

TAX INCREMENT FINANCING AGREEMENT

This Tax Increment Financing Agreement (this “Agreement”) is made and entered into as of _____, 2021 by and between the CITY OF PATASKALA, Licking County, Ohio (the “City”), an Ohio municipal corporation, and TPA GROUP, LLC (the “Developer”), a Georgia limited liability company with an office located at 1776 Peachtree St., NW, Suite 100, Atlanta, GA 30309, its affiliates, successors, nominees and/or assigns (the “Developer”).

WITNESSETH:

WHEREAS, the Developer has acquired or intends to acquire certain real property situated in the City, a depiction of which is attached hereto as Exhibit A (the “Project Area”) and incorporated herein by reference, with each parcel of real property within the Project Area referred to herein as a “Parcel” (whether as presently appearing on the county tax duplicate or as subdivided or combined and appearing on future tax duplicates); and

WHEREAS, in order to successfully develop the Parcels, it is necessary to construct or to cause to be constructed certain public infrastructure improvements as described in Exhibit B attached hereto (the “Public Infrastructure Improvements”), which the City and Developer agree will directly benefit the Parcels; and

WHEREAS, in connection with the development of the Parcels, the City shall grant exemptions from real property taxes for 100% of the assessed value of new structures constructed on the Parcels for a period of 15 years, and for 100% of the assessed value of remodeling such structures for a period of 15 years, all pursuant to the community reinvestment area agreement by and between the City and the Developer (the “CRA Agreement”); and

WHEREAS, the City, by its Ordinance No. ____ passed _____, 2021 and by its Ordinance No. ____ passed _____, 2021 (the “TIF Ordinance”), has declared that one hundred percent (100%) of the increase in the assessed value of each Parcel subsequent to the effective date of the TIF Ordinance (each such increase hereinafter referred to as an “Improvement,” as further defined in Section 5709.40 of the Ohio Revised Code and the TIF Ordinance) is a public purpose and is exempt from taxation for a period commencing for each Parcel the earlier of the first day of (i) the tax year in which there is an Improvement with respect to the Parcel (as it may be subdivided or combined in connection with the acquisition of the Parcel by the Developer or its affiliates or otherwise) of at least \$35,000 (i.e., an increase in true value of \$100,000), or (ii) tax year 2041, and ending on the earlier of (a) thirty (30) years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code and the TIF Ordinance (the “TIF Exemption”); and

WHEREAS, the City and the Developer intend for the CRA Agreement exemptions to take priority over the TIF Ordinance exemptions; and

WHEREAS, the City has determined that it is necessary and appropriate and in the best interest of the City to provide for the owner of each Parcel (referred to herein individually as an

“Owner” and collectively as the “Owners”) to make annual service payments in lieu of taxes with respect to any Improvement allocable thereto (collectively for all Parcels, the “Service Payments”) to the Licking County Treasurer (the “County Treasurer”), which Service Payments will be (i) distributed, in part, to the Licking Heights Local School District (“Licking Heights”) and the Career and Technical Education Center of Licking County (the “Career Center,” together with Licking Heights, the “School Districts”) in amounts equal to the real property taxes that the School Districts would have received if the Improvements had not been exempted from real property taxation pursuant to the TIF Ordinance, (ii) used to fully reimburse the Developer for costs of the Public Infrastructure Improvements, plus interest thereon, and (iii) used for such other purposes as may be authorized by law, all pursuant to and in accordance with Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code (collectively, the “TIF Statutes”) and the TIF Ordinance and this Agreement; and

WHEREAS, the City Council of the City in the TIF Ordinance approved the terms of this Agreement and authorized its execution on behalf of the City; and

WHEREAS, the parties desire to enter into this Agreement on the terms and conditions hereinafter set forth to provide for the collection of and disbursement of the Service Payments and to facilitate the construction of the Public Infrastructure Improvements, which will directly benefit the Project Area;

NOW, THEREFORE, in consideration of the premises and covenants contained herein and to induce the Developer to proceed with the construction of the Public Infrastructure Improvements, the Developer and the City agree as follows:

Section 1. TIF Exemption and Agreements Related Thereto.

