

**A RESOLUTION CONSENTING TO A PROPOSED 10-YEAR, 50% TAX INCREMENT FINANCING EXEMPTION ON THE INCREASED VALUE OF CERTAIN PROPERTY RESULTING FROM A DEVELOPMENT PROJECT IN THE RICHFIELD LIGHT INDUSTRIAL/OFFICE JOINT ECONOMIC DEVELOPMENT DISTRICT, SUBJECT TO A SIGNED DEVELOPMENT AGREEMENT WITH JJJ PROPERTIES ON OCTOBER 1, 2020 AT 5 P.M., AND DECLARING AN EMERGENCY**

WHEREAS, the Village and Richfield Township previously entered into the Richfield Light Industrial/Office Joint Economic Development District Project Agreement (“JEDD Agreement”) on or about October 24, 2005; and

WHEREAS, the JEDD Agreement, among other things, provides that all real estate and personal property taxes generated by the Township’s portion of the un-voted, inside millage, levied on property within the JEDD, shall be distributed equally between the Township and the Village; and

WHEREAS, the JEDD Agreement permits the Township to provide tax abatement or economic incentive programs for properties in the Township’s portion of the JEDD provided that the Township first obtains the consent of the Village if any such tax abatement or economic incentive program impacts the tax revenues to the Village from the JEDD Agreement; and

WHEREAS, J.J.J. Properties, LLC, an Ohio Limited Liability Company (“Developer”) intends to develop approximately seventy-nine (79) acres of unimproved land, identified by Permanent Parcel Number 48-02159 and situated in Richfield Township and in the boundaries of the JEDD (“TIF Parcel”), as a commercial distribution and office space facility; and

WHEREAS, the Township and Developer are considering entering into a Tax Increment Financing Agreement, a copy of which is attached as Exhibit “A” and expressly incorporated herein by reference in which 50% the increased value to the TIF Parcel shall be exempt from real property taxation, for a period not exceed ten (10 years), commencing in accordance with applicable Ohio law; and

WHEREAS, the Township is required to obtain the Village’s consent to this economic incentive program prior to passing a resolution, a draft copy of which is attached as Exhibit “B” and expressly incorporated herein by reference, because the TIF Agreement will impact real property tax revenues to the Village generated from the un-voted, inside millage levied on property located within the Township’s portion of the JEDD; and

WHEREAS, this Council determines that the proposed development will significantly increase the assessed valuation of the TIF Parcel upon completion resulting in increased real property tax revenue to the Village, as set forth in the JEDD Agreement, notwithstanding the 50% tax exemption; and

WHEREAS, the Village and Developer have been negotiating a development agreement addressing certain public improvements, including an extension of Columbia Road, the construction of a secondary access roadway, and installation of water and sanitary sewer lines that are necessary to facilitate the development project and have substantially reached an agreement on its terms; and

WHEREAS, this Council determines that is in the best interest of the Village to consent to proposed 50%, 10-year tax exemption for the TIF Parcel, conditioned upon execution of the Development Agreement by Developer, which must occur prior to the Township vote on the Tax Financing Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Richfield, Summit County, State of Ohio that:


- SECTION 1. Consent is hereby given to the Township's proposed 10-year, 50% tax increment financing exemption on the increased value to the TIF Parcel resulting from the development project.
- SECTION 2. The Village's consent to the proposed TIF is conditioned upon execution of the Development Agreement by Developer, which must occur prior to the Township's vote on the Tax Financing Agreement.
- SECTION 3. Council's consent to the proposed 10-year, 50% tax increment financing exemption on the increased value to the TIF Parcel shall be valid for a period of sixty (60) days from the date of passage of this Resolution.
- SECTION 4. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with legal requirements, including Section 121.22 of the Ohio Revised Code.
- SECTION 5. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare and for the further reason that it is immediately necessary to provide consent to the proposed tax increment financing exemption as not to delay the development project; wherefore, provided this Ordinance receives the affirmative vote of two-thirds of the members of Council elected or appointed, it shall take effect immediately upon its passage and execution by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 9-29-2020

  
\_\_\_\_\_  
President of Council

  
\_\_\_\_\_  
Mayor

Dated: 10/6/2020

ATTEST:  
  
\_\_\_\_\_  
Clerk of Council



**TAX INCREMENT FINANCING AGREEMENT**

THIS TAX INCREMENT FINANCING AGREEMENT (the "Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2020 (the "Effective Date"), between **RICHFIELD TOWNSHIP, OHIO** (the "Township"), a township organized and existing under Ohio law, having an address for purposes hereof at \_\_\_\_\_, and \_\_\_\_\_ ("Owner"), an Ohio limited liability company, having an address for purposes hereof at \_\_\_\_\_.

