

**ORDINANCE NO.:** 2019-13  
**SPONSOR:** MAYOR NEUGEBAUER  
**INTRODUCED:** JUNE 11, 2019      **ASSIGNED TO:** PLANNING

**AN ORDINANCE DECLARING A PORTION OF IMPROVEMENTS TO A CERTAIN PARCEL OF REAL PROPERTY OWNED BY CAM GREEN 2 LLC TO BE A PUBLIC PURPOSE, EXEMPTING ONE HUNDRED PERCENT (100%) OF THE VALUE OF THE IMPROVEMENTS FROM REAL PROPERTY TAXATION; REQUIRING THE OWNERS OF THOSE PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES EQUAL TO THE REAL PROPERTY TAX; THE DEPOSITING OF THOSE SERVICE PAYMENTS IN THE APPROPRIATE FUND; AND PROVIDING FOR THE PAYMENT OF A PORTION OF SAID SERVICE PAYMENTS TO THE GREEN LOCAL SCHOOL DISTRICT FOR THIRTY YEARS, AND DECLARING AN EMERGENCY.**

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GREEN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:**

**SECTION ONE:**

City Council makes the following findings and determinations:

- (a) The City adopted Ordinance No. 2003-12 on September 10, 2003, (and amended that Ordinance through Ordinance 2004-03), establishing a tax increment financing program ("TIF Program"), authorizing the City to declare improvements to certain parcels of real property to be a public purpose, requiring the owner, and its successors and assigns, of any structure located on any parcel of real property declared to be a public purpose to make annual service payments in lieu of taxes ("Service Payments") to the Fiscal Officer of Summit County, and providing the City the option to enter into an agreement ("TIF Agreement") with the owner of any structure located on any parcel of real property declared to be a public purpose under the TIF Program.
- (b) In accordance with Ordinance No. 2003-18, adopted November 25, 2003, City Council established a Municipal Public Improvement Tax Increment Equivalent Fund (the "TIF Fund"), as a separate fund of the City into which Service Payments distributed to the City under the TIF program must be deposited.
- (c) CAM Green 2 LLC ("Owner"), purchased property identified in the map attached as Exhibit "A" and the legal description attached as Exhibit "B" (the "TIF Property"), located within the boundaries of the City and is making improvements on the TIF Property (the "Development Improvements"), as described in Exhibit "C".
- (d) CAM Green LLC will acquire, construct, and install the Public Improvements described in the attached Exhibit "D". The Public Improvements will directly benefit the TIF Property. The City will provide funds to reimburse for the Public Improvements.
- (e) The City has approved the construction of certain public infrastructure improvements (the "Public Improvements") in connection with the Development

Improvements, which Public Improvements will directly benefit the TIF Property as described in the attached Exhibit "E".

- (f) As part of carrying out the City's obligations, the City intends to provide funds for the Public Improvements, to reimburse CAM Green LLC, in an amount presently estimated at \$ \$5,552,376.21 for the construction of Franks Parkway as described in Exhibit "D". The City has determined that it is necessary and in the best interest of the City to provide for the making of Service Payments in lieu of taxes by the Owner with respect to the New Construction, in accordance with the Act, the TIF Program, and the TIF Ordinance and, therefore, the City has declared One Hundred Percent (100%) of the assessed value of the New Construction is a public purpose and will be exempt from real property taxation for the Exemption Period.
- (g) City Council has, by notice delivered to the Board of Education of the Green Local School District on October 16, 2003, and to the Board of Education of the Portage Lakes Career Center on October 16, 2003, given notice of the City's intent to declare as a public purpose certain improvement to certain parcels of real property and of the Mayor's authorization to negotiate TIF Agreements under the TIF Program. A copy of Ordinance No. 2003-12 accompanied the notices.
- (f) Subject to the following, the Board of Education of the Green Local School District passed a resolution waiving the right to approve exemptions from taxation under Section 5709.43, Revised Code, for any improvements declared to be a public purpose and for any TIF Agreements entered into under the TIF Program on the condition that a compensation agreement be negotiated in accordance with Section 5709.40, Revised Code, and waiving any notice under Section 5709.83, Revised Code. The same has been provided by the City to the Green Local School District.
- (g) The Board of Education of the Green Local School District, on November 17, 2003, entered into a compensation agreement with the City. The City and the Board of Education amended the Compensation Agreement effective January 1, 2006 and again on May 25, 2017. As a result of the May 25, 2017 amendment, the Green Local School District is required to receive a fourteen (14) day statutory notice under Ohio Revised Code 5709.83, from the City.
- (h) The Board of Education of the Portage Lakes Career Center on October 16, 2003, passed a resolution waiving any notice under Section 5709.83, Revised Code.

#### **SECTION TWO:**

Green City Council declares the Development Improvements to the TIF Property to be a public purpose. Green City Council exempts One Hundred percent (100%) of the value of these improvements from real property taxation in accordance with the TIF Program and the authority in Section 5709.40, Revised Code, for a period of thirty (30) years.

#### **SECTION THREE:**

In accordance with the TIF Program and the authority in R.C. 5709.40, the Developer, and its successors and assigns, will make Service Payments equal to the real property taxes exempted

under Section Two. City Council establishes an account in the TIF Fund (a "TIF Account") as a separate account in the City's Fund. The Service Payments distributed to the City must be deposited into the TIF Account and used to finance the Public Improvements described in Section 1(d), for other public infrastructure improvements benefiting the TIF Property. Additionally, funds due to the Green Local School District shall be distributed in an amount as provided in the Compensation Agreement entered into between the City and the School District.

**SECTION FOUR:**

The City finds and determines that all formal actions of this Council concerning and relating to the enactment of this Ordinance were taken in open meetings of this Council and all deliberations of this Council or any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with Section 121.22, Revised Code.