A. In connection with the construction of the Public Infrastructure Improvements, the City, through the TIF Ordinance, has granted, among other things, with respect to the Improvements, a one hundred percent (100%) exemption from real property taxation, commencing for each Parcel the earlier of the first day of (i) the tax year in which there is an Improvement with respect to the Parcel (as it may be subdivided or combined in connection with the acquisition of the Parcel by the Developer or otherwise) of at least \$35,000 (i.e., an increase in true value of \$100,000), or (ii) tax year 2041, and ending on the earlier of (a) thirty (30) years after such commencement, or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code and the TIF Ordinance.

B. The City shall perform such acts as are reasonably necessary or appropriate to (i) preserve and maintain the exemptions under the CRA Agreement as exemptions having priority over exemptions established pursuant to the TIF Ordinance, and (ii) effect, claim, reserve and maintain the exemptions from real property taxation granted under the TIF Ordinance and this Agreement, including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

Section 2. Obligation to Make Service Payments.

A. Service Payments. The Owner hereby agrees to make the Service Payments due during its period of ownership of each Parcel, all pursuant to and in accordance with the requirements of the TIF Statutes, the TIF Ordinance, the provisions of Ohio law relating to real property tax collections, and any subsequent amendments or supplements thereto. Service Payments will be made semiannually to the County Treasurer (or to the County Treasurer's designated agent for collection of the Service Payments) on or before the final dates for payment of real property taxes for the Parcels, until expiration of the TIF Exemption. Any late payments will bear penalties and interest at the then current rate established under Sections 323.121 and 5703.47 of the Ohio Revised Code or any successor provisions thereto, as the same may be amended from time to time. Service Payments will be made in accordance with the requirements of the TIF Statutes and the TIF Ordinance and, for each Parcel, will be in the same amount as the real property taxes that would have been charged and payable against the Improvement to that Parcel if it were not exempt from taxation pursuant to the TIF Exemption, including any penalties and interest. The Owner will not, under any circumstances, be required (i) for any tax year to pay both real property taxes and Service Payments with respect to any portion of the Improvement to a Parcel, whether pursuant to Section 5709.42 of the Ohio Revised Code or this Agreement, and (ii) to make Service Payments as to any portion of an Improvement for any period the Improvement or any portion thereof is subject to a CRA Exemption. The City and the Owner agree that the TPA Municipal Public Improvement Tax Increment Equivalent Fund #1 referred to in Section 3 of the TIF Ordinance (the "TIF Funds") will receive all Service Payments made with respect to the Improvement to each Parcel that are payable to the City.

Notwithstanding any other provision of this Agreement or the TIF Ordinance, the TIF Exemption and the obligation to make Service Payments are subject and subordinate to any tax exemption applicable to the Improvements under Sections 3735.65 through 3735.70 of the Ohio Revised Code.

B. Priority of Lien. The Owner acknowledges, for itself and any and all future Owners, that the provisions of Section 5709.91 of the Ohio Revised Code, which specify that the Service Payments for each Parcel will be treated in the same manner as taxes for all purposes of the lien described in Section 323.11 of the Ohio Revised Code, including, but not limited to, the priority of the lien and the collection of Service Payments, will apply to this Agreement and to the Parcels and any Improvements thereon.

Section 3. Establishment of a TIF Fund by the City; Distribution of Funds. The City agrees that it shall establish the TIF Fund as a depository fund to be held in the custody of the City for the sole purpose of receiving the Service Payments made from the Owners to the County Treasurer and payable to the City. Upon distribution of the Service Payments to the City (after compensation amounts have been paid to the School Districts as set forth in Section 5 of this Agreement or otherwise required by law), those Service Payments shall be deposited to an account of the TIF Fund that applies to only the Project Area (the "Account"). Amounts on deposit in the Account shall be used by the City to reimburse the Developer for costs of the Public Infrastructure Improvements in the manner and amounts described and permitted herein.

Section 4. Exemption Applications, Maintenance and Notice. In accordance with Ohio Revised Code Sections 5715.27 and 5709.911, the Developer or the City, at the Developer's request, shall file or cause to be filed an application prepared by the Developer for an exemption from real property taxation (DTE Form 24 or its successor form) with the Licking County Auditor (the "County Auditor") for the Improvements. The Developer and the City agree to cooperate with each other for this purpose, and to cooperate with the County Auditor, the Ohio Department of Taxation and other public officials and governmental agencies in the performance by the public officials and governmental agencies of their duties in connection with the TIF Ordinance and this Agreement.

