

TH Draft 4/7/22

TAX INCREMENT FINANCING AND COOPERATIVE AGREEMENT

By and among

COUNTY OF CUYAHOGA, OHIO

and

CITY OF BEDFORD, OHIO

and

[CUYAHOGA COUNTY LAND BANK]

Dated as of

[May __], 2022

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COOPERATIVE AGREEMENT

This Cooperative Agreement (the “Cooperative Agreement”) dated as of [_____], 2022, is entered into by and between the COUNTY OF CUYAOGA, OHIO, a body corporate and politic and a political subdivision of the State of Ohio organized and existing under the Charter of Cuyahoga County effective January 1, 2010, as same may have been amended, modified, and supplemented to the effective date hereof (the “County”) and the CITY OF BEDFORD, OHIO (the “City”), a Ohio municipal corporation, under the circumstances described below.

RECITALS:

WHEREAS, pursuant to that certain loan agreement by and between 200 Egbert Road LLC (“Borrower”) and the County (the “Loan Agreement”), the County has a mortgage (the “Mortgage”) on certain real property located in the City which, after a partial release, encumbers permanent parcel numbers 814-07-001 and 814-07-002 (collectively, the “Property”); and

WHEREAS, Borrower defaulted on its obligations to the County under the Loan Agreement, which has resulted in a multi-step, multi-party workout arrangement; and

WHEREAS, the arrangement will result in the County receiving a total of \$2,075,517.00 and the City receiving a portion of the Property (as further defined herein, the “Project”); and

WHEREAS, the County and the City desire to memorialize the timing of their respective obligations to each other as part of the workout deal; and

WHEREAS, the County and the City entered into a Memorandum of Understanding, dated March 17, 2022 (the “MOU”) concerning the basic terms of agreement regarding the Property and the Project; and

WHEREAS, in accordance with the MOU, the City took title to the Property on [_____], 2022 and subsequently transferred title to the Property to the Cuyahoga County Land Bank (the “Land Bank”) on [_____], 2022;

WHEREAS, as contemplated by the MOU, the City Council has previously passed Ordinance No. [_____] (the “TIF Ordinance”), pursuant to Section 5709.41 of the Ohio Revised Code to create the Tinker’s Creek tax increment financing (TIF) area for the Property; and

WHEREAS, as contemplated by the MOU, the City has agreed that the County shall receive (a) an aggregate total of \$995,517.00 from the available Service Payments (as defined herein) derived from the Property for the duration of the 30-year TIF exemption period provided in the TIF Ordinance and (b) the County Portion (as hereinafter defined) in consideration of the County’s release of its Mortgage, as described hereinafter; and

WHEREAS, the City and the County desire to set forth their cooperative arrangements in accordance with the MOU;

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenants contained herein, and receipt of other good and valuable consideration, the County and the City hereby agree as follows:

(END OF RECITALS)

ARTICLE I.
DEFINITIONS

Section 1.1. Use of Defined Terms. In addition to the words and terms defined elsewhere in this Agreement or another document, the words and terms set forth in Section 1.2 hereof shall have the meanings set forth therein unless the context or use clearly indicates another meaning or intent. Such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms defined therein.

Section 1.2. Definitions. In addition to the terms defined in the recitals the following terms shall have the meanings as used herein:

“Agreement” means this Agreement, as amended and supplemented from time to time.

“Cooperative Agreement Ordinance” means the TIF Ordinance.

“Costs of the Project” mean the expenses actually incurred by the County or the City for the Project permitted by the MOU, this Agreement, the TIF Ordinance, and Ohio Revised Code Section 5709.41.

“Event of Default” has the meaning designated in Section [6.1].

“Parties” means, collectively, the County and the City.

“Party” means any one of the County and the City.

“Payment Date” means each May 15 and November 15.

“Project” means the acquisition and financing of the acquisition of the Property as part of the redevelopment of the Property, pursuant to the MOU, as further described on Exhibit B attached hereto.

“School District” means Bedford City School District.