**SECTION FIVE:**

Green City Council declares this Ordinance to be an emergency immediately necessary for the preservation of the public peace, health, safety, and welfare of the citizens of Green and for the further reason that the Development Improvement may be revalued, and Service payments commence immediately. Provided that this legislation receives the affirmative vote of three-fourths of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise, it shall take effect and be in force at the earliest time allowed by law.

ADOPTED: July 9, 2019  
Molly Kapeluck  
Molly Kapeluck, Clerk of Council

Bob Young  
Bob Young, Council President

APPROVED: July 10, 2019  
Gerard M. Neugebauer  
Gerard M. Neugebauer, Mayor

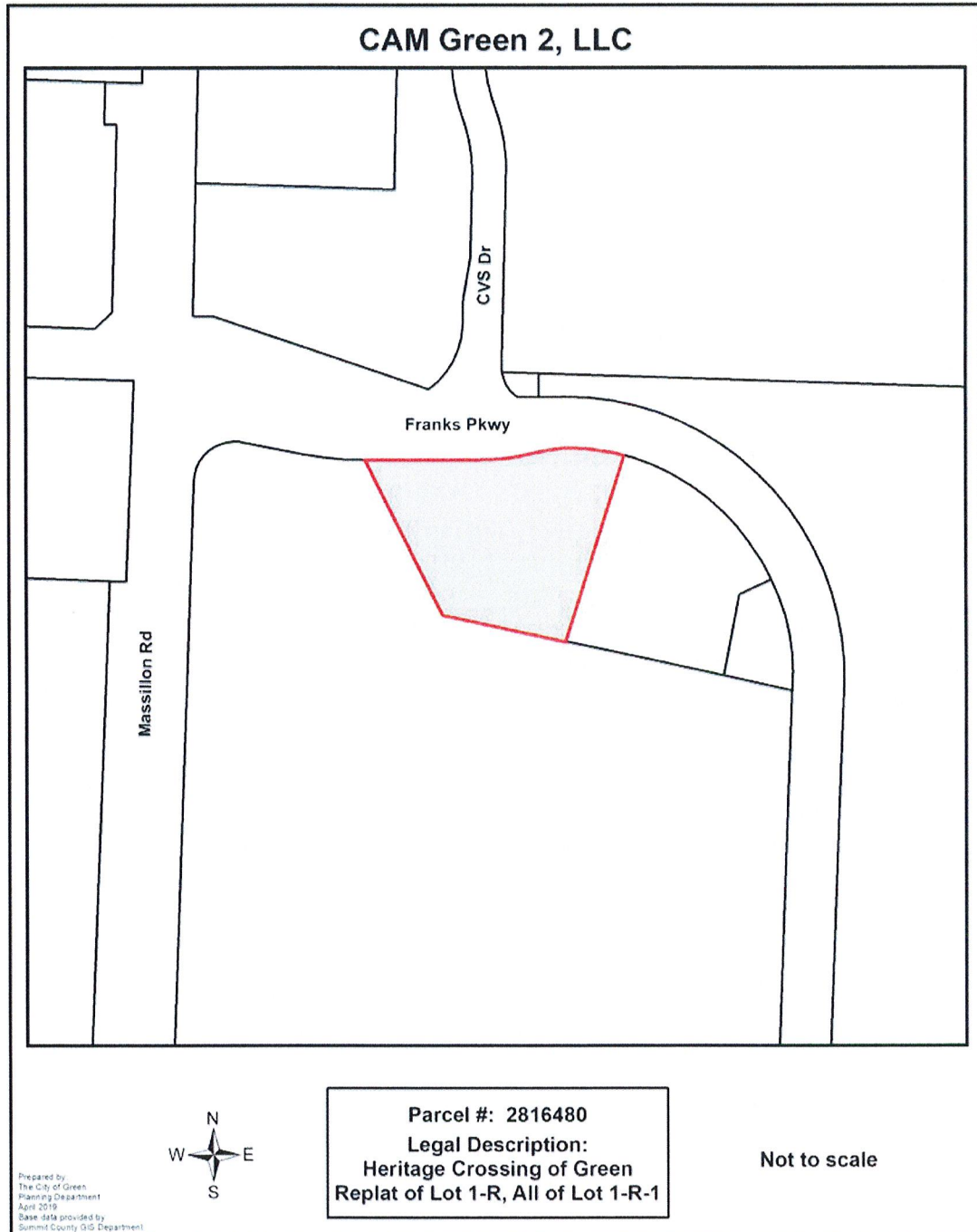
ENACTED EFFECTIVE: July 10, 2019

ON ROLL CALL: Babbitt -AYE Dyer -AYE Humphrey -AYE Shaughnessy -AYE  
Speight -AYE Yeargin -AYE Young -AYE Adopted 7-0

Suburbanite publication on July 12 and July 19, 2019  
Molly Kapeluck  
Molly Kapeluck, Clerk of Council



**Exhibit A**  
**Map of Development Property**



**Exhibit B**  
**Legal Description**

For: Heritage Crossings of Green

Parcel Number: 2816480

Parcel Size: approximately 1 acre

Legal Description: Heritage Crossings of Green Replat of Lot 1-R, All of Lot 1-R-1

**Exhibit C**  
**Development Improvements Constructed by Owner**

The Development Improvements consist of the following:

Parcel Number 2816480

- (a) Development of a 1 acre parcel for a retail user. The project will include the development of a 2,316 sq. ft. restaurant with drive thru. Total real property investment is anticipated to be approximately \$930,000.00.

