

TAX INCREMENT FINANCING
REIMBURSEMENT AGREEMENT
(Newman Roofing Project)

This **TAX INCREMENT FINANCING REIMBURSEMENT AGREEMENT** (the “**Agreement**”) is made and entered into as of this ____ day of _____, 2025 (the “*Effective Date*”) by and between the **CITY OF SUNBURY, OHIO** (the “*City*”), a municipal corporation duly organized and existing under the constitution and the laws of the State of Ohio and its Charter, and **SUNBURY DEVELOPMENT LLC** (the “*Developer*” and together with the City, being referred to herein as the “*Parties*”), an Ohio limited liability company, under the circumstances summarized in the following recitals.

WITNESSETH:

WHEREAS, the City, by its Ordinance No. 2021.52 passed on December 1, 2021 and attached hereto as **EXHIBIT A** (the “*TIF Ordinance*”), has declared the improvement of a certain parcel of real property located within the City as identified in the TIF Ordinance (the “*Parcel*”) to be a public purpose and 75% of the improvement value of the Parcel exempt from taxation (the “*TIF Exemption*”), required the owner of the Parcel to make service payments in lieu of taxes (including allocable property tax rollback payments, the “*Service Payments*”) to the Delaware County Treasurer, has established the 208 Public Improvement Tax Increment Equivalent Fund (the “*TIF Fund*”) for the deposit of the Service Payments, and has specified public infrastructure improvements made or to be made that benefit or serve the Parcel (the “*Public Infrastructure Improvements*”), all pursuant to and in accordance with Sections 5709.40, 5709.42, and 5709.43 of the Ohio Revised Code; and

WHEREAS, the Developer has heretofore constructed an extension to the existing Kintner Parkway for the purpose of providing access to and for the development of a portion of the Parcel (the “*Kintner Parkway Extension*”) and to support the regional development of other areas in and around the Parcel; and

WHEREAS, the City has determined that the Kintner Parkway Extension has been constructed to public roadway standards and, upon dedication and acceptance by the City as a public right-of-way per the terms and conditions set forth herein, would become a Public Infrastructure Improvement as the same is defined in the TIF Ordinance and qualifying for TIF reimbursement; and

WHEREAS, the City has also determined that it would be financially advantageous if the Parcel were to be subdivided which would allow the TIF Exemption to apply to each subdivided portion of the Parcel as each subdivided portion of the Parcel is developed and such application would maximize the Service Payments and provide for the payment of additional costs of the Public Infrastructure Improvements; and

WHEREAS, the Developer has agreed to subdivide the Parcel and other terms set forth herein provided that the City would agree to allocate a portion of the Service Payments for the purpose of reimbursing the Developer for the cost of constructing Kintner Parkway Extension; and

WHEREAS, the City authorized the execution and delivery of this Agreement by passage of Ordinance No. 2025.____ on _____, 2025;

NOW, THEREFORE, in consideration of the premises and covenants contained herein, the Parties hereto agree to the foregoing and as follows:

Section 1. Kintner Parkway Extension.

(a) Design and Construction. The City has determined that the Developer heretofore caused the construction of the Kintner Parkway Extension, which constructed was undertaken in accordance with applicable City standards.

(b) Cost of Construction. The Parties agree that the Kintner Parkway Extension was constructed as a component part of a larger project. Based on an analysis of prevailing market costs at the time the Kintner Parkway Extension was constructed, the Parties have determined that the reasonably estimated cost of designing and constructing the Kintner Parkway Extension, a regional improvement, was \$_____ (the “*Cost of the Kintner Parkway Extension*”), with the details of such estimated costs being included herewith on **EXHIBIT B**.

(c) Kintner Parkway Dedication to City; No Encumbrances. The Developer agrees to dedicate to the City the portion of the Developer’s Property comprising the Kintner Parkway Extension reflected on **EXHIBIT C** (the “*Property Dedication*”). The Property Dedication shall be free and clear of all encumbrances and adverse claims, that in the City’s sole discretion, not to be unreasonably exercised, interfere with the City’s proposed use of the Property Dedication as a public right-of-way. This shall specifically include, but shall not be limited to, the Developer obtaining a partial release of any existing mortgage encumbering the Property Dedication. The Property Dedication shall occur on or before _____, 2025 and shall be a condition precedent to Developer’s receipt of distribution of Service Payments as set forth below.

(d) Public Infrastructure Improvement. The City has determined that since the Kintner Parkway Extension was described in the TIF Ordinance (as stated on Exhibit B thereto as Kintner Parkway improvements) and the Kintner Parkway Extension was designed and constructed to City standards and once dedicated to the City, the Kintner Parkway Extension shall constitute a Public Infrastructure Improvement pursuant to the TIF Ordinance and the cost of such is eligible to be paid from Service Payments.

Section 2. Subdivision of the Parcel. Promptly following the execution of this Agreement, the Developer agrees to take such steps as are reasonably necessary to subdivide the Parcel in a manner to allow the dedication of the Kintner Parkway Extension and to create additional parcels as the Developer deems necessary in its sole and absolute discretion. The Parties agree that at a minimum, and following the subdivision of the Parcel, there will be at least two parcels with distinct tax identification numbers (*i.e.*, one parcel where the current Newman Roofing business is located and a second parcel which would comprise the remainder of the Parcel); *provided* that more than two subdivided parcels would be acceptable to the City. Promptly following the completion of the subdivision or lot split approval process including the filing of the new parcels with the Delaware County Recorder, the Developer will notify the City to such effect.

Section 3. Application of Service Payments. The TIF Fund will be maintained in the custody of the City and will receive all distributions of Service Payments required to be made to the City. Money deposited in the TIF Fund will be used as follows:

(a) Forty (40%) percent of each Service Payment distributed to the City will, within thirty (30) days of receipt by the City, be remitted to the Developer for the purpose of reimbursing the Developer for the Cost of the Kintner Parkway Extension until the earlier of (i) the date on which the Developer has been fully reimbursed for the Cost of the Kintner Parkway Extension or (ii) the date on which the City receives its final Service Payment distribution due to the expiration of the TIF Exemption, and

(b) Sixty (60%) percent of each Service Payment distributed to the City will be retained by the City and used as the City determines for the purposes described in the TIF Ordinance.

No payment obligation of the City under Section 3(a) shall constitute an indebtedness of the City within the provisions and limitations of the laws and the Constitution of the State of Ohio, and the Developer has no right to have taxes or excises levied by the City for the payment of the Cost of the Kintner Parkway Extension. In the event that upon receipt of the final Service Payments to be paid under the TIF Ordinance and after its application in accordance with the terms of this Agreement, a balance remains on the Cost of the Kintner Parkway Extension, the failure to pay such balance shall not be an event of default of any kind under this Agreement and any payment obligation of the City of such balance shall be deemed forgiven by the Developer at that time.

Section 4. TIF Administration. The City and the Developer agree that the Developer shall cooperate with the City in connection with the preparation of all necessary applications and supporting documents to obtain from time to time the tax exemptions granted by the TIF Ordinance and to enable the City to receive the Service Payments. The City agrees to assist the Developer in the execution and filing of such applications and supporting documents with the Delaware County Auditor. The City and the Developer agree to perform such acts as are reasonably necessary or appropriate to maintain those exemptions and receive the Service Payments, including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with those exemptions or the receipt of the Service Payments. The Developer authorizes the City to file any applications necessary to obtain from time to time those exemptions. The City and the Developer agree that costs of the City, the Developer or its assignee related to obtaining and maintaining those exemptions are reimbursable from the TIF Fund, subject to Section 3 hereof.

Section 5. Miscellaneous.

(a) Assignment. This Agreement may not be assigned without the prior written consent of all non-assigning Parties.

(b) Binding Effect. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

(c) 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 this Agreement.

(d) Day for Performance. Wherever herein there is a day or time period established for performance and such day or the expiration of such time period is a Saturday, Sunday or legal holiday, then such time for performance shall be automatically extended to the next business day.

(e) Entire Agreement. This Agreement constitutes the entire Agreement between the Parties on the subject matter hereof and supersedes all prior negotiations, agreements and understandings, both written and oral, between the Parties with respect to such subject matter. This Agreement may not be amended, waived or discharged except in an instrument in writing executed by the Parties.

(f) Events of Default and Remedies. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions, by any Party hereto, such defaulting Party shall, upon written notice from any non-defaulting Party, proceed immediately to cure or remedy such default or breach, and, in any event, within thirty (30) days after receipt of such notice. In the event such default or breach is of such nature that it cannot be cured or remedied within said thirty (30) day period, then in such event the defaulting Party shall upon written notice from any non-defaulting Party commence its actions to cure or remedy said breach within said thirty (30) day period, and proceed diligently thereafter to cure or remedy said breach. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved non-defaulting Party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach.

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

(h) 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 or the Developer other than in his or her official capacity, and neither the members of the legislative body of the City nor any City or Developer 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 and the Developer contained in this Agreement.

(i) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without regard to its principles of conflicts of laws. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Developer, 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 Delaware County, Ohio.

(j) Legal Authority. The Parties respectively represent and covenant that each is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. The Parties further respectively represent and covenant that this Agreement has, by proper action, been duly authorized, executed and delivered by the Parties and all steps necessary to be taken by the Parties have been taken to constitute this Agreement, and the covenants and agreements of the Parties contemplated herein, as a valid and binding obligation of the Parties, enforceable in accordance with its terms.

(k) Limit on Liability. Notwithstanding any clause or provision of this Agreement to the contrary, in no event shall the City or the Developer be liable to each other for punitive, special, consequential, or indirect damages of any type and regardless of whether such damages are claimed under contract, tort (including negligence and strict liability) or any other theory of law.

(l) No Agency Relationship. The City and the Developer each acknowledge and agree that in fulfilling its obligations under this Agreement, the Developer is not acting as an agent of the City.

(m) 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 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:

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|------|-------------------|---|
| (i) | the City at: | City of Sunbury, Ohio
9 East Granville Street
P.O. Box 508
Sunbury, Ohio 43074 |
| (ii) | the Developer at: | Sunbury Development LLC
825 Kintner Parkway
Sunbury, Ohio 43074 |
| | With a Copy To: | Tim Miller, Esq.
Isaac Wiles
2 Miranova Place, Suite 700
Columbus, Ohio 43215 |

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.

(n) No Waiver. No right or remedy herein conferred upon or reserved to any Party is intended to be exclusive of any other right or remedy, and each and every right or remedy

shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing upon the occurrence of any event of default hereunder. The failure of any Party to insist at any time upon the strict observance or performance of any of the provisions of this Agreement or to exercise any right or remedy as provided in this Agreement shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof. Every right and remedy given by this Agreement to the Parties hereto may be exercised from time to time and as often as may be deemed expedient by the parties hereto, as the case may be.

(o) 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.

(p) Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

(q) Survival of Representations and Warranties. All representations and warranties of the Parties in this Agreement shall survive the execution and delivery of this Agreement.

(r) Term of Agreement. This Agreement shall become effective as of the Effective Date and shall continue until the earlier of (i) the date on which the Developer has been fully reimbursed for the Cost of the Kintner Parkway Extension or (ii) the date on which the City receives its final Service Payment distribution due to the expiration of the TIF Exemption.

(s) Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

(Remainder of Page Intentionally Left Blank – Signature Pages Follow)

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed in their respective names by their duly authorized officers, as of the date first set forth above.

CITY OF SUNBURY, OHIO

By: _____
Daryl Hennessy, Administrator

Approved as to Form:

David J. Brehm, Director of Law

FISCAL OFFICER'S CERTIFICATE

The City has no obligation to make payments pursuant to the foregoing agreement except from Service Payments to be collected for deposit into the TIF Fund. That money has been pledged and appropriated for expenditure in accordance with the foregoing agreement. Accordingly, as fiscal officer for the City of Sunbury, Ohio, I hereby certify that funds sufficient to meet the obligations of the City under the foregoing Agreement, but in an amount not greater than those Service Payments actually received by the City, have been lawfully appropriated for the purposes thereof and are available in the treasury of the City, and/or upon implementation of the processes under Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code, are in the process of collection to the credit of an appropriate fund, free from any previous encumbrance. This Certificate is given in compliance with Sections 5705.41 and 5705.44 of the Ohio Revised Code.

Dated: _____, 2025

Dana Steffan, Director of Finance
City of Sunbury, Ohio

SUNBURY DEVELOPMENT LLC

By:_____

Printed:_____

Title:_____

EXHIBIT A
TIF ORDINANCE

[Attached]

EXHIBIT B

COST OF THE KINTNER PARKWAY EXTENSION

[Attached]

EXHIBIT C

DEPICTION OF KINTNER PARKWAY EXTENSION

[Attached]

4855-3662-2059.3