“Service Payments” means payments in lieu of taxes required by the TIF Ordinance, including any penalties and interest at the then current rates for real-property taxes and any “Property Tax Rollback Payments,” as defined in the TIF Ordinance, made with respect to an improvement exempted from taxation by the TIF Ordinance. Service Payments and Property Tax Rollback Payments do not include any amounts properly payable to the [School District] pursuant to the TIF Ordinance. To resolve any doubt, Service Payments refers only to those payments in lieu of taxes required by the TIF Ordinance for the thirty (30) year term of the TIF Exemption, as defined therein.

“Site” shall mean the real property located in the City with permanent parcel numbers 814-07-001 and 814-07-002, as further described in Exhibit A.

“State” means the State of Ohio.

“TIF Act” means Ohio Revised Code Sections 5709.41, 5709.42, 5709.43 and 5709.91.

“TIF Fund” means the TIF Fund, as established in the TIF Ordinance and created pursuant to provisions of the TIF Act.

“TIF Ordinance” means Ordinance No. [_____] creating the Tinker’s Creek TIF for the Property, as enacted by City Council on [_____] , 2022.

Section 1.3. Interpretation. Any reference herein to a Party or public body or to any member or officer of either includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a Section or provision of the Constitution of the State, or the TIF Act, or to any other section, provision or chapter of the Ohio Revised Code or any other legislation or to any statute of the United States of America or the City of Bedford Charter, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision, if it constitutes in any way an impairment of the rights or obligations of the County or the City under this Agreement.

This Agreement shall not be construed more strictly against a party by virtue of the fact that a contract may be more strictly construed against the party preparing the contract, it being understood and agreed that the Parties have equally negotiated the provisions hereof and contributed substantially and materially to the preparation of this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number and vice versa; the terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder” and similar terms refer to this Agreement; and the term “hereafter” means after, and the term “heretofore” means before. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

Section 1.4. Captions and Headings. The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

(END OF ARTICLE I)

ARTICLE II.
REPRESENTATIONS

Section 2.1. Representations by the City. The City represents to the other Party as follows:

- (a) It has the power and authority to enter into and perform this Agreement.
- (b) It has duly authorized, executed and delivered this Agreement, and this Agreement constitutes its legal, valid and binding obligation enforceable in accordance with its terms.
- (c) Neither the entry into nor the performance of and compliance with this Agreement has resulted or will result in any violation of, or a conflict with or a default under, any judgment, decree, order, or material contract or agreement by which it is bound or any legal requirement applicable to it.
- (d) There is no action, proceeding or investigation pending or, to the actual knowledge of the individuals signing this Agreement on its behalf, threatened, which questions, directly or indirectly, the validity or enforceability of this Agreement or any action taken or to be taken pursuant to this Agreement.
- (e) There does not exist any Event of Default by it or fact or circumstance which, with the giving of notice, the passage of time or both, could become an Event of Default by it.
- (f) The TIF Ordinance has been duly passed by City Council, have not been amended or repealed, and are in full force and effect.

Section 2.2. Representations by the County. The County represents to the other Party as follows:

- (a) It has the power and authority to enter into and perform this Agreement.
- (b) It has duly authorized, executed and delivered this Agreement, and this Agreement constitutes its legal, valid and binding obligation enforceable in accordance with its terms.
- (c) Neither the entry into nor the performance of and compliance with this Agreement has resulted or will result in any violation of, or a conflict with or a default under, any judgment, decree, order, or material contract or agreement by which it is bound or any legal requirement applicable to it.
- (d) There is no action, proceeding or investigation pending or, to the actual knowledge of the individual signing this Agreement on its behalf, threatened, which questions, directly or indirectly, the validity or enforceability of this Agreement or any action taken or to be taken pursuant to this Agreement.
- (e) There does not exist any Event of Default by it or fact or circumstance which, with the giving of notice, the passage of time or both, could become an Event of Default by it.

(END OF ARTICLE II)

ARTICLE III.
COOPERATIVE ARRANGEMENTS

Section 3.1. Cooperative Arrangements. Pursuant to and in accordance with the MOU, the City and the County have determined to cooperate with each other in the undertaking and financing of the Project, all in accordance with this Agreement, the MOU and the TIF Act. The Parties agree and acknowledge that this Agreement is intended to be the “Cooperative Agreement” (as defined in the MOU) pursuant to Section 3 of the MOU. The agreements contained herein are intended to and shall be construed as agreements to further effect cooperative action and safeguard the respective interests of the Parties in accordance with the MOU.