**Exhibit D**  
**Public Improvements Constructed by Developer**

1. Construction of Heritage Crossings, Franks Parkway Phase I inclusive of stormwater management, curbs, gutters, sidewalks, asphalt roadway and traffic signals.  
Construction 2012                      Cost \$3,838,514.21
2. Construction and relocation of the sanitary sewer pump station and sanitary sewer trunk lines along Franks Parkway.  
Construction 2012
3. Cost of improvements related to the tree removal in the Ohio Department of Transportation's right-of-way at Heritage Crossings to enhance the site and make landscape improvements along this right-of-way.  
Construction 2012                      Cost \$23,345.00
4. Construction of Franks Parkway Phase II inclusive of stormwater management, curbs, gutters, sidewalks, and asphalt roadway.  
Construction 2017                      Cost: \$1,713,862.00

**Exhibit E**  
**Public Improvements Constructed by City**

1. Construction of roundabout at Franks Parkway and Graybill Road inclusive of stormwater management, curbs, gutters, sidewalks, and asphalt roadway.  
Construction 2026                      Estimated Cost \$1,300,000.00
2. Construction of public improvements along Massillon Road, Boettler Road, Graybill Road, Corporate Woods Parkway, Corporate Woods Circle, Forest Lake Drive, Tabs Drive and Franks Parkway.  
Construction 2020



2019-13  
DRAFT

**TAX INCREMENT FINANCE DEVELOPMENT AGREEMENT  
BETWEEN THE CITY OF GREEN, CAM GREEN, LLC, AND CAM GREEN 2, LLC**

This Tax Increment Finance Development Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2019 by and between the City of Green, Ohio ("City"), CAM Green LLC ("Developer") and CAM Green 2, LLC ("Owner") under the following circumstances (capitalized terms are used with the meanings given them in Schedule 1):

**Recitals**

- A. The City adopted Ordinance No. 2003-12 on September 10, 2003, establishing a tax increment financing program ("TIF Program") authorizing the City to declare improvements to certain parcels of real property to be a public purpose, and authorizing the Mayor to negotiate agreements for tax increment financing.
- B. In order to create and preserve jobs and employment opportunities within the jurisdiction of the City and to improve the economic welfare of the people of the City, City Council adopted the TIF Ordinance \_\_\_\_\_, 2019, in accordance with the Act and the TIF Program for the development and financing of the Project within the boundaries of the City.
- C. In order to carry out the public purpose and to comply with the requirements of the Act and the TIF Program, the City desires to enter into this Development Agreement to provide for tax increment financing and the construction of the Public Improvements. The Owner is willing to complete the Development Improvements on the Development Property; and, the Developer and Owner are willing to make the Service Payments to the City; and, the Developer and Owner are willing to perform such other actions required by the Developer and Owner as described in this Development Agreement.
- D. The City will accept the Public Improvements, which directly benefit and serve the Development Property and the people of the City in general. The City will make semiannual payments to the Owner within thirty (30) days of receipt of the PILOTS to pay for the cost of the Public Improvements.
- E. As part of carrying out the City's obligations, the City intends to provide funds for the Public Improvements, to reimburse Developer, in an amount presently estimated at \$5,552,376.21. The City has determined that it is necessary and in the best interests of the City to provide for the making of Service Payments in lieu of taxes by the Developer and/or Owner with respect to the New Construction, in accordance with the Act, the TIF Program, and the TIF Ordinance and, therefore, the City has declared that one hundred percent (100%) of the assessed value of the New Construction is a public purpose and will be exempt from real property taxation for the Exemption Period.
- F. The City has determined that the development of the New Construction by the Developer and Owner on the Development Property and fulfillment generally of the terms of this

Development Agreement, are in the best interests of the City and the health, safety, morals and welfare of its residents.

- G. The City has, by notice delivered to the Board of Education of the Green Local School District (the “Green Local School Board”) on October 16, 2003, and to the Board of Education of the Portage Lakes Career Center (the “Portage Lakes School Board”) on October 16, 2003, given notice of the City’s intent to declare projects such as the New Construction to be a public purpose in accordance with the TIF Program.
- H. The Green Local School Board, on November 17, 2003, passed a resolution waiving the right to approve exemptions from taxation under Section 5709.43, Revised Code, for any improvements declared to be a public purpose and for any development agreements entered into under the TIF Program on the condition that a compensation agreement be negotiated in accordance with Section 5709.40, Revised Code, and waiving any notice under Section 5709.83, Revised Code.
- I. The Green Local School Board, on November 17, 2003, entered into a compensation agreement with the City. The compensation agreement with the Green Local School Board was updated on January 1, 2006 and again on May 25, 2017, the Second Amendment. As a result of the Second Amendment the Green Local School District is required to receive a fourteen (14) day statutory notice under Ohio Revised Code Section 5709.83, as is more fully described in Section 2.1 of the Second Amendment.
- J. The Portage Lakes School Board on October 16, 2003, passed a resolution waiving any notice under Section 5709.83, Revised Code.

**The parties agree as follows:**

## **Article I The City**

### **Section 1.1. Representations.**

The City makes the following representations:

- (a) It is a political subdivision, duly organized and validly existing under the laws of the State of Ohio and its Charter.
- (b) It has performed all acts required of it as a condition to signing and delivering this Development Agreement.
- (c) It is not in violation of any laws of the State of Ohio or its Charter, to an extent that would impair its ability to carry out its obligations under this Development Agreement.
- (d) It has the power to enter into and perform its obligations under this Development Agreement.
- (e) Its City Council has duly authorized the signing, delivery, and performance of this Development Agreement.

## **Article II The Developer**

**Section 2.1. Developer Representations.** The Developer makes the following representations:

- (a) The Developer is an Ohio limited liability corporation duly organized, validly existing, and in good standing under the laws of the State of Ohio.
- (b) It has performed all acts required of them as a condition to signing and delivering this Development Agreement.
- (c) It is not in violation of any laws of the State of Ohio to an extent that would impair their ability to carry out their obligations under this Development Agreement.
- (d) It has the power to enter into and perform their obligations under this Development Agreement.
- (e) Its shareholders have duly authorized the signing, delivery, and performance of this Development Agreement.