Section 5. Payments to School Districts. As provided in the TIF Ordinance or as otherwise required by law, the School Districts shall receive from the Service Payments, and prior to the deposit of any of those Service Payments into the TIF Fund, an amount equal to the amount that the School Districts would otherwise have received as real property tax payments derived from the Improvements to the Parcels if the Improvements had not been exempt from taxation.

Section 6. Reimbursements to Developer and City from TIF Fund. The City shall pay to the Developer in accordance with the terms of this Agreement with respect to the Public Infrastructure Improvements for which a written requisition substantially in the form attached as Exhibit C (a "Written Requisition") is submitted to the City, the actual costs of those Public Infrastructure Improvements (with the costs of all those Public Infrastructure Improvements collectively referred to herein as the "Costs"), plus interest on those Costs at the Interest Rate provided for below. Except as otherwise agreed between the Developer and the City Administrator, the Developer may submit up to four (4) Written Requisitions per calendar year.

Except as otherwise provided herein, the City shall pay all monies on deposit in the Account to or as directed by the Developer on the first business day following each May 31 and November 30 (each, a "Payment Date") until all of the Costs and all interest thereon have been paid in full. Payments for the portion of Costs of the Public Infrastructure Improvements and any interest thereon will be made beginning with the first Payment Date following the satisfaction of the conditions of Section 5 hereof. In addition to submission of a Written Requisition for the Costs, the Developer shall deliver to the City, at least fifteen (15) days prior to each Payment Date, a statement showing the total amount of interest then due to the Developer under this Agreement, along with a brief description of the basis and calculations for the same; provided, however, that failure by the Developer to deliver this statement shall not excuse the Township from its payment obligation on each Payment Date if the City knows or reasonably should know that amounts are due the Developer under this Agreement on that Payment Date, and provided further that in all other cases, that failure by the Developer shall only delay payment to the same extent delivery of the statement was delayed. Any monies paid pursuant to this Agreement will be applied first to the payment of interest on those Costs at the applicable Interest Rate provided for below and second to the payment of the Costs, so that all interest due shall be paid before the payment of any Costs.

Interest on the portion of Costs of the Public Infrastructure Improvements begins accruing on the date of payment. Any interest on any Costs that remain unpaid on the date following each Payment Date will itself accrue interest in the same manner as the Costs. As used in this Agreement, "Interest Rate" means five percent (5%) per annum.

For purposes of this Agreement, “costs” of the Public Infrastructure Improvements includable in “Costs” under this Agreement include, without limitation as to other costs properly allocable to Public Infrastructure Improvements, the costs of: acquiring, constructing, reconstructing, rehabilitating, installing, remodeling, renovating, enlarging, equipping, furnishing, or otherwise improving the Public Infrastructure Improvement; site clearance, improvement, and preparation; acquisition of real or personal property; indemnity and surety bonds and premiums on insurance; all related direct administrative expenses and allocable portions of direct costs of the Developer, including but not limited to engineering, architectural, legal, management fees and other consulting and professional services; designs, plans, specifications, feasibility or rate studies, appraisals, surveys, and estimates of cost; interest or interest equivalent, whether capitalized or not; financing costs; title work and title commitment, insurance, and guaranties; audits; the reimbursement of moneys advanced or applied by or borrowed from any person, whether to or by the Township, any other political subdivision or the Developer or others, from whatever source provided, for the payment of any item or items of cost of Public Infrastructure Improvements, including interest or interest equivalent thereon; and all other expenses necessary or incidental to planning (including but not limited to traffic studies) or determining feasibility or practicability with respect to permanent improvements or necessary or incidental to the acquisition, construction, reconstruction, rehabilitation, installation, remodeling, renovating, enlargement, equipping, furnishing, or other improvement of the permanent improvements, including the close-out thereof, the financing of the permanent improvements, and the placing of the permanent improvements in condition for use and operation, and all like or related costs, including any one, part, or combination of, those costs and expenses. As used in this paragraph, “financing costs”, “interest” and “interest equivalent” have the meanings given in Ohio Revised Code Section 133.01.

All payments to the Developer hereunder on each Payment Date shall be made pursuant to written instructions provided by the Developer.

Notwithstanding any other provision of this Agreement, the City’s payment obligations hereunder are limited to the monies in the TIF Fund and do not constitute an indebtedness of the City within the provisions and limitations of the laws and the Constitution of the State of Ohio, and the Developer does not have the right to have taxes or excises levied by the City for the payment of the Costs and interest thereon.

