

CITY OF CLAYTON, OHIO

ORDINANCE NO. O-02-22-07

AMENDING ORDINANCE NO. 06-05-10 TO REMOVE A PARCEL FROM SUCH PRIOR ORDINANCE, DECLARING IMPROVEMENTS TO SUCH PARCEL TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING SPECIFIC PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT DIRECTLY BENEFIT THE PARCELS FOR WHICH IMPROVEMENTS ARE DECLARED TO BE A PUBLIC PURPOSE; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND; AND PROVIDING RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40(B), 5709.42, 5709.43, 5709.832 AND 5709.85 AND DECLARING AN EMERGENCY.

WHEREAS, Division (B) of Ohio Revised Code Section (“R.C.”) 5709.40 provides that this Council may (i) declare improvements to certain parcels of real property located in the City of Clayton, Ohio (the “City”) to be a public purpose, thereby granting to those improvements an exemption from real property taxation, and (ii) designate specific public infrastructure improvements made, to be made, or in the process of being made that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose; and,

WHEREAS, pursuant to Division (D)(1) of R.C. 5709.40, such exemption may, with the approval of the board of education of the city, local, or exempted village school district within the territory, be for up to thirty (30) years and up to one hundred percent (100%) of the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under R.C. 5709.40 were it not for the exemption granted by that ordinance (an “Improvement”); and,

WHEREAS, the real property described in **EXHIBIT A** attached hereto and incorporated herein by reference (the “Property”) is located in the City, with each parcel of the Property referred to herein as a “Parcel” (whether as presently appearing on Montgomery County tax duplicates or as subdivided or combined and appearing on future tax duplicates); and,

WHEREAS, GT Clayton, LLC (the “Developer”), the anticipated future owner of the Property (each an “Owner” and collectively the “Owners”) proposes to develop the Property by constructing approximately 128 multi-family cluster home units and otherwise improving the Property (the “Development”); and,

WHEREAS, pursuant to Division (D)(1) of R.C. 5709.40, this Council has determined to grant the TIF Exemption (as defined herein) from real estate taxation for all Improvements to the Property for one hundred percent (100%) of such Improvements for thirty (30) years; and,

WHEREAS, this Council (i) has determined that it is necessary and appropriate and in the best interests of the City to provide for annual service payments in lieu of real property taxes with respect to the Property pursuant to R.C. 5709.42 and (ii) desires to facilitate the construction of the public infrastructure improvements described in **EXHIBIT B** attached hereto and incorporated herein by reference (the “**Public Infrastructure Improvements**”); and,

WHEREAS, in connection with the construction of the Development, the City and the Developer desire to execute a tax increment financing agreement substantially in the form attached hereto and incorporated herein as **EXHIBIT C** (the “**TIF Agreement**”), which TIF Agreement provides for the construction of the Development and for the financing of the Public Infrastructure Improvements, as defined herein and in the TIF Agreement; and,

WHEREAS, notice of this proposed ordinance has been delivered to the Boards of Education of the Northmont City School District (“**Northmont City Schools**”) and the Miami Valley Career Technology Center (“**Miami Valley Career Tech**,” and together with Northmont City Schools, the “**School Districts**”) in accordance with and within the time periods prescribed in Division (D) of R.C. 5709.40 and R.C. 5709.83, respectively, and by resolution adopted by the board of education of the Northmont City Schools on February 14, 2022, Northmont City Schools has approved the TIF Exemption (as defined herein) on the condition that City and Northmont City Schools enter into the School District Compensation Agreement authorized herein; and,

WHEREAS, this Council has determined that annual service payments in lieu of taxes are to be paid to the School Districts pursuant to R.C. 5709.42 in amounts equal to the real property taxes that would have been payable to the School Districts if the Improvements had not been exempted from taxation; and,

WHEREAS, the Property was subject to tax increment financing established pursuant to Ordinance No. 06-05-10 (the “**Prior TIF Ordinance**”), and this Council has determined, as set forth herein, to remove such Property from the tax increment financing established pursuant to the Prior TIF Ordinance.

NOW, THEREFORE, be it ordained by the legislative authority of the Municipality of Clayton, Montgomery County, Ohio, that:

Section 1. **Parcel Removed from Prior TIF Ordinance.** The Prior TIF Ordinance is hereby amended as follows: **Exhibit A** to Ordinance No. 06-05-10, passed by City Council on July 21, 2005, is hereby amended to remove Parcel number M60-03102 0016, and a substitute **Exhibit A** to that Ordinance No. 06-05-10 shall be prepared reflecting such removal.

Section 2. **Designated Public Infrastructure Improvements.** The Public Infrastructure Improvements described in **EXHIBIT B**, attached hereto, intended to be made or caused to be made by the Developer, are hereby designated as public infrastructure improvements that, once made, will directly benefit the Property.

Section 3. **Authorization of TIF Exemption.** One hundred percent (100%) of the Improvement shall be a public purpose and shall be exempt from real property taxation commencing for each Parcel the first day of the tax year in which there is an Improvement with respect to the Parcel (as it may be subdivided or combined in connection with the acquisition of the Parcel by an

Owner or otherwise), and ending for each Parcel on the earlier of (a) thirty (30) years after such commencement, or (b) the date on which the City can no longer require annual service payments in lieu of taxes, all in accordance with the requirements of R.C. 5709.40, R.C. 5709.42, and R.C. 5709.43.

Section 4. Service Payments and Property Tax Rollback Payments. As provided in R.C. 5709.42, this Council hereby directs and requires the Owner of any Parcel with an Improvement to make annual service payments in lieu of taxes to the County Treasurer of Montgomery County, Ohio (the “County Treasurer”) on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then-current rate established under R.C. 323.121 and R.C. 5703.47, will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not subject to the exemption granted in this ordinance. Such service payments in lieu of taxes, penalties and interest, and any other payments with respect to each Improvement that are received by the County Treasurer in connection with the reduction required by R.C. 319.302, R.C. 321.24, R.C. 323.152 and R.C. 323.156, as the same may be amended from time-to-time, or any successor provisions, as the same may be amended from time-to-time (the “Property Tax Rollback Payments,” and together with the annual service payments in lieu of taxes and penalties and interest described above, the “Service Payments”), will be allocated and distributed in accordance with Section 5 of this ordinance.

Section 5. Creation of TIF Fund. This Council hereby establishes, pursuant to and in accordance with the provisions of R.C. 5709.43, the Grand Traditions Municipal Public Improvement Tax Increment Equivalent Fund (the “TIF Fund”), into which shall be deposited all of the Service Payments distributed to the City with respect to the Improvements to Parcels of the Property by or on behalf of the County Treasurer, as provided in R.C. 5709.42. The City may use amounts deposited into the TIF Fund to pay any costs associated with the Public Infrastructure Improvements approved by the City, including, but not limited to, the “costs of permanent improvements” described in Division (B) of R.C. 133.15. The TIF Fund will be maintained in the custody of the City and will exist so long as such Service Payments are collected and used for the purposes described in this Section 5. Then the TIF Fund is to be dissolved and any surplus funds remaining in the TIF Fund will be transferred to the City’s general fund, all as set forth under Division (D) of R.C. Section 5709.43.

Section 6. Distribution of Funds. At the same time and in the same manner as real property tax distributions, the County Treasurer shall distribute the Service Payments to the City to be deposited in the TIF Fund, and the City shall then distribute the Service Payments as follows:

FIRST, to each of Northmont City Schools and Miami Valley Career Tech, amounts equal to the real property taxes that would have been payable to the School Districts if the Improvements had not been exempted from taxation (the “TIF Compensation”); and,

SECOND, to be deposited into the TIF Fund and then distributed according to the terms and conditions of this Section 6 and the TIF Agreement.

The City shall then distribute Service Payments on deposit in the TIF Fund to pay or reimburse the Developer for the costs of Public Infrastructure Improvements constructed by the

Developer according to the terms and conditions of the TIF Agreement. After the Developer is paid in full for the costs of the Public Infrastructure Improvements as set forth in the TIF Agreement, any incidental surplus remaining in the TIF Fund shall be used as provided by law.

Section 7. TIF Agreement and Further Authorizations. This Council hereby approves the TIF Agreement, with any changes that are not inconsistent with this ordinance and not substantially adverse to the City and which shall be conclusively evidenced by the signing of the TIF Agreement by the City Manager, to which this Council further hereby authorizes execution on behalf of the City. This Council further authorizes and directs the City Manager or other appropriate officers of the City to provide such information and certifications and execute and deliver, or accept delivery of such instruments, as are necessary and appropriate to implement this ordinance and the TIF Agreement.

Section 8. Authorization of School Compensation Agreement. This Council further hereby approves the compensation agreement between the City and the Board of Education of Northmont City Schools in the form attached hereto as **EXHIBIT D** (the “**School District Compensation Agreement**”), with any changes that are not inconsistent with this ordinance and not substantially adverse to the City and that are approved by the City Manager on behalf of the City, all of which shall be conclusively evidenced by the signing of the School District Compensation Agreement, and hereby authorizes and directs the City Manager, other appropriate officers of the City, or any of them, to execute same.

Section 9. Application for Real Property Tax Exemption and Remission. This Council hereby authorizes the City Manager or other appropriate officers of the City to prepare and sign any applications for real property tax exemption pursuant to R.C. 5709.911, the provisions of which govern the priority status of the exemptions provided under this ordinance.

Section 10. Tax Incentive Review Council. This Council hereby designates the Montgomery County Tax Incentive Review Council (the “**TIRC**”) as the tax incentive review council that shall review annually all exemptions from taxation resulting from this ordinance and any other matters as may properly come before the TIRC, in accordance with R.C. 5709.85.

Section 11. Nondiscriminatory Hiring Practices. In accordance with R.C. 5709.832, this Council hereby determines that no employer located on the Property is to deny any individual employment based on considerations of race, religion, sex, disability, color, national origin, or ancestry.

Section 12. Ohio Department of Development. Pursuant to Division (I) of R.C. 5709.40, the City Manager is hereby directed to deliver a copy of this ordinance to the Director of the Ohio Department of Development (“**ODOD**”) within fifteen (15) days after its passage. On or before March 31 of each year that the TIF Exemption remains in effect, the City Manager or other authorized officer of this City shall prepare and submit, or cause to be prepared and submitted, to the Director of ODOD the status report required under Division (I) of R.C. 5709.40.

Section 13. Open Meetings. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any decision-making bodies of the City

that resulted in such formal actions were in meetings open to the public and in compliance with Ohio's Sunshine Laws, including R.C. 121.22.

Section 14. Effective Date. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants for the reason that this ordinance must be immediately effective so that the work on the Development can begin as quickly as possible, thus providing economic benefit to the City and its residents; wherefore this ordinance shall take effect and be in force from and immediately after its adoption.

ADOPTED BY COUNCIL ON FEBRUARY 17, 2022.

AUTHENTICATION:


Mayor (Presiding Officer of Council)


Clerk of Council

APPROVED AS TO FORM:


Law Director

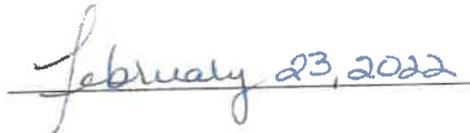
CERTIFICATION OF PUBLICATION

This shall certify that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of Newspaper

Date of Publication


Breckville Star


February 23, 2022


CLERK

EXHIBIT A

Description of the Property

The Property to be exempt under the foregoing ordinance consists of an area land comprising approximately 15 acres, which is currently part of a larger approximately 25.296 acre parcel situated in the City of Clayton, County of Montgomery, State of Ohio, and currently identified as Parcel Number M60-03102 0016 by the County Auditor of Montgomery County, Ohio. The approximately 15-acre site with respect to which a separate tax parcel will be created following the passage of this ordinance has the following legal description:

[Remainder of Page Left Intentionally Blank.]

**Parcel 2
LEGAL DESCRIPTION
15.144 ACRES**

BAL
TAL
M60 03102 0032,36

Situated in Section 20, Town 5, Range 5E, City of Clayton, Montgomery County, Ohio being part of a 25.267 acre (deed) parcel of land conveyed to Quiet Creek Development, LLC in IR Deed 18-040807, the boundary of which being more particularly as follows:

Commencing at a 5/8" iron pin found at the southwest corner of Lot 85 of Village of North Clayton P.U.D. Section Three as recorded in PB 216 Page 12A;

Thence S00°31'25"E a distance of 279.23 to a 1.25" iron pin found at the northeast corner of a 14.165 acre parcel conveyed to Quiet Creek Development, LLC in IR Deed 18-010981;

Thence along the south line of a 26.303 acre parcel conveyed to Windsor Clayton Development, LLC in IR Deed 20-071695, N89°05'02"E a distance of 659.52 feet to a set 5/8" iron pin, said point being the True Point of Beginning for this description;

Thence along said south line and the south line of a 4.000 acre (deed) parcel of land conveyed to United Christian Church in IR Deed 11-040166, N89°05'02"E passing a 1" iron pipe found at 1517.28 a total distance of 1547.28 to a 5/8" iron pin found in the centerline of Hoke Road being in the east line of Section 20;

Thence along said centerline and the east line of Section 20, S00°19'54"W a distance of 426.47 feet to a mag nail set at the northeast corner of a 14 1/2 acre (original) parcel of land conveyed to R & E Thomas Family Farms, LLC in IR Deed 16-051305;

Thence along the north line of said 14 1/2 acre (original) parcel, the north line of a 43.169 acre (deed) parcel conveyed to R & E Thomas Family Farms, LLC in IR Deed 16-051305, and in part along a new division line, S89°02'17"W passing a 5/8" iron pin found at 16.50 feet, a total distance of 1542.57 feet to a 5/8" iron pin set;

Thence continuing along a new division line, N00°18'09"W a distance of 427.62 feet to the Point of Beginning.

Containing 15.144 acres of land more or less being subject to easements, restrictions and rights of way of record.

KARL KEITH
COUNTY AUDITOR
MONTGOMERY COUNTY, DAYTON, OHIO
DIVISION
BY  DATE 11/12/21
GIS MAPPING DEPARTMENT

This description is based on an actual field survey in October of 2021 and recorded in the Montgomery County Engineer's record of land surveys in Volume 2021, Page 0330 under my direct supervision Randy C. Wolfe registered professional surveyor number 8033 of the State of Ohio, and that all monuments found or set, correctly represents the boundaries herein described.

