

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A DEVELOPMENT AGREEMENT WITH N AND L HOLDINGS LLC AND DECLARING AN EMERGENCY

WHEREAS, the Village has determined that it is in the best interest of its residents to encourage the creation of job opportunities throughout the Village;

WHEREAS, N and L Holdings LLC (“Company”) has proposed to create new employment opportunities in the Village by constructing a new 11,004 square foot building on the real property known as Summit County Permanent Parcel Number 5002752 located on Brecksville Road (“Project Site”), which building and warehouse will be utilized and occupied by CJI Construction (“CJI”) as its business headquarters for a minimum of ten (10) years (“Project”);

WHEREAS, the Council desires to provide the Company with incentives available for the Project in accordance with terms and conditions substantially similar to those in the agreement attached hereto as “Exhibit A.”


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

SECTION 1. The Mayor is hereby authorized and directed to enter into a Development Agreement with N and L Holdings LLC in accordance with terms and conditions substantially similar to the agreement attached hereto as Exhibit A.

SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution 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 all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 3. This Resolution is hereby declared to be an emergency measure for the reason that it is immediately necessary to execute the Agreement in order to ensure that N and L Holdings LLC can immediately begin taking steps to complete the Project, provided that it receives the requisite number of votes needed to pass as an emergency measure; otherwise, it shall take effect at the earliest date allowed by law.

PASSED: 10-1-2024



President of Council

Michael Wheeler
Mayor

Dated: 10/1/2024

ATTEST:

Jeff Gorn
Clerk of Council

DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”) is made and entered into as of October ____, 2024 by and between the **VILLAGE OF RICHFIELD, OHIO** (the “Village”), an Ohio municipal corporation and political subdivision, and **N AND L HOLDINGS, LLC**, an Ohio limited liability company, its affiliates, successors and assigns (the “Company” and collectively with the Village, the “Parties”).

RECITALS:

A. The Company intends to construct a new 11,004 square foot building (office/warehouse) on the real property known as Summit County Permanent Parcel Number 5002752 located on Brecksville Road (“Project Site”), which building will be utilized and occupied by CJI Construction (“CJI”) as its business headquarters for a minimum of ten (10) years. Company’s construction of the building and CJI’s occupation of the same for a period of ten years shall collectively be referred to as the “Project”); and

B. As part of the Project, the Company anticipates that CJI will bring approximately 35 Full-time Employees and \$3MM in payroll to the Village; and

C. The Village desires to facilitate the Company’s completion of the Project by offering Company financial assistance to offset the costs associated with the Project, subject to the terms and conditions set forth herein; and

D. The Village has determined that the Project is in the public interest and will stimulate economic revitalization, as well as create jobs and employment for Village residents.

Now, therefore, in consideration of the promises and covenants contained in this Agreement, and to induce the Company to proceed with the Project, the Company and the Village agree as follows:

Section 1. Project and Term

A. Project. On or before _____, Company shall construct a building and a warehouse on the Project Site consistent with the approved plans attached hereto as **Exhibit A**.

B. Term. Company shall ensure that CJI remains on the Project Site for a term of ten (10) years beginning _____ (“Lease Term” and each year is a “Term Year”) pursuant to a written lease agreement (“Lease”) between Company and CJI. It is understood and agreed that if CJI terminates the Lease early, or if it otherwise departs, vacates, or ceases operations at the Project Site, then the Company shall repay the Improvement Grant in full, as set forth in Section 4 of this Agreement.

Section 2. Improvements. The Village shall grant Company a one-time payment of One Hundred Twenty Five Thousand Dollars (\$125,000.00) (the “Improvement Grant”) to be used to offset the costs of Company’s construction of the building and warehouse on the Project Site, and to induce CJI to occupy the Project Site for the Lease Term. Such payment shall be made in full upon Summit County Building Department’s release of final occupancy of the building. The Village shall provide the Improvement Grant in the form of a check to the Company at the appropriate address listed in Section 12. The Village’s obligation to pay the Improvement Grant shall be a special obligation of the Village paid

solely from the non-tax revenue sources available to the Village in the Village's sole discretion. The Village shall not pledge any amounts raised by taxation to the payment of the Improvement Grant.

