



CITY OF PATASKALA

RESOLUTION 2021-023

Passed May 27, 2021

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ADMINISTRATOR TO EXECUTE A ROAD DEVELOPMENT AGREEMENT WITH RRWCP COLUMBUS PROPERTY, LLC AND RRIFI BUCKEYE I PROPERTY, LLC

WHEREAS, RRWCP Columbus Property, LLC, a Delaware limited liability company, and RRIFI Buckeye I Property, LLC, a South Carolina limited liability company, want to develop a master plan-based industrial park by construction of new buildings with, cumulatively, approximately 1,500,000 – 2,000,000 square feet of industrial facility space, to be used primarily for distribution/logistics, manufacturing, e-commerce and/or professional office space, together with related site improvements within the City of Pataskala (“the Project”); and

WHEREAS, in connection with the Project and several other developments, the Licking County Transportation Improvement District engaged MS Consultants to prepare a Traffic Impact Study. The TIS was a “global” TIS, and included an analysis of the traffic associated with the Project in addition to several other existing and proposed developments in close vicinity to the Project Site. The TIS identified certain Road Improvements, including Private Partner Improvements and Public Partner Improvements; and

WHEREAS, in order to memorialize the responsibilities, with respect to construction and payment of the Road Improvements, of the City of Pataskala, RRWCP Columbus Property, LLC, and Buckeye I Property, LLC, the parties must enter into a Road Development Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PATASKALA, COUNTY OF LICKING, STATE OF OHIO, A MAJORITY OF ALL MEMBERS PRESENT CONCURRING THAT:

Section 1: Council for the City of Pataskala hereby authorizes and directs the City Administrator to execute a Road Development Agreement, in substantially the same form and content as the Agreement attached hereto as Exhibit A and incorporated herein by reference, with RRWCP Columbus Property, LLC and Buckeye I Property, LLC.


Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of Council and that all deliberations of the Council and any of the decision-making bodies of the City of Pataskala

which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the State of Ohio.

Section 3: This Resolution shall take effect at the earliest time allowed by the Charter of the City of Pataskala.

ATTEST:


Kathy M. Hoskinson, Clerk of Council


Michael W. Compton, Mayor

APPROVED AS TO FORM:


Brian M. Zets, Law Director

ROAD DEVELOPMENT AGREEMENT

This Road Development Agreement (the “**Agreement**”) is made effective this 27th day of May, 2021 (the “**Effective Date**”) by and between the City of Pataskala, Ohio, a municipal corporation and political subdivision of the State of Ohio (the “**City**”); and RRWCP Columbus Property, LLC, a Delaware limited liability company (“**RRWCP**”), and RRIFI Buckeye I Property, LLC, a South Carolina limited liability company (“**RRIFI**”; collectively, RRWCP and RRIFI, and their respective affiliates, successors, nominees and/or assigns, are referred to as the “**Developers**” and individually as a “**Developer**” as the reference shall make applicable).

RECITALS:

A. The Developers desire to develop a master plan-based industrial park by construction of new buildings with, cumulatively, approximately 1,500,000 – 2,000,000 square feet of industrial facility space, to be used primarily for distribution/logistics, manufacturing, e-commerce and/or professional office space, together with related site improvements (collectively, the “**Project**”) at a site in the City (the “**Project Site**”), which Project Site is depicted and described in Exhibit A attached hereto and incorporated herein by this reference. RRWCP is the contract purchaser and/or owner of that portion of the Project Site depicted as “Parcel A” (and including Building A) on Exhibit A, and RRIFI is the contract purchaser and/or owner of that portion of the Project Site depicted as “Parcel B” (and including Building B) on Exhibit A (references herein to “**Project Site A**” shall mean “Parcel A” depicted on Exhibit A, and references to “**Project Site B**” mean “Parcel B” depicted on Exhibit A).

B. In connection with the Project and several other developments, the Licking County Transportation Improvement District engaged MS Consultants to prepare a Traffic Impact Study (the “**TIS**”). The TIS was a “global” TIS, and included an analysis of the traffic associated with the Project in addition to several other existing and proposed developments in close vicinity to the Project Site. The TIS identified certain Private Partner Improvements and Public Partner Improvements, respective, as delineated on Exhibit B.

C. **Traffic Impacts:** The TIS identified certain improvements necessary to the Refugee Road/Mink Street intersection, the Refugee Road/Etna Parkway intersection and the Refugee Road corridor connecting those two intersections (collectively, the “**Road Improvements**,” as further described in Exhibit B attached hereto and incorporated herein by this reference). It is estimated that the total cost of the Road Improvements will be approximately \$10 million - \$12 million, with private partners (including the Developers) collectively responsible for approximately \$3 million - \$4 million of the total cost (the “**Private Partner Costs**”), and the City and Etna Township (Licking County), Ohio (collectively, the “**Public Partners**”) responsible for the remaining approximately \$7 million - \$8 million (the “**Public Partner Costs**”).