WITNESSETH:

WHEREAS, \_\_\_\_\_ ("Developer"), [and also as][an affiliate of Owner], is in the process of developing certain real property within an unimproved site located within the boundaries of the Township as a distribution center and office space project (the "Development"), which is identified and described in Exhibit A attached hereto and incorporated herein by this reference (the "TIF Parcel"); and

WHEREAS, upon completion the Development will significantly increase the assessed valuation of the TIF Parcel; and

WHEREAS, the TIF Parcel is located within the territorial boundaries of the Revere Local School District and the Cuyahoga Valley Career Center (the "School Districts"); and

WHEREAS, pursuant to Ohio Revised Code ("O.R.C.") Sections 5709.73, 5709.74 and 5709.75 (together with related provisions of the Ohio Revised Code, the "TIF Act"), and Resolution No. 20 \_\_\_\_\_ adopted by the Board of Trustees of the Township ("Board of Trustees") on \_\_\_\_\_, 2020 (the "TIF Resolution"), the Township has, among other actions: (1) declared fifty percent (50%) of the increase in assessed value of the real property constituting the TIF Parcel and any improvements thereon, including the Development (collectively, the "Improvement") to be a public purpose and exempt from real property taxation for a period of up to ten (10) years (the "TIF Exemption"); (2) provided for service payments in lieu of taxes (the "Service Payments") as obligations running with the land for the Exemption Period (as defined in Section 1 hereof) payable with respect to the TIF Parcel; (3) authorized the payment or reimbursement out of Service Payments to or on behalf of Developer or its assigns for eligible costs and expenses incurred, for the public infrastructure improvements to be made that directly benefit the Development and the TIF Parcel ("Public Improvements") including any financing payments relating thereto; and (4) determined to enter into this Agreement with the Owner, to provide for, among other things, (i) the payment of Service Payments by the Owner, its successors and assigns (collectively, with its successors and assigns, as owner(s) of the TIF Parcel, the "Owner"), with respect to the TIF Parcel, and (ii) the use of Service Payments during the Exemption Period (as defined in Section 1 hereof) to pay or to reimburse Developer or its assigns for eligible costs and expenses incurred in connection with the Public Improvements and/or relating to the financing of such Public Improvements, and other uses provided by Ohio law; and

WHEREAS, pursuant to the TIF Act, the TIF Resolution, and this Agreement, the Owner wishes to agree, for itself and for any future Owner of all or any portion of or interest in any of the real property comprising the TIF Parcel, to pay Service Payments; and

WHEREAS, the School Districts have received the required notice of the TIF Exemption and are not required pursuant to the provisions of the O.R.C. to approve such TIF Exemption.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the Township and the Developer covenant, agree, and bind themselves as follows:

SECTION 1. TAX EXEMPTION; OBLIGATION TO MAKE SERVICE PAYMENTS.

In accordance with O.R.C. Section 5709.73, the parties hereby agree that the TIF Exemption is a fifty percent (50%) exemption from real property taxation for the Improvements as to the TIF Parcel for a period commencing with the tax year in which the Improvements are completed as evidenced by the Township's issuance of a certificate of occupancy (January 1 of such year being the "Commencement Date"), and ending on the earlier of (i) the tenth (10th) anniversary of such Commencement Date, or (ii) the date on which the Developer or its assigns has received reimbursement of all Eligible Costs, including interest thereon (the period commencing on the Commencement Date hereof and ending on the last such date being referred to herein as the "Exemption Period"). Each Owner shall make Service Payments for each year of the Exemption Period in an amount equal to the real property taxes that would have been payable with respect to the TIF Parcel had an exemption with respect to the Improvement not been approved pursuant to O.R.C. Section 5709.73. Each Service Payment to be made under this Agreement shall be made on a semi-annual basis in an amount equal to one-half (1/2) of the annual property tax amount that would have been payable had the TIF Exemption not been granted. The Service Payments shall be due and payable on each January 15 and July 15 or such other date as the Treasurer's Division of the Summit County, Ohio Fiscal Office (the "County Treasurer") determines property taxes are due (such date being hereinafter referred to as a "Service Payment Date") until expiration of the TIF Exemption.

In the event that any Service Payment or any installment thereof is not paid when due by any Owner on any Service Payment Date, to the extent that the County does not impose a late fee or delinquency charge, the Township may impose and collect a late payment charge, payable to the Township, in the amount of the charges for late payment of real property taxes, including penalty and interest, which would have been paid pursuant to O.R.C. Section 323.121 on the delinquent amount. Any such late fees collected by the Township shall be deposited into and constitute a part of the TIF Fund established by or designated in the TIF Resolution for application in accordance with Section 10 hereof.

Each Owner shall only be responsible for making Service Payments that become due and payable during the period of that Owner's ownership of all or any portion of the TIF Parcel and only with respect to the portion of the TIF Parcel owned by the Owner. Upon satisfaction of the obligations under this Agreement and termination of the obligations of the Owner to make the Service Payments, the Township shall, upon the request of an Owner, execute an instrument in recordable form evidencing such termination as to such Owner only, without invalidating or

terminating the obligations hereunder as to any successor Owner. The parties acknowledge that the provisions of O.R.C. Section 5709.91, which specify that the Service Payments shall be treated in the same manner as taxes for all purposes of the lien described in O.R.C. Section 323.11, including but not limited to, the priority of the lien and the collection of Service Payments, shall apply to this Agreement. The Township and each Owner shall perform such acts as are reasonably necessary or appropriate to effect, claim, preserve and maintain the exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

No Owner shall, under any circumstances, be required to pay both real property taxes with respect to an Improvement and Service Payments for any tax year with respect to that Improvement, whether pursuant to O.R.C. Section 5709.73, the TIF Resolution, this Agreement or any other applicable law.