Randy C Wolfe 11-1-21
Randy C. Wolfe Date
Ohio Professional Surveyor No. 8033



For ease of reference, the following map is provided:

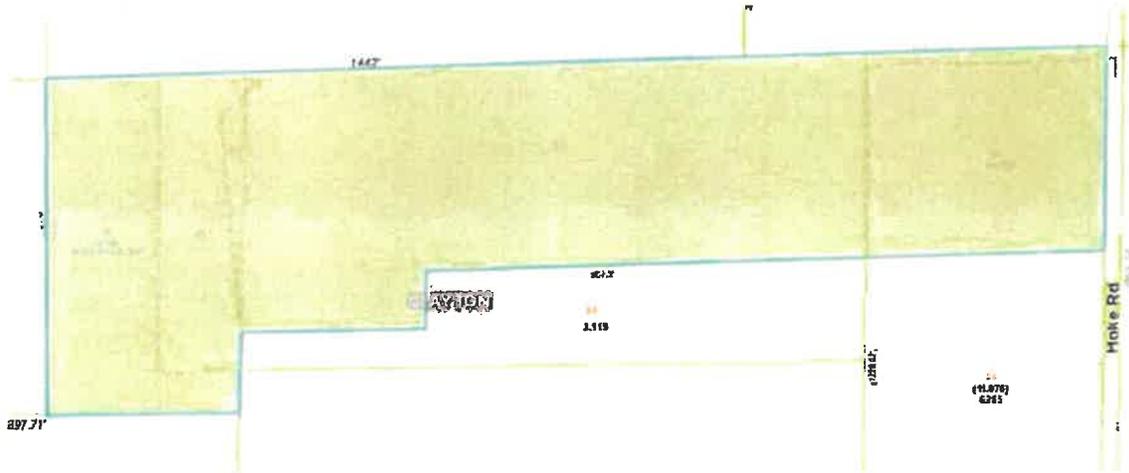


EXHIBIT B

Public Infrastructure Improvements

All of the Public Infrastructure Improvements described below are hereby determined to be “**public infrastructure improvements**” (as defined in Division (A)(8) of R.C. Section 5709.40) and are intended to directly benefit the Property described in EXHIBIT A. The Public Infrastructure Improvements specifically include the costs of financing the Public Infrastructure Improvements, including the items of costs of permanent improvements described in R.C. Section 133.15(B), and incurred with respect to the Public Infrastructure Improvements, which said costs specifically include any reimbursement payments for the reimbursement of the costs of the Public Infrastructure Improvements and any debt service on, and other expenses relating to the issuance of, any bonds, notes, or other obligations issued to finance the Public Infrastructure Improvements. The Public Infrastructure Improvements include, without limitation:

- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, bridges (both roadway and pedestrian), traffic calming devices, sidewalks and walkways, pathways, bikeways, medians and viaducts accessible to and serving the public, and providing lighting systems, signalization, and traffic controls, and all other appurtenances thereto, including the continued maintenance of those public roads and highways; and,
- **Water and Sewer Lines.** Construction, reconstruction or installation of utility improvements (including any underground utilities), storm and sanitary sewers (including necessary site grading therefore and including the continued maintenance of those storm and sanitary sewers), water lines (including the continued maintenance of those water lines), fire buildings and improvements, public water and fire protection systems (excluding any in-unit, private water and fire suppression systems), and all other appurtenances thereto; and,
- **Utilities.** Construction, reconstruction or installation of gas, electric, and communication service facilities, and all other appurtenances thereto, and including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes; and,
- **Parks.** Construction or reconstruction of one or more public parks, including grading, trees, sod, shrubs, and other park plantings, park accessories, park structures, irrigation, lighting, flatwork, playgrounds, fountains, water fountains, water features, sports facilities, including, but not limited to, public tennis courts, sculptures, public art and related improvements, and all other appurtenances thereto; and,
- **Streetscape/Landscape Improvements.** Construction or installation of streetscape and landscape improvements including trees and shrubs, landscaping mounds and fencing, tree

grates, planting beds, signage, curbs, sidewalks, street and sidewalk lighting, trash receptacles, benches, newspaper racks, irrigation, burial of overhead utility lines and related improvements, and all other appurtenances thereto; and,

- **Public Parking Facilities.** Construction of one or more public parking facilities, including public surface parking and public parking structures and related improvements, and all other appurtenances thereto; and,
- **Demolition.** Demolition and excavation, including demolition and excavation on private property when determined to be necessary for economic development purposes; and,
- **Acquisition of Real Estate.** Acquisition of real estate or interests in real estate (including easements and rights-of-way) necessary to accomplish the foregoing improvements or in aid of industry, commerce, distribution or research; and,
- **Environmental remediation;** and,
- **Stormwater and Flood Remediation Projects.** Stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; and,
- **Ongoing Administrative Expenses.** Any on-going administrative expenses relating to the Public Infrastructure Improvements and maintaining the TIF revenue, including but not limited to engineering, architectural, legal, TIF administration, permitting and public infrastructure construction management, and other consulting and professional services; and,
- **Inspection/Governmental Fees.** All inspection fees and other governmental fees related to the foregoing; and,
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.

EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENT BUDGET

Description of improvement		Maximum Amount
Land Acquisition		
Land Cost	750,000	
	Subtotal	750,000
Civil Engineering & Drawings		
Boundary and topo survey	8,900	
Record Plat	2,500	
Utility As-Builts	3,900	
Construction Staking	39,000	
Site Civil Design	40,800	
Site & Landscape Design	10,800	
Construction Administration	<u>7,500</u>	
	Subtotal	113,400
Site Evaluations		
Phase 1 Environmental	2,150	
Geotechnical Services	4,850	
Wetland Permitting	3,250	
Traffic Study	<u>6,500</u>	
	Subtotal	16,750
Site Prep Work		
Clearing & Demo	48,000	
Stripping Topsoil	75,000	
Earthwork	140,000	

Subgrade Compaction	67,000	
Erosion Control - Seeding and Straw	75,700	
Contingency	<u>20,285</u>	
Subtotal	425,985	425,985
Storm Water		
Conduits, Basins, Drains	240,700	
Contingency	12,035	
Subtotal	252,735	252,735
Site Utilities		
Water Main Line	148,080	
Fire Hydrants	50,000	
Water Service Lines	40,000	
Water & Sewer Taps	300,000	
Sewer Main Line	235,000	
Sewer Service Lines	60,000	
Electric Service Lines	35,000	
Utility Conduits	23,800	
Contingency	<u>44,594</u>	
Subtotal	936,474	936,474
Right-Of-Way Improvements		
Bike Path	4,600	4,600
Allocated Developer Management & OH.	174,994	174,994
		<hr/>
	Grand Total:	<u>2,674,938</u>

TAX INCREMENT FINANCING AGREEMENT
(Grand Villas of Clayton)

This Tax Increment Financing Agreement (the "Agreement"), made and entered into as of this day of February 17, 2022, by and between the CITY OF CLAYTON, OHIO (the "City"), a municipal corporation organized and existing under the constitution and the laws of the State of Ohio and its Charter, and GT Clayton, LLC, an Ohio limited liability company (the "Developer").

WITNESSETH:

WHEREAS, City Council, by its Ordinance No. 0-02-22-07, passed Feb 17, 2022, attached as Exhibit A (the "TIF Ordinance"), has declared the improvement of certain parcels of real property located within the City as identified in the TIF Ordinance (each individually, as now or hereafter configured, a "Parcel" and collectively the "Parcels") to be a public purpose and exempt from taxation, required the owner of each Parcel to make service payments in lieu of taxes (collectively for all Parcels, the "Service Payments") to the Montgomery County Treasurer, has provided for the distribution of the applicable portion of the Service Payments to the Boards of Education of the Northmont City School District and the Miami Valley Career Technology Center, has established the Grand Villas of Clayton Municipal Public Improvement Tax Increment Equivalent Fund as specified in the TIF Ordinance (the "Fund") for the deposit of the remainder of such Service Payments, and has specified public infrastructure improvements made or to be made that benefit or serve the Parcels (the "Public Infrastructure Improvements"), all pursuant to and in accordance with Sections 5709.40, 5709.42, and 5709.43 of the Ohio Revised Code; and

WHEREAS, the Developer is the owner of the Parcels and intends to cause the construction of approximately 128 multi-family cluster home units (the "Project"), and expects to commence construction of certain of the Public Infrastructure Improvements as defined in Section 5709.40 of the Ohio Revised Code, which Public Infrastructure Improvements will benefit the Parcels; and

WHEREAS, the City intends to reimburse the Developer for designated public infrastructure improvements consisting of the acquisition of the Parcels in aid of commerce for the Project (the "Land Acquisition"), stormwater and flood remediation projects (including, but not limited, site excavation and retaining walls), including such projects on private property when determined to be necessary for public health, safety, and welfare (the "Stormwater Improvements") and the provision to the Project of gas, electric, and communications service facilities, including the provision of gas or electric service facilities owned by nongovernmental entities, such improvements being determined to be necessary for economic development purposes (the "Utility Improvements") and, together with the Stormwater Improvements, the "Site Improvements") (the Site Improvements, together with the Land Acquisition, are hereinafter, the "Public Infrastructure Improvements") in the maximum amounts shown on Exhibit B attached hereto; and

WHEREAS, City Council authorized the execution and delivery of this Agreement by Ordinance No. 0-02-22-07, passed February 17, 2022;

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

Section 1. Public Infrastructure Improvements. The Developer will solely responsible for the acquisition and construction of the Public Infrastructure Improvements. The Developer or its assignee will enter into all design and construction contracts in its own name and not in the name of the City. The Developer will be responsible for complying with any applicable requirements of Chapter 4115 of the Ohio Revised Code with respect to the construction of the Site Improvements.

Section 2. Application of Service Payments. The Fund will be maintained in the custody of the City and will receive all distributions of Service Payments required to be made to the City by the TIF Ordinance. Money deposited in the Fund will be used in the following order of priority: (i) payment of amounts required to be paid to the Northmont City School District and the Miami Valley Career Technology Center pursuant to the TIF Ordinance and (ii) upon the satisfaction of the conditions in Section 4, any remaining amounts on deposit in the Fund (the "Available Amounts") will be used to pay the Reimbursement Obligation to the Developer. Payments will be made within 30 days of a deposit of Service Payments into the Fund. Payments will first be applied to accrued interest due and then to the principal amount of the Reimbursement Obligation.

Section 3. Reimbursement Obligation. This Agreement evidences the City's obligation to reimburse the Developer an amount equal to the Developer's costs as approved by the Finance Director pursuant to Section 4, plus interest on the unreimbursed portion of the those costs at the interest rate of 6.00% per year (the "Reimbursement Obligation"). Interest on costs certified to the City pursuant to Section 4 shall accrued from the date the certification is submitted to the City, provided that such certification is approved by the Finance Director. The Reimbursement Obligation is a special obligation of the City, payable solely from and secured only by money deposited in the Fund, and payable without the necessity of annual appropriation of money in the Fund for such payment. The Developer will provide a statement of principal and accrued interest due each May 1 and September 1 for review and approval by the Finance Director.

The Reimbursement Obligation shall be only paid by the City from moneys actually received by the City and deposited into the Fund that constitute Available Amounts. Until the Reimbursement Obligation is paid in full, City Council shall not amend, modify or repeal the TIF Ordinance in any way, or take any other legislative action that would affect the amount of Service Payments deposited into the Fund except as approved by the Developer in writing or required by law. Until the Reimbursement Obligation is paid in full, the City shall not transfer, encumber, spend or use any monies on deposit in the Fund other than as provided in this Agreement unless this Agreement is amended as provided herein. Without limiting the availability of enforcement by mandamus of other obligations of the City under this Agreement, all of the obligations of the City under Section 2 and Section 3 are established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Ohio Revised Code Section 2731.01, and are enforceable by mandamus.

No payment obligations of the City under this Agreement shall constitute an indebtedness of the City within the provisions and limitations of the laws and the Constitution of the State of

Ohio, and the Developer has no right to have taxes or excises levied by the City for the payment of the Reimbursement Obligation. In the event that upon receipt of the final Service Payment to be paid under the TIF Ordinance and after its application in accordance with the terms of this Agreement, a balance remains on the Reimbursement Obligation, the failure to pay such balance shall not be an event of default of any kind under this Agreement and any payment obligation of the City of such balance shall be deemed forgiven by the Developer at that time.

Section 4. Conditions Precedent to Reimbursement of Developer. The City's obligation to make payments to the Developer under Section 3 commence when all of the following conditions have been met for the Public Infrastructure Improvements:

(a) For costs of the Land Acquisition, a certification to the City of the acquisition costs of the Parcels signed by an authorized officer of the Developer, together with such evidence reasonably required by the Finance Director to evidence the costs of acquiring the Parcels, including settlement statements and title insurance policies showing title vested in the name of the Developer. Costs of Land Acquisition shall be added to the Reimbursement Obligation on the date the Finance Director approves the sufficiency of the certification and evidence required, which approval shall not be unreasonably withheld. Costs of Land Acquisition included in the Reimbursement Obligation shall not exceed the amount shown on Exhibit B.

(b) For costs of the Site Improvements, a certification to the City that all Site Improvements have been completed and the total costs of the Site Improvements signed by an authorized officer of the Developer, together with such evidence reasonably required by the Finance Director to evidence the costs of the Site Improvements and the completion thereof, including inspection reports (if any), and copies of invoices and proof of payment. Costs of the Site Improvements shall be added to the Reimbursement Obligation on the date the Finance Director approves the sufficiency of the certification and evidence required, which approval shall not be unreasonably withheld. Costs of the Site Improvements included in the Reimbursement Obligation shall not exceed the amount shown on Exhibit B.

For purposes of this Agreement, "costs" of the Public Infrastructure Improvements reimbursable to the Developer include the items of "costs of permanent improvements" set forth in Section 133.15(B) of the Ohio Revised Code and incurred by the Developer, directly or indirectly, except as set forth herein. These reimbursable "costs" of the Public Infrastructure Improvements include, but are not limited to: (1) the Developer's design costs (2) construction costs, (3) costs associated with any warranties for the Public Infrastructure Improvements, (4) inspection and design review fees, and (5) permit fees.

Section 4. City Fees, Costs and Indemnity. The Developer shall pay directly or reimburse the City for all third party costs incurred by the City, including the City's attorneys' fees (the "City Costs"). The Developer agrees that it will indemnify, defend and hold harmless the City, its elected officials, officers, employees and agents (insofar as such persons are acting in their capacity as elected officials, officers, employees and agents of the City) (each an "Indemnified Party") from and against any and all liability, and in any and all suits, proceedings, claims, damages, losses and expenses (including reasonable attorneys' fees), including, without limitation, any environmental liability, incurred by an Indemnified Party resulting from an act or omission by the Developer or its employees, agents or contractors in the acquisition, design and construction

of the Public Infrastructure Improvements, excluding in all cases any liability or claims arising as a result of the gross negligence or willful misconduct of the City. The Developer's obligations provided in this Section survive the termination of this Agreement. Upon being paid by the Developer, the City Costs shall be added to the Reimbursement Obligation on the date the Finance Director receives such payments on behalf of the City.

Section 5. Exemption Applications. The City and the Developer agree that the Developer shall be primarily responsible for the preparation of all necessary applications and supporting documents to obtain from time to time the tax exemptions granted by the TIF Ordinance and to enable the City to receive the Service Payments. The City agrees to assist the Developer in the execution and filing of such applications and supporting documents with the County Auditor. The City and the Developer agree to perform such acts as are reasonably necessary or appropriate to maintain those exemptions and receive the Service Payments, including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with those exemptions or the receipt of the Service Payments. The Developer authorizes the City to file any applications necessary to obtain from time to time those exemptions.

Section 8. Estoppel Certificate. Within 45 days after a request of the Developer, the City will execute and deliver to the person or entity indicated by the Developer in its request, a certificate stating: (a) that this Agreement is in full force and effect, if the same is true; (b) that the Developer is not in default under any of the terms, covenants or conditions of this Agreement, or, if the Developer is in default, specifying same; and (c) such other matters as the Developer reasonably requests, which may include certification of the remaining Reimbursement Obligation. Upon such request the Developer will certify to the City that the Developer is not, to its knowledge, in default under any of the terms, covenants or conditions of this Agreement or, if the Developer is in default, the Developer will specify such default and its plan to remedy or cure such default.

Section 9. Successors; Assignment; Amendments; City Consents. This Agreement is binding upon the parties hereto and their successors and assigns. A party may only assign this Agreement with the written consent of the other party; provided that the Developer may, without the consent of the City, make a collateral assignment of its rights and obligations under this Agreement to a lender for the purpose of obtaining financing related to the Public Infrastructure Improvements, as long as such an assignment provides that the Developer remains liable for all its obligations under this Agreement. The Developer will use commercially reasonable efforts to notify the City of any such collateral assignment. The City will cooperate with any reasonable assignment request in connection with that financing. Nothing in this Agreement prevents the Developer from transferring any or all of its interest in a Parcel to another person or entity. This Agreement may only be amended by written instrument executed by all parties to this Agreement. Unless otherwise provided in this Agreement, any consent or approval of the City to be given under this Agreement may be given by the City Manager and must be given in writing.

