

ROAD DEVELOPMENT AGREEMENT

This Road Development Agreement (the “**Agreement**”) is made effective this ____ day of _____, 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 TPA Ventures, LLC (collectively, with its affiliates, successors, nominees and/or assigns, the “**Developer**”).

RECITALS:

A. The Developer desires to develop and construct a new building with approximately 1,270,000 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.

B. In connection with the Project and several other developments, the Licking County Transportation Improvement District (TID) assisted the Developer in preparing a scope of services for MS Consultants to prepare a Traffic Impact Study (the “**TIS**”). The TIS was “global”, 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/access management referred to herein as the “**Developer Road Improvements**” (further defined in Recital D) and public partner improvements/traffic impacts referred to herein as the “**Road Improvements**” (further defined in Recital C), as delineated on Exhibit B attached hereto and incorporated herein by reference.

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 \$10 million - \$12 million, with private partners (including the Developer) collectively responsible for approximately \$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 amount, not to exceed \$7 million (the “**Public Partner Costs**”). In no case shall the City of Pataskala’s Share exceed \$3,500,000, regardless of the total actual cost of the Road Improvements.

D. **Access Management:** At the Developer’s sole discretion, a westbound right turn lane may be designed and constructed, at the Developer’s sole cost and expense, from Refugee Road to the Project Site (the “**Developer Road Improvements**”). The design and construction of the Developer Road Improvements are subject to the City’s review, inspection, and acceptance pursuant to City code requirements (to the extent that the Developer Road Improvements are public improvements), and cannot be utilized until approved by the City.

E. The Public Partners have determined, based on total anticipated trips noted in the TIS, that the Developer’s share of the Private Partner Costs is \$1,500,000 (the “**Developer’s Share**”). In

no case shall the Developer's Share exceed \$1,500,000, regardless of the total actual cost of the Road Improvements, excluding the improvements defined in Recital D.

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 in partnership with the TID shall construct, or cause to be constructed, the Road Improvements, with construction to commence no later than September 1, 2022 (the "**Commencement Deadline**") and will make best efforts in order to be substantially completed (open to truck traffic) no later than December 31, 2023. The Public Partners shall be solely responsible for the design and construction of the Road Improvements (excluding only the Developer Road Improvements described in Recital D above, which shall be Developer's sole responsibility as provided under this Agreement) using the public and private funds as described in Recitals C and E. The Developer agrees to grant whatever rights-of-way or easements are necessary for the Project at no cost, as determined by the City, so long as such rights-of-way and easements do not materially impact the Developer's site plan. The Developer agrees to add the property known as the Magoo property to the City of Pataskala Corporate Park JEDD. The Developer shall be solely responsible for the design and construction of the Developer Road Improvements.

Section 2. Payment of Developer's Share. Upon the Public Partners' receipt of competitive bids and naming the lowest and best bidder for the construction of the Road Improvements, which shall be no later than the Commencement Deadline, the City shall notify the Developer in writing and request the payment of the Developer's Share. No later than twenty (20) days after the receipt of such notice, the Developer shall pay the Developer's Share to the City. Subject to Section 13 hereof, in the event that construction of the Road Improvements does not commence on or before the Commencement Deadline, the Developer's obligation to pay the Developer's Share shall terminate, and any funds contributed to the City by the Developer between acceptance of bids and the commencement date shall be returned to the Developer. The City shall be solely responsible for using the Developer's Share for the Road Improvements, including, but not limited to, allocating the Developer's Share among the Public Partners.

Section 3. Reimbursement for Developer's Share. The City and Developer hereby acknowledge and agree that they are a party to a certain Tax Increment Financing Agreement dated _____, 2021 (the "TIF Agreement"), pursuant to which the Developer is to be reimbursed for its applicable costs for certain public infrastructure improvements. Nothing herein shall prevent the Developer from seeking reimbursement for the Developer's Share pursuant to the TIF Agreement, nor the City from seeking reimbursement for the City's share of the project.

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-assigning 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 the Developer (including but not limited to subsidiaries and/or affiliates); (ii) any entity in which the Developer (including but not limited to subsidiaries and/or affiliates of the Developer) is, directly or indirectly, a beneficial owner; (iii) a lender in connection with the Developer obtaining financing related to the Project; (iv) successor entities to the 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 or a leasehold interest to the land comprising the Project, or a portion thereof. Upon the 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 the “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. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or electronic transmission shall be as effective as delivery of a manually executed counterpart of this 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 the Developer, to:

TPA Ventures, LLC
1776 Peachtree Street, NW, Suite 100
Atlanta, GA 30309
Attention: Jeb Brees
Telephone: (770) 436-7650

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

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 the Developer, will be liable personally by reason of the covenants, stipulations, obligations or agreements of the City or the Developer contained in this Agreement. The obligation to perform and observe the agreements contained herein on the part of the Developer shall be binding and enforceable by the City against the Developer 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.

