

**PATASKALA CORPORATE PARK
JOINT ECONOMIC
DEVELOPMENT DISTRICT
CONTRACT**

_____, 2008

JOINT ECONOMIC DEVELOPMENT DISTRICT CONTRACT

This Joint Economic Development District Contract (hereinafter this "Contract") is made and entered into as of the ____ day of _____, 2008 (to be effective as of the Effective Date set forth in Section 6 of this Contract), by and among the City of Pataskala (hereinafter the "City"), a political subdivision of the State of Ohio; the City of Newark (hereinafter "City B"), a political subdivision of the State of Ohio; and Harrison Township in Licking County (hereinafter the "Township"), a political subdivision of the State of Ohio, through its Board of Township Trustees.

RECITALS

WHEREAS the City, City B and the Township intend to enter into this Contract to create and provide for the operation of the Joint Economic Development District comprised of the lands initially consisting of approximately 513.75 acres sometimes referred to as the "Prologis Park 70-Pataskala Joint Economic Development District" and depicted on Exhibit A and more particular described in Exhibit B, both of which Exhibits are attached to this Contract and incorporated herein by this reference (hereinafter and as the same may be amended from time to time, the "District") in accordance with Sections 715.72 through 715.83 of the Ohio Revised Code (hereinafter the "Revised Code") for their mutual benefit and for the benefit of their residents and of the State of Ohio (hereinafter the "State"); and

WHEREAS, it is anticipated that the District will be developed into a commercial real estate development providing jobs and economic development furthering the economic welfare of the citizens of the City, City B and the Township; and,

WHEREAS, the City, City B and the Township desire to enter into this Contract to share in the costs of improvements for the District for the purpose of facilitating new and expanded growth for commercial and economic development in the State of Ohio, and to create or preserve jobs and employment opportunities and to improve the economic welfare of the people located in the City, City B and the Township all in accordance with the Sections 715.72 through 715.83 of the Revised Code; and,

WHEREAS, the parties hereto wish to provide a mechanism whereby income tax revenue can be generated from the economic activities conducted within the District to be used for the purposes of the District and for the purposes of the City, City B and the Township, all of which the parties hereto acknowledge will operate to facilitate new or expanded growth for commercial and economic development in the State of Ohio, to create or preserve jobs and employment opportunities, to improve the economic welfare of the people in the State, the City, City B and the Township and to preserve and promote the general public welfare of the City's, City B's and the Township's residents either directly or indirectly; and,

WHEREAS the legislative authorities of the City, City B and the Township have each authorized and directed the City, City B and the Township, respectively, to make and enter into this Contract by and through their respective officers in accordance with Ordinance No. [_____] passed by the City Council of the City on [_____] ; Ordinance No. [_____] passed by the City Council of City B on [_____] ; and

Resolution No. [_____], adopted by the Board of Township Trustees of the Township on [_____].

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in this Contract, the City, City B and the Township agree and bind themselves, their agents, employees and successors, as follows:

Section 1. Creation of District: Name. The City, City B and the Township, by their combined action evidenced by the signing of this Contract, hereby create a joint economic development district in accordance with the terms and conditions of this Contract. The joint economic development district created by and pursuant to this Contract shall be known as the "Pataskala Corporate Park Joint Economic Development District" and the initial area of the District is sometimes referred to as the "ProLogis Park 70-Pataskala Joint Economic Development District." The Board of Directors (hereinafter the "Board") of the District may change the name of the District or the initial area of the District by resolution of the Board with the consent of the City.

Section 2. Contracting Parties. The "Contracting Parties" to this Contract are the City of Pataskala (referred to herein as the "City"), a municipality existing and operating under the laws of the State, including the Charter of the City, the City of Newark (referred to herein as "City B"), a municipality existing and operating under the laws of the State, including the Charter of City B, and the Township of Harrison (referred to herein as the "Township"), a township located in the County of Licking, Ohio (the "County") existing and operating under the laws of the State, and their respective successors, in all or in part. During the Term (as hereinafter defined), no additional political subdivisions may be added to this Contract as a Contracting Party.

