

**CITY OF HUBER HEIGHTS  
STATE OF OHIO**

**ORDINANCE NO. 2005-O-1589**

**AN ORDINANCE CREATING THE MIAMI COUNTY NO. 1 INCENTIVE DISTRICT, THE MIAMI COUNTY NO. 2 INCENTIVE DISTRICT AND THE MIAMI COUNTY NO. 3 INCENTIVE DISTRICT DECLARING IMPROVEMENTS TO CERTAIN PARCELS OF REAL PROPERTY WITHIN EACH INCENTIVE DISTRICT TO BE A PUBLIC PURPOSE, DESCRIBING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS TO BE MADE BENEFIT OR SERVE THE PARCELS IN EACH DISTRICT, REQUIRING THE OWNERS THEREOF TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES; PROVIDING FOR THE MIAMI COUNTY TREASURER TO DISTRIBUTE SERVICE PAYMENTS TO THE BETHEL LOCAL SCHOOL DISTRICT IN THE AMOUNT IT WOULD OTHERWISE RECEIVE ABSENT THE EXEMPTION; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND AND RELATED ACCOUNTS FOR THE DEPOSIT OF THE BALANCE OF SUCH SERVICE PAYMENTS; AUTHORIZING THE EXECUTION OF ONE OR MORE TAX INCREMENT FINANCING AGREEMENTS; AMENDING ORDINANCE NO. 2003-O-1409; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City has identified various parcels of real property in the City (a depiction of which is attached hereto as Exhibit A and referred to herein collectively as the "*Property*", with each parcel comprising the real property within the Property referred to herein individually as a "*Parcel*") upon which significant residential and/or commercial development (the "*Project*") is expected to occur in the near future; and

**WHEREAS**, the City expects that significant public infrastructure improvements (a description of which are attached hereto as Exhibit B and referred to herein as the "*Phase I Improvements*" and the "*Phase II Improvements*" and collectively as the "*Public Infrastructure Improvements*") will be required to facilitate the development of the Project by the present and future owners of each Parcel (collectively, the "*Owners*" and individually each an "*Owner*") and that once made, will benefit or serve the Project and the Property; and

**WHEREAS**, on August 8, 2005, this Council adopted Resolution No. <sup>2005-R</sup>4411 which approved the *City of Huber Heights, Ohio - Economic Development Plan Residential Incentive Financing Districts* (the "*Development Plan*") for the Property, which plan is on file in the office of the Department of Development; and

**WHEREAS**, the engineer for the City has certified to this Council that (i) the Property is located in the City, (ii) the total acreage of the Parcels in each of the Districts (as defined below) as depicted in Exhibit A is not more than 300 acres, (iii) each of the Districts depicted in Exhibit A is enclosed by a continuous boundary, and (iv) the existing public infrastructure serving the Property is inadequate to meet the development needs of the Project as evidenced by the Development Plan; and



**WHEREAS**, Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (collectively, the "*TIF Statute*") provide that this Council may create one or more incentive districts within the City, declare any Improvement (as defined in Ohio Revised Code 5709.40) to a parcel of real property located in an incentive district to be a public purpose, thereby exempting those Improvements from real property taxation for a period of time, specify public infrastructure improvements to be made to benefit or serve those parcels, provide for the making of service payments in lieu of taxes by the owner thereof, provide for the distribution of the applicable portion of those service payments to the overlapping local school district, and establishing a municipal public improvement tax increment equivalent fund into which the balance of such service payments shall be deposited; and

**WHEREAS**, pursuant to Section 5709.40(C) of the Ohio Revised Code and in furtherance of the Development Plan, this Council has determined to create three incentive districts known as the "Miami County No. 1 Incentive District" (the "*Miami County No. 1 District*"), the "Miami County No. 2 Incentive District" (the "*Miami County No. 2 District*"), and the "Miami County No. 3 Incentive District" (the "*Miami County No. 3 District*" and collectively with the Miami County No. 1 District and the Miami County No. 2 District, the "*Districts*"), the boundaries of which shall be coterminous with the boundaries of the Parcels located in each District (all as more specifically depicted in Exhibit A); and

**WHEREAS**, the City and the Montgomery County Transportation Improvement District (the "*Montgomery County TID*") have heretofore executed the Intergovernmental Agreement - Huber Heights Transportation Improvements dated as of June 24, 2002 and as subsequently amended from time to time (the "*Intergovernmental Agreement*") to provide for the design, construction, financing, operation and maintenance of the Phase I Improvements, all of which Phase I Improvements the City has determined will, once made, benefit or serve the Property; and

**WHEREAS**, this Council has determined that the life of each District shall be 30 years and that it is appropriate and in the best interests of the City to exempt from taxation 100% of the Improvements to parcels located within the Districts during the 30-year life of each District, as permitted and provided in Section 5709.40(C) of the Ohio Revised Code; and

**WHEREAS**, this Council has further determined to direct and require the current and future owners of each of the Parcels located within the Districts to make annual service payments in lieu of the real property tax payments, which service payments shall be remitted to the Miami County Treasurer on or before the final dates for payment of real property taxes, all in accordance with Section 5709.42 of the Ohio Revised Code; and

**WHEREAS**, the City has further determined that a portion of the service payments shall be paid to the Bethel Local School District (the "*School District*") in an amount equal to the real property taxes that the School District would have been paid if improvements to the Parcels had not been exempted from taxation pursuant to this Ordinance; and

**WHEREAS**, this Council has further determined to provide for the execution and delivery of one or more Tax Increment Financing Agreements to provide for the development of the Districts; and



**WHEREAS**, the City has determined that it may, from time to time and only when the provision of additional tax incentives will be required to facilitate the development of the Project, designate one or more Parcels within the Property as a Community Reinvestment Area (each a "*Community Reinvestment Area*") within the meaning of Sections 3735.65 through 3735.70 of the Ohio Revised Code (collectively, the "*CRA Statute*") and provide qualifying structures constructed within any such Community Reinvestment Area with real property tax exemptions pursuant to the terms of the CRA Statute (each qualifying structure is referred to herein as a "*CRA Exempted Improvement*" for so long and to the extent that it is exempted from real property taxation pursuant to the CRA Statute); and

**WHEREAS**, the City has determined that it may, from time to time and only when the provision of additional tax incentives will be required to facilitate the development of the Project, cause the creation of certain Enterprise Zones (each an "*Enterprise Zone*") within the meaning of Sections 5709.61 through 5709.69 of the Ohio Revised Code (collectively, the "*Enterprise Zone Statute*") and provide qualifying real property located within any such Enterprise Zone with real property tax exemptions pursuant to the terms of the Enterprise Zone Statute (each qualifying real property is referred to herein as an "*Enterprise Zone Exempted Property*" for so long and to the extent that it is exempted from real property taxation pursuant to the Enterprise Zone Statute); and

**WHEREAS**, this Council finds and determines that notice of this proposed Ordinance has been delivered to all affected school districts in accordance with Sections 5709.40 and 5709.83 of the Ohio Revised Code and hereby ratifies the giving of that notice;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Huber Heights, Miami County, Ohio that:

Section 1. Creation of Incentive Districts. Pursuant to Section 5709.40(C) of the Ohio Revised Code, this Council hereby creates the "Miami County No. 1 Incentive District", the "Miami County No. 2 Incentive District", and the "Miami County No. 3 Incentive District", the boundaries of which shall be coterminous with the boundaries of the Parcels included therein, which Parcels and respective Districts are also identified in Exhibit A attached hereto. Each District shall have a life commencing on the effective date of this Ordinance and terminating on December 31 of the last year in which Service Payments (as defined below) have been paid in connection with Improvements (as defined below) on the Property. Pursuant to Section 5709.40(A)(5), the engineer for the City has certified to this Council that (a) each District is located in the City, (b) the total acreage of each District is not more than 300 acres, (c) each District is enclosed by a continuous boundary, and (d) the existing public infrastructure serving the Districts is inadequate to meet the development needs of the Districts as evidenced by the Development Plan.

Section 2. Tax Exemption. Pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.40, this Council hereby finds and determines that 100% of the increase in assessed value of each Parcel subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "*Improvement*" as defined in Section 5709.40 but which Improvement shall not include the increase in assessed value of any CRA Exempted Improvement located upon such Parcel for so long and to the extent that such CRA Exempted Improvement is exempt from real property taxation pursuant to the CRA Statute nor shall the



Improvement include the increase in assessed value of any Parcel located within the Property for so long and to the extent that such Parcel is an Enterprise Zone Exempted Property) is hereby declared to be a public purpose, and shall be exempt from taxation for a period commencing with the first tax year that begins after the effective date of this Ordinance and in which an Improvement first appears on the tax list and duplicate of real and public utility property and ending on the earlier of (a) thirty (30) years after such exemption commenced, 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 and 5709.42 of the Ohio Revised Code.

Section 3. Payment of Service Payments. As provided in Ohio Revised Code Section 5709.42, the owner of each Parcel is hereby required to, and shall make, service payments in lieu of taxes with respect to the Improvements allocable thereto to the Treasurer of Miami County, Ohio (the "*County Treasurer*") on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against that Parcel if it were not exempt from taxation pursuant to Section 2. Any late payments shall be subject to penalty and bear interest at the then current rate established under Ohio Revised Code Sections 323.121(B)(1) and 5703.47, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the payment of penalties and interest are collectively referred to herein with the service payments in lieu of taxes as the "*Service Payments*"). The Service Payments, and any other payments in respect of each Parcel which are received by the County Treasurer in connection with the reduction required by Ohio Revised Code Section 319.302, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "*Property Tax Rollback Payments*"), shall be allocated and distributed in accordance with Section 5 of this Ordinance.

Section 4. Intergovernmental Agreement. The Public Infrastructure Improvements set forth in Exhibit B hereto and to be made or caused to be made by the City are hereby designated as public infrastructure improvements that benefit or serve, or that once made will benefit or serve, the Property. Pursuant to the Intergovernmental Agreement, the City has directed the Montgomery County TID to design, construct, finance, operate and maintain the Phase I Improvements. The City may, pursuant to such agreement as may hereafter be approved by this Council, direct the Montgomery County TID to design, construct, finance, operate and maintain such other Public Improvements as the City determines would be in the best interests of the City.

Section 5. Distribution of Payments to the City; the School District. Pursuant to Ohio Revised Code Sections 5709.40 and 5709.42, the County Treasurer is hereby requested to distribute from each Service Payment and Property Tax Rollback Payment to the Bethel Local School District the amount that the School District would otherwise receive as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement related to each Parcel absent the passage of this Ordinance, and shall distribute all remaining amounts to the City for further deposit into the Fund (as defined below).

All distributions required under this Section 5 shall be made at the same time and in the same manner as real property tax distributions.



Section 6. Creation of TIF Fund and Accounts. This Council hereby establishes pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, the Miami County Municipal Public Improvement Tax Increment Equivalent Fund (the "*Fund*") and within that Fund, the Miami County No. 1 Municipal Public Improvement Tax Increment Equivalent Account (the "*Miami County No. 1 Account*") the Miami County No. 2 Municipal Public Improvement Tax Increment Equivalent Account (the "*Miami County No. 2 Account*"), and the Miami County No. 3 Municipal Public Improvement Tax Increment Equivalent Account (the "*Miami County No. 3 Account*" and collectively with the Miami County No. 1 Account and the Miami County No. 2 Account, the "*Account*"). The Fund and the Accounts shall be maintained in the custody of the City and shall receive all distributions required to be made to the City pursuant to Section 5, with the respective portions of the Service Payments and Property Tax Rollback Payments being deposited in the respective Accounts. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvements on the Parcels and so deposited pursuant to law as provided in Ohio Revised Code Section 5709.42 shall be used solely for the purposes authorized in Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43, including, but not limited to, paying debt service on any City securities issued to finance the Public Infrastructure Improvements and paying any costs of the Public Infrastructure Improvements, in a manner which is consistent with this Ordinance. For purposes of this Ordinance, "*costs*" of the Public Infrastructure Improvements payable from the Fund and the Accounts shall also include the items of "*costs of permanent improvements*" set forth in Section 133.15(B) of the Ohio Revised Code, and incurred with respect to the Public Infrastructure Improvements.

The Fund and the Accounts shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time said Fund and Accounts shall be dissolved and any incidental surplus funds remaining therein transferred to the City's General Fund, all in accordance with Ohio Revised Code Section 5709.43.

Moneys deposited in the Fund and the Accounts shall be used as follows:

- a. first, to pay (including any reimbursements to the City) for or finance the costs of the Phase I Improvements identified in this Ordinance, including but not limited to, the payment of debt service on debt issued to pay the costs of those Phase I Improvements, and
- b. second, to pay (including any reimbursements to the City) for or finance the costs of the Phase II Improvements identified in this Ordinance, including but not limited to, the payment of debt service on debt issued to pay the costs of those Phase II Improvements.

Section 7. Public Infrastructure Improvements. The Public Infrastructure Improvements set forth in Exhibit B hereto are hereby designated as those public infrastructure improvements that benefit or serve, or that once made will benefit or serve, the Property.

Section 8. TIF Agreement. The Tax Increment Financing Agreement relating to the Districts, in the form presently on file with the Clerk of Council, providing for, among other things, the payment of such Service Payments, is hereby approved and authorized with changes therein and amendments thereto not inconsistent with this Ordinance and not substantially adverse to this City



and which shall be approved by the City Manager. The City Manager, for and in the name of this City, is hereby authorized to execute that Tax Increment Financing Agreement with each Owner and amendments thereto, provided further that the approval of changes or amendments by the City Manager, and the character of the changes or amendments as not being substantially adverse to the City, shall be evidenced conclusively by the City Manager's execution thereof. This Council further hereby authorizes and directs the City Manager, the Director of Planning and Development or other appropriate officers of the City, to make such arrangements as are necessary and proper for collection of said Service Payments from the owners of the Parcels.

Section 9. Further Authorizations. This Council further hereby authorizes and directs the City Manager, the Director of Law, the Director of Finance, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance.

Section 10. Notification of Passage. Pursuant to Ohio Revised Code Section 5709.40, the Clerk of this Council is hereby directed to deliver a copy of this Ordinance to the Director of the Department of Development of the State of Ohio within fifteen days after its passage. On or before March 31 of each year that the exemption set forth in Section 2 hereof remains in effect, the Director of Development or other authorized officer of this City shall prepare and submit to the Director of the Department of Development of the State of Ohio the status report required under Section 5709.40(G) of the Ohio Revised Code.

Section 11. Tax Incentive Review Council. The City hereby creates the Miami County Tax Incentive Review Council for the TIF Area with the membership of that Council to be constituted in accordance with Section 5709.85 of the Ohio Revised Code. That Council shall, in accordance with Section 5709.85 of the Ohio Revised Code, review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other such matters as may properly come before that Council, all in accordance with Ohio Revised Code Section 5709.85.

Section 12. Amendment of Ordinance No. 2003-O-1409. The third paragraph of Section 4 of the Ordinance No. 2003-O-1409 passed on April 28, 2003 is hereby amended to provide as follows:

“The Fund shall remain in existence so long as such Service Payments are collected and used for the aforesaid purposes, after which the Fund shall be dissolved in accordance with Section 5709.43 of the Ohio Revised Code. Upon such dissolution, any incidental surplus remaining in the Fund shall be disposed of as provided in Section 5709.43(D) of the Ohio Revised Code. Moneys deposited in the Fund shall be used as follows:”

The existing third paragraph of Ordinance No. 2003-O-1409 is hereby repealed.

Section 13. Open Meetings. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

Section 14. Emergency Measure. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of this City, and for the further reason that this Ordinance is required to be immediately effective in order that the Montgomery County TID can timely initiate and proceed with the construction of the Phase I Improvements; wherefore, this Ordinance shall be effective immediately upon its passage. Effective Date.


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Passed by Council on the 22nd day of August, 2005; 7 Yeas; 0 Nays

AUTHENTICATION:

  
Clerk of Council

Date: 8/23/2005

  
Mayor

Date: 8-23-05

*MiamiCoTIFOrdinance*

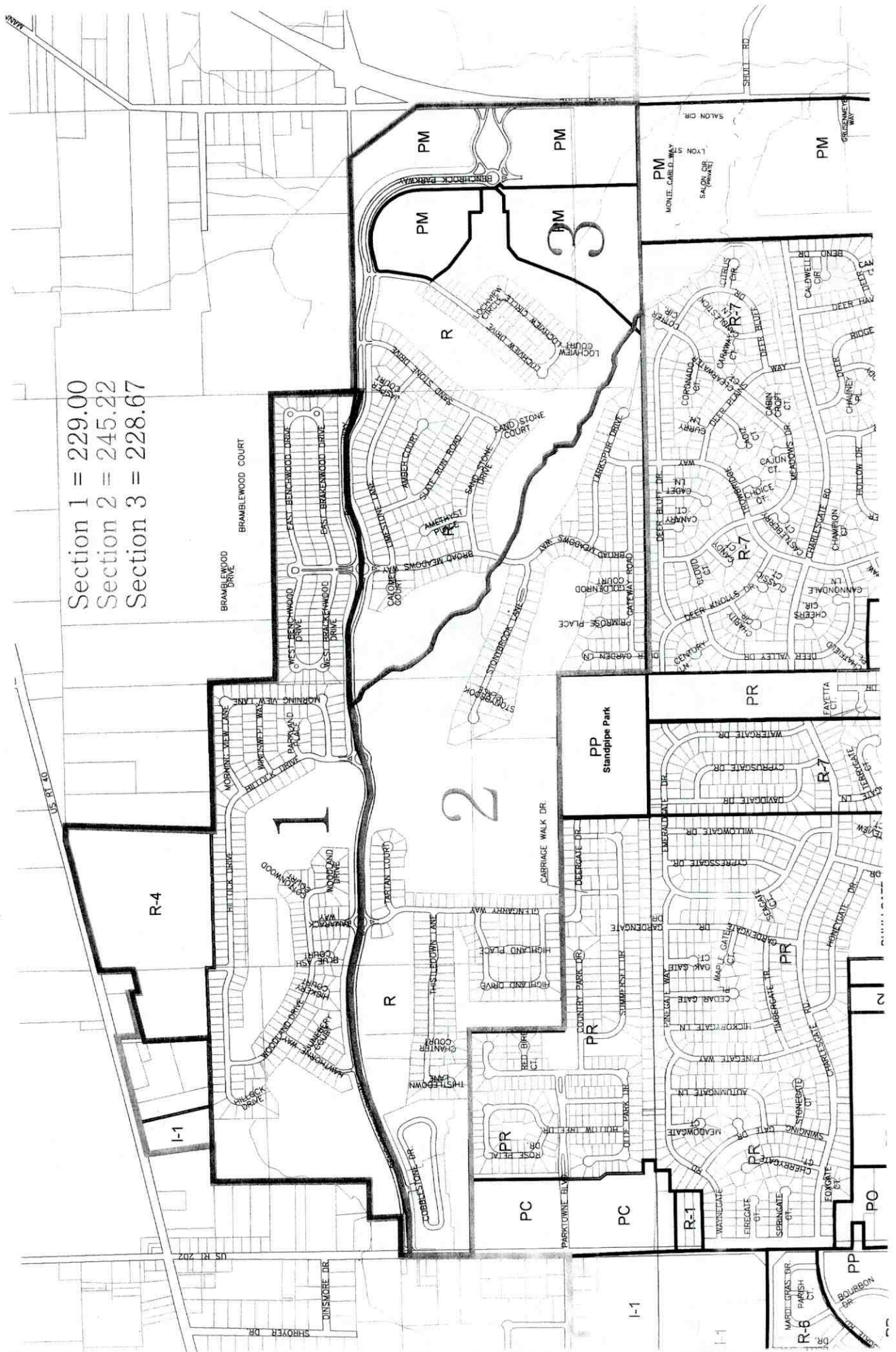


EXHIBIT A

DEPICTION OF PROPERTY

The following real estate situated in the City of Huber Heights, County of Miami and State of Ohio:

Section 1 = 229.00  
 Section 2 = 245.22  
 Section 3 = 228.67





Legal Description  
**RESIDENTIAL INCENTIVE DISTRICT, AREA 2**  
**CITY OF HUBER HEIGHTS, MIAMI COUNTY, OHIO**  
**SECTIONS 13, 19 AND 25, TOWN 2, RANGE 9 MRs**  
**245.22 ACRES**

Situate in the City of Huber Heights, County of Miami, State of Ohio, Sections 13, 19, and 25, Town 2, Range 9 MRs, and being more particularly described as follows:

Beginning for reference at an iron pin at the intersection of the center line of State Route 202 said center line being located 5 feet westerly from the north/south half section line and the center line of Benchrock Parkway;

Thence South  $5^{\circ} 26' 12''$  West along the center line of State Route 202 a distance of 100.00 feet to the South right-of-way line of Benchrock Parkway and the true place of beginning;

Thence South  $84^{\circ} 26' 12''$  East along the South right-of-way line of Benchrock Parkway a distance of 251.58 feet to a point of curvature;

Thence along the arc of a curve deflecting to the left having a radius of 1,700 feet a central angle of  $11^{\circ} 29' 49''$  an arc length of 341.13 feet a chord which bears North  $89^{\circ} 48' 53''$  East a chord length of 340.55 feet to a point of tangency;

Thence North  $5^{\circ} 14' 10''$  West a distance of 25.00 feet to a point;

Thence North  $83^{\circ} 53' 49''$  East a distance of 10.50 feet to a point;

Thence South  $5^{\circ} 4' 21''$  East a distance of 25.00 feet to a point in the South line of Benchrock Parkway;

Thence along the arc of a curve deflecting to the left having a radius of 3,000 feet a central angle of  $10^{\circ} 37' 19''$  an arc length of 315.16 feet a chord which bears North  $78^{\circ} 24' 14''$  East a chord length of 314.71 feet to a point of tangency;

Thence North  $16^{\circ} 34' 26''$  West at right angles to the side line a distance of 100 feet to a point in the center line of Benchrock Parkway;

Thence North  $73^{\circ} 05' 34''$  East continuing on the center line of Benchrock Parkway a distance of 299.71 feet to a point of curvature;

Thence along the arc of a curve deflecting to the right having a radius of 3,000 feet a central angle of  $21^{\circ} 42' 43''$  an arc length of 1,136.84 feet a chord which bears North  $83^{\circ} 56' 56''$  East a chord length of 1,130.05 feet to a point of tangency;

Thence South  $85^{\circ} 11' 42''$  East a distance of 183.94 feet to a point of curvature;

Thence along the arc of a curve deflecting to the right having a radius of 1,000 feet a central angle of  $15^{\circ} 08' 24''$  an arc length of 264.24 feet a chord which bears South  $77^{\circ} 37' 30''$  East a chord length of 263.47 feet to a point of tangency;

Thence South  $70^{\circ} 03' 16''$  East a distance of 204.65 feet to a point of curvature;

Thence along the arc of a curve deflecting to the left having a radius of 500 feet a central angle of  $14^{\circ} 39' 5''$  an arc length of 127.86 feet a chord which bears South  $77^{\circ} 22' 50''$  East a chord length of 127.51 feet to a point of tangency;

Thence South  $84^{\circ} 42' 23''$  East a distance of 611.63 feet to a point of curvature;

Thence along the arc of a curve deflecting to the right having a radius of 1,575 feet a central angle of  $18^{\circ} 56' 30''$  and arc length of 520.69 feet a chord which bears South  $75^{\circ} 14' 7''$  East a chord length of 518.32 feet to a point of a reverse curve;

Thence along the arc of a curve deflecting to the left having a radius of 550 feet a central angle of  $43^{\circ} 55' 11''$  an arc length of 421.60 feet a chord which bears South  $87^{\circ} 43' 28''$  East a chord length of 411.35 feet to a point of tangency;

Thence North  $70^{\circ} 18' 57''$  East a distance of 67.75 feet to a point of curvature;

Thence along the arc of a curve deflecting to the right having a radius of 375 feet a central angle of  $25^{\circ} 00' 00''$  an arc length 163.62 feet a chord which bears North  $82^{\circ} 48' 57''$  East a chord length of 162.33 feet to a point of tangency;

Thence South  $84^{\circ} 41' 3''$  East continuing along the center line of Benchrock Parkway a distance of 122.40 feet to the center line of Dry Lick Run;

Thence Southeasterly along the meandering center line of Dry Lick Run a distance of approximately 4,722.00 feet to a point in the South line of a 100.042 acre tract conveyed to the City of Huber Heights by Deed recorded in Volume 731, Page 579 of Miami County Deed Records said point is also on the Miami/Montgomery County line at the Northeast corner of H.C. Huber, Plat 60.

Thence Westerly along the Miami/Montgomery County line a distance of 3,356.54 feet to the Southeast corner of a 25.7375 acre tract conveyed to the City of Huber Heights as recorded in Volume 608, Page 434 of Miami County Deed Records;

Thence North  $5^{\circ} 2' 42''$  West along the East line of the said 25.7375 acre tract 836.92 feet to a point at the Northeast corner;

Thence Westerly along the North side of the 25.7375 acre tract and the North side of the Parktowne Subdivision, Section 9 and Section 3, 3,281.55 feet to a point at the Southwest corner of a 10.001 acre tract conveyed to Joseph and Janet Blackford as recorded in Volume 566, Page 613 of Miami County Deed Records;

Thence Northerly along the West line of the 10.001 acre Blackford tract 853.02 feet to a point at the interior corner of the property;



Residential Incentive District, *Area 2*  
CITY OF HUBER HEIGHTS, MIAMI COUNTY, OHIO  
SECTIONS 13, 19 AND 25, TOWN 2, RANGE 9 MRs  
245.22 ACRES  
Page 3

Thence Westerly along the South line of the 10.001 Blackford property a distance of 2056.80 feet to a point in the center line of Old Troy Pike (State Route 202);

Thence Northerly along the center line of Old Troy Pike (State Route 202) a distance of 518.91 feet to the place of beginning containing 245.22 acres more or less.

Legal Description  
**RESIDENTIAL INCENTIVE DISTRICT, AREA 1**  
**CITY OF HUBER HEIGHTS, MIAMI COUNTY, OHIO**  
**SECTIONS 13, 19 AND 25, TOWN 2, RANGE 9 MRs**  
**229.01 ACRES**

Situate in the City of Huber Heights, County of Miami, State of Ohio, Sections 13, 19, and 25, Town 2, Range 9 MRs, and being more particularly described as follows:

Beginning at an iron pin at the intersection of the center line of State Route 202 said center line being located 5 feet westerly from the north/south half section line and the center line of Benchrock Boulevard;

Thence North  $5^{\circ} 26' 12''$  East with the center line of State Route 202 approximately 65.76 feet to the southwest corner of a 1.367 acre Bethel Township cemetery parcel;

Thence South  $84^{\circ} 26' 12''$  East with the South line of said Bethel Township Association cemetery land 347.44 feet to a point in the Southeast corner of said land;

Thence North  $5^{\circ} 17' 45''$  East along the east line of the said Bethel Township Association land and the Calvary General Baptist Church, Incorporated land 278.07 feet to a point in the South line of a 1.30 acre parcel conveyed to Kenneth D. Miller by deed book 570, page 547;

Thence Easterly along the south line of the said Kenneth D. Miller property and the South line of a 2.189 acre parcel conveyed to Kenneth D. Miller and Robert G. Fundersol by deed book 505, page 921 368.4 feet to a point at the Southeast corner of said parcel;

Thence Northerly along the West line of a 20 acre parcel conveyed to Collins R. and Joann M. Allred by deed book 565, page 785 a distance of 1,397.62 feet to an iron pin in the Northwest corner of said Allred parcel;

Thence Easterly along the North line of the said 20 acre parcel and a portion of the North line of the 44.517 acre Allen C. Henrick tract a distance of 1,345.6 feet to a point in the Southeast corner of a 3.807 acre tract conveyed to Bosma Enterprises by deed book 592, page 488;

Thence Northerly with the East line of the said Bosma Enterprises 3.807 acre tract and the East line of Bosma Enterprises 3.733 acre tract as recorded in deed book 548, pages 261 through 263 a distance of 692.02 feet to a point at the Southwest corner of a 2.007 acre tract conveyed to David and Lori Bosma as recorded in deed book 595, page 131;

Thence Northeasterly along the South line of the said 2.007 acre David and Lori Bosma tract a distance of 61.40 feet to a point;

Thence Easterly a distance of 391.99 feet to a point in the West line of a tract of land conveyed to Eric and Aimee Bosma as recorded in deed book 740, page 650;

Thence Southerly a distance of 85.57 feet to the Southwest corner of said Eric and Aimee Bosma land;

Thence Easterly a distance of 208.60 feet to Kendal Group in lot 166 as recorded in deed book 732, pages 727 through 730;



Residential Incentive District, Area 1  
CITY OF HUBER HEIGHTS, MIAMI COUNTY, OHIO  
SECTIONS 13, 19 AND 25, TOWN 2, RANGE 9 MRs  
229.01 ACRES  
Page 2

Thence North  $5^{\circ} 43' 40''$  East with the East line of Section 25, a distance of 443.50 feet to a point in the centerline of U.S. route 40;

Thence North  $82^{\circ} 53' 10''$  East with the centerline of U.S. Route 40, a distance of 20.51 feet to a R.R. spike;

Thence along the centerline of U.S. Route 40 and the North line of the 37.014 acre tract of land conveyed to Stephan and Rosemary Hammer in the deed records of Miami County, Ohio Book 563, Page 959, and as recorded in PB 20, Page 101 North  $82^{\circ} 40' 32''$  East a distance of 944.52 feet to a R.R. spike;

Thence South  $5^{\circ} 31' 00''$  West a distance of 66.70 feet to an iron pin;

Thence North  $82^{\circ} 34' 00''$  East a distance of 227.69 feet to an iron pin;

Thence South  $84^{\circ} 56' 26''$  East a distance of 184.55 feet to an iron pin;

Thence along the East line of said Hammer tract, South  $7^{\circ} 56' 28''$  West a distance of 1310.41 feet to an iron pin at the southeast corner of said Hammer tract and on the North line of a 77.035 acre tract conveyed to the Kendall Group Limited in the deed records of Miami County, Ohio Book 732 Pages 727-730 and known as Inlot No. 166;

Thence along the North line of said 77.035 acre tract South  $84^{\circ} 23' 00''$  East a distance of 905.04 feet to an iron pin;

Thence South  $84^{\circ} 00' 30''$  East, a distance of 454.31 feet to a stone in the East line of the Northwest Quarter of Section 19;

Thence South  $5^{\circ} 19' 05''$  West with the East line of the Northwest Quarter of Section 19, a distance of 606.45 feet to a corner;

Thence South  $84^{\circ} 24' 23''$  East a distance of 2673.32 feet to a point in the East line of Section 19;

Thence South  $5^{\circ} 05' 30''$  West with the East line of Section 19, a distance of 732.60 feet to an iron pin at the Northwest corner of the Southwest Quarter of Section 13;

Thence continuing South  $5^{\circ} 5' 30''$  West with the East line of Section 19 a distance of 105.00 feet to the center line of Benchrock Parkway;

Thence along the arc of the curve deflecting to the right having a radius of 500 feet, a central angle of  $33^{\circ} 49' 21''$  an arc length of 299.87 feet; a chord of which bears North  $67^{\circ} 34' 10''$  West a chord length of 295.22 feet to a point of reverse curve;

Thence along the arc of a curve reflecting to the left having a radius of 400 feet a central angle of  $33^{\circ} 6' 44''$  an arc length of 232.36 feet a chord of which bears North  $67^{\circ} 51' 33''$  West a chord length of 228.96 feet to a point of tangency;

Thence North  $84^{\circ} 54' 54''$  West a distance of 472.72 feet; to a point of curvature;

Thence along the arc of a curve deflecting to the left having a radius of 400 feet a central angle of  $22^{\circ} 30' 42''$  an arc length of 191.72 feet; a chord of which bears South  $83^{\circ} 49' 45''$  West a chord length of 190.47 feet to a point of reverse curve;

Thence along the arc of a curve deflecting to the right having a radius of 1,200 feet a central angle of  $45^{\circ} 43' 30''$  an arc length of 969.66 feet a chord which bears North  $84^{\circ} 33' 51''$  West a chord length of 941.92 feet to a point of reverse curve;

Thence along the arc of a curve deflecting to the left having a radius of 400 feet a central angle of  $23^{\circ} 12' 48''$  an arc length of 157.20 feet; a chord which bears North  $73^{\circ} 18' 30''$  West a chord length of 156.11 feet to a point of tangency;

Thence North  $84^{\circ} 54' 54''$  West a distance of 610.40 feet to a point;

Thence South  $88^{\circ} 9' 51''$  West a distance of 231.78 feet to a point;

Thence North  $84^{\circ} 41' 3''$  West a distance of 122.40 feet to a point of curvature;

Thence along the arc of a curve deflecting to the left having a radius of 375 feet a central angle of  $25^{\circ} 00' 00''$  an arc length 163.62 feet a chord which bears South  $82^{\circ} 48' 57''$  West a chord length of 162.33 feet to a point of tangency;

Thence South  $70^{\circ} 18' 57''$  West a distance of 67.75 feet to a point of curvature;

Thence along the arc of a curve deflecting to the right having a radius of 550 feet a central angle of  $43^{\circ} 55' 11''$  an arc length of 421.60 feet a chord which bears North  $87^{\circ} 43' 28''$  West a chord length of 411.35 feet to a point of a reverse curve;

Thence along the arc of a curve deflecting to the left having a radius of 1,575 feet a central angle of  $18^{\circ} 56' 30''$  and arc length of 520.69 feet a chord which bears North  $75^{\circ} 14' 7''$  West a chord length of 518.32 feet to a point of tangency;

Thence North  $84^{\circ} 42' 23''$  a distance of 611.63 feet to a point of curvature;

Thence along the arc of a curve deflecting to the right having a radius of 500 feet a central angle of  $14^{\circ} 39' 5''$  an arc length of 127.86 feet a chord which bears North  $77^{\circ} 22' 50''$  West a chord length of 127.51 feet to a point of tangency;

Thence North  $70^{\circ} 03' 16''$  West a distance of 204.65 feet to a point of curvature;

Thence along the arc of a curve deflecting to the left having a radius of 1,000 feet a central angle of  $15^{\circ} 08' 24''$  an arc length of 264.24 feet a chord which bears North  $77^{\circ} 37' 30''$  West a chord length of 263.47 feet to a point of tangency;

Thence North  $85^{\circ} 11' 42''$  West a distance of 183.94 feet to a point of curvature;

Thence along the arc of a curve deflecting to the left having a radius of 3,000 feet a central angle of  $21^{\circ} 42' 43''$  an arc length of 1,136.84 feet a chord which bears South  $83^{\circ} 56' 56''$  West a chord length of 1,130.05 feet to a point of tangency;



Thence South  $73^{\circ} 05' 34''$  West a distance of 299.71 feet to a point of curvature;

Thence South  $16^{\circ} 34' 26''$  East at right angles to the center line a distance of 100 feet to a point in the South right-of-way line of Benchrock Parkway;

Thence along the arc of a curve deflecting to the right having a radius of 3,000 feet a central angle of  $10^{\circ} 37' 19''$  an arc length of 315.16 feet a chord which bears South  $78^{\circ} 24' 14''$  West a chord length of 314.71 feet to a point;

Thence North  $5^{\circ} 4' 21''$  West a distance of 25.00 feet to a point;

Thence South  $83^{\circ} 53' 49''$  West a distance of 10.50 feet to a point;

Thence South  $5^{\circ} 14' 10''$  East a distance of 25.00 feet to a point in the South right-of-way line of Benchrock Parkway;

Thence along the arc of a curve deflecting to the right having a radius of 1,700 feet a central angle of  $11^{\circ} 29' 49''$  an arc length of 341.13 feet a chord which bears South  $89^{\circ} 48' 53''$  West a chord length of 340.55 feet to a point of tangency;

Thence North  $84^{\circ} 26' 12''$  West a distance of 251.58 feet to a point in the center line of State Route 202;

Thence North  $5^{\circ} 26' 12''$  East 100.00 feet to the center line of Benchrock Boulevard and the true place of beginning containing 229.01 acres;

Legal Description  
**RESIDENTIAL INCENTIVE DISTRICT, AREA 3**  
**CITY OF HUBER HEIGHTS, MIAMI COUNTY, OHIO**  
**SECTIONS 13, 19 AND 25, TOWN 2, RANGE 9 MRs**  
**228.67 ACRES**

Situate in the City of Huber Heights, County of Miami, State of Ohio, Sections 13, 19, and 25, Town 2, Range 9 MRs, and being more particularly described as follows:

Beginning at an iron pin at the intersection of the center line of State Route 201 said center line being located on the North/South half section line and the South line of Miami County;

Thence Westerly along the Miami/Montgomery County line a distance of 1,982.54 feet to a point at the Northeast corner of H.C. Huber, Plat 60;

Thence Northwesterly along the meandering center line of Dry Lick Run a distance of approximately 4,722.00 feet to a point in the center line of Benchrock Parkway.

Thence North  $88^{\circ} 9' 51''$  East a distance of 231.78 feet to a point;

Thence North  $84^{\circ} 54' 54''$  West a distance of 610.40 feet to a point of curvature;

Thence along the arc of a curve deflecting to the right having a radius of 400 feet a central angle of  $23^{\circ} 12' 48''$  an arc length of 157.20 feet; a chord which bears South  $73^{\circ} 18' 30''$  East a chord length of 156.11 feet to a point of reverse curve;

Thence along the arc of a curve deflecting to the left having a radius of 1,200 feet a central angle of  $45^{\circ} 43' 30''$  an arc length of 969.66 feet a chord which bears South  $84^{\circ} 33' 51''$  East a chord length of 941.92 feet to a point of reverse curve;

Thence along the arc of a curve deflecting to the right having a radius of 500 feet a central angle of  $22^{\circ} 30' 42''$  an arc length of 191.72 feet; a chord of which bears South  $83^{\circ} 49' 45''$  West a chord length of 190.47 feet to a point of tangency;

Thence South  $84^{\circ} 54' 54''$  East a distance of 472.72 feet; to a point of curvature;

Thence along the arc of a curve reflecting to the right having a radius of 400 feet a central angle of  $33^{\circ} 6' 44''$  an arc length of 232.36 feet a chord of which bears South  $67^{\circ} 51' 33''$  East a chord length of 228.96 feet to a point of reverse curve;

Thence along the arc of the curve deflecting to the left having a radius of 500 feet, a central angle of  $33^{\circ} 49' 21''$  an arc length of 299.87 feet; a chord of which bears South  $67^{\circ} 34' 10''$  East a chord length of 295.22 feet to a point of tangency;

Thence continuing North  $5^{\circ} 5' 30''$  East with the East line of Section 19 a distance of 105.00 feet an iron pin at the Northwest corner of the Southwest Quarter of Section 13;

Thence South  $84^{\circ} 20' 09''$  East along the half station line of Section 13 a distance of 2,185.00 feet to a point in the Northern extension of the Southwest lot line of a 3.274 acre parcel conveyed to Mark and Donna Grusenmeyer as recorded in Volume 685, Page 598, of Miami County deed records;

Thence Southerly along the said 3.274 acre Grusenmeyer parcel and the Southerly extension there of a distance of 889.00 feet to a point in the center line of State Route 201;



Residential Incentive District, *Area 3*  
CITY OF HUBER HEIGHTS, MIAMI COUNTY, OHIO  
SECTIONS 13, 19 AND 25, TOWN 2, RANGE 9 MRs  
228.67 ACRES  
Page 2

Thence Southerly along the formed center line of State Route 201 now known as Mann Road a distance of 1,960.00 feet to the South line of Miami County and the true place of beginning containing 228.67 acres more or less;

## EXHIBIT B

### DESCRIPTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS

#### *Phase I Improvements:*

The Phase I Improvements will include reconstruction and improvements to the existing interchanges located at Interstate 70 and State Route 202 and Interstate 70 and State Route 201, including, but not limited to, excavating, grading, paving, installing storm sewers, lighting, landscaping, traffic signalization, and also including design and other related costs, any right-of-way acquisition, erosion and sediment control measures, grading and other related work, survey work, soil engineering and construction staking, and in each case, all other costs and improvements necessary and appurtenant thereto, all of which will benefit or serve, or that once made will benefit or serve, the TIF Area.

#### *Phase II Improvements:*

The Phase II Improvements will include all Public Infrastructure Improvements (as that term is defined in Ohio Revised Code Section 5709.40) that benefit or serve, or that once made will benefit or serve, the TIF Area. The Phase II Improvements will also include, but not be limited to, excavating, grading, paving, constructing and installing curbs and gutters, public utilities which include water mains, sanitary sewers, and storm sewers, street lighting, sidewalks, bikeways, landscaping, traffic signalization, and also including design and other related costs, any right-of-way acquisition, erosion and sediment control measures, grading and other related work, survey work, soil engineering and construction staking, and in each case, all other costs and improvements necessary and appurtenant thereto, all of which will benefit or serve, or that once made will benefit or serve, the TIF Area.





City of Huber Heights  
6131 Taylorsville Road  
Huber Heights, Ohio 45424

937.233.1423

Fax 937.233.1272

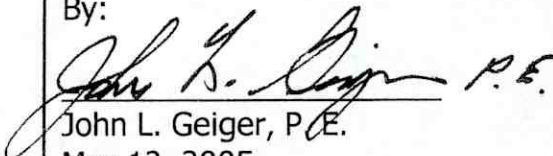
www.ci.huber-heights.oh.us

## CERTIFICATION OF INFRASTRUCTURE INSUFFICIENCY

I, John L. Geiger, P.E., City Engineer of Huber Heights, Ohio, hereby certify that the roadways and utilities servicing the areas incorporated by the City of Huber Heights in Miami County are deficient with respect to municipal water distribution, storage and processing system, sanitary sewer system, storm water drainage system, sidewalks and roadway and traffic signal capacity together with the State Routes 201 and 202 Interchange capacity at Interstate 70.

It is necessary that additional public funds be generated to correct these existing deficiencies.

By:

  
John L. Geiger, P.E.  
May 12, 2005

STATE OF OHIO)

) SS.

COUNTY OF MONTGOMERY)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named John L. Geiger, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Huber Heights, Ohio, this 12<sup>th</sup> day of May, 2005.

Julie A. Francis  
Notary Public

In and for the State of Ohio  
My Commission Expires  
March 9, 2010

  
NOTARY PUBLIC

