referred to and defined in the (i) TIF Agreement as the Public Improvements – Category C and (ii) Infrastructure Agreement as the Public Infrastructure Improvements – Category C.

(d) The defined term "*Public Improvements*" shall be used herein to collectively refer to the Public Improvements – Category A, the Public Improvements – Category B and the Public Improvements – Category C.

Section 2. Reconciliation of Public Improvements. The Parties acknowledge and agree that except as provided below, all of the Public Improvements have heretofore been constructed:

(a) The Avery Road/Brand Road intersection improvements (Public Improvements – Category A) have not yet commenced, but are still expected by the City to be completed, and

(b) The Hyland-Croy pedestrian tunnel (Public Improvements – Category B) was not constructed due to the location of high-pressure natural gas main that would have significantly increased the cost of the improvement. In place of the Hyland-Croy pedestrian tunnel, a pedestrian crossing was constructed at grade-level.

Section 3. Prioritization of the Application of TIF Revenues. Notwithstanding any provisions to the contrary in either the TIF Agreement or the Infrastructure Agreement, TIF Revenues heretofore and hereafter deposited into the TIF Fund have been and shall be used in the following priority and amounts to pay the costs of the Public Improvements:

(a) **First**, the City will be reimbursed for \$5,538,133 of the actual costs of the Public Improvements – Category A, and as of the Effective Date, the City has heretofore been reimbursed for \$_____ of that amount,

(b) **Second**, the City will be reimbursed for \$4,365,745 of the actual costs of the Public Improvements – Category B, and as of the Effective Date, the City has heretofore been reimbursed for \$_____ of that amount,

(c) **Third**, the Developer will be reimbursed for \$4,949,357 of the actual costs of the Public Improvements – Category C, and as of the Effective Date, the Developer has heretofore been reimbursed for \$0.00 of that amount,

(d) **Fourth**, the City will be reimbursed for the actual costs of the Public Improvements – Category A in excess of the amount in **First** above, and as of the Effective Date, the City has heretofore been reimbursed for \$0.00 of that excess amount; *provided* that any amount to be paid pursuant to this paragraph **Fourth** which relates to the Avery Road/Brand Road intersection improvements will be capped at \$2,235,000,

(e) **Fifth**, the City will be reimbursed for the actual costs of the Public Improvements – Category B in excess of the amount in **Second** above, and as of the Effective Date, the City has heretofore been reimbursed for \$0.00 of that excess amount,

(f) **Sixth**, the Developer will be reimbursed for the actual costs of the Public Improvements – Category C in excess of the amount in **Third** above, and as of the Effective Date, the Developer has heretofore been reimbursed for \$0.00 of that excess amount,

(g) **Seventh**, the City will be reimbursed for the actual costs of the Avery Road/Brand Road intersection improvements which exceed \$2,235,000, and

(h) **Eighth**, the Developer will be reimbursed for the interest which has accrued on the actual costs of the Public Improvements – Category C, provided that interest will stop

accruing once payments commence pursuant to *Third* above.

The Parties acknowledge that Section 4 of the TIF Ordinance provides that the County Treasurer of Union County, Ohio will remit to the Dublin City School District a portion of the TIF Revenues and then remit to the City the remaining amount of TIF Revenues for deposit into the TIF Fund to be used in accordance with the TIF Agreement and Infrastructure Agreement, each as amended by this First Amendment. The Parties agree that if the County Treasurer hereafter determines not to make those remissions to the Dublin City School District, then the City would be required to make those remissions first before any TIF Revenues may be deposited into the TIF Fund.

Section 4. Developer Representations and Indemnification. The Developer represents to the City as follows:

(a) Pursuant to the Assignment, it is duly and legally authorized to receive TIF Revenues otherwise originally intended to be paid to Tartan West pursuant to the TIF Agreement and the Infrastructure Agreement, subject to any payments that are required to be made to the Dublin City School District as described in Section 3.

(b) Except for the Assignment, no other assignment is currently in effect which was duly executed pursuant to the Infrastructure Agreement or otherwise which would entitle any party other than the City or the Developer to receive TIF Revenues pursuant to the TIF Agreement and/or the Infrastructure Agreement,

(c) Except for the Assignment, the Developer has not heretofore assigned to any other party its right to receive TIF Revenues pursuant to the TIF Agreement or the Infrastructure Agreement, and

(d) The Developer will not hereafter assign to any other party its right to receive TIF Revenues pursuant to the TIF Agreement or the Infrastructure Agreement without first requesting in writing and receiving the written consent of the City to such assignment, which consent the City agrees will not be unreasonably withheld, conditioned or delayed.

If the City reasonably determines that any of the foregoing representations are false, the Developer shall, at its cost and expense, defend, indemnify and hold the City and any officials, employees, agents and representatives of the City, and their successors and assigns (collectively the "*Indemnified Parties*" and each an "*Indemnified Party*"), harmless from and against, and shall reimburse the Indemnified Party for, any and all loss, cost, claim, liability, damage, judgment, penalty, injunctive relief, expense or action, whether or not the Indemnified Party shall also be indemnified as to any such claim by any other person, the basis of which claim was caused by or results from the Developer, its agents or employees, making a false representation herein, whether or not such action or inaction was negligent, reckless or intentional. The indemnity provided for herein shall survive the expiration or termination of and shall be separate and independent from any remedy under this First Amendment.