Section 3. Purpose. The City, City B and the Township intend that the creation and operation of the District shall, and it is the purpose of the District to, facilitate economic development that will create jobs and employment opportunities and improve the economic welfare of the people in the State, the County, the City, City B, the Township and the District.

Section 4. Territory of the District. The territorial boundaries of the District are depicted in Exhibit A and described in Exhibit B, each attached to and made part of this Contract. This Contract incorporates and includes all exhibits attached hereto. The territory of the District is located entirely within the County and does not include any "parcel of land" (as defined in Section 715.73(C) of the Revised Code) that is owned in fee by or is leased to a municipal corporation or township. Furthermore, no electors reside within the area or areas comprising the District and no part of the area or areas comprising the District is zoned for residential use.

Section 5. Addition of Areas to the District. The Contracting Parties may amend this Contract from time to time to add to the District any area that was not originally included in the District when this Contract became effective, in accordance with Section 715.761 of the Revised Code. This Contract may be so amended by amending Exhibits A and B or by adding one or more exhibits to this Contract. Each of the Contracting Parties agrees to cooperate with the

others to amend this Contract to add other areas to the District (or to create other joint economic development districts for such areas) in the future.

Section 6. Term. The initial term of this Contract (hereinafter the “Term”) shall commence on the date of this Contract and shall terminate on December 31, 2048, unless otherwise terminated prior to that date as provided herein. The “Effective Date” of this Contract, however, shall be the later of _____, 2008 or the thirty-first day after its approval, in accordance with Section 715.77(A)(4) of the Revised Code, including any approval by electors required in that section, and shall continue in existence until December 31, 2048.

This Contract may be extended by mutual agreement of the Contracting Parties for a period of years as agreed to by the Contracting Parties. On or before one year prior to the expiration of the Term or any extension thereof, the Contracting Parties shall determine whether to extend this Contract and the period for such extension. If the Contracting Parties mutually agree to an extension of this Contract, they shall enter into an agreement to extend this Contract for the period of years set forth in that agreement on or before one hundred eighty (180) days prior to the expiration of the Term or any extension thereof.

This Contract may be terminated at any time by mutual consent of the City, City B and the Township as authorized by their respective legislative authorities as provided herein. In order for such termination to be effective, the legislative actions of the Contracting Parties that terminate this Contract must occur and be effective within a period of one hundred eighty (180) days of each other.

The provision herein for the Term and any extension of this Contract recognizes that the accrual of benefits to the parties from this Contract may take decades and that the construction of utility facilities and other possible capital improvements provided for herein is of permanent usefulness and duration.

In the process of termination of this Contract but prior to final termination, any real or personal property, assets or funds of the District, including any moneys in the JEDD Improvements Account and the Newark Account (both as hereinafter defined), and any obligations, debts or liabilities of the District, shall be distributed among the City, City B and the Township as follows: the City 92.00%; City B 7.00%; and the Township 1.00%, in accordance with the terms under which such obligations, debts or liabilities were originally incurred; provided that prior to incurring any obligation, debt or liability for the payment of which there is not then sufficient moneys in the JEDD Improvements Account, the Board shall have obtained the approval of the Contracting Parties. Notwithstanding the foregoing, the Board shall not be required to obtain the approval of the Contracting Parties prior to incurring any obligation, debt or liability in connection with any Reimbursement Agreement (as hereinafter defined); it being agreed by the Contracting Parties that the Board shall have discretion to determine the improvements to be made from amounts deposited in the JEDD Improvements Account, subject however, to the prior concurrence by the City. Before any such distribution, the District shall first use any such property, assets or funds to pay, reduce or settle any obligations, debts or liabilities of the District in accordance with the terms under which such obligations, debts or liabilities were originally incurred. Obligations of the District include, but are not limited to, obligations of the District to one or more of the Contracting Parties under this Contract or

separate agreements for the provision of money, services, facilities, capital improvements or other contributions to the District or otherwise. To the extent permitted by law, obligations of the District to a Contracting Party shall take precedence over other obligations, debts or liabilities of the District. Any payment by a Contracting Party of its allocated portion of any obligations, debts or liabilities of the District remaining after applying the assets of this District thereto shall be subject to the provisions of Section 24 hereof.