D. **Access Management:** Based on the anticipated traffic associated with each site, the TIS has shown that the construction of northbound left and southbound right turn lanes on Etna Parkway at the eastern entrance to the development site are necessary. At the Developer’s sole discretion, a connector road shall also be constructed between Etna Parkway and Mink Street (the “**Developer Road Improvements**”). These Developer Road Improvements are necessary for site

access management and are the sole responsibility of the applicable Developer electing to design and construct the same. The design and construction of the Developer Road Improvements are subject to the City's review, inspection, and acceptance (to the extent that the Developer Road Improvements are public improvements), and cannot be utilized until approved by the City.

In addition to the Road Improvements and Developer Road Improvements, the Developer also may design and construct turn lanes on Mink Road to serve Project Site B at its sole cost and expense ("**Mink Road Improvements**") and will be subject to the same municipal approval conditions as stated above.

E. The Public Partners have determined, based on total anticipated trips noted in the TIS, that the Developers' share of the Private Partner Costs is \$1,100,000 (the "**Developers' Share**"). The Developers' Share shall be paid by the Developer of Project Site A and the Developer of Project Site B as follows: Developer of Project Site A - \$940,000 shall be payable as provided below ("**Building A Developer's Share**"), and Developer of Project Site B - \$160,000 shall be payable as provided below ("**Building B Developer's Share**"), all as such building improvements are shown on Exhibit A. In no case shall the aggregate Developers' Share exceed \$1,100,000 nor shall Building A Developer's Share exceed \$940,000 or Building B Developer's Share exceed \$160,000, regardless of the total actual cost of the Road Improvements.

F. The parties hereto desire to execute this Agreement to set forth the responsibilities of each with respect to construction and payment of the Road Improvements.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the receipt and sufficiency of which are hereby acknowledged, the parties herein agree as follows:

Section 1. Design and Construction of Road Improvements. The Public Partners shall be solely responsible for the design and construction of the Road Improvements (excluding only the Access Management and Developer Road Improvements described in Recital D above, which shall be Developers' sole responsibility as provided under this Agreement) using the public and private funds as described in Recitals C and E. The Developer electing to construct the Developer Road Improvements and/or Mink Road Improvements, as applicable, shall be solely responsible for the design and construction of such improvements as described in Recital D.

Section 2. Payment of Developers' Share. The Developer of Project Site A and the Developer of Project Site B, respectively, shall be responsible for paying such applicable Developers' Share as follows: (a.) No earlier than 90 days (unless Developer elects to pay earlier), but no later than 120 days, after the Effective Date the Developer of Project Site A shall pay the Building A Developer's Share and (b.) As a condition precedent to the issuance of a certificate of occupancy for a building constructed on the Project Site B, the Developer of Project Site B shall pay the Building B Developer's Share. The City shall be solely responsible for using the Developers' Share for the Road Construction, including, but not limited to, allocating the Developers' Share among the Public Partners.

Section 3. Reimbursement for Developers' Share. The City and Developers hereby acknowledge and agree that they are all parties to that certain Tax Increment Financing Agreement dated May 27, 2021 (the "TIF Agreement"), pursuant to which the Developers are to be reimbursed for its applicable costs for certain public infrastructure improvements. Nothing herein shall prevent any Developer party from seeking reimbursement for such applicable Developer's share of Developers' Share pursuant to the TIF Agreement.

Section 4. Assignment. Except as provided below, this Agreement and the benefits and obligations thereof are not transferable or assignable without the express, written approval of the non-signing party, which approval shall not be unreasonably withheld or delayed. The City hereby approves transfer and/or assignment of this Agreement, in whole or in part, and the benefits and obligations hereof to (i) any entity related to, affiliated with or under common control with a Developer (including but not limited to subsidiaries and/or affiliates); (ii) any entity in which a Developer (including but not limited to subsidiaries and/or affiliates of a Developer) is, directly or indirectly, a beneficial owner; (iii) a lender in connection with a Developer obtaining financing related to the Project, or applicable portion thereof; (iv) successor entities to the a Developer and/or any entity described in clauses (i) or (ii) above as a result of a consolidation, reorganization, acquisition or merger; and/or (v) any entity acquiring fee simple title to the land comprising the Project, or a portion thereof. Upon a Developer transferring all of its interest in the Project to a permitted successor under this provision, the transferor shall have no further responsibilities under this Agreement from and after the date of such transfer and the transferee shall for all purposes be a "Developer" under this Agreement as to the applicable portion of the Project conveyed.