Section 12. Extent of Covenants; No Personal Liability. All obligations of the parties contained in this Agreement are effective and enforceable to the extent authorized and permitted by applicable law. No such obligation is an obligation of any present or future member of City Council or any officer, agent or employee of either party in that person's individual capacity, and neither the members of the City Council, nor any individual person executing this agreement on

behalf of the City or the Developer, will be liable personally by reason of the obligations of the City or the Developer contained in this Agreement.

Section 13. 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 must be in writing and will 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 has previously notified the sender of in writing, and will be deemed received upon actual receipt, unless sent by certified mail, in which event such notice will be deemed to have been received when the return receipt is signed or refused. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications must be sent. The present addresses of the parties follow:

- (a) To Developer: GT Clayton, LLC
941 Chatham Lane, Suite 100
Columbus, Ohio 43221
Attention: _____
- (b) To the City at: City of Clayton
PO Box 280
Clayton, Ohio 45315
Attention: City Manager

Section 14. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, that provision is fully severable. This Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible that is and will be legal, valid and enforceable.

Section 15. Separate Counterparts. This Agreement may be executed by the parties in one or more counterparts or duplicate signature pages, each of which when so executed and delivered is an original, with the same force and effect as if all required signatures were contained in a single original instrument. Any one or more of such counterparts or duplicate signature pages may be removed from any one or more original copies of this Agreement and annexed to other counterparts or duplicate signature pages to form a completely executed original instrument. Signatures transmitted by facsimile or electronic means are deemed original signatures.

Section 16. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the matters covered herein and supersedes prior agreements

and understandings between the parties. The parties hereto acknowledge and agree that this Agreement is the product of an extensive and thorough, arm's length negotiation and that each party has been given the opportunity to independently review the Agreement with legal counsel, and that each party has the requisite experience and sophistication to negotiate, understand, interpret and agree to the particular language of the provisions of this Agreement. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement may not be interpreted or construed against the party preparing it, and instead other rules of interpretation and construction must be utilized.

Section 17. Term. The term of this Agreement commences as of the date of this Agreement and terminates upon payment in full to the Developer of the Reimbursement Obligation.

Section 18. No Agency Relationship. The City and Developer each acknowledge and agree that in fulfilling its obligations under this Agreement, Developer is not acting as an agent of the City.

Section 19. City Income Tax Withholdings. 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 the Clayton City Code in connection with the construction of the Public Infrastructure Improvements.

Section 20. Non-Discriminatory Hiring Policy. The Developer agrees to comply with, and will only hire contractors who agree to comply with, the City's nondiscriminatory hiring policy adopted pursuant to Section 5709.832 of the Ohio Revised Code to ensure that recipients of tax exemptions practice nondiscriminatory hiring in their operations. In furtherance of that policy, the Developer agrees that it will not deny any individual employment solely on the basis of race, religion, sex, disability, color, national origin or ancestry. This Section does not require compliance with Federal Executive Order No. 11246.

Section 21. Governing Law and Choice of Forum. This Agreement is governed by and construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between the City, its employees, contractors, subcontractors and agents, and the Developer, its employees, contractors, subcontractors and agents arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Montgomery County, Ohio.

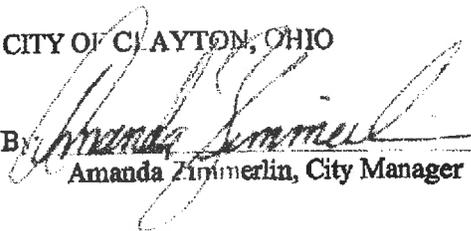
Section 22. Exhibits. The following Exhibits are attached to this Agreement:

- (i) Exhibit A: TIF Ordinance
- (ii) Exhibit B: Public Improvement Budget

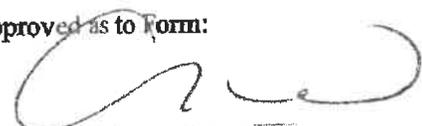
(Signatures on next page)

IN WITNESS WHEREOF, the City and the Developer have caused this Tax Increment Financing Agreement (Grand Villas of Clayton) to be executed in its name by its duly authorized officers, as of the date first set forth above.

CITY OF CLAYTON, OHIO

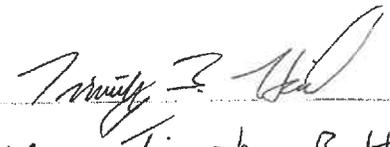
By: 
Amanda Zimmerlin, City Manager

Approved as to Form:



Law Director

GT Clayton, LLC

By: 
Printed: Timothy B. Haid
Title: Member

FISCAL OFFICER'S CERTIFICATE

As fiscal officer for the City of Clayton, I hereby certify that funds sufficient to meet the obligations of the City in this Agreement (including specifically the funds required to meet the obligation of the City in the year 2022 - \$0.00) have been lawfully appropriated for the purposes thereof and are available in the treasury, and/or are in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. Except for the Service Payments, the City has no obligation to make payments pursuant to this Agreement except from Service Payments to be collected for deposit into the TIF Fund, which Service Payments are in the process of collection. This certificate is given in compliance with Ohio Revised Code Sections 5705.41 et seq.

Dated: 2-21, 2022



Kevin Schweitzer, Finance Director
City of Clayton, Ohio

EXHIBIT A

Description of the Property

The Property to be exempt under the foregoing ordinance consists of an area land comprising approximately 15 acres, which is currently part of a larger approximately 25.296 acre parcel situated in the City of Clayton, County of Montgomery, State of Ohio, and currently identified as Parcel Number M60-03102 0016 by the County Auditor of Montgomery County, Ohio. The approximately 15-acre site with respect to which a separate tax parcel will be created following the passage of this ordinance has the following legal description:

[Remainder of Page Left Intentionally Blank.]

Parcel 2
LEGAL DESCRIPTION
15.144 ACRES

BAL
TAL
M60 03162 0032,36

Situated in Section 20, Town 5, Range 5E, City of Clayton, Montgomery County, Ohio being part of a 25.267 acre (deed) parcel of land conveyed to Quiet Creek Development, LLC in IR Deed 18-040807, the boundary of which being more particularly as follows:

Commencing at a 5/8" iron pin found at the southwest corner of Lot 85 of Village of North Clayton P.U.D. Section Three as recorded in PB 216 Page 12A;

Thence S00°31'25"E a distance of 279.23 to a 1.25" iron pin found at the northeast corner of a 14.165 acre parcel conveyed to Quiet Creek Development, LLC in IR Deed 18-010981;

Thence along the south line of a 26.303 acre parcel conveyed to Windsor Clayton Development, LLC in IR Deed 20-071895, N89°05'02"E a distance of 659.52 feet to a set 5/8" iron pin, said point being the True Point of Beginning for this description;

Thence along said south line and the south line of a 4.000 acre (deed) parcel of land conveyed to United Christian Church in IR Deed 11-040166, N89°05'02"E passing a 1" iron pipe found at 1517.28 a total distance of 1547.28 to a 5/8" iron pin found in the centerline of Hoke Road being in the east line of Section 20;

Thence along said centerline and the east line of Section 20, S00°19'54"W a distance of 426.47 feet to a mag nail set at the northeast corner of a 14 1/2 acre (original) parcel of land conveyed to R & E Thomas Family Farms, LLC in IR Deed 16-051305;

Thence along the north line of said 14 1/2 acre (original) parcel, the north line of a 43.169 acre (deed) parcel conveyed to R & E Thomas Family Farms, LLC in IR Deed 16-051305, and in part along a new division line, S89°02'17"W passing a 5/8" iron pin found at 16.50 feet, a total distance of 1542.57 feet to a 5/8" iron pin set;

Thence continuing along a new division line, N00°18'08"W a distance of 427.62 feet to the Point of Beginning.

Containing 15.144 acres of land more or less being subject to easements, restrictions and rights of way of record.

KARL KEITH
COUNTY AUDITOR
MONTGOMERY COUNTY, DAYTON, OHIO
DIVISION
BY  DATE 11/12/21
GIS MAPPING DEPARTMENT

This description is based on an actual field survey in October of 2021 and recorded in the Montgomery County Engineer's record of land surveys in Volume 2021, Page 0330 under my direct supervision Randy C. Wolfe registered professional surveyor number 8033 of the State of Ohio, and that all monuments found or set, correctly represents the boundaries herein described.

Randy C Wolfe 11-1-21
Randy C. Wolfe Date
Ohio Professional Surveyor No. 8033



For ease of reference, the following map is provided:

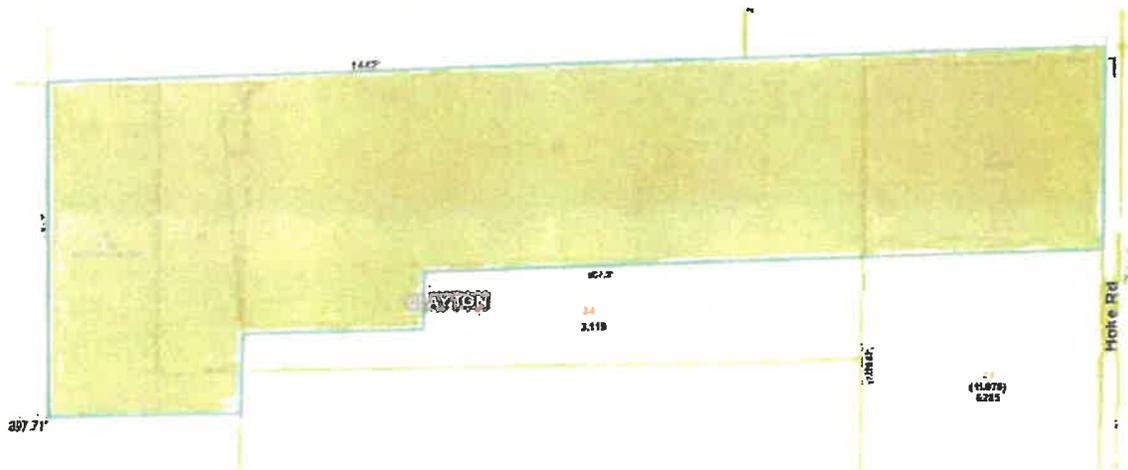


EXHIBIT B

Public Infrastructure Improvements

All of the Public Infrastructure Improvements described below are hereby determined to be “public infrastructure improvements” (as defined in Division (A)(8) of R.C. Section 5709.40) and are intended to directly benefit the Property described in EXHIBIT A. The Public Infrastructure Improvements specifically include the costs of financing the Public Infrastructure Improvements, including the items of costs of permanent improvements described in R.C. Section 133.15(B), and incurred with respect to the Public Infrastructure Improvements, which said costs specifically include any reimbursement payments for the reimbursement of the costs of the Public Infrastructure Improvements and any debt service on, and other expenses relating to the issuance of, any bonds, notes, or other obligations issued to finance the Public Infrastructure Improvements. The Public Infrastructure Improvements include, without limitation:

- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, bridges (both roadway and pedestrian), traffic calming devices, sidewalks and walkways, pathways, bikeways, medians and viaducts accessible to and serving the public, and providing lighting systems, signalization, and traffic controls, and all other appurtenances thereto, including the continued maintenance of those public roads and highways; and,
- **Water and Sewer Lines.** Construction, reconstruction or installation of utility improvements (including any underground utilities), storm and sanitary sewers (including necessary site grading therefore and including the continued maintenance of those storm and sanitary sewers), water lines (including the continued maintenance of those water lines), fire buildings and improvements, public water and fire protection systems (excluding any in-unit, private water and fire suppression systems), and all other appurtenances thereto; and,
- **Utilities.** Construction, reconstruction or installation of gas, electric, and communication service facilities, and all other appurtenances thereto, and including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes; and,
- **Parks.** Construction or reconstruction of one or more public parks, including grading, trees, sod, shrubs, and other park plantings, park accessories, park structures, irrigation, lighting, flatwork, playgrounds, fountains, water features, sports facilities, including, but not limited to, public tennis courts, sculptures, public art and related improvements, and all other appurtenances thereto; and,
- **Streetscape/Landscape Improvements.** Construction or installation of streetscape and landscape improvements including trees and shrubs, landscaping mounds and fencing, tree

grates, planting beds, signage, curbs, sidewalks, street and sidewalk lighting, trash receptacles, benches, newspaper racks, irrigation, burial of overhead utility lines and related improvements, and all other appurtenances thereto; and,

- **Public Parking Facilities.** Construction of one or more public parking facilities, including public surface parking and public parking structures and related improvements, and all other appurtenances thereto; and,
- **Demolition.** Demolition and excavation, including demolition and excavation on private property when determined to be necessary for economic development purposes; and,
- **Acquisition of Real Estate.** Acquisition of real estate or interests in real estate (including easements and rights-of-way) necessary to accomplish the foregoing improvements or in aid of industry, commerce, distribution or research; and,
- **Environmental remediation;** and,
- **Stormwater and Flood Remediation Projects.** Stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; and,
- **Ongoing Administrative Expenses.** Any on-going administrative expenses relating to the Public Infrastructure Improvements and maintaining the TIF revenue, including but not limited to engineering, architectural, legal, TIF administration, permitting and public infrastructure construction management, and other consulting and professional services; and,
- **Inspection/Governmental Fees.** All inspection fees and other governmental fees related to the foregoing; and,
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.

EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENT BUDGET

Description of improvement		Maximum Amount
Land Acquisition		
Land Cost	750,000	
Subtotal	750,000	750,000
Civil Engineering & Drawings		
Boundary and topo survey	8,900	
Record Plat	2,500	
Utility As-Builts	3,900	
Construction Staking	39,000	
Site Civil Design	40,800	
Site & Landscape Design	10,800	
Construction Administration	<u>7,500</u>	
Subtotal	113,400	113,400
Site Evaluations		
Phase 1 Environmental	2,150	
Geotechnical Services	4,850	
Wetland Permitting	3,250	
Traffic Study	<u>6,500</u>	
Subtotal	16,750	16,750
Site Prep Work		
Clearing & Demo	48,000	
Stripping Topsoil	75,000	
Earthwork	140,000	

Subgrade Compaction 67,000

Erosion Control - Seeding and Straw 75,700

Contingency 20,285

Subtotal **425,985** 425,985

Storm Water

Conduits, Basins, Drains 240,700

Contingency 12,035

Subtotal **252,735** 252,735

Site Utilities

Water Main Line 148,080

Fire Hydrants 50,000

Water Service Lines 40,000

Water & Sewer Taps 300,000

Sewer Main Line 235,000

Sewer Service Lines 60,000

Electric Service Lines 35,000

Utility Conduits 23,800

Contingency 44,594

Subtotal **936,474** 936,474

Right-Of-Way Improvements

Bike Path **4,600** 4,600

Allocated Developer Management & OH. 174,994 174,994

Grand Total: 2,674,938

**TAX INCENTIVE AGREEMENT
(GT CLAYTON, LLC)**

This **TAX INCENTIVE AGREEMENT** (the “Agreement”) made and entered into as of the 14th day of February, 2022 between the **BOARD OF EDUCATION OF THE NORTHMONT CITY SCHOOL DISTRICT**, Montgomery County Ohio, a city school district and political subdivision of the State of Ohio (the “School District”) and **THE CITY OF CLAYTON**, Montgomery County, Ohio, a political subdivision of the State of Ohio, (the “City”).