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, the Developer's obligations with respect to the Road Improvements shall be solely limited to the payment of the Developer's Share pursuant to Section 2 hereof. Upon receipt of the Developer's 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 the Developer under this Agreement, are contingent upon the Developer completing the purchase and obtaining title to Project Site (the "**Acquisition Contingency**"); if Developers have not satisfied the Acquisition Contingency on or before September 30, 2021, Developer 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 believes, at its sole discretion, that it has not received 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.

Section 13. Developer Obligations in Absence of Completion of Road Improvements. In the event the Road Improvements are not completed, Developer shall have the right to install a reasonable and customary left-turn entry improvement as illustrated in Exhibit C (the "**Developer Turn Improvement**"), subject to review and acceptance as provided by City code requirements.

In the event the Road Improvements are not started, but the City determines, at its sole discretion, to make alternative road improvements to the Refugee Road corridor (the "**Alternative Road Improvements**"), Developer agrees, under conditions described in this Section 13, to make a financial contribution toward such improvements (the "**Developer Alternative Road Improvement Contribution**").

- a) Alternative Road Improvement Scope. If the City determines, at its sole discretion, to make Alternative Road Improvement, the minimum scope of the Alternative Road Improvement shall be: two, twelve foot wide lanes of roadway from Refugee Road/Etna Parkway intersection to the Project entrance on Refugee Road; , two foot wide shoulders; and a roadway structurally able to handle truck traffic.
- b) Alternative Road Improvement Timing. If a contract is bid by the City for the Alternative Road Improvements which meets or exceeds the scope in Section 13(a), then Developer shall pay the Alternative Road Improvement Contribution within

twenty (20) days of receiving notice from City that the competitive bids have been opened and reviewed by the City.

- c) Developer Alternative Road Improvement Contribution Amount.
 - i. If the Developer has contracted for the Developer Turn Improvement before the City provides notice to Developer pursuant to Section 13(b) above, the Developer Alternative Road Improvement Contribution shall be \$1,200,000.
 - ii. If the Developer has not contracted for the Developer Turn Improvement before the City provides notice to Developer pursuant to Section 13(b) above and the Alternative Road Improvements include a three (3) lane/turn lane design, the Developer Alternative Road Improvement Contribution shall be \$1,500,000.
 - iii. If the Developer has contracted for the Developer Turn Improvement before the City provides notice to Developer pursuant to Section 13(b) above and the Alternative Road Improvements include a two (2) lane design, the Developer Alternative Road Improvement Contribution shall be \$1,200,000 and the Developer shall construct the Developer Turn Improvement subsequent to the City's construction of the Alternative Road Improvements.
- d) Developer Alternative Road Improvement Contribution Expiration. If the City does not provide notice pursuant to Section 13(b) on or before December 31, 2024, then the Developer's obligation to make the Developer Alternative Road Improvement Contribution shall expire.
- e) Developer Alternative Road Improvement Contribution Reimbursement. In the event the Developer makes the Developer Alternative Road Contribution to the City and the Alternative Road Improvements are not substantially completed on or before the date which is twelve (12) months after the receipt of such contribution, then the City shall reimburse the Developer Alternative Road Improvement Contribution to Developer within thirty (30) days of receipt of notice from Developer to City requesting such reimbursement.

Section 14. Easements and Rights-of-Way. Developer shall grant the City, at no cost or expense to the City, all reasonable rights-of-way, easements, and/or access to the detention pond, located adjacent to Refugee Road, which are necessary to assist with the tributary drainage on and along Refugee Road fronting Developer Property. These rights-of-way, easements and/or access will not be given if they materially impact the Developer's site plan.

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: _____
Its: City Administrator

By Ordinance No. _____ dated _____, 2021
Verified and Certified:

Clerk of Council

Approved as to Form:

City Director of Law

TPA VENTURES, LLC,
a Georgia limited liability company

By: _____

Its: _____

By: _____

Its: _____

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 Tim Hickin, the City Administrator of the City of Pataskala, a municipal corporation of the State of Ohio, on behalf of the municipal corporation.