**Section 2.2. Developer's Agreement to Construct Public Improvements.** Subject to the terms of this Development Agreement, the Developer agrees to acquire, construct, and install the Public Improvements described in Exhibit "D" in accordance with the time schedule and improvement descriptions provided in this Development Agreement. Upon completion of the Public Improvements, Developer shall provide a detailed accounting in the form of Certified Construction Costs for the Public Improvements to City. The City shall reimburse Developer for the cost of the Public Improvements as detailed in Section 3.3 of this Development Agreement.

**Section 2.3. Acquisition of Development Property.** As of the date of this Development Agreement, the Owner has acquired fee title to all of the Development Property, which is located within the boundaries of the City, and has paid all costs associated with this acquisition of title. The legal description of the property is attached as Exhibit "B". This Development Agreement will be a covenant and run with the land, regardless of lot splits or transfers, during the Exemption Period.

**Section 2.4. Agreement to Make Service Payments.** The Owner, for themselves and their successors in interest to the Development Property or any part or interest in the Development Property, agree to make Service Payments to the City as described in Section 3.2 during the Exemption Period.

**Section 2.5. Restrictions on Use.** The Owner agrees for themselves, and their successors and assigns, and every successor in interest to the Development Property or any part thereof, that until the end of the term of the Exemption Period, the Owner and any successors and assigns must use, develop, and redevelop the Development Property in accordance with this Development Agreement, and further agree for themselves and their successors and assigns during the Exemption Period that this covenant will be a covenant running with the land during the Exemption Period and will be included in any future deed delivered during the Exemption Period by the Owner conveying the Development Property or any part thereof during the Exemption Period and will be binding for the benefit and in favor of, and enforceable by the City, against the Owner, its successors and assigns during the Exemption Period. During the Exemption Period, these covenants will be binding on the Owner, and on each successor in interest to the Development Property, and every part thereof, for the period as the Owner or its successor has title to or an interest in the Development Property or any part thereof during the Exemption Period. The Owner will take all actions, within their power, necessary to ensure that during the Exemption Period this covenant will have priority over any interest in the Development Property except for the Permitted Encumbrances. The Owner will cause this Development Agreement to be recorded in the real estate records of the County Fiscal Officer.

**Section 2.6. Site Plan Approvals.** By the entering into and the execution of this Development Agreement, the Owner and Developer acknowledge that the City in no way waives or implies the approval of a site plan for the Development Property or requires the City to render an approval of any site plan submitted for the Development Property. The Owner and Developer agree to follow the usual and customary process of site plan approval per the City's Land Development Code including the current zoning of the Development Property at the time of application.

**Section 2.7. No Request for reduction in valuation of the Development Property.**

Neither the Owner nor the Developer for themselves, their successors and assigns and every successor in interest to the Development Property or any part thereof, during the Exemption period, shall seek a reduction in the County Fiscal Officer's appraised value of the Development Property. Furthermore, the Owner and Developer agree that the Service Payment obligations set forth herein shall continue notwithstanding that a subsequent Owner of the Development Property or use of the Development Property may be by a non-profit entity exempt from the payment of real estate taxes.

**Article III**  
**Exemption from Real Property Taxation**

**Section 3.1. Exemption of New Construction.** The City declares that the increase in assessed valuation of the Development Improvements by reason of all New Construction is a public purpose and determines that one hundred percent (100%) of the assessed valuation of the New Construction is exempt from real property taxation by all political subdivisions and taxing districts. The exemption will commence separately for each portion of the New Construction, as of the first tax year that each and any portion of the value of the New Construction appears on the tax list and duplicate, or would appear on the tax list and duplicate but for the exemption, and will extend for the Exemption Period.

**Section 3.2 Service Payment.** The Owner and any successor in interest of the land within the development must make Service Payments to the City as follows:

- (a) During the Exemption Period, in accordance with the Act, the TIF Program, and the TIF Ordinance as amended and supplemented, the Owner, for itself and any successors in interest to the Development Property or any part thereof or interest therein, covenant and agree to make (or cause to be made) semiannual Service Payments in lieu of real property taxes with respect to the New Construction pursuant to and in accordance with the requirements of the Act, the TIF Program, and this Development Agreement. The obligation to make Service Payments will run with the land during the Exemption Period. The Service Payments must be made semiannually to the County, or to the designated agent of the County for collection of the Service Payments, on or before the date on which real property taxes would otherwise be due and payable for the New Construction. Any late Service Payments must include interest and penalties at the same rate and in the same amount and payable at the same time as delinquent real property taxes. Each semiannual Service Payment must be in an amount equal to the real property taxes that would have been charged and payable against the exempted portion of the New Construction if an exemption from real property taxation had not been granted, plus all interest and penalties thereon for nonpayment, and must otherwise be in accordance with the requirements of the Act.
- (b) It is intended and agreed, and it must be provided in any future deed conveying the Development Property during the Exemption Period, or any portion thereof, to



any person, that the covenants provided in Section 3.2(a) will be covenants running with the land and that they will, in any event and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity during the Exemption Period, for the benefit and in favor of and enforceable by, the City, whether or not this Development Agreement remains in effect and whether or not this provision is included in any succeeding deed of the Development Property, or any portion thereof. It is further intended and agreed that these agreements and covenants will remain in effect for the full Exemption Period permitted in accordance with the requirements of the Act, the TIF Program, the TIF Ordinance, and this Development Agreement. During the Exemption Period, the covenants running with the land will have priority over any other lien or encumbrance on the Development Property and the New Construction other than the Permitted Encumbrances. The parties agree to execute and record any and all instruments of record in Summit County, Ohio, including this Development Agreement, as may be necessary to preserve and protect such covenants running with the land.