Section 7. Representations of the Parties. The Developer hereby represents that it has full power and authority to enter into this Agreement and carry out its terms. The City hereby represents that the TIF Ordinance was passed by the Council on _____, 2021 and remains in full force and effect, that this Agreement is authorized by the TIF Ordinance and that the City has full power and authority to enter into this Agreement, to carry out its terms and to perform its obligations hereunder and thereunder. The City further represents and warrants that it shall not take action which would result in a reduction in the period of the TIF Exemption, the percentage of the TIF Exemption, or the amount of Service Payments to be received and made available to pay the Costs of the Public Infrastructure Improvements unless such action shall be permitted by law and not inconsistent with the City’s obligations under this Agreement.

Section 8. Provision of Information. The Developer, as Owner, agrees for itself and each successive Owner to (i) cooperate in all reasonable ways with, and provide necessary and reasonable information to, the designated tax incentive review council to enable that tax incentive

review council to review and determine annually during the term of this Agreement the compliance of the Owners with the terms of this Agreement; and (ii) to cooperate in all reasonable ways with, and provide necessary and reasonable information to the City to enable the City to submit the status report required by Section 5709.40(I) of the Ohio Revised Code to the Director of the Ohio Development Services Agency on or before March 31 of each year.

Section 9. Nondiscriminatory Hiring Policy. The Developer, as Owner, agrees for itself and each successive Owner to comply with the City's nondiscriminatory hiring policy adopted pursuant to Ohio Revised Code Section 5709.832 to ensure that recipients of tax exemptions practice nondiscriminatory hiring in their operations. The City will provide a copy of that policy and any updates to that policy to the Developer and each Owner. In furtherance of that policy, the Developer agrees for itself and each successive owner that they will not deny any individual employment solely on the basis of race, religion, sex, disability, color, national origin or ancestry.

Section 10. Prevailing Wage. The Developer and the City acknowledge and agree that the construction of Public Infrastructure Improvements owned or to be owned by the City or another "public authority" (as defined in Section 4115.03(A) of the Ohio Revised Code) are subject to the prevailing wage requirements of Ohio Revised Code Chapter 4115, and all wages paid to laborers and mechanics employed to construct the Public Infrastructure Improvements must be paid at not less than the prevailing rates of wages of laborers and mechanics for the classes of work called for by the Public Infrastructure Improvements, which wages must be determined in accordance with the requirements of that Chapter 4115. The City and the Developer have or will comply, and the Developer has or will require compliance by all contractors working on any Public Infrastructure Improvements owned or to be owned by the City or another public authority, with all applicable requirements of that Chapter 4115, including, without limitation, (i) obtaining the determination required by that Chapter 4115 of the prevailing rates of wages to be paid for all classes of work called for by the Public Infrastructure Improvements, (ii) obtaining the designation of a prevailing wage coordinator for the Public Infrastructure Improvements, and (iii) insuring that all subcontractors receive notification of changes in prevailing wage rates as required by that Chapter 4115.

Section 11. Estoppel Certificate. Within thirty (30) days after a request from a Developer or any Owner of a Parcel, the City will execute and deliver to that Developer or Owner or any proposed purchaser, mortgagee or lessee of that Parcel, a certificate stating that, with respect to that Parcel, if the same is true: (i) this Agreement is in full force and effect; (ii) the requesting Developer or Owner is not in default under any of the terms, covenants or conditions of this Agreement, or, if that Developer or Owner is in default, specifying same; and (iii) such other matters as that Developer or Owner reasonably requests.

Section 12. Notices. Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder must be in writing and will 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 any addendum to or counterpart of this Agreement, or to such other address as the recipient has previously notified the sender of in writing, and will be deemed received upon actual receipt, unless sent by certified mail, in which event such notice will 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, requests or other communications must be sent. The present addresses of the parties follow:

(a) To the Developer at: TPA Group, LLC
1776 Peachtree St, SW, Suite 100
Atlanta, Georgia 30309
Attention: Jeb Brees, Principal
Phone: (770) 436-3400

With a copy to: Taft Stettinius & Hollister LLP
65 East State Street, Suite 1000
Columbus, Ohio 43215
Attention: Chris L. Connelly
Phone: (614) 334-7108

