

## DEVELOPMENT AGREEMENT

### ESTOPPEL CERTIFICATE

June \_\_\_, 2012

To: CREEKSIDE INVESTMENT PARTNERS LLC, its successors and assigns (“Creekside”)

And To: TL DOF III HOLDING CORPORATION, a Delaware corporation, its successors and assigns (“Lender”)

From: CITY OF GAHANNA, OHIO, a municipal corporation duly organized and validly existing under the Constitution and laws of the State of Ohio (the “City”)

Development Agreement: That certain Development Agreement, dated November 8, 2004, by and between Gahanna-Creekside Investments LLC (“Original Developer”) and the City, as modified by that certain Supplement to Development Agreement, dated December 31, 2005, as further modified by that certain First Amendment to Development Agreement, dated as of October 22, 2009, among the City, the Lofts at Creekside Condominium Association and Original Developer. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Development Agreement.

Ladies and Gentlemen:

The City understands that Lender is contemplating making a loan (the “Loan”) to Creekside, to finance the acquisition by Creekside of Original Developer’s interest in the real property pursuant to that certain Contract for Purchase and Sale, dated February 10, 2012, by and between Crouch Investment Group, LLC, a Michigan limited liability company with offices located at 1427 W. Saginaw Highway, Suite 150, East Lansing, Michigan 48823 (“Crouch”), and Mark S. Froehlich, court appointed Receiver for Original Developer, with offices located at 605 S. Front Street, Suite 200, Columbus, OH 43215, as assigned by Crouch to Creekside pursuant to an Assignment and Assumption of Contract of Purchase and Sale, dated as of May \_\_\_, 2012, between Crouch and Creekside. Upon Creekside acquiring title to Original Developer’s interest in the Property, the City understands that the Loan will be secured by a mortgage lien against the Property (including Creekside’s leasehold interest in the portions of the Property owned by the City and leased to Creekside as successor in interest to Original Developer) in favor of Lender, in addition to other customary security documents (collectively, the “Mortgage Loan Documents”).

As a party to the above-referenced Development Agreement, the undersigned City hereby represents the following to you that as of the date hereof:

1. The Development Agreement is in full force and effect, and has not been

modified, changed, altered or amended in any respect, except as otherwise expressly stated herein.

2. Neither the City nor Original Developer has commenced any action or given or received any notice for the purpose of terminating the Development Agreement, nor does the City have any right to terminate the Development Agreement, except upon the terms specifically set forth in the Development Agreement.

3. To the City's knowledge, except for the failure by Original Developer to comply with its obligations (a) under the second paragraph of Section 8.2 of the Development Agreement, and (b) to pay the remaining balance of \$150,000 of the Developer's Purchase Price as set forth in Section 4.1(a) of the Development Agreement, and assuming all obligations under the Development Agreement which are also reflected in that certain Lease Agreement – Building B or that certain Lease Agreement – Building C, in each case between the City and Original Developer and dated as of April 28, 2006 are governed by such leases and not the Development Agreement, all of Original Developer's obligations under the Development Agreement which have accrued prior to the date hereof have been performed. The City agrees and acknowledges it will not seek to enforce any obligation with respect to the Developer's Purchase Price against Lender, Creekside or any of their respective assignees or transferees, as successors in interest to Original Developer, and shall seek to enforce such obligation only against Original Developer. Nothing contained herein shall constitute, or be construed as, a waiver of any default of Original Developer with respect to the obligations under Section 8.2 of the Development Agreement, and the City reserves all rights to with respect to same.

4. There is no pending notice of default alleging a default by either Party under the Development Agreement, except with respect to the defaults set forth above. To the City's knowledge, except as otherwise set forth above, neither Party to the Development Agreement is in default under the Development Agreement, and to the City's knowledge no event has occurred and is continuing which, with the giving of notice or the passage of time, or both, would constitute a default under the Development Agreement, or with respect to which the City would seek to enforce against Creekside or Crouch or by encumbering any of the Property.

5. The City shall give Lender prompt written notice of any default by Creekside, as successor to Original Developer, under the Development Agreement and the same opportunity to cure such default as provided to Creekside in accordance with the terms of the Development Agreement.

6. All notices and other communications from the City to Lender shall be addressed to Lender at:

TL DOF III HOLDING CORPORATION  
c/o Torchlight Investors  
230 Park Avenue  
New York, NY 10169  
Attn: Steve Schwartz  
Email: [sschwartz@torchlightinvestors.com](mailto:sschwartz@torchlightinvestors.com)  
Facsimile: (212) 488-3651

With a copy to:

Pryor Cashman LLP  
7 Times Square  
New York, NY 10036-6569  
Attention: Dennis M. Sughrue, Esq.

or such other addresses that the Lender shall furnish to the City in writing.

7. The City acknowledges that the Development Agreement did not terminate as of the Property Contingency Date.

8. The City agrees that Section 4.1(c) of the Development Agreement should be modified by inserting the word "Parcel" after the second occurrence of the word "Developer" in the first sentence thereof.

[THE SIGNATURE PAGE FOLLOWS IMMEDIATELY.]

Very truly yours,

By: \_\_\_\_\_  
Rebecca W. Stinchcomb, Mayor

STATE OF OHIO )  
COUNTY OF FRANKLIN ) SS:

On this \_\_\_\_ day of June, 2012, before me a Notary Public in and for said County and State, personally appeared Rebecca W. Stinchcomb, the Mayor of the City of Gahanna, Ohio respectively, who executed the foregoing instrument as officers on behalf of the City of Gahanna, Ohio who acknowledged that the same is their free act and deed individually and as such officers and the free act and deed of the City of Gahanna, Ohio.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

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## Notary Public

The undersigned, Creekside Investment Partners LLC (“**Creekside**”), hereby represents and warrants that it has no knowledge of any breach by the City under the Development Agreement, or any event that has occurred which, with the giving of notice or the passage of time, or both, would constitute an event of default by the City under the Development Agreement, or any claims, defenses or offsets against the City under the Development Agreement.

CREEKSIDE INVESTMENT PARTNERS LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before on this \_\_\_\_\_ day of June, 2012 by  
\_\_\_\_\_, the \_\_\_\_\_ of the Creekside Investment Partners LLC, an Ohio  
limited liability company (“**Creekside**”), on behalf of Creekside.