

1st reading [3-2-22]
2nd reading [5-15-22]
3rd reading [3-2-22]
Voted On [3-2-22]
Ayes 7 Nays 0
PASSED X DEFEATED

ORDINANCE NO. 2022-3

AN ORDINANCE

AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT IN CONNECTION WITH THE DEVELOPMENT AND REDEVELOPMENT OF REAL PROPERTY WITHIN ORANGE VILLAGE, OHIO AS PART OF A TAX INCREMENT FINANCING PROGRAM UNDER OHIO REVISED CODE SECTION 5709.41; ACCEPTING CONVEYANCE OF A PARCEL OF REAL PROPERTY FROM ST REAL ESTATE HOLDINGS, LLC AND APPROVING THE RECONVEYANCE OF SUCH PARCEL TO ST REAL ESTATE HOLDINGS, LLC, AS PROVIDED BY SECTION 5709.41(B) OF THE OHIO REVISED CODE

WHEREAS, Orange Place Development, LLC (collectively, with its various affiliates, the "Company") is pursuing the redevelopment of an approximately 2.367-acre site currently identified as 4009 Orange Place, Orange Village, OH 44122 and as Parcel ID 901-42-003, (the "Development Site"); and

WHEREAS, the Company desires to develop and redevelop the Development Site in connection with the development of a Restoration Hardware "mansion" retail facility, including the private improvements and infrastructure improvements that are necessary to help ensure its success (the "Project"), in accordance with the terms, conditions, covenants and warranties in the Economic Development Agreement ("Development Agreement") that has been negotiated by the Company and Village attached hereto as Exhibit A; and

WHEREAS, the Village, in pursuit of its urban redevelopment initiatives, has determined that the construction of the Project, the creation of jobs at the Development Site, and the mutual fulfillment of the Development Agreement are all in the vital and best interests of the Village and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and regulation

WHEREAS, the Village anticipates providing project-based tax increment financing for the Project, to be authorized by a separate ordinance pursuant to Ohio Revised Code ("R.C.") Section 5709.41 ("TIF Ordinance"); and

WHEREAS, in order to take the actions related to the tax-increment financing for the Project, (1) the Village, engaged in urban redevelopment, must have held fee title to the Development Site prior to the adoption of the TIF Ordinance, and (2) the Development Site must be conveyed or leased to any person either before or after the adoption of the TIF Ordinance, pursuant to Ohio Revised Code Section 5709.41(B); and

WHEREAS, the Village wishes to accept conveyance of the Development Site from ST Real Estate Holdings, LLC (the "Current Owner") and to reconvey the Development Site to the Current Owner;

WHEREAS, the Village has determined that it is necessary and appropriate and in the best interest of the Village to accept such conveyance and to reconvey the Development Site as described above; and

WHEREAS, Section 13 of Article VIII of the Ohio Constitution provides that it is in the public interest and proper public purpose for the Village to support economic development and improve the economic and general well-being of the people of the Village to create or preserve jobs and employment opportunities.

NOW, THEREFORE, be it ordained by Village Council for Orange Village, Ohio, that:

Section 1. That the Development Agreement, substantially in the form attached hereto as Exhibit A, which Development Agreement specifies, among other things, that (A) the plans for the Project be prepared and submitted to the Village for approval in accordance with all customary Village requirements, and (B) the Company obtain all building permits, zoning approvals, and other governmental approvals required for the Project, is hereby authorized and approved, together with such revisions or additions thereto as approved by the Mayor and Director of Law as are consistent with the objectives and requirements of this Ordinance and not otherwise materially adverse to the Village. The Mayor, for and in the name of the Village, with the approval of the Director of Law, is hereby authorized to execute the Development Agreement and any amendments thereto deemed by the Mayor to be necessary. The approval of changes or amendments by the Mayor and the character of the changes or amendments as not being inconsistent with this Ordinance and not being substantially adverse to the Village, shall be evidenced conclusively by the execution thereof by the Mayor, with the approval of the Director of Law.

Section 2. Pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.41(B), this Council hereby authorizes the acceptance of the conveyance of the Development Site to the Village and approves the reconveyance of the Development Site to the Current Owner.

Section 3. The Mayor is hereby authorized and directed, acting on behalf of the Village, to accept the conveyance of the Development Site and to execute and deliver a quit claim deed reconveying the Development Site to the Current Owner.

Section 4. The Mayor, Director of Law, or any other officials of the Village, as appropriate, are authorized and directed to sign any other documents, instruments or certificates and take such actions as are necessary or appropriate to consummate or implement the actions described in or contemplated by this Ordinance.

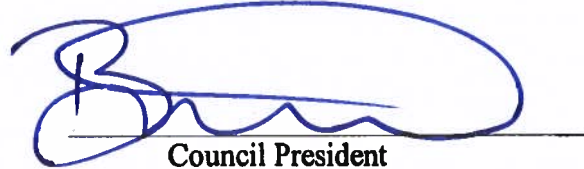
Section 5. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were passed in an open meeting of this

Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including R.C. Section 121.22.

Section 6. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of this Village and for the other reasons set forth in the preamble to this Ordinance is required to be immediately effective to allow for the completion of the Project, which are necessary to provide the desired redevelopment in the Village; wherefore, this Ordinance shall be in full force and effect from and immediately after the passage and approval by the Mayor.

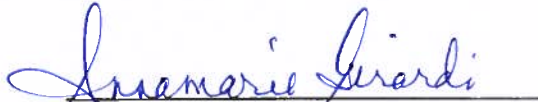
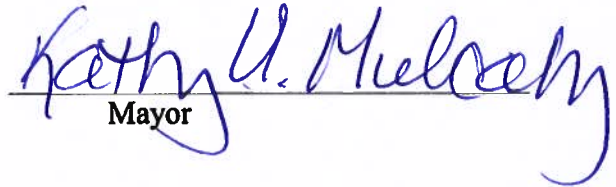
PASSED: MARCH 2, 2022

Submitted to the Mayor for
approval on this 2nd day of [MARCH, 2022]


Council President

Approved by the Mayor this
2nd day of [MARCH, 2022]

ATTEST:


Clerk of Council
Mayor

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. 2022-3 duly adopted by the Council of the Village of Orange, Ohio on [MARCH] 2, 2022.


Clerk of Council
Village of Orange, Ohio

ECONOMIC DEVELOPMENT AGREEMENT

THIS ECONOMIC DEVELOPMENT AGREEMENT (the “*Agreement*”) is entered into as of June 15, 2022, by and between ORANGE VILLAGE (the “*Village*”), a chartered municipal corporation duly organized and validly existing under the laws of the State of Ohio, having an address of 4600 Lander Road, Orange Village, Ohio 44022, and ORANGE PLACE DEVELOPMENT, LLC (the “*Company*”), a Delaware limited liability company with its principal offices located at 15 Koch Road, Corte Madera, CA 94925 (The Village and the Company are collectively referenced as “*Parties*.”).