(b) To the City at: City of Pataskala, Ohio
621 W. Broad Street
Pataskala, Ohio 43062
Attention: City Administrator
Phone: (740) 964-2416

With a copy to: Brian M. Zets, Esq.
Isaac Wiles
Two Miranova Place, Suite 700
Columbus, OH 43215

Section 13. Successors; Assignment; Amendments; City Consents. This Agreement will be binding upon the parties hereto and their successors and assigns. Each Owner's obligations under this Agreement, including, without limitation, its obligation to make Service Payments with respect to each Parcel it owns, are absolute and unconditional covenants running with the land and are enforceable by the City. Each Owner further agrees that all covenants herein, including, without limitation, its obligation to make Service Payments, whether or not these covenants are included by any Owner of any Parcel in any deed or instrument of conveyance to that Owner's successors and assigns, are binding upon each subsequent owner and are enforceable by the City. Any future Owner of any Parcel, or any successors or assigns of such Owner, will be treated as an Owner for all purposes of this Agreement. Nothing in this Agreement prevents an Owner from transferring any or all of its interest in the Parcels to another person or entity.

Except as otherwise provided in this Section 13, this Agreement and the benefits and obligations thereof are not assignable without the express, written approval of the City, 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 Company (including but not limited to subsidiaries and/or affiliates); (ii) a lender in connection with the Company obtaining

financing related to the Project; and/or (iii) successor entities to the Company as a result of a consolidation, reorganization, acquisition or merger. For assignments that do not fall within (i) – (iii) above, the Company shall provide the City with a written request for the assignment, and the City shall use its best efforts to provide approval for any such assignments that is effective no later than 30 days after the receipt of notice from the Company. As a condition to the right to receive tax exemptions as set forth in this Agreement, each assignee shall execute and deliver to the City an Assignment and Assumption Agreement (the “Assumption Agreement”) in substantially the form attached hereto as Exhibit D, wherein such assignee (i) assumes all obligations of the Company under this Agreement with respect to the applicable portion of the Project Site, and (ii) certifies to the validity, as to the assignee, of the representations, warranties and covenants contained herein and in the Assumption Agreement. Upon the receipt by the City of such Assumption Agreement, as to the applicable portion of the Project Site, the assignee shall have all entitlements and rights to tax exemptions, and obligations, as an “Owner” under this Agreement, in the same manner and with like effect as if the assignee had been the original Owner and a signatory to this Agreement. The City agrees to execute each such Assumption Agreement upon approval (if required) and to deliver an original thereof to the assignee.

As used herein, “Prior Owner” means, as of any point in time, any person or entity which shall have been, but is not then, the person or entity in control of the Project Site, or any portion thereof, as owner. Upon execution and approval (if required) of the Assumption Agreement, each Prior Owner will be released from liability for any defaults occurring after the date of the change in ownership or control by which that Prior Owner became a Prior Owner, as such change is reflected in the Assumption Agreement.

Section 14. 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 any present or future member, officer, agent 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 Developer’s interest in its portion of the Parcels and the Improvements, or any parts thereof or any interest therein.

Section 15. Events of Default and Remedies.

A. Any one or more of the following constitutes an “Event of Default” under this Agreement:

(i) The Developer or the City fails to perform or observe any material obligation punctually and as due under this Agreement, provided that if a Force Majeure (as such term is defined below) event causes the failure, the Developer or City may receive

an additional period of time as is reasonably necessary to perform or observe the material obligation in light of the event if it notifies the other of the potential event and the extent of the delay promptly after becoming aware of the event;

(ii) The Developer or the City makes a representation or warranty in this Agreement that is materially false or misleading at the time it is made;

(iii) The Developer files a petition for the appointment of a receiver or a trustee with respect to it or any of its property;

(iv) The Developer makes a general assignment for the benefit of creditors;

(v) A court enters an order for relief pursuant to any Chapter of Title 11 of the U.S. Code, as the same may be amended from time to time, with the Developer as debtor; or;

(vi) The Developer files an insolvency proceeding with respect to itself or any proceeding with respect to itself for compromise, adjustment or other relief under the laws of any country or state relating to the relief of debtors;

As used in this Section, “Force Majeure” means any event that is not within the control of a party or its affiliates, employees, contractors, subcontractors or material suppliers that delays performance of any obligation under this Agreement including, but not limited to, the following acts: acts of God; fires; epidemics; landslides; floods; strikes; lockouts or other industrial disturbances; acts of public enemies; acts or orders of any kind of any governmental authority; insurrections; riots; civil disturbances; arrests; explosions; breakage or malfunctions of or accidents to machinery, transmission pipes or canals; partial or entire failures of utilities; shortages of labor, materials, supplies or transportation; lightning, earthquakes, hurricanes, tornadoes, storms or droughts; periods of unusually inclement weather or excessive precipitation; or orders or restraints of any kind of the government of the United States or of the State (and in the case of a Force Majeure claim by a Developer, the City or any departments, agencies, political subdivisions or officials that are not in response to a violation of law or regulations.