WITNESSETH THAT:

WHEREAS, Sections 5709.40 et seq. of the Ohio Revised Code authorize municipal corporations such as the City to grant tax increment financing real property tax exemptions for improvements declared to be for a public purpose, which exemptions exempt from taxation the increase in the true value of the parcel of property after the effective date of the resolution granting such exemption; and

WHEREAS, Section 5709.42 of the Ohio Revised Code further authorizes a municipal corporation such as the City to require owners of improvements subject to a tax increment financing tax exemption to make an annual payment to the City in lieu of taxes (“Service Payments in Lieu of Taxes”), which payment is approximately equivalent to the amount of real property tax which would be payable on the increase in the true value of the parcel of property but for the exemption from taxation; and

WHEREAS, Section 5709.43 of the Ohio Revised Code further requires a municipal corporation such as the City receiving payments in lieu of taxes to create a public improvement tax increment equivalent fund for deposit of the entire amount of such payments, to be used to pay the costs of public infrastructure improvements benefiting the parcels subject to the tax increment financing tax exemption and, if provided, to make payments to school districts impacted by exemption from taxation; and

WHEREAS, on November 12, 2021, the City notified the School District of its intent to grant an exemption (the “TIF Exemption”), as authorized by Section 5709.40, Ohio Revised Code, for improvements to meet the needs of a certain area in the City, including a new multi-family development and related improvements (the “Improvements”) to certain real property located within the boundaries of the City and the School District, which real property is described in *Exhibit A* attached hereto and made a part hereof (the “Exempted Property”), and to apply Service Payments in Lieu of Taxes received by the City with respect to the Exempted Property to pay for or finance costs of improvements permitted under Section 5709.40, Ohio Revised Code in order to induce the property owners to develop the Exempted Property; and

WHEREAS, as part of the TIF Exemption, the City Council of the City intends to exempt the Improvements from real property taxation for one hundred percent (100%) of the assessed valuation of the Improvements for a period of thirty (30) years; and

WHEREAS, the Board of Education of the School District passed a resolution on February 14, 2022 (the “School District Resolution”) approving the TIF Exemption on the condition that the parties hereto enter into this Agreement, which is attached hereto as *Exhibit B*;

WHEREAS, the City has, pursuant to Ordinance No. ⁰⁻⁰²⁻²²⁻⁰⁷ of the City Council of the City of Clayton adopted February 17, 2022 (the “City Ordinance”), granted the TIF Exemption and authorized the execution of this Agreement, which is attached hereto as *Exhibit C*; and

WHEREAS, Ohio Revised Code Sections 5709.40 and 5709.82 permit the City Council of the City and the Board of Education of the City School District to enter into this Agreement in order to compensate the School District for all or a portion of property taxes lost as a result of the TIF Exemption; and

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

SECTION 1. Approval of the TIF Exemption; Compensation to School District while TIF Exemption in Effect.

(a) As provided in the School District Resolution, the School District approves the TIF Exemption for up to one hundred percent (100%) of the assessed valuation of the Improvements for a period of up to thirty (30) years as described in the City Ordinance.

(b) During the TIF Exemption period, the City agrees to pay to the School District, solely from the Service Payments in Lieu of Taxes received by the City from the owners of the Exempted Property, an amount equal to one hundred percent (100%) of the additional amount of real property tax payments derived from the Improvements to the Exempted Property that the School District would have received from the Exempted Property but for the TIF Exemption; provided, however, such compensation to the School District shall not include any amounts (or portions) attributable to the taxes identified under Section 5709.40(F) of the Ohio Revised Code (the “TIF Compensation”). During any year, or any portion thereof, in which the School District would have received property tax payments derived from the Exempted Property, but for the City’s authorization of the TIF Exemption, the City agrees to pay to the School District, solely from the Service Payments in Lieu of Taxes received in that year from the owners of the Exempted Property, an amount equal to the Service Payments in Lieu of Taxes actually received by the City in such year, multiplied by a fraction, the numerator of which is the School District’s effective real property tax rate for the classification of the Exempted Property and the demoninator of which is the aggregate effective real property tax rate for the classification of the Exempted Property for all taxing districts within which the Exempted Property is located, as calculated and certified in the manner specified in Section 2 hereof. In short, the School District will be made “whole” for any tax payments the School District would have been due from the Exempted Property including the Improvements but for the creation of the Exempted Property. TIF Compensation due under this subsection shall be payable solely from Service Payments in Lieu of Taxes received by the City and shall have priority over any other pledge of Service Payments in Lieu of Taxes by the City. Nothing in this Agreement shall be construed to pledge

the full faith and credit of the City. The following is an example of the calculation to derive the TIF Compensation, which numbers are for illustration purposes only:

Service Payments in Lieu of Taxes Received:	\$1,000,000
District's effective rate real property tax millage:	57
Aggregate effective real property tax rate:	95

$$\$1,000,000 \times .57/.95 = \$600,000.00$$

(c) In the event that any one or more property owners fail to remit a Service Payment in Lieu of Taxes on or before its due date as determined by applicable statutes, the City is not required to make a compensation payment to the School District for the amount not remitted, provided, however, that the City shall proceed to collect the amount not remitted and shall include that amount after collection in calculation of the next future TIF Compensation amount due to the School District.

(d) Under no circumstances shall the total TIF Compensation due under Section 1(b) exceed the amount of the millage attributable to the School District on the tax duplicate times the assessed value of the Improvements.

SECTION 2. Certification of TIF Compensation Amount.

(a) Within fifteen (15) days following receipt of settlement information from the Montgomery County Auditor for each half of each year during which the TIF Exemption will result in the School District's receipt of less than one hundred percent (100%) of the amount of real property taxes due with respect to the Exempted Property, the City shall provide such information to the Treasurer of the School District, and the Treasurer shall certify the TIF Compensation amount to the Finance Director of the City; provided, however, failure of the Treasurer of the School District to make the certification of the TIF Compensation to the City in a timely manner shall not serve as a waiver or rejection of the School District's right to receive TIF Compensation, nor shall it be a default hereunder.

SECTION 3. Payment of TIF Compensation.

(a) Within fifteen (15) days after receipt of the Treasurer's certification described in Section 2 hereof, the City shall pay to the School District, the amount of the TIF Compensation.

SECTION 4. Resolution of Disputes.

(a) In the event the City disputes the amount of the TIF Compensation as certified by the Treasurer of the School District, the City shall certify, by April 1 and October 1, with respect to the first and second-half property tax settlements, the basis for the dispute and the amount that the City claims is the correct amount of TIF Compensation to be paid to the School District. Within 10 days

thereafter, the Treasurer of the School District and the City Fiscal Officer or Administrator shall meet with the Montgomery County Auditor (the "County Auditor") to discuss and resolve the dispute. In the event the Treasurer of the School District and the City Fiscal Officer or Administrator are unable to mutually agree on the amount of TIF Compensation, the County Auditor shall determine and certify the amount of the TIF Compensation. The City shall then pay such amount within 15 days thereafter; provided that nothing contained in this Section 4 shall limit either the School District's or the City's ability, after payment and receipt of such TIF Compensation amount, to seek recovery of amounts deemed overpaid or underpaid.

SECTION 5. Application of Ohio Revised Code Section 5709.82.

The School District acknowledges and agrees that this Agreement provides for the only compensation to be received by the School District from the City in connection with the TIF Exemption, and the compensation provided for herein is in lieu of any other compensation that may be provided for in Section 5709.82 of the Ohio Revised Code.

SECTION 6. Notices.

(a) All notices, designations, certificates, requests or other communications under this Agreement shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid addressed to the following addresses:

**Board of Education of the
Northmont City School
District**
4001 Old Salem Rd
Englewood, OH 45322
Attn: Treasurer

City of Clayton
P.O. Box 280
Clayton, OH 45315
Attn: City Manager

SECTION 7. Duration of Agreement; Amendment.

(a) This Agreement shall become effective on the date that it is executed and delivered and shall remain in effect for such period as any Service Payments in Lieu of Taxes as a result of the TIF Exemption are in effect. This Agreement may be amended only by mutual agreement of the School District and the City. No amendment to this Agreement shall be effective unless it is contained in a written document approved through legal process and signed on behalf of all parties hereto by duly authorized representatives.

SECTION 8. Waiver.

(a) In consideration of the payments to be made as described in the School District Resolution and in this Agreement, the School District waives any notice requirements of R.C. 5709.40 and R.C. 5709.83 with respect to the TIF Exemption and passage of the City Ordinance approving the TIF Exemption. No waiver by the School District of the performance of any terms or provision hereof shall

constitute, or be construed as, a continuing waiver of performance of the same or any other term or provision hereof.

SECTION 9. Merger; Entire Agreement.

(a) This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter contained herein and merges and supersedes all prior discussion, agreements, and undertakings of every kind of nature between the parties with respect to the subject matter of this Agreement.

SECTION 10. Binding Nature.

(a) This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective permitted successors and assigns.

SECTION 11. Severability.

(a) Should any portion of this Agreement be declared by the courts to be unconstitutional, invalid or otherwise unlawful, such decision shall not affect the entire agreement but only that part declared to be unconstitutional, invalid or illegal and this Agreement shall be construed in all respects as if any invalid portions were omitted.

SECTION 12. Counterparts; Captions.

(a) This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same Agreement. Captions have been provided herein for the convenience of the reader and shall not affect the construction of this Agreement.

SECTION 13. Filing of Agreement.

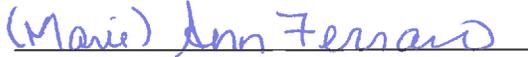
(a) The Fiscal Officer of the City of Clayton, Montgomery County, Ohio shall file an executed copy of this Agreement with both the County Auditor and the County Treasurer.

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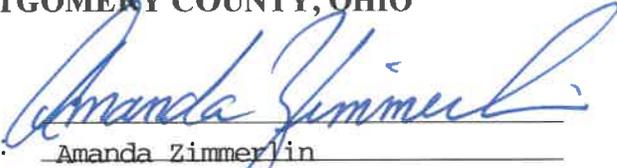
IN WITNESS WHEREOF, the School District and the City have caused this Agreement to be executed in their respective names by their duly authorized officers all as of the date affixed next to their signatures.

BOARD OF EDUCATION OF THE NORTHMONT CITY SCHOOL DISTRICT

By: 
Name: Linda Blum
Title: President
Date: _____

By: 
Name: Ann Ferraro
Title: Treasurer/CFO
Date: _____

**CITY OF CLAYTON,
MONTGOMERY COUNTY, OHIO**

By: 
Name: Amanda Zimmerlin
Title: City Manager
Date: February 17, 2022

**SECTION 5705.41
CERTIFICATE OF AVAILABILITY OF FUNDS**

The undersigned, Finance Director of the City of Clayton, Ohio (the "City"), hereby certifies in connection with the Tax Incentive Agreement between the City and the Northmont City School District, dated as of February 17, 2022, that:

The amount required to meet the contract, obligation, or expenditure for the attached during Fiscal Year 2022, has been lawfully appropriated for the purpose, and is in the treasury or in process of collection to the credit of an appropriate fund, free from any outstanding obligation or encumbrance. This certificate is given in compliance with Sections 5705.41 and 5705.44 of the Ohio Revised Code.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of February, 2022.



Finance Director

Dated: Feb. 17, 2022

EXHIBIT A

Description of the Property

The Property to be exempt under the foregoing ordinance consists of an area land comprising approximately 15 acres, which is currently part of a larger approximately 25.296 acre parcel situated in the City of Clayton, County of Montgomery, State of Ohio, and currently identified as Parcel Number M60-03102 0016 by the County Auditor of Montgomery County, Ohio. The approximately 15-acre site with respect to which a separate tax parcel will be created following the passage of this ordinance has the following legal description:

[Remainder of Page Left Intentionally Blank.]

Parcel 2
LEGAL DESCRIPTION
15.144 ACRES

BAL
TAL
MGO 03102 0032,36

Situated in Section 20, Town 5, Range 5E, City of Clayton, Montgomery County, Ohio being part of a 25.267 acre (deed) parcel of land conveyed to Quiet Creek Development, LLC in IR Deed 18-040807, the boundary of which being more particularly as follows:

Commencing at a 5/8" iron pin found at the southwest corner of Lot 85 of Village of North Clayton P.U.D. Section Three as recorded in PB 216 Page 12A;

Thence S00°31'25"E a distance of 279.23 to a 1.25" iron pin found at the northeast corner of a 14.165 acre parcel conveyed to Quiet Creek Development, LLC in IR Deed 18-010981;

Thence along the south line of a 26.303 acre parcel conveyed to Windsor Clayton Development, LLC in IR Deed 20-071895, N89°05'02"E a distance of 659.52 feet to a set 5/8" iron pin, said point being the True Point of Beginning for this description;

Thence along said south line and the south line of a 4.000 acre (deed) parcel of land conveyed to United Christian Church in IR Deed 11-040166, N89°05'02"E passing a 1" iron pipe found at 1517.28 a total distance of 1547.28 to a 5/8" iron pin found in the centerline of Hoke Road being in the east line of Section 20;

Thence along said centerline and the east line of Section 20, S00°19'54"W a distance of 426.47 feet to a mag nail set at the northeast corner of a 14 1/2 acre (original) parcel of land conveyed to R & E Thomas Family Farms, LLC in IR Deed 16-051305;

Thence along the north line of said 14 1/2 acre (original) parcel, the north line of a 43.169 acre (deed) parcel conveyed to R & E Thomas Family Farms, LLC in IR Deed 16-051305, and in part along a new division line, S89°02'17"W passing a 5/8" iron pin found at 16.50 feet, a total distance of 1542.57 feet to a 5/8" iron pin set;

Thence continuing along a new division line, N00°18'09"W a distance of 427.62 feet to the Point of Beginning.

Containing 15.144 acres of land more or less being subject to easements, restrictions and rights of way of record.

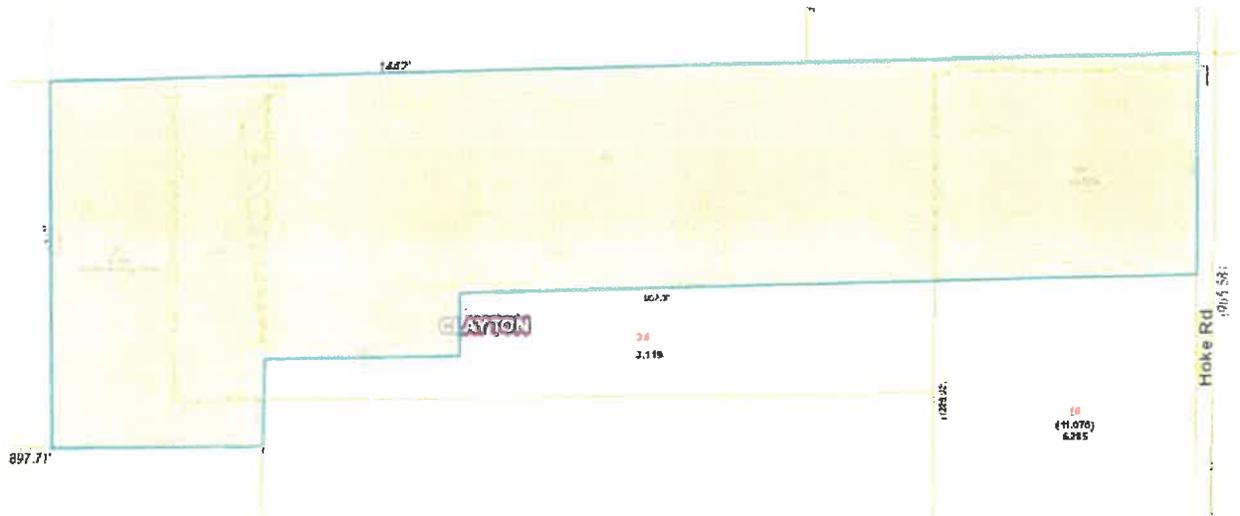
KARL KEITH
COUNTY AUDITOR
MONTGOMERY COUNTY, DAYTON, OHIO
DIVISION
BY  DATE 11/12/21
GIS MAPPING DEPARTMENT

This description is based on an actual field survey in October of 2021 and recorded in the Montgomery County Engineer's record of land surveys in Volume 2021, Page 0330 under my direct supervision Randy C. Wolfe registered professional surveyor number 8033 of the State of Ohio, and that all monuments found or set, correctly represents the boundaries herein described.