RECITALS:

WHEREAS, the Company is pursuing the redevelopment of an approximately 2.367-acre site currently identified as 4009 Orange Place, Orange Village, OH 44122 and as Parcel ID 901-42-003 (the “*Development Site*”), in connection with the development of an “RH Gallery” retail facility, including the private improvements and infrastructure improvements that are necessary to help ensure its success (the “*Project*”), which is more particularly described in Exhibit A hereto; and

WHEREAS, the Development Site is currently owned by ST Real Estate Holdings, LLC, an Ohio limited liability company (the “*Current Owner*”); and

WHEREAS, the Village, in pursuit of its urban redevelopment initiatives, has determined that the construction of the Project, the creation of jobs at the Development Site, and the mutual fulfillment of this Agreement are all in the vital and best interests of the Village and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and regulation; and

WHEREAS, pursuant to Ohio Revised Code (“*Revised Code*”) Sections 5709.41 through 5709.43 (the “*TIF Statutes*”), the Village may utilize municipal urban redevelopment tax increment financing by passage of an ordinance (the “*TIF Ordinance*”) with respect to real property to which the Village has held fee title prior to adoption of the TIF Ordinance and therein declare the increase in the assessed value of any parcel of such property subsequent to the acquisition by the Village, as part of its urban redevelopment efforts, to be a public purpose and to exempt such increased value from real property taxation (the “*TIF Exemption*”), in order to fund the costs of the redevelopment of a site; and

WHEREAS, the Village plans to establish a municipal urban redevelopment tax increment financing program pursuant to the TIF Statutes with respect to the Development Site (the “*TIF*”) and determine that 100% of the increase in the assessed value of the Development Site subsequent to the acquisition of the Development Site by the Village is exempt from real property taxation for a period of up to 30 years, subject to certain conditions and limitations set forth herein; and

WHEREAS, as described herein, the allocation of TIF revenue in accordance with this Agreement will be dependent on the continued compliance by the Company with this Agreement; and

WHEREAS, in order to implement the TIF Exemption, the Current Owner will convey fee title to the Development Site to the Village for \$1.00 within thirty (30) days following the date that this Agreement is executed, and the Village will re-convey the Development Site to the Current Owner thereafter for the same amount, in each case on, and subject to, the terms of this Agreement; and

WHEREAS, the Development Site is subject to a Joint Economic Development Zone authorized by the City of Cleveland ("Cleveland"), the City of Warrensville Heights ("Warrensville Heights") and the Village on December 18, 1989 ("JEDZ Agreement"); and

WHEREAS, the Development Site is subject to certain income tax sharing provisions included in the JEDZ Agreement;

WHEREAS, the Development Site is located within the territory of the Warrensville Heights City School District ("School District");

WHEREAS, the Company has represented and agreed, and the Village's support for the Project is predicated on the understanding that the Company will comply with the terms and provisions of this Agreement; and

WHEREAS, the Village, by adoption of Ordinance No. 2022-3 by Village Council on March 2, 2022 (the "*Implementing Ordinance*"), has authorized the Mayor of the Village ("Mayor") to enter into this Agreement for the development of the Project on the Development Site; and

WHEREAS, the Parties desire, after the Development Site has been acquired by the Company, to place of record against the Development Site this Agreement and the agreed upon plan and schedule of development, including restrictions on use of the Development Site, with the intent that same shall be construed as covenants binding on the Parties and their successors in interest, and benefitting and running with the land, enforceable by the Parties hereto in accordance with the terms hereof.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and promises herein contained, the sufficiency of which are acknowledged by the Parties hereto, the Village and the Company hereby agree as follows:

I. INCORPORATION OF RECITALS; INTERPRETATION

A. The recitals and "Whereas" clauses set forth above are fully incorporated in this Agreement and specifically made a part hereof, as if fully restated here.

B. Any reference herein to the Village or the Village Council or Planning Commission, or to any officer thereof, includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

C. Any reference to a section or provision of the Constitution of the State, or to a section, provision or chapter of the Ohio Revised Code, or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented

or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this paragraph, if it constitutes in any way an impairment of the rights or obligations of the Village, the Company or any other party under this Agreement or any other instrument or document entered into in connection with any of the foregoing.

D. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa. The terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder,” “hereinafter” and similar terms refer to this Agreement; and the term “hereafter” means after, and the term “heretofore” means before, the date of this Agreement. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

II. COMPANY COVENANTS AND REPRESENTATIONS

A. The Company shall develop the Project in accordance with the plan and schedule of development submitted to the Village and currently on file (“*Development Plan*”), the modification of which may be approved by the Village consistent with and in compliance with the current ordinances, rules and regulations of the Village. Buildings constructed on the Development Site shall be of the general design as shown in the Development Plan.

B. The Company agrees that the Project will be constructed in conformity with the Development Plan, incorporating high-quality construction materials consistent with the RH Galleries that currently exist in Palm Beach, Florida, and Columbus, Ohio, and in a manner consistent with generally accepted construction industry standards and guidelines applicable to similar projects and in conformity with installation guidelines as may be recommended by various manufacturers of the building materials. If any portion of the Project does not meet the requirements of the Village’s planning and zoning code, then the Company must obtain the applicable Village approvals for the portion(s) of the Project through the appropriate reviewing body or reconstruct the noncomplying portion of the Project.

C. The Company, and any successors and assigns who subsequently become subject to this Agreement in accordance with Section XX(E) hereof (an “Assignee”), shall comply with all regulations and provisions set forth in the Village’s zoning code, subject to any now existing or hereafter applicable variances. The Company, and any Assignee, shall also comply with any applicable Federal, State and local regulations in addition to any of the requirements set forth in the zoning code.

D. The Company further covenants and agrees that:

(1) It is authorized to do business under the laws of the State of Ohio and is fully qualified to transact its business in the State of Ohio;

(2) It is not in violation of or in conflict with any provisions of the laws of the United States of America or the State applicable to the Company that would impair its ability to carry out its obligations contained in this Agreement;

(3) This Agreement has, by proper action, been duly authorized, executed and delivered by the Company, and all steps necessary to be taken by the Company have

been taken to constitute this Agreement, and the covenants and agreements of the Company contemplated herein and therein, are valid and binding obligations of the Company, enforceable in accordance with their terms;

(4) It has full power and authority to execute, deliver and perform this Agreement,

(5) The execution, delivery and performance of this Agreement do not, and will not, violate any provision of law applicable to the Company, or the Company's organizational or operating agreements, and neither the entering into this Agreement nor the performance thereof will constitute a violation or breach by the Company of any contract, agreement, understanding or instrument to which the Company is a party or by which the Company is subject or bound, or of any judgment, order, writ, injunction or decree issued against or imposed upon them as of the time of execution hereof, or will result in the violation of any applicable law, order, rule or regulation of any governmental or quasi-governmental authority;

(6) There is no pending litigation, investigation or claim which materially and adversely affects or which might materially and adversely affect the Company's performance of this Agreement and to the best of the Company's knowledge, there is no threatened litigation, investigation or claim that materially and adversely affects or that might materially and adversely affect the Company's performance of this Agreement; and

(7) The representations and agreements of the Company made in this Agreement are as of the date of the execution of this Agreement and such representations made by the Company are made with the knowledge and expectation that such representations are to be treated as material to the Village entering into this Agreement, and the Company further represents that to its knowledge, as of the date of this Agreement, no representation set forth in this Agreement contains any untrue statement of material fact.

E. The Company warrants, except as disclosed in writing to the Village, that it has not employed or retained any company or person other than a bona fide employee working solely for the Company to solicit or secure this Agreement, and that the Company has not paid or has not agreed to pay any fee, commission, percentage, brokerage fee, or other consideration contingent upon or resulting from the award or making of this Agreement. The Company warrants that it is not prohibited from contracting with the Village by any provision of the Ohio Revised Code relating to conflicts of interest, illegal interest in government contracts, or any other ethical prohibition, and for breach or violation of this warranty, the Village shall have the right to annul this Agreement with no further obligation or penalty.

III. VILLAGE REPRESENTATIONS

To the best of its knowledge, the Village represents to the Company as follows:

A. Neither the entering into this Agreement nor the performance thereof will constitute a violation or breach by the Village of any contract, agreement, understanding or instrument to

which the Village is a party, or by which the Village is subject or bound, of any judgment, order, writ, injunction or decree issued against or imposed upon them, or will result in the violation of any applicable law, order, rule or regulation of any governmental or quasi-governmental authority.