SECTION 2. RESERVED. [VALUATION; CONTESTS. The Owner hereby agrees (and by the recording of this instrument, each subsequent Owner, for itself and all persons claiming an interest in any parcel comprising part of the TIF Parcel by or through such Owner, also agrees) that while this Agreement remains in effect no Owner shall contest the amount or validity of any taxes, assessments or other charges (including but not limited to seeking a reduction in the valuation of the TIF Parcel) in such a way as would adversely impact the timely repayment of Eligible Costs for Public Improvements incurred by Developer or its assigns.]

SECTION 3. COVENANTS TO RUN WITH THE LAND.

It is intended and agreed, and it shall be so provided by the Owner and each subsequent Owner in any future deed conveying the TIF Parcel or any part thereof, that the covenants and agreements provided in Sections 1 and 2 shall be covenants running with the land and that they shall, in any event and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity for the benefit and in favor of and enforceable by the Township whether or not this Agreement remains in effect or whether or not such provision is included by the Owner in any succeeding deed to subsequent Owner(s). It is further intended and agreed that these agreements and covenants shall remain in effect for the full period of the TIF Exemption permitted in accordance with the requirements of the TIF Act and the TIF Resolution enacted pursuant thereto, and that any failure to so provide this covenant in any future deed conveying the TIF Parcel or any part thereof shall not in any manner alter or diminish the covenant granted hereby.

SECTION 4. ADDITIONAL OBLIGATIONS.

A. Should any Owner default hereunder, such Owner shall pay in addition to Service Payments such amount as is required to reimburse the Township or the Developer or their respective assigns for any and all reasonably and actually incurred costs, expenses and amounts (including reasonable attorneys' fees) incurred by the Township or the Developer or their respective assigns to enforce the provisions of this Agreement.

B. It is intended and agreed that the Developer and/or Owner shall cause the construction of the portion of the Development located on the TIF Parcel as a commercial distribution and office development. Once this Agreement becomes effective in the manner provided in Section 8 hereof, the TIF Parcel or any portion thereof shall not be subdivided without the express written consent of the Township, which decision to expressly consent in writing to the subdivision of the TIF Parcel shall be granted by the Township upon completion of any subdivision in accordance with the requirements of the Township and Summit County.

C. Promptly upon the effective date of this Agreement, the Owner shall, at Developer's sole cost and expense, cause this Agreement to be recorded in the Summit County, Ohio real property records, it being understood and agreed that the lien of this Agreement shall, in accordance with O.R.C. Sections 323.11 and 5709.91, be prior to any mortgage, assignment, lease or other conveyance of any part of or interest in the TIF Parcel, and prior to any security instrument encumbering all or any part of or interest in the Improvement; provided, however, that nothing contained in this Agreement shall be construed to permit acceleration of Service Payments beyond the current year that such Service Payments are due. The Owner shall cause any and all holders of mortgages or other liens existing on the TIF Parcel, if any, as of the time of recording of this Agreement, to subordinate such liens to this Agreement and such covenants running with the land provided in this Agreement. In addition, during the term of this Agreement, the Owner shall cause all instruments of conveyance of any interest in all or any portion of the TIF Parcel, and of any Improvement thereto, to subsequent mortgagees, lessees, successors, assigns or transferees, to be made expressly subordinate and subject to this Agreement, provided however that a failure to do so shall not in any manner alter or diminish the priority of this Agreement.

#### SECTION 5. BINDING NATURE OF OBLIGATIONS; SECURITY FOR PAYMENT.

The obligation to perform and observe the agreements contained in this Agreement shall be binding and enforceable against each and every Owner by the County Treasurer, to the extent applicable, and shall also, to the extent permitted by law, be enforceable by the Township and by the Developer and any of its assigns as express third-party beneficiaries of this Agreement, but subject to the provisions of this Section 5 and of Sections 9 and 12 hereof.

Anything herein to the contrary notwithstanding, upon the effective date of this Agreement, the Owner's obligation hereunder to pay Service Payments and to perform and observe any other agreements on its part contained herein (including the provisions of Section 2 hereof), shall be absolute and unconditional and shall be covenants running with the land and shall be binding and enforceable by the Township to the extent provided in this Agreement, against the Owner, as applicable, but only to the extent of any Owner's obligations and only with respect to its or their interest in the TIF Parcel, or any part thereof. Each Owner's obligation to pay Service Payments shall be evidenced by the recordation of this Agreement in the public records of Summit County, Ohio and secured by a lien on its interest in the TIF Parcel, as provided by law and described in Section 12.

The obligations of the Owner will not be terminated for any cause including, without limiting the generality of the foregoing, but by way of example, delay in completion of or failure to complete the Improvement or any other improvements included in the Development or any other obligation of the Township or the Developer; any acts or circumstances that may constitute failure

of consideration, destruction of or damage to the Development; commercial frustration of purpose; any change in the constitution, tax or other laws or judicial decisions or administrative rulings of or administrative actions by or under authority of the United States of America or of the State or any political subdivision thereof. Except as may be expressly provided herein, nothing contained in this Agreement shall be construed to release any Owner from the performance of any of the agreements or obligations on its part contained in this Agreement.

SECTION 6. PAYMENT OF TAXES; CONTESTS. Each Owner shall pay, cause, or require to be paid, as the same become due, all taxes, assessments, whether general or special, and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the TIF Parcel (except as otherwise provided herein) or any personal property or fixtures installed or brought therein or thereon (including, without limiting the generality of the foregoing, and by way of example, any taxes levied against an Owner with respect to the receipts, income or profits from leasing or subleasing space within the Improvement, which, if not paid, may become or be made a lien on all or any portion of the TIF Parcel). Notwithstanding the foregoing, nothing herein is intended to prevent any Owner (or a successor, assign or transferee), at its expense and in good faith from contesting the amount or validity of any taxes, assessments or other charges [except as set forth in Section 2 hereof].