Randy C Wolfe 11-1-21
Randy C. Wolfe Date
Ohio Professional Surveyor No. 8033



For ease of reference, the following map is provided:



The Board of Education of the Northmont City School District met in regular session on February 14, 2022, commencing at six o'clock p.m., at Kleptz Early Learning Center, 1100 National Road, Englewood, OH 45322, with the following members present:

Linda Blum	Dr. Karl "Gerry" Espeleta
Thomas L. Walker, Sr.	Jane Woodie
Chris Pulos	

Mr. Walker moved the adoption of the following resolution:

NORTHMONT CITY SCHOOL DISTRICT BOARD OF EDUCATION

A RESOLUTION APPROVING THE PASSAGE BY THE COUNCIL OF THE CITY OF CLAYTON, OHIO OF AN ORDINANCE APPROVING A REAL PROPERTY TAX EXEMPTION PURSUANT TO DIVISION (B) OF OHIO REVISED CODE SECTION 5709.40 AND AUTHORIZING THE EXECUTION OF A COMPENSATION AGREEMENT RELATED THERETO.

WHEREAS, the City of Clayton, Ohio (the “**City**”) has expressed to this Board of Education (“**Board**”) its desire to grant, pursuant to Division (B) of Ohio Revised Code Section (“**R.C.**”) 5709.40, a one hundred percent (100%), thirty (30) year tax increment financing real property tax exemption (the “**TIF Exemption**”) in connection with the construction of approximately 128 multi-family cluster home units (the “**Project**”) and the improvements (each improvement having the meaning as set forth in Division (A)(4) of R.C. 5709.40 and collectively referred to herein as the “**Improvements**”) that the owners of the Project will make or cause to be made; and,

WHEREAS, this Board supports the economic growth of the City and the additional property tax revenue to this School District that will result from the development of the Project; and,

WHEREAS, the City has forwarded to this Board proposed documents for its review which include (i) the ordinance to be passed by the City (the “**TIF Ordinance**”) and (ii) a compensation agreement to be executed between the City and this District pursuant to Division (D) of R.C. 5709.40 and R.C. 5709.82, a copy of which is attached hereto as **EXHIBIT A** (the “**Compensation Agreement**”); and,

WHEREAS, the City has proposed as a condition of the proposed TIF Exemption that this School District is to be paid amounts equal to the real property taxes that would have been payable to the School Districts if the Improvements had not been exempted from taxation; and,

WHEREAS, this Board desires to waive any notice requirements of R.C. 5709.40, R.C. 5709.82, and R.C. 5709.83 with respect to the passage by the City of the TIF Ordinance approving and granting the TIF Exemption.

NOW, THEREFORE, BE IT RESOLVED by the Board of Education of the Northmont City School District, Darke, Miami, and Montgomery Counties, State of Ohio, that:

Section 1. This Board, in consideration of the payments to be made as described in this Resolution and in the Compensation Agreement, hereby (i) waives any notice requirements of R.C. 5709.40 and R.C. 5709.83 with respect to the TIF Exemption and passage of the TIF Ordinance approving the TIF Exemption, (ii) approves the TIF Exemption and the TIF Ordinance, and (iii) agrees that payment by the City to the School District of the compensation set forth in the Compensation Agreement is and will be the sole compensation received by this School District with respect to the TIF Exemption, including, without limitation, the requirements of R.C. 5709.82.

Section 2. The President and Treasurer of this Board and the Superintendent of this School District each are authorized and directed to execute and deliver the Compensation Agreement, substantially in the form on file with this Board, pursuant to Division (D) of R.C. 5709.40 and R.C. 5709.82, with such completions and changes therein that are not adverse to this School District and which shall be approved by the those officials, provided that the approval of such completions and changes and the character of those completions and changes as not being substantially adverse to this School District will be evidenced conclusively by the execution of the Compensation Agreement by those officials. The President and Treasurer of this Board and the Superintendent of this School District each are authorized and directed to execute and deliver any other agreements and to take all other actions and do all other things necessary and consistent with this resolution in order to accomplish the purposes of this resolution.

Section 3. The Treasurer is authorized and directed to promptly certify a copy of this resolution to the City. This Board acknowledges that the City will rely on this resolution when granting the TIF Exemption and approving the TIF Ordinance, and this Board agrees it will not repeal or modify this resolution without the prior written approval of the City.

Section 4. This Board hereby finds and determines that all formal actions of this Board and any of its committees concerning and relating to the adoption of this resolution were taken in an open meeting of this Board or its committees and that all deliberation of this Board and of any of its committees that resulted in those formal actions were in meeting open to the public, in compliance with law.

Section 5. This Resolution shall be in full force and effect from and immediately upon its adoption.

Dr. Espeleta seconded the motion.

Upon roll call on the adoption of the Resolution, the vote was as follows:

Aye: Walker, Espeleta, Blum, Pulos, Woodie

Nay

Absent

TREASURER'S CERTIFICATION

The foregoing is a true and correct excerpt from the minutes of the regular meeting on February 14, 2022, of the Board of Education of the Northmont City School District, showing the adoption of the resolution hereinabove set forth.



Marie Ann Ferraro, Treasurer

CITY OF CLAYTON, OHIO

ORDINANCE NO. O- 02 – 22 - 07

AMENDING ORDINANCE NO. 06-05-10 TO REMOVE A PARCEL FROM SUCH PRIOR ORDINANCE, DECLARING IMPROVEMENTS TO SUCH PARCEL TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING SPECIFIC PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT DIRECTLY BENEFIT THE PARCELS FOR WHICH IMPROVEMENTS ARE DECLARED TO BE A PUBLIC PURPOSE; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND; AND PROVIDING RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40(B), 5709.42, 5709.43, 5709.832 AND 5709.85 AND DECLARING AN EMERGENCY.

WHEREAS, Division (B) of Ohio Revised Code Section (“**R.C.**”) 5709.40 provides that this Council may (i) declare improvements to certain parcels of real property located in the City of Clayton, Ohio (the “**City**”) to be a public purpose, thereby granting to those improvements an exemption from real property taxation, and (ii) designate specific public infrastructure improvements made, to be made, or in the process of being made that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose; and,

WHEREAS, pursuant to Division (D)(1) of R.C. 5709.40, such exemption may, with the approval of the board of education of the city, local, or exempted village school district within the territory, be for up to thirty (30) years and up to one hundred percent (100%) of the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under R.C. 5709.40 were it not for the exemption granted by that ordinance (an “**Improvement**”); and,

WHEREAS, the real property described in **EXHIBIT A** attached hereto and incorporated herein by reference (the “**Property**”) is located in the City, with each parcel of the Property referred to herein as a “**Parcel**” (whether as presently appearing on Montgomery County tax duplicates or as subdivided or combined and appearing on future tax duplicates); and,

WHEREAS, GT Clayton, LLC (the “**Developer**”), the anticipated future owner of the Property (each an “**Owner**” and collectively the “**Owners**”) proposes to develop the Property by constructing approximately 128 multi-family cluster home units and otherwise improving the Property (the “**Development**”); and,

WHEREAS, pursuant to Division (D)(1) of R.C. 5709.40, this Council has determined to grant the TIF Exemption (as defined herein) from real estate taxation for all Improvements to the Property for one hundred percent (100%) of such Improvements for thirty (30) years; and,

WHEREAS, this Council (i) has determined that it is necessary and appropriate and in the best interests of the City to provide for annual service payments in lieu of real property taxes with respect to the Property pursuant to R.C. 5709.42 and (ii) desires to facilitate the construction of the public infrastructure improvements described in **EXHIBIT B** attached hereto and incorporated herein by reference (the “**Public Infrastructure Improvements**”); and,

WHEREAS, in connection with the construction of the Development, the City and the Developer desire to execute a tax increment financing agreement substantially in the form attached hereto and incorporated herein as **EXHIBIT C** (the “**TIF Agreement**”), which TIF Agreement provides for the construction of the Development and for the financing of the Public Infrastructure Improvements, as defined herein and in the TIF Agreement; and,

WHEREAS, notice of this proposed ordinance has been delivered to the Boards of Education of the Northmont City School District (“**Northmont City Schools**”) and the Miami Valley Career Technology Center (“**Miami Valley Career Tech**,” and together with Northmont City Schools, the “**School Districts**”) in accordance with and within the time periods prescribed in Division (D) of R.C. 5709.40 and R.C. 5709.83, respectively, and by resolution adopted by the board of education of the Northmont City Schools on February 14, 2022, Northmont City Schools has approved the TIF Exemption (as defined herein) on the condition that City and Northmont City Schools enter into the School District Compensation Agreement authorized herein; and,

WHEREAS, this Council has determined that annual service payments in lieu of taxes are to be paid to the School Districts pursuant to R.C. 5709.42 in amounts equal to the real property taxes that would have been payable to the School Districts if the Improvements had not been exempted from taxation; and,

WHEREAS, the Property was subject to tax increment financing established pursuant to Ordinance No. 06-05-10 (the “**Prior TIF Ordinance**”), and this Council has determined, as set forth herein, to remove such Property from the tax increment financing established pursuant to the Prior TIF Ordinance.

NOW, THEREFORE, be it ordained by the legislative authority of the Municipality of Clayton, Montgomery County, Ohio, that:

Section 1. Parcel Removed from Prior TIF Ordinance. The Prior TIF Ordinance is hereby amended as follows: Exhibit A to Ordinance No. 06-05-10, passed by City Council on July 21, 2005, is hereby amended to remove Parcel number M60-03102 0016, and a substitute Exhibit A to that Ordinance No. 06-05-10 shall be prepared reflecting such removal.

Section 2. Designated Public Infrastructure Improvements. The Public Infrastructure Improvements described in **EXHIBIT B**, attached hereto, intended to be made or caused to be made by the Developer, are hereby designated as public infrastructure improvements that, once made, will directly benefit the Property.

Section 3. Authorization of TIF Exemption. One hundred percent (100%) of the Improvement shall be a public purpose and shall be exempt from real property taxation commencing for each Parcel the first day of the tax year in which there is an Improvement with respect to the Parcel (as it may be subdivided or combined in connection with the acquisition of the Parcel by an

Owner or otherwise), and ending for each Parcel on the earlier of (a) thirty (30) years after such commencement, or (b) the date on which the City can no longer require annual service payments in lieu of taxes, all in accordance with the requirements of R.C. 5709.40, R.C. 5709.42, and R.C. 5709.43.

Section 4. Service Payments and Property Tax Rollback Payments. As provided in R.C. 5709.42, this Council hereby directs and requires the Owner of any Parcel with an Improvement to make annual service payments in lieu of taxes to the County Treasurer of Montgomery County, Ohio (the “**County Treasurer**”) on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then-current rate established under R.C. 323.121 and R.C. 5703.47, will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not subject to the exemption granted in this ordinance. Such service payments in lieu of taxes, penalties and interest, and any other payments with respect to each Improvement that are received by the County Treasurer in connection with the reduction required by R.C. 319.302, R.C. 321.24, R.C. 323.152 and R.C. 323.156, as the same may be amended from time-to-time, or any successor provisions, as the same may be amended from time-to-time (the “**Property Tax Rollback Payments**,” and together with the annual service payments in lieu of taxes and penalties and interest described above, the “**Service Payments**”), will be allocated and distributed in accordance with Section 5 of this ordinance.

Section 5. Creation of TIF Fund. This Council hereby establishes, pursuant to and in accordance with the provisions of R.C. 5709.43, the Grand Traditions Municipal Public Improvement Tax Increment Equivalent Fund (the “**TIF Fund**”), into which shall be deposited all of the Service Payments distributed to the City with respect to the Improvements to Parcels of the Property by or on behalf of the County Treasurer, as provided in R.C. 5709.42. The City may use amounts deposited into the TIF Fund to pay any costs associated with the Public Infrastructure Improvements approved by the City, including, but not limited to, the “**costs of permanent improvements**” described in Division (B) of R.C. 133.15. The TIF Fund will be maintained in the custody of the City and will exist so long as such Service Payments are collected and used for the purposes described in this Section 5. Then the TIF Fund is to be dissolved and any surplus funds remaining in the TIF Fund will be transferred to the City’s general fund, all as set forth under Division (D) of R.C. Section 5709.43.

Section 6. Distribution of Funds. At the same time and in the same manner as real property tax distributions, the County Treasurer shall distribute the Service Payments to the City to be deposited in the TIF Fund, and the City shall then distribute the Service Payments as follows:

FIRST, to each of Northmont City Schools and Miami Valley Career Tech, amounts equal to the real property taxes that would have been payable to the School Districts if the Improvements had not been exempted from taxation (the “**TIF Compensation**”); and,

SECOND, to be deposited into the TIF Fund and then distributed according to the terms and conditions of this Section 6 and the TIF Agreement.

The City shall then distribute Service Payments on deposit in the TIF Fund to pay or reimburse the Developer for the costs of Public Infrastructure Improvements constructed by the

Developer according to the terms and conditions of the TIF Agreement. After the Developer is paid in full for the costs of the Public Infrastructure Improvements as set forth in the TIF Agreement, any incidental surplus remaining in the TIF Fund shall be used as provided by law.

Section 7. TIF Agreement and Further Authorizations. This Council hereby approves the TIF Agreement, with any changes that are not inconsistent with this ordinance and not substantially adverse to the City and which shall be conclusively evidenced by the signing of the TIF Agreement by the City Manager, to which this Council further hereby authorizes execution on behalf of the City. This Council further authorizes and directs the City Manager or other appropriate officers of the City to provide such information and certifications and execute and deliver, or accept delivery of such instruments, as are necessary and appropriate to implement this ordinance and the TIF Agreement.

Section 8. Authorization of School Compensation Agreement. This Council further hereby approves the compensation agreement between the City and the Board of Education of Northmont City Schools in the form attached hereto as **EXHIBIT D** (the “**School District Compensation Agreement**”), with any changes that are not inconsistent with this ordinance and not substantially adverse to the City and that are approved by the City Manager on behalf of the City, all of which shall be conclusively evidenced by the signing of the School District Compensation Agreement, and hereby authorizes and directs the City Manager, other appropriate officers of the City, or any of them, to execute same.

Section 9. Application for Real Property Tax Exemption and Remission. This Council hereby authorizes the City Manager or other appropriate officers of the City to prepare and sign any applications for real property tax exemption pursuant to R.C. 5709.911, the provisions of which govern the priority status of the exemptions provided under this ordinance.

Section 10. Tax Incentive Review Council. This Council hereby designates the Montgomery County Tax Incentive Review Council (the “**TIRC**”) as the tax incentive review council that shall review annually all exemptions from taxation resulting from this ordinance and any other matters as may properly come before the TIRC, in accordance with R.C. 5709.85.

Section 11. Nondiscriminatory Hiring Practices. In accordance with R.C. 5709.832, this Council hereby determines that no employer located on the Property is to deny any individual employment based on considerations of race, religion, sex, disability, color, national origin, or ancestry.