Based upon the foregoing, and upon and subject to the terms and conditions of this Agreement and the MOU, the County shall release its Mortgage on the Property in accordance with the MOU and Section 3.2 of this Agreement. In consideration of that undertaking by the County, the City will, until the date that is the earlier of (1) thirty-one years from the commencement of the TIF Exemption as defined in the TIF Ordinance or (2) the date of the payment of an aggregate total of \$995,517 to the County from available Service Payments, transfer to the County, the Service Payments in the possession of the City as of each May 1 and November 1 on or before each Payment Date; provided, however, that the City will thereafter remit any late or delinquent Service Payments that it receives pursuant to Section 4.1(b) herein. Pursuant to this Agreement, the City has no obligation to transfer to the County any funds or revenues from any other source other than the Service Payments actually received by the City.

Section 3.2. Project; Real Estate Matters. Pursuant to the MOU, the County shall receive (i) an aggregate total of \$995,517.00 from the available Service Payments derived from the Property for the duration of the 30-year TIF Exemption period provided in the TIF Ordinance (the “County TIF Pledge”) and (ii) the County Portion, as defined hereinafter, in consideration of the County’s release of its Mortgage, as described hereinafter.

(a) The County shall place the executed release of its Mortgage (the “Release”) into escrow with an escrow agent mutually agreeable to the County and the City (the “Escrow Agent”).

(b) The City has transferred title to the Property to the Cuyahoga County Land Reutilization Corporation (the “Land Bank”), as the City’s agency and instrumentality pursuant to the provision of Section 1724.10(B)(3) of the Ohio Revised Code, which Land Bank subsequently entered into land sale transactions with [Art of Beauty] and [Premier] (the “Land Sale Contracts”) for the sale of the respective buyers’ portions of the Property, which will result in the sale of all Parcels of the Property.

(c) Upon the closing of the sale of each portion of the Property pursuant to the Land Sale Contracts, the City shall place the County’s portion of the sale proceeds from the land transactions for the Property totaling \$1,080,000.00 (the “County Portion”) into a mutually agreed upon escrow account with the Escrow Agent.

(d) The City shall provide the County with documentation sufficient to the County’s reasonable satisfaction reflecting costs in connection with legal work directly related to the Project. The County shall thereupon instruct the Escrow Agent to distribute an amount not to exceed

\$40,000.00 to the City from the County Portion for reimbursement of eligible legal expenses incurred by the City.

(e) If the land transactions close on within six (6) months of the date of the MOU, the County shall instruct the Escrow Agent to allocate from the available County Portion an amount sufficient to pay all unpaid real estate taxes levied against the Property through December 31, 2021. If the land transactions do not close within six (6) months of the date of the MOU, the County shall be under no obligation to pay the real estate tax obligations.

(f) The Release shall be released from escrow with the Escrow Agent to the City and the remaining County Portion shall be released to the County by the Escrow Agent upon the closing of the Land Sale Transactions.

Section 3.3. Qualification for TIF Exemption. The Parties agree that establishing and maintaining the exemptions granted by the TIF Ordinance are critical to the payment of the County TIF Pledge. The Parties will cooperate in the preparation, execution and filing of all necessary applications and supporting documents to obtain from time to time the exemptions granted by the TIF Ordinance; provided, however, such execution and filing shall be performed in a manner that will ensure that the exemptions granted by the TIF Ordinance will be subordinate to any exemptions granted pursuant to Ohio Revised Code Sections 3735.65 et seq.

(END OF ARTICLE III)

ARTICLE IV.
SERVICE PAYMENTS

Section 4.1. TIF Fund; Assignment of Service Payments.

(a) The City has established and will maintain the TIF Fund pursuant to the TIF Ordinance and the TIF Act as a separate and segregated fund on the books and records of the City. The City will deposit into the TIF Fund all Service Payments, if any, received by it.