SECTION 7. NOTICES. All notices, designations, certificates, requests or other communications under this Agreement shall be sufficiently given and shall be deemed given on receipt when personally delivered, or forty eight (48) hours after being mailed by registered or certified mail, postage prepaid: if to the Township, \_\_\_\_\_, with copies to the Fiscal Officer and the Summit County Prosecutor at \_\_\_\_\_; if to the Developer, at \_\_\_\_\_, Attention: John Allega; and if to an Owner, at the address for the TIF Parcel or such other address as the Owner may designate. The Township, the Developer and any Owner may, by notice given under this Agreement, designate any further or different addresses to which subsequent notices, designations, certificates, requests or other communications shall be sent, and shall provide copies of all such communications to any of the others to all of the others.

SECTION 8. EXEMPTION APPLICATIONS. The Owner shall apply, or in the alternative, does hereby consent to the Township's application, for exemption from real property taxation pursuant to O.R.C. Section 5709.911(B)(1) with respect to the TIF Parcel. In the event the Township prepares such application, promptly following the effective date of this Agreement and prior to the Commencement Date for any TIF Parcel, the Owner shall execute a consent in writing in the form of the DTE 24P form (or any other applicable or required forms) to the Township's application for exemption from real property taxation pursuant to O.R.C. Section 5709.911(B)(1) with respect to the TIF Parcel. The Township, the Developer and any Owner shall cooperate with each other, and execute such further documents and provide such further information as are reasonably required in connection with the filing and processing of such applications. The parties hereto intend that such exemption from real property taxation will apply commencing with the tax year set forth in Section 1 and shall use due diligence and commercially reasonable efforts to that end. The Developer shall continuously use due diligence and employ commercially reasonable efforts to keep such exemptions in force, not permitting the same to lapse or be suspended or revoked for any reason within the Developer's control, and the Owner shall cooperate with Developer in such efforts.

SECTION 9. EFFECTIVE DATE; DURATION OF AGREEMENT. This Agreement shall become effective on the Effective Date. The covenants of the Owner shall remain in effect for the duration of the Exemption Period. Unless sooner terminated, this Agreement shall expire at the end of the Exemption Period. The Township agrees that upon expiration of the Exemption Period, and fulfillment of the obligations of the Developer and any subsequent Owner(s) under this Agreement with respect to the TIF Parcel, the Township will, upon request by an Owner, execute and deliver to the Owner a recordable instrument evidencing that the obligations under this Agreement (and under any deed or Declaration) with respect to the portions of the Property owned by the Owner are fully satisfied and that the Owner and such property are released from all further obligations under this Agreement (and under any deed or Declaration).

SECTION 10. APPLICATION OF SERVICE PAYMENTS. Service Payments shall be made by or on behalf of the Owner to the County Treasurer on or before the applicable Service Payment Dates. Upon receipt of Service Payments from the County Treasurer, and upon receipt of any late fees provided in Sections 1 and 2 hereof, the Township shall promptly deposit all such Service Payments (and any late fees) in the TIF Fund established by or designated in the TIF Resolution as required by ORC Section 5709.75. The TIF Fund shall be an account maintained in the custody of the Township and shall receive all distributions required to be made from the County to the Township.

The Developer shall provide the Township with a certified statement or statements of expenses that it incurred in order to design and construct such Public Infrastructure Improvements (the "Certified Statement") [in the form attached]. Each deposit of Service Payments into the TIF Fund shall be used by the Township, within 15 days of the date of each such deposit, to reimburse the Developer for a portion of the Developer's expenses in designing, constructing and financing the Public Infrastructure Improvements as shown on such Certified Statements.

The parties hereto acknowledge and agree that the Developer may assign its right to receive payments hereunder to (i) a lender as required in any financing agreements that the Developer enters into in order to finance the construction of the Public Infrastructure Improvements or (ii) an any affiliate, successor, or assignee of the Developer, in either case subject to prior review and approval of such assignment by the Township [Administrator]. Assigned Service Payments are not accelerable.

The parties hereto acknowledge that the Developer currently intends to convey its interest in the TIF Parcel prior to receiving full reimbursement of the costs of the Public Infrastructure Improvements from the Township. Only the Developer (or its assignee as described above), and not a successor Owner of the Property or any part thereof, shall be entitled to the payments from the TIF Fund for such costs. No such reimbursement shall be made to the Developer from any fund other than the TIF Fund.

The TIF Fund shall remain as an account in existence so long as Service Payments are collected and used for the aforesaid approved purposes, after which time the TIF Fund shall be dissolved and any surplus funds remaining therein shall be transferred to the Township's general fund, in accordance with O.R.C. Section 5709.75(F).

SECTION 11. DEFAULTS AND REMEDIES. The following shall be events of default under this Agreement:

- (a) the failure of any Owner to pay, no later than the fifth calendar day following its due date, any Service Payment, or installment thereof due by such Owner, including any applicable late payment charges; and
- (b) the failure of any party hereto to perform or observe any other covenant made in or pursuant to this Agreement.