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 TPA Ventures, LLC, a Georgia 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: _____, 2021

Director of Finance
City of Pataskala,
Licking County, Ohio

EXHIBIT A

Project Site Description and Depiction (attached hereto)

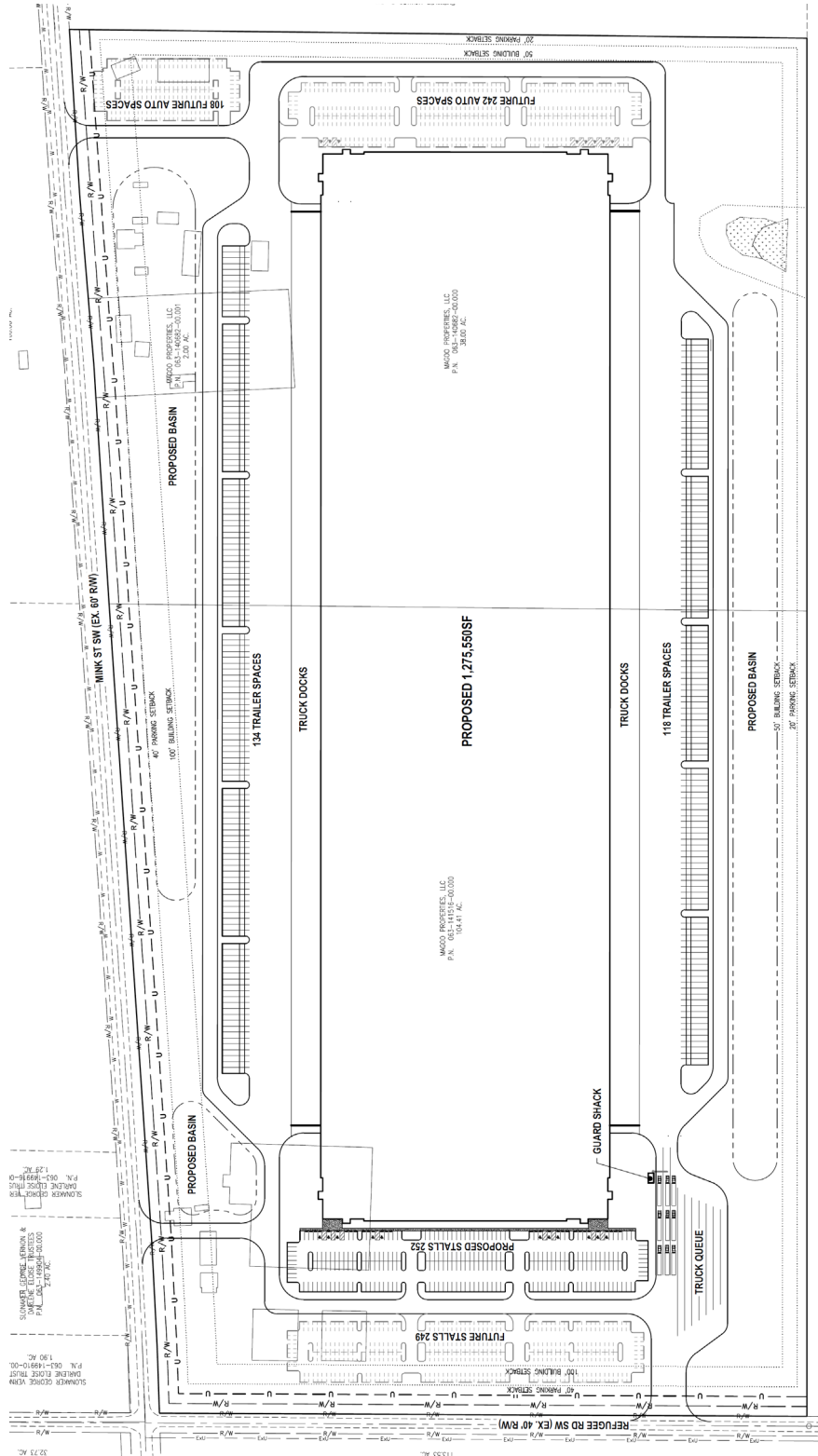


EXHIBIT B

Road Improvements and Developer Road Improvements

The Road Improvements and Developer Road Improvements are described below and depicted on the attached map:

Developer Road Improvements /Access Management:

- Construction of a west bound right turn lane from Refugee Road to the Project Site.

Road 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.