(b) To the full extent permitted by law, the City absolutely and irrevocably assigns to the County all of its right, title and interest in and to the Service Payments actually received by the City, agrees to pay and transfer the same to the County to pay the County TIF Pledge as provided herein. The County acknowledges that it has no right, title, or interest in or to any portion of the TIF Fund that is Service Payments due and payable later than the date that is the earlier of (1) thirty-one years from the commencement of the TIF Exemption as defined in the TIF Ordinance or (2) the date of the payment of an aggregate total of \$995,517 to the County from available Service Payments (i.e., the County TIF Pledge); provided, however, that any Service Payments actually received by the City that are due and payable during the original term of the TIF Exemption, but are received as late or delinquent payments later than thirty-one years from the commencement of the TIF Exemption, as defined in the TIF Ordinance, are to be considered assigned to the County under the terms of this Agreement and will be remitted to the County upon the County's written request to the City that includes an accounting of the late or delinquent amount(s) of Service Payments from the [County Fiscal Officer].

(c) The City agrees that it will not transfer, encumber, spend, use, commit or pledge the Service Payments in any way other than pursuant to this Agreement without the written consent of the County. The City represents and warrants that it has not previously transferred, spent, used, committed or pledged the Service Payments.

(d) The County acknowledges that the TIF Exemption, as defined in the TIF Ordinance, shall be subject and subordinate to any tax exemption applicable to the Property under Sections 3735.65 through 3735.70 of the Ohio Revised Code.

(e) So long as this Agreement remains in full force and effect, the City will not amend or repeal the TIF Ordinance in any way that would reduce the amount of Service Payments deposited into the TIF Fund from any parcel on which a building is located or affect the appropriation of the Service Payments for payment pursuant to this Agreement without the written consent of the County, except as required by law.

(f) The City agrees, represents, and covenants that the Service Payments will only be used for eligible improvements under the TIF Ordinance, TIF Act, this Agreement and the MOU.

Section 4.2. Collection and Enforcement. Upon written request of the County, the City will authorize the County to proceed in its name and take any actions that the City may be authorized by law to take, to enforce the payment of the Service Payments and the collection and enforcement (including by foreclosure) thereof.

Section 4.3. Appropriation by City. All of the Service Payments and the County Portion of the proceeds of the Land Sale Transactions received or to be received by the City and paid to the County hereunder are and are deemed to be appropriated pursuant to the Cooperative Agreement Ordinance to pay the City's obligations under this Agreement. Notwithstanding the foregoing, to the extent necessary, the City agrees to appropriate those amounts to be received into the TIF Fund constituting Service Payments and the County Portion of the proceeds of the Land Sale Transactions for payment to the County.

Section 4.4. Obligations Unconditional. The obligation of the City to pay and transfer the Service Payments and the County Portion of the proceeds of the Land Sale Transactions as provided herein is absolute and unconditional, and the City shall pay and transfer the Service Payments without abatement, diminution or deduction, regardless of any cause or circumstances whatsoever, including, without limitation, any defense, set-off, recoupment or counterclaim which the City may have or assert against the County or anyone acting by or on behalf of the County or any other person, or damage to or destruction of the Project. All of the obligations of the City under this Article IV 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 shall be enforceable by mandamus. Notwithstanding anything in this Agreement to the contrary, the City shall have the right to grant tax exemptions or abatements for one or more Parcels constituting the Property pursuant to Sections 3735.65 through 3735.70 of the Ohio Revised Code (the "CRA Act"), which tax exemptions or abatements shall be superior to the TIF Exemption. [The City shall not grant any such exemptions or abatements pursuant to the CRA Act which shall be greater than [75%] for a term of [10] years without the prior consent of the County.]

Commented [SD1]: Need to confirm that this is acceptable to the County.

Section 4.5. Obligations Limited. Notwithstanding anything in this Agreement to the contrary, the City's obligations under this Agreement are limited special obligations of the City payable solely from Service Payments actually received by the City. Those obligations are not secured by an obligation or pledge of any money raised by taxation and do not represent or constitute a debt or pledge of the faith and credit or taxing power of the City, and neither the County nor any other person has any right to have taxes levied by the City for the payment of its obligations under this Agreement. Any payment of money deposited into the TIF Fund is subject to the expenditure restrictions and appropriation requirements of Sections [] of the Charter of the City.