B. General Right to Cure. In the event of any Event of Default in or breach of this Agreement, or any of its terms or conditions, by any party hereto, the defaulting party will, upon written notice from the other, proceed, as soon as reasonably possible, to cure or remedy such Event of Default or breach, and, in any event, within thirty (30) days after receipt of such notice. In the event such Event of Default or breach is of such nature that it cannot be cured or remedied within said thirty (30) day period, then in such event the defaulting party will upon written notice from the other commence its actions to cure or remedy said breach within said thirty (30) day period, and proceed diligently thereafter to cure or remedy said breach.

C. Remedies. If a defaulting party fails to cure any Event of Default pursuant to paragraph (B) of this Section, a party may institute such proceedings against the defaulting party as may be necessary or desirable in its opinion to cure and remedy such default or breach. Such remedies include, but are not limited to: (i) instituting proceedings to compel specific performance by the

defaulting party, (ii) suspending or terminating the obligations of the non-defaulting party under this Agreement, provided the aggrieved party must provide thirty (30) days' notice of any termination to the defaulting party and provided further that the aggrieved party must rescind the termination notice and not terminate the Agreement if the defaulting party cures all Events of Default within a reasonable time thereafter, and (iii) any other rights and remedies available at law, in equity or otherwise to collect all amounts then becoming due or to enforce the performance of any obligation under this Agreement. 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.

Section 17. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, said provision will be fully severable. This Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible that is and will be legal, valid and enforceable.

Section 18. Separate Counterparts; Captions. This Agreement may be executed by the parties hereto in one or more counterparts or duplicate signature pages, each of which when so executed and delivered will be an original, 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. Captions have been provided herein for the convenience of the reader and shall not affect the construction of this Agreement.

Section 19. 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 20. 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, the 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 21. Additional Documents. The City, the Developer, and their respective successors, assigns and transferees agree to execute any further agreements, documents, or instruments as may be reasonably necessary to fully effectuate the purpose and intent of this Agreement.

Section 22. Recordation. No later than fifteen (15) days following the execution of this Agreement by each of the Developer and the City, the Developer will cause this Agreement to be recorded in the Licking County, Ohio real property records on each Parcel. During the term of this

Agreement, each Owner will cause all instruments of conveyance of interests in all or any portion of any Parcel to subsequent mortgagees, successors, lessees, assigns, or other transferees to be made expressly subject to this Agreement; provided, however, that any failure by any Owner to make any such instrument of conveyance expressly subject to this Agreement shall not affect the unconditional and binding nature of this Agreement on each such subsequent mortgagee, successor, lessee, or assign.

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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 Manager

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

Clerk of Council

Approved as to Form:

City Director of Law

TPA GROUP, LLC,
a Georgia limited liability company

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 Group, 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. The City has no obligation to make payments pursuant to this Agreement except from Service Payments to be collected for deposit into the TIF Fund, which Service Payments are in the process of collection. 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

LEGAL DESCRIPTION OF THE PROJECT AREA

(Attached hereto)

EXHIBIT B

DESCRIPTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements include, but are not limited to, any or all of the following improvements that will directly benefit the Project Area and all related costs of permanent improvements (including, but not limited to, those costs listed in R.C. Section 133.15(B)):

- Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto.
- Signage, artwork, sculpture and other related items that enhance, compliment and beautify the Project Area and the Public Infrastructure Improvements located in the public right-of-way or within public easements.
- Construction, reconstruction, extension, opening, improving, widening, grading, draining or curbing of walking and/or multipurpose paths.
- Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefor), water and fire protection systems, including, but not limited to, tap, capacity and connection improvements for accessing the water, storm and sanitary sewers, or fire protection systems, and all appurtenances thereto.
- Construction, reconstruction or installation of gas, electric and communication service facilities (including any underground lines or other facilities), and all appurtenances thereto.
- Construction, reconstruction and installation of stormwater and flood remediation projects and facilities, including such projects and facilities on private property when determined to be necessary for public health, safety and welfare.
- Continued and ongoing maintenance, paving, repaving, striping, grading and related work on roads, highways, streets, water and sewer lines constructed as part of the Public Infrastructure Improvements.
- Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described above.

- Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing Public Infrastructure Improvements or (b) in aid of industry, commerce, distribution or research, including, but not limited to, any acquisition of land in connection with the City's taking title to any Public Infrastructure Improvements.
- Any other public infrastructure improvements constructed or maintained by or on behalf of the City that are determined by the City to benefit the Project Area.

EXHIBIT C

FORM OF WRITTEN REQUISITION

No. ____

(For Costs of Public Infrastructure Improvements)

To: City of Pataskala, Ohio

Attention: _____, _____

Subject: Written Requisition for Public Infrastructure Improvements pursuant to the terms of the Tax Increment Financing Agreement dated _____, 2021 (the “Agreement”), by and between the City of Pataskala, Ohio, and TPA Group, LLC (the “*Developer*”).

You are hereby requested to approve the amount of \$_____ as Costs of the Public Infrastructure for the purposes set forth in Item I attached hereto. Unless otherwise defined herein, all capitalized terms set forth but not defined in this Written Requisition have the respective meanings assigned to them in the Agreement.

The undersigned authorized representative of the Developer does hereby certify on behalf of the Developer that:

- (a) I have read the Agreement and definitions relating thereto and have reviewed appropriate records and documents relating to the matters covered by this Written Requisition;
- (b) The disbursement herein requested is for an obligation properly incurred, is a proper charge as Costs of the Public Infrastructure Improvements (as defined in the Agreement), and has not been the basis of any previous reimbursement request;
- (c) The Developer is in material compliance with all provisions and requirements of the Agreement;
- (d) The reimbursement requested hereby does not include any amount which is being retained under any holdbacks or retainages provided for in any applicable agreement;
- (e) The Developer has, or the appropriate parties on the Developer’s behalf has, asserted its entitlement to all available manufacturer’s warranties to date upon acquisition of possession of or title to the Public Infrastructure Improvements or any part thereof which warranties have vested in the Developer;

(f) The Developer is either (i) not aware of any attested account claim from any subcontractor, material supplier or laborer who has performed labor or work or has furnished materials for the Public Infrastructure for which reimbursement is requested pursuant to this Written Requisition; or (ii) has provided security discharging any known attested account claims.

EXECUTED this ____ day of _____, 2021.

By: _____

Printed: _____

Title:

ITEM I

Requisition No. _____ for the Public Infrastructure Improvements

Pay to _____

Amount \$ _____

For Account of:

Account Number:

Wiring Instructions:

For the purpose of reimbursing the following payments previously paid by the Developer for the Public Infrastructure:

Name of Vendor	Service Rendered	Time Period	Cost of Service Rendered
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1.

2.

EXHIBIT D

FORM OF PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT

This PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT (the “Agreement”) is made and entered into by and between the City of Pataskala (the “City”), a political subdivision of the State of Ohio, through the City of Pataskala City Council (the “Council”); _____, a _____ (the “Company”) and _____, a _____ (the “Successor”). Except as otherwise provided herein, capitalized terms used herein shall have the same meanings as in the Tax Increment Financing Agreement between TPA Group, LLC (the “Developer”) and the City, made effective _____ (the “TIF Agreement,”) a copy of which is attached hereto as Exhibit A and incorporated herein.

WITNESSETH:

WHEREAS, the City, in the TIF Ordinance, has declared that one hundred percent (100%) of the increase in the assessed value of each Parcel subsequent to the effective date of the TIF Ordinance (each such increase hereinafter referred to as an “Improvement,” as further defined in Section 5709.40 of the Ohio Revised Code and the TIF Ordinance) is a public purpose and is exempt from taxation for a period commencing for each Parcel the earlier of the first day of (i) the tax year in which there is an Improvement with respect to the Parcel (as it may be subdivided or combined in connection with the acquisition of the Parcel by the Developer or its affiliates (collectively, the “Developer”) or otherwise) of at least \$35,000 (i.e., an increase in true value of \$100,000), or (ii) tax year 2041, and ending on the earlier of (a) thirty (30) years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code and the TIF Ordinance (the “TIF Exemption”); and