Section 12. Ohio Department of Development. Pursuant to Division (I) of R.C. 5709.40, the City Manager is hereby directed to deliver a copy of this ordinance to the Director of the Ohio Department of Development (“**ODOD**”) within fifteen (15) days after its passage. On or before March 31 of each year that the TIF Exemption remains in effect, the City Manager or other authorized officer of this City shall prepare and submit, or cause to be prepared and submitted, to the Director of ODOD the status report required under Division (I) of R.C. 5709.40.

Section 13. Open Meetings. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any decision-making bodies of the City

that resulted in such formal actions were in meetings open to the public and in compliance with Ohio's Sunshine Laws, including R.C. 121.22.

Section 14. Effective Date. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants for the reason that this ordinance must be immediately effective so that the work on the Development can begin as quickly as possible, thus providing economic benefit to the City and its residents; wherefore this ordinance shall take effect and be in force from and immediately after its adoption.

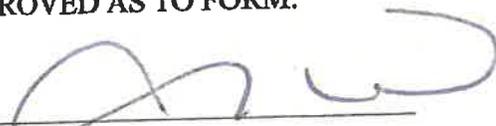
ADOPTED BY COUNCIL ON FEBRUARY 17, 2022.

AUTHENTICATION:


Mayor (Presiding Officer of Council)


Clerk of Council

APPROVED AS TO FORM:


Law Director

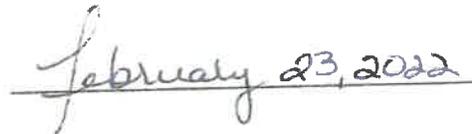
CERTIFICATION OF PUBLICATION

This shall certify that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of Newspaper

Date of Publication


Brookville Star


February 23, 2022


CLERK

EXHIBIT A

Description of the Property

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Thence along the north line of said 14 1/2 acre (original) parcel, the north line of a 43.169 acre (deed) parcel conveyed to R & E Thomas Family Farms, LLC in IR Deed 16-051305, and in part along a new division line, S89°02'17"W passing a 5/8" iron pin found at 16.50 feet, a total distance of 1542.57 feet to a 5/8" iron pin set;

Thence continuing along a new division line, N00°18'09"W a distance of 427.62 feet to the Point of Beginning.

Containing 15.144 acres of land more or less being subject to easements, restrictions and rights of way of record.

KARL KEITH
COUNTY AUDITOR
MONTGOMERY COUNTY, DAYTON, OHIO
DIVISION
BY  DATE 11/12/21
GIS MAPPING DEPARTMENT

This description is based on an actual field survey in October of 2021 and recorded in the Montgomery County Engineer's record of land surveys in Volume 2021, Page 0330 under my direct supervision Randy C. Wolfe registered professional surveyor number 8033 of the State of Ohio, and that all monuments found or set, correctly represents the boundaries herein described.

Randy C Wolfe 11-1-21
Randy C. Wolfe Date
Ohio Professional Surveyor No. 8033



For ease of reference, the following map is provided:

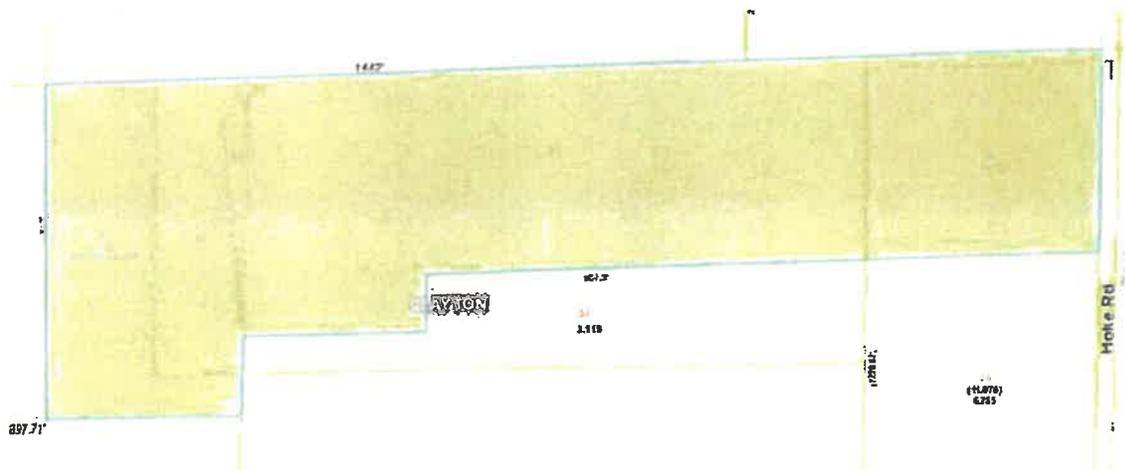


EXHIBIT B

Public Infrastructure Improvements

All of the Public Infrastructure Improvements described below are hereby determined to be “**public infrastructure improvements**” (as defined in Division (A)(8) of R.C. Section 5709.40) and are intended to directly benefit the Property described in EXHIBIT A. The Public Infrastructure Improvements specifically include the costs of financing the Public Infrastructure Improvements, including the items of costs of permanent improvements described in R.C. Section 133.15(B), and incurred with respect to the Public Infrastructure Improvements, which said costs specifically include any reimbursement payments for the reimbursement of the costs of the Public Infrastructure Improvements and any debt service on, and other expenses relating to the issuance of, any bonds, notes, or other obligations issued to finance the Public Infrastructure Improvements. The Public Infrastructure Improvements include, without limitation:

- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, bridges (both roadway and pedestrian), traffic calming devices, sidewalks and walkways, pathways, bikeways, medians and viaducts accessible to and serving the public, and providing lighting systems, signalization, and traffic controls, and all other appurtenances thereto, including the continued maintenance of those public roads and highways; and,
- **Water and Sewer Lines.** Construction, reconstruction or installation of utility improvements (including any underground utilities), storm and sanitary sewers (including necessary site grading therefore and including the continued maintenance of those storm and sanitary sewers), water lines (including the continued maintenance of those water lines), fire buildings and improvements, public water and fire protection systems (excluding any in-unit, private water and fire suppression systems), and all other appurtenances thereto; and,
- **Utilities.** Construction, reconstruction or installation of gas, electric, and communication service facilities, and all other appurtenances thereto, and including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes; and,
- **Parks.** Construction or reconstruction of one or more public parks, including grading, trees, sod, shrubs, and other park plantings, park accessories, park structures, irrigation, lighting, flatwork, playgrounds, fountains, water fountains, water features, sports facilities, including, but not limited to, public tennis courts, sculptures, public art and related improvements, and all other appurtenances thereto; and,
- **Streetscape/Landscape Improvements.** Construction or installation of streetscape and landscape improvements including trees and shrubs, landscaping mounds and fencing, tree

grates, planting beds, signage, curbs, sidewalks, street and sidewalk lighting, trash receptacles, benches, newspaper racks, irrigation, burial of overhead utility lines and related improvements, and all other appurtenances thereto; and,

- **Public Parking Facilities.** Construction of one or more public parking facilities, including public surface parking and public parking structures and related improvements, and all other appurtenances thereto; and,
- **Demolition.** Demolition and excavation, including demolition and excavation on private property when determined to be necessary for economic development purposes; and,
- **Acquisition of Real Estate.** Acquisition of real estate or interests in real estate (including easements and rights-of-way) necessary to accomplish the foregoing improvements or in aid of industry, commerce, distribution or research; and,
- **Environmental remediation;** and,
- **Stormwater and Flood Remediation Projects.** Stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; and,
- **Ongoing Administrative Expenses.** Any on-going administrative expenses relating to the Public Infrastructure Improvements and maintaining the TIF revenue, including but not limited to engineering, architectural, legal, TIF administration, permitting and public infrastructure construction management, and other consulting and professional services; and,
- **Inspection/Governmental Fees.** All inspection fees and other governmental fees related to the foregoing; and,
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.

EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENT BUDGET

Description of improvement		Maximum Amount
Land Acquisition		
Land Cost	750,000	
	Subtotal	750,000
Civil Engineering & Drawings		
Boundary and topo survey	8,900	
Record Plat	2,500	
Utility As-Builts	3,900	
Construction Staking	39,000	
Site Civil Design	40,800	
Site & Landscape Design	10,800	
Construction Administration	<u>7,500</u>	
	Subtotal	113,400
Site Evaluations		
Phase 1 Environmental	2,150	
Geotechnical Services	4,850	
Wetland Permitting	3,250	
Traffic Study	<u>6,500</u>	
	Subtotal	16,750
Site Prep Work		
Clearing & Demo	48,000	
Stripping Topsoil	75,000	
Earthwork	140,000	

Subgrade Compaction 67,000

Erosion Control - Seeding and Straw 75,700

Contingency 20,285

Subtotal **425,985** **425,985**

Storm Water

Conduits, Basins, Drains 240,700

Contingency 12,035

Subtotal **252,735** **252,735**

Site Utilities

Water Main Line 148,080

Fire Hydrants 50,000

Water Service Lines 40,000

Water & Sewer Taps 300,000

Sewer Main Line 235,000

Sewer Service Lines 60,000

Electric Service Lines 35,000

Utility Conduits 23,800

Contingency 44,594

Subtotal **936,474** **936,474**

Right-Of-Way Improvements

Bike Path **4,600** **4,600**

Allocated Developer Management & OH. **174,994** **174,994**

Grand Total: 2,674,938

TAX INCREMENT FINANCING AGREEMENT
(Grand Villas of Clayton)

This Tax Increment Financing Agreement (the "Agreement"), made and entered into as of this day of February 17, 2022, by and between the CITY OF CLAYTON, OHIO (the "City"), a municipal corporation organized and existing under the constitution and the laws of the State of Ohio and its Charter, and GT Clayton, LLC, an Ohio limited liability company (the "Developer").

WITNESSETH:

WHEREAS, City Council, by its Ordinance No. 0-02-22-07, passed Feb. 17, 2022, attached as Exhibit A (the "TIF Ordinance"), has declared the improvement of certain parcels of real property located within the City as identified in the TIF Ordinance (each individually, as now or hereafter configured, a "Parcel" and collectively the "Parcels") to be a public purpose and exempt from taxation, required the owner of each Parcel to make service payments in lieu of taxes (collectively for all Parcels, the "Service Payments") to the Montgomery County Treasurer, has provided for the distribution of the applicable portion of the Service Payments to the Boards of Education of the Northmont City School District and the Miami Valley Career Technology Center, has established the Grand Villas of Clayton Municipal Public Improvement Tax Increment Equivalent Fund as specified in the TIF Ordinance (the "Fund") for the deposit of the remainder of such Service Payments, and has specified public infrastructure improvements made or to be made that benefit or serve the Parcels (the "Public Infrastructure Improvements"), all pursuant to and in accordance with Sections 5709.40, 5709.42, and 5709.43 of the Ohio Revised Code; and

WHEREAS, the Developer is the owner of the Parcels and intends to cause the construction of approximately 128 multi-family cluster home units (the "Project"), and expects to commence construction of certain of the Public Infrastructure Improvements as defined in Section 5709.40 of the Ohio Revised Code, which Public Infrastructure Improvements will benefit the Parcels; and

WHEREAS, the City intends to reimburse the Developer for designated public infrastructure improvements consisting of the acquisition of the Parcels in aid of commerce for the Project (the "Land Acquisition"), stormwater and flood remediation projects (including, but not limited, site excavation and retaining walls), including such projects on private property when determined to be necessary for public health, safety, and welfare (the "Stormwater Improvements") and the provision to the Project of gas, electric, and communications service facilities, including the provision of gas or electric service facilities owned by nongovernmental entities, such improvements being determined to be necessary for economic development purposes (the "Utility Improvements" and, together with the Stormwater Improvements, the "Site Improvements") (the Site Improvements, together with the Land Acquisition, are hereinafter, the "Public Infrastructure Improvements") in the maximum amounts shown on Exhibit B attached hereto; and

WHEREAS, City Council authorized the execution and delivery of this Agreement by Ordinance No. 0-02-22-07, passed February 17, 2022;

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

Section 1. Public Infrastructure Improvements. The Developer will solely responsible for the acquisition and construction of the Public Infrastructure Improvements. The Developer or its assignee will enter into all design and construction contracts in its own name and not in the name of the City. The Developer will be responsible for complying with any applicable requirements of Chapter 4115 of the Ohio Revised Code with respect to the construction of the Site Improvements.

Section 2. Application of Service Payments. The Fund will be maintained in the custody of the City and will receive all distributions of Service Payments required to be made to the City by the TIF Ordinance. Money deposited in the Fund will be used in the following order of priority: (i) payment of amounts required to be paid to the Northmont City School District and the Miami Valley Career Technology Center pursuant to the TIF Ordinance and (ii) upon the satisfaction of the conditions in Section 4, any remaining amounts on deposit in the Fund (the "Available Amounts") will be used to pay the Reimbursement Obligation to the Developer. Payments will be made within 30 days of a deposit of Service Payments into the Fund. Payments will first be applied to accrued interest due and then to the principal amount of the Reimbursement Obligation.

Section 3. Reimbursement Obligation. This Agreement evidences the City's obligation to reimburse the Developer an amount equal to the Developer's costs as approved by the Finance Director pursuant to Section 4, plus interest on the unreimbursed portion of the those costs at the interest rate of 6.00% per year (the "Reimbursement Obligation"). Interest on costs certified to the City pursuant to Section 4 shall accrued from the date the certification is submitted to the City, provided that such certification is approved by the Finance Director. The Reimbursement Obligation is a special obligation of the City, payable solely from and secured only by money deposited in the Fund, and payable without the necessity of annual appropriation of money in the Fund for such payment. The Developer will provide a statement of principal and accrued interest due each May 1 and September 1 for review and approval by the Finance Director.

The Reimbursement Obligation shall be only paid by the City from moneys actually received by the City and deposited into the Fund that constitute Available Amounts. Until the Reimbursement Obligation is paid in full, City Council shall not amend, modify or repeal the TIF Ordinance in any way, or take any other legislative action that would affect the amount of Service Payments deposited into the Fund except as approved by the Developer in writing or required by law. Until the Reimbursement Obligation is paid in full, the City shall not transfer, encumber, spend or use any monies on deposit in the Fund other than as provided in this Agreement unless this Agreement is amended as provided herein. Without limiting the availability of enforcement by mandamus of other obligations of the City under this Agreement, all of the obligations of the City under Section 2 and Section 3 are established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Ohio Revised Code Section 2731.01, and are enforceable by mandamus.

No payment obligations of the City under this Agreement shall constitute an indebtedness of the City within the provisions and limitations of the laws and the Constitution of the State of

Ohio, and the Developer has no right to have taxes or excises levied by the City for the payment of the Reimbursement Obligation. In the event that upon receipt of the final Service Payment to be paid under the TIF Ordinance and after its application in accordance with the terms of this Agreement, a balance remains on the Reimbursement Obligation, the failure to pay such balance shall not be an event of default of any kind under this Agreement and any payment obligation of the City of such balance shall be deemed forgiven by the Developer at that time.

Section 4. Conditions Precedent to Reimbursement of Developer. The City's obligation to make payments to the Developer under Section 3 commence when all of the following conditions have been met for the Public Infrastructure Improvements:

(a) For costs of the Land Acquisition, a certification to the City of the acquisition costs of the Parcels signed by an authorized officer of the Developer, together with such evidence reasonably required by the Finance Director to evidence the costs of acquiring the Parcels, including settlement statements and title insurance policies showing title vested in the name of the Developer. Costs of Land Acquisition shall be added to the Reimbursement Obligation on the date the Finance Director approves the sufficiency of the certification and evidence required, which approval shall not be unreasonably withheld. Costs of Land Acquisition included in the Reimbursement Obligation shall not exceed the amount shown on Exhibit B.