Commented [SD2]: Need City Charter references.

The obligations of the County under this Agreement are special obligations of the City payable solely from Service Payments and proceeds of the Land Sale Transactions received by the City. Those obligations are not secured by an obligation or pledge of any money raised by taxation and do not represent or constitute a debt or pledge of the faith and credit or taxing power of the City, and neither the County nor any other person have any right to have taxes levied by the City for the payment of its obligations under this Agreement.

(END OF ARTICLE IV)

ARTICLE V.
ADDITIONAL AGREEMENTS AND COVENANTS

Section 5.1. Litigation Notice. Any Party must give the other Party prompt notice of any action, suit or proceeding brought or threatened by or against the disclosing Party at law or in equity, or before any governmental instrumentality or agency, or of any of the same which is threatened in writing, of which the disclosing Party has notice, which, if adversely determined, would materially impair the ability of the disclosing Party to perform its obligations under this Agreement.

(END OF ARTICLE V)

ARTICLE VI.
EVENTS OF DEFAULT AND REMEDIES

Section 6.1. Events of Default. Each of the following shall be an Event of Default:

(a) The City shall fail to deposit any Service Payments it receives into the TIF Fund or pay in full to the County any Service Payments in the TIF Fund or any of the County Portion received from proceeds of the Land Sale Transactions due and payable under the terms of this Agreement on or prior to the Payment Date on which those payments are due and payable.

(b) A Party fails to observe and perform any other agreement, term or condition contained in this Agreement, and the continuation of such failure for a period of thirty days after notice thereof shall have been given to the Party by another Party, or for such longer period as the other Party may agree to in writing; provided, that if the failure is other than the payment of money and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the Party institutes curative action within the applicable period and diligently pursues that action to completion.

(c) Any Party: (i) admits in writing its inability to pay its debts generally as they become due; (ii) has an order for relief entered in any case commenced by it under the federal bankruptcy laws, as now or hereafter in effect; (iii) commences a proceeding under any other federal or state bankruptcy, insolvency, reorganization or similar law, or has such a proceeding commenced against it and either have an order of insolvency or reorganization entered against it or have the proceeding remain undismissed and unstayed for ninety days; (iv) makes an assignment for the benefit of creditors; or (v) has a receiver or trustee appointed for it or for the whole or any substantial part of its property.

(d) Any representation or warranty made by a Party herein or any statement in any report, certificate, financial statement or other instrument furnished in connection with this Agreement or shall at any time prove to have been false or misleading in any material respect when made or given.

Notwithstanding the foregoing, if, by reason of Force Majeure, a Party is unable to perform or observe any agreement, term or condition hereof which would give rise to an Event of Default under subsection (b) hereof, the Party will not be deemed in default during the continuance of such inability. However, the Party must promptly give notice to the other Party of the existence of an event of Force Majeure and shall use its best efforts to mitigate the effects thereof; provided that the settlement of strikes or other industrial disturbances will be entirely within its discretion.

The term "Force Majeure" shall mean, without limitation, the following:

- (i) acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority, provided that such action was not proximately caused by the conduct of the Party; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornados; outbreak of disease; pandemics; storms; droughts; floods; arrests; restraint of government and people;

explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; shortages of labor, materials, supplies or transportation; or

- (ii) any other cause, circumstance or event not reasonably within the control of the Party.

The declaration of an Event of Default under subsection (c) above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

Section 6.2. Remedies on Default. Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

(a) Each Party may pursue all remedies now or hereafter existing at law or in equity to collect all amounts then due and thereafter to become due under this Agreement or to enforce the performance and observance of any other obligation or agreement of the defaulting Party under this Agreement.

(b) Each Party may have access to, inspect, examine and make copies of the books, records, accounts and financial data of the defaulting Party pertaining to the Project.

Any remedy pursued is subject to the limitations of Section 4.5. Any amounts collected as Service Payments and any other amounts collected pursuant to action taken under this Section must be deposited and applied in accordance with the provisions of this Agreement.

Section 6.3 No Remedy Exclusive. No remedy conferred upon or reserved to a Party by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy is cumulative and is in addition to every other remedy given under this Agreement, now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default impairs that right or power or may be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle a Party to exercise any remedy reserved to it in this Article, it is not necessary to give any notice, other than any notice required by law or for which express provision is made herein.