Pursuant to Section 715.74(D) of the Revised Code, this Contract shall continue in existence throughout its term and shall be binding on the Contracting Parties and on any entities succeeding the Contracting Parties, whether by annexation, merger or consolidation. Any portion of the territory of the District (not now in a municipal corporation) that is included within a municipal corporation by annexation, merger or otherwise, after the date of this Contract, shall continue to be a part of the District subject to the terms of this Contract and to the Income Tax provided for in Section 10 hereof.

Section 7. Contributions to the District. In accordance with Section 715.74 of the Revised Code, the City, City B and the Township each agree to contribute to the development and operation of the District.

In general, the City will continue to provide services within the JEDD equivalent to the services provided by the City to the rest of the City's territory.

(A) Utility Service. The Contracting Parties have not entered into separate contracts with each other for utility service. The Contracting Parties shall cooperate with each other and with utility service users in the District in obtaining access to sanitary sewer service and water service. The Contracting Parties shall also cooperate with each other, the District, the County, Southwest Licking Community Water & Sewer District, the State and others in the acquisition, construction and installation of water service facilities, sanitary sewer service facilities and storm sewer facilities, as provided in this Contract, including, but not limited to, granting easements, rights-of-way and street opening permits at no more than the usual and customary cost.

In order to contribute to the availability of water service, the City, City B or the Township, or all of them, to the extent permitted by law, may provide for, or in cooperation with the County, Southwest Licking Community Water & Sewer District or others, assist in the provision of, the acquisition, construction and installment of water service facilities in the District and the financing thereof. In order to contribute to the availability of sanitary sewer service and storm sewer service, the City, City B or the Township, or all of them, to the extent permitted by law, may provide for, or in cooperation with the County, Southwest Licking Community Water & Sewer District or others, assist in the provision of, the acquisition, construction and installation of certain sanitary sewer service facilities and storm sewer facilities in the District and the financing thereof.

(B) Infrastructure; Financing. In accordance with Section 715.81 of the Revised Code and to the extent permitted by law, the City may exercise all of the powers of a municipal corporation, and may perform all of the functions and duties of a municipal corporation, within the District, relating to: (1) the acquisition, construction and improvement of public streets and roads and other public improvements located in the District and the financing thereof, (2) the

levy and collection of special assessments or the establishment of other charges (including tap-in fees) to pay all or a portion of the costs of the facilities and improvements described in subsection (A) above and in this subsection (B), (3) those powers, functions and duties provided in Sections 5709.40 through 5709.43 of the Revised Code, (4) those powers, functions and duties provided in Sections 3735.65 through 3735.70 of the Revised Code, and (5) those powers, functions and duties provided in Chapter 133 and other sections of the Revised Code authorizing the financing of capital improvements, which all such exercise and performance shall be deemed to be pursuant to and consistent with this Contract. The City, City B and the Township shall also cooperate in obtaining grants and other funding sources for such infrastructure within the District.

(C) Other Services. The City, City B and the Township may provide services to assist the District with planning, promotion and related activities to facilitate economic development in the District. The City, City B and the Township may provide secretarial services and other staffing as each Contracting Party, in its sole discretion, determines, at no cost to the District. In addition, the Board may contract for such services with either or both of the Contracting Parties on such terms as the Board and the respective Contracting Parties may agree.

The City shall hold all records or documents of the District for safekeeping. The City shall maintain those records and documents as public records and shall provide copies of those records and documents to the Contracting Parties and others in accordance with the public records laws of the State.