Section 5. Continuing Force and Effect of TIF Agreement and Infrastructure Agreement. Except for the provisions of the TIF Agreement or the Infrastructure Agreement amended by this First Amendment, all of the other provisions of the TIF Agreement and the

Infrastructure Agreement shall remain in full force and effect.

Section 6. Miscellaneous.

(a) Assignment. This First Amendment may not be assigned without the prior written consent of all non-assigning Parties.

(b) Binding Effect. The provisions of this First Amendment shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

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

(d) Duration of Agreement. This First Amendment shall become effective on the Effective Date and shall remain in effect until the later expiration of the TIF Agreement or the Infrastructure Agreement.

(e) Entire Agreement. The TIF Agreement and the Infrastructure Agreement, each as amended by this First Amendment, shall collectively constitute 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 First Amendment may not be amended, waived or discharged except in an instrument in writing executed by the Parties.

(f) Executed Counterparts. This First Amendment 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 First Amendment to produce or account for more than one of those counterparts.

(g) Extent of Covenants; No Personal Liability. All covenants, obligations and agreements of the Parties contained in this First Amendment 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 any official executing this First Amendment 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 and the Developer contained in this First Amendment.

(h) Governing Law. This First Amendment 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.

(i) Legal Authority. The Parties respectively represent and covenant that each is legally empowered to execute, deliver and perform this First Amendment and to enter into and carry out the transactions contemplated by this First Amendment. The Parties further respectively represent and covenant that this First Amendment has, by proper action, been duly authorized, executed and delivered by the Parties and all steps necessary to be taken by the

Parties have been taken to constitute this First Amendment, and the covenants and agreements of the Parties contemplated herein, as a valid and binding obligation of the Parties, enforceable in accordance with its terms. The Parties also agree to provide to one another on the Effective Date opinions of respective legal counsel as to the due authorization and enforceability of this First Amendment.

(j) Legal Representation. The Parties respectively represent that each has retained and been advised by separate legal counsel in connection with negotiation and execution of this First Amendment.

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

(l) Severability. If any provision of this First Amendment, 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.

(m) Survival of Representations and Warranties. All representations and warranties of the Parties in this First Amendment shall survive the execution and delivery of this First Amendment.

(n) Third Party Beneficiaries. Nothing in this First Amendment, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this First Amendment.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the City and the Developer have caused this First Amendment to be executed in their respective names by their duly authorized officers all as of the date hereinbefore written.

CITY OF DUBLIN, OHIO

By: _____

Printed: Dana L. McDaniel

Title: City Manager

Approved as to form and correctness:

By: _____

Printed: Jennifer D. Readler

Title: Director of Law

TARTAN DEVELOPMENT COMPANY (TIF), LLC

By: _____

Printed: _____

Title: _____

FISCAL OFFICER’S CERTIFICATE

The undersigned, Director of Finance of the City under the foregoing First Amendment, certifies hereby that the monies required to meet the obligations of the City during the year 2017 under the foregoing First Amendment 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: _____, 2017

Director of Finance
City of Dublin, Ohio

EXHIBIT A

TARTAN DEVELOPMENT COMPANY (WEST), LLC

December 7, 2006

Marsha Grigsby
Finance Director
City of Dublin, Ohio
5200 Emerald Parkway
Dublin, Ohio 43017

Dear Marsha:

In accordance with Section 4.2 of the Infrastructure Agreement by and between the City of Dublin, Ohio (the "City") and Tartan Development Company (West), LLC ("Tartan") dated May 21, 2004, the City has established the Tartan West Project Municipal Public Improvement Tax Increment Equivalent Fund and "the monies on deposit in the TIF Fund shall be disbursed from time to time to make payments to persons designated by Tartan (including Tartan) in respect of portions of the Cost of Work, upon receipt by the City of a written requisition executed by the Authorized Tartan Representative... ."

This letter shall serve as written confirmation that, pursuant to Section 4.2, Tartan hereby irrevocably designates Tartan Development Company (TIF), LLC to be the recipient of all future payments from the TIF Fund in respect of Public Infrastructure Improvements – Category C as described in Section 4.2(c). Tartan shall submit an appropriate written requisition/Schedule A designating Tartan Development Company (TIF), LLC as the payee for the Category C disbursements as soon as the cost of work has been verified.

Please have an authorized representative of the City of Dublin confirm this understanding and agreement by signing in the signature block provided below. Thank you for your attention and cooperation with regard to this matter.

Sincerely,



Thomas D. Anderson

cc: S. Smith, Esq.
Acknowledged and Approved By:
City of Dublin, Ohio

By: Tara S. Brantigan

Its: City Manager