Section 5. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Agreement.

Section 6. Severability; Construction; Headings. If any provision of this Agreement or the application of any such provision to any such person or any circumstance shall be determined to be invalid or unenforceable, then such determination shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, all of which other provisions shall remain in full force and effect. If any provision of this Agreement is capable of two constructions one of which would render the provision valid, then such provision shall have the meaning which renders it valid. The captions and headings in this Agreement are for convenience only and in no way define, limit, prescribe or modify the meaning, scope or intent of any provisions hereof.

Section 7. Notices. Any notices, statements, acknowledgements, consents, approvals, certificates or requests required to be given on behalf of any party to this Agreement shall be made in writing addressed as follows and sent by (i) registered or certified mail, return receipt requested, and shall be deemed delivered when the return receipt is signed, refused or unclaimed, or (ii) by nationally recognized overnight delivery courier service, and shall be deemed delivered the next business day after acceptance by the courier service with instructions for next-business-day delivery:

If to the City, to:

City Administrator
City of Pataskala, Ohio
621 W. Broad Street
Pataskala, OH 43062

With a copy to:

Brian M. Zets, Esq.
Isaac Wiles
Two Miranova Place, Suite 700
Columbus, Ohio 43215

If to RRWCP:

RRWCP Columbus Property, LLC
c/o Red Rock Investment Partners, LLC
1201 Main Street, Suite 2360
Columbia, SC 29201
Attention: William C. Smith, Jr.
Telephone: (803)354-4275

And

RRWCP Columbus Property, LLC
c/o Westport Capital Partners LLC
300 Atlantic Street, Suite 1100
Stamford, Connecticut 06901
Attention: Jordan Socaransky
Telephone: (203) 429-8603

With Copy To:

c/o Westport Capital Partners LLC
300 Atlantic Street, Suite 1100
Stamford, Connecticut 06901
Attention: Marc Porosoff, Esq.

With Copy To:

Morris, Manning & Martin, LLP
1401 Eye Street, N.W., Suite 600
Washington, D.C. 20005
Attention: Elizabeth A. Karmin, Esq.

With Copy To:

Burr & Forman LLP
Attn: Durham T. Boney
1221 Main Street, Suite 1800
Columbia, SC 29201

With a Copy To:

Taft Stettinius & Hollister LLP
65 E. State Street, Suite 1000
Columbus, Ohio 43215
Attention: Chris L. Connelly, Esq.
Telephone: (614) 334-7108

If to the RRIFI, to:

John T. Barker, Jr., SIOR
President and Chief Development Officer
Red Rock Developments, LLC
1201 Main Street, Suite 2360
Columbia, SC 29201

With a copy to:

Chris L. Connelly, Esq.
Taft Stettinius & Hollister LLP
65 E. State Street, Suite 1000
Columbus, OH 43215

or to any such other addresses as may be specified by any party, from time to time, by prior written notification.

Section 8. Extent of Covenants; No Personal Liability. All covenants, stipulations, obligations and agreements of the parties contained in this Agreement are effective and enforceable to the extent authorized and permitted by applicable law. The obligations of the City may be enforced to the extent permitted by law by mandamus or any suit or proceeding in law or equity. No such covenant, stipulation, obligation or agreement will be deemed a covenant, stipulation, obligation or agreement of, or create any personal liability of, any present or future member, partner, manager, advisor, principal, shareholder, director, officer, agent, affiliate or employee of any of the parties hereto in their individual capacity, and neither the members of the City Council nor any City official executing this Agreement, or any individual person executing this Agreement on behalf of a Developer, will be liable personally by reason of the covenants, stipulations, obligations or agreements of the City or a Developer contained in this Agreement. The obligation to perform and observe the agreements contained herein on the part of a Developer shall be binding and enforceable by the City against such Developer party with respect to (and only to) the applicable

Developer's interest in its portion of the Project Site, or any parts thereof or any interest therein. The obligations of Developers for payment of the Developers' Share in accordance with the terms of this Agreement shall be joint and several.

Section 9. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the matters covered herein and supersedes prior agreements and understandings between the parties.

Section 10. Governing Law and Choice of Forum. This Agreement will be governed by and construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question among the City, its employees, contractors, subcontractors and agents, a Developer, its employees, contractors, subcontractors and agents arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within the County of Licking, State of Ohio.

Section 11. Limitation of Developer Obligations. Notwithstanding anything to the contrary in this Agreement, each Developer's obligations with respect to the Road Improvements shall be solely limited to the payment of the applicable Developer's share of Developers' Share pursuant to Section 2 hereof. Upon receipt of the applicable Developer's share of Developers' Share by the City, the applicable Developer's responsibilities with respect to the Road Improvements shall terminate.