Section 3. Required Documents. Upon execution of this Agreement, Company shall provide the Village with documentation for its review and approval, including but not limited to the following:

- i. A certified copy of Company's Articles of Incorporation and Bylaws and all amendments thereto;
- ii. A Certificate of Good Standing / Full Force and Effect from the Ohio Secretary of State dated within thirty days of execution of this Agreement;
- iii. A document evidencing the Company's Grantee's federal tax identification number from the Internal Revenue Service;
- iv. IRS Form W-9;
- v. Signed Lease for the Project Site; and
- v. Any other certificates, documents and instruments required by the Village in forms satisfactory to the Village that are reasonably necessary to support this transaction.

Section 4. Events of Default; Consequences of Default.

A. The following events shall constitute an Event of Default under this Agreement:

- i. Failure to complete the construction of the building on the Project Site within one year of execution of this Agreement.
- ii. CJI ceases its operations at the Project Site prior to the end of the Lease Term.
- iii. Any other event deemed "material" by the Village.

B. Company agrees that, in exchange for the Improvement Grant being provided under this Agreement, the Company shall ensure that CJI maintains operations at the Project Site during the Term. If the Company materially fails to fulfill its obligations under this Agreement, the Village may, at its option, (a) terminate or modify the Credit granted under this Agreement or (b) require Company to immediately repay the entire Village Improvement Grant.

Section 5. Indemnification. Company agrees to indemnify the Village and hold the Village, its agents, employees, members of Village Council, and assigns harmless against any liability, damages or loss of any kind, whether at law or in equity, for any act or omission committed by Company, Company's agents, assigns, employees, contractors and/or sub-contractors in the performance of its obligations under this Agreement.

Section 6. Representations of the Parties. The Company hereby represents that it has full power and authority to enter into this Agreement and carry out its terms, that the persons whose names appear on this Agreement are duly authorized and empowered to make and execute this Agreement on behalf of the Company, and that this Agreement is supported by consideration. The Village hereby represents that the Village has full power and authority to enter into this Agreement, to carry out its terms and to perform its obligations under this Agreement, that the persons whose names appear on this

Agreement are duly authorized and empowered to make and execute this Agreement on behalf of the Company, that this Agreement is supported by consideration.

Section 7. Remedies.

A. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement by either party to this Agreement, or any successor to such party, such party (or successor) shall, within 45 days of receipt of written notice from the other, proceed to cure or remedy such default or breach. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations. All rights and remedies shall be cumulative and shall not be construed to exclude any other remedies allowed at law or in equity. The Village may exercise the following rights and remedies, including but not limited to:

- i. Wholly or partially terminate this Agreement and the rights to Company pursuant to this Agreement.
- ii. Exercise any and all additional rights the Village may have in law or in equity.

Section 8. Successors. This Agreement shall be binding upon and inure to the benefit of the Company and its beneficiaries, successors and assigns, including successive as well as immediate successors and assigns; and shall be binding upon and inure to the benefit of the Village, and its successors and assigns.

Section 9. Agreement Binding on Parties; No Personal Liability; Village Consents. All covenants, obligations, and agreements of the Village and the Company contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation, or agreement shall be deemed to be a covenant, obligation, or agreement of any present or future member, official, officer, agent, or employee of the Village in other than their official capacity or of any individual person who is a partner, shareholder, director, member, manager, employee, officer, or agent of the Company other than in their capacity as a partner, shareholder, director, member, manager, employee, officer, or agent, and neither the members of Village Council nor any Village official executing this Agreement, or any individual person executing this Agreement on behalf of the Company, shall be liable personally by reason of the covenants, obligations, or agreements of the Village or the Company contained in this Agreement. The Village is a political subdivision of the State of Ohio and is entitled to all of the immunities and defenses provided by law.

Any consent of the Village to be given under this Agreement may be given by the Authorized Village Representative (defined below) and shall be given in writing.

Section 10. Merger and Amendments. This Agreement supersedes any and all other agreements, either oral or in writing, between the Village and the Company with respect to the matters contained in this Agreement and contains all of the covenants, agreements, and other terms and conditions between the Village and the Company with respect to the same. No waivers, alterations, or modifications of this Agreement or any agreements in connection with this Agreement shall be valid unless in writing and duly executed by both the Village and the Company.