Upon the occurrence and continuation of any event of default, in addition to other rights of enforcement granted hereunder, each party shall be entitled to exercise any and all remedies available to it hereunder, including the remedies described in Section 12, or under applicable law. Waiver by any party of any event of default shall not be deemed to extend to any subsequent or other event of default under this Agreement.

SECTION 12. ENFORCEMENT; FORECLOSURE OF LIEN. The provisions of this Agreement with respect to the obligations of the Owner and subsequent Owner(s) may be enforced to the fullest extent permitted by law, by (i) the Township, (ii) the County Treasurer, (iii) the Developer, and, (iv) any assignee of Developer with rights to receive payment of monies from the TIF Fund. It is the intention and agreement of the Owner that this Agreement and the covenants herein made shall be specifically enforceable by the Township by mandatory injunction or any other remedy at law or in equity, subject to Sections 5 and 9 hereof. It is the further intention and agreement of the Owner that this Agreement shall constitute and be deemed to be a lien encumbering and running with the real property comprising the TIF Parcel to secure the obligations of the Owner to make Service Payments, and, if applicable, pay interest and penalties as described in this Agreement, intended to have the same lien rights as real estate taxes and the same priority in accordance with O.R.C. Sections 323.11 and 5709.91. In furtherance of the foregoing, it is the intention of the Owner that the Township may, upon the occurrence of an event of default set forth in Section 11 hereof, and without limiting any other right or remedy otherwise available to the Township, take all such steps as may be legally available to it to foreclose upon such lien pursuant to the procedures and requirements of Ohio law relating to either mortgage liens or delinquent real estate taxes; provided, that nothing contained in this Agreement shall be deemed to authorize any acceleration of Service Payments due in future years. The provisions of this Section 12 shall encumber and run with the real property comprising the TIF Parcel.

SECTION 13. COUNTERPARTS; CAPTIONS. 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 14. SEVERABILITY. In case any section or provision of this Agreement, or any covenant, agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, or any application thereof, is held to be illegal or invalid for any reason, or is inoperable at any time, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Agreement or any other covenant, agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered

into or taken under this Agreement, all of which shall be construed and enforced at the time as if the illegal, invalid or inoperable portion were not contained therein.

All illegality, invalidity or inoperability shall not affect any legal, valid and operable section, provision, covenant, agreement, stipulation, obligation, act, action, part or application, all of which shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law from time to time.

SECTION 15. GOVERNING LAW AND CHOICE OF FORUM. This Agreement shall be 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 Township, its agents and employees, 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 state court of competent jurisdiction within the State of Ohio.

SECTION 16. ENTIRE AGREEMENT. This document (with its exhibits) contains the entire agreement between the parties as to the payment of Service Payments and supersedes any prior discussions, representations, warranties, or agreements between them respecting the subject matter. No changes or amendments shall be made or be binding unless made in writing and signed by each of the parties.

SECTION 17. NO TOWNSHIP EXPENDITURES. Nothing contained in this Agreement shall be construed to require the Township to expend its own funds in connection with the performance of this Agreement in the fiscal year in which this Agreement is executed and that no Township funds, other than funds deposited in the TIF Fund, are pledged or committed by the Township to pay the costs of construction or financing of the Public Infrastructure Improvements.

SECTION 18. ADDITIONAL DOCUMENTS; AMENDMENT. The parties hereto agree for themselves and their respective successors, assigns and transferees, to execute any further agreements, documents or instruments as may be reasonably necessary to fully effectuate the purpose and intent of this Agreement in compliance with all laws and Resolutions controlling this Agreement. Any amendment to this Agreement must be in writing and signed by or on behalf of the Township, the Developer and the Owner and any other person to whom payment of Service Payments have been assigned, together with their respective permitted successors, assigns, and transferees.

SECTION 19. INDEMNIFICATION. In addition to Owner's obligations as set forth in Section 3 hereof, the Developer has agreed (by its acceptance of the benefits of this Agreement) and shall indemnify, defend and hold harmless the Township and its agents, employees and public officials from and against any and all suits, claims, damages, losses and expenses (including reasonable attorney fees) arising or allegedly arising out of, or resulting from this Agreement.

[Balance of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Township and the Owner have caused this Agreement to be executed in their respective names by themselves or their duly authorized officers, as applicable, all as of the date hereinbefore written.

**THE BOARD OF TRUSTEES OF RICHFIELD TOWNSHIP, SUMMIT COUNTY, OHIO,**  
a body politic and corporate duly existing under the laws of the State of Ohio

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_

\_\_\_\_\_, as Developer and Owner

BY: \_\_\_\_\_

By: \_\_\_\_\_, Managing Member

This instrument prepared by:  
Jennifer Roth, Esq.  
950 Main Ave. Suite 1100  
Cleveland, Ohio 44113

STATE OF OHIO            )  
                                  ) SS:  
COUNTY OF SUMMIT        )

This is an acknowledgment clause. No oath or affirmation was administered to the signer.

The foregoing Tax Increment Financing Agreement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, being all of the Trustees of Richfield Township, Ohio, on behalf of said Township.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

[NOTARY  
SEAL]

STATE OF OHIO            )  
                                  ) SS:  
COUNTY OF \_\_\_\_\_)

This is an acknowledgment clause. No oath or affirmation was administered to the signer.