(D) Financial Contributions. At the request of the Board, the Contracting Parties shall contribute an aggregate amount not to exceed \$10,000 to the District to pay initial administration and other costs generally identified in the request. The contribution amount shall be initially paid by the City, which may then seek contributions from City B and the Township, however in no event shall such a contribution be sought during calendar year 2008. This initial contribution shall be made as soon as possible after receipt of the request of the Board and only to the extent that the legislative authority of each Contracting Party appropriates sufficient funds for the purpose. The Contracting Parties may, but are not required to, make other financial contributions to the District. The Contracting Parties shall cooperate with the Board in obtaining financial assistance, both public and private, for economic development projects, but shall not be required to assume any financial obligation in doing so. Any payment by a Contracting Party of its allocated portion of any contribution amount shall be subject to the provisions of Section 24 hereof.

Section 8. Board of Directors. Because there will be no businesses operating or persons working within the District at the time of the adoption of this Contract, the Board shall be established in accordance with Section 715.78(A)(2) of the Revised Code. The initial Board shall be comprised of the following members: (A) one member representing the City and City B (together, the "Municipal Corporations"), (B) one member representing the Township (the "Township Representative"), and (C) one member selected by the members described in (A) and (B) (hereinafter the "Jointly-Selected Member"). The parties hereby agree that the Municipal Corporations representative on the Board shall be selected by the City, and the Township representative shall be selected by the Township.

At the County's option, the Jointly-Selected Member shall, to the extent permitted by law, be a member selected by the foregoing members by recommendation of one individual submitted in writing to the City, City B and the Township by the County. For the initial appointment to the Board, if the County desires to exercise its option as set forth in the immediately preceding sentence, the County shall submit the recommendation to the City, City B and the Township no later than thirty (30) days prior to the date that this Contract becomes effective. For future openings on the Board, if the County desires to exercise its option, and no such person is then a member of the Board, the County shall submit the recommendation no later than thirty (30) days prior to the expiration of the term of the Board member and within fifteen (15) days after such position becomes vacant for any other reason.

The Chairperson of the Board shall be the Jointly-Selected Member as provided in Section 715.78(A) of the Revised Code. The Board shall elect the following officers (who along with the Chairperson shall constitute the "Officers" of the Board) from among its members: a Vice Chairperson, a Secretary and a Treasurer, provided that the Board may combine the offices of Secretary and Treasurer. The Officers (except the Chairperson) shall be elected at the first meeting of the Board and thereafter every year for a one-year term and shall serve until their respective successors take office. The Board shall establish a procedure for conducting those elections. The Officers shall perform such duties as provided herein and such additional duties as may be provided from time to time by the Board.

Upon location of businesses and persons working within the District, the Board shall be reconstituted (hereinafter, a "Board Reconstitution") at the next regular meeting of the Board after location of businesses and persons working within the District (the "Board Reconstitution Date") and shall be composed of the following members: (A) one member representing the Municipal Corporations; (B) one member representing the Township; (C) one member representing the owners of businesses located within the District (the "Owners Representative"); (D) one member representing the persons working within the District (the "Workers Representative"); and (E) one member selected by the members described in (A), (B), (C), and (D) of this paragraph (hereinafter, the "Consensus Member"). The parties hereby agree that the Municipal Corporations representative on the Board shall be selected by the City, and the Township representative shall be selected by the Township. Simultaneously with a Board Reconstitution, the Board shall elect new Officers (except the Chairperson), whose term and service shall be the same as set forth above. Upon a Board Reconstitution, the Chairperson shall be the Consensus Member.

At the County's option, the Consensus Member shall, to the extent permitted by law, be a member selected by the foregoing members by recommendation of one individual submitted in writing to the City, City B and the Township, and if known, to the Owners Representative and the Workers Representative, by the County. For the initial appointment to the Board as reconstituted, if the County desires to exercise its option as set forth in the immediately preceding sentence, the County shall submit the recommendation to the City, City B and the Township, and if known, to the Owners Representative and the Workers Representative, no later than thirty (30) days prior to the Board Reconstitution Date. For future openings on the Board, if the County desires to exercise its option, and no such person is then a member of the Board, the County shall submit the recommendation no later than thirty (30) days prior to the expiration of

the term of the Board member and within fifteen (15) days after such position becomes vacant for any other reason.