- (c) The Developer and Owner must prepare and file or cause to be prepared and filed in cooperation with the City any necessary applications and mutually agreed upon supporting documents to obtain the exemption from real property taxation for the New Construction to enable the City to collect Service Payments and to disburse these payments to or for the account of the City. The City will cooperate and assist the Owner in connection with the preparation and filing of any required exemption applications.
- (d) The Owner may sell, lease, or otherwise convey any portion of the Development Property. If the transfer provides that the transferee assumes the obligations under this Development Agreement to make Service Payments with respect to the New Construction on the portion of the Development Property transferred, the Owner will be released from its obligations under this Development Agreement to make those Service Payments with respect to that New Construction. The agreement to make Service Payments under this Development Agreement is a covenant running with the land during the Exemption Period. Subject to the foregoing, the obligations of the Owner to make the Service Payments will be absolute and unconditional, and will not be terminated for any cause, and the Owner agrees that there will be no right to suspend or set off the Service Payments for any cause, including without limitation failure to complete the Development Improvements, any acts or circumstances that may constitute failure of consideration, except for the City's failure to perform and complete the Public Improvements, destruction of or damage to the Improvements, commercial frustration of purpose, any change in the tax or other laws or administrative rulings of or by or under authority of the State of Ohio, unless such change in the tax or other applicable law replaces the tax on real property that is subject to the exemption set forth in Section 3.1 with another tax and subjects the Owner to the payment of another tax, or any failure of the City to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising

out of or connected with this Development Agreement, except for the City's failure to perform and complete the Public Improvements.

- (e) The Owner represents to the City, and the City acknowledges that upon completion of the Project, the expected appraised value for the New Construction will be approximately \$930,000.00. The parties acknowledge that this is an estimate and that the failure to achieve that level of New Construction will not constitute a failure of either party to perform under this Development Agreement. The City will not unreasonably withhold, delay, or condition the permits that the City issues or approves.

**Section 3.3 Transfer of Service Payments by City to Developer.** As consideration for Developer's agreement to acquire, construct, and install the Public Improvements in Exhibit "D", City agrees to collect all Service Payments made by Owner and subtract the amount of funds subject to the Compensation Agreement with the Green Local Schools attached as Exhibit "F" and any collection fees paid to Summit County; then pay fifty percent (50%) of the balance to the Developer per the terms of this Section and Section 3.4. City and Developer agree to meet one time per year during the last sixty (60) days of each calendar year to reconcile the amount paid by the City to Developer towards the cost of the Public Improvements, and determine the balance due and owing by City to Developer. Once Developer has been reimbursed for the cost of the Public Improvements listed in Exhibit "D" or the reimbursement period has expired, whichever comes first, the City shall retain any and all future Service Payments during the remainder of the Exemption Period and apply those Service Payments towards any additional Public Improvements benefitting the Development Property including those identified in Exhibit "E". Transfer of Service Payments pursuant to this Section 3.3 to Developer shall be made to Developer notwithstanding any future transfer of all or a portion of the Development Property by Owner to any other party.

**Section 3.4 Reimbursement Period.** The City shall reimburse the Developer for the Public Improvements as outlined in Exhibit "D" for a period of twelve (12) years or until all expenses are reimbursed, whichever comes first. The twelve (12) year reimbursement period shall begin when the first taxable development is able to be included in the TIF Program. After the twelve (12) year reimbursement period, service payments will remain with the City and be used to make public improvements that will benefit the development including, but not limited to improvements to Graybill Road, Boettler Road, Franks Parkway and Massillon Road.

## **Article IV Events of Default**

**Section 4.1. Event of Default.** It will be an "Event of Default" by the City or the Developer, as applicable, under this Development Agreement if:

- (a) The Developer fails to observe or perform any of the material covenants and obligations of the Developer under this Development Agreement, and the failure continues for a period of thirty (30) days after receipt of written notice provided, if such default is not susceptible to cure within thirty (30) days then Developer

shall commence its actions to cure during such thirty (30) days and diligently pursue the cure.

- (b) The City fails to observe or perform any of the material covenants and obligations of the City under this Development Agreement, and the failure continues for a period of thirty (30) days after notice.

**Section 4.2. Remedies in Event of Default.** During the continuance of an Event of Default, the City or the Developer will have available as a remedy all rights granted under law or equity. Pursuit of any of the remedies will not preclude pursuit of any other remedies provided in this Development Agreement, or by law or equity. Pursuit of any remedy by either party will not constitute a forfeiture or waiver of any damages accruing to a party by reason of the violation of any of the other party's obligations under this Development Agreement. Forbearance by a party to enforce one or more of the remedies provided upon the occurrence of an Event of Default will not be construed to constitute a waiver of the default.

## **Article V Miscellaneous**

**Section 5.1. Term of Agreement.** This Development Agreement will be effective as of its date and will continue in full force and effect for the Exemption Period as set forth in this Development Agreement. In the event that the construction of the Development Improvements have not commenced within 3 years of the effective date of the TIF Ordinance, the Development Agreement shall automatically terminate.

### **Section 5.2. Progress Reports.**

- (a) Until completion of all the Development Improvements, the Developer must make quarterly reports, in such detail as may reasonably be requested by the City, as to the actual progress of the Developer with respect to construction of the Development Improvements.
- (b) To the extent required under the Act and any other Applicable Law, the Developer must supply or cause to be supplied to the City from time to time such information as the City may reasonably request in connection with the preparation of reports required by the State of Ohio, the County, or any other public agency, under the Act and any other Applicable Law. The City shall timely submit to the State of Ohio, the County, or any other public agency, under the Act and any other Applicable Law, any reports or information required to be submitted by the City in connection with the Project, the Development Property, Development Improvements or this Development Agreement.