The foregoing Tax Increment Financing Agreement was acknowledged before me this \_\_\_\_\_ day of September, 2020, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, an Ohio limited liability company, on behalf of said limited liability company.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

[NOTARY  
SEAL]

**FISCAL OFFICER'S CERTIFICATE**

As the Fiscal Officer of Richfield Township, Ohio, I, \_\_\_\_\_, certify that the money require to meet the obligations of Richfield Township under the attached agreement during the year 2020 has been lawfully appropriated by the Trustees of the Township for those purposes and is in the treasury of the Township or in the process of collection to the credit of the appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Ohio Revised Code Section 5705.41.

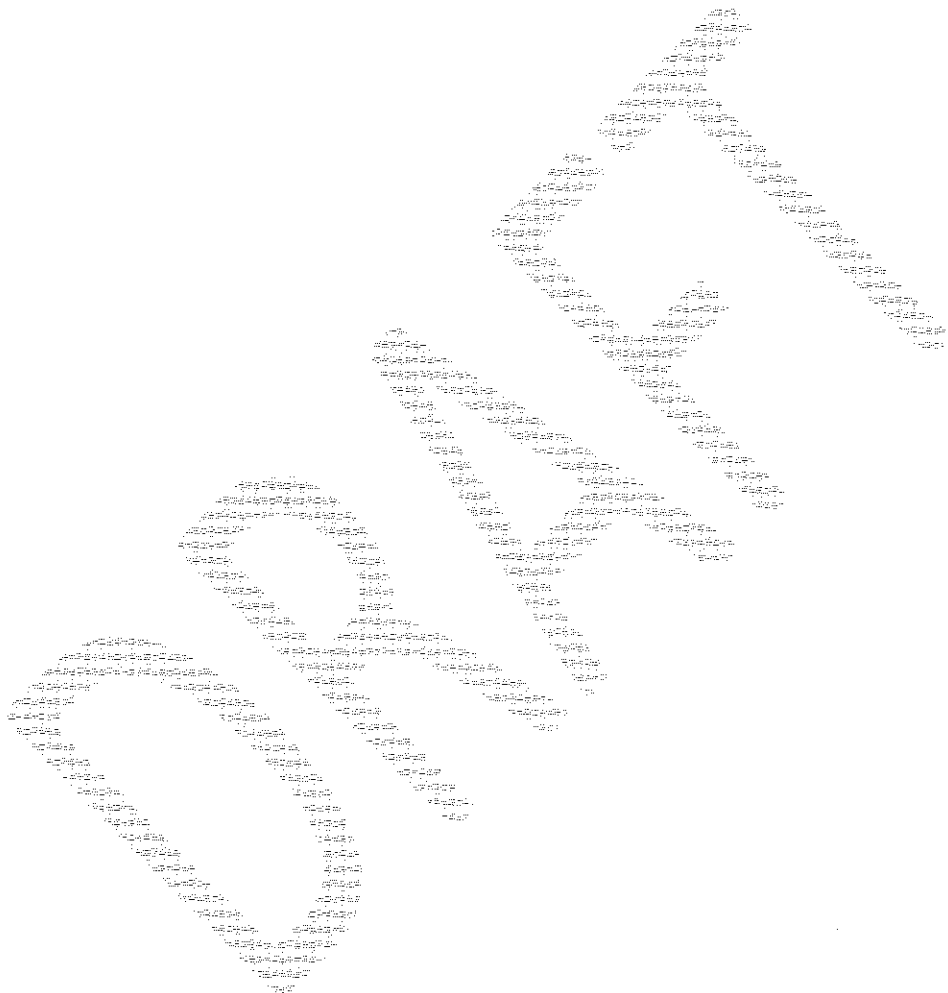
Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
Fiscal Officer  
Richfield Township, Ohio

DRAFT

EXHIBIT A  
TO THE  
TAX INCREMENT FINANCING AGREEMENT

[Legal Description of the TIF Parcel]



RICHFIELD TOWNSHIP BOARD OF TRUSTEES  
SUMMIT COUNTY, OHIO  
RESOLUTION

RESOLUTION NO.: 20-\_\_

ADOPTED: October \_\_, 2020

The Board of Trustees of Richfield Township, Ohio met in regular session on the \_\_\_\_\_ day of October, 2020 with the following members present:

Trustee \_\_\_\_\_ moved for the adoption of the following Resolution:

A RESOLUTION DECLARING IMPROVEMENTS TO CERTAIN REAL PROPERTY WITHIN THE TOWNSHIP TO BE A PUBLIC PURPOSE; DESCRIBING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS MADE OR TO BE MADE TO DIRECTLY BENEFIT SUCH PARCELS; EXEMPTING SUCH IMPROVEMENTS FROM AD VALOREM REAL PROPERTY TAXATION; REQUIRING THE OWNER OF THE TIF PARCEL TO MAKE SERVICE PAYMENTS IN LIEU OF AD VALOREM REAL PROPERTY TAXES; ESTABLISHING A TOWNSHIP PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF THE SERVICE PAYMENTS IN LIEU OF AD VALOREM PROPERTY TAXES, ALL PURSUANT TO SECTIONS 5709.73, 5709.74 AND 5709.75 OF THE OHIO REVISED CODE; AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code (“ORC”) Sections 5709.73, 5709.74 and 5709.75 (together, the “Act”) provide that this Board of Trustees may (i) declare to be a public purpose any public infrastructure improvements made that are necessary for the development of certain parcels of land located in the unincorporated area of the Township, (ii) exempt from real property taxation “further improvements” (as defined in ORC §5709.73(A)(2) as being the increase in the assessed value of real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of this Resolution were it not for the exemption granted by this Resolution) (the “Improvements”) to a parcel of land located in the Township that directly benefits from such public infrastructure improvements for a period of time, (iii) provide for the making of service payments in lieu of ad valorem real property taxes by the owner of such parcel, and (iv) establish a township public improvement tax increment equivalent fund into which such service payments shall be deposited; and