Section 6.4 No Waiver. No failure by a Party to insist upon the strict performance by a Party constitutes a waiver of its right to strict performance and no express waiver will be deemed to apply to any other existing or subsequent right to remedy the failure by a Party to observe or comply with any provision hereof.

Section 6.5 Notice of Default. A Party must notify the other Parties, the State and the Trustee immediately if it becomes aware of the occurrence of any Event of Default hereunder or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default.

(END OF ARTICLE VI)

ARTICLE VII.
MISCELLANEOUS

Section 7.1. Term of Agreement. This Agreement remains in full force and effect until the amounts due to the County pursuant to this Agreement have been paid. This Agreement shall not be terminated as a result on an Event of Default without the written approval of the County.

Section 7.2. Notices. All notices, certificates, requests, directions, consents or other communications hereunder (each, a “Notice”) must be in writing and are deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, or nationally recognized overnight delivery service and addressed to the appropriate Notice Address. A Party, by Notice given hereunder, may designate any further or different addresses to which subsequent Notices must be sent. If, because of the suspension of delivery of certified or registered mail and nationally recognized overnight delivery services or for any other reason, Notices are unable to be given by the required delivery methods, Notices may be given in a manner as in the judgment of the sending Party will most effectively approximate mailing or overnight delivery, and the giving of that Notice in that manner for all purposes of this Agreement will be deemed to be in compliance with the requirements of this Agreement. Except as otherwise provided herein, the mailing or sending of any Notice is deemed complete upon deposit of that Notice in the mail or with the overnight delivery service, and the giving of any Notice by any other means of delivery is deemed complete upon receipt of the Notice by the intended recipient.

“Notice Address” means:

(a) As to the County: [REDACTED]

With copy to: [REDACTED]

(b) As to the City: [REDACTED]

With copy to: [REDACTED]

Commented [SD3]: Need notice addresses.

Section 7.3. Extent of Obligations; No Personal Liability. All obligations of the County and the City contained in this Agreement are effective to the extent authorized and permitted by applicable law. No obligation is an obligation of any present or future member, officer, agent or employee of the County, the City or their respective legislative authorities in other than in their official capacity is liable personally or subject to any personal liability or accountability by reason of the issuance thereof or by reason of the obligations of the City or the County contained in this Agreement.

Section 7.4. No Agency/Partnership Relationship. This Agreement does not and may not be construed to create a partnership or joint venture between the Parties.

Section 7.5. Binding Effect. This Agreement inures to the benefit of and is binding in accordance with its terms upon the County and the City, and their respective permitted successors and assigns.

Section 7.6. Amendments and Supplements. Any amendment, if permitted, must be by written instrument executed by the City and the County.

Section 7.7. Execution Counterparts. This Agreement may be executed in counterpart and in any number of counterparts, each of which are regarded as an original and all of which constitute but one and the same instrument. Counterparts or signatures stored or transmitted by electronic means (such as e-mailed .pdfs) shall be considered original counterparts or signatures for all purposes.

Section 7.9. Severability. If a court determines that any provision of or obligation imposed by this Agreement is invalid or unenforceable, that determination will not affect any other provision or obligation, all of which will be construed and enforced as if the invalid or unenforceable provision or obligation were not contained herein. That invalidity or unenforceability will not affect any valid and enforceable application thereof, and each provision or obligation will be deemed to be effective in the manner and to the full extent permitted by law.

Section 7.10. Limitation of Rights; Third Party Rights. With the exception of rights conferred expressly in this Agreement, this Agreement and all of its covenants, agreements, conditions and provisions are intended to be, and are, for the sole and exclusive benefit of the Parties.

Section 7.11. Governing Law. This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the applicable laws of the State and the City of Bedford.

(END OF ARTICLE VII)

IN WITNESS WHEREOF, the County and the City have caused this Agreement to be duly executed in their respective names, all as of the date first hereinbefore written.