**Section 5.3. Discrimination Prohibited.** The recipient of the exemption granted herein must not, in its hiring practices, discriminate against any person or group of persons based upon race, creed, sex, sexual orientation, religion, color, age, national origin or ancestry in the

sale or other transfer of the Development Property, and must bind its successors by appropriate agreements and covenants running with the land enforceable by the City.

**Section 5.4. Force Majeure.** If the Developer is delayed or hindered in, or prevented from, the performance of any covenant or obligation of the Developer with respect to performance of the New Construction as a result of strikes, lockouts, shortages of labor, fuel or materials, acts of God, causes associated with unusual weather conditions, enemy acts, fire or other casualty, or other cause beyond the reasonable control of the Developer (including failure to obtain necessary governmental approvals after the Developer's good faith efforts to obtain them), then the performance of the covenant or obligation will be excused for the period of the delay, hindrance or prevention and the period for the performance of the covenant or obligation will be extended by the number of days equivalent to the number of days of the delay, hindrance or prevention. The Developer's right to this extension will only be permitted if the Developer provides written notice of the delay within thirty (30) days of the date the Developer obtains knowledge of the delay. In no event will any delay or hindrance in or prevention from the performance of any covenant or obligation described in this Section 5.4 constitute a termination of this Development Agreement.

**Section 5.5. Amendments and Waivers.** This Development Agreement will not be amended, supplemented, or modified except by an instrument in writing, signed by the City, Developer and the Owner.

**Section 5.6. Entire Agreement.** This Development Agreement sets forth the entire agreement between the parties as to its subject matter and merges and supersedes all previous discussions, agreements, and undertakings between the parties with respect to the subject matter of this Development Agreement. In addition, the Green Local School District shall be an intended third party beneficiary of this Development Agreement and may specifically enforce the obligations of the Developer and Owner herein for payment due the Green Local School District under its Compensation Agreement with the City, a copy of which is attached hereto and incorporated herein as Exhibit "F".

**Section 5.7. Counterparts.** This Development Agreement may be signed in any number of counterparts, each of which constitute an original but all of which constitute one agreement. Any party to this Development Agreement may sign this Development Agreement by signing any counterpart. Additionally, the parties agree that for purposes of facilitating the signing of this Development Agreement, (a) the signature pages taken from the separate individually executed counterparts of this Development Agreement may be combined to form multiple fully signed counterparts and (b) a facsimile transmission or .pdf file transmitted via electronic mail will be deemed to be an original signature for all purposes. All executed counterparts of this Development Agreement will be deemed to be originals, but all counterparts taken together or collectively, as the case may be, will constitute one and the same agreement.

**Section 5.8. Notice.** All notices, communications, requests and demands between the parties required or permitted to be given under this Development Agreement to be effective must be in writing (including without limitation by facsimile transmission or electronic mail), and, unless otherwise expressly provided, will be deemed to have been sufficiently given or made

when physically delivered or mailed by U. S. registered or certified mail or, in the case of notice by facsimile transmission or electronic mail, when received and telephonically confirmed, addressed as follows, or to any address as may be notified in writing by the parties:

(a) Notices to the City:

City of Green  
Attention: Gerard M. Neugebauer, Mayor  
Attention: William G. Chris, Law Director, Interim  
1755 Town Park Boulevard, P.O. Box 278  
Green, Ohio 44232-0278  
Telephone: (330) 896-6615  
Facsimile: (330) 896-6606  
Electronic Mail: [gneugebauer@cityofgreen.org](mailto:gneugebauer@cityofgreen.org)

(b) Notices to the Developer:

With Copy To:

CAM Green, LLC  
c/o: CAM, Inc.  
Attention: Jeffrey Mockbee, President  
P.O. Box 3515  
Akron, Ohio 44309  
Telephone: (330) 896-3253  
Facsimile: (330) 896-3304  
Electronic Mail: [jeffm@camincorp.com](mailto:jeffm@camincorp.com)

(c) Notices to the Owner:

With Copy To:

CAM Green 2, LLC  
c/o: CAM, Inc.  
Attention: Jeffrey Mockbee, President  
P.O. Box 3515  
Akron, Ohio 44309  
Telephone: (330) 896-3253  
Facsimile: (330) 896-3304  
Electronic Mail: [jeffm@camincorp.com](mailto:jeffm@camincorp.com)

**Section 5.9. Successors and Assigns.** This Development Agreement will be binding upon and inure to the benefit of the City and the Owner, and their respective successors and assigns. The Owner may not assign this Development Agreement or any of its rights or obligations in whole or in part to any person without the prior written consent of the City, which consent must not be unreasonably withheld.

**Section 5.10. Governing Law.** This Development Agreement and the rights and obligations of the parties under this Development Agreement will be governed by, and construed and interpreted in accordance with, the law of the State of Ohio without regard to conflict of laws principles.



**Section 5.11. Severability.** Any provision of this Development Agreement that is prohibited or unenforceable in any jurisdiction will, as to the jurisdiction, be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions, and any such prohibition or unenforceability in any jurisdiction will not invalidate or render unenforceable the provision in any other jurisdiction.

**Section 5.12. Headings and Table of Contents.** The headings and any table of contents contained in this Development Agreement are for convenience of reference only and will not limit or otherwise affect the meaning.

[The Remainder of This Page Intentionally Left Blank]

IN WITNESS WHEREOF, the City and the Owner have each caused this Development Agreement to be executed after due authorization as of the date aforesaid.

CITY OF GREEN:

By: \_\_\_\_\_  
Gerard M. Neugebauer, Mayor

Date: \_\_\_\_\_, 2019

CAM Green, LLC:

By: \_\_\_\_\_  
Jeffrey C. Mockbee, Manager

Date: \_\_\_\_\_, 2019

CAM Green 2, LLC:

By: \_\_\_\_\_  
Jeffrey C. Mockbee, Manager

Date: \_\_\_\_\_, 2019

The legal form of the within instrument is hereby approved.