Section 12. Contingency. This Agreement, and all obligations of Developers under this Agreement, are contingent upon the Developers completing the purchase and obtaining title to Project Site (the "Acquisition Contingency"); if Developers have not satisfied the Acquisition Contingency on or before July 15, 2021, Developers may terminate this Agreement upon notice to City and shall have no obligations hereunder unless and until the Acquisition Contingency is satisfied.

Except as noted in this paragraph, the City's obligation to construct all the Road Improvements, for which the City is responsible, is contingent upon the City receiving monetary contributions from other public partners and other developers. However, the City will, at a minimum, design and construct a signalized intersection or round-about at the intersection of Etna Parkway and Refugee ("Etna/Refugee Intersection Improvements"). If the City, at its sole discretion, does not receive adequate funding contributions from other public partners and other developers, the City may determine, at its sole discretion, what, if any, Road Improvements that it will design and construct, other than the Etna/Refugee Intersection Improvements which the City agrees to construct regardless.

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed in their respective names by their duly authorized officers or representatives, as of the date hereinabove written.

CITY OF PATASKALA

By: Timothy O. Hickin
Its: City Administrator

By Ordinance No. 2021-023 dated May 27, 2021
Verified and Certified:

Kathy M. Hopkins
Clerk of Council

Print Name
www.pataskala.com
513-333-1234



Approved as to Form:
Tom. W.
City Director of Law

RRWCP COLUMBUS PROPERTY, LLC,
a Delaware limited liability company

By: _____

Its: _____

By: _____

Its: _____

RRIFI BUCKEYE PROPERTY I, LLC,
a South Carolina limited liability company

By: _____

Its: _____

STATE OF OHIO,

COUNTY OF LICKING, SS:

The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

The foregoing instrument was signed and acknowledged before me this 9th day of JUNE, 2021, by Tim Hickin, the City Administrator of the City of Pataskala, a municipal corporation of the State of Ohio, on behalf of the municipal corporation.

Janice A. Smith
Notary Public



Janice A. Smith
Notary Public, State Of Ohio
My Commission Expires 10-01-2024

STATE OF _____,

COUNTY OF _____, SS:

The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

The foregoing instrument was signed and acknowledged before me this ___ day of _____, 2021, by _____, _____ of RRWCP Columbus Property, LLC, a Delaware limited liability company, on behalf of the limited liability company.

Notary Public

STATE OF _____,

COUNTY OF _____, SS:

The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

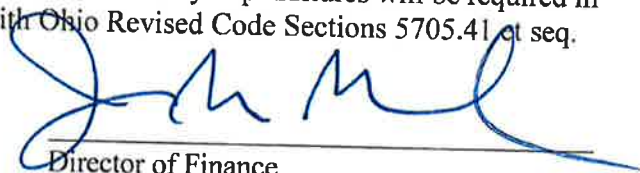
The foregoing instrument was signed and acknowledged before me this ___ day of _____, 2021, by _____, _____ of RRWCP Columbus Property, LLC, a Delaware limited liability company, on behalf of the limited liability company.

Notary Public

FISCAL OFFICER'S CERTIFICATE

As fiscal officer for the City of Pataskala, I hereby certify that funds sufficient to meet the obligations of the City in this Agreement (including specifically the funds required to meet the obligation of the City in the year 2021) have been lawfully appropriated for the purposes thereof and are available in the treasury, and/or are in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. No City expenditures will be required in 2021. This certificate is given in compliance with Ohio Revised Code Sections 5705.41 et seq.

Dated: JUNE 17, 2021



Director of Finance
City of Pataskala,
Licking County, Ohio

STATE OF SOUTH CAROLINA,

COUNTY OF RICHLAND, SS:

The notarial act certified hereby is an acknowledgement. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

The foregoing instrument was signed and acknowledged before me this ___ day of _____, 2021, by _____, _____ of RRIFI Buckeye I Property, LLC, a South Carolina limited liability company, on behalf of the limited liability company.

Notary Public

EXHIBIT A

**Project Site Description and Depiction
(attached hereto)**

EXHIBIT B

Road Improvements

The Road Improvements shall be comprised of the Private Partner Improvements and the Public Partner Improvements, as described below and as depicted on the attached map:

Private Partner Improvements/Access Management:

- Construction of an Etna Parkway connector and northbound left and southbound right turn lanes at Etna Parkway and the easterly entrance and Etna Parkway.

Public Partner Improvements/Traffic Impacts:

- Improvements to Refugee Road to 3-lanes and addition of traffic signals or roundabouts at Refugee Road and Mink Street and Refugee Road and Etna Parkway.