The terms of service of each member shall be established in accordance with Section 715.78(A) of the Revised Code. A member may be reappointed to the Board, but no member shall serve more than two (2) consecutive terms on the Board. The members of the Board shall serve without compensation as such members. Necessary and authorized expenses incurred by members on behalf of the District shall be reimbursed from District funds in accordance with procedure established by the Board. Each member shall attend all meetings unless excused by action of the other members. A member who is absent without being excused from three consecutive meetings shall be deemed to have resigned as a member of the Board. In the event of the death, disqualification, removal or resignation of any member of the Board, a new member shall be appointed in the same manner as set forth above to serve as successor for the unexpired term of such member.

A member of the Board may be removed by the appointing party for "cause", which shall mean: willfully failing to perform a duty expressly imposed by this Contract or by law with respect to his or her office; or willfully performing any act forbidden by law with respect to his or her office; or failing to achieve the faithful, efficient and intelligent administration of his or her duties of office as required by this Contract or by law; or engaging in conduct unbecoming to such office. Removal shall be effective upon receipt of written notice of removal and the reasons therefore by the Board member being removed.

Section 9. Powers, Duties, Functions. The Board shall meet at least once each calendar quarter on a date determined by the Board, provided that the first meeting of the Board shall be within ten (10) days after this Contract becomes effective, on a date agreed to by the Contracting Parties. The Board shall adopt procedures for holding and conducting regular and special meetings. The Board shall maintain an office or a mailing address. The Board shall hold its meetings at the City's City Building or at another location as determined by the Board from time to time.

For the purpose of conducting a Board meeting, the attendance of at least a majority of the then-sitting members, constituting a quorum, shall be required. The Board shall act through resolutions adopted by the Board. A resolution must receive the affirmative vote of a majority of the members of the Board in attendance to be adopted. A resolution adopted by the Board shall be immediately effective unless otherwise provided in that resolution or by Sections 715.72 through and 715.83 of the Revised Code.

The Board shall adopt Bylaws for the regulation of the affairs of the Board and the conduct of the business of the Board consistent with this Contract.. The Bylaws may be amended or supplemented from time to time by the Board.

The Chairperson shall preside over and conduct the meetings of the Board in accordance with its Bylaws or other procedures adopted by the Board. The Chairperson may call special meetings of the Board by giving notice of such meeting, as provided in the Bylaws, to each member delivered to his or her residence or place of business. A majority of the then-sitting members of the Board may also call a special meeting by providing the same notice.

The Vice Chairperson shall act as Chairperson in the temporary absence, incapacity, resignation or removal of the Chairperson.

The Secretary shall be the records officer of the Board and shall have those duties as set forth in the Bylaws.

The Treasurer shall be the fiscal officer of the Board and shall have those duties as set forth in the Bylaws.

The Bylaws shall designate those Officers who may sign documents on behalf of the Board and those Officers who are required to obtain a fiduciary bond in connection with their duties to the District.

The Board shall adopt an annual budget for the District. The fiscal year of the District shall be the same as the fiscal year of City B, provided that if the City undertakes administration of the Income Tax as permitted by Section 10 hereof, the fiscal year for the District shall be the same as the fiscal year of the City. The budget shall estimate the revenues of the District and expenses of the District. The Board shall provide a copy of the annual budget to the Contracting Parties promptly after its adoption. The Board shall establish an appropriations procedure to provide for payment of the expenses of the District and the distribution of income tax revenues pursuant to and consistent with this Contract.

The Chairperson shall arrange for and conduct an annual meeting on or about October 1 of each year to include the members the Board, the Mayor of the City, the City Council of the City, the Mayor of City B and the City Council of City B, the Township Trustees and the Board of County Commissioners of the County to discuss plans of the Board for the District for the next 12-month period, as well as to review the activities of the Board during the preceding 12-month period. The meeting is intended to be an opportunity for the mutual sharing of information and ideas concerning the District. The Chairperson shall provide the City, City B, the Township and the County with a written agenda for the meeting two (2) weeks prior to that meeting, provided that any of such parties may waive this requirement.