(b) For costs of the Site Improvements, a certification to the City that all Site Improvements have been completed and the total costs of the Site Improvements signed by an authorized officer of the Developer, together with such evidence reasonably required by the Finance Director to evidence the costs of the Site Improvements and the completion thereof, including inspection reports (if any), and copies of invoices and proof of payment. Costs of the Site Improvements shall be added to the Reimbursement Obligation on the date the Finance Director approves the sufficiency of the certification and evidence required, which approval shall not be unreasonably withheld. Costs of the Site Improvements included in the Reimbursement Obligation shall not exceed the amount shown on Exhibit B.

For purposes of this Agreement, "costs" of the Public Infrastructure Improvements reimbursable to the Developer include the items of "costs of permanent improvements" set forth in Section 133.15(B) of the Ohio Revised Code and incurred by the Developer, directly or indirectly, except as set forth herein. These reimbursable "costs" of the Public Infrastructure Improvements include, but are not limited to: (1) the Developer's design costs (2) construction costs, (3) costs associated with any warranties for the Public Infrastructure Improvements, (4) inspection and design review fees, and (5) permit fees.

Section 4. City Fees, Costs and Indemnity. The Developer shall pay directly or reimburse the City for all third party costs incurred by the City, including the City's attorneys' fees (the "City Costs"). The Developer agrees that it will indemnify, defend and hold harmless the City, its elected officials, officers, employees and agents (insofar as such persons are acting in their capacity as elected officials, officers, employees and agents of the City) (each an "Indemnified Party") from and against any and all liability, and in any and all suits, proceedings, claims, damages, losses and expenses (including reasonable attorneys' fees), including, without limitation, any environmental liability, incurred by an Indemnified Party resulting from an act or omission by the Developer or its employees, agents or contractors in the acquisition, design and construction

of the Public Infrastructure Improvements, excluding in all cases any liability or claims arising as a result of the gross negligence or willful misconduct of the City. The Developer's obligations provided in this Section survive the termination of this Agreement. Upon being paid by the Developer, the City Costs shall be added to the Reimbursement Obligation on the date the Finance Director receives such payments on behalf of the City.

Section 5. Exemption Applications. The City and the Developer agree that the Developer shall be primarily responsible for the preparation of all necessary applications and supporting documents to obtain from time to time the tax exemptions granted by the TIF Ordinance and to enable the City to receive the Service Payments. The City agrees to assist the Developer in the execution and filing of such applications and supporting documents with the County Auditor. The City and the Developer agree to perform such acts as are reasonably necessary or appropriate to maintain those exemptions and receive the Service Payments, including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with those exemptions or the receipt of the Service Payments. The Developer authorizes the City to file any applications necessary to obtain from time to time those exemptions.

Section 8. Estoppel Certificate. Within 45 days after a request of the Developer, the City will execute and deliver to the person or entity indicated by the Developer in its request, a certificate stating: (a) that this Agreement is in full force and effect, if the same is true; (b) that the Developer is not in default under any of the terms, covenants or conditions of this Agreement, or, if the Developer is in default, specifying same; and (c) such other matters as the Developer reasonably requests, which may include certification of the remaining Reimbursement Obligation. Upon such request the Developer will certify to the City that the Developer is not, to its knowledge, in default under any of the terms, covenants or conditions of this Agreement or, if the Developer is in default, the Developer will specify such default and its plan to remedy or cure such default.

Section 9. Successors; Assignment; Amendments; City Consents. This Agreement is binding upon the parties hereto and their successors and assigns. A party may only assign this Agreement with the written consent of the other party; provided that the Developer may, without the consent of the City, make a collateral assignment of its rights and obligations under this Agreement to a lender for the purpose of obtaining financing related to the Public Infrastructure Improvements, as long as such an assignment provides that the Developer remains liable for all its obligations under this Agreement. The Developer will use commercially reasonable efforts to notify the City of any such collateral assignment. The City will cooperate with any reasonable assignment request in connection with that financing. Nothing in this Agreement prevents the Developer from transferring any or all of its interest in a Parcel to another person or entity. This Agreement may only be amended by written instrument executed by all parties to this Agreement. Unless otherwise provided in this Agreement, any consent or approval of the City to be given under this Agreement may be given by the City Manager and must be given in writing.

Section 12. Extent of Covenants; No Personal Liability. All obligations of the parties contained in this Agreement are effective and enforceable to the extent authorized and permitted by applicable law. No such obligation is an obligation of any present or future member of City Council or any officer, agent or employee of either party in that person's individual capacity, and neither the members of the City Council, nor any individual person executing this agreement on

behalf of the City or the Developer, will be liable personally by reason of the obligations of the City or the Developer contained in this Agreement.

Section 13. 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 must be in writing and will 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 has previously notified the sender of in writing, and will be deemed received upon actual receipt, unless sent by certified mail, in which event such notice will be deemed to have been received when the return receipt is signed or refused. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications must be sent. The present addresses of the parties follow:

(a) To Developer: GT Clayton, LLC
941 Chatham Lane, Suite 100
Columbus, Ohio 43221
Attention: _____

(b) To the City at: City of Clayton
PO Box 280
Clayton, Ohio 45315
Attention: City Manager

Section 14. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, that provision is fully severable. This Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible that is and will be legal, valid and enforceable.

Section 15. Separate Counterparts. This Agreement may be executed by the parties in one or more counterparts or duplicate signature pages, each of which when so executed and delivered is an original, with the same force and effect as if all required signatures were contained in a single original instrument. Any one or more of such counterparts or duplicate signature pages may be removed from any one or more original copies of this Agreement and annexed to other counterparts or duplicate signature pages to form a completely executed original instrument. Signatures transmitted by facsimile or electronic means are deemed original signatures.

Section 16. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the matters covered herein and supersedes prior agreements

and understandings between the parties. The parties hereto acknowledge and agree that this Agreement is the product of an extensive and thorough, arm's length negotiation and that each party has been given the opportunity to independently review the Agreement with legal counsel, and that each party has the requisite experience and sophistication to negotiate, understand, interpret and agree to the particular language of the provisions of this Agreement. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement may not be interpreted or construed against the party preparing it, and instead other rules of interpretation and construction must be utilized.

Section 17. Term. The term of this Agreement commences as of the date of this Agreement and terminates upon payment in full to the Developer of the Reimbursement Obligation.

Section 18. No Agency Relationship. The City and Developer each acknowledge and agree that in fulfilling its obligations under this Agreement, Developer is not acting as an agent of the City.

Section 19. City Income Tax Withholdings. 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 the Clayton City Code in connection with the construction of the Public Infrastructure Improvements.

Section 20. Non-Discriminatory Hiring Policy. The Developer agrees to comply with, and will only hire contractors who agree to comply with, the City's nondiscriminatory hiring policy adopted pursuant to Section 5709.832 of the Ohio Revised Code to ensure that recipients of tax exemptions practice nondiscriminatory hiring in their operations. In furtherance of that policy, the Developer agrees that it will not deny any individual employment solely on the basis of race, religion, sex, disability, color, national origin or ancestry. This Section does not require compliance with Federal Executive Order No. 11246.

Section 21. Governing Law and Choice of Forum. This Agreement is governed by and construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between the City, its employees, contractors, subcontractors and agents, and the Developer, its employees, contractors, subcontractors and agents arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Montgomery County, Ohio.

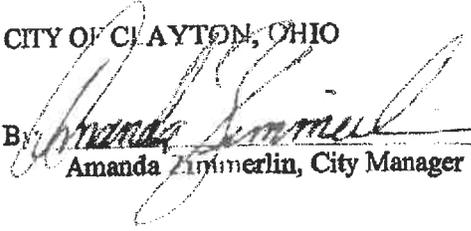
Section 22. Exhibits. The following Exhibits are attached to this Agreement:

- (i) Exhibit A: TIF Ordinance
- (ii) Exhibit B: Public Improvement Budget

(Signatures on next page)

IN WITNESS WHEREOF, the City and the Developer have caused this Tax Increment Financing Agreement (Grand Villas of Clayton) to be executed in its name by its duly authorized officers, as of the date first set forth above.

CITY OF CLAYTON, OHIO

By: 
Amanda Zimmerlin, City Manager

Approved as to Form:



Law Director

GT Clayton, LLC

By: 
Printed: Timothy B. Haid
Title: Member

FISCAL OFFICER'S CERTIFICATE

As fiscal officer for the City of Clayton, I hereby certify that funds sufficient to meet the obligations of the City in this Agreement (including specifically the funds required to meet the obligation of the City in the year 2022 - \$0.00) have been lawfully appropriated for the purposes thereof and are available in the treasury, and/or are in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. Except for the Service Payments, the City has no obligation to make payments pursuant to this Agreement except from Service Payments to be collected for deposit into the TIF Fund, which Service Payments are in the process of collection. This certificate is given in compliance with Ohio Revised Code Sections 5705.41 et seq.

Dated: 2-21, 2022



Kevin Schweitzer, Finance Director
City of Clayton, Ohio

**TAX INCENTIVE AGREEMENT
(GT CLAYTON, LLC)**

This **TAX INCENTIVE AGREEMENT** (the “Agreement”) made and entered into as of the 14th day of February, 2022 between the **BOARD OF EDUCATION OF THE NORTHMONT CITY SCHOOL DISTRICT**, Montgomery County Ohio, a city school district and political subdivision of the State of Ohio (the “School District”) and **THE CITY OF CLAYTON**, Montgomery County, Ohio, a political subdivision of the State of Ohio, (the “City”).

WITNESSETH THAT:

WHEREAS, Sections 5709.40 et seq. of the Ohio Revised Code authorize municipal corporations such as the City to grant tax increment financing real property tax exemptions for improvements declared to be for a public purpose, which exemptions exempt from taxation the increase in the true value of the parcel of property after the effective date of the resolution granting such exemption; and

WHEREAS, Section 5709.42 of the Ohio Revised Code further authorizes a municipal corporation such as the City to require owners of improvements subject to a tax increment financing tax exemption to make an annual payment to the City in lieu of taxes (“Service Payments in Lieu of Taxes”), which payment is approximately equivalent to the amount of real property tax which would be payable on the increase in the true value of the parcel of property but for the exemption from taxation; and

WHEREAS, Section 5709.43 of the Ohio Revised Code further requires a municipal corporation such as the City receiving payments in lieu of taxes to create a public improvement tax increment equivalent fund for deposit of the entire amount of such payments, to be used to pay the costs of public infrastructure improvements benefiting the parcels subject to the tax increment financing tax exemption and, if provided, to make payments to school districts impacted by exemption from taxation; and

WHEREAS, on November 12, 2021, the City notified the School District of its intent to grant an exemption (the “TIF Exemption”), as authorized by Section 5709.40, Ohio Revised Code, for improvements to meet the needs of a certain area in the City, including a new multi-family development and related improvements (the “Improvements”) to certain real property located within the boundaries of the City and the School District, which real property is described in *Exhibit A* attached hereto and made a part hereof (the “Exempted Property”), and to apply Service Payments in Lieu of Taxes received by the City with respect to the Exempted Property to pay for or finance costs of improvements permitted under Section 5709.40, Ohio Revised Code in order to induce the property owners to develop the Exempted Property; and

WHEREAS, as part of the TIF Exemption, the City Council of the City intends to exempt the Improvements from real property taxation for one hundred percent (100%) of the assessed valuation of the Improvements for a period of thirty (30) years; and

WHEREAS, the Board of Education of the School District passed a resolution on February 14, 2022 (the “School District Resolution”) approving the TIF Exemption on the condition that the parties hereto enter into this Agreement, which is attached hereto as *Exhibit B*;

WHEREAS, the City has, pursuant to Ordinance No. ⁰⁻⁰²⁻²²⁻⁰⁷ of the City Council of the City of Clayton adopted February 17, 2022 (the “City Ordinance”), granted the TIF Exemption and authorized the execution of this Agreement, which is attached hereto as *Exhibit C*; and

WHEREAS, Ohio Revised Code Sections 5709.40 and 5709.82 permit the City Council of the City and the Board of Education of the City School District to enter into this Agreement in order to compensate the School District for all or a portion of property taxes lost as a result of the TIF Exemption; and

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

SECTION 1. Approval of the TIF Exemption; Compensation to School District while TIF Exemption in Effect.

(a) As provided in the School District Resolution, the School District approves the TIF Exemption for up to one hundred percent (100%) of the assessed valuation of the Improvements for a period of up to thirty (30) years as described in the City Ordinance.

(b) During the TIF Exemption period, the City agrees to pay to the School District, solely from the Service Payments in Lieu of Taxes received by the City from the owners of the Exempted Property, an amount equal to one hundred percent (100%) of the additional amount of real property tax payments derived from the Improvements to the Exempted Property that the School District would have received from the Exempted Property but for the TIF Exemption; provided, however, such compensation to the School District shall not include any amounts (or portions) attributable to the taxes identified under Section 5709.40(F) of the Ohio Revised Code (the “TIF Compensation”). During any year, or any portion thereof, in which the School District would have received property tax payments derived from the Exempted Property, but for the City’s authorization of the TIF Exemption, the City agrees to pay to the School District, solely from the Service Payments in Lieu of Taxes received in that year from the owners of the Exempted Property, an amount equal to the Service Payments in Lieu of Taxes actually received by the City in such year, multiplied by a fraction, the numerator of which is the School District’s effective real property tax rate for the classification of the Exempted Property and the demoninator of which is the aggregate effective real property tax rate for the classification of the Exempted Property for all taxing districts within which the Exempted Property is located, as calculated and certified in the manner specified in Section 2 hereof. In short, the School District will be made “whole” for any tax payments the School District would have been due from the Exempted Property including the Improvements but for the creation of the Exempted Property. TIF Compensation due under this subsection shall be payable solely from Service Payments in Lieu of Taxes received by the City and shall have priority over any other pledge of Service Payments in Lieu of Taxes by the City. Nothing in this Agreement shall be construed to pledge

the full faith and credit of the City. The following is an example of the calculation to derive the TIF Compensation, which numbers are for illustration purposes only:

Service Payments in Lieu of Taxes Received:	\$1,000,000
District's effective rate real property tax millage:	57
Aggregate effective real property tax rate:	95
$\$1,000,000 \times .57/.95 = \$600,000.00$	

(c) In the event that any one or more property owners fail to remit a Service Payment in Lieu of Taxes on or before its due date as determined by applicable statutes, the City is not required to make a compensation payment to the School District for the amount not remitted, provided, however, that the City shall proceed to collect the amount not remitted and shall include that amount after collection in calculation of the next future TIF Compensation amount due to the School District.

(d) Under no circumstances shall the total TIF Compensation due under Section 1(b) exceed the amount of the millage attributable to the School District on the tax duplicate times the assessed value of the Improvements.

SECTION 2. Certification of TIF Compensation Amount.

(a) Within fifteen (15) days following receipt of settlement information from the Montgomery County Auditor for each half of each year during which the TIF Exemption will result in the School District's receipt of less than one hundred percent (100%) of the amount of real property taxes due with respect to the Exempted Property, the City shall provide such information to the Treasurer of the School District, and the Treasurer shall certify the TIF Compensation amount to the Finance Director of the City; provided, however, failure of the Treasurer of the School District to make the certification of the TIF Compensation to the City in a timely manner shall not serve as a waiver or rejection of the School District's right to receive TIF Compensation, nor shall it be a default hereunder.

SECTION 3. Payment of TIF Compensation.

(a) Within fifteen (15) days after receipt of the Treasurer's certification described in Section 2 hereof, the City shall pay to the School District, the amount of the TIF Compensation.