WHEREAS, J.J.J. Properties, LLC, an Ohio limited liability company (the “Developer”) intends to develop approximately seventy-nine (79) acres of unimproved land identified by Permanent Parcel Number 4802159 and situated in Richfield Township, Summit County, Ohio, as more particularly described in **Exhibit A**, attached hereto and incorporated herein (the “TIF Parcel”) and

to develop such TIF Parcel as a commercial distribution facility and offices and related improvements (the "Development"); and

WHEREAS, the presence of the Development in the Township will benefit the Township and its residents by creating economic opportunities, increasing local employment opportunities, enlarging the property tax base, and stimulating collateral development in the Township; and

WHEREAS, the Township has determined that it is necessary and appropriate and in the best interests of the Township to provide for service payments in lieu of ad valorem real property taxes with respect to the improvements of the TIF Parcel, pursuant to ORC §5709.74, to pay or reimburse the costs of constructing and financing certain public infrastructure improvements; and

WHEREAS, the Township will enter into a Tax Increment Financing Agreement (the "TIF Agreement"), with the property owner of the TIF Parcel, substantially in the form of the agreement attached hereto as **Exhibit B**, and may enter into other related agreements and documents to facilitate the successful financing and completion of the public infrastructure improvements; and

WHEREAS, notice of this Board's intention to declare the Improvements exempt from real property taxes and to adopt this Resolution has been delivered to the Board of Education of the Revere Local School District and the Cuyahoga Valley Career Center in accordance with ORC §5709.83, and this Board ratifies and affirms the delivery of such notice; and,

WHEREAS, no compensation payments are required to be made to the Board under ORC §§5709.73(D) and 5709.82.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Richfield Township, Ohio, that:

Section 1. The public infrastructure improvements made or to be made and further described in **Exhibit C** hereto (the "Public Infrastructure Improvements") are hereby declared to be a public purpose, and directly benefit and are necessary for the development of the TIF Parcel.

Section 2. Pursuant to and in accordance with the provisions of ORC §5709.73, this Board of Trustees hereby finds and declares that 50% of the Improvements (defined above) to the TIF Parcel shall be exempt from real property taxation, for a period not to exceed 10 years, commencing, in accordance with ORC §5709.73(G), with the tax year following the date of this Resolution in which the construction of the improvements constituting the Development on the TIF Parcel are completed, and ending on the earlier of (i) the date the Improvements relating to such TIF Parcel have been exempted from taxation for a period of ten (10) years or (ii) the date on which the Township has collected into the Fund (established and defined in Section 4 below) a total amount of Service Payments (as defined below) available for and sufficient to pay the costs provided in Section 4 (such period, the "Exemption Period").

Section 3. As provided in ORC §5709.74, the owner of the TIF Parcel is hereby required to and shall pay the service payments in lieu of ad valorem real property taxes to the County Fiscal Office, Treasurer Division, of Summit County (the "County") (unless otherwise authorized and

directed in writing by the County) on or before the final dates for payment of real property taxes, which service payments in lieu of ad valorem real property taxes, together with any associated rollback payments, shall be deposited in the Fund (defined below in Section 4). Any late payments of service payments in lieu of ad valorem real property taxes shall be subject to penalty and bear interest at the then current rate established under ORC §323.121(B)(1) and ORC §5703.47, as may hereinafter be amended, or any successor provisions thereto (the late payments together with the service payments in lieu of ad valorem real property taxes and rollback payments are referred to collectively as the "Service Payments"). The Service Payments shall be allocated and distributed to or at the direction of the Developer or its assigns to pay or reimburse Permitted Costs as defined in Section 4. This Board of Trustees hereby authorizes the Trustees, the Township Administrator, the Fiscal Officer, and other appropriate officers of the Township, to provide such information and certifications, and execute and deliver or accept delivery of such instruments, as are necessary or incidental to collect those Service Payments, and to make such arrangements as are necessary and proper for payment of the Service Payments.

Section 4. This Board of Trustees hereby (i) establishes pursuant to and in accordance with the provisions of ORC §5709.75 the Richfield Township Public Improvement Tax Increment Equivalent Fund (the "Fund") into which there shall be deposited all of the Service Payments and any interest or late fees assessed thereon with respect to the Improvements on the TIF Parcel, as provided in ORC §5709.75 and the TIF Agreement, and (ii) agrees that moneys in the Fund shall be used solely for the purposes authorized in the Act, including for any or all of the following purposes (collectively, "Permitted Costs"):

- (i) to pay any and all planning, engineering, acquisition, construction, installation, financing costs, and any and all other direct and indirect costs of the Public Infrastructure Improvements, including those costs set forth in ORC §133.15(B) and interest on amounts advanced for payments of all such costs; and
- (ii) to pay the interest and any premium on, and principal of, any loans entered into to finance costs of the Public Infrastructure Improvements (including any amendment, replacement, refinancing, extension of such loans) until such loans are paid in full, and to pay any administrative and other costs related to servicing any such loans.

The Fund shall be maintained in the custody of the Township and shall receive all distributions of Service Payments, interest and late fees required to be made to the Township. The Fund shall remain in existence so long as the Service Payments are collected and used for the aforesaid purposes, after which said Fund shall be dissolved in accordance with Section 5709.75(F).

Section 5. The Trustees are hereby authorized to execute the TIF Agreement on behalf of the Township, which shall provide for, among other things, the payment of Service Payments with respect to the TIF Parcel and the use of the monies deposited in the Fund, together with such revisions or additions thereto as approved by the Trustees as consistent with the objectives and requirements of this Resolution, which approval shall be conclusively evidenced by the signing of the TIF Agreement. The Fiscal Officer, Trustees and other appropriate Township officials are further authorized to provide such information and to execute, certify or furnish such other documents, and to do all other things as are necessary for and incidental to carrying out the provisions of the TIF Agreement.

Section 6. This Board of Trustees further hereby authorizes and directs the Trustees, the Fiscal Officer, or other appropriate officers of the Township to sign and execute all such additional agreements, documents and make such arrangements as are necessary and proper for collection of the Service Payments, which are to be deposited in the Fund, and to implement the transactions described or contemplated by this Resolution.

Section 7. In accordance with ORC §5709.832, this Board of Trustees shall require in the TIF Agreement that the Developer or the then-owner of the TIF Parcel, and its successors or assigns in interest to the property tax exemption authorized herein, shall not deny employment to any individual based solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

Section 8. Pursuant to the requirements of ORC §5709.85, this Board hereby creates the Richfield Township Tax Incentive Review Council ("TIRC"), to include the membership of the TIRC constituted in accordance with ORC §5709.85. The TIRC shall, in accordance with ORC §5709.85, review annually all exemptions from taxation resulting from the declarations set forth in this Resolution and any other such matters as may properly come before the TIRC, all in accordance with ORC §5709.85. This Board of Trustees hereby directs the Township Administrator and Fiscal Officer of the Township to cooperate with Summit County and the School District in appointing the required members of the TIRC.

Section 9. Pursuant to ORC §5709.73(I), the Township Administrator is hereby directed to deliver or cause to be delivered a copy of this Resolution to the Director of the Ohio Development Services Agency (the "Director") within 15 days after its adoption. On or before March 31 of each year that the exemption set forth in Section 2 remains in effect, the Township Administrator, Fiscal Officer or other authorized officer of this Township shall prepare and submit to the Director the status report required under ORC §5709.73(I).

Section 10. This Board of Trustees finds and determines that all formal actions of this Board of Trustees concerning and relating to the passage of this Resolution were taken, and that all deliberations of this Board of Trustees that resulted in those formal actions were held, in meetings open to the public in compliance with the law.

Section 11. This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the Township, and for the further reason that this Resolution is required to be immediately effective in order to enable the Township to provide for the real property tax exemption, the Service Payments, and the related objectives provided for herein that are needed to benefit the Township and its residents by creating economic opportunities, enlarging the property tax base, and stimulating collateral development within the Township; wherefore, this Resolution shall be in full force and effect immediately upon its adoption by the unanimous vote of all three (3) members elected to Board of Trustees, or otherwise at the earliest time allowed by law.

Trustee \_\_\_\_\_ seconded the motion and upon roll call the vote resulted as follows:

Trustee Jankura \_\_\_\_\_  
Trustee Shupe \_\_\_\_\_  
Trustee Luther \_\_\_\_\_

The foregoing is a true and correct counterpart of Resolution No. 20-\_\_ duly adopted on October \_\_, 2020 and filed with me as the Township Fiscal Officer on \_\_\_\_\_, 2020.

\_\_\_\_\_  
Ms. Laurie Pinney, Fiscal Officer

The foregoing Resolution is approved as to form:

\_\_\_\_\_  
Assistant Prosecutor, Summit County, Ohio

DRAFT

**EXHIBIT A**

**LEGAL DESCRIPTION OF TIF PARCEL**



**EXHIBIT B**  
**FORM OF TIF AGREEMENT**

DRAFT

## EXHIBIT C

### DESCRIPTION OF THE PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements consist of the following, including, in each instance if applicable, the acquisition of interests in real estate and demolition and remediation related thereto:

- The construction and provision of water and sewer lines;
- The provision of gas, electric, and communication service facilities for or related to the TIF Parcel;
- Stormwater, flood and/or environmental remediation;
- Construction of improvements to public streets and roadways to or from the TIF Parcel;
- Construction of or improvements to any other public streets, utilities, pedestrian access and public facilities or improvements directly benefiting or serving the TIF Parcel; and
- Any other public improvements within the meaning of “public infrastructure improvement” as referenced in Section 5709.73(A)(6) of the Ohio Revised Code and defined in Section 5709.40(A)(8) of the Ohio Revised Code.
- Costs of Public Infrastructure Improvements may also include fees, including architectural, design, engineering, contract administration, and legal costs; inspection fees and other governmental fees related to the foregoing; and maintenance costs for the Public Infrastructure Improvements.