

ORDINANCE NO. 21-22

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A DEVELOPER AGREEMENT WITH 5990 BRANCH ROAD LLC, AN OHIO LIMITED LIABILITY COMPANY, PERTAINING TO THE BRANCH ROAD INFRASTRUCTURE IMPROVEMENTS PROJECT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

- SEC. 1:** That the Mayor is hereby authorized and directed to enter into a Developer Agreement with 5990 Branch Road LLC, an Ohio Limited Liability Company, pertaining to the Branch Road Infrastructure Improvements Project.
- SEC. 2:** That a copy of the Developer Agreement is marked Exhibit A, attached hereto and incorporated herein.
- SEC. 3:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 4:** That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: February 28, 2022

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: March 1, 2022

SIGNED: Dennis Hanwell
Mayor

DEVELOPER AGREEMENT

This Developer Agreement (the "Agreement"), is entered into as of January 28, 2022, by and between 5990 Branch Road LLC, an Ohio limited liability company (the "Developer"), and the City of Medina, a body politic and corporate political subdivision organized and existing according to the laws of the state of Ohio (the "City") (the Developer and the City collectively, the "Parties"), in furtherance of Resolution No. 216-21 A Resolution Supporting The Branch Road Infrastructure Improvements project, and sets forth the various understandings by and between the Parties with regard to the "Project" as defined below.

1. **The Project.** The "Project" means the plans, and subsequent undertakings to develop, upgrade, and modify land from Commerce Drive to the westerly limits of MCL 8875 in the City of Medina and/or York Township (the "Fruth-Turner Property") to accommodate industrial development including: (a) renovation of Branch Road from Commerce Drive to the westerly limits of MCL 8875 to accommodate industrial traffic, including, without limitation, grading work, and paving work ("Branch Road Renovation"); (b) installation of a storm sewer and/or ditches to drain Branch Road ("Branch Road/Storm Drainage Improvements"); (c) extension of the sanitary sewer from Commerce Drive to the westerly limits of MCL 8875 (the "Fruth-Turner Property" ("Sanitary Improvements"); (d) extension of water access from Commerce Drive to the westerly limits of MCL 8875 (the Fruth-Turner Property) including fire hydrants ("Water Improvements"); (e) construction of site improvements on Permanent Parcel No. 050-31A-26-011 ("Site Improvements"); construction of industrial structures, and other buildings, on Permanent Parcel No. 050-31A-26-011 ("Building Improvements"); (f) procuring necessary permits, easements, and licenses; and (g) all other transactions, developments, consents, licenses, and plans necessary to affect the developmental intent of the Parties with respect to the industrial development of the Fruth-Turner Property to accommodate the construction, operation and use of a manufacturing, engineering and administrative facility (collectively the "Project").
2. **City's Responsibilities.** With respect to the Project, the City will undertake and bear the costs of the following: (a) Road Renovations; (b) Branch Road/Storm Drainage Improvements; and (c) if required, at City's expense, securing the necessary easements from third parties (if applicable) necessary to complete the work related to the Project, including allowing Developer access to undertake and complete the Sanitary Improvements and the Water Improvements, and coordination of same with Medina County Sanitary Engineers.
3. **Developer's Responsibilities.** With respect to the Project, the Developer will undertake and bear the costs of the following: (a) the Sanitary Improvements; (b) the Water Improvements; (c) the procurement of completed engineered plans prepared by Alber & Rice, Inc ("A&R") or such other qualified civil engineering firm relative to the Road Renovations, Branch Road/Storm Drainage Improvements, Sanitary Improvements, Water Improvements, Site Improvements and Building Improvements; and (d) provided progress on the Project is made in accordance with the understandings set forth herein, undertake and complete the Site Improvements as well as the Building Improvements, as determined by the Developer subject to approval and performed in accordance with the City of Medina Ordinances, as amended, and procedures.
4. **Terms and Conditions of Performance.** Performance of the Developer's and the City's responsibilities must conform to the following terms and conditions: (a) all work contemplated in Sections 2 and 3 above shall be performed in accordance with the engineered plans, Title Nine of the Code of Ordinances of the City, as amended, and in accordance with Titles Eleven and Thirteen (as well as other applicable provisions) of the Ordinances of City, as amended, subject to approval by the requisite department(s) of the City of Medina for each element of the Project - which approval will not be unreasonably withheld; (b) the Parties will, in good faith, work with all necessary third parties, including, without limitation, all offices, organizations, and subdivisions of Medina County, to expediently complete

the Project with a target completion date of December 2023; (c) upon completion of the Water Improvements, Developer will donate the Water Improvements to the City; and (d) upon completion of the Sanitary Improvements, Developer will donate the Sanitary Improvements to the City. In return, the City will cooperate in good faith with Developer to establish acceptable terms with the Medina County Sanitary Engineer related to the Water Improvements and the Sanitary Improvements, including addressing tie-in fees in conjunction with the work. In addition, for a period of twenty (20) years from the donation of the Water Improvements and the Sanitary Improvements, as the case may be, the City and Developer will cooperate in good faith to recoup for Developer a reasonable percentage of the costs associated with completing the Water Improvements and Sanitary Improvements from third parties who seek to tie-into those improvements.

5. **Recourse.** The Developer will complete the Water Improvements and Sanitary Improvements in accordance with the approved engineered plans and within the time for completion as determined by the Medina City Engineer as set forth in the City of Medina Code of Ordinances or the time set forth in the ordinance approving the recorded plat for the Branch Road improvements. If the improvements are not completed within the specified time, the City, upon proper notice, may complete the improvements and recover full cost and expenses thereof from the Developer, and may appropriate such portion of money or bonds posted for the faithful performance of said work.

6. **Authorization and Approval.** The Parties acknowledge that actions, undertakings and investments will be made to perform the commitments and obligations set forth herein upon the effective date of the adoption of this Agreement by the Medina City Council. Execution hereof on behalf of the City will be authorized subject to approval of completed engineered plans for the Branch Road Renovation, the Branch Road/Storm Drainage Improvements, the Sanitary Improvements, and the Water Improvements.

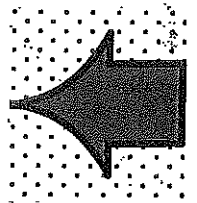
IN WITNESS WHEREOF, authorized representatives of the Parties hereto have executed this Developer Agreement indicating their respective Party's approval of the terms herein as of the day and year first above set forth.

CITY OF MEDINA, OHIO:

By: D. Hanwell 3-1-2022
Name: Dennis Hanwell
Title: Mayor, City of Medina

5990 BRANCH ROAD LLC:

By: _____
Name: James C. Doty
Title: President, 5990 Branch Road LLC



ACKNOWLEDGEMENT

STATE OF OHIO)
) SS:
COUNTY OF MEDINA)

Before me, a Notary Public in and for said County and State, personally appeared the above-named CITY OF MEDINA, OHIO, by Dennis Hanwell, its Mayor, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of the CITY OF MEDINA, OHIO, and the free act and deed of himself personally as such officer.

The foregoing instrument was acknowledged before me with no oath or affirmations on this 1st day of March, 2022.

Sherry A. Crow
Notary Public

SHERRY A. CROW
Notary Public
State of Ohio, Medina County
My Commission Expires 5-27-24

ACKNOWLEDGEMENT

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said County and State, personally appeared the above-named 5990 BRANCH ROAD LLC, by James Doty, its President, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of the 5990 BRANCH ROAD LLC, and the free act and deed of himself personally as such officer.

The foregoing instrument was acknowledged before me with no oath or affirmations on this _____ day of _____, 2022.

Notary Public