

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into so as to be effective on the last date of signature below by a party hereto (the "Effective Date"), by and between the **CITY OF GAHANNA**, an Ohio municipal corporation ("City"), **CRESCENT AT CENTRAL PARK LLC**, an Ohio limited liability company ("Crescent"), **ANDRE M. BUCKLES**, an individual ("Buckles"), and **CP CRESCENT, LLC**, an Ohio limited liability company ("Casto"). City, Crescent, Buckles, and Casto may be referred to herein individually as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, Crescent is the owner of certain undeveloped real property located in the City, consisting of 41.0+/- acres found generally to the south and southeast of and adjacent to the Interstate-270/Hamilton Road interchange, known on the Effective Date as Franklin County Auditor Parcel Numbers 025-013767-00 and 025-013774-00, and generally identified as the Crescent Property in **Exhibit A** (the "Crescent Property"); and

WHEREAS, Buckles is the owner of certain undeveloped real property consisting of 34.0+/- acres also located in the City, generally to the south and southeast of and adjacent to the Crescent Property and generally identified as the Buckles Property in **Exhibit A** (the "Buckles Property"); and

WHEREAS, Casto and Crescent are parties to a written contract pursuant to which Crescent has agreed to sell a portion of the Crescent Property to Casto (such portion consisting of 14.4+/- acres which is identified as the "Casto Development Property" in **Exhibit A**), and Casto has agreed to purchase the same from Crescent, subject to various contingencies as set forth therein; and

WHEREAS, following the closing of its purchase of the Casto Development Property, Casto desires to develop and operate a multi-family residential community thereon consisting of 240 units and related improvements and amenities in accordance with those certain variance and rezoning applications (together, the "Applications") that have been reviewed and approved by Gahanna City Council pursuant to Ordinance Numbers ORD-085-2020 and ORD 0856-2020 (the "Casto Development"); and

WHEREAS, both prior to and following the closing of the sale of the Casto Development Property to Casto, Crescent is marketing and will continue to market, for sale and development of a wide range of non-residential uses (collectively, the "Crescent Commercial Development"), those portions of the Crescent Property which are located outside of the boundaries of the Casto Development Property (the portions of Crescent Property which are located outside of the boundaries of the Casto Development Property consist of 26.6+/- acres and are generally identified in **Exhibit A** as the "Crescent Commercial Property"); and

WHEREAS, the development of the Crescent Commercial Property and the Casto Development Property together will provide for a cohesive mixed use development with amenities to serve the Casto Development Property, the Crescent Commercial Property, and the City as a whole; and

WHEREAS, in order to provide one such amenity, Buckles desires to dedicate, donate, and convey ownership of the Buckles Property to the City, subject to all of the terms and provisions of this Agreement; and

WHEREAS, in order to facilitate all of the foregoing, City and the Parties desire to implement a tax increment financing ("TIF") district and new community authority ("NCA") program in accordance with relevant provisions of the Ohio Revised Code (the "ORC") in order to provide the means of funding the costs of certain public infrastructure improvements that will benefit the Crescent Property, the Buckles Property, and existing Pizzuro Park, which is located to the east of and adjacent to the Buckles Property; and

WHEREAS, City has determined that the economic welfare of the City and the health of its citizens will be benefited by the development of the Casto Development Property and the Crescent Commercial Property and by the expansion of Pizzuro Park by and through the dedication, donation, and conveyance of the Buckles Property to City, and therefore it is in the best interests of City to enter into this Agreement to facilitate the same.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the Parties hereby agree as follows:

1. Community Reinvestment Area Eligibility. The Crescent Commercial Property and the Casto Development Property are located in the City's existing Community Reinvestment Area #4 (the "CRA"). Subject to the filing of compliant and complete community reinvestment area applications, the City acknowledges that the Crescent Commercial Development and the Casto Development are each eligible for a 10-year, 80% abatement of real property taxes that otherwise would be applicable thereto. Crescent or individual users/developers of portions of the Crescent Commercial Property will file an application with the City from time-to-time to confirm each development project's eligibility for said abatement, and Casto also will file an application with the City after the approval of the Applications and prior to applying for any building permits for the Casto Development Property to confirm the eligibility of the Casto Development for the abatement. City agrees to support the timely processing and approval of each of the foregoing compliant and complete applications once filed. City and each of the relevant Parties shall work cooperatively to identify the appropriate timing for filing relevant documentation with the State of Ohio and Franklin County (as applicable) so that the abatement time period begins as to relevant developments only after construction is completed in order to maximize the benefit to each development. City acknowledges that the participation of the Crescent Commercial Property and the Casto Development Property in the CRA and the abatement that it provides are of material significance to the decision to develop these properties and represents and warrants to Crescent and Casto that the CRA and the related tax abatement, subject to any abatements granted outside

of the authority and control of the City, will take priority over any other exemptions that may apply to the Property as further contemplated herein.

2. Public Infrastructure Improvements. City, Crescent, and Casto each acknowledge and agree that the construction of a new public street northward from Tech Center Drive into the Crescent Property (as generally depicted in Exhibit A) (the “New Street”) is necessary in order to serve and facilitate development on the Crescent Development Property and the Casto Development Property. Crescent and/or Casto (as they determine between them) shall construct the New Street in conjunction with the first phase of development to occur on the Crescent Development Property or the Casto Development Property (whichever occurs first), provided that reimbursement of a portion of the costs of the New Street shall be made solely from Service Payments deposited in a TIF Fund, as contemplated in, and as such terms are defined in Sections 3 and 4 below. Construction of the New Street shall be completed so that it may be open for use by the general public prior to the issuance of the first temporary or permanent certificate of occupancy for a building that is constructed on either the Crescent Commercial Property or the Casto Development Property. The costs of constructing the New Street (the “New Street Costs”) shall include all commercially reasonable costs associated with the grading and paving of the new street; installation of water lines and sanitary sewer lines within the street right-of-way; installation of traffic control devices and signs, street tree plantings, and street lights; and all other costs customarily incurred when constructing a public street to a typical standard in the City, as well as the costs of designing, engineering, managing, and constructing all of the foregoing and all fees and permitting costs associated therewith. The New Street shall be constructed in accordance with the requirements and specifications of an approved final plat pertaining thereto. Crescent and/or Casto (as applicable) shall dedicate the right-of-way for the New Street to City via the recording of the final plat and at no charge or cost to City.

3. Tax Increment Financing District. City agrees to make reasonable efforts to have its City Council consider legislation (“TIF Legislation”) to create a tax increment financing district (a “TIF District”) which will include the Crescent Commercial Property and the Casto Development Property. City represents and warrants to Crescent and Casto that no tax increment financing district exists on the Effective Date which applies to the Crescent Commercial Property and/or the Casto Development Property. Each of Crescent and Casto (provided that Casto obtains an ownership interest in the Casto Development Property), for themselves and their respective successors and assigns in interest with respect to ownership of all or any portion of the Crescent Commercial Property and the Casto Development Property, agree to make “Service Payments” attributable to their respective periods of ownership of such real property, all pursuant to and in accordance with the TIF Legislation and this Agreement and any related or necessary agreements or declarations of covenants and restrictions recorded on the Crescent Commercial Property and the Casto Development Property, and the requirements of applicable law, and any subsequent amendments or supplements thereto. For purposes of this Agreement, the term “Service Payments” shall be defined to mean “payments in lieu of real property taxes which shall be directed by applicable governmental authorities to a designated fund (a “TIF Fund”) created as part of or subsequent to the passage of the TIF Legislation, and which are to be used by City for the purpose of funding or reimbursing a portion of the costs of public infrastructure improvements that are

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described in the TIF Legislation and as permitted by relevant provisions of the ORC, and in accordance with this Agreement.”

The TIF Legislation shall provide that the TIF District shall have a term of 30 years and that (a) during any period of time when a portion of the Crescent Commercial Property or the Casto Development Property is subject to the tax abatement contemplated in Section 1 above, the owner of that portion of real property shall make Service Payments for all eligible real property taxes which are not subject to the abatement in accordance with and pursuant to an authorized CRA, and (b) during all other time periods the owner of that portion of real property shall make Service Payments for all eligible real property taxes. The TIF District will be a so-called “non-school” TIF District which will provide for the Gahanna-Jefferson School District (“GJSD”) and the Eastland Joint Vocation School (“EJVS”) to be paid, solely from Service Payments deposited into the TIF Fund, an amount equal to the real estate taxes that would otherwise be paid to them from parcels of real property within the Crescent Commercial Property and the Casto Development Property. For the avoidance of doubt, the Parties desire to clarify that the GJSD and the EJVS shall not be paid or reimbursed from the TIF Fund for any portion of real property taxes which are abated in accordance with and pursuant to an authorized CRA as contemplated in Section 1 above.

City, Crescent, and Casto agree that the TIF Legislation will specify that the New Street Costs as well as the costs of other public infrastructure improvements identified by City in the TIF Legislation may be paid or reimbursed from Service Payments. Notwithstanding the foregoing, the Service Payments deposited into the TIF Fund shall be used in a manner consistent with Section 4 below until such time as Crescent or Casto (as applicable) has been reimbursed in full, but such payments will be made solely from and subject to available Service Payments deposited into a TIF Fund, as described in that provision.

Crescent and Casto (provided that Casto obtains an ownership interest in the Casto Development Property) agree to work cooperatively to prepare, execute, and file all necessary applications and supporting documents in order to obtain the exemption granted by the TIF Legislation and to enable City to collect Service Payments within the TIF Fund as contemplated hereunder. City agrees to cooperate with Crescent in preparing and filing such applications and supporting documents. Crescent and City each agree to (i) perform such acts as are reasonably necessary or appropriate to effectuate, claim, reserve and maintain that exemption and collect the Service Payments, including, without limitation, joining in the execution of all documentation required in connection with that exemption or the Service Payments, and (ii) take all steps necessary to ensure that the tax abatements that are contemplated in Section 1 above have priority over the TIF exemption.

Each of Crescent and Casto (provided that Casto obtains an ownership interest in the Casto Development Property), for themselves and their respective successors and assigns in interest to ownership of all or any portion of the Crescent Commercial Property and the Casto Development Property, covenants to cooperate in all reasonable ways with, and provide necessary and reasonable information to, the designated tax incentive review council of the City (“Tax Increment Review Council”) to enable the Tax Increment Review Council to review and determine annually

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during the term of this Agreement compliance with its terms by relevant Parties and property owners. Any information supplied to such Tax Increment Review Council will be provided solely for the purpose of monitoring compliance with this Agreement.

4. Reimbursement of Costs. The Party that constructs the New Public Street and other public utility and related infrastructure improvements (the “Constructing Party”) shall be responsible for the initial payment of the New Public Street Costs and all other costs related to the installation and improvement of public utility infrastructure to serve the Casto Development Property and the Commercial Development Property (collectively, the New Public Street Cost and such other public infrastructure costs to be referred to herein as the “Public Infrastructure Costs”), which are currently estimated by Crescent to be in excess of Three Million Four Hundred Thousand Dollars (\$3,400,000.00). The Constructing Party shall be reimbursed for One Million Four Hundred Thousand Dollars (\$1,400,000.00) of the Public Infrastructure Costs, plus simple interest at the rate of four percent (4.0%) per annum which shall accrue beginning on the date that the first temporary or permanent certificate of occupancy is issued for a building on the Crescent Commercial Property or the Casto Development Property (such \$1,400,000.00 sum and all interest which accrues thereon to be referred to herein as the “Reimbursement”). Such Reimbursement shall be subject to the creation of an incremental assessed real property value (as recognized by the Office of the Franklin County, Ohio Auditor) of \$21,000,000.00 in the aggregate for the Crescent Commercial Property and the Casto Development Property by the date that is five (5) years following the issuance of the first building permit for the Casto Development Property and such Reimbursement shall be paid solely from available funds in a TIF Fund.

Payments toward the Reimbursement shall be made by City to the Constructing Party no more frequently than twice per calendar year and within thirty (30) days following each request from the Constructing Party. Reimbursements shall be made solely from funds which are on deposit in the TIF Fund (when available) and nothing herein shall be read as a debt obligation of the City or a pledge by City to use revenues from any other source to pay the Reimbursement, including but not limited to the City’s general fund. All monies deposited in the TIF Fund, other than such funds to be paid to the GJSD and EJVS or to pay reasonable administrative costs related to the administration of the TIF and the TIF Fund and collection of the Service Payments, shall be used only to pay the Reimbursement until such time as the Reimbursement is paid in full, subject to available funds in a TIF Fund over the term of the TIF. After payment of the Reimbursement in full, City shall be permitted to use all monies which are on deposit or deposited into the TIF Fund to pay the costs of any other public infrastructure improvements as defined by and permitted under the TIF Legislation.

City and Crescent (by and through its member/owner) previously negotiated and agreed upon certain terms relating to the City’s public infrastructure responsibilities in conjunction with the agreement of Crescent (or its predecessor in interest) to dedicate right-of-way to the City for Tech Center Drive. These terms are memorialized in correspondence from the City, copies of which are attached hereto as **Exhibit B** (attached hereto and incorporated herein by reference). City confirms its continued agreement to abide by the terms of this correspondence. To this end, City shall be responsible for the payment of costs associated with its obligations as detailed in the

correspondence contained in **Exhibit B**, and such costs shall not be included in the Reimbursement.

5. Parkland. Buckles agrees to dedicate, donate, and convey the Buckles Property to City at no charge within thirty (30) days after the first date when both of the following have occurred: (a) the first certificate of appropriateness, as such term is contemplated in the City's Codified Ordinances Section 1197.05, has been issued for a development project on either the Crescent Commercial Land or the Casto Development Land, and (b) the TIF Legislation has been approved and is legally effective. The conveyance of the Buckles Property to City shall occur by and through the delivery of a limited warranty deed. Buckles shall be responsible for paying all real estate taxes and assessments for the Buckles Property for the entire year in which the conveyance occurs and for all prior years. City shall be solely responsible for applying for an exemption from real property taxation for the Buckles Property as soon as reasonably practicable after taking title to the same. Should City's delay in seeking or obtaining such an exemption from real estate taxation cause real estate taxes and/or assessments to accrue with respect to the Buckles Property for any year beyond the year in which the conveyance occurred, City shall be solely responsible for the payment of those taxes and assessments.

Buckles discloses to City that the Buckles Property is enrolled in the State of Ohio's Continuing Agricultural Use Valuation ("CAUV") Program. In the event that the conveyance of the Buckles Property to City occurs during a time of year when crops have been planted but not yet harvested, City shall take title to the Buckles Property subject to any then-existing farm lease (a copy of which Buckles shall provide to City prior to the conveyance) and shall permit the tenant/farmer under the farm lease to harvest the crops following the conveyance, with all rents under the farm lease for the year of conveyance being the property of Buckles. Buckles shall have the continuing right to enter into and/or renew leases with a third party tenant/farmer pertaining to the Buckles Property while this Agreement is effective and prior to the conveyance of the Buckles Property to City, provided that no lease or renewal term shall be longer than one year. Upon the conveyance of the Buckles Property to City, Buckles shall cause the Buckles Property to be withdrawn from the CAUV Program and shall promptly pay, if and when required, any recoupment of real estate taxes that may be required under Ohio law. The provisions of this Section 5 shall supersede any previous agreements between City and Buckles with respect to the transfer and conveyance of the Buckles Property.

6. New Community Authority. Crescent, with respect to the Crescent Commercial Property, and Casto, with respect to the Casto Development Property (and provided that it has purchased the Casto Development Property), agree to petition and place such real property into a New Community District that will be governed by a New Community Authority and to subject the real property to a Community Development Charge in accordance with Ohio Revised Code ("ORC") Chapter 349 and as contemplated in this Section 6. All capitalized terms used but not defined in this Section 6 shall have the meanings given to them in ORC Chapter 349.

No later than sixty (60) days after the date when the City delivers a written request to Crescent, provided that the first certificate of appropriateness has been approved by the City's

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Planning Commission so that it is legally effective for a development project on either the Crescent Commercial Land or the Casto Development Land (a “Certificate of Appropriateness”) and further provided that such written request is not delivered more than the date that is six (6) calendar months after the Certificate of Appropriateness becomes legally effective), Crescent shall cause drafts of legal documents (which shall have been reviewed by Casto) which are required under ORC 349 to create a New Community District (collectively, the “NCA Documents”) to be completed and shall cause them to be delivered to City for its review. City shall then provide written comments on the same to Crescent, and Crescent, City, and Casto shall then work cooperatively and in good faith to agree upon the forms of the NCA Documents. The Parties shall then promptly cause the petition for creation of a new community authority (the “Petition”) to be filed with Gahanna City Council in accordance with ORC Section 349.03. In accordance with ORC 349 Gahanna City Council shall review and take action upon the same. City may elect, by delivering written notice to Crescent within a reasonable amount of time prior to the filing of the Petition with City Council, to expand the area to which the New Community District will apply.

The New Community District and the New Community Authority that will be created to apply to the Crescent Commercial Property and the Casto Development Property shall permit a Community Development Charge to be applied thereto at the initial maximum annual rate of five (5.0) mills (the “NCA Charge”). It shall be governed by a Board of Trustees (the “Board”) consisting of seven (7) members, with Crescent having the right to appoint three (3) of these members. The NCA Charge for each tax parcel shall be calculated for each particular year by multiplying (a) the assessed value of the parcel as determined by the Office of the Franklin County, Ohio Auditor for the year immediately preceding the year in which the charge is being made, and (b) 0.005. The NCA Charge shall be used for any purposes permitted under ORC Chapter 349 as determined by City as described in the NCA Documents. The NCA Charge shall be charged to a particular parcel of real property commencing in the year immediately following the year in which the first temporary or permanent certificate of occupancy has been issued for a building on that parcel and shall be paid in arrears in the same manner as real estate taxes. For example, if a tax parcel containing a building which is issued a permanent certificate of occupancy in 2021, then the NCA Charge shall apply to that parcel beginning in 2022 and shall be due and payable in 2023. Unless otherwise agreed to by City and the Parties and as otherwise provided in the NCA Documents as agreed to by City and the Parties, the NCA Charge shall be assessed against real property which contains multi-family for a maximum of ten (10) years, and shall be assessed against real property containing all other uses for a maximum of thirty (30) years.

Notwithstanding the foregoing, the documents and instruments which serve to create the New Community Authority shall allow the Board, upon the affirmative vote of at least 5 of its 7 members, to increase the NCA Charge for parcels within the Crescent Commercial Property (but not the Casto Development Property) to a maximum of nine (9.0) mills, subject to the limitations provided in this paragraph. No increase in millage shall be permitted to apply to any real property containing Non-Multi Family Uses until such time as a certificate of occupancy has been issued for that property and the term of an applicable tax abatement for that property has expired. At least thirty (30) days prior to approving any permissible increase of the NCA Charge above five (5.0) mills, the Board shall be required to deliver written notification of the proposed increase to

all affected property owners. ▼

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Crescent shall engage, and pay the costs of legal services by, legal counsel that will draft the NCA Documents. Given that the New Community District may apply to real property outside of and in addition to the Crescent Commercial Property and the Casto Development Property, the NCA Documents shall provide that commercially reasonable fees for legal services not to exceed \$20,000.00 which are incurred by Crescent in drafting the NCA Documents, pursuing the approval of the same, and setting up the organizational structure of the New Community Authority, as well as costs incurred to provide maps, legal descriptions of real property, or similar supporting information for any of the foregoing (the “NCA Start-Up Costs”), shall be reimbursed to Crescent from NCA Charges as they are collected, with such NCA Charges to be used for no other purpose until such reimbursement has been made in full. To provide for collection of the NCA Charge, prior to the first temporary or permanent certificate of occupancy being issued for a structure on either the Crescent Commercial Property or the Casto Development Property and provided that the New Community Authority has been legally established, a declaration of covenants shall be recorded against both properties with a form that is provided as part of the NCA Documents. The NCA Documents also shall provide the form of a supplemental declaration that shall be required to be recorded by other property owners that may become subject to the NCA Charge charges by the New Community Authority in the future.

7. Reporting and Payment. Along with each request for reimbursement of the Public Infrastructure Costs or the NCA Start-Up Costs, detailed invoices of the costs for which reimbursement is being requested shall be delivered by the Constructing Party to City (with respect to the Public Infrastructure Costs), or by Crescent to the board of trustees for the New Community Authority (the “Board”) (with respect to the NCA Start-Up Costs), along with a written certification from the delivering party which certifies that the costs as detailed are true and correct (all such invoices and the certification to be referred to herein as the “Cost Certification”). City shall review the same with respect to the Public Infrastructure Costs and shall deliver any written objections that it may have to the same no later than thirty (30) days after its receipt of detailed invoices. City and the relevant party shall then work cooperatively and in good faith to resolve the objection(s) within ten (10) days of delivery of such written objections. City and the Constructing Party each agree to provide the other with such other written information, data, invoices, or similar documentation as reasonably requested by the other to effectuate the purposes of this Agreement and to verify compliance with the terms hereof. The Board shall process any requests for reimbursement of costs as contemplated in this paragraph in accordance with the NCA Documents and other procedures which it may adopt, once formed.

8. Commitment to Office Uses; Limitation on Further Residential.

(a) **Office.** The Crescent Commercial Property is zoned in the SCPD, Select Commercial Planned District classification under the City’s Codified Ordinances. This zoning classification permits a wide range of commercial uses which may be developed and operated, generally ranging from retail uses, to service-oriented uses, to office uses. Crescent agrees, for

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itself and on behalf of its successors and assigns in interest, that from and after the Effective Date and (provided that the contingencies in Section 9 below have been satisfied) for a period of seven (7) years from the date when the Applications are approved and are legally effective (the “Office Restriction Period”), it will reserve 4.0 acres of the Crescent Commercial Property for development with only corporate, administrative, professional, and/or medical office uses unless City Council otherwise acts to reduce or eliminate this restriction as determined in its sole discretion.

The 4.0 acres of office uses may be located within any portion of the Crescent Commercial Property and need not be in one location, it being the intent that such uses may and will be developed in locations that are market-driven. Crescent agrees that during the Office Restriction Period the City shall be permitted to elect not to process any applications that, if approved, would cause there to be less than 4.0 acres available within the Crescent Commercial Property for office development, regardless of the fact that other uses are permitted under the existing zoning. The restrictions that are contemplated in this Section 8(a) shall be memorialized in a declaration of restrictive covenants that is in substantially similar form to that which is attached hereto as **Exhibit C** (the “Declaration”), which must be recorded with the Office of the Recorder of Franklin County, Ohio before the City will be required to issue any building permit(s) for construction on any portion of the Crescent Property in accordance with the City’s Codified Ordinances.

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(b) Additional Residential. During its review of Ordinance Numbers ORD-085-2020 and ORD 0856-2020, some members of Gahanna City Council expressed concern that future rezoning requests could be made seeking to amend the zoning of the Crescent Commercial Property to accommodate residential uses. Therefore Crescent, as the owner of the Crescent Commercial Property and for itself and on behalf of its successors and assigns in interest, that from and after the Effective Date and (provided that the contingencies in Section 9 below have been satisfied) for a period of forty (40) years from the date when the Applications are approved and are legally effective (the “Residential Restriction Period”), it will not file any rezoning, variance, conditional use, or similar applications with the City seeking to permit the development, use, and/or operation of residential uses of any kind (other than hotels) on the Crescent Commercial Property. These deed restrictions shall inure to the benefit of the City of Gahanna and may be terminated at their discretion. The restrictions that are contemplated in this Section 8(b) shall be memorialized in the Declaration.

(c) Conditions on Restrictions. Crescent’s agreement to subject the Crescent Commercial Property to the restrictions contemplated in Sections 8(a) and 8(b) above are expressly conditioned upon (a) the CRA that applies to the Casto Development Property and the Crescent Commercial Property remaining effective and applicable to the Crescent Commercial Property and the Casto Development Property for the same term (i.e., 10 years) and same percentage of real property taxes being abated (i.e., 80%) as apply to these properties on the Effective Date, and (b) the City timely performing its obligations with respect to the creation of the TIF District and payment of the Reimbursement as provided in Sections 3 and 4 hereof. The rights of City and the obligations of Crescent as set forth in this Section 8 are contractual in nature, and in the event that

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City alleges a breach of Crescent's obligations in this regard it shall be permitted to seek injunctive relief in the Franklin County Court of Common Pleas to compel Crescent's compliance.

9. Contingencies to Performance. The obligations of Crescent, Buckles, and Casto under this Agreement shall be expressly conditioned upon:

(a) The TIF Legislation having been approved by City Council so that it is legally effective on or before August 16, 2021;

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(b) A development plan and Certificate of Appropriateness shall have been approved by the City's Planning Commission so that they are both legally effective on or before the date that is three (3) calendar months after applications for both have been filed with the City for the first development proposal on either the Crescent Commercial Property or the Casto Development Property;

(c) Casto shall have closed on its purchase and acquisition of the Casto Development Property on or before the date that is ninety (90) days after City Council takes action to approve the TIF Legislation;

(d) Crescent, Buckles, and Casto shall have timely performed all of each of its obligations hereunder; and

(e) City shall have timely performed all of its obligations hereunder.

10. Miscellaneous.

(a) Amendment; Waiver. No amendment or waiver of any provision of this Agreement shall be effective against any Party hereto unless in writing and signed by that Party.

(b) Enforceability. If any provision of this Agreement is or becomes invalid, illegal, or unenforceable for any reason, such invalidity, illegality, or unenforceability shall not affect the remainder of this Agreement and the remainder of this Agreement shall be construed and enforced as if such invalid, illegal or unenforceable portion were not contained herein, provided and to the extent such construction would not materially and adversely frustrate the original intent of the parties hereto as expressed herein.

(c) Successors and Assigns. This Agreement shall inure to the benefit of, and be binding upon, each of the Parties and their respective successors and assigns. None of the Parties may assign its rights and obligations under this Agreement to an unaffiliated third party without the other Parties' prior written consent, not to be unreasonably withheld, conditioned, or delayed. Each of Crescent, Casto, and Buckles shall be permitted to assign its rights and obligations hereunder to another business entity in which it or its principals holds a controlling ownership interest.

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(d) Warranties and Representations. Each Party to this Agreement represents and warrants to each of the other Parties as follows:

(i) It has the full right, power, and authority to enter into this Agreement and to carry out its obligations hereunder, and the execution and delivery of this Agreement and the performance of its obligations hereunder have been duly and validly authorized by all necessary action.

(ii) This Agreement has been duly executed and delivered by it, and it constitutes a valid and binding obligation, enforceable against it in accordance with its terms.

(e) Notices. All notices and other communications hereunder shall be sufficiently given and shall be deemed given when personally delivered, when mailed by registered or certified mail, postage prepaid, or by e-mail, addressed the appropriate party at its address indicated as follows:

If to Crescent or Buckles:	Crescent at Central Park LLC c/o Larry Canini <hr/> <hr/>
With a copy to:	Aaron L. Underhill, Esq. Underhill & Hodge LLC 8000 Walton Parkway, Suite 260 New Albany, Ohio 43054 aaron@uhlfirm.com
If to Casto:	Casto Communities Attn: Brent Sobczak, President 250 Civic Center Drive, Suite 500 Columbus, Ohio 43215 bsobczak@castoinfo.com
If to City:	City of Gahanna 200 South Hamilton Road Gahanna, Ohio 43230 Attn: City Attorney Email: _____

or such different addresses of which notice shall have been given in accordance with this Agreement.

(f) Extent of Covenants; No Personal Liability. All covenants, obligations and agreements of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the City other than in his or her official capacity, and the members of the Gahanna City Council nor any official executing this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution thereof or by reason of the covenants, obligations or agreements of the City contained in this Agreement.

(g) Applicable Law. This Agreement will be governed by the laws of the State of Ohio without regard to conflicts of laws principles. Any action taken pursuant to or to enforce the terms of this Agreement shall be undertaken in the federal or state courts located in Franklin County, Ohio, with each Party hereby consenting to the jurisdiction and venue for those courts.

(h) Counterparts and Signatures. This Agreement may be executed in counterparts, each of which when taken together shall constitute one and the same instrument. Copies of signatures on this Agreement shall be deemed to be original signatures for all purposes.

(i) Recitals. The Parties acknowledge and agree that the facts and circumstances as described in the Recitals hereto are an integral part of this Agreement and as such are incorporated herein by reference.

(j) City Council Action. The execution of this Agreement has been authorized by action of Gahanna City Council in Ordinance Number _____.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and delivered as of the dates written below.

City:

CITY OF GAHANNA

By: _____

Print Name: _____

Title: _____

Date: _____

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By: _____
Ray Mularski, City Attorney

CRESCENT:

CRESCENT AT CENTRAL PARK LLC,
an Ohio limited liability company

By: _____

Print Name: _____

Title: _____

Date: _____

BUCKLES:

Andre M. Buckles

Date: _____

CASTO:

CP CRESCENT, LLC,
an Ohio limited liability company

By: _____

Print Name: _____

Title: _____

Date: _____



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EXHIBIT B



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Anthony

July 8, 2010

Andre Buckles
65 South Fifth Street
Columbus, OH 43215-4307

Re: TechCenter Drive Donation Clarification

Dear Mr. Buckles:

I am hopeful that we can close soon on the proposed donation of the right-of-way for the TechCenter Drive. The deadline to meet the ODOT schedule for securing the right-of-way is approaching. There are a few items that you have asked to be clarified to protect the interest of the property owner as follows:

- 1) Delay of Donation of the Park Property - The delay until the donation can offset the income derived from selling portions of the residual property is reasonable and will be accepted by the City. This delay is in accordance with the terms of the executed agreement provided there is an acknowledgement in writing. You have agreed that the Park property will be donated no later than December 31, 2020 and may be donated in one or more phases earlier to that date as sufficient sales of property justify such donation.
- 2) Sanitary Sewer Availability to the Residual Property - The property to the north of the proposed TechCenter is adjacent to the existing sanitary sewer line on the property and there does not appear to be any obstacle to those properties accessing that sewer. The 12-acre portion to the south of the proposed road will need to have a short sewer extension through the proposed park property. The City is committed to building the line into the property as shown on the attached map. This will require that a sanitary sewer easement be granted for this purpose across the park property. Since the park property will need the surveyor to modify the park property donation description, the City will contract with the surveyor to include this as part of the modification. The City will commit to building the sewer prior to the need of potential users of the 12-acre site.



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- 3) Water to the 12-Acre Residual Site South of TechCenter- The final plans will show a 6-inch line crossing the proposed TechCenter Drive to this site. It will include a fire hydrant as the fire department will request this for future development. (see attached email from Abby Lyles of TranSystems)

- 4) Future Access Points - The City will require future development of the residual properties to conform to the City access management policies_in effect as of the date of donation of the right-of-way. The environmental document section K states that ODOT is in control of the limited access right-of-way line and the city will be in control of TechCenter Drive after construction is complete. ODOT considers TechCenter Drive to be a city street where it is beyond the limited access lines. Major access points to large traffic generators will best be served by controlled access points particularly if signal warrants are met. Signal spacing should be more than 650-feet. The proposed TechCenter drive will have signals at Hamilton Road and at Morrison Road. Access points which align serving areas on both north and south of TechCenter at station 7+50 and at station 26+00 would satisfy these requirements. These locations are a sufficient distance from the bridges for safety purposes. In connection with the above, the City will recommend that the Planning Commission approve the construction of three (3) full access points on the north side of TechCenter Drive and two (2) full access points on the south side of TechCenter Drive according to Gahanna Code Section 1151.04 B9, all for access to property retained by Mr. Buckles for development. (the development property) There will be no charge or assessment of any kind for the use of the curb cuts. Appropriate right in/right out access points will also be permitted on both sides of TechCenter Drive as development may reasonably dictate. Any traffic signals installed at the full access points on TechCenter Drive shall be at the expense of the City unless otherwise agreed by both the property owner of the development property and the City.

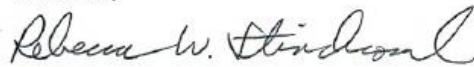
- 5) Stormwater Management Plan for Future Development - The Gahanna Codified Ordinances Section 1193.05 Waivers (d) (5) provides for waivers of detention requirements in areas that directly discharge into the Big Walnut Creek. This is because the peak flows from storms are offset between the large drainage area of the Big Walnut and the small drainage areas of local sites. Our stormwater plan for this development site is for direct discharge into the Big Walnut through the proposed culvert. The requirements for water quality must still be met by the individual developments. This issue was also of concern to ODOT during the

preliminary planning stages. The preceding statement conforms to assurances provided to ODOT in the approved environmental document section K.

- 6) Access During Construction - It is standard practice for ODOT to provide access to properties during construction as is indicated in the environmental document section K. This site is peculiar in that the existing access is for farm use and does not have the appearance of a more formal driveway entrance. The area just north of the existing barrier at Hamilton Road is currently used as an access road and could easily be modified to provide adequate access for farming or construction. Some of the particulars will need to be coordinated during construction, but ODOT is consistent in implementing their policies of maintaining access. There will also be a plan note reinforcing the need to maintain access. Should there be problems with a connection to the eastern half of the property during construction the City is committed to providing assistance in building a temporary creek crossing. When construction is complete, the City will coordinate with farming operations to provide access to all three of the residual farm sites. We recognize that this will involve large grain trucks as well as farm equipment.

Hopefully, this letter satisfies your concerns with the interests of the remaining property for both existing agricultural use as well as future development. I am looking forward to closing on the right-of-way donation so that we can meet the ODOT/Federal Highway schedule and get the road built to our mutual long term benefit.

Thank You,



Rebecca W. Stinchcomb
Mayor, City of Gahanna

Cc: Brandi Braun
Tony Collins
Anthony Jones
Sadicka White

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Deleted: EXHIBIT C
¶
[to be added]¶

EXHIBIT C

Deleted: D

Form of Declaration of Restrictions

USE RESTRICTION AGREEMENT

THIS USE RESTRICTION AGREEMENT (this "Agreement") is made so as to be effective on the last date of signature by a party hereto (the "Effective Date"), by and between **CRESCENT AT CENTRAL PARK LLC**, an Ohio limited liability company having its address at 132 Preston Road, Columbus, Ohio 43209 ("Crescent"), and the **CITY OF GAHANNA**, an Ohio municipal corporation having its address at 200 S. Hamilton Road, Gahanna, Ohio 43230 (the "City").

BACKGROUND

WHEREAS, Crescent is the owner of certain real property (the "Property") located in the City, consisting of 26.6+/- acres found generally to the south and southeast of and adjacent to the Interstate-270/Hamilton Road interchange, known on the Effective Date as Franklin County Auditor Parcel Number(s) _____, as more specifically described and depicted in **Exhibit A** (attached hereto and incorporated herein by reference), and which Crescent acquired by and through its acceptance of a deed which is of record with the Office of the Recorder of Franklin County, Ohio as Instrument Number _____; and

WHEREAS, Crescent has agreed to place certain limited use restrictions on the development and use of the Property for the benefit of the City.

NOW, THEREFORE, Crescent and the City agree that the use restrictions as described herein shall apply to the Property and shall be enforceable as provided herein:

1. **Office Use Restriction:** For the period of time beginning on the Effective Date and ending at 11:59 P.M. on the day before the seventh (7th) anniversary of the Effective Date (the "Office Restriction Period"), Crescent (and its successors and assigns in interest with regard to all or any portion of the Property) shall reserve a minimum of four (4.0) acres of the Property for the construction and development of offices uses including, by way of example and not by limitation, corporate, professional, administrative, and medical offices, or some combination thereof. The four (4.0) acres of office uses may be located within any portion of the Property and need not be in a particular location or a single location, it being the intent that such uses will be developed in locations that are market-driven. Crescent agrees that during the Office Restriction Period the City shall be permitted to elect not to process any applications that, if approved, would cause there to be less than four (4.0) acres available within the Property for office development, regardless of the fact that other uses may then be permitted to be constructed, developed, and/or operated pursuant to the zoning classification that applies to the Property. During the Office Restriction Period, Crescent hereby waives any action or claim that it may allege or have against the City relating to the City's failure to approve relevant permits for a proposed development, operation, or use which

is permitted by the applicable zoning of the Property but, if issued, would cause the restriction contemplated in this paragraph to be violated.

2. Residential Use Restriction: For the period of time beginning on the Effective Date and ending at 11:59 P.M. on the day before the fortieth (40th) anniversary of the Effective Date (the “Residential Restriction Period”), Crescent (on behalf of itself and its successors and assigns in interest with regard to all or any portion of the Property) agrees that it shall not file any rezoning applications, variance applications, conditional use applications, or similar applications with the City which, if approved by the City using procedures required under its Codified Ordinances, have the effect of permitting or allowing any residential uses to be constructed, developed, or operated on any portion of the Property. The foregoing restriction shall apply to so-called “residential hotels” as defined in Ohio Revised Code Section 3731.01(A)(4) as it exists on the Effective Date, but shall not apply to the construction, development, and/or operation of any other types of hotels as defined in Ohio Revised Code Section 3731.01 (also as it exists on the Effective Date), and further shall not apply to the filing of any rezoning applications, variance applications, conditional use applications, or similar applications with the City which, if approved by the City using procedures required under its Codified Ordinances, would have the effect of permitting the construction, development, and/or operation of such other types of hotels.

3. Covenants to Run with the Land: During the Office Restriction Period and the Residential Restriction Period, respectively, the relevant covenants and restrictions contained in this Agreement shall be binding upon and run with the Property and shall be enforceable by the City. Upon the expiration of the Office Restriction Period, the covenants and restrictions contained in Section 1 above shall be deemed to be of no further force and effect without the need to record any additional instruments with the Office of the Recorder, Franklin County, Ohio (the “Recorder”). Likewise, upon the expiration of the Residential Restriction Period, the covenants and restrictions contained in Section 2 above shall be deemed to be of no further force and effect without the need to record any additional instruments with the Recorder.

4. Remedies: Crescent and the City agree that (a) this Agreement and the covenants and restrictions contained herein shall be enforceable against Crescent and its successors and assign with respect to the ownership of all or any portion of the Property, and (b) in the event of any violation of this Agreement, a remedy at law will be inadequate and the City may suffer irreparable injury, and (c) the City shall be entitled to seek and obtain, in addition to any other relief available at law or in equity, injunctive relief (including but not limited to) a temporary restraining order and a preliminary and/or permanent injunction, to restrain an owner, tenant, or occupant of the Property from violating the covenants and restrictions provided herein, together with any other remedy to which the City may be entitled at law or in equity including, but not limited to, an award for lost business profits and consequential damages.

5. No Waiver; Remedies Not Exclusive: No delay or omission by the City in the exercise of any right or power occurring upon any violation or breach under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. Nor shall a waiver by the City of any of the covenants, conditions or agreements hereof be construed to be

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a waiver of any subsequent violation or breach thereof or of any other covenant, condition or agreement herein contained, unless the City expressly releases the application of the covenant, conditions or agreement by a duly executed amendment filed of record with the Recorder. Any waiver of rights in favor of the City or of any restrictions contained herein shall require action by Gahanna City Council. The remedies of the City arising under the clauses and covenants of this Agreement and by operation of law shall be separate, distinct, and cumulative, and none of them shall be in exclusion of the others or in exclusion of any remedies available at law or in equity not specifically provided for in this Agreement.

6. Severability: Crescent acknowledges and represents that the duration and scope of the use restrictions are reasonable. The invalidity of any covenant, restriction, condition, limitation, or any other provision of this Agreement, or any part thereof, shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Agreement.

7. Venue; Jury Trial Waiver: All questions concerning the validity or intention of this Agreement shall be resolved under the laws of the State of Ohio. The parties to this Agreement hereby designate the Court of Common Pleas of Franklin County, Ohio, as the court of proper jurisdiction and exclusive venue for any actions or proceedings relating to this Agreement; hereby irrevocably consent to such designation, jurisdiction and venue; and hereby waive any right to a jury trial and any objections or defenses relating to jurisdiction or venue with respect to any action or proceeding initiated in the Court of Common Pleas of Franklin County, Ohio.

8. Successors and Assigns: This Agreement shall be binding upon Crescent, its successors and assigns, and each of their respective tenants and occupants.

9. Amendment; Entire Agreement: All headings and titles are for reference and convenience only and do not form a part of this Agreement. This Agreement represents the complete understanding between the parties and supersedes all prior written and oral covenants, promises, agreements, conditions, representations, warranties, statements, and understandings, all of which have been merged herein. No subsequent alteration, amendment, change or addition to this Agreement shall be binding or effective unless reduced to writing, signed by the party against whom enforcement is sought, and filed with the Recorder. The City's consent to amend this Agreement shall be provided by and through action by its City Council that authorizes the amendment.

[Signature pages follow]

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IN WITNESS WHEREOF, Crescent and the City have executed this Agreement so as to be effective on the Effective Date.

Crescent:

CRESCENT AT CENTRAL PARK LLC,
an Ohio limited liability company

By: _____

Print Name: _____

Title: _____

STATE OF OHIO)
) SS.
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by _____, the _____ of **CRESCENT AT CENTRAL PARK LLC**, an Ohio limited liability company, who acknowledged that he/she did execute the foregoing instrument on behalf of said corporation and that the same is his/her free act and deed and that no oath or affirmation was administered to the signor..

Notary Public

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City:

CITY OF GAHANNA,
an Ohio municipal corporation

By: _____

Print Name: _____

Title: _____

STATE OF OHIO)
) SS.
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by _____, the _____ of the **CITY OF GAHANNA**, an Ohio municipal corporation, who acknowledged that he/she did execute the foregoing instrument on behalf of said municipality and that the same is his/her free act and deed and that no oath or affirmation was administered to the signor..

Notary Public

Approved as to Form:

By: _____
Raymond J. Mularski, City Attorney

This instrument prepared by:
Aaron L. Underhill, Esq.
Underhill & Hodge LLC
8000 Walton Parkway, Suite 260
New Albany, Ohio 43054
(614) 335-9320

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EXHIBIT A

Description and Depiction of the Property

[TO BE ADDED]