By: \_\_\_\_\_  
William G. Chris, Director of Law,  
Interim

Date: \_\_\_\_\_, 2019

STATE OF OHIO )  
 ) SS:  
COUNTY OF SUMMIT )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2019, by Gerard M. Neugebauer, the Mayor of the City of Green, Ohio, an Ohio political subdivision, on behalf of the City.

[SEAL]

Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF OHIO )  
 ) SS:  
COUNTY OF SUMMIT )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by Jeffrey C. Mockbee as, Manager of CAM Green, LLC an Ohio Limited Liability Corporation. He is personally known to me or has produced a driver's license as identification.

[SEAL]

NOTARY PUBLIC

Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

STATE OF OHIO )  
 ) SS:  
COUNTY OF SUMMIT )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by Jeffrey C. Mockbee as, Manager of CAM Green 2, LLC an Ohio Limited Liability Corporation. He is personally known to me or has produced a driver's license as identification.

[SEAL]

**NOTARY PUBLIC**

Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

## **Index of Exhibits**

Schedule 1 – Definitions

Exhibit A – Map of Development Property

Exhibit B – Legal Description of Development Property

Exhibit C – The Development Improvements

Exhibit D – The Public Improvements Constructed by Developer

Exhibit E – The Public Improvements Constructed by City

Exhibit F – City of Green and Green Local Schools Compensation Agreement

## **Schedule 1 Definitions**

The following defined terms are used in the Development Agreement:

- (a) “Act” means Sections 5709.40, et seq., Revised Code.
- (b) “Applicable Laws” means all federal, State, and local laws, ordinances, resolutions, regulations, and codes, including the Act, governing the design, planning, construction, and installation of the Public Improvements.
- (c) “City” means the City of Green, Ohio.
- (d) “County” means Summit County, Ohio.
- (e) “Development Agreement” means this Development Agreement, between the City and the Owner dated as of September 15, 2017, and as may be amended from time to time.
- (f) “Development Improvements” means the land acquisition, utility extensions (other than those that are to be completed by the City as a part of the Public Improvements), engineering and inspections, building construction, and other improvements to the Development Property described in Exhibit “C”.
- (g) “Development Property” means the real property shown in Exhibit “A” and described in Exhibit “B”.
- (h) “Developer” means CAM Green, LLC, an Ohio Limited Liability Corporation.
- (i) “Event of Default” means any of the events described in Section 4.1.
- (j) “Exemption Period” means the thirty (30) year period of abatement of real property taxes on New Construction, established in the TIF Ordinance and beginning in the tax years described in Section 3.1 for each portion of the New Construction.
- (k) “Green Local School Board” means the Board of Education of the Green Local School District.
- (l) “Improvement Plans” means the plans, specifications, profiles, and cost estimates of the Development Improvements, prepared by or for the Owner, in accordance with the requirements of all applicable governmental authorities.
- (m) “Improvements” means collectively the Development Improvements and the Public Improvements.



(n) “New Construction” means the buildings and other improvements constructed on the Development Property after the date of this Development Agreement during the Exemption Period, including the Development Improvements.

(o) “Owner” means CAM Green 2, LLC, an Ohio Limited Liability Corporation.

(p) “Permitted Encumbrances” means the zoning resolutions, easements for utilities, and all other restrictions or conditions on title. The term does not include any mortgage lien, other liens or title exceptions that are superior to or on a parity with the covenants running with the land contained in the Development Agreement, except liens for real property taxes and special assessments.

(q) “Portage Lakes School Board” means the Board of Education of the Portage Lakes Career Center.

(r) “Project” means the development and construction of the Improvements to the Development Property.

(s) “Public Improvements” means the public infrastructure improvements to the land in connection with the development, including design and construction of an extension of Boettler Road, east of Massillon Road, inclusive of storm water management, curbs, gutters, sidewalks, lighting, and asphalt roadway, and related infrastructure improvements described in Exhibit “D” and/or referenced in Section 2.2 above.

(t) “Reimbursement Period” means the period of time at which the Developer will receive service payments to repay the cost of the public infrastructure. At the termination of the reimbursement period all collected service payments will remain with the City to be used to make additional Public Improvements to benefit the site.

(u) “Second Amendment to Agreement for Tax Increment Financing” means the Second Amendment to the Agreement with the Green Local School District dated May 25, 2017 outlining the agreed upon compensation to be paid to the School District by the City out of the Service Payments required under the Development Agreement. A fully executed copy of the Agreement for Tax Increment Financing as amended as entered into between the Green Local School District and the City of Green is attached to the Development Agreement as Exhibit “F”. Also fully identified herein as the School Compensation Agreement.

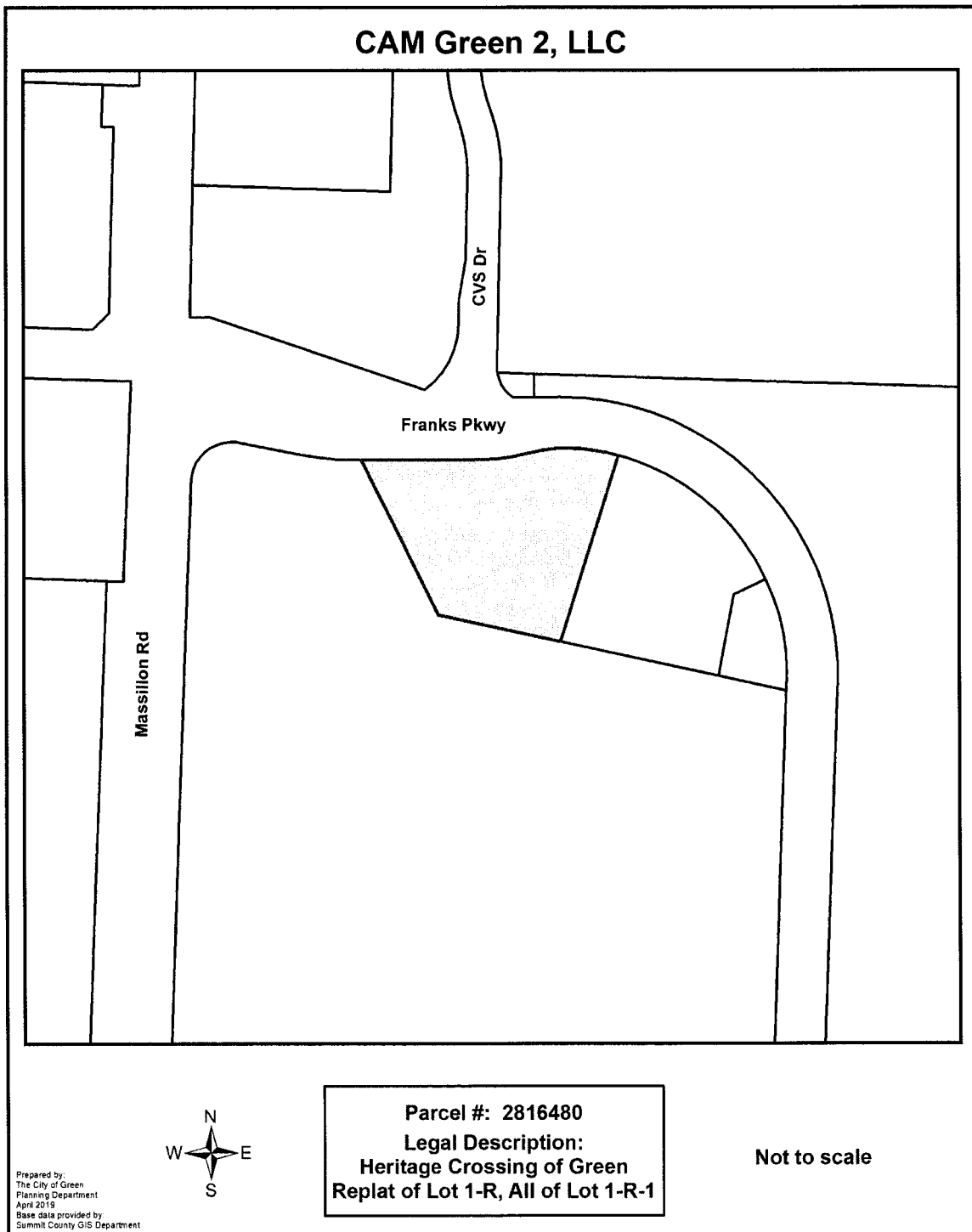
(v) “Service Payments” or “PILOTS” mean the payments in lieu of taxes paid by the Owner in accordance with Section 3.2 of this Development Agreement with respect to the Development Improvements and any other New Construction under this Development Agreement.

(w) “TIF” means the tax increment financing by the City for the Development Improvements.

(x) “TIF Ordinance” means Ordinance No. 2019-\_\_\_\_, adopted \_\_\_\_\_, 2019, by City Council declaring that the New Construction is a public purpose and approving an agreement for tax increment financing for public infrastructure improvements benefiting those parcels.

(y) “TIF Program” means the program established by Ordinance No. 2003-10, adopted September 10, 2003 by City Council establishing a tax increment financing program authorizing the City to declare improvements to certain parcels of real property to be a public purpose, and authorizing the Mayor to negotiate agreements for tax increment financing.

**Exhibit A**  
**Map of Development Property**



**Exhibit B**  
**Legal Description**

For: Heritage Crossings of Green

Parcel Number: 2816480

Parcel Size: approximately 1 acre

Legal Description: Heritage Crossings of Green Replat of Lot 1-R, All of Lot 1-R-1

**Exhibit C**  
**Development Improvements Constructed by Owner**

The Development Improvements consist of the following:

Parcel Number 2816480

- (a) Development of a 1 acre parcel for a retail user. The project will include the development of a 2,316 sq. ft. restaurant with drive thru. Total real property investment is anticipated to be approximately \$930,000.00.



## Exhibit D

### Public Improvements Constructed by Developer

1. Construction of Heritage Crossings, Franks Parkway Phase I inclusive of stormwater management, curbs, gutters, sidewalks, asphalt roadway and traffic signals.  
Construction 2012 Cost \$3,838,514.21
2. Construction and relocation of the sanitary sewer pump station and sanitary sewer trunk lines along Franks Parkway.  
Construction 2012
3. Cost of improvements related to the tree removal in the Ohio Department of Transportation's right-of-way at Heritage Crossings to enhance the site and make landscape improvements along this right-of-way.  
Construction 2012 Cost \$23,345.00
4. Construction of Franks Parkway Phase II inclusive of stormwater management, curbs, gutters, sidewalks, and asphalt roadway.  
Construction 2017 Cost: \$1,713,862.00

**Exhibit E**  
**Public Improvements Constructed by City**

1. Construction of roundabout at Franks Parkway and Graybill Road inclusive of stormwater management, curbs, gutters, sidewalks, and asphalt roadway.  
Construction 2026                      Estimated Cost \$1,300,000.00
  
2. Construction of public improvements along Massillon Road, Boettler Road, Graybill Road, Corporate Woods Parkway, Corporate Woods Circle, Forest Lake Drive, Tabs Drive and Franks Parkway.  
Construction 2020

**Exhibit F**  
**School Compensation Agreement**