Section 11. Waivers. All waivers of the provisions of this Agreement must be in writing and signed by the Mayor (together with any other officer from time to time designated in writing by the Mayor, the "Authorized Village Representative") and the Company. No consent or waiver, express or implied, by

either party to or of any breach of any covenant, condition, or duty of the other party shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty to be observed by the other party.

Section 12. Notices. Except as otherwise specifically set forth in this Agreement, all notices, certificates, demands, requests, consents or approvals given, required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by recognized overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other party at the address set forth in this Agreement, or to such other address as the recipient shall have previously notified the sender of in writing, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to have been received when the return receipt is signed or refused. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, demands, requests, consents or approvals, or other communications shall be sent. The present notice addresses of the parties follow:

To the Company at:

To the Village at: Village of Richfield
4410 Streetsboro Road
Richfield, Ohio 44286
Attn: Mayor

with a copy to: Roetzel & Andress
1375 E 9th Street
One Cleveland Center, 10th Floor
Cleveland, Ohio 44114
Attn: Ben Chojnacki

Section 13. Counterparts. This Agreement may be signed in one or more counterparts or duplicate signature pages 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.

Section 14. Severability. In the event that any portions, sections or subsections of this Agreement are rendered invalid by the decision of any court or by the enactment of any law, resolution or regulation, such provision of this Agreement will be deemed to have never been included therein and the balance of the Agreement shall continue in full force and effect.

Section 15. Relationship of Parties. Nothing contained in this Agreement shall be deemed or construed, either by the parties to this Agreement or by any third party, to create the relationship of principal and agent or to create any partnership, joint venture or other association between Company and the Village.

Section 16. Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 17. Governing Law and Choice of Forum. This Agreement shall be governed exclusively by and construed in accordance with the laws of the State of Ohio, without regard to its conflict of law provisions that would cause the application of the laws of another jurisdiction. Each of the Village and the Company irrevocably consents to the jurisdiction of any state court located within Summit County, Ohio in connection with any matter based upon or arising out of this Agreement, agrees that process may be served upon them in any manner authorized by the laws of the State of Ohio, and waived and covenants not to assert or plead any objection which they might otherwise have under such jurisdiction or such process.

Section 18. Assignments. Except as otherwise provided in this Section, the Company agrees not to assign this Agreement without the prior written consent of the Village, which consent shall not be unreasonably withheld (and shall not, in any event, be withheld to stop or delay development consistent with zoning already in effect).

Section 19. Further Actions. The Village and the Company agree to execute such additional documents and take such further actions as may reasonably be required to carry out the provisions and intent of this Agreement.

Section 20. Language. The language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning and not strictly for nor against either the Village or the Company. Section headings in this Agreement are for convenience only and are not to be constructed as part of this Agreement or in any way defining, limiting or amplifying the provisions of this Agreement.

Section 21. Term. The Village and the Company agree that except as expressly set forth in this Agreement, this Agreement, and all obligations of the parties under this Agreement (except as otherwise set forth in this Agreement) shall terminate and be of no further force or effect.

[Remainder of the Page Intentionally Left Blank]

As evidence of their intent to be bound by this Agreement, the authorized representatives of each of the Village and the Company have executed this Agreement for and on behalf of the Village and the Company as of the date first set forth above.

VILLAGE OF RICHFIELD, OHIO

By: _____
Michael Wheeler, Mayor

The legal form and correctness of this Agreement is approved:

Benjamin G. Chojnacki, Law Director
Village of Richfield

N AND L HOLDINGS, LLC,
as Company

By: _____
Name: _____
Title: _____

CERTIFICATE OF DIRECTOR OF FINANCE

The undersigned fiscal officer of the Village hereby certifies that the moneys required to meet the obligations of the Village during the year 2024 under this Agreement have been lawfully appropriated by the Council of the Village for such purposes and are in the treasury of the Village or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances.

Date: October ____, 2024

Sandy Turk, Director of Finance
Village of Richfield

EXHIBIT A
APPROVED SITE PLAN