The Board is authorized to take such necessary and appropriate actions, or establish such programs, to facilitate economic development in the District in accordance with the purposes of this Contract and the funds appropriated or available for such actions or programs.

The Board shall have all the powers as provided in Sections 715.72 to 715.81 of the Revised Code. In addition, the Board, on behalf of the District, may:

(A) purchase, receive, hold, lease or otherwise acquire, and sell, convey, transfer, lease, sublease, or otherwise dispose of, real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including but not limited to, any real or personal property acquired by the District from time to time in the satisfaction of debts or enforcement of obligations, or otherwise;

(B) acquire, purchase, construct, reconstruct, enlarge, furnish, equip, maintain, repair, sell, exchange, lease or rent to others, lease or rent from others, or operate facilities for the District;

(C) establish and maintain such funds or accounts as it deems necessary;

(D) make available the use or service of any District facility to one or more persons, one or more governmental agencies, or any combination thereof;

(E) make and enter into all contracts and agreements and authorize two or more Officers to sign all instruments necessary or incidental to the performance of its duties and the execution of its powers under this Contract;

(F) promote, advertise and publicize the District and its facilities, provide information relating to the District and promote the interests and economic development of the District, the City, City B, the Township, the County and the State;

(G) employ managers and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys and such other consultants and independent contractors as are necessary in its judgment to carry out the purposes of this Contract, and fix the compensation thereof, which shall be payable from any available funds of the District;

(H) receive and accept from any federal agency, state agency or other person grants for or in aid of administration of the District, construction, maintenance or operation of any District facility, research and development with respect to District facilities or programs or other projects of the District, and receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants, aid or contributions are made;

(I) make grants or guarantees to or on behalf of governmental entities, including the Contracting Parties, and private entities to carry out the purposes of this Contract;

(J) purchase fire and extended coverage and liability insurance for any District facility and for the office of the District, insurance protecting the District and its Board, Officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance that the Board may determine to be reasonably necessary; and

(K) enter into (i) one or more reimbursement agreements with ProLogis, a Maryland real estate investment trust (hereinafter "Prologis"), or its successors (hereinafter each a "Private Reimbursement Agreement"); and (ii) one or more reimbursement agreements with the City, City B, the Township or the Board of County Commissioners of the County (hereinafter each a "Public Reimbursement Agreement", and collectively with any Private Reimbursement Agreement, each a "Reimbursement Agreement") providing for the reimbursement from the JEDD Improvements Account (as hereinafter defined) of a portion of the cost of improvements constructed in, or which directly benefit, the District. All payments due under any Reimbursement Agreement shall be made directly by the Treasurer from the JEDD Improvements Account to the person entitled to such payments pursuant to the applicable Reimbursement Agreement without further authorization from the Board.

Furthermore, the Board, on behalf of the District, shall enter into income tax revenue sharing agreements (hereinafter the “Tax Sharing Agreements”) with the Southwest Licking Local School District and the Licking Heights Local School District (hereinafter the “School Districts”) to provide the School Districts with payments equal to thirty-two percent (32%) [each School District receiving sixteen percent (16%)] of the Income Tax deposited into the JEDD Fund (as hereinafter defined) for tax years 2020-2039 as described in Section 10 of this Contract. The payments to be provided to the School Districts pursuant to the Tax Sharing Agreement shall be made at least quarterly, no later than fifteen (15) days after the end of each calendar quarter, based on the total Income Tax deposited into the JEDD Fund at the end of such calendar quarter.

The Board shall establish procedures for purchasing goods and services and making capital improvements that are consistent with those procedures established by the City, including but not limited to competitive bidding procedures.

The Board shall employ persons as needed. The Board may enter into an agreement with one of the Contracting Parties for that Contracting Party to administer and implement employment and discharge of, and salaries, benefits and work rules established for, employees of the District. All costs of employment, including but not limited to, compensation, salaries, benefits, taxes and insurance, shall be paid from revenues of the District. The Contracting Parties shall not be the employer and shall have no responsibility or liability for any costs of employment or any other costs, expenses or liabilities arising from such employment.