B. There is no pending or, threatened litigation, investigation or claim which affects or which might affect the anticipated TIF Ordinance or the Village's performance of this Agreement.

C. Except for actions contemplated by this Agreement, as of the date of the execution of this Agreement, the Village has no information or knowledge of any change contemplated in the applicable laws, ordinances or restrictions or any judicial or administrative action that would prevent, limit or impede the Company's undertaking of the Project or the Village's performance under, or the applicability and enforceability of, the anticipated TIF Ordinance.

IV. DESCRIPTION OF THE PROJECT

The Company shall construct, or cause to be constructed, a new multi-story mixed use commercial building to be known as the RH Gallery on the Development Site. The Project shall be generally consistent with the site plan attached hereto as Exhibit B (the "*Site Plan*"). The Village must approve any revisions or changes to the Site Plan.

V. CONVEYANCE OF THE DEVELOPMENT SITE

Transfer by the Current Owner of the title to the Development Site to the Village (the "*Initial Conveyance*") shall take place within thirty days of execution of this Agreement, or such other date as the parties may agree upon (the "*Initial Conveyance Date*"); provided, however that the Initial Conveyance shall occur prior to the passage of the TIF Ordinance. On the Initial Conveyance Date, the Current Owner shall convey the Development Site to the Village for \$1.00, by Limited Warranty Deed. The Company shall pay all customary closing costs relating to the Initial Conveyance. The Village agrees to neither make, nor permit to be made, any material changes to the condition of the Development Site during the period in which it owns the Development Site. During the period in which Village owns the Development Site, the Current Owner and the Company, and their respective employees, and their respective agents are permitted to enter upon the Development Site for the purpose of conducting activities associated with the Project at no cost to the Village, provided that such entry shall be at the sole risk of and the Current Owner and the Company and their respective employees, and their respective agents, and provided, further that the activities described in this Section V are subject to the indemnification provision of Section VIII of this Agreement.

On the Initial Conveyance Date, or as early as is practicable following the Initial Conveyance Date, but in any event no later than two business days following the Initial Conveyance Date, the Village shall re-convey the Development Site to the Current Owner (the "*Re-conveyance*"), for \$1.00, by Quitclaim Deed.

The Company shall pay all fees and costs related to the Initial Conveyance and Re-conveyance.

VI. TIF

Subject to the adoption of the TIF Ordinance, the TIF Exemption shall be authorized with respect to the Development Site. The TIF Exemption shall run for 30 years and provide a 100% exemption on the increase in assessed value of the Development Site as a result of the Project, subject to the conditions and limitations set forth in this Agreement. As described herein, the allocation of TIF revenue will be dependent on the continued compliance by the Company with this Agreement.

VII. TIF ORDINANCE

The Mayor agrees to submit the TIF Ordinance for placement on the Village Council agenda for approval by Council not later than sixty (60) days following latest to occur of (A) the Initial Conveyance, and (B) the Compensation Agreement (as defined hereinbelow) has been authorized and executed by the Village, Warrensville Heights, the School District, and the Company. The TIF Ordinance submitted by the Mayor shall be substantially in the form attached as Exhibit C.

VIII. TIF REIMBURSEMENT

Subject to the Initial Conveyance, Re-conveyance and the adoption of the TIF Ordinance, the Company will make statutory service payments in lieu of taxes with respect to the Development Site (the "*Service Payments*") to the Cuyahoga County Treasurer in accordance with the requirements of the TIF Statutes, the TIF Ordinance and the provisions of Ohio law, in the same manner as if the TIF Exemption with respect to the Development Site had not been established. The obligation to make Service Payments is absolute and unconditional. The Service Payments will be distributed by the Cuyahoga County Treasurer to an urban redevelopment tax increment equivalent fund created by the Village (the "*TIF Fund*").

The School District has approved the TIF Exemption and has authorized and executed a school compensation agreement among the Village, Warrensville Heights, the School District, and the Company (the "Compensation Agreement"). The Compensation Agreement provides, among other things, that the Village shall pay to the School District, solely out of Service Payments, within the times and in the amounts specified in the Compensation Agreement (the "Service Payment Compensation Amount").

Upon completion of the Project, the Company shall submit to the Village a written requisition, in such form as is reasonably acceptable to the Village (the "Written Requisition") certifying the actual costs of the Project (with the costs of the Project collectively referred to herein as the "Project Costs"). During such time as the Company is satisfying the Minimum Payroll Requirement as set forth in Section XII hereof, then semiannually, within 30 days following receipt by the Village of each semiannual real property tax settlement (each, a "Payment Date"), the Village shall disburse amounts in the TIF Fund in the following priority:

A. FIRST, to the School District in an amount equal to the Service Payment Compensation Amount;

B. SECOND, to pay any administrative and legal expenses incurred by the Village in connection with administering the TIF Exemption and this Agreement and other Village fees not previously paid by the Company; and

C. THIRD, any Service Payments remaining at that time in the TIF Fund shall be paid to the Company to reimburse Project Costs set forth in the Written Requisition.

Such disbursements from the TIF Fund shall continue until the earlier of the payment of all Project Costs or the termination of this Agreement in accordance with its terms. All payments to the Company hereunder on each Payment Date shall be made pursuant to written instructions provided by the Company.

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

At any time of which there exists a Company Default of this Agreement, the Village, at its option, may, but shall not be obligated to, by written notice to the Company, cease disbursements to the Company of proceeds from the TIF Fund until such Company Default has been cured. Furthermore, in the event of a Company Default that extends beyond the applicable cure period in this Agreement the Village shall have those remedies identified in this Agreement.

IX. SCHOOL COMPENSATION AGREEMENT

Subject to the passage of the TIF Ordinance, and the authorization of such by the board of education of the School District and the City Council for Warrensville Heights, the Village, Warrensville Heights, the School District, and the Company shall enter into the Compensation Agreement, which Compensation Agreement shall provide, among other things, that during the term of the TIF Exemption, the Village shall pay to the School District:

A. 25% of the Service Payments from the Village (as described above); and

B. 31.25% of the taxes levied and collected on the incomes of "new employees" (as such term is defined in Section 5709.82 of the Revised Code) at the Development Site.

X. INCOME TAX SHARING

The Parties acknowledge that, pursuant to the JEDZ Agreement (including any modifications or amendments), Cleveland, the Village, and Warrensville Heights are entitled to certain percentages of "Net Zone Income Taxes" (as such term is defined in the JEDZ Agreement) generated with respect to the Project. In addition to the payments to the School District described in Section IX of this Agreement, the Compensation Agreement shall provide, notwithstanding the provisions of the JEDZ Agreement, that Warrensville Heights' share of the Net Zone Income Taxes generated with respect to the Project will be reduced from 12.50% to 6.25%. Cleveland's share of the Net Zone Income Taxes generated with respect to the Project will be unaffected by the Compensation Agreement (37.50%). The Village's share of the Net Zone Income Taxes

generated with respect to the Project will be increased from 50.00% to 56.25% but, as noted in Section IX above, the Village shall, pursuant to the Compensation Agreement, pay to the School District 31.25% of the Net Zone Income Taxes generated with respect to the Project, which will result in the Village retaining 25.00% of the Net Zone Income Taxes generated with respect to the Project.

XI. ZONING CHANGE NOTICE

Under the JEDZ Agreement the Village is required to adhere to certain notice provisions prior to taking final legislative action to amend, alter or supplement its zoning regulations permitted under the JEDZ Agreement. Upon execution of this Agreement, the Village shall give written notice to all affected owners of property pursuant to the JEDZ Agreement.

XII. MINIMUM ANNUAL PAYROLL

The Company anticipates 60 new permanent full time equivalent jobs with annual payroll of \$2,600,000. During the TIF Exemption, the annual payroll of such permanent full time equivalent employees at the Development Site (the "Annual Payroll") shall be at least \$2,000,000 ("Minimum Payroll Requirement"). The Minimum Payroll Requirement shall be met within two years of the date of the issuance of the final certificate of occupancy for the Project. The Company shall provide reports, certified payroll or additional information requested by the Village needed to verify the satisfaction of this Section XII. The Company further agrees to comply with additional reasonable reporting requirements throughout the term of the TIF Exemption. For any year in which the Company fails to meet the Minimum Payroll Requirement, the distribution of Service Payments to the Company pursuant to subparagraph C. in Section VIII hereof shall be reduced for such year by an amount equal to the difference between the Annual Payroll and the Minimum Payroll Requirement (the "Withheld Service Payments"), and such Withheld Service Payments shall, instead, be deposited into an account for the benefit of the Village to be used for any expenses permitted by Ohio law.

XIII. CONTINGENCIES

The obligation of the Village to provide the Service Payments (collectively, the "*Incentives*") for the Project in accordance with this Agreement is contingent upon the satisfaction of all of the following contingencies with respect to the Project (collectively, the "*Incentive Contingencies*"). The Company agrees to submit to the Village for a review all plans, documents, requested modifications, zoning, or any other item which concerns the Project in accordance with the Village's current and generally applicable Charter provisions and ordinances. Each of the items required to be submitted to the Village to satisfy the Village shall be in form and substance reasonably acceptable to the Village.

A. Plans. The Company shall have caused the plans for the Project (the "*Project Plans*") to be prepared and submitted to the Village, and the Company shall have addressed all open questions/concerns of the Village regarding the Project, and the Village shall have approved such plans. It is further agreed that, within 15 days following the execution of this Agreement by the Parties and prior to the Company receiving any permits required to commence construction of the Project, the Company shall deposit a Professional Fee Deposit of \$50,000, from which the

Village will pay the cost of plan review, as well as the costs of other third-party professionals (e.g. engineers, attorneys, planning consultants, etc.) and all other expenses incurred by the Village in administering applicable state or local laws, or necessary to assist the Village in connection with this Agreement and the establishment of the TIF Exemption. The Company shall also pay for all inspection fees, and shall engage an engineering firm licensed in the State of Ohio to perform Construction Administration and Inspection and Testing Services. If the Professional Fee Deposit is expended by the Village, then the Treasurer shall request, and the Company shall make, an additional deposit equal to the amount originally deposited, unless the Mayor permits a lesser deposit because the Project is nearing completion. Any portion of the Professional Fee Deposits that is not expended shall be returned to the Company, upon request, provided that the Building Department has closed out its oversight of the Project and determined that no further professional fees or other expenses remain to be paid.

B. Environmental. The Company shall have submitted such environmental reports for the Development Site to Village as have been as of the date thereof requested by Village and evidencing that there are no hazardous materials located on the Development Site or violation of environmental laws that would prevent development of the Project on the Development Site in accordance with the Project Plans. The Company shall have delivered a reliance letter from the preparer of the environmental reports authorizing reliance on those reports by the Village.

C. Utilities. To the extent that utility improvements are necessary to service the Project, the Company, at its cost, shall be responsible for the construction, reconstruction or installation of utility improvements (including any underground utilities), including, but not limited to, storm and sanitary sewers (including necessary site grading therefore) and water lines, unless otherwise stated in any Easement or License Agreement between the parties.

D. Other Provisions. The Company agrees that the Project and the Project Plans shall comply with any other reasonable requirements of the Village.

The Parties will proceed diligently and in good faith to pursue the satisfaction of these items in a timely and coordinated manner intended to result in the timely development of the Project in accordance with the Development Plan.

XIV. CONSTRUCTION OF THE PROJECT

At such time as the Company has obtained all building permits, zoning approvals, and other governmental approvals required for the Project, the Company shall promptly commence and thereafter complete the construction of the Project as reflected in the Project Plans, in compliance with all applicable laws. The Company shall be responsible for acquiring and paying for all State, local, or Federal permits required for the Project.

The intent and understanding of the Parties is for the Company to have the Project constructed and completed within two years following the issuance of a building permit for the Project. The Completion deadline shall occur for the purposes of this Agreement when the Project obtains the necessary Village certificate of occupancy. The time for performance indicated immediately above is subject to any approved extensions by the Village for delays beyond the reasonable control of the Company that prevent the Company from timely performing its

obligations under this Agreement. A request for extension must be in writing and may be granted at the discretion and approval of the Village. With respect to the Company, delays or failures to perform due to lack of funds or the inability to procure labor or materials shall not be deemed unforeseeable delays beyond the reasonable control of the Company. In the event that construction does not occur, or construction of the Project ceases to progress within 120 days of receiving the requisite permits, in addition to and not in limitation of any other remedies available to the Village, the Company shall comply with all Village requirements relating to securing and/or restoring of the Project Site until such time as construction shall begin or resume, as the case may be.

XV. VILLAGE LEGAL FEES

The Company shall pay the Village's fees for legal counsel incurred in connection with this Agreement and the planning and documenting of the Project. Upon execution of this Agreement the Village shall provide an invoice to the Company. Such amounts shall be paid by the Company within thirty (30) days of execution of this Agreement.

XVI. MAINTENANCE

The Company will maintain the Project in a first class manner, consistent with the RH Galleries that currently exist in Palm Beach, Florida, and Columbus, Ohio, including necessary building maintenance, mulching, grass cutting, pruning and watering.

XVII. DEFAULT; REMEDIES

A. Company Defaults. Any one or more of the following shall constitute a "*Company Default*":

(1) Default by the Company in the due and punctual payment, performance, or observance of any material obligation of the Company under this Agreement or any other agreement by and between the Village and the Company with respect to the Project (each a "Project Agreement") as to which the Village has given notice to the Company, which default the Company does not cure within the period of time specified in the notice;

(2) Any representation or warranty made by the Company in this Agreement or in any other Project Agreement is false or misleading in any material respect as of the time made;

(3) Any report, certificate, or other document furnished by the Company to the Village pursuant to this Agreement or any other Project Agreement is false or misleading in any material respect as of the time furnished and has been relied upon by the Village to its material detriment prior to correction by the Company;

The Company's failure to meet the Minimum Payroll Requirement for a period of three (3) consecutive years; or

(4) (a) the filing by the Company of a petition for the appointment of a receiver or trustee, (b) the making by the Company of a general assignment for the benefit of

creditors, (c) the entry of 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 Company as debtor, or (d) the filing by the Company of an insolvency proceeding with respect to the Company or any proceeding with respect to the Company for compromise, adjustment, or other relief under the laws of any country or state relating to the relief of debtors.

B. Remedies for the Company Default. At any time as of which a Company Default exists, the Village at its option, may, but shall not be obligated to, exercise any one or more of the following remedies:

(1) By written notice to the Company, terminate this Agreement, provided that such termination shall not affect the obligations of the Company that have then accrued, including the indemnification requirements of the Company hereunder;

(2) By written notice to the Company, cease disbursements of proceeds from the TIF Fund to the Company;

(3) (a) recover from the Company any sums of money that are due and payable by the Company to or for the benefit of the Village under this Agreement; (b) commence an action for specific performance or other equitable relief against the Company with respect to the defaulted obligations as provided in Section XVII; and (c) exercise the Village's rights under Section XVII with respect to a Company Default; and

(4) Enforce, or avail themselves of, any other remedies available to them at law or in equity.

C. Village Default. Any one or more of the following shall constitute a "*Village Default*":

(1) Default by Village in the due and punctual payment, performance or observance of any obligation of Village under this Agreement or any other Project Agreement, as to which the Company has given a Default Notice, as defined herein, to the Village, which default the Village does not cure within the period of time specified for cure in the Default Notice;

(2) Any representation or warranty made by Village in this Agreement or any other Project Agreement is false or misleading in any material respect as of the time made and has been relied upon by the recipient to its material detriment prior to correction by Village; or

(3) Any report, certificate or other document furnished by Village to the Company pursuant to this Agreement or any other Project Agreement is false or misleading in any material respect as of the time made and has been relied upon by the recipient to its material detriment prior to correction by Village.

D. Remedies for Village Default. At any time as of which a Village Default exists, the Company, at its option, may, but shall not be obligated to, exercise any one of more of the following remedies:

(1) By written notice to the Village, terminate this Agreement, provided that such termination shall not affect the obligations of the Village that have then accrued;

(2) (a) Except for obligations requiring Village Council approval, commence an action for specific performance or other equitable relief against the Village with respect to the defaulted obligations; and (b) exercise the Company's rights under Section XVII with respect to the Village Default; and

(3) Enforce, or avail itself of, any other remedies available to it at law or in equity.

E. Default Notices. At any time when there exists a default by the Company in the due and punctual payment, performance or observance of any obligation of the Company under this Agreement or any other Project Agreement, Village may give the Company a written notice, indicated as being a "Default Notice" under this Section, identifying the default and specifying a period of time for the cure of the default. At any time when there exists a default by Village in the due and punctual payment, performance or observance of any obligation of Village under this Agreement or any other Project Agreement, the Company may give the Village a written notice, indicated as being a "Default Notice" under this Section, identifying such default and specifying a period of time for the cure of the default. Any notice given in accordance with this Section is called a "*Default Notice*." The period of time for cure to be set forth in any Default Notice may be not shorter than such period of time as is reasonable in light of the nature of the default and the time reasonably required to cure the default.

F. Enforcement. As the remedy at law for the breach of any of the terms of this Agreement may be inadequate, each enforcing Party has a right of temporary and permanent injunction, specific performance, and other equitable relief that may be granted in any proceeding brought to enforce any provision hereof, without the necessity of proof of actual damage or inadequacy of any legal remedy.

G. Self-Help. Without limiting the provisions of this Section XVII, (i) should any defaulting Party fail to remedy any default identified in a Default Notice within the reasonable cure period specified in the Default Notice, or (ii) should any default under this Agreement exist which (A) constitutes or creates an immediate threat to health or safety or (B) constitutes or creates an immediate threat of damage to or destruction of property, then, in any such event, the non-defaulting Party has the right, but not the obligation, to enter upon the property of the defaulting Party to take such steps as the non-defaulting Party may elect to cure, or cause to be cured, the default or violation. If a non-defaulting Party cures, or causes to be cured, a default as provided above in this Section, then there will be due and payable by the defaulting Party to the non-defaulting Party upon demand the amount of the reasonable costs and expenses incurred by the non-defaulting Party in pursuing the cure.

Notwithstanding any other provision of this Agreement, the above-described notification and cure provisions shall not apply when the Village's Building Official issues a stop work order for local, county or state code violations related to construction defects.

H. Costs of Enforcement. If an action is brought by the Village for the enforcement of any provision of this Agreement, the Company, and only to the extent that the Company is found to be in default or breach of this Agreement or another Project Agreement, will pay to the Village all costs and other expenses that become payable as a result thereof, including without limitation, attorneys' fees and expenses.

XVIII. INDEMNIFICATION

The Company shall, at its cost and expense, defend, indemnify and hold the Village and any officials, employees, agents and representatives of the Village, its successors and assigns (collectively the "*Indemnified Parties*" and each an "*Indemnified Party*"), harmless from and against, and shall reimburse the Indemnified Party for, any and all loss, cost, claim, liability, damage, judgment, penalty, injunctive relief, expense or action (collectively the "*Liabilities*" and each a "*Liability*"), other than Excluded Liabilities, as defined below, whether or not the Indemnified Party shall also be indemnified as to any such claim by any other person, the basis of which claim (a) was caused by or results from the actions or failures to act of the Company or its affiliates, agents, employees, contractors, subcontractors and material suppliers while in possession or control of the Project, whether or not such action or inaction was negligent or reckless, or is in any way related to the construction of the Project or the selection of contractors, subcontractors or material suppliers relating thereto; (b) is based, in whole or in part upon failure or alleged failure of the Company or its affiliates to satisfy their obligations under this Agreement or another Project Agreement; (c) relates to fraud, misapplication of funds, illegal acts, or willful misconduct on the part of the Company or its affiliates; or (d) relates to the bankruptcy or insolvency of the Company or its affiliates. The indemnity provided for herein shall survive the expiration or termination of and shall be separate and independent from any remedy under any Project Agreement.

"*Excluded Liability*" means each Liability to the extent it is attributable to (i) the willful misconduct of any Indemnified Party or the failure of any Indemnified Party that is a third party beneficiary of this Agreement to perform any obligation required to be performed by the Indemnified Party as a condition to being indemnified hereunder, including without limitation, the settlement of any Liability without the consent of the Company, or, to the extent the Company's ability to defend a Liability is prejudiced materially, the failure of an Indemnified Party to give timely written notice to the Company of the assertion of a Liability.

Upon notice of the assertion of any Liability, the Indemnified Party shall give prompt written notice of the same to the Company. Upon receipt of written notice of the assertion of a Liability, the Company shall have the duty to assume, and shall assume, the defense thereof, with power and authority to litigate, compromise or settle the same; provided that, the Indemnified Party shall have the right to approve any obligations imposed upon it by compromise or settlement of any Liability or in which it otherwise has a material interest, which approval may be withheld in its sole discretion.

At the Company's expense, an Indemnified Party may employ separate counsel and participate in the defense of any Liability; provided, however, that any such fees and expenses must be reasonable and necessary to protect the interests of the Indemnified Party. The Company shall not be liable for any settlement of any Liability made without its written consent, but if settled with the written consent of the Company, or if there is a final judgment for the plaintiff in an action, the Company agrees to indemnify and hold harmless the Indemnified Party, except only to the extent of any Excluded Liability.

XIX. CONFIDENTIALITY

The Parties acknowledge and affirm the application of the Confidentiality Agreement (Trade Secrets), dated April 13, 2021, between the Village and Fairmount Properties LLC, which agreement was assigned to and assumed by the Company on March __, 2022.

XX. MISCELLANEOUS

A. Any notice of communication required or permitted to be given under this Agreement by either Party to the other shall be deemed sufficiently given if personally delivered, or mailed by certified United States mail, postage prepaid, and addressed as follows:

(1) If to the Village: Mayor
Orange Village
4600 Lander Rd.
Orange Village, Ohio 44022

With copies to:

Clerk of Council
Orange Village
4600 Lander Rd.
Orange Village, Ohio 44022;

-and-

Stephen L. Byron, Esq.
Singerman, Mills, Desberg & Kauntz Co., L.P.A.
3333 Richmond Road, Suite 370
Cleveland, OH 44122

-and-

Price Finley, Esq.
Bricker & Eckler LLP
100 S. Third St.
Columbus, Ohio 43215;

(2) If to the Company: Orange Place Development, LLC
15 Koch Road
Corte Madera, CA 94925

with a copy to: Lewis Roca Rothgerber Christie LLP
201 E. Washington Street, 12th floor
Phoenix, Arizona 85004
Attn: Amy Altshuler
Email: AAltshuler@LRRC.com

Either Party may change its address for notice purposes by providing written notice of such change to the other Party.

B. Covenants Running with the Land. Upon execution of this Agreement and acquisition of the Development Site by the Company, an original counterpart of this Agreement shall be recorded with respect to the Development Site and shall be a covenant running with the land and shall be binding upon and inure to the benefit of the Parties and any successors and assigns of the Parties, including the Company and any future owners of the Development Site, who shall be subject to the provisions of this Agreement applicable to the Company, to the fullest extent permitted by law and equity for the benefit of the Village, whether or not such provision is included in any succeeding deed to the Company's successors and assigns.

C. Entire Agreement/No Third Party Beneficiary. This Agreement and the Project Agreements supersede any and all other agreements, either oral or in writing, between the Parties hereto with respect to the Project and the Development Site to be completed in connection therewith, and contains all of the covenants, agreements, and other terms and conditions between the Parties hereto with respect to the same. No waivers, alterations or modifications of this Agreement or any agreements in connection therewith shall be valid unless in writing and duly executed by all Parties hereto.

Nothing contained in this Agreement shall be construed so as to confer upon any other person the rights of a third-party beneficiary.

D. Amendment.

(1) Recognizing the likelihood of changing conditions (such as demand and supply factors; changes in tenants that are in (or likely to be in) the northeastern Ohio regional market area; and other needs and concerns of the Village and the Company), the Parties agree to review and consider amendments to this Agreement, as necessary. Any amendments to this Agreement shall be in writing executed by the Parties.

(2) The Village and the Company acknowledge and agree that in the event either Party requests further amendment and/or modification of this Agreement, the affected Parties shall thereafter engage in good-faith discussion and negotiation, undertaking all efforts to resolve and address such issues as the Parties may then raise in connection with this Agreement and such further amendment and modification thereof.

(3) The Parties further acknowledge and agree that this Agreement, as initially executed, is intended to outline the goals and objectives of the Project, as among the Company and the Village, and governs the obligations of the Parties. All prior discussions and agreements of the Parties relating to the subject-matter of this Agreement are hereby incorporated into this Agreement, which shall supersede any such prior discussions and agreements, all of which are integrated herein.

E. Assignment. This Agreement shall be binding on the Parties hereto and their respective successors and assigns. This Agreement may not be assigned by any party hereto other than to an affiliate of such party without the written consent of the other party, not to be unreasonably withheld. All representations and warranties of the Company and the Village herein shall survive the execution and delivery of this Agreement.

F. Exhibits. The Exhibits to this Agreement constitute an integral part of and are hereby incorporated by reference into this Agreement.

G. Counterparts. This Agreement may be signed in one or more counterparts or duplicate signature pages with the same force and effect as if all required signatures were contained in a single original instrument anyone or more 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. To the extent permissible in connection with the requirements for recording this Agreement in accordance with Section XX(B) hereof, this Agreement may be executed through electronic means.

H. Severability. The invalidity or unenforceability of anyone or more phrases, sentences, clauses, or sections in this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement, or any part thereof, and this Agreement shall be deemed amended to the extent required to make the provisions hereof lawful, valid and enforceable, giving maximum effect to the intent of the Parties as evidenced in this Agreement. The Parties agree to enter into a written instrument to evidence any such amendment.

I. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

J. Captions. The captions of the Articles and Sections of this Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Agreement or in any manner limit or define the terms of this Agreement.

K. Force Majeure. Except as expressly provided herein or with respect to any monetary obligation, if either Party is delayed or hindered in, or prevented from, the performance of any covenant or obligation hereunder, as a result of any cause or circumstance beyond the reasonable control of such Party, including, but not limited to, strikes, lockouts, pandemics, epidemics, shortages of labor, fuel or materials, acts of God, enemy act, riot, insurrection or other civil commotion, fire or other casualty or any orders of any governmental agency, court, or tribunal with jurisdiction over the Project, the Company or the Village, then the time for performance of such covenant or obligation shall be extended by a reasonable time to accommodate such delay or

hindrance. The Party seeking the benefit of the provisions of this section shall, within thirty (30) days after the beginning of any such delay, notify the other Party thereof in writing, and the cause thereof, and provide information concerning the projected term of the delay.

L. Conflict of Interest: Village's Representatives Not Individually Liable. No official or employee of the Village shall have any personal interest, direct or indirect, in this Agreement, nor shall any such official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interest of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. No official or employee of the Village shall be personally liable to the Company, or any successor in interest, in the event of any default or breach by the Village or for any amount or amounts which may become due to the Company or any successor to the Company or on any obligations under the terms and conditions of this Agreement.

M. Survival. The provisions of this Agreement shall survive any expiration or earlier termination of the Agreement to the extent necessary to carry out the intent and expectations of the Parties.

N. Non-Waiver. Failure of Village or the Company to complain of any act or omission on the part of the other Party, however long the same may continue, shall not be deemed to be a waiver by said Party of any of its rights hereunder. No waiver by Village or the Company at any time, express or implied, of any breach of any provision of this Agreement shall be deemed a waiver of a breach of any other provision of this Agreement or a consent to any subsequent breach of the same or any other provision.

O. Approvals by Village. Any provision of this Agreement requiring the approval of the Village, the satisfaction or evidence of satisfaction of the Village, certificate or certification by the Village or the opinion of the Village shall be interpreted as requiring action by the Mayor of the Village (or such other official as the Mayor of the Village may from time to time designate) granting, authorizing or expressing such approval, satisfaction, certification or opinion, as the case may be, unless such provision expressly provides otherwise.

P. Municipal Power. Nothing in this Agreement shall be construed to be in derogation of the powers granted to the municipal corporations by Article XVIII of the Ohio Constitution, including the right to protect the health, safety and welfare of its citizens.

Q. Further Assurances. The Company shall take or cause to be taken any and all other or further actions necessary or required of the Company in order to effectuate any of the terms and provisions herein.

R. Good Faith. Whenever in this Agreement any Party is required or permitted to grant approval or consent, take any action or request any other Party to take any action, make decisions or otherwise exercise judgment as to a particular matter, arrangement or term, the Party granting such approval or consent, taking or requesting such action, making decisions or otherwise exercising judgment shall act reasonably and in good faith and, in the case of approvals or consents, shall act with all deliberate speed in making its determination of whether or not to approve or consent to any particular matter and shall not impose conditions on the granting of such approval

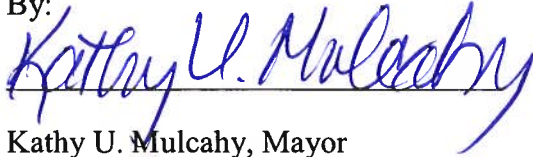
or consent that the approving or consenting Party does not believe are necessary in connection with such approval or consent.

(Signature Page Follows)

IN WITNESS WHEREOF, the Village and the Company, each by a duly authorized representative, have caused this Agreement to be executed on this 15th day of June, 2022.

ORANGE VILLAGE, OHIO

By:



Kathy U. Mulcahy, Mayor

Approved as to form:

By:



Stephen L. Byron, Director of Law

ORANGE PLACE DEVELOPMENT, LLC.
a Delaware limited liability company

By:



Printed Name: Eugene Chang
Authorized Signatory

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

The foregoing instrument was acknowledged before me by Kathy U. Mulcahy, Mayor of Orange Village, Ohio, who acknowledged that she did sign the foregoing instrument and that the same is her free act and deed as Mayor and of said City. 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.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 1st
day of July, 2022.


Notary Public

ANNAMARIE GIRARDI
NOTARY PUBLIC, STATE OF OHIO
My Commission Expires 2/28/2023

STATE OF _____)

COUNTY OF _____)

SS:

The foregoing instrument was acknowledged before me by _____, the _____ of Orange Place Development, LLC, a Delaware limited liability company, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed as such representative and on behalf of the company. 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.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2022.

Notary Public

See Attached

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

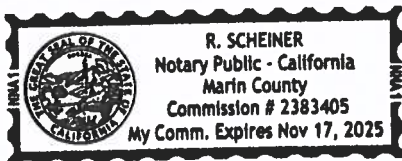
State of California

County of Marin }

On June 28, 2022 before me, R. Scheiner, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Eugene Cheng
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature R. Scheiner
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____

VILLAGE'S FISCAL OFFICER'S CERTIFICATE

The undersigned, fiscal officer of the Village, hereby certifies that the moneys required to meet the obligations of the Village during the year 2022 under the Agreement have been lawfully appropriated by the Council of the Village for such purposes and are in the treasury of the Village or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.



Treasurer
Orange Village, Ohio

Dated: 7-5, 2022

Exhibit A

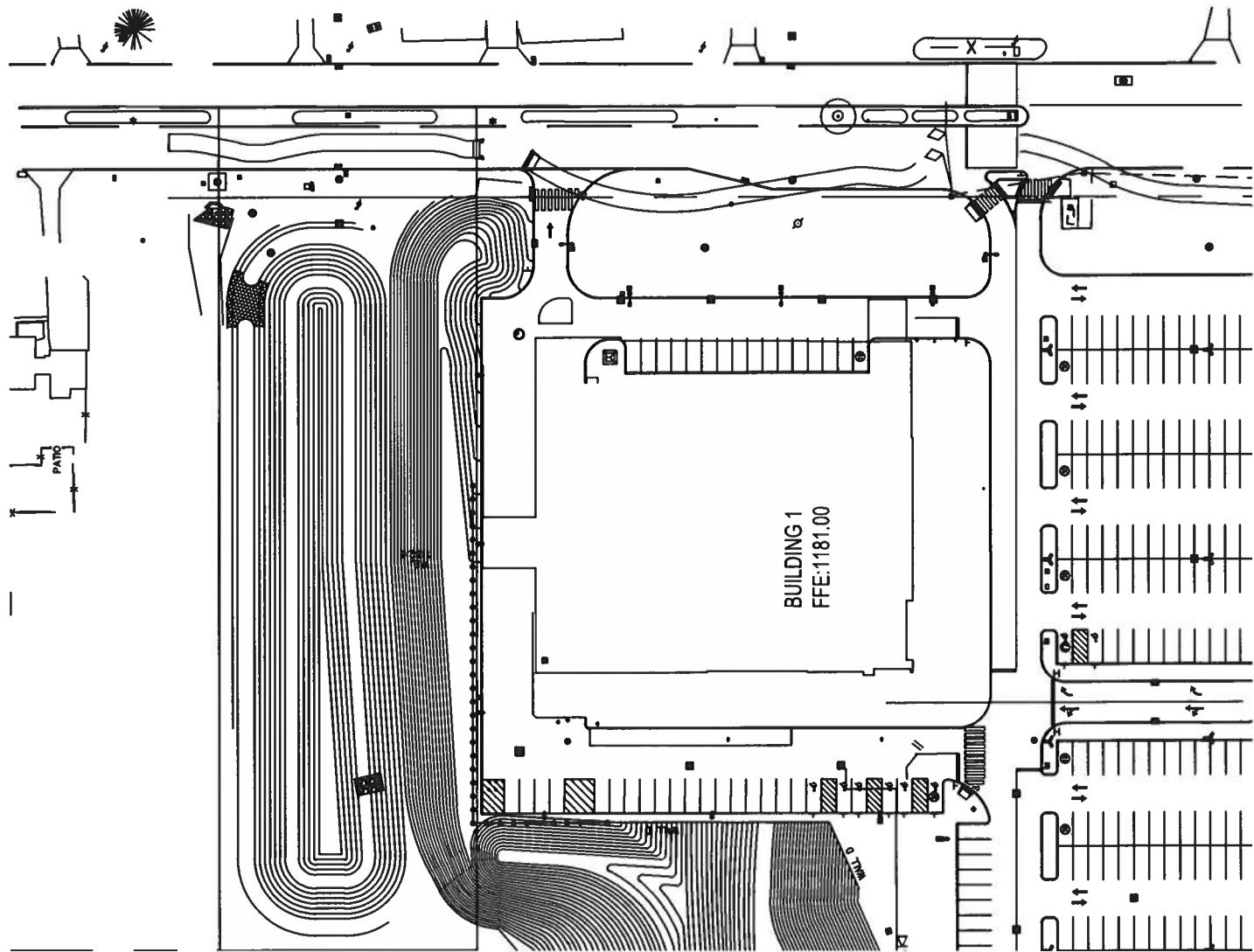
“Project” Description

The proposed project is a three story 36,700 sf single tenant mixed use facility consisting of business, showroom and restaurant uses. Situated on a 2.36 acre site, currently occupied by an operational restaurant, the project will require demolition of the existing structure allowing for a new construction RH Gallery, similar to other RH Gallery concepts throughout the country. The property will continue to have primary access from two locations along Orange Place as well as a secondary connection to Pinecrest Drive to the east.

Exhibit B

Site Plan

(See Attached)



Site Data Table

Code Section	Design Criteria	Required	Provided
1173.05	MAS BUILDING HEIGHT	120'-0"	55'-0"
1173.06(a)	FRONT YARD SETBACK - BUILDING	75'-0"	90'-5"
1173.06(a)	FRONT YARD SETBACK - PARKING	20'-0"	24'-5"
1173.06(a)	SIDE SETBACK - BUILDING	50'-0"	82'-8"
1173.06(a)	SIDE SETBACK - PARKING	10'-0"	10'-2"
1173.06(a)	REAR SETBACK - BUILDING	50'-0"	58'-9"
1173.06(a)	REAR SETBACK - PARKING	10'-0"	NA
1162.08(a)	MIN. DRIVE ISLE WIDTH - 2 WAY	22'-0"	22'-0"
1173.09(d)(1)	MIN. PARKING STALL SIZE	9'-0"x18'-0"	9'-0"x18'-0"
1173.08	PARKING SPACES	Office 3.5:1,000 Showroom 1.25:1,000 Restaurant 5:1,000 Total: 88 Spaces	Total: 93 Spaces

Site Area: 2.36 Acres
 Building GSF: 36,700 SF
 FAR: 0.36

Building Area

Level 1

Business: 0 sf
 Showroom: 22,850 sf
 Restaurant: 0 sf
 Storage: 1,700 sf
 Total: 24,550 sf

Level 2

Business: 2,000 sf
 Showroom: 14,100 sf
 Restaurant: 0 sf
 Storage: 200 sf
 Total: 16,300 sf

Level 3

Exhibit C

Form TIF Ordinance

1st reading []
2nd reading []
3rd reading []
Voted On []
Ayes: _____ Nays: _____
PASSED _____ DEFEATED _____

**ORDINANCE NO. 2022-4
(AS AMENDED)**

AN ORDINANCE

DECLARING IMPROVEMENTS TO REAL PROPERTY WITHIN ORANGE VILLAGE, OHIO TO BE A PUBLIC PURPOSE; EXEMPTING SUCH IMPROVEMENTS FROM REAL PROPERTY TAXATION; REQUIRING THE OWNERS OF THE PROPERTY TO MAKE SERVICE PAYMENTS IN LIEU OF REAL PROPERTY TAXES; ESTABLISHING AN URBAN REDEVELOPMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SERVICE PAYMENTS, MAKING RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.41, 5709.42, 5709.43 AND 5709.83. AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code (“R.C.”) Sections 5709.41, 5709.42 and 5709.43 (the “TIF Statutes”) provide that this Council may, under certain circumstances, declare Improvements (as defined below and in the TIF Statutes) to certain parcels of real property located in Orange Village, Ohio (the “Village”) to be a public purpose and exempt from real property taxation, provide for the payment service payments in lieu of real property taxes by the owners of such property and establish an urban redevelopment tax increment equivalent fund for the deposit of such service payments in lieu of taxes; and

WHEREAS, Orange Place Development, LLC (collectively, with its various affiliates, the “Company”) is pursuing the redevelopment of an approximately 2.367-acre site currently identified as 4009 Orange Place, Orange Village, OH 44122 and as Parcel ID 901-42-003 and more particularly described in Exhibit A, attached hereto and made a part hereof (the “*Development Site*”) in connection with the development of an RH Gallery retail facility, including the private improvements and infrastructure improvements that are necessary to help ensure its success (the “*Project*”), which is more particularly described in Exhibit B hereto; and

WHEREAS, the Company has requested that the Village enact this Ordinance pursuant to the TIF Statutes to assist the Company with the development of the Project;

WHEREAS, in order to enact this Ordinance, the TIF Statutes specify that (1) the Village must hold fee title to the Development Site prior to the adoption of this Ordinance, and (2) the Development Site must be conveyed or leased to any person either before or after the adoption of this Ordinance; and

WHEREAS, as authorized by Ordinance No. 2022-3, passed March 2, 2022 (the “Implementing Ordinance”), the current owners of the Development Site have conveyed, by limited warranty deed dated March 10, 2022, fee title to the Development Site to the Village, and by quitclaim deed dated March 10, 2022, the Village has reconveyed fee title to the Development Site back to the current owners of the Development Site; and

WHEREAS, the aforementioned deeds have been recorded in the records of the Cuyahoga County Recorder; and

WHEREAS, the Village is “engaged in urban redevelopment” as provided in Ohio Revised Code (“R.C.”) Section 5709.41; and

WHEREAS, in furtherance of the development efforts, the Village desires to pass this Ordinance to assist the Company with the Project; and

WHEREAS, as required by the TIF Statutes and R.C. Section 5709.83, the Village has provided all required notices to the Warrensville Heights Local District (the “School District”), or such notice has been waived, and a compensation agreement between the Village and School District has been executed (“School Compensation Agreement”); and

WHEREAS, pursuant to the Implementing Ordinance, the Village and Company have entered into an Economic Development Agreement, dated June 15, 2022, with respect to the Project (the “Development Agreement”), which Development Agreement provides, among other things, the provisions for payment of service payments in accordance with this Ordinance; and

NOW, THEREFORE, be it ordained by Village Council for Orange Village, Ohio, that:

Section 1. Subject to the terms of the Development Agreement, one hundred percent (100%) of the increase in the assessed value of the parcel located on the Development Site (“Parcel”) after the date that the Village obtained fee title to the Development Site (each of which increase in assessed value is an “Improvement” as defined in R.C. Section 5709.41) shall be a public purpose and shall be exempt from real property taxation commencing for the Parcel with the first day of the tax year in which there is an Improvement with respect to the Parcel, and ending for the Parcel on the earlier of (a) thirty (30) years after such commencement, (b) the termination of the Development Agreement, or (c) the date on which the Village can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Statutes.

Section 2. As provided in R.C. Section 5709.42, the owner of the Parcel with an Improvement is required hereby to make annual payments in lieu of taxes to the Cuyahoga County Treasurer (the “County Treasurer”) on or before the final dates for payment of real property taxes. Each such payment (including interest and penalties) 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 the Improvement if it were not exempt from taxation (with the payments in lieu of tax, including any penalties and interest, being the “Service Payments”). The County Treasurer shall remit all Service Payments to the Village for deposit in the RH Gallery Tax Increment Equivalent Fund (the “Fund”) established in Section 3 hereof, except for amounts paid directly to the School

District as provided in Section 4 hereof. This Council hereby authorizes the Mayor or other appropriate officers of the Village to provide such information and certifications and execute and deliver, or accept delivery of such instruments as are necessary and incidental to collect those Service Payments and to make such arrangements as are necessary and proper for payment of the Service Payments. Any late payments shall be subject to penalty and bear interest at the then current rate established under R.C. Sections 323.121 and 5703.47, as may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time. The Service Payments, and any other payments in connection with the Improvement which are received by the Village in connection with any reduction required by R.C. 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 deposited in accordance with Sections 3 and 4 of this Ordinance.

Section 3. This Council hereby establishes the Fund, pursuant to and in accordance with the provisions of R.C. Section 5709.43, into which shall be deposited all of the Service Payments and Property Tax Rollback Payments distributed to the Village with respect to the Project by or on behalf of the County Treasurer, as provided in R.C. Section 5709.42, except for amounts paid directly to the School District as provided in Section 4 hereof, and hereby appropriates all of the moneys deposited in the Fund from time to time to pay any costs associated with the Project.

The Fund shall remain in existence so long as Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, subject to the limits set forth in Section 1 hereof, after which said Fund shall be dissolved in accordance with R.C. Section 5709.43(D). Upon dissolution, any incidental surplus money remaining in the Fund shall be transferred to the Village's general fund as provided in R.C. Section 5709.43(D).

Section 4. As provided in the School Compensation Agreement and Development Agreement, the Village shall make semi-annual payments to the School District, solely from the Service Payments and Property Tax Rollback Payments deposited into the Fund, collectively in the amount an amount equal to 25% of the real property taxes that the School District would otherwise have received from the Improvement had the Improvement not been exempted pursuant to this Ordinance.

Section 5. This Council hereby authorizes the Mayor or other appropriate officers of the Village to take such actions as are necessary or appropriate to implement the transactions contemplated by this Ordinance and such other agreements and instruments as may be necessary to implement this Ordinance and the filing of one or more applications for exemption and any related forms in accordance with R.C. Section 5709.911.

Section 6. The Village hereby incorporates by reference the nondiscriminatory hiring policies for recipients of exemptions described in Section 9 of Amended Ordinance No. 2015-11, passed May 6, 2015, and hereby provides that such nondiscriminatory hiring policies shall apply to the exemptions granted pursuant to this Ordinance.

Section 7. Pursuant to R.C. Section 5709.41(E), the Clerk is hereby directed to deliver a copy of this Ordinance to the Director of the Ohio Department of Development ("ODOD") within

**ORDINANCE NO. 2022-4
(AS AMENDED)**

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fifteen (15) days after its passage. On or before March 31 of each year that the exemption set forth in Section 1 hereof remains in effect, the Mayor or other authorized officer of this Village shall prepare and submit to the Director of ODOD the status report required under R.C. Section 5709.41(E).

Section 8. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any decision making bodies of the Village that resulted in such formal actions were in meetings open to the public and in compliance with all legal requirements.

Section 9. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of this Village and for the other reasons set forth in the preamble to this Ordinance is required to be immediately effective to allow for the completion of the Project, which are necessary to provide the desired redevelopment in the Village; wherefore, this Ordinance shall be in full force and effect from and immediately after the passage and approval by the Mayor, provided it receives the affirmative vote of five (5) members of Council, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: July 5, 2022

Council President

Submitted to the Mayor for
approval on this _____ day of July, 2022

Approved by the Mayor this
____ day of July, 2022

ATTEST:

Clerk of Council

Mayor

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. 2022-4 duly adopted by the Council of the Village of Orange, Ohio on July 5, 2022.

Clerk of Council
Village of Orange, Ohio