SECTION 4. Resolution of Disputes.

(a) In the event the City disputes the amount of the TIF Compensation as certified by the Treasurer of the School District, the City shall certify, by April 1 and October 1, with respect to the first and second-half property tax settlements, the basis for the dispute and the amount that the City claims is the correct amount of TIF Compensation to be paid to the School District. Within 10 days

thereafter, the Treasurer of the School District and the City Fiscal Officer or Administrator shall meet with the Montgomery County Auditor (the "County Auditor") to discuss and resolve the dispute. In the event the Treasurer of the School District and the City Fiscal Officer or Administrator are unable to mutually agree on the amount of TIF Compensation, the County Auditor shall determine and certify the amount of the TIF Compensation. The City shall then pay such amount within 15 days thereafter; provided that nothing contained in this Section 4 shall limit either the School District's or the City's ability, after payment and receipt of such TIF Compensation amount, to seek recovery of amounts deemed overpaid or underpaid.

SECTION 5. Application of Ohio Revised Code Section 5709.82.

The School District acknowledges and agrees that this Agreement provides for the only compensation to be received by the School District from the City in connection with the TIF Exemption, and the compensation provided for herein is in lieu of any other compensation that may be provided for in Section 5709.82 of the Ohio Revised Code.

SECTION 6. Notices.

(a) All notices, designations, certificates, requests or other communications under this Agreement shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid addressed to the following addresses:

**Board of Education of the
Northmont City School
District**
4001 Old Salem Rd
Englewood, OH 45322
Attn: Treasurer

City of Clayton
P.O. Box 280
Clayton, OH 45315
Attn: City Manager

SECTION 7. Duration of Agreement; Amendment.

(a) This Agreement shall become effective on the date that it is executed and delivered and shall remain in effect for such period as any Service Payments in Lieu of Taxes as a result of the TIF Exemption are in effect. This Agreement may be amended only by mutual agreement of the School District and the City. No amendment to this Agreement shall be effective unless it is contained in a written document approved through legal process and signed on behalf of all parties hereto by duly authorized representatives.

SECTION 8. Waiver.

(a) In consideration of the payments to be made as described in the School District Resolution and in this Agreement, the School District waives any notice requirements of R.C. 5709.40 and R.C. 5709.83 with respect to the TIF Exemption and passage of the City Ordinance approving the TIF Exemption. No waiver by the School District of the performance of any terms or provision hereof shall

constitute, or be construed as, a continuing waiver of performance of the same or any other term or provision hereof.

SECTION 9. Merger; Entire Agreement.

(a) This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter contained herein and merges and supersedes all prior discussion, agreements, and undertakings of every kind of nature between the parties with respect to the subject matter of this Agreement.

SECTION 10. Binding Nature.

(a) This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective permitted successors and assigns.

SECTION 11. Severability.

(a) Should any portion of this Agreement be declared by the courts to be unconstitutional, invalid or otherwise unlawful, such decision shall not affect the entire agreement but only that part declared to be unconstitutional, invalid or illegal and this Agreement shall be construed in all respects as if any invalid portions were omitted.

SECTION 12. Counterparts; Captions.

(a) This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same Agreement. Captions have been provided herein for the convenience of the reader and shall not affect the construction of this Agreement.

SECTION 13. Filing of Agreement.

(a) The Fiscal Officer of the City of Clayton, Montgomery County, Ohio shall file an executed copy of this Agreement with both the County Auditor and the County Treasurer.

[Balance of Page Intentionally Left Blank – Signature Page Follows]

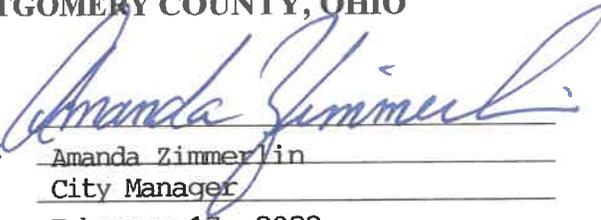
IN WITNESS WHEREOF, the School District and the City have caused this Agreement to be executed in their respective names by their duly authorized officers all as of the date affixed next to their signatures.

BOARD OF EDUCATION OF THE NORTHMONT CITY SCHOOL DISTRICT

By: 
Name: Linda Blum
Title: President
Date: _____

By: 
Name: Ann Ferraro
Title: Treasurer/CFO
Date: _____

**CITY OF CLAYTON,
MONTGOMERY COUNTY, OHIO**

By: 
Name: Amanda Zimmerlin
Title: City Manager
Date: February 17, 2022

**SECTION 5705.41
CERTIFICATE OF AVAILABILITY OF FUNDS**

The undersigned, Finance Director of the City of Clayton, Ohio (the "City"), hereby certifies in connection with the Tax Incentive Agreement between the City and the Northmont City School District, dated as of February 17, 2022, that:

The amount required to meet the contract, obligation, or expenditure for the attached during Fiscal Year 2022, has been lawfully appropriated for the purpose, and is in the treasury or in process of collection to the credit of an appropriate fund, free from any outstanding obligation or encumbrance. This certificate is given in compliance with Sections 5705.41 and 5705.44 of the Ohio Revised Code.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of February, 2022.



Finance Director

Dated: Feb. 17, 2022

EXHIBIT A

Description of the Property

The Property to be exempt under the foregoing ordinance consists of an area land comprising approximately 15 acres, which is currently part of a larger approximately 25.296 acre parcel situated in the City of Clayton, County of Montgomery, State of Ohio, and currently identified as Parcel Number M60-03102 0016 by the County Auditor of Montgomery County, Ohio. The approximately 15-acre site with respect to which a separate tax parcel will be created following the passage of this ordinance has the following legal description:

[Remainder of Page Left Intentionally Blank.]

Parcel 2
LEGAL DESCRIPTION
15.144 ACRES

BAL
TAL
MGO 03162 0032, 36

Situated in Section 20, Town 5, Range 5E, City of Clayton, Montgomery County, Ohio being part of a 25.267 acre (deed) parcel of land conveyed to Quiet Creek Development, LLC in IR Deed 18-040807, the boundary of which being more particularly as follows:

Commencing at a 5/8" iron pin found at the southwest corner of Lot 85 of Village of North Clayton P.U.D. Section Three as recorded in PB 216 Page 12A;

Thence S00°31'25"E a distance of 279.23 to a 1.25" iron pin found at the northeast corner of a 14.165 acre parcel conveyed to Quiet Creek Development, LLC in IR Deed 18-010981;

Thence along the south line of a 26.303 acre parcel conveyed to Windsor Clayton Development, LLC in IR Deed 20-071695, N89°05'02"E a distance of 659.52 feet to a set 5/8" iron pin, said point being the True Point of Beginning for this description;

Thence along said south line and the south line of a 4.000 acre (deed) parcel of land conveyed to United Christian Church in IR Deed 11-040166, N89°05'02"E passing a 1" iron pipe found at 1517.28 a total distance of 1547.28 to a 5/8" iron pin found in the centerline of Hoke Road being in the east line of Section 20;

Thence along said centerline and the east line of Section 20, S00°19'54"W a distance of 426.47 feet to a mag nail set at the northeast corner of a 14 1/2 acre (original) parcel of land conveyed to R & E Thomas Family Farms, LLC in IR Deed 16-051305;

Thence along the north line of said 14 1/2 acre (original) parcel, the north line of a 43.169 acre (deed) parcel conveyed to R & E Thomas Family Farms, LLC in IR Deed 16-051305, and in part along a new division line, S89°02'17"W passing a 5/8" iron pin found at 16.50 feet, a total distance of 1542.57 feet to a 5/8" iron pin set;

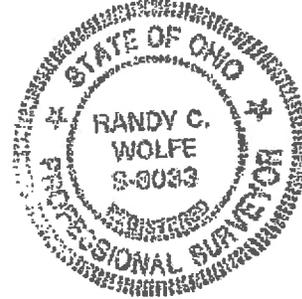
Thence continuing along a new division line, N00°18'09"W a distance of 427.62 feet to the Point of Beginning.

Containing 15.144 acres of land more or less being subject to easements, restrictions and rights of way of record.

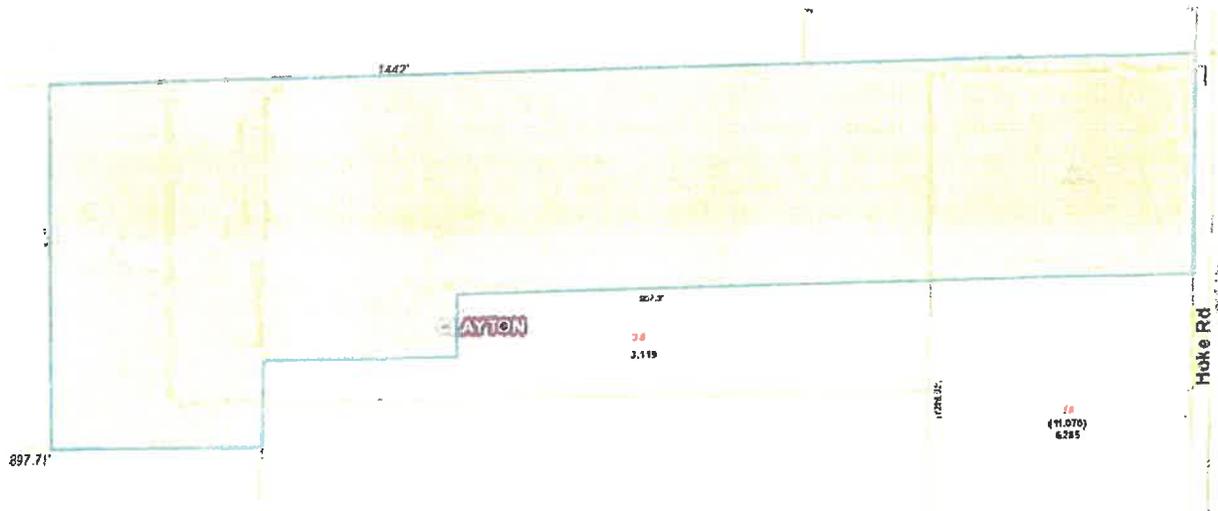
KARL KEITH
COUNTY AUDITOR
MONTGOMERY COUNTY, DAYTON, OHIO
DIVISION
BY  DATE 11/12/21
GIS MAPPING DEPARTMENT

This description is based on an actual field survey in October of 2021 and recorded in the Montgomery County Engineer's record of land surveys in Volume 2021, Page 0330 under my direct supervision Randy C. Wolfe registered professional surveyor number 8033 of the State of Ohio, and that all monuments found or set, correctly represents the boundaries herein described.

Randy C Wolfe 11-1-21
Randy C. Wolfe Date
Ohio Professional Surveyor No. 8033



For ease of reference, the following map is provided:



The Board of Education of the Northmont City School District met in regular session on February 14, 2022, commencing at six o'clock p.m., at Kleptz Early Learning Center, 1100 National Road, Englewood, OH 45322, with the following members present:

Linda Blum	Dr. Karl "Gerry" Espeleta
Thomas L. Walker, Sr.	Jane Woodie
Chris Pulos	

Mr. Walker moved the adoption of the following resolution:

NORTHMONT CITY SCHOOL DISTRICT BOARD OF EDUCATION

A RESOLUTION APPROVING THE PASSAGE BY THE COUNCIL OF THE CITY OF CLAYTON, OHIO OF AN ORDINANCE APPROVING A REAL PROPERTY TAX EXEMPTION PURSUANT TO DIVISION (B) OF OHIO REVISED CODE SECTION 5709.40 AND AUTHORIZING THE EXECUTION OF A COMPENSATION AGREEMENT RELATED THERETO.

WHEREAS, the City of Clayton, Ohio (the "**City**") has expressed to this Board of Education ("**Board**") its desire to grant, pursuant to Division (B) of Ohio Revised Code Section ("**R.C.**") 5709.40, a one hundred percent (100%), thirty (30) year tax increment financing real property tax exemption (the "**TIF Exemption**") in connection with the construction of approximately 128 multi-family cluster home units (the "**Project**") and the improvements (each improvement having the meaning as set forth in Division (A)(4) of R.C. 5709.40 and collectively referred to herein as the "**Improvements**") that the owners of the Project will make or cause to be made; and,

WHEREAS, this Board supports the economic growth of the City and the additional property tax revenue to this School District that will result from the development of the Project; and,

WHEREAS, the City has forwarded to this Board proposed documents for its review which include (i) the ordinance to be passed by the City (the "**TIF Ordinance**") and (ii) a compensation agreement to be executed between the City and this District pursuant to Division (D) of R.C. 5709.40 and R.C. 5709.82, a copy of which is attached hereto as **EXHIBIT A** (the "**Compensation Agreement**"); and,

WHEREAS, the City has proposed as a condition of the proposed TIF Exemption that this School District is to be paid amounts equal to the real property taxes that would have been payable to the School Districts if the Improvements had not been exempted from taxation; and,

WHEREAS, this Board desires to waive any notice requirements of R.C. 5709.40, R.C. 5709.82, and R.C. 5709.83 with respect to the passage by the City of the TIF Ordinance approving and granting the TIF Exemption.

NOW, THEREFORE, BE IT RESOLVED by the Board of Education of the Northmont City School District, Darke, Miami, and Montgomery Counties, State of Ohio, that:

Section 1. This Board, in consideration of the payments to be made as described in this Resolution and in the Compensation Agreement, hereby (i) waives any notice requirements of R.C. 5709.40 and R.C. 5709.83 with respect to the TIF Exemption and passage of the TIF Ordinance approving the TIF Exemption, (ii) approves the TIF Exemption and the TIF Ordinance, and (iii) agrees that payment by the City to the School District of the compensation set forth in the Compensation Agreement is and will be the sole compensation received by this School District with respect to the TIF Exemption, including, without limitation, the requirements of R.C. 5709.82.

Section 2. The President and Treasurer of this Board and the Superintendent of this School District each are authorized and directed to execute and deliver the Compensation Agreement, substantially in the form on file with this Board, pursuant to Division (D) of R.C. 5709.40 and R.C. 5709.82, with such completions and changes therein that are not adverse to this School District and which shall be approved by the those officials, provided that the approval of such completions and changes and the character of those completions and changes as not being substantially adverse to this School District will be evidenced conclusively by the execution of the Compensation Agreement by those officials. The President and Treasurer of this Board and the Superintendent of this School District each are authorized and directed to execute and deliver any other agreements and to take all other actions and do all other things necessary and consistent with this resolution in order to accomplish the purposes of this resolution.

Section 3. The Treasurer is authorized and directed to promptly certify a copy of this resolution to the City. This Board acknowledges that the City will rely on this resolution when granting the TIF Exemption and approving the TIF Ordinance, and this Board agrees it will not repeal or modify this resolution without the prior written approval of the City.

Section 4. This Board hereby finds and determines that all formal actions of this Board and any of its committees concerning and relating to the adoption of this resolution were taken in an open meeting of this Board or its committees and that all deliberation of this Board and of any of its committees that resulted in those formal actions were in meeting open to the public, in compliance with law.

Section 5. This Resolution shall be in full force and effect from and immediately upon its adoption.

Dr. Espeleta seconded the motion.

Upon roll call on the adoption of the Resolution, the vote was as follows:

Aye: Walker, Espeleta, Blum, Pulos, Woodie

Nay

Absent

TREASURER'S CERTIFICATION

The foregoing is a true and correct excerpt from the minutes of the regular meeting on February 14, 2022, of the Board of Education of the Northmont City School District, showing the adoption of the resolution hereinabove set forth.



Marie Ann Ferraro, Treasurer