WHEREAS, the Developer and the City have entered into the TIF Agreement to provide for the reimbursement of the Developer for certain Costs of the Public Infrastructure Improvements; and

WHEREAS, the Company intends to convey or has conveyed all or part of the Project Site or a building at the Project Site (such transferred property, which is described in Exhibit B, may be referred to hereinafter as the “Transferred Property”) to Successor; and

WHEREAS, the Successor desires to (i) construct certain Public Infrastructure Improvements that directly benefit the Transferred Property, and/or (ii) succeed to the right to receive reimbursement under the TIF Agreement for Public Infrastructure Improvements constructed by the Company, the Successor or another entity; and

WHEREAS, in connection with the conveyance of the Transferred Property by the Company to the Successor, the Successor wishes to obtain certain benefits of the TIF Agreement, and, as agreed in the TIF Agreement effective on the date of the conveyance of the Transferred

Property to the Successor (the “Transfer Date”), the City is willing to make these benefits available to the Successor on the terms set forth in the TIF Agreement as long as the Successor executes this Agreement and the Developer acknowledges its continued obligations under the TIF Agreement.

NOW, THEREFORE, in consideration of the circumstances described above, the covenants contained in the TIF Agreement, and the benefit to be derived by the Successor from the execution hereof, the parties hereto agree as follows:

1. From and after the Transfer Date, the Company hereby assigns (a) all of the obligations, agreements, covenants and restrictions set forth in the TIF Agreement to be performed and observed by the Owners only with respect to the Transferred Property, and (b) all of the following benefits of the TIF Agreement (the “Assigned Benefits”): _____. From and after the Transfer Date, with respect to the Transferred Property, the Successor hereby (i) agrees to be bound by, assume and perform, or ensure the performance of, all of the obligations, agreements, covenants and restrictions set forth in the TIF Agreement to be performed and observed by the Owners; and (ii) certifies to the validity, as to the Successor as of the date of this Agreement, of the representations made by or required of the Owners that are contained in the TIF Agreement.

2. From and after the Transfer Date, the City hereby releases the Company, its successors and assigns from any and all liability and obligations under the TIF Agreement with respect to the Transferred Property, unless any such successors or assigns are the Successor (as defined herein).

3. The City agrees that as to the Transferred Property and the Assigned Benefits, the Successor has and shall have all entitlements and rights to tax exemptions, benefits, and obligations, as both (a) an “Owner” under the TIF Agreement, and (b) in the same manner and with like effect as if the Successor had been an original signatory (i.e., the Developer) to the TIF Agreement.

4. Notices to the Successor with respect to the TIF Agreement shall be given as stated in Section 12 thereof, addressed as follows:

Phone: _____
Fax: _____

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives to be effective as of _____.

THE CITY OF PATASKALA, LICKING COUNTY, OHIO

By: _____

Print Name: _____

Title: _____

By Resolution No. _____ dated _____, 20__

Verified and Certified:

APPROVED AS TO FORM:

City Director of Law

COMPANY

_____, a _____

By: _____

Print Name: _____

Title: _____

SUCCESSOR

_____ [name of Successor]

By: _____

Print Name: _____

Title: _____

ACKNOWLEDGMENT OF DEVELOPER

The Developer (as defined in the TIF Agreement) hereby confirms its obligations under the TIF Agreement and hereby (i) agrees to be bound by, assume and perform, or ensure the performance of, all of the obligations, agreements, covenants and restrictions set forth in the TIF Agreement to be performed and observed by the Developer (except to the extent to which such obligations, agreements, covenants, and restrictions are expressly assumed by the Successor and related to any Transferred Property); and (ii) certifies to the validity, as to the Developer as of the date of this Agreement, of all of the representations, warranties and covenants made by or required of the Developer that are contained in the TIF Agreement.

TPA GROUP, LLC, a Georgia limited liability company

By: _____

Print Name:

Title:

EXHIBIT A
TO ASSIGNMENT AND ASSUMPTION AGREEMENT

Copy of TIF Agreement

(attached hereto)

EXHIBIT B
TO ASSIGNMENT AND ASSUMPTION AGREEMENT

Copy of Instrument Conveying the Transferred Property

(attached hereto)