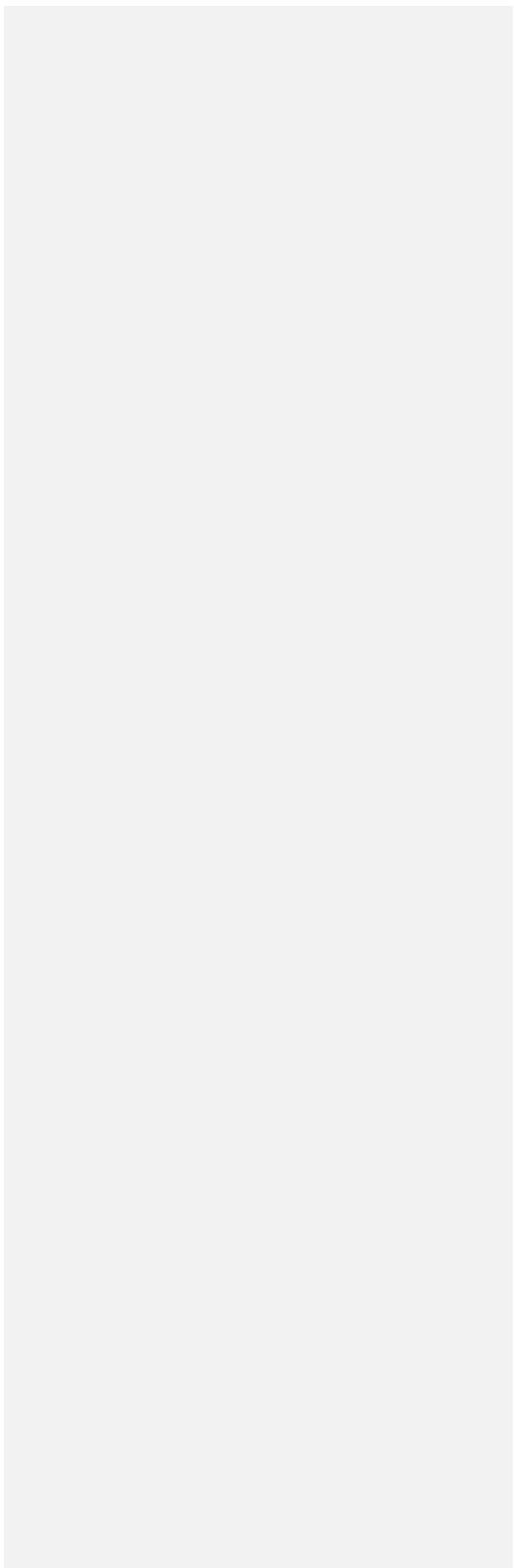
COUNTY OF CUYAHOGA, OHIO

By: _____
Paul Herdeg, Director of Development,
on behalf of Armond Budish, County Executive,
pursuant to Executive Order EO2018-0002,
signed October 31, 2018

CITY OF BEDFORD

By: _____
Name: _____
Its: _____

Approved as to form: _____



CITY FISCAL OFFICER'S CERTIFICATE

The City has no obligation to make payments pursuant to the foregoing Agreement except from Service Payments to be collected for deposit into the City's Tinker's Creek TIF Fund pursuant to City Ordinance [] and the proceeds of the Land Sale Transactions. Accordingly, as fiscal officer for the City of Bedford, I certify that funds sufficient to meet the obligations of the City under the foregoing Agreement have been lawfully appropriated for the purposes thereof and are available in the treasury of the City, and/or upon implementation of the processes under the TIF Acts, are in the process of collection to the credit of an appropriate fund, free from any previous encumbrance. This Certificate is given in compliance with Sections 5705.41 and 5705.44 of the Ohio Revised Code.

Dated: _____, 2022

[]

AUTHORITY'S FISCAL OFFICER'S CERTIFICATE

The undersigned, fiscal officer of the County, certifies that the moneys required to meet the obligations of the County during the year 2022 under the Agreement have been lawfully appropriated by its [County Council] for such purposes and are in the treasury of the County or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44 of the Ohio Revised Code.

Dated: _____, 2022

[Fiscal Officer]

Exhibit A
Property

Exhibit B
Project

The Project shall mean the .

Commented [SD4]: This will likely be the acquisition and refinancing of the Property to promote economic development, per the MOU.