

ORDINANCE NO. 16-2013

Approving a Grant as Part of the City's Economic Development Venture Program and Authorizing the City Manager to Enter into an Economic Development Grant Agreement for the Same.

WHEREAS, this City Council has established an Economic Development Venture Grant Program in order to assist in creating job and employment opportunities within the City; and,

WHEREAS, this City Council created an Economic Development Fund (the "**Fund**") to provide incentives to businesses wishing to remain or locate within the City; and,

WHEREAS, in amending the Economic Development Venture Policy under Ordinance 57-2006, this City Council stated its intention to allow the use of grants payable from the Fund to encourage the productive reuse and development of targeted properties; and,

WHEREAS, formal development plans have been submitted by Crawford Hoying Development Partners, LLC to redevelop property adjacent to, and immediately west of, the Shops at Worthington Place, by constructing, in part, at least 23,000 square feet of Class A-grade office space and a two-story structured parking facility in a building at 160 West Wilson Bridge Road (the "**Project**"); and,

WHEREAS, given that the City currently lacks any Class A-grade office space in its commercial office inventory, the Project represents an opportunity to create space to accommodate employers with a particular need for high-quality space and modern amenities along the Wilson Bridge Corridor; and,

WHEREAS, the City has identified the construction of high-quality, Class A-grade office space as a critical priority in establishing a sustainable economic environment in Worthington for the foreseeable future; and,

WHEREAS, the City seeks to assist Crawford Hoying Development Partners, LLC, and any related entity formed for the specific purpose of constructing the Project (collectively, the "**Company**") in the cost of building speculative office space on the Wilson Bridge Corridor; and,

WHEREAS, as structured, this Venture Grant Project otherwise meets all of the criteria for a grant of funds established in the City Economic Development Incentive Policy;

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NOW THEREFORE; BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That there be and hereby is approved a grant to the Company approximately equal in net present value to Seven-Hundred Fifty Thousand Dollars (\$750,000.00) in assistance, to be paid in ten (10) annual installments of Eighty-Seven Thousand Eight Hundred Dollars (\$87,800) during the agreement term from the Fund to assist in the construction of Class A-grade speculative office space in the City of Worthington.

SECTION 2. That the City Manager is hereby authorized and directed to enter into an Agreement with the Company substantially in the form in EXHIBIT A, attached hereto and made a part hereof, establishing the conditions of the grant, provided however that the City Manager shall not be directed to sign said Agreement unless and until the tax increment financing agreement associated with the Project is executed by the Company.

SECTION 3. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington Ohio.

Passed May 20, 2013

[Signature on File]  
President Pro-Tem of Council

Attest:

[Signature on File]  
Clerk of Council

Introduced May 6, 2013  
P.H. May 20, 2013  
Effective June 12, 2013

## EXHIBIT A

### ECONOMIC DEVELOPMENT GRANT AGREEMENT

THIS ECONOMIC DEVELOPMENT GRANT AGREEMENT (the "**Agreement**") is made and entered into this \_\_\_ day of \_\_\_\_\_, 2013 (the "**Effective Date**"), by and between the City of Worthington, an Ohio municipal corporation (the "**City**"), and Crawford Hoying Development Partners, LLC, and any related entity formed for the specific purpose of developing the Project defined below (collectively, the "**Company**"). The City and the Company are collectively referred to herein as the "**Parties**."

#### RECITALS

WHEREAS, pursuant to Ordinance No. 44-2002 (As Amended), Ordinance No. 37-2004, and Ordinance No. 57-2006 (As Amended) (the "**Approval Ordinances**"), and consistent with its goal of encouraging the development and maintenance of commercial and industrial businesses within the City and to provide for the creation of jobs and employment opportunities, the City has established an Economic Development Fund (the "**Fund**") and adopted an Economic Development Incentive Policy (the "**Policy**"); and

WHEREAS, Worthington City Council stated its intention in the Approval Ordinances to allow the use of grants payable from the Fund to encourage the productive reuse and development of targeted properties; and,

WHEREAS, as authorized in Article VIII, Section 13 of the Ohio Constitution and in accordance with the guidelines established under the Policy, the City has offered to provide the Company an economic development incentive grant to encourage the Company to construct high-quality office space located within the City; and,

WHEREAS, Worthington City Council has approved plans for the development of a mixed use complex to be constructed by the Company on West Wilson Bridge Road and comprised of multi-family residential, office, and structured parking facilities (the "**Project**"), as more fully described and set forth in EXHIBIT A, Scope of Work, attached hereto and incorporated herein; and,

WHEREAS, the Company has agreed to enter into this Agreement, which sets forth the Company's respective rights and obligations concerning the payment of such grant.

NOW THEREFORE, the Parties covenant, agree and obligate themselves as follows:

Section 1. Terms of the Grant. The City shall provide to the Company an economic development incentive grant in amounts set forth in this section (the "**Grant**"), which the Company shall use in connection with the development of the Office Premises defined

below and situated within the City of Worthington. The first payment under this Section shall be provided to the Company after the City's issuance of the Project's Final Certificate of Occupancy and Certificate of Zoning Compliance (as the Certificate of Zoning Compliance relates to all improvements described in the Company's approved development plan) (collectively, the "**Certificates**"), provided that this Agreement has been fully executed by both Parties. By accepting the Grant, the Company agrees to meet the Grant Objectives defined in Section 3 below.

The Grant shall be payable to the Company in ten (10) consecutive annual installments of Eighty-Seven Thousand Eight-Hundred dollars (\$87,800.00) (each representing an "**Annual Installment Amount**"), with the first such Annual Installment Amount to be payable upon the City's issuance of the Certificates and each subsequent Annual Installment Amount to be payable every twelve (12) months hence during the remainder of the Term defined herein, subject to the City's Annual Review as set forth in Section 4 of this Agreement. The term of this Agreement shall commence on the Effective Date and end on the earlier of (i) ten (10) years after such Effective Date or (ii) the date on which the City remits to the Company the tenth and final Annual Installment Amount (the "**Term**").

Section 2. City's Obligation to Make Payments Not Debt: Payments Limited to Nontax Revenues. Notwithstanding anything to the contrary herein, the obligations of the City pursuant to this Agreement shall not be a general obligation debt or bonded indebtedness, or a pledge of the general credit or taxes levied by the City, and the Company shall have no right to have excises or taxes levied by the City, the State or any other political subdivision of the State for the performance of any obligations of the City herein. Consistent with Section 13 of Article VIII, Ohio Constitution, any payments required to be made by the City pursuant to this Section 2 shall be payable solely from the City's non-tax revenues. Further, the obligation of the City to make the payments pursuant to this Agreement shall be in accordance with the Approval Ordinances and subject to certification by the Director of Finance of the City as to the availability of such non-tax revenues.

Section 3. Grant Objectives. In consideration of the City's agreement to provide the Grant to the Company, the Company agrees to comply with all the following objectives throughout the Term (the "**Grant Objectives**"):

- (a) Within eighteen (18) months after the Effective Date, the Company shall cause at least Eight Million dollars (\$8,000,000.00) in total wages to be paid to persons employed in the construction of the Project, with such payroll taxable by the City of Worthington;
- (b) Within eighteen (18) months after the Effective Date, the Company will construct the Project, including the Office Premises defined below, in accordance with plans reviewed and approved by the Worthington Municipal Planning Commission and Worthington City Council;

- (c) Within thirty-six (36) months after the Effective Date and continuing without interruption throughout the remainder of the Term, the Company shall cause at least One Million dollars (\$1,000,000.00) in total annual wages to be paid to persons working exclusively in the Office Premises, and such payroll shall not be comprised by wages paid for the construction of said Office Premises, with such total wages resulting from the Company's direct employment of persons in the Office Premises or by other third party employers and such wages paid are subject to City withholding (the "**Total Annual Compensation**");
- (d) The Company shall keep as reserved for users of the Office Premises during restricted hours and throughout the Term of this Agreement, at least sixty-six (66) parking spaces on the first level of the Office Premises' attached parking structure; and
- (e) The Company shall remain current on all real estate tax obligations relevant to the Project, including any service payments in lieu of taxes otherwise due, during the Term.

Section 4. Annual Review of Grant Objectives; Actions by City.

The Company shall make annual reports, in such detail as may reasonably be requested by the City, as to the actual progress of the Company with respect to the Project and the terms of this Agreement. Information requested by the City may include the amount of investment made, number of new jobs created, whether such jobs are related to the construction of the Project or employment in the Office Premises, the amount of payroll attributable to such new jobs, and such other information related to carrying out this Agreement as the City reasonably requires. Prior to remitting the Annual Installment Amount for the respective period, the City shall review the information supplied by the Company to determine whether it is satisfying the Grant Objectives (the "**Annual Review**").

In the event the City determines in its Annual Review that the Company has met the Grant Objectives during the respective period, the City shall remit to the Company the Annual Installment Amount for that period. If, however, the City determines in its Annual Review that the Company did not meet the Grant Objectives for the respective period, the Annual Installment Amount shall not be remitted to the Company for that period.

Notwithstanding other provisions of this Agreement, for any one (1) twelve-month period during the Term, if the Company is unable to comply with the Grant Objective set forth in Section 3(c) of this Agreement, the City may remit the respective Annual Installment Amount for that period provided that (i) the Company previously has satisfied said Grant Objective at least once during the Term; and (ii) the Company otherwise has satisfied all other Grant Objectives set forth in this Agreement.

Section 5. Miscellaneous.

(a) Notices. Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by a recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other party at the address set forth in this Agreement or any addendum to or counterpart of this Agreement, or to such other address as the recipient shall have previously notified the sender of in writing, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to have been received when the return receipt is signed or refused. For purposes of this agreement, Notices shall be addressed to:

- (i) If to the City:

City of Worthington  
Attention: Jeffry Harris, Economic Development Manager  
6550 North High Street  
P.O. Box 480  
Worthington, Ohio 43085

with a copy to:

Pamela A. Fox  
Director of Law  
370 Highland Avenue  
Worthington, Ohio 43085

- (ii) If to the Company:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

(b) Extent of Provisions: No Personal Liability. All rights, remedies, representations, warranties, covenants, agreements and obligations of the City under this Agreement shall be effective to the extent authorized and permitted by applicable law. No representation, warranty, covenant, agreement, obligation, or stipulation contained in this Agreement shall be deemed to constitute a representation, warranty, covenant, agreement, obligation or stipulation of any present or future official, member, officer, agent or

employee of the City or the Company in other than his or her official capacity. No official executing or approving the City's or the Company's participation in this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the issuance thereof.

(c) Successors. This Agreement shall be to the exclusive benefit of the Company for so long as the Company owns the property in fee simple comprising the Redevelopment Project. The Parties intend this Agreement to not inure to the benefit of the Company's successors in interests in the real property comprising the Redevelopment Project.

(d) Amendments. This Agreement may only be amended by a written instrument executed by both Parties.

(e) Executed Counterparts. This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same agreement. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

(f) Severability. In case any section or provision of this Agreement, or any covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, or any application thereof, is held to be illegal or invalid for any reason:

(i) that illegality or invalidity shall not affect the remainder hereof or thereof, any other section or provision hereof, or any other covenant, agreement, obligation or action, or part thereof, made, assumed, entered into, or taken, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein or therein;

(ii) the illegality or invalidity of any application hereof or thereof shall not affect any legal and valid application hereof or thereof; and

(iii) each section, provision, covenant, agreement, obligation or action, or part thereof shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the fullest extent permitted by law.

(g) Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of the Agreement.

(h) Governing Law and Choice of Forum. This Agreement shall be governed by and constructed in accordance with the laws of the State of Ohio or applicable federal law. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Company, its employees and agents, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Franklin County, Ohio.

IN WITNESS WHEREOF, the City and the Company have caused this Agreement to be executed in their respective names by their duly authorized representatives, all as of the date written above.

CRAWFORD HOYING DEVELOPMENT  
PARTNERS, LLC

By \_\_\_\_\_  
(Name) (Title)

THE CITY OF WORTHINGTON

By \_\_\_\_\_  
Matthew H. Greeson, City Manager

Approved as to form:

\_\_\_\_\_  
Pamela A. Fox  
Director of Law



## **EXHIBIT A**

### **SCOPE OF WORK**

Crawford Hoying Development Partners, LLC, and any related entity formed for the specific purpose of developing the Project defined below (collectively, the “**Company**”) proposes a mixed-use development project to occur on the rear parking lot behind the Shops at Worthington Place (on real property subdivided from the original Shops’ parcel) and the former James Tavern site at 160 West Wilson Bridge Road, City of Worthington, Franklin County. Specifically, the Company has drawn up plans that call for the following:

- Building 1 – Six stories on the former James Tavern site, comprised of at least 23,000 square feet of high-quality, Class A-grade commercial office space on the first two floors to be constructed at 160 West Wilson Bridge Road (the “**Office Premises**”) and approximately 140 one, two, and three-bedroom apartment units, all on top of a two-story parking structure connected to and serving the Office Premises and the apartment units. The building is to be tiered, with five stories immediately fronting West Wilson Bridge Road, including the office space, and stepping up to six stories towards the rear of the site. The parking structure is to feature 283 spaces.
- Building 2 – Four stories on the under-utilized parking lot to the immediate northwest of the Shops. This facility is to be comprised of 59 apartments on four floors and a basement parking garage with 44 spaces reserved for the residents.

Buildings 1 and 2 collectively comprise the “**Project**.”