This Contract grants the Board the power and authority to adopt a resolution to levy an income tax within the District in accordance with Section 715.74 of the Revised Code and Section 10 hereof.

The Board is authorized to do all acts and things necessary or convenient to carry out the powers granted in this Contract.

Section 10. Income Tax. The Board, within thirty (30) days after the Effective Date, shall adopt a resolution to levy an income tax in the District at a rate of one and seventy-five hundredths percent in accordance with Section 715.74 of the Revised Code (hereinafter the “Income Tax”). The Income Tax shall go into effect within sixty (60) days of the adoption of that resolution, as provided therein. The Income Tax shall be used for the purposes of the District, and for the purposes of the City, City B and the Township pursuant to this Contract. The Income Tax shall be levied in the District based on income earned by persons working in the District and on the net profits of businesses located in the District. The rate of the Income Tax shall change from time to time so that it is equal to the rate of the municipal income tax levied by City B; no action by the Board shall be required to effect that change, which change shall go into effect on the first day of the month following the applicable change in the municipal income tax rate of City B. The Board shall promptly notify the Contracting Parties and the administrator of the Income Tax of such a change. The revenues of the Income Tax shall be used for the purposes of the District and the Contracting Parties pursuant to this Contract.

The Board shall adopt, by resolution, all of the provisions (other than the rate) of the income tax legislation of City B, as that legislation may be amended from time to time, as

applicable to the Income Tax. The Income Tax shall apply in the entire District throughout the term of this Contract, notwithstanding that all or a portion of the District becomes subject to annexation, merger or incorporation. The Board shall enter into an agreement with City B to administer, collect and enforce the Income Tax on behalf of the District, provided that such agreement may be assigned or subcontracted to another agency by City B to perform those functions for the District.

The Income Tax revenues shall be collected by City B and deposited quarterly in a City B fund to be designated as the "ProLogis Park 70 - Pataskala JEDD Fund" (hereinafter the "JEDD Fund"). The JEDD Fund shall be a trust fund of City B and the moneys and investments therein, and interest earnings thereon, shall be segregated from other funds of City B (except when invested as hereinafter described) and used solely for the purposes described in this Contract. Moneys in the JEDD Fund shall be invested by City B in the same manner as other funds of City B, and earnings or losses from any such investment shall be credited to the JEDD Fund upon receipt. For investment purposes only, moneys in the JEDD Fund may be commingled with other moneys of City B, provided that separate records are maintained for each investment made therefrom and the earnings or losses credited thereto, and any such earnings or losses are credited on a prorated basis upon the principal amount invested.

For each of years one (1) through eleven (11) of the Term (tax year 2009 through tax year 2019), within the JEDD Fund, the Income Tax revenues shall be distributed as follows:

(1) thirty-five percent (35%) to the "JEDD Improvements Account" to be created as a part of the JEDD Fund for the purposes of public infrastructure improvements to be made that will benefit the District, for the long-term maintenance of the District, and for the administration of this Contract; and (2) sixty-five percent (65%) to the "Newark Account" to be created as a part of the JEDD Fund for the purposes of City B pursuant to this Contract.

From the JEDD Improvements Account, City B agrees to distribute all necessary amounts for the aforementioned purposes.

From the Newark Account, City B agrees to distribute amounts to the following entities to be used by those entities for the following purposes: (1) 1.538% (i.e., 1.00% of the total amount deposited into the JEDD Fund) to the Township for general Township purposes and for the provision of general advisory services to the District; (2) 3.846% (i.e., 2.50% of the total amount deposited into the JEDD Fund) to the County for economic development purposes, including economic development purposes that benefit the District and for the provision of certain other services to the District; (3) 1.538% (i.e., 1.00% of the total amount deposited into the JEDD Fund) to the Licking County Joint Vocational School District Board of Education for general educational purposes, including but not limited to educational purposes that benefit the District; (4) 3.077% (i.e., 2.00% of the total amount deposited into the JEDD Fund) to the West Licking Joint Fire District for the provision of fire protection services to the District; (5) 3.846% (i.e., 2.50% of the total amount deposited into the JEDD Fund) to City B for general municipal purposes and for the provision of general advisory services to the District; (6) 6.923% (i.e., 4.50% of the total amount deposited into the JEDD Fund) to City B as compensation for administering, collecting, enforcing and distributing the Income Tax; and (7) 79.232% (i.e., 51.50% of the total amount deposited into the JEDD Fund) to the City for general municipal

purposes, including but not limited to police services and other services that benefit the District.

For each of years twelve (12) through thirty-one (31) of the Term (tax year 2020 through tax year 2039), within the JEDD Fund, the Income Tax revenues shall be distributed as follows:

(1) thirty-five percent (35%) to the JEDD Improvements Account for the purposes of public infrastructure improvements to be made that will benefit the District, for the long-term maintenance of the District, and for the administration of this Contract; and (2) sixty-five percent (65%) to the Newark Account for the purposes of City B pursuant to this Contract.

From the JEDD Improvements Account, City B agrees to distribute all necessary amounts for the below-mentioned purposes.

From the Newark Account, City B agrees to distribute amounts to the following entities to be used by those entities for the following purposes: (1) 1.538% (i.e., 1.00% of the total amount deposited into the JEDD Fund) to the Township for general Township purposes and for the provision of general advisory services to the District; (2) 3.846% (i.e., 2.50% of the total amount deposited into the JEDD Fund) to the County for economic development purposes, including economic development purposes that benefit the District and for the provision of certain other services to the District; (3) 1.538% (i.e., 1.00% of the total amount deposited into the JEDD Fund) to the Licking County Joint Vocational School District Board of Education for general educational purposes, including but not limited to educational purposes that benefit the District; (4) 24.616% (i.e., 16% of the total amount deposited into the JEDD Fund) to the Southwest Licking Local School District Board of Education for general educational purposes, including but not limited to educational purposes that benefit the District; (5) 24.616% (i.e., 16% of the total amount deposited into the JEDD Fund) to the Licking Heights Local School District Board of Education for general educational purposes, including but not limited to educational purposes that benefit the District; (6) 3.077% (i.e., 2.00% of the total amount deposited into the JEDD Fund) to the West Licking Joint Fire District for the provision of fire protection services to the District; (7) 3.846% (i.e., 2.50% of the total amount deposited into the JEDD Fund) to City B for general municipal purposes and for the provision of general advisory services to the District; (8) 6.923% (i.e., 4.50% of the total amount deposited into the JEDD Fund) to City B as compensation for administering, collecting, enforcing and distributing the Income Tax; and (9) 30% (i.e., 19.50% of the total amount deposited into the JEDD Fund) to the City for general municipal purposes, including but not limited to police services and other services that benefit the District.

For each of years thirty-two (32) through forty (40) of the Term (tax year 2040 through 2048), within the JEDD Fund, the Income Tax Revenues shall be distributed as provided above for years one through twelve of the Term.

In the event that Income Taxes are collected by City B, or, as provided below, by the City, for longer than a forty (40) year period, the Contracting Parties hereto agree that for any remaining years in which the Income Tax is levied, the Income Tax shall be distributed as provided in years one (1) through twelve (12) and years thirty-two (32) through forty (40) above (i.e., no payments shall be made to the School Districts).

City B and the Board shall each make provisions in their respective annual appropriation measure for the payments from the JEDD Fund required by this Contract. In addition, City B shall not reduce the rate of its income tax during the Term of this Contract.

The payments described in this Section 10 shall be made at least quarterly, no later than fifteen (15) days after the end of each calendar quarter, based on the total Income Tax deposited into the JEDD Fund at the end of such calendar quarter.

The Treasurer of the District shall make a quarterly report to the Board regarding the receipt and distribution of the