City of Dublin

Office of the City Manager
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Memo

To: Members of Dublin City Council

From: Dana L. McDaniel, City Manager

Date: November 12, 2019

Initiated By: Donna Goss, PhD, Director of Development

Re: Development and Infrastructure Agreement Business Terms – The Corners

Summary
Based upon feedback received from Council at their November 4, 2019 meeting, staff seeks approval of the business terms as outlined in the attached Development and Infrastructure Agreement for a project to be known as The Corners, a public-private commercial development with a public park and open spaces intended to serve as an amenity for nearby businesses and adjacent neighborhoods in the area.

Also for Council consideration are separate, related ordinances requesting authorization for rezoning of the parcel as well as TIF modification and creation to further support the project development.

The Project: The Corners at Frantz and Rings Roads

Process Overview
The City of Dublin Department of Development initiated an RFQ (Request for Qualifications) process in May 2018 to identify a suitable developer to collaborate with on the development of the 10 acres of City-owned land on the west side of Frantz Road, north of Rings Road, and south of Blazer Parkway. The Daimler Group responded to the RFQ, with a developer team that includes Bean Architects, POD Design, and EMH&T.

Staff and the Daimler Group hosted a public meeting on Tuesday, November 27, 2018 at the Dublin Community Recreation Center to introduce the Daimler team and the project objectives.

The Daimler Group presented this project to the Planning and Zoning Commission as an Informal Review on Thursday, June 20, 2019. The project proposal was revised to incorporate stakeholder feedback, including:

- Eliminating the residential land use (apartment housing) and a potential fuel station concept;
- Adding two small office pad sites; and
- Adding a central public park space.

After receiving favorable feedback from the Commission regarding the proposed land uses and their arrangement on the site, the Daimler Group, on behalf of the City, filed a formal application for Rezoning/Preliminary Development and Preliminary Plat. The Commission reviewed the project and recommended approval to City Council at the September 19, 2019 meeting.

Introductions of both the proposed business terms of the Development and Infrastructure Agreement and the Rezoning/Preliminary Development Plan were made to Council at the November 4, 2019 meeting. Pending favorable feedback of the first reading of this item,

Ordinances for the Rezoning/Preliminary Development and Preliminary Plat will follow as well as the second reading and determination scheduled for Council's December 2, 2019 meeting.

Project Overview
The project includes four distinct subareas:

Subarea A – Public Parks and Open Space: Approximately 4.06 acres with pedestrian/bicycle connections to and through the site. Includes existing storm water retention ponds, proposed to be integrated as an amenity to the site, in addition to a new public park centrally located within the site. The City will retain ownership of the public park and open space and be responsible for its upkeep and maintenance.

Subarea B1 – Commercial: Approximately 6.50 acres; estimate 47,000 SF restaurant and retail. Subarea B1 includes public plaza space at the street corner, streetscape landscaping along Frantz Road, and a landscaped walkway that leads pedestrians from the public right-of-way to the public park located interior to the site. The public plaza space and streetscape landscaping will be publicly dedicated but maintained by the owner of the private development parcels. The landscaped walkway will be owned and maintained by the owner of the private development parcel and will be subject to a public access easement.

Subarea B2 and B3 – Office: Approximately 1.48 acres (B2) and 1.69 acres (B3). Two build-to-suit pad sites, approximately 12,000 SF each.

The estimated project cost to the City for the park and all required public improvements is $3,365,000. The City would cash fund the first $1,600,000 of costs. As per the terms of the agreement, the developer has conceptually agreed to finance the remaining costs up to $2.0 million, with annual reimbursement payments to be made by the City over a 10 year period (approximately $230,000 per year from service payments from the Rings/Frantz TIF and new TIF on the project area as described below so the City would not have to borrow money to finance any part of this project.

The Development and Infrastructure Agreement

Summary of Key Business Terms

1. Park and Public Improvements

In coordination with EMH&T, the City will design and The Daimler Group, Inc. will construct a public park in Subarea A and associated public improvements for the remaining Subareas at a cost of approximately $3.365 million pursuant to an Infrastructure Agreement between Daimler and the City. Based upon current estimates, the City expects to apply $1.6 million of cash on hand in the Rings/Frantz TIF to pay monthly construction draws. Daimler would provide upfront funding for the balance of $1.765 million. The City would make reimbursement payments to Daimler of approximately $230,000 per year for 10 years (interest and principal). This annual payment is expected to be funded from the Rings/Frantz TIF and the new TIF on the project site.

Estimated Total Cost: $3.365 Million ($3.895 Million including developer debt service costs)

Estimated Scope of Improvements

- Park Improvements (shelter, hardscape, lighting, irrigation, benches, and other amenities) $875,000

- Eight-foot asphalt path around storm water ponds, estimated at 3000 linear feet $450,000

- Pond enhancements/beautification, retaining walls, railings, seating areas, center/circle gathering area, landscaping $500,000

- East/West path(s) from Frantz Road to the public park space interior to the site $50,000

- Pocket parks at NE (Blazer Parkway/Frantz Road and SE (Rings Road/Frantz Road) corners $500,000

- Site vehicular access points, Rings Road median changes $450,000

- Mechanical Relocations—AEP/Communication $500,000

- Ancillary Site Improvements/Irrigation $20,000

- Fountain Additions/Replacements $20,000

2. Transfer of City-owned property

The City agrees to transfer ownership of Subarea B1, B2 and B3 to The Daimler Group, Inc. upon Council approval of the final development plan, the Property Transfer and Development Agreement and the Infrastructure Agreement. Should The Daimler Group, Inc., desire to transfer any piece or portion of B1, B2 or B3 to an entity other than an affiliated holding company and/or LLC of The Daimler Group, Inc., they will be required to obtain approval of an amended final development plan and obtain a lot split for a project on that site. Applications for development projects must proceed through and be approved by the Planning and Zoning Commission to confirm that the final land use/user(s) and square footages meet the minimum requirements of the project and support the overall development of the site.

If The Daimler Group, Inc. should transfer of ownership of the property prior to twenty years from the date of transfer from the City, The Daimler Group, Inc. will be required to reimburse the City for costs incurred for the land and associated legal expenses on a per acre basis as calculated below. Should areas B1, B2 and/or B3 remain undeveloped for a period of five years from the date of transfer, ownership of B1, B2 and/or B3 will revert to the City.

Total Cost: $787,508 (9.33 acres x original purchase price of $84,406 per acre)

As previously described, legislation for property transfer will be brought forward separately for Council consideration upon approval of the business terms of the development and infrastructure agreement.

Project Costs, Tax Valuation, and Payments In Lieu of Taxes

The developer has estimated the private investment for Subarea B1 of the proposed project at $10.4 million. Additional private investment in Subarea B2 and B3 estimated to be around $5.0 million will occur when the office pads are developed. The timeline on this additional private investment is uncertain and therefore not factored into the current finance model.

The project area is currently located in the Rings/Frantz TIF. The Rings/Frantz TIF would fund a total of $3.05 million toward the park and public improvements, with $1.6 million of that amount paid in 2020 to reduce the amount financed by the developer. To support the ongoing developer financed debt service associated with these public improvements and park, the City would remove the project area from the Rings\Frantz TIF and create a new TIF district. The developer-financed debt of $1.765 million would be financed over 10 years. The developer would be reimbursed for their annual debt service payments through the additional estimated $1.45 million in transfers from the Rings/Frantz TIF and the service payment revenue generated by the new TIF on the project area.

As previously described, legislation to modify the existing TIF and create the new TIF will be brought forward separately for Council consideration upon approval of the business terms of the development and infrastructure agreement.

Recommendation

Staff recommends Council approval of the business terms of the Development and Infrastructure Agreement with the Daimler Group. Inc. Pending Council feedback, the Development and Infrastructure Agreement, the TIF ordinances, and the Rezoning with Preliminary Development Plan will be presented to Council for second reading/public hearing at the December 2nd meeting.

Ordinance No. 67-19 *Passed* _____, _____

AUTHORIZING THE CITY MANAGER TO ENTER INTO A REAL ESTATE TRANSFER AND DEVELOPMENT AGREEMENT AND AN INFRASTRUCTURE AGREEMENT FOR THE DEVELOPMENT OF THE CORNERS DEVELOPMENT IN THE CITY AND FOR THE CONSTRUCTION OF CERTAIN RELATED INFRASTRUCTURE AND PARK IMPROVEMENTS, AND AUTHORIZING THE EXECUTION OF VARIOUS RELATED AGREEMENTS AND DOCUMENTS.

WHEREAS, The City and the Daimler Group, Inc. (the "*Developer*") desire to develop the real property owned by the City located at the northwest corner of Rings Road and Frantz Road (Franklin County tax parcel 273-01074900) with a mix of office and retail uses, together with supportive public infrastructure improvements and public park improvements (collectively the, "*Public Improvements*"); and

WHEREAS, the City has determined that it would be in the best interests of the City to enter into a Real Property Transfer and Development Agreement with the Developer for the transfer of a portion of the City's property to the Developer in order for the development of the office and retail improvements, and enter into an Infrastructure Agreement with the Developer for the construction by the Developer of the Public Improvement and the financing by the Developer of a portion of the Public Improvements;

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

Section 1. Authorization of Agreements. The following agreements, each of which generally provide for the terms as described below, each by and between the City and the Developer, and each in the form presently on file with the Clerk of Council, are hereby approved and authorized with such changes therein not inconsistent with this Ordinance and not substantially adverse to this City and which shall be approved by the City Manager:

(a) the Real Estate Transfer and Development Agreement, which generally provides for the City's transfer of a portion of the City owned property at the northwest corner of Rings Road and Frantz Road for development as a mixed-use office and retail complex, and

(b) the Infrastructure Agreement, which generally provides for the Developer's construction of the Public Improvements and the Developer's financing of a portion of the Public Improvements.

The City Manager, for and in the name of this City, is hereby authorized to execute each of the foregoing agreements, provided further that the approval of changes to any such agreement by that official, and their character as not being substantially adverse to the City, shall be evidenced conclusively by the execution thereof. This City Council further authorizes the City Manager, for and in the name of the City, to execute any amendments to any of the foregoing agreements, which amendments are not inconsistent with this Ordinance and not substantially adverse to this City.

Section 2. Real Estate Transfers. The City Manager is hereby authorized to execute any and all agreements and other instruments necessary to implement the real estate transactions contemplated in the Real Estate Transfer and Development Agreement.

Section 3. Further Authorizations. This City Council further hereby authorizes and directs the City Manager, the Director of Finance, the Director of Law, the Director of Development, the Clerk of Council or other appropriate officers of the City to prepare and sign all documents and instruments and to take any other actions as may be appropriate to implement this Ordinance.

Section 4. Open Meetings. This City Council finds and determines that all formal actions of this City Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Council or any of its committees, and that all deliberations of this City 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 Ohio Revised Code Section 121.22.

Section 5. Effective Date. This Ordinance shall take effect and be in force from and after the earliest date permitted by law.

Signed:

_____
Mayor - Presiding Officer

Attest:

_____
Clerk of Council

Passed: _____, 2019

Effective: _____, 2019

10.23.19

INFRASTRUCTURE AGREEMENT
(The Corners at Rings and Frantz Road)

This INFRASTRUCTURE AGREEMENT (the "*Agreement*") is made and entered into as of this __ day of _____, 2019 (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 THE DAIMLER GROUP, INC. ("*Developer*" and together with the City, the "*Parties*"), an [Ohio] corporation, under the circumstances summarized in the following recitals (the capitalized terms not defined in the recitals are being used therein as defined in Article I).

RECITALS:

WHEREAS, the City owns certain land located at the northwest corner of Rings Road and Frantz Road (current tax parcel ID number 273-010749) that it has made available for redevelopment; and

WHEREAS, the City and the Developer have entered into an agreement whereby the City will transfer a portion of such property (hereinafter referred to as the "*Property*") to the Developer for development of a mixed-use office and retail center; and

WHEREAS, to support the redevelopment of the Property, it is necessary to make certain improvements to Blazer Parkway, Rings Road and Frantz Road, construct certain utility improvements and storm water management improvements, and make public park and open area improvements on or adjacent to the Property, all as further depicted and described on **EXHIBIT A** (referred to herein as the *"Public Improvements"*); and

WHEREAS, in accordance with the TIF Statutes and pursuant to the TIF Ordinance, the Parties and the Developer are entering into this Agreement to provide generally for the development and financing of the Public Improvements; and

WHEREAS, City Council passed Ordinance No. __-19 on _____ __, 2019, authorizing the execution and delivery of this Agreement;

WHEREAS, in order to enhance coordination between the construction of the Public Improvements and the Developer's private improvements and to more efficiently cause the construction of the Public Improvements, the City has determined that it would be in the best interests of the City to contract with the Developer to provide for the construction and installation of the Public Improvements in the manner described herein; and

NOW, THEREFORE, in consideration of the promises and covenants contained herein, and to induce the Developer to proceed with the construction of the Public Improvements, the Parties agree as follows:

(END OF RECITALS)

ARTICLE I

DEFINITIONS

Section 1.1. Use of Defined Terms. In addition to the words and terms defined elsewhere in this Agreement or by reference to another document, the words and terms set forth in Section 1.2 have the meanings set forth in Section 1.2 unless the context or use clearly indicates another meaning or intent.

Section 1.2. Definitions. As used herein:

"***Agreement***" means this Infrastructure Agreement (The Corners at Rings and Frantz Road) by and between the City and the Developer and dated as of the Effective Date.

"***Authorized City Representative***" means initially the City Manager of the City. The City may from time to time provide a written certificate to the Developer signed on behalf of the City by the City Manager designating an alternate or alternates who has the same authority, duties and powers as the initial Authorized City Representative.

"***Authorized Developer Representative***" means initially Paul G. Ghidotti, in his capacity as Executive Vice President of the Developer. The Developer may from time to time provide a written certificate to the City signed on behalf of the Developer by its President designating an alternate or alternates or a substitute who has the same authority, duties and powers as the initial Authorized Developer Representative.

"***Change Directive***" means such instrument executed and delivered pursuant to Section 4.7.

"***Change Order***" means such instrument executed and delivered pursuant to Section 4.6.

"***City***" means the City of Dublin, Ohio, an Ohio municipality.

"***City Council***" means the City Council of City.

"***Completion Certificate***" has the meaning set forth in Section 4.3(a).

"***Construction Documents***" means this Agreement, the Drawings and Specifications, the bids for the Public Improvements as approved by the Authorized City Representative, and the [Guaranteed Maximum Price Construction Contract] between Developer and the General Contractor, as construction contractor, as such documents may be revised or supplemented from time to time with the approval of the Authorized City Representative and the Authorized Developer Representative.

"***Cost of the Work***" means the actual costs of the design and construction of the Public Improvements, the approved budget for which is attached as **EXHIBIT D**. Costs of the Work may include construction labor and material costs, related plan review and inspection fees, design and engineering fees as approved by the Engineer, site preparation costs, legal fees related to the review

of project construction documents, and other costs necessary and appurtenant thereto, all as further described in the approved Construction Documents.

"***County***" means the County of Franklin, Ohio.

"***Developer***" means The Daimler Group, Inc., a corporation organized and existing under the laws of the State, including any successors or assigns thereof permitted under this Agreement.

"***Director of Finance***" means the Director of Finance of the City.

"***Drawings and Specifications***" has the meaning set forth in Section 5.1, which Drawings and Specifications contain the detailed construction plans and specifications for the Public Improvements.

"***Effective Date***" means the date as defined in the preambles of this Agreement.

"***Engineer***" means the City Engineer, or any architectural or engineering firm licensed to perform architectural and engineering services within the State of Ohio and appointed by the City with the consent of the Authorized Developer Representative, which consent may not be unreasonably withheld or delayed.

"***Engineer's Completion Certificate***" has the meaning set forth in Section 4.3(b).

"***Event of Default***" means an Event of Default under Section 7.1.

"***Force Majeure***" means acts of God; fires; epidemics; landslides; floods; strikes; lockouts or other industrial disturbances; acts of public enemies; acts or orders of any kind of any governmental authority; insurrections; riots; civil disturbances; arrests; explosions; breakage or malfunctions of or accidents to machinery, transmission pipes or canals; partial or entire failures of utilities; shortages of labor, materials, supplies or transportation; lightning, earthquakes, abnormal adverse weather that could not have been reasonably anticipated and which affects critical path work; or any other cause or event not reasonably within the control of the Developer or the City, as the case may be, excluding, however, the inability of the Developer to obtain financing for its obligations hereunder.

"*General Contractor*" means [_____].

"***Project Fund***" means the account or fund created by the City into which the amounts required pursuant to this Agreement shall be deposited and disbursed to pay for the Cost of the Work pursuant to this Agreement.

"***Public Improvements***" means the construction of (a) park improvements (shelter, hardscape, lighting, irrigation, benches, and other amenities) on the Property, (b) an eight-foot asphalt path around storm water ponds on the Property, (c) pond enhancements/beautification, retaining walls, railings, seating areas, center/circle gathering area, and landscaping on the Property, (d) East/West path(s) from Frantz Road to the public park space on the Property, (e) pocket parks at NE (Blazer Parkway/Frantz Road and SE (Rings Road/Frantz Road) corners, (f) Property vehicular access points, (g) Rings Road median changes, (h) mechanical relocations for

electric and communications facilities necessary for the development of the Property, and (i) all appurtenances thereto, as generally depicted on **EXHIBIT A** and which will be more specifically described in the Construction Documents, as the same may be modified pursuant to this Agreement.

"***State***" means the State of Ohio.

"***TIF Ordinance***" means Ordinance No. 2019-__, passed by the City Council on _____, 2019.

"***Work***" means the construction of the Public Improvements in accordance with this Agreement.

Section 1.3. Interpretation. Any reference in this Agreement to City or to any officers of City includes those entities or officials succeeding to their functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

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 includes 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 is 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.

No presumption will apply in favor of any Party in the interpretation of this Agreement or in the resolution of any ambiguity of any provision hereof.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "*hereof*", "*hereby*", "*herein*", "*hereto*", "*hereunder*" and similar terms refer to this Agreement; and the term "*hereafter*" means after, and the term "*heretofore*" means before, the date of this Agreement. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise. References to articles, sections, subsections, clauses, exhibits or appendices in this Agreement, unless otherwise indicated, are references to articles, sections, subsections, clauses, exhibits or appendices of this Agreement.

Section 1.4. Captions and Headings. The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit or describe the scope of the intent of any article, section, subsection, clause, exhibit or appendix of this Agreement.

Section 1.5. Conflicts between this Agreement and other Construction Documents. Where there is a conflict between this Agreement and the other Construction Documents, the conflict will be resolved by providing the better quality or greater quantity and compliance with the more stringent requirement. If an item is shown on the Drawings and Specifications but not specified, the Developer will provide the item of the same quality as similar items specified, as determined by the Engineer. If an item is specified but not shown on the Drawings and Specifications, it will be located as directed by the Engineer.

(END OF ARTICLE I)

ARTICLE II

GENERAL AGREEMENT AND TERM

Section 2.1. General Agreement Among Parties. 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 among the Parties, the Parties will cooperate in the manner described herein to facilitate the design and construction of the Public Improvements.

Section 2.2. Term of Agreement. This Agreement is effective as of the Effective Date and continues 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 2.3. No Agency Relationship. The City and the Developer each acknowledge and agree that in fulfilling its obligations under this Agreement, the Developer acts as an independent contractor of the City and not as an agent of the City.

(END OF ARTICLE II)

ARTICLE III

REPRESENTATIONS AND COVENANTS OF THE PARTIES

Section 3.1. Representations and Covenants of City. City represents and covenants that:

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

(b) To the City's knowledge, it is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to City which would impair its ability to carry out its obligations contained in this Agreement.

(c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the knowledge of City, that execution, delivery and performance do not and will not violate or conflict with any provision of law applicable to City, including its Charter, and do not and will not conflict with or result in a default under any agreement or instrument to which City is a party or by which it is bound.

(d) This Agreement to which it is a Party has, by proper action, been duly authorized, executed and delivered by City and all steps necessary to be taken by City have been taken to constitute this Agreement, and the covenants and agreements of City contemplated herein are valid and binding obligations of City, enforceable in accordance with their terms.

(e) To the City's knowledge, there is no litigation pending or threatened against or by City wherein an unfavorable ruling or decision would materially and adversely affect City's ability, to carry out its obligations under this Agreement.

(f) It will do all reasonable things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement by any successor public body.

(g) The TIF Ordinance has been duly passed by the City, has not been amended, modified or repealed, and is in full force and effect.

(h) The City shall not amend the TIF Ordinance in any way that reduces the amount of service payments in lieu of taxes without the written consent of the Developer.

For purposes of this Section 3.1, the term "knowledge" means the actual knowledge of the City Manager, without further investigation, as of the Effective Date.

Section 3.2. Representations and Covenants of the Developer. The Developer represents and covenants that:

(a) It is a corporation duly organized and in good standing under the applicable laws of the State.

(b) To the Developer's knowledge, it is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the Developer that would impair its ability to carry out its obligations contained in this Agreement.

(c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the knowledge of the Developer, that execution, delivery and performance do not and will not violate or conflict with any provision of law applicable to the Developer, and do not and will not conflict with or result in a default under any agreement or instrument to which the Developer is a party or by which it is bound.

(d) This Agreement to which it is a Party has, by proper action, been duly authorized, executed and delivered by the Developer and all steps necessary to be taken by the Developer have been taken to constitute this Agreement, and the covenants and agreements of the Developer contemplated herein are valid and binding obligations of the Developer, enforceable in accordance with their terms.

(e) To the Developer's knowledge, there is no litigation pending or threatened against or by the Developer wherein an unfavorable ruling or decision would materially and adversely affect the Developer's ability to carry out its obligations under this Agreement.

(f) It will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement by any successor entity.

For purposes of this Section 3.2, the term "knowledge" means the actual knowledge of the Authorized Developer Representative, without a duty to investigate.

(END OF ARTICLE III)

ARTICLE IV

DESIGN AND CONSTRUCTION OF PUBLIC IMPROVEMENTS

Section 4.1. General Considerations. In consideration of the Developer's promise to construct the Public Improvements, the City agrees to disburse amounts on deposit in the Project Fund to reimburse or otherwise pay the Developer for the Cost of the Work in accordance with Section 6.2 and any other applicable provisions of this Agreement and accept the completed Public Improvements in accordance with and subject to the provisions of Section 4.4.

Section 4.2. Design, Construction and Payment of Costs of the Public Improvements. The City has caused the Public Improvements to be designed. The Developer shall cause the construction of the Public Improvements in accordance with the Construction Documents. ***The Developer shall be solely responsible for any Cost of the Work necessary to complete the Public Improvements that exceed the approved budget attached as EXHIBIT D (as the same may be modified by approved Change Order), including, without limitation, increases in the Cost of the Work caused by corrections to deficient or nonconforming Work.***

The Developer will perform the work and pay the Cost of the Work in accordance with this Agreement and the other Construction Documents, and Developer will provide all necessary and inferable labor, materials, services and acts in connection with the design, construction and completion of the Public Improvements, regardless of whether or not reflected in the Construction Documents. The Public Improvements must be built in a manner that is consistent with the applicable City requirements and development regulations. The Developer will complete construction of the Public Improvements, including correction of deficiencies and other punch-list items, by December 31, 2021, subject to Force Majeure events and other schedule extensions as Developer may be entitled to under this Agreement.

The Parties agree that the General Contractor will serve as the general contractor for the Public Improvements. The Developer shall, or shall cause the General Contractor to, request and receive bids on the Public Improvements in one or more packages, the number and form of which shall be subject to the reasonable approval of the Authorized City Representative. The Developer agrees that with respect to each bid package, the Developer shall, or shall cause the General Contractor to, request and receive no less than three (3) responsible bids, except as may otherwise be approved in writing by the Authorized City Representative. The Developer shall award, or shall ensure that the General Contractor awards, the subcontract for each bid package only after receiving the approval of the Authorized City Representative, which approval shall not be reasonably withheld. The Developer will enter into all construction contracts in its own name and not in the name of the City. The Developer will provide to the City drafts of all construction contracts to which the Developer is a party at least seven (7) days prior to execution thereof in order to allow the City to review and comment on the same. All such contracts shall include the completed and executed contract addendum in the form attached hereto as **EXHIBIT B**, and no Written Requisitions shall be paid with respect to any such construction contract until the Developer has provided to the City a copy fully executed contract, including the completed and executed contract addendum.

The Developer will supervise, perform and direct the Work utilizing qualified personnel, and in accordance with the standards of care normally exercised by construction organizations performing similar work.

The Developer agrees that it will obtain or provide any needed temporary construction easements for the Public Improvements.

Section 4.3. Completion of the Public Improvements. The Public Improvements will be deemed completed upon fulfillment of the following conditions:

(a) Receipt of written notice (the "*Completion Certificate*") from the Authorized Developer Representative that the Public Improvements are complete and ready for final acceptance by the City, which notice must (i) generally describe all property acquired or installed as part of the Public Improvements; (ii) state the Cost of the Work, and (iii) state and constitute the Developer's representation that the construction of the Public Improvements have been completed substantially in accordance with the Construction Documents, all costs then due and payable in connection therewith have been paid, there are no attested account claims under Revised Code Section 1311.25 et seq. ("Attested Account Claims"), and all obligations, costs and expenses in connection with the Public Improvements have been paid or discharged.

(b) Receipt from the Engineer of a final Certificate of Completion (the "*Engineer's Completion Certificate*") stating that to the best of the Engineer's knowledge, information and belief, and on the basis of the Engineer's on-site visits and inspections, that the Public Improvements have been satisfactorily completed in accordance with the terms and conditions of the Construction Documents, including all punch list items, that the construction of the Public Improvements have been accomplished in a manner that conforms to all then applicable governmental laws, rules and regulations; and that the Public Improvements have been approved by the relevant public authorities.

Section 4.4. Acceptance of the Public Improvements. The City has no obligation to accept the Public Improvements until:

(a) the Public Improvements are satisfactorily completed in accordance with the Construction Documents, as evidenced by the Engineer's Completion Certificate and properly dedicated as public rights-of-way and easements to the City;

(b) the City receives the Completion Certificate, the Engineer's Completion Certificate, copies of the approval letters issued by relevant public authorities as referenced in Section 4.3 herein, and all documents and instruments to be delivered to the City pursuant to the Construction Documents;

(c) the City has received evidence reasonably satisfactory to it that all liens on the Public Improvements, including, but not limited to, tax liens then due and payable, the lien of any mortgage, and any Attested Account Claims, have been released, or, with respect to Attested Account Claims, security therefor has been provided pursuant to Section 5.8; and

(d) the Developer has provided the City "as constructed record drawings" consisting of reproducible record drawings showing significant changes in the Public Improvements made during construction and containing such annotations as may be necessary for someone unfamiliar with the Public Improvements to understand the changes that were made to the original Construction Documents.

The above conditions do not alleviate the Developer from City inspections of the Public Improvements during construction. A schedule shall be provided and inspection of the Work shall be coordinated with the City at least seventy-two (72) hours in advance for key installations such as, but not limited to, sanitary, storm sewer and granite curb. Key installations shall be established within two (2) weeks of from the date of submittal of the schedule.

The City agrees to accept the Public Improvements and the rights-of-way allocable thereto upon satisfaction of the conditions listed in (a) though (d) of this Section. The City acceptance of the Public Improvements does not relieve the Developer of its responsibility for defects in material or workmanship as set forth in Section 5.10, nor any future obligations that may be imposed on the Developer in connection with the development of property abutting or near the Public Improvements.

Section 4.5. Extensions of Time. If the Developer or the City is delayed in the commencement or progress of its obligations hereunder by a breach by the other Party of its obligations hereunder, or by Force Majeure, and other schedule extensions as Developer may be entitled to under this Agreement or other agreements between the parties, then the time for performance under this Agreement by the Party so delayed will be extended for such time as is commercially reasonable under the circumstances.

Section 4.6. Changes in the Work. After the execution of this Agreement, and without invalidating this Agreement, the Authorized Developer Representative, the Authorized City Representative and the Engineer by written agreement (a "*Change Order*") may agree to changes in the Work. Changes in the Work will be performed under applicable provisions of this Agreement and the Construction Documents, unless otherwise provided in the Change Order.

A Change Order must be in the form attached as **EXHIBIT C**, be prepared by the Engineer and be signed by the Authorized City Representative, the Authorized Developer Representative and the Engineer, stating their agreement upon (a) the change in the Work, (b) any adjustment of the Cost of the Work, and (c) any extension of the time for performance under this Agreement. Approval of each Change Order is subject to the City's standard review and approval process for contract change orders.

Section 4.7. Change Directives. The City, without invalidating the Agreement, may order changes in the Work consisting of additions, deletions or other revisions, including proposed adjustments to the Developer's time for performance, through a written directive signed by the City and issued to the Developer ("*Change Directive*"). In the absence of an agreed-upon method, adjustments in the Cost of the Work and contract time for performance resulting from a Change Directive shall be determined by the Developer's cost of labor, material, equipment, and reasonable overhead, unless the Parties agree on another method for determining the cost or credit. Pending final determination of the total cost of a Change Directive, the Developer may request payment for Work

completed pursuant to the Change Directive. The City will make an interim determination of the amount of payment due for purposes of certifying a Written Requisition. When the City and Developer agree on adjustments to the Cost of the Work and contract time arising from a Change Directive, the Engineer will prepare a Change Order. The Developer shall proceed diligently with the performance of the changes in the Work following receipt of and as set forth in the Change Directive pending Developer's receipt of a fully executed Change Order.

(END OF ARTICLE IV)

ARTICLE V

FURTHER PROVISIONS RELATING TO THE DESIGN AND CONSTRUCTION OF THE PUBLIC INFRASTRUCTURE IMPROVEMENTS

Section 5.1. **Construction Documents**. The City has caused to be prepared the working drawings, plans and specifications that are necessary to be prepared in connection with the Work (collectively, the "*Drawings and Specifications*") as well as the other Construction Documents. The Drawings and Specifications and the Construction Documents shall be instruments of service through which the Work to be executed is described.

Section 5.2. **Prevailing Wage**. The City designates its Contract & Procurement Coordinator as the prevailing wage coordinator for the Public Improvements (the "*Prevailing Wage Coordinator*"). The Developer acknowledges and agrees that the Public Improvements are subject to the prevailing wage requirements of Chapter 4115 of the Ohio Revised Code and all wages paid to laborers and mechanics employed on the Public Improvements must be paid at not less than the prevailing rates of wages of laborers and mechanics for the classes of work called for by the Public Improvements in Franklin County, Ohio, which wages must be determined in accordance with the requirements of that Chapter 4115. The Developer must comply, and the Developer must require compliance by all contractors and must require all contractors to require compliance by all subcontractors working on the Public Improvements, with all applicable requirements of that Chapter 4115, including any necessary posting requirements. The Developer (and all contractors and subcontractors thereof) must cooperate with the Prevailing Wage Coordinator and respond to all reasonable requests by the Prevailing Wage Coordinator when the Prevailing Wage Coordinator is determining compliance by the Developer (and all contractors and subcontractors thereof) with the applicable requirements of that Chapter 4115.

The Prevailing Wage Coordinator will notify the Developer of the prevailing wage rates for the Public Improvements. The Prevailing Wage Coordinator will notify the Developer of any change in prevailing wage rates within seven (7) working days of receiving notice of such change from the Director of the Ohio Department of Commerce. The Developer must immediately upon such notification (a) ensure that all contractors and subcontractors receive notification of any change in prevailing wage rates as required by that Chapter 4115; (b) make the necessary adjustment in the prevailing wage rates and pay any wage increase as required by that Chapter 4115; and (c) ensure that all contractors and subcontractors make the same necessary adjustments.

The Developer must, upon beginning performance of this Agreement, notify the Prevailing Wage Coordinator of the commencement of Work, supply to the Prevailing Wage Coordinator the schedule of the dates during the life of this Agreement on which the Developer (or any contractors or subcontractor thereof) is required to pay wages to employees. The Developer (and each contractor or subcontractor thereof) must also deliver to the Prevailing Wage Coordinator a certified copy of its payroll relating to laborers performing the Work within two (2) weeks after the initial pay date, and supplemental reports for each month thereafter and in connection with any Written Requisition exhibiting for each such employee paid any wages, the employee's name, current address, social security number, number of hours worked during each day of the pay periods covered and the total for each week, the employee's hourly rate of pay, the employee's job

classification, fringe payments and deductions from the employee's wages; *provided, however*, that the Developer must submit such payroll reports weekly if construction of the Public Improvements is contemplated to last less than four (4) calendar months. The certification of each payroll must be executed by the Developer (or contractor, subcontractor, or duly appointed agent thereof, if applicable) and recite that the payroll is correct and complete and that the wage rates shown are not less than those required by this Agreement and Chapter 4115 of the Ohio Revised Code.

The Developer must provide to the Prevailing Wage Coordinator a list of names, addresses and telephone numbers for any contractors or subcontractors performing any Work on the Public Improvements within a reasonable amount of time after they become available, and the name and address of the bonding/surety company and the statutory agent (if applicable) for those contractors or subcontractors. The Developer may not contract with any contractor or subcontractor listed with the Ohio Secretary of State for violations of Chapter 4115 of the Ohio Revised Code pursuant to Section 4115.133 of the Ohio Revised Code.

In connection with any Written Requisition, the Developer (and any contractor or subcontractor thereof) must submit to the Prevailing Wage Coordinator the affidavit required by Section 4115.07 of the Ohio Revised Code for the Work to which that Written Requisition relates.

Section 5.3. Traffic Control Requirements. The Developer is responsible for ensuring the provision, through contractors or otherwise, of all traffic control devices, flaggers and police officers required to properly and safely maintain traffic during the construction of the Public Improvements. Without limiting the generality of the foregoing, the Developer shall use its best efforts to maintain traffic flow on existing streets during construction of the Public Improvements and minimize the time period during which such streets are closed. All traffic control devices must be furnished, erected, maintained and removed in accordance with the Ohio Department of Transportation's "Ohio Manual of Uniform Traffic Control Devices" related to construction operations. The Developer must also submit to City for review and approval by City a plan for construction ingress and egress and maintain construction traffic in accordance with that plan.

Section 5.4. Equal Opportunity Clause. The Developer must, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that the Developer is an equal opportunity employer. The Developer will require all contractors and will require all contractors' subcontractors to include in each contract a summary of this equal opportunity clause.

Section 5.5. Insurance Requirements. The Developer must furnish proof to the City at the time of commencing construction of the Public Improvements of comprehensive general liability insurance naming the City and its authorized agents as an additional insured. The minimum limits of liability for the required insurance policies may not be less than the following unless a greater amount is required by law:

(a) Commercial General Liability ("*CGL*"): Bodily injury (including death) and property damage with a combined single limit of $1,000,000 each occurrence, with a $2,000,000 aggregate; $100,000 for damage to rented premises (each occurrence); and $1,000,000 for personal and advertising injury. CGL must include (i) premises-operations,

(ii) explosion and collapse hazard, (iii) underground hazard, (iv) independent contractors' protective, (v) broad form property damage, including completed operations, (vi) contractual liability, (vii) products and completed operations, with $2,000,000 aggregate and to be maintained for a minimum period of one (1) year after acceptance of the Public Improvements pursuant to Section 2.4, (viii) personal injury with employment exclusion deleted, and (ix) stopgap liability for $100,000 limit. The general aggregate must be endorsed to provide that it applies to the Work only.

(b) Automobile liability, covering all owned, non-owned, and hired vehicles used in connection with the Work: Bodily injury (including death) and property damage with a combined single limit of $1,000,000 per person and $1,000,000 each occurrence.

(c) Such policies must be supplemented by an umbrella policy, also written on an occurrence basis, to provide additional protection to provide coverage in the total amount of $5,000,000 for each occurrence and $5,000,000 aggregate. The Developer's insurance is primary to any insurance maintained by the City.

(d) The Developer must obtain an additional named insurance endorsement for the CGL and automobile liability coverage with the following named insureds for covered claims arising out of the performance of the Work under the Construction Documents:

(i) the City of Dublin;

(ii) Dublin City Council members, executive officers, and employees;

(iii) the Engineer and its employees; and

(iv) the Developer, to the extent that any construction activities are being staged or undertaken on real property owned by the Developer.

(e) Insurance policies must be written on an occurrence basis only.

(f) Products and completed operations coverage will commence with the certification of the acceptance of the Public Improvements pursuant to Section 4.4 and will extend for not less than two (2) years beyond that date.

(g) The Developer must require all contractors and subcontractors to provide workers' compensation, CGL, and automobile liability insurance with the same minimum limits specified herein, unless the City agrees to a lesser amount.

(h) If the Work includes environmentally sensitive, hazardous types of activities (such as demolition, exterior insulation finish systems, asbestos abatement, storage-tank removal, or similar activities), or involves hazardous materials, the Developer shall maintain a pollution liability policy with (1) a per-claim limit of not less than $1,000,000 and (2) an annual-aggregate limit of not less than $1,000,000, covering the acts, errors and/or omissions of the Developer for damages (including from mold) sustained by

the City by reason of the Developer's performance of the Work. The policy shall have an effective date, which is on or before the date on which the Developer first started to perform any Work-related services. Upon submission of the associated certificate of insurance and at each policy renewal, the Developer shall advise the City in writing of any actual or alleged claims which may erode the policy's limits.

(i) If the Work includes professional design services, Professional liability insurance from the Developer's design professional and any other consultant and subcontractor that are providing professional design services without design-build exclusions with limits not less than $1,000,000 per claim and $2,000,000 annual aggregate. The professional liability policy shall have an effective date which is on or before the date on which the Developer first started to provide any Work-related services. Upon submission of the associated certificate of insurance and at each policy renewal, the Developer shall advise the City in writing of any actual or alleged claims which may erode the professional liability policy's limits. The Developer's design professional and any consultants and subcontractor that are providing professional design services shall maintain such coverage as required by this Subsection for no less than five (5) years after the earlier of the termination this Agreement or final completion of all Work.

(j) the Developer shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Work is located, property insurance on an "all-risk" or equivalent policy form, including builder's risk, in the amount of the initial Cost of the Work, plus the value of subsequent modifications and cost of materials supplied and installed by others, comprising total value for the entire Work at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final disbursement has been made as provided in Section 6.3 or until no person or entity other than the City has an insurable interest in the property required by this Section to be covered, whichever is later. This insurance shall include interests of the City, the Developer and subcontractors of any tier. The Developer shall provide a copy of a certificate of insurance, upon request, to the City evidencing such coverage before an exposure to loss may occur. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least thirty (30) days' prior written notice has been given to the Developer and City.

Each policy of insurance and respective certificate of insurance must expressly provide that no less than ten (10) days prior written notice be given to City in the event of cancellation, non-renewal, expiration or material alteration of the coverage contained in such policy.

Section 5.6. **City Income Tax Withholdings**. The Developer will withhold and pay, will require all contractors to withhold and pay, and will require all contractors to require all subcontractors to withhold and pay, all City income taxes due or payable with respect to wages, salaries, commissions and any other income subject to the provisions of Chapter 35 of the Dublin City Code.

Section 5.7. Compliance with Occupational Health and Safety Act of 1970. The Developer and all contractors and subcontractors are solely responsible for their respective compliance with the Occupational Safety and Health Act of 1970 under this Agreement.

Section 5.8. Provision of Security for Attested Account Claims. To the extent any subcontractor, material supplier or laborer asserts and Attested Account Claim against the Public Improvements, the City shall proceed as is required by Revised Code Section 1311.25 et seq. which may include detaining funds that are due and payable to Developer until a sufficient amount has been detained to cover the Attested Account Claim until such time that the Attested Account Claim is released or discharged. Prior to authorizing any contractor to commence work on the Public Improvements, the Developer shall request a "Notice of Commencement" for the Public Improvements from the City, who shall provide a copy to the Developer and make it available as required under Revised Code Section 1311.252. The Developer shall provide a copy of the Notice of Commencement to its subcontractors and any known lower tier subcontractors, and the Developer shall further require its subcontractors to provide a copy of the notice to any of the lower tier subcontractors. The Developer shall also post a copy of the Notice of Commencement in a conspicuous location at the project site.

Section 5.9. Security for Performance. The Developer will furnish prior to commencement of construction of the Public Improvements a performance and payment bond from the general contractor for the Public Improvements in an amount not less than the Cost of the Work that names the City as obligee in the form provided by Section 153.57 of the Ohio Revised Code. In the event of an increase in the Cost of the Work as a result of a Change Directive or Change Order, the Developer shall proportionately increase the amount of its bond. If notice of any change affecting this Agreement is required by a provision of the bond, giving the notice shall be the Developer's responsibility.

Any bond must be executed by sureties that are licensed to conduct business in the State as evidenced by a Certificate of Compliance issued by the Ohio Department of Insurance. All bonds signed by an agent must be accompanied by a power of attorney of the agent signing for the surety. If the surety of any bond so furnished by a contractor declares bankruptcy, become insolvent or its right to do business is terminated in Ohio, the Developer, within five (5) days thereafter, will substitute another bond and surety or cause the contractor to substitute another bond and surety, both of which is acceptable to the City and the Developer. The Developer must provide to the City prior to commencement of any Work by any contractor a copy the security for performance provided by the Developer or contractor pursuant to this Section.

Section 5.10. Further Developer Guaranties Relating to the Public Improvements. The Developer guarantees that it will cause to be exercised in the performance of the Work the standard of care normally exercised by well-qualified engineering and construction organizations engaged in performing comparable services in central Ohio. The Developer further warrants that the Work and any materials and equipment incorporated into the Work will be free from defects, including defects in the workmanship or materials (without regard to the standard of care exercised in its performance) for a period of one (1) year (two (2) years for storm sewer improvements dedicated to the City) after written conditional acceptance of the Work by City. The guarantee provided in this Section is in addition to, and not in limitation of, any other guarantee, warranty or remedy provided by law, a

manufacturer or the Construction Documents. The Developer shall require in all construction contracts for the Public Improvements to provide that the City is a beneficiary of any guarantees provided by the Contractor and entitled to enforce those guarantees.

If defective Work becomes apparent within the warranty or guarantee period, the City will promptly notify the Developer in writing and provide a copy of said notice to the Engineer. Within ten (10) days of receipt of said notice, the Developer will visit the site of the Work in the company of one or more representatives of the City to determine the extent of the defective work. The Developer will, within a reasonable time frame, repair or replace (or cause to be repaired or replaced) the defective Work, including all adjacent Work damaged as a result of such defective Work or as a result of remedying the defective Work. If the defective Work is considered by the City to be an emergency, the City may require the Developer to visit the site of the Work within one day of receipt of said notice. The Developer is fully responsible for the cost of temporary materials, facilities, utilities or equipment required during the repair or replacement of the defective Work.

If the Developer does not repair or replace defective Work within a reasonable time frame, the City may repair or replace such defective Work and charge the cost thereof to the Developer or the Developer's surety. Work that is repaired or replaced by the Developer is subject to inspection and acceptance by the Engineer and City and must be guaranteed by the Developer for one (1) year from the date of acceptance of the corrective work by the City.

Section 5.11. Developer Representations as to Personal Property Taxes; Sales Taxes. The Developer represents that at the time of the execution of this Agreement, it is not charged with any delinquent personal property taxes on the general tax list of personal property of the County. Further, the Developer will require all contractors to execute an affidavit in the form set forth on **EXHIBIT E**, a copy of which certificate must be delivered to the Authorized City Representative prior to the commencement of any work by that contractor or subcontractor. The Parties intend that building and construction materials incorporated into the Public Improvements be exempt from state and local sales taxes. The City will cooperate with the Developer to provide sales tax exemption certificates to contractors in order to exempt those materials.

Section 5.12. Indemnity. (a) The Developer releases the City and each officer, official and employee thereof (collectively, the "*Indemnified Parties*" and each an "*Indemnified Party*") from, agrees that the Indemnified Parties are not liable for, and indemnifies each Indemnified Party against, all liabilities, obligations, damages, costs and expenses (including without limitation, reasonable attorneys' fees) asserted against, imposed upon or incurred by an Indemnified Party (collectively, the "*Liabilities*" and each a "*Liability*"), other than any Excluded Liability as hereinafter defined, arising out of, in connection with or resulting from the execution and delivery of this Agreement, the consummation of the transactions provided for herein and contemplated hereby, liens of subcontractors and suppliers of any tier, and all activities undertaken by the Developer or the City pursuant to this Agreement in furtherance of the development of the Public Improvements. The Developer shall require in all construction contracts for the Public Improvements to provide that the City is a beneficiary of any indemnitees provided by the Contractor and entitled to enforce those indemnitees.

"*Excluded Liability*" means each Liability to the extent it is attributable to (i) the gross negligence or willful misconduct of any Indemnified Party, or (ii) the failure of the City to comply with any of its obligations under this Agreement. Excluded Liabilities include, without limitation, any Liabilities settled without the Developer's consent and any Liability to the extent that the Developer's ability to defend that Liability is prejudiced materially by the failure of an Indemnified Party to give timely written notice to the Developer of the assertion of that Liability.

(b) Upon notice of the assertion of any Liability, the Indemnified Party must give prompt written notice of the same to the Developer.

(c) Upon receipt of written notice of the assertion of a Liability, the Developer has the duty to assume, and must assume, the defense thereof, with full power and authority to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party has the right to approve any obligations imposed upon it by compromise or settlement of any Liability or in which it otherwise has a material interest.

(d) At its own expense, an Indemnified Party may employ separate counsel and participate in the defense of any Liability; *provided, however*, if it is ethically inappropriate for one firm to represent the interests of the Developer and the Indemnified Party, the Developer must pay the reasonable legal expenses of the Indemnified Party in connection with its retention of separate counsel. The Developer is not liable for any settlement of any Liability effected without its written consent, but if settled with the written consent of the Developer, or if there is a final judgment for the plaintiff in an action, the Developer agrees to indemnify and hold harmless the Indemnified Party except only to the extent of any Excluded Liability.

(e) This Section survives the termination of this Agreement.

(END OF ARTICLE V)

ARTICLE VI

PAYMENT OF COST OF THE WORK

Section 6.1. Deposit of Monies in the Project Fund. The City has established or will establish prior to commencement of the Work, the Project Fund for the payment of the Cost of the Work. The City covenants and agrees to deposit monies into the Project Fund in an amount equal to $1,600,000. The Developer covenants and agrees to deposit monies into the Project Fund in an amount equal to remaining Cost of the Work as set forth in the final Construction Documents prior to commencement of construction of the Public Improvements (the "Developer's Deposit"). The Developer acknowledges and agrees that this and any additional deposit into the Project Fund is a non-refundable transfer and title vests to all such amounts in the City immediately upon the making of those deposits, and that the Developer has no right, title or interest in the Project Fund other than amounts in the Project Fund needed to pay approved Written Requisitions hereunder or amounts to be paid to the Developer pursuant to Section 6.3 following final completion of the Work and acceptable by the City. Promptly following the execution and delivery of any Change Order, the Developer agrees to deposit additional monies into the Project Fund as may be required to pay the additional Cost of the Work caused by the Change Order, or in the event of a Change Directive (or final Change Order resulting from a Change Directive) that causes the total Cost of the Work (as adjusted by any Change Orders previously or thereafter approved) to exceed the amount deposited into the Project Fund, the City agrees to deposit into the Project Fund additional monies as based on the City's interim determination under Section 4.7 and pending the execution of a Change Order, in each case when and as necessary to fund disbursements pursuant to the schedules set forth in the Construction Documents. Following commencement of construction of the Public Improvements and promptly upon a determination by the Developer or the City that the projected remaining Cost of the Work will exceed the amount remaining in the Project Fund, the Developer shall deposit such additional amounts into the Project Fund as are necessary in order to increase the amount in the Project Fund to an amount equal to the projected total remaining Cost of the Work. Notwithstanding anything to the contrary contained herein, any additional deposit required from the Developer hereunder shall be equal only to the amount of the excess Cost of Work, if any, that would exist after reallocating any unallocated contingency funds in the projected total remaining Cost of Work to costs associated with such Change Order (other than a Change Order resulting from a Change Directive).

Section 6.2. Disbursements from the Project Fund.

(a) General. The City agrees to authorize disbursement of amounts in the Project Fund, in accordance with the Construction Documents based on Written Requisitions executed by the Authorized Developer Representative substantially in the form set forth on **EXHIBIT F**. No amounts shall be disbursed from the Project Fund with respect to any construction contract until the Developer provides to the City a fully executed copy of that contract, including the completed and executed contract addendum in the form attached as **EXHIBIT B**, as well as proof of the insurance required under Section 5.5, the notice of commencement required under Section 5.8, the bond required under Section 5.9 and the affidavit required under section 5.11. The parties agree that Written Requisitions and payments to the Developer shall be subject to the retainage requirements of five percent (5%) of the amount requested in a Written Requisition. To the extent consistent with the customary payment process of the City with respect to payment applications from contractors on City public improvement

contracts, each Written Requisition must be accompanied by conditional lien waivers and releases from all subcontractors and suppliers to be paid from the payment resulting from the Written Requisition, and unconditional lien waivers and releases from all subcontractors and suppliers for which The Developer was required to provide a conditional lien waiver in connection with a prior Written Requisition. The period covered by each Written Requisition must be at least one (1) calendar month, ending on the last day of the month. The Developer will deliver payment requests to the City no more often than once each calendar month during the course of construction of the Public Improvements. The City may object to a Written Requisition by giving written notice of and specific reasons for the objection(s) and of the amounts subject to the objection(s) within ten (10) business days of receipt. Following receipt of any objection by the City, Developer may provide additional information on a supplemental Written Requisition form (such being a "Supplemental Requisition") in order to substantiate any objected amounts. The City may object to a Supplemental Requisition by giving written notice of and specific reasons for the objection(s) and of the amounts subject to the objection(s) within five (5) business days of receipt. Objections may be made because of a good faith belief that there is a material defect in Work or the percentage of completion of the Work in question in the Written Requisition is materially overstated. A Written Requisition is not payable until the objection is resolved; provided, however, that the City may only withhold from disbursement any expenses specifically objected to in any given Written Requisition, and all other amounts from such Written Requisition shall be disbursed pursuant to Section 6.2(b) below. If an objection is not made by the City in the time periods described herein, the City shall fully fund the amounts requested in the applicable Written Requisition or Supplemental Requisition, subject to the retainage requirements described above and the disbursement procedures described in Section 6.2(b) below.

(b) Disbursements. Unless the City objects to any such Written Requisition and until such time as all amounts in the Project Fund have been fully disbursed to the Developer in the form of reimbursements, the City will within thirty (30) days following receipt of the Written Requisition (forty-five (45) days in case of the final Written Requisition) pay to the Developer the amounts reflected in any Written Requisition to be paid from the Project Fund. To the extent that the Developer has not theretofore paid the applicable subcontractor(s) and/or supplier(s) the amount requested in such Written Requisition, the Developer will promptly pay to the applicable subcontractor(s) and/or supplier(s) the amounts payable to such subcontractor(s) and/or supplier(s).

All disbursements requested pursuant to this Section are subject to the prior approval of the Engineer and the Director of Finance. ***All disbursements pursuant to this Section will be made solely from the money deposited into the Project Fund and such monies will be the sole source of monies available from the City for payment of the Costs of the Work.***

(c) City Payments Limited to Amount in Project Fund. The Developer covenants and agrees that it will be responsible for the Cost of the Work that is not paid from amounts deposited in the Project Fund, and the Developer will not be entitled to any further reimbursement therefor from the City and the City shall have no obligation to reimburse the Developer for that unreimbursed Cost of the Work from any other City monies.

(d) Other Related Provisions. Upon request of the Authorized City Representative or the Engineer, the Developer will furnish invoices or other documentation in connection with each Written Requisition. Any Written Requisition under this Section 6.2 may be in the form of a communication

by telegram, e-mail, or facsimile transmission, but if in such form, it must be promptly confirmed by a Written Requisition executed by an Authorized Developer Representative and approved by the Authorized City Representative that is delivered to the Developer by telegram, e-mail, or facsimile transmission.

In paying any Written Requisition under this Section 6.2, The City is entitled to rely as to the completeness and accuracy of all statements in such Written Requisition upon the approval of such Written Requisition by an Authorized Developer Representative, execution thereof, and communication thereof by telegram, e-mail, or facsimile transmission, to be conclusive evidence of such approval, and the Developer will indemnify and save harmless the City from any liability incurred in connection with any Written Requisition so executed or communicated by an Authorized Developer Representative.

So long as any Event of Default by the Developer continues, the Developer may not submit or cause to be submitted to the City any Written Requisition pursuant to this Section 6.2 and has no claim upon any money in the Project Fund.

Section 6.3. Final Disbursement. Upon final completion of the Work and acceptance by the City, the Developer will submit to City a final Written Requisition for payment of all remaining sums. Retainage shall be disbursed to the Developer along with the final disbursement. Payment of the final payment is subject to the provisions of this Article VI. The Developer will deliver to City copies of conditional final lien waivers executed by all subcontractors, suppliers or lien claimants along with the final Written Requisition together with the final payroll report and prevailing wage affidavit required by Section 5.2. Any amount in the Project Fund that is not needed to pay the final Written Requisition shall be retained by the City.

Section 6.4. **Developer Reimbursement**. The City agrees to reimburse the Developer for the Developer's Deposit required pursuant to Section 6.1. The amount of the reimbursement will be equal to the Developer's Deposit, plus interest thereon at the rate of 5.0% per year, accruing from the date of the deposit (the "Reimbursement Amount"). The first payment of the Reimbursement Amount shall occur within 30 days of acceptance of the Public Improvements as provided in Section 4.4 from any unspent amount of the Developer's Deposit. In addition, the City shall make annual payments equal to the lesser of $229,000 and the remaining Reimbursement Amount on each December 1, commencing December 1, 2021, until the Reimbursement Amount is paid in full. The City may, at its option, repay all or a portion of the Reimbursement Amount or prepay all or a portion of any annual installment at any time without penalty.

Section 6.5. No City Pledge or Debt. The City's obligation to make payments to the Developer pursuant to this Agreement is not an obligation or pledge of any money raised by taxation and does not represent or constitute a debt or pledge of the faith and credit of the City. All payments to be made by the City hereunder are subject to appropriation of sufficient funds by City Council to make such payments. Except for the payments from the Project Fund and pursuant to Section 6.4 and in the aggregate amount described in this Agreement and for the reimbursements of Cost of the Work, the Developer will receive no other money from the City in connection with the construction of the Public Improvements.

Section 6.6. Minimum Service Payments.

The Developer will reasonably cooperate with the City in the creation of a tax increment financing area encompassing the Property. The Property will be 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 for calendar year 2023 and continuing until calendar year 2052, the Minimum Service Payment Obligation for the Property for each calendar year will be an amount equal to (i) for calendar year 2023, $3 million, for calendar year 2024, $7 million and for calendar year 2025 and thereafter, $10.4 million (which represents the Developer's guaranteed minimum market value for the Property) multiplied by 35% and further multiplied by the then current applicable effective non-school real property tax rate for the Property, less (ii) the sum of the service payments in lieu of taxes (the "Service Payments") anticipated to be received 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. The foregoing Minimum Service Payment Obligation shall no longer apply 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., $13.52 million) or more of the value used to calculate the Minimum Service Payment Obligation (i.e., $10.4 million) as detailed above for a period of four (4) consecutive tax years.

It is intended and agreed, and it will be so provided by the Developer or other owner of the Property in a declaration relating to the Property (which shall be substantially in the form attached hereto as **EXHIBIT G** 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 the tax increment financing has been passed by Dublin City Council and becomes legally effective, and (iii) the declarant is the owner of the applicable portion of the 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 disbursement from the Project Fund will be made until a Declaration is recorded as a covenant running with the land with respect to the Property, with priority over any other liens or encumbrances to which the Property is subject other than those in favor of or approved in writing by the City.

(END OF ARTICLE VI)

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.1. General. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions, by either Party, such Party will, upon written notice from the other, proceed promptly to cure or remedy such default or breach, and, in any event, within thirty (30) days after receipt of such notice. In the event such default or breach is of such nature that it cannot be cured or remedied within that 30 day period, then the Party will upon written notice from the other commence its actions to cure or remedy the breach within the 30 day period, and proceed diligently thereafter to cure or remedy the breach. In case such action is not taken or not diligently pursued, or the default or breach is not cured or remedied within a reasonable time, the following remedies may be pursued: (a) the aggrieved Party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the Party in default or breach of its obligations; (b) the aggrieved Party may terminate this Agreement; and (c) in addition, if the default or breach is a failure of the Developer to achieve completion of the Work by the date set forth in Section 4.2 herein, as adjusted by Change Order or Change Directive, City may perform the Developer's obligations under this Agreement and pay the costs thereof from any lawfully available monies, including amounts on deposit in the Project Fund. The Developer and its surety are responsible for any amount necessary to perform those obligations in excess of the amounts on deposit in the Project Fund.

Section 7.2. Other Rights and Remedies; No Waiver by Delay. The Parties each have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of, and its remedies under, this Agreement; *provided*, that any delay by either Party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Agreement does not operate as a waiver of such rights or to deprive it of or limit such right in any way (it being the intent of this provision that neither Party should be constrained, so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Agreement because of concepts of waiver, laches, or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor does any waiver in fact made by either Party with respect to any specific default by the other Party under this Agreement be considered or treated as a waiver of the rights of such Party with respect to any other defaults by the other Party to this Agreement or with respect to the particular default except to the extent specifically waived in writing.

Section 7.3. Force Majeure. Notwithstanding anything contained in Sections 7.1 and 7.2 to the contrary and except as otherwise provided herein, no Party will be considered in default in its obligations to be performed hereunder, if delay in the performance of such obligations is due to an event of Force Majeure beyond its control and without its fault or negligence; it being the purpose and intent of this paragraph that in the event of the occurrence of any such enforced delay, the time or times for performance of such obligations will be extended for the period of the enforced delay; *provided, however*, that the Party seeking the benefit of the provisions of this Section must, within fourteen (14) days after the beginning of such enforced delay, notify the other Party in writing thereof and of the cause thereof and of the duration thereof or, if a continuing

delay and cause, the estimated duration thereof, and if the delay is continuing on the date of notification, within thirty (30) days after the end of the delay, notify the other Party in writing of the duration of the delay.

(END OF ARTICLE VII)

ARTICLE VIII

CONTINGENCIES; DISPUTE RESOLUTION PROVISIONS AS TO AMENDMENTS AND CLAIMS

Section 8.1 **Notice and Filing of Requests**. Any request by the City or the Developer for amendment of the terms of this Agreement, including without limitation, for additional funds or time for performance must be made in writing and given prior to completion of the Public Improvements. The City is under no obligation to provide additional funds except in the case of a Change Directive that causes the total Cost of the Work (as adjusted by any Change Orders previously or thereafter approved) to exceed the amount deposited into the Project Fund.

Section 8.2. **Request Information**. In every written request given pursuant to Section 8.1, the Party giving notice must provide the nature and amount of the request; identification of persons, entities and events responsible for or related to the request; and identification of the activities on the applicable schedule affected by the request.

Section 8.3. **Meeting**. Within ten (10) days of receipt of the request given pursuant to Section 8.1, the Parties will schedule a meeting in an effort to resolve the request and endeavor to reach a decision on the request promptly thereafter or reach a decision on the request without a meeting, unless a mutual agreement is made to extend such time limit. The meeting will be attended by persons expressly and fully authorized, subject to any necessary City Council approvals, to resolve the request on behalf of the City and the Developer.

Section 8.4. **Mediation**. If no mutually acceptance decision is reached within thirty (30) days of the date of the meeting held pursuant to Section 8.3, the Parties may submit the matter to mediation, upon written agreement between them, or exercise any other remedy permitted to them at law or in equity.

Section 8.5. **Performance**. The City and the Developer will proceed with their respective performance of this Agreement during any dispute resolution process, unless otherwise agreed by them in writing.

(END OF ARTICLE VIII)

ARTICLE IX

MISCELLANEOUS

Section 9.1. **Assignment**. This Agreement may not be assigned without the prior written consent of the non-assigning party; provided that the Developer may make one or more collateral assignments of all or a portion of its rights and obligations under this Agreement to one or more lenders or portion thereof providing financing for the Public Improvements, as long as the assignment provides that the Developer remains liable for all its obligations under this Agreement. The City will cooperate with any reasonable assignment request by a lender and the City Manager is authorized to execute and deliver reasonable and customary instruments requested by any such lender to evidence the City's acknowledgment or consent to that assignment and the lender's collateral interest in this Agreement.

Section 9.2. **Binding Effect**. The provisions of this Agreement shall be binding upon the successors and/or assigns of the Parties.

Section 9.3. **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.

Section 9.4. **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.

Section 9.5. **Entire 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.

Section 9.6. **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. Counterparts and signatures transmitted or stored by facsimile or electronic means (such as e-mailed .pdfs) are deemed to be original counterparts or signatures for all purposes.

Section 9.7. **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 other than in his or her official capacity, and neither the members of the legislative body of the City nor any City official 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.

Section 9.8. **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.

Section 9.9. **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:

(i)	the City at:	City of Dublin, Ohio 5200 Emerald Parkway Dublin, Ohio 43017 Attention: City Manager
(ii)	the Developer at:	The Daimler Group, Inc. 1533 Lake Shore Drive Columbus, Ohio 43204 Attention: Paul G. Ghidotti

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.

Section 9.10. **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.

Section 9.11. **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.

Section 9.12. Recitals and Exhibits. The Parties acknowledge and agree that the facts and circumstances as described in the Recitals and Exhibits hereto are an integral part of this Agreement and as such are incorporated herein by reference.

Section 9.13. 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.

Section 9.14. Survival of Representations and Warranties. All representations and warranties of the Parties in this Agreement shall survive the execution and delivery of this Agreement.

(END OF ARTICLE IX – SIGNATURE PAGES TO FOLLOW)

IN WITNESS WHEREOF, the Parties have caused this Infrastructure Agreement (The Corners at Rings and Frantz Road) to be executed in their respective names by their duly authorized representatives, all as of the date first written above.

CITY OF DUBLIN, OHIO

By: _____
Dana L. McDaniel, City Manager

Approved as to Form:

By: _____
Jennifer Readler, Director of Law

THE DAIMLER GROUP, INC.

By: _____
Paul G. Ghidotti
Executive Vice President

FISCAL OFFICER'S CERTIFICATE

The undersigned, Interim Director of Finance of the City of Dublin, Ohio under the foregoing Agreement, certifies hereby that the moneys required to meet the obligations of the City during the year 2019 under the foregoing Agreement 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: _____, 2019

_____
Matthew Stiffler
Interim Director of Finance
City of Dublin, Ohio

EXHIBIT A

DEPICTION AND DESCRIPTION OF PUBLIC IMPROVEMENTS

[attached]

EXHIBIT B

FORM OF CONTRACT ADDENDUM

1. Contractor acknowledges and agrees that The Daimler Group, Inc. (the "Developer") is an independent contractor, and not an agent, of the City of Dublin (the "City") employed to provide construction services for the Project (as defined below) pursuant to an Infrastructure Agreement (The Corners at Rings and Frantz Road) by and between the Developer and the City (the "Infrastructure Agreement").

2. Contractor acknowledges and agrees that the obligations of the City to pay costs under this contract are limited to funds on deposit in the Project Fund held by the City for the Project in the amount set forth below (such fund, the "Project Fund"), and that the City is not obligated to use any money or assets other than the Project Fund to pay any amount due under this contract. ***Without limiting the foregoing, it is expressly understood and agreed that neither the Developer, the Contractor, nor any other person has any right or claim to any payment from, or any claim on any revenues or assets of, the City other than amounts held in the Project Fund to pay any obligations under this contract, and this contract does not constitute a general debt or a pledge of the general credit of the City, nor gives rise to any pecuniary liability of the City except from, and all such obligations are payable solely and exclusively from, the Project Fund as further described above.***

3. Contractor acknowledges that all liens for labor and materials provided under this contract are subject to the requirements of Ohio Revised Code Section 1311.25 et seq. The Contractor acknowledges receipt of the Notice of Commencement for the Project. Contractor will provide, and will require all subcontractors to provide, conditional lien waivers for all labor and materials when submitting requests for payment under this contract.

4. The Contractor will provide a surety bond naming the City and Developer as payees prior to commencement of work under this contract. The surety bond must be in the form provided by Ohio Revised Code Section 153.57 and must cover all costs of work and materials provided under this contract throughout the term of this contract and the guaranty period described in paragraph 5. The surety bond must be issued by a surety company authorized by the Ohio Department of Insurance to transact business in the State of Ohio with an A.M. Best Company Policyholders Rating of "A-" or better and has or exceeds the Best Financial Size Category Class of Class VI at the time the bond is underwritten. The bond must also be supported by a power of attorney for the agent signing the surety.

5. Contractor warrants to the city that: (a) all work under this contract will be performed with the standard of care normally exercised by nationally recognized organizations engaged in performing comparable services; (b) all materials incorporated into that work are of good quality and new unless otherwise required or permitted by the plans and specifications for the Project approved by the City; (c) all such materials and work are of good and workmanlike quality, free of defects not inherent in the quality required or permitted; (d) all such materials and work will perform all functions for which they are intended; (e) all such materials and work conform to the requirements of the plans and specifications for the Project as approved

by the City and this contract in all material respects; (f) all such materials and work will be free from defects (without regard to the standard of care exercised in the performance of the work) for a period of one year after final completion of all work required by this contract. Contractor will, at its sole cost and expense, (g) promptly correct all of the work not in material conformance with the contract and the plans and specifications for the work to be performed under this contract, (ii) correct any defects in materials and workmanship (without regard to the standard of care exercised in the performance of the work) that appear within a period of one (1) year (two (2) years for storm sewer improvements dedicated to the City) after written conditional acceptance of the work performed under this contract by the City; and (iii) replace, repair or restore any parts of the work or any of the materials placed therein that are injured or damaged as a consequence of corrective action taken pursuant hereto. Contractor will remove, in a manner that at all times complies with all applicable laws, including environmental laws, from the Project all portions of the Contractor's work that are defective or nonconforming and that have not been corrected under this paragraph unless removal is waived by the City in writing. If Contractor fails to make or cause to be made corrections required by this paragraph, the City may do so at the sole expense of Contractor and Contractor will pay or reimburse all such amounts on demand with interest at the rate of ten percent per annum from the date of demand. The warranties provided in this paragraph are in addition to, and do not limit, any other guarantee, warranty or remedy provided by law, a manufacturer, this contract, each of which other guarantee, warranty or remedy may be enforced by the City as a third party beneficiary of this contract. Contractor further hereby assigns any guarantees or warranties provided to it by any of its subcontractors to the City.

6. The Contractor will indemnify, defend and hold harmless the City and its officials, agents and employees from and against any and all suits, claims damages, losses and expenses, including reasonable attorneys' fees, arising or allegedly arising out of, or resulting from the Contractor's or its agents, subcontractors, employees or representatives performance of its obligations under this contract or any work performed by it or its subcontractors. With respect to the work performed under this contract, and solely to the extent necessary to effect such indemnity, the Contractor hereby expressly and specifically waives the constitutional and statutory immunity from suit and causes of action provided to employers in Section 35, Article II of the Ohio Constitution and Section 4123.74 of the Ohio Revised Code, as well as any other similar immunity provided for or by any statute, law or constitutional provision of the State of Ohio and of any other applicable state. The Contractor will promptly reimburse the City and its officers, agents and employees for any cost, expense or reasonable attorneys' fees incurred on account of any such suit or claim incurred or in enforcing the terms of this contract against the Contractor.

7. Contractor represents and warrants to the City that it is and will remain in compliance and, upon request, will provide to the City appropriate statements or affidavits stating that it is in compliance with all legal requirements for contracting with Ohio political subdivisions including, without limitation, all requirements imposed by State of Ohio campaign financing laws contained in Chapter 3517, Ohio Revised Code, any provisions of Sections 2921.42, Ohio Revised Code (unlawful interest in public project), that may be applicable to it, and that it is not aware of any finding for recovery issued against it by the Auditor of the State of Ohio that is "unresolved" under Ohio Revised Code Section 9.24. Contractor shall submit the personal property tax affidavit required by Ohio Revised Code Section 5719.042 and no payments shall

be made under this contract until the Contractor has paid any such delinquent taxes and any penalties and interest thereon.

8. Contractor acknowledges that the Developer may be entitled to an Ohio sales and use tax exemption pursuant to Ohio Revised Code Section 5739.02(B) for building and construction materials or services provided under this contract and Contractor will not pay any such Ohio sales or use tax to the extent that exemption is applicable, but only if the Contractor has been provided an appropriate certification (or copy thereof) signed by the City evidencing the availability of that exemption. Contractor will, and will require all subcontractors and vendors to, retain copies of all records required under Ohio Revised Code Section 5739.03 in connection with the sales or use tax exemption for at least five years after completion of the work under this contract and will provide those records to the Tax Commissioner of the State of Ohio upon request.

9. Contractor will comply, and to cause compliance by its subcontractors, with the requirements of Ohio Revised Code Chapter 4115 for the payment of prevailing wages for the work performed pursuant to this contract. Contractor must ensure that all laborers and mechanics employed by Contractor (or by any of its subcontractors) in the performance of such work are paid at the prevailing rates of wages of laborers and mechanics for the class of work called for with respect to that work, which wages must be determined in accordance with the requirements of Ohio Revised Code Chapter 4115; provided that in the case of any work performed by Contractor's or any of its subcontractor's regular bargaining unit employees who are covered under a collective bargaining agreement that was in existence prior to the date of this contract, the rate of pay provided under the applicable collective bargaining agreement may be paid to such employees. Contractor further acknowledges and agrees that performance of such work is the construction of a "public improvement" within the meaning of Ohio Revised Code Section 4115.03, and that as a result, Contractor must, and must cause all of its subcontractors performing any portion of such work to, comply with all applicable requirements of Ohio Revised Code Sections 4115.03 to 4115.16 and other applicable laws related thereto. Upon request from time to time by either the City, Contractor must promptly deliver to the City satisfactory evidence that Contractor and all of its subcontractors have complied with the foregoing requirements. The prevailing wage coordinator will be the City's Contract & Procurement Coordinator. Contractor represents and warrants that neither it nor any of its subcontractors has been or will be included on any list described in Ohio Revised Code Section 4115.133.

10. Notwithstanding any other provision of this contract to the contrary, the City: (a) is not obligated to indemnify any party pursuant to the terms of this contract; and (b) retains all rights of set-off, counterclaim, recoupment and other similar remedies. All payments by the City for work performed under this contract are expressly conditioned on Contractor's compliance with the requirements of this contract and performance of its obligations under this contract (including this addendum) in all material respects.

11. The Contractor hereby represents and warrants that it practices and will continue to practice nondiscriminatory hiring in its operations and in all solicitations or advertisements for employees placed by it or on its behalf and will require all subcontractors to do the same. As

used in this Section, the term "nondiscriminatory hiring" means that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry or any other classification that is now or may become a classification protected by Federal law or the laws of the State of Ohio.

12. Contractor will withhold and pay, will require all of its subcontractors to withhold and pay, all City income taxes due or payable with respect to wages, salaries, commissions and any other income subject to the provisions of Chapter 35 of the Dublin City Code.

13. Contractor and its subcontractors are solely responsible for their respective compliance with the Occupational Safety and Health Act of 1970.

14. All representations and warranties under this addendum and contract are made to the City and the Developer. Any material inaccuracy of any representation at the time it was made and any material failure to fulfill any warranty or obligation hereunder is a breach of this contract by Contractor.

15. The Contractor acknowledges and agrees that upon the occurrence and continuation of an Event of Default by the Developer under the Infrastructure Agreement, the City may exercise any rights of the Developer under this contract and the Contractor will accept such exercise of rights in lieu of exercise of those rights by the Developer.

16. The obligations of the Contractor under this addendum survive the termination of this contract.

17. In case of conflict between the terms of this addendum and the remainder of this contract, the terms of this addendum prevail.

Accepted and Agreed by:

_____, as Contractor

By:_____

Name & Title: _____

Name of Contract:_____

Name of Project:
Amount in Project Fund: $_____

EXHIBIT C

FORM OF CHANGE ORDER

[attached]

City of Dublin

CHANGE ORDER/DIRECTIVE NUMBER _____

Project Name: Frantz/Rings Road **Date:** _____

Project Number: _____

Contractor Name: The Daimler Group, Inc.

Subcontractor Name: _____

Type of Change (Order/Directive): _____

The following changes are made to the Contract Documents:

Ref No.	Item No.	Description	Qty	Unit	Unit Price	Extended Price
Total						

Explanation of Necessity:

Ref No.	Explanation:
Ref No.	Explanation:
Ref No.	Explanation:
Ref No.	Explanation:

Change to Contract Price:

Original Cost of the Work:	$0.00
Current Cost of the Work adjusted by previous Change Orders/Directives:	$0.00
The Cost of the Work will be ☐increased ☐ decreased ☐ no change due to this Change Order/Directive by:	$0.00
New Cost of the Work (including this Change Order/Directive):	$0.00
City Funding:	$0.00

Change to Contract Completion Date:
Due to this change the Contract Completion Date:
☐Is increased by _____ Calendar Days
☐Is decreased by _____ Calendar Days
☐Is Not Changed

Original Contract Completion Date:	
Current Contract Completion date as adjusted by previous Change Orders/Directives:	
New Contract Completion Date as adjusted by this Change Order/Directive:	

The Contractor and Subcontractor hereby agrees to the contract changes set forth in this Change Order/Directive and releases the City of Dublin from any further obligation for compensation for any known or suspected substantive direct and indirect costs incurred except as mutually agreed and described in the Explanation of Necessity.

THE DAIMLER GROUP, INC.

_____

By: _____
Signature Date

Print Name: _____

Title: _____

CITY OF DUBLIN, OHIO

By: _____
Dana L. McDaniel Date
City Manager

By: _____
Paul A. Hammersmith, P.E. Date
Director of Engineering

By: _____
Megan D. O'Callaghan, P.E. Date
Director of Public Works

By: _____
Matthew Stiffler Date
Interim Director of Finance

EXHIBIT D

APPROVED PUBLIC IMPROVEMENTS BUDGET

[attached]

EXHIBIT E

PERSONAL PROPERTY TAX AFFIDAVIT
(O.R.C. § 5719.042)

State of Ohio
County of _____, ss:

_____, being first duly sworn, deposes and says that he/she is the
(Name)

_____ of _____
(Title) (Name and Address of Contractor)

_____ (the "*Contractor*") and as its duly authorized representative, states that effective this _____ day of _____, 201__, the Contractor:

( ) is charged with delinquent personal property taxes on the general list of personal property as set forth below:

County Amount (include total amount penalties and interest thereon)

_____ County $_____

_____ County $_____

_____ County $_____

( ) is not charged with delinquent personal property taxes on the general list of personal property in any Ohio county.

_____
(Affiant)

Sworn to and subscribed before me by the above-named affiant this _____ day of _____, 201__.

_____
(Notary Public)

My commission expires

_____, 201__

EXHIBIT F

WRITTEN REQUISITION

No._____

City of Dublin, Ohio
5200 Emerald Parkway
Dublin, Ohio 43017
Attention: Director of Finance

Subject: Certificate and Request for Disbursement of Funds from the Project Fund

In accordance with the provisions of Section 6.2 of the Infrastructure Agreement, dated _____, 2019 (the "Agreement") by and between the City and The Daimler Group, Inc. (the "***Developer***"), you are hereby requested to disburse from the Project Fund described above, and the amount of $_____ as more fully set forth on the attached Project Payment Request attached hereto to be paid pursuant to this Written Requisition to the Developer at _____. All capitalized terms not otherwise defined in this Written Requisition have the meanings assigned to them in the Agreement.

The undersigned Authorized Developer Representative does hereby certify in compliance with Section 6.2 of the Agreement that each of the following are true and correct:

(i) I have read the Agreement and definitions relating thereto and have reviewed appropriate records and documents of the Developer relating to the matters covered by this Written Requisition.

(ii) The amount and nature of the portion of the Cost of the Work that has been completed and requested to be paid, subject to retainage as set forth in Section 6.2 of the Agreement, are shown on Schedule A attached hereto.

(iii) The disbursement herein requested is for an obligation properly incurred, is a proper charge against the Project Fund as a Cost of the Work, has not been the basis of any previous withdrawal from the Project Fund and was made in accordance with the Construction Documents.

(iv) The Public Improvements have not been materially injured or damaged by fire or other casualty in a manner which, if not repaired or replaced, would materially impair the ability of the Developer to meet its obligations under the Agreement.

(v) The Developer is in material compliance with all provisions and requirements of the Agreement, including, but not limited to, all prevailing wage requirements. All prevailing wage reports related to Work for which reimbursement is requested hereunder are attached to this Written Requisition.

(vi) No uncured Event of Default or breach of the Agreement on the part of the Developer presently exists, and no event which but for the lapse of time or the giving of notice or both would be an Event of Default or breach of the Agreement on the part of the Developer has occurred and is continuing.

(vii) Attached hereto as Schedule B are conditional lien waivers from any materialmen, contractors and subcontractors who have provided services or materials to the Public Improvements as required by Section 6.2 of the Agreement, and the Developer further acknowledges its obligation to require, or require provision of, certain security pursuant to Section 5.8 of the Agreement in the event any mechanic's liens are filed in connection with the Public Improvements.

(viii) The Public Improvements are being and have been installed substantially in accordance with the Construction Documents for the Public Improvements and all materials for which payment is requested have been delivered to and remain at the location where they are to be installed or are securely stored at an offsite location approved by the City.

(ix) The payment requested hereby does not include any amount which is entitled to be retained under any holdbacks or retainages provided for in any agreement, and such amounts that are entitled to be retained are reflected in Schedule A attached hereto.

(x) The Developer has asserted its entitlement to all available manufacturer's warranties to date upon acquisition of possession of or title to such improvements or any part thereof which warranties have vested in the Developer and must be wholly transferable to the City.

(xi) All money of the Project Fund heretofore disbursed has been spent in accordance with the Written Requisition applicable thereto.

(xii) Attached hereto as Schedule C are unconditional lien waivers for any outstanding conditional lien waivers provided in conjunction with previous Written Requisitions.

EXECUTED this _____ day of _____, 201__.

By:_____
Authorized Developer Representative

EXHIBIT G

FORM OF DECLARATION

TAX INCREMENT FINANCING DECLARATION OF COVENANTS

This TAX INCREMENT FINANCING DECLARATION OF COVENANTS (this "*Declaration*") is made by [NAME OF OWNER], an [Ohio] limited liability company having its address at _____ (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. ___-19 (the "*TIF 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 TIF Ordinance (such increase hereinafter referred to as the "*Improvement*" as further defined in Ohio Revised Code Section 5709.40 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 TIF Ordinance and in which an Improvement first appears on the tax list and duplicate of real and public utility property for such Parcel and ending on the earlier of (a) thirty (30) years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (collectively, the "*TIF Statutes*") and the TIF Ordinance; and

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

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

WHEREAS, the Declarant and the City entered into an Infrastructure Agreement dated as of _____, 2019 (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. **Minimum Service Payments.** In addition to the obligation to make Service Payments pursuant to the TIF Statutes and the TIF Ordinance, 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 TIF Ordinance and this Declaration. 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. Commencing for calendar year 2023 and continuing until calendar year 2052 the Minimum Service Payment Obligation for all Parcels for each calendar year will be an amount equal to (i) for calendar year 2023, $3 million, for calendar year 2024, $7 million and for calendar year 2025 and thereafter, $10.4 million (which represents the guaranteed minimum market value for the Parcels) multiplied by 35% and further multiplied by the then current applicable effective non-school real property tax rate for the Parcels, less (ii) the sum of the Service Payments anticipated to be received by the City in that calendar year under the TIF Ordinance from the Parcels; *provided* that the Minimum Service Payment Obligation shall not equal less than zero dollars. The foregoing Minimum Service Payment Obligation shall no longer apply at such time as the appraised value of all Parcels, as determined from time-to-time by the Franklin County, Ohio Auditor, equals 130% (i.e., $13.52 million) or more of the value used to calculate the Minimum Service Payment Obligation (i.e., $10.4 million) as detailed above for a period of four (4) consecutive tax years.

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 2. **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.

Section 3. **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 4. **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 5. **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 Sections 5709.40(I) or 5709.41(E), as applicable, to the Director of the Ohio Development Services Agency on or before March 31 of each year.

Section 6. **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. Each Owner agrees to include the covenants contained herein (by instrument number reference to this Declaration) in any subsequent deed conveying that Owner's Parcel. 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 Minimum Service Payments can be collected 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 _____, 2019.

[OWNER]

By:_____

Printed:

Title:

STATE OF OHIO)
) ss
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, _____ of [Owner] an [Ohio] limited liability company, on behalf of said company.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the date and year aforesaid.

_____
Notary Public

This instrument is prepared by: Greg Daniels
Squire Patton Boggs (US) LLP
41 S. High Street, Suite 2000
Columbus, Ohio 43215

REAL ESTATE TRANSFER AND DEVELOPMENT AGREEMENT

This REAL ESTATE TRANSFER AND DEVELOPMENT AGREEMENT (the "*Transfer Agreement*" or "*Agreement*") is made and entered into as of this __ day of _____, 2019 (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 and its Charter, and THE DAIMLER GROUP, INC. ("*Developer"* and together with the City, the "*Parties*"), an Ohio corporation.

RECITALS:

WHEREAS, City Council adopted the Dublin Corporate Area Plan in September of 2018 to provide for a comprehensive development strategy for the Dublin Corporate Area, which consists of approximately 1,000 acres of legacy office parks within the Metro Office, Blazer Research, and Emerald Corporate business districts and the Frantz Road; and

WHEREAS, in furtherance of the Dublin Corporate Area Plan, the City issued a Request for Qualifications for participation in a public-private partnership for the development of mixed-use commercial office and retail space with public park and open space improvements to be located west of Frantz Road, north of Rings Road, and south of Blazer Parkway (the "Transfer Properties"), more particularly described in **EXHIBIT A** hereto and identified as consisting of Subareas B1, B2 and B3; and

WHEREAS, the Developer responded to the City's Request for Qualifications and was selected by the City to collaborate with City on the development the Transfer Properties and associated infrastructure; and

WHEREAS, the City has determined that it would be in the best interests of the City to contract with the Developer to provide for the construction and installation of certain Public Improvements as further depicted and described in the form of Infrastructure Agreement attached hereto as **EXHIBIT B**, *inter alia*, in the manner described herein; and

WHEREAS, City Council passed Ordinance No. __-19 on _____, 2019, authorizing the execution and delivery of this Agreement; and

NOW, THEREFORE, in consideration of the promises and covenants contained herein, and to induce the Developer to proceed with the design and construction of the commercial development and the Public Improvements, the Parties agree as follows:

(END OF RECITALS)

STATEMENT OF AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to the foregoing Recitals and as follows:

ARTICLE I
TRANSFER OF REAL PROPERTY

Section 1.1 Agreement. On the terms and conditions set forth below, the City hereby agrees to transfer to the Developer and the Developer hereby agrees to accept the transfer from the City the Transfer Properties.

(End of Article I)

ARTICLE II
CONSIDERATION FOR EXCHANGE

Section 2.1 Consideration Transfer Properties. In exchange for the Transfer Properties, Developer agrees to (i) construct the commercial improvements included in the Preliminary Development Plan for Subarea 1, as modified by the Final Development Plan, (ii) design, construct, finance a portion of and install the Public Improvements in the manner described in the "Infrastructure Agreement" attached hereto as **EXHIBIT B** and (iii) on behalf of itself and any future owner of Subarea B1, maintain the maintain the public improvements located at the corner of Frantz and Rings Road, and Frantz and Blazer Parkway. The foregoing maintenance agreement shall be set forth in the Plat (defined below) or other instrument acceptable to the City and the Developer and shall be a covenant running with land for Subarea B1 in favor of the City.

(End of Article II)

ARTICLE III
CONTINGENCIES

Section 3.1 Contingent Agreement. This Agreement shall be completely contingent upon the Parties satisfaction or the waiver, if possible, of the contingency(ies) set forth in Section 3.2 below (the "Contingencies"), by _____ __, 2020 (the "Contingency Period"). The date upon which all Contingencies are either satisfied or waived, pursuant to Section 3.3 or otherwise, shall be referred to as the "Contingency Date".

Section 3.02 Contingencies. The Contingencies are as follows:

(a) Dublin City Council approving of the Infrastructure Agreement, this Transfer Agreement and the plat relating to the Transfer Properties (the "Plat");

(b) The Developer shall have determined, in its sole judgment, that the development of the Transfer Properties in accordance with the Preliminary Development Plan and any Final Development Plan is economically and physically feasible;

(c) Approval by the Developer and the City of the final Drawings and Specifications,

as defined in the Infrastructure Agreement, the budget, contractor and subcontractor bids for the Public Improvement;

(d) The Developer's deposit into the "Project Fund" the agreed upon dollar amount for the Public Improvement as shown in the approved budget and delivery of Performance and Payment bond from the general contractor as outlined and required in the Infrastructure Agreement; and

(e) Closing which includes the City transferring the Transfer Properties once the Plat is recorded and the Developer executing the necessary easements that are currently contemplated by the Preliminary Development Plan, any Final Development Plan and the Plat (shall occur within thirty (30) days from the satisfaction or waiver of all Contingencies by the City and Developer).

The Parties agree that the Developer will request and receive bids for the Public Improvements in one or more packages, the number and form of which shall be subject to the reasonable approval of the City Manager. The Developer agrees that with respect to each bid package, the Developer shall request and receive no less than three (3) responsible bids, except as may otherwise be approved in writing by the City Manager. The Developer shall award the contract for each bid package subject to the reasonable approval of the Manager.

Section 3.3 Notice of Satisfaction or Waiver. The Contingencies above shall be deemed to have been satisfied or waived, unless on or before the expiration of the Contingency Period, one Party gives to the other Party notice of the Party's failure to satisfy the Contingencies. Upon delivery of such notice, this Agreement shall terminate and thereafter both Parties shall be fully released from all further liability and obligations hereunder.

(End of Article III)

ARTICLE IV
SUBMISSION MATERIALS

Section 4.1 The City's Cooperation. The City shall, within five (5) day after the Effective Date, submit to the Developer the following information and/or materials not already provided by the City, to the extent the same is available, for use by the Developer in preparation for the transfers of the Transfer Properties.

(a) Surveys, site plans, topographical studies, plat maps, property descriptions and all engineering drawings for the utilities and public services servicing the Transfer Properties;

(b) Soils reports for the Transfer Properties;

(c) Environmental studies of the Transfer Properties; and

(d) Copies of the title insurance policies if any issued upon the City's acquisition of the Transfer Properties or portions thereof.

All materials provided to the Developer pursuant to this Article IV shall be deemed conditional. If this transaction is not closed in accordance with the terms hereof, such materials shall be returned to the City upon demand. The City hereby agree to cooperate with the Developer in all respects during the term of this Agreement, including the City joining in the execution of any and all reasonable applications, instruments, licenses and documents contemplated pursuant hereto.

(End of Article IV)

ARTICLE V
NO CITY REPRESENTATIONS; DEVELOPER DUE DILIGENCE

Section 5.1 No Warranties or Representations. It is understood and agreed that the City is not making and has not at any time made any warranties or representations of any kind or character, express or implied, with respect to the Transfer Properties, including, but not limited to, any warranties or representations as to habitability, merchantability or fitness for a particular purpose.

Section 5.2 Sale "AS IS". The Developer acknowledges and agrees that upon the Closing, the City shall sell and convey to the Developer and the Developer shall accept the Transfer Properties "AS IS, WHERE IS, WITH ALL FAULTS". The Developer has not relied and will not rely on, and the City is not liable for or bound by, any express or implied warranties, guaranties, statements, representations or information pertaining to the Transfer Properties or relating thereto made or furnished by the City, or any agent representing or purporting to represent the City, to whomever made or given, directly or indirectly, orally or in writing.

Section 5.3 The Developer's Due Diligence. The Developer represents to the City that the Developer has conducted, or will conduct prior to the Closing, such investigations of the Transfer Properties, including but not limited to, its environmental condition as the Developer deems necessary or desirable to satisfy itself as to the condition of the Transfer Properties and the existence or nonexistence or curative action to be taken with respect to the Transfer Properties or any hazardous or toxic substance on or discharged from the Transfer Properties. The Developer will rely solely upon its investigations and not upon any information provided by or on behalf of the City or any agent or employee of the City with respect thereto. Upon the Closing, the Developer shall assume the risk that adverse matters arising or existing on or before the Closing, including but not limited to, defects and adverse environmental conditions, may not have been revealed by the Developer's investigations.

The provisions of this Section shall survive the Closing or any termination of this Agreement.

(End of Article V)

ARTICLE VI
EVIDENCE OF TITLE

Section 6.1 Title Commitment. The Developer at its sole cost and expense may obtain a commitment (a "Title Commitment") from a title insurance company licensed to do business in the State of Ohio to issue an ALTA Owner's Title Insurance Policy (Form 6/17/06-

the "Title Policy"). The Title Commitment will be certified to the Effective Date and will include copies of all recorded documents evidencing title exceptions raised in Schedule B of the Title Commitment. On or before the date of Closing, the Title Commitment must show in the City good and marketable title to the Transfer Properties, free and clear of the standard printed exceptions contained in Schedule B of said commitment and the Title Policy, and free and clear of all liens, charges, encumbrances and clouds of title, whatsoever, except the following (collectively, the "Permitted Encumbrances"):

(a) Those created or assumed by the Developer or provided for in this Agreement or the Infrastructure Agreement;

(b) Zoning ordinances, legal highways and public rights-of-way which do not interfere with the Transfer Properties;

(c) Real estate taxes if any which are a lien on the Transfer Properties but which are not yet due and payable; and

(d) Easements and restrictions of record acceptable to the Developer which do not interfere with the Transfer Properties.

If the legal description for any one of the Transfer Properties includes more than one parcel, the title commitment shall state affirmatively that all parcels of land are contiguous. The title commitment shall fully and completely disclose all easements, negative or affirmative, rights-of-way, ingress or egress or any other appurtenances to the Transfer Properties, and shall provide insurance coverage in respect to all of such appurtenant rights. The title commitment shall include the results of a special tax search and examination for any financing statements filed of record which may affect the Transfer Properties.

Section 6.2 Endorsement at Closing. At the Closing, the City shall provide the Developer with endorsements to the title commitment updating the commitment to the respective date and showing no change in the state of the title to the Transfer Properties (other than mortgages which shall be released by the City at the Closing). After Closing, a final owner's title insurance policy shall be issued in the amount requested by the Developer and approved by the title company.

Section 6.3 Survey. The Developer may, at its expense, obtain current surveys of the Transfer Properties. The surveys shall include a legal description of the Transfer Properties and shall be certified by the surveyor to the Developer and the title insurance company. Subject to the approval of the title insurance company, the legal description set forth on the survey shall be used in the title insurance commitment and policy and in all documents of transfer contemplated hereby. The survey shall be sufficient to waive or insure over any and all questions or survey.

Section 6.4 Status of Title; Permitted Encumbrances; Objections. Up and until the close of business one full week before the closing date, the Developer may provide the City with written objections to the extent that the Title Commitment reveals matters other than the Permitted Encumbrances (the "Objections") which constitute a monetary lien or may interfere with the Developer's use of the Transfer Properties for their intended purpose. The Developer's failure to make Objections within such time period will constitute a waiver of the Developer's right to make Objections. The City shall satisfy Objections or the Developer waives the

objections at the Closing. In the event the City elect not to cure the Objection(s), the Developer may terminate this Agreement by giving notice of termination to the City at closing, to all or any single Transfer Properties. The City shall provide the Developer with evidence, satisfactory to the Developer, in its sole discretion, that the Objections will be fully cured and/or released on the date of Closing or that the Title Company will issue satisfactory endorsements to the final Title Policy insuring against the risks associated with same. In the event the Objections are not cured or removed, or in the event the City cannot provide satisfactory evidence that the Objections will be cured on or before the date of Closing or that satisfactory endorsements to the Title Policy will be issued, the Developer shall make its election, at closing, by written notice to the City, to either:

(1) Accept title to the Transfer Properties, at which point such uncured Objections shall be Permitted Encumbrances hereunder; or

(2) Accept title to the some of the Transfer Properties, at which point such acceptance shall be deem compete execution by the City's duties and obligations herein; or

(3) Terminate this Agreement.

The Developer's failure to make its election at closing shall constitute the Developer's election to accept title to the Transfer Properties, at which point such uncured Objections shall be Permitted Encumbrances hereunder.

(End of Article VI)

ARTICLE VII
DEED AND OTHER DOCUMENTS

Section 7.1 Quitclaim Deed. The City shall, at the Closing, convey fee simple title to the Transfer Properties to the Developer by a duly and validly executed, recordable quitclaim deed, free and clear of all liens and encumbrances, except those permitted pursuant to the provisions of Article VI hereof.

Section 7.2 Other Documents. The Developer and the City agree that such other documents as may be legally necessary or appropriate to carry out the terms of this Agreement shall be executed and delivered by the appropriate party at Closing. Such documents shall include, but not be limited to a closing statement, The City's affidavit regarding liens, unrecorded matters and possession and, if requested, The City's affidavit regarding the warranties and representations set forth in Article XII hereof.

(End of Article VII)

ARTICLE VIII
POSSESSION AND INSPECTION

Section 8.1 Tests and Engineering Studies. For and during the entire period that this Agreement is in effect, the Developer shall, at its sole cost, have the right through the Developer's associates, employees and/or contractors and agents to enter upon the Transfer Properties and cross any adjacent lands of the City for access to the Transfer Properties for the

purpose of surveying, inspecting, making contour surveys, temporary excavations (to be refilled by the Developer as promptly as the same shall have served their purpose), test borings and other purposes required by the Developer to enable the Developer to ascertain whether it is feasible to complete the proposed development of the Transfer Properties for the intended purpose(s).

Section 8.2 Indemnity. The Developer agrees to protect, indemnify, defend and hold the City and each of its employees, officers, board members and council members harmless from and against any and all claims, liabilities, losses, costs, expenses (including but not limited to reasonable attorneys' fees), damages, injuries or death arising out of or resulting from: (a) any activity of the Developer, its employees, agents or contractors on or about the Transfer Properties; (b) any damage to the Transfer Properties caused by the Developer, its employees, agents or contractors; and/or (c) any mechanic's lien being filed against the Transfer Properties as a result of the action or alleged action of the Developer, its employees, agents or contractors.

The provisions of this Section shall survive the Closing or any termination of this Agreement.

(End of Article VIII)

ARTICLE IX
CLOSING

Section 9.1 Closing Date. Closing and transferring of the Transfer Properties shall occur within thirty (30) days from the execution of the Infrastructure Agreement and making of the Developer's deposit into the Project Fund (the "Closing Date").

Section 9.2 Closing and Possession. The City and the Developer agree that the transfer of the Transfer Properties shall be closed on the Closing Date and possession shall be transferred at said time to the Developer (the "Closing"). Said Closing shall be held at a time and place in Franklin County, Ohio as agreed to by the Parties.

Section 9.3 The City Closing Documents. In addition to the deeds described in Article VI, at the Closing, the City shall deliver to the Developer: (i) all consents, affidavits or other documents reasonably and customarily required to issue the Title Policy, (ii) such evidence of authority as the Developer or the title company issuing the Title Policy reasonably may deem necessary to evidence the authority of the City to enter into this Agreement and to consummate the transactions contemplated hereby, (iii) an affidavit that the City are not non-resident "aliens", "foreign corporation", "foreign partnership", "foreign trust", or "foreign estate" within the meaning of the Internal Revenue Code and Regulations thereunder, (iv) an executed Infrastructure Agreement substantially in the form attached hereto as **EXHIBIT C** if not already provided, and (v) the Developer's execution of necessary utility easements that will remain in the vacated right of way.

Section 9.4 The Developer's Closing Documents. At the Closing, the Developer shall deliver to the City: (i) evidence of authority as the City or the title company issuing the Title Policy reasonably may deem necessary to evidence the authority of the Developer to enter into this Agreement and to consummate the transactions contemplated hereby, and (ii) an executed Infrastructure Agreement if not already provided substantially in the form attached hereto as **EXHIBIT C**, and (iii) executed utility easements necessary to preserve the easements

within the vacated right of way.

(End of Article IX)

ARTICLE X
APPORTIONMENTS AND ADJUSTMENTS

Section 10.1 Adjustments at Closing. On the Closing Date, the Developer and the City 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 if any all delinquent real estate taxes, together with penalties and interest thereon, all assessments which are a lien against the Transfer Properties as of the Closing Date (both current and reassessed, whether due or to become due and not yet payable), all real estate taxes for years prior to closing, real estate taxes for the year of Closing, prorated through the Closing Date and all agricultural use tax recoupments for years through the year of Closing. The proration of undetermined taxes shall be based upon a three hundred sixty-five (365) day year and on the last available tax rate, giving due regard to applicable exemptions, recently voted millage, change in tax rate or valuation (as a result of this transaction or otherwise), etc., whether or not the same have been certified. The agreed upon amount so computed by the Parties shall be final. The City warrants and represents that all assessments now a lien are shown on the County Treasurer's records and that to the best of the City's knowledge, no improvement, site or area, has been installed by any public authority, the cost of which is to be assessed against the Transfer Properties in the future. The City further warrants and represents that neither the City nor any of its agents, employees or representatives have received notice, oral or written, or have knowledge of any proposed improvement, any part of the cost of which would or might be assessed against the Transfer Properties. The 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.

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

(i) The cost of all municipal services and public utility charges (if any) due through the Closing Date; and

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

(i) The cost of the Title Commitment for the Transfer Properties;

(ii) The recording fees required for recording the quitclaim deed;

(iii) The cost of the survey referred to in Section 5.03;

(iv) The cost of the Title Policy; and

(v) The fee, if any, charged by the title insurance company for closing the transaction contemplated herein.

(d) Brokers. The City hereby warrants and represents to the Developer that the City has not engaged or dealt with any broker or agent in regard to this Agreement. The Developer hereby represents and warrants to the City that the Developer has not engaged or dealt with any broker or agent in regard to this Transfer Agreement. the Developer agrees to indemnify the City and hold the City harmless against any liability, loss, cost, damage, claims and expense (including, but not limited to, attorneys' fees and cost of litigation) which the City may ever suffer, incur, or be threatened with because of any claim by any broker or agent claiming by, through or under the Developer, whether or not meritorious, for any such fee or commission.

(End of Article X)

ARTICLE XI
WARRANTIES AND REPRESENTATIONS OF THE CITY AND THE DEVELOPER

11.1 Warranties and Representations of the City. In addition to any other representation or warranty contained in this Agreement, the City hereby represents and warrants as follows:

(a) To the best of the City' knowledge, neither the City nor any agent, employee or representative of the City, has received any notice or notices, either orally or in writing, from any municipal, county, state or any other governmental agency or body, of any zoning, fire, health, environmental or building violation, or violation of any laws, ordinances, statutes or regulations relating to pollution or environmental standards, which have not heretofore been corrected;

(b) To the best of the City' knowledge, the execution, delivery and performance of this Agreement, and the consummation of the transaction contemplated hereby, will not result in any breach of, or constitute any default under, or result in the imposition of any lien or encumbrance against, the Transfer Properties, under any agreement or other instrument to which the City is a party or by which the City or the Transfer Properties might be bound;

(c) To the best of the City' knowledge, neither the City, nor any agent, employee or representative of the City, has received any notice, either orally or in writing, of any change contemplated in any applicable laws, ordinances or restrictions, or any judicial or administrative action, or any action by adjacent landowners, which would prevent, limit or in any manner interfere with the proposed use of the Transfer Properties;

(d) To the best of the City' knowledge, as of the Closing Date, no other person or entity other than the City and existing tenants currently owns or has any legal or equitable interest in the Transfer Properties and no other person or entity other than the Developer has or will have any right to acquire the Transfer Properties, or any portion thereof;

(e) All taxes payable with respect to the operation, ownership or control of the Transfer Properties which are allocable to the period ending on the Closing Date, and all prior periods, shall be or have been paid by the City, and the City shall be responsible for the timely filing of all returns or other documents required by any taxing authority claiming jurisdiction with respect to any such taxes;

(f) Through and until the Closing Date, the City shall not enter into any easement, lease or other contract pertaining to the Transfer Properties, unless otherwise approved in writing by the Developer;

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

11.2 Breach of Warranties by the City Prior to Closing. If, during the pendency of this Agreement, the Developer determines that any warranty or representation given by the City to the Developer under this Agreement shall be untrue, incorrect or misleading, in whole or in part, the same shall constitute a default by the City hereunder. In such event, the Developer may give written notice thereof and shall thereafter have such rights and remedies as may be available to the Developer as provided herein, at law or in equity.

11.3 Warranties and Representations of the Developer. In addition to any other representation or warranty contained in this Agreement, the Developer hereby represents and warrants as follows:

N/A

(End of Article XI)

ARTICLE XII
THE CITY'S OPTION TO PURCHASE THE TRANSFER PROPERTIES; PAYMENT UPON DEVELOPER TRANSFER

12.1 City Option to Purchase Transfer Property Subarea B1. The Developer grants an option for the City to purchase the Transfer Property identified as Subarea B1, if it has not been developed in accordance with Final Development Plans approved by the City after three (3) years from the execution of this Agreement by the City (subject to reasonable extensions for force majeure). The option purchase price shall be one hundred dollars ($100.00) plus reasonable and documented out of pocket costs incurred by the Developer in connection with the development of Subarea B1 (with any such costs not specifically allocable to Subarea B1 allocated pro rata based on acreage of Subarea B1 and the acreage of all Transfer Properties). This provision shall be set forth in the quitclaim deed(s) from the City to the Developer or other instrument(s) acceptable to the City and the Developer.

12.2 City Option to Purchase Transfer Property Subarea B2. The Developer grants an option for the City to purchase the Transfer Property identified as Subarea B2, if it has not been developed in accordance with Final Development Plans approved by the City after five (5) years from the execution of this Agreement by the City (subject to reasonable extensions for force majeure). The option purchase price shall be one hundred dollars ($100.00) plus

reasonable and documented out of pocket costs incurred by the Developer in connection with the development of Subarea B2 (with any such costs not specifically allocable to Subarea B2 allocated pro rata based on acreage of Subarea B2 and the acreage of all Transfer Properties). This provision shall be set forth in the quitclaim deed(s) from the City to the Developer or other instrument(s) acceptable to the City and the Developer.

12.3 City Option to Purchase Transfer Property Subarea B3. The Developer grants an option for the City to purchase the Transfer Property identified as Subarea B3, if it has not been developed in accordance with Final Development Plans approved by the City after five (5) years from the execution of this Agreement by the City (subject to reasonable extensions for force majeure). The option purchase price shall be one hundred dollars ($100.00) plus reasonable and documented out of pocket costs incurred by the Developer in connection with the development of Subarea B3 (with any such costs not specifically allocable to Subarea B3 allocated pro rata based on acreage of Subarea B3 and the acreage of all Transfer Properties). This provision shall be set forth in the quitclaim deed(s) from the City to the Developer or other instrument(s) acceptable to the City and the Developer.

12.4 Payment to City upon Developer Transfers within 20 Years. If Developer (or an affiliated holding company or limited liability company owned or controlled by the Developer) transfers ownership of any portion of the Transfer Properties within 20 years from the execution of this Agreement by the City, the Developer shall pay the City $84,406.00 multiplied by the number of acres so transferred, plus reasonable and documented out of pocket costs incurred by the City in connection with the development of the portion of the Transfer Properties so conveyed (with any such costs not specifically allocable to such portion allocated pro rata based on acreage of such portion and the acreage of all Transferred Properties), with such payment made within thirty (30) days of such transfer. This provision shall be included within the quitclaim deed(s) from the City to the Developer or other instrument(s) acceptable to the City and the Developer for Subareas B1, B2 and B3. This Section 12.4 shall not apply if the transfer of said real property is to an affiliated holding company or limited liability company owned or controlled by the Developer.

(End of Article XII)

ARTICLE XIII
NOTICES

13.1 Notices. Whenever in this Agreement it shall be required or permitted that notice be given or served by either Party hereto on the other, such notice shall be in writing and shall be deemed served when either delivered in person to the following designated agents for that purpose, or deposited in the United States Mail, by certified or registered mail, postage prepaid, return receipt requested, addressed to the other Party as follows:

If to the Developer: The Daimler Group, Inc.
1533 Lake Shore Drive
Columbus, Ohio 43204

Attention: Paul G. Ghidotti

or such other address as the City may hereinafter designate by written notice to the Developer.

Any notice to be served on the City shall be addressed as follows:

If to City:	City of Dublin, Ohio 5200 Emerald Parkway Dublin, Ohio 43017 Attention: City Manager
With copy to:	Philip K. Hartmann Frost Brown Todd LLC One Columbus, 10 West Broad Street Columbus, Ohio 43215,

or such other address as the City may hereinafter designate by written notice to the City.

(End of Article XIII)

ARTICLE XIV
GENERAL PROVISIONS

14.1 Governing Law. This Transfer 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 in the State of Ohio.

14.2 Signage Prohibited. All signage (permanent or temporary) on the Transfer Properties shall be prohibited until redevelopment of the respective Transfer Properties and approval of a Master Sign Plan.

14.3 Assignment. This Transfer Agreement shall be binding upon and inure to the benefit of the Parties hereto, their respective heirs, legal representatives, successors and assigns.

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

14.5 Waiver. No waiver of any of the provisions of this Transfer 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.

14.6 Headings. The section headings contained in this Transfer Agreement are for convenience only and shall not be considered for any purpose in construing this Transfer Agreement.

14.7 Memorandum. Upon request of either party hereto, the Developer and the City shall execute a recordable memorandum of the terms hereof, which memorandum may be placed

of record in any public office within the county wherein the Transfer Properties is/are situated.

14.8 **Survival**. The terms and provisions of this Transfer Agreement shall survive the delivery of the deed of conveyance hereunder.

14.9 **Counterparts**. This Transfer Agreement may be executed in one or more counterparts all of which will be considered one and the same agreement, binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Counterparts or signatures transmitted or stored by electronic means (such as e-mailed .pdfs) shall constitute original counterparts or signatures for all purposes.

(End of Article XIII)

[Signatures appear on the following pages]

The City:
an Ohio Municipal Corporation

By: _____

The Developer:
an Ohio corporation

_____
Its: _____

STATE OF OHIO :
: ss.
COUNTY OF FRANKLIN :

BE IT REMEMBERED, that on this ___ day of _____, 2019, before me, the subscriber, a Notary Public in and for said state, personally appeared , duly authorized signatory for The Daimler Group, Inc., and acknowledged the signing thereof to be his voluntary act for and on behalf of the corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

_____
Notary Public

STATE OF OHIO :
: ss.
COUNTY OF FRANKLIN :

BE IT REMEMBERED, that on this ___ day of _____, 2019, before me, the subscriber, a Notary Public in and for said state, personally appeared Dana L. McDaniel, City Manager of the City of Dublin, Ohio, an Ohio municipal corporation, and acknowledged the signing thereof to be his voluntary act and deed for and on behalf of the City of Dublin, Ohio.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

_____
Notary Public

Approved as to form:

_____
Jennifer D. Readler, Law Director

Exhibit A

Depiction of Transfer Properties: Subareas B1, B2 and B3

[to be inserted]

EXHIBIT B

Form of Infrastructure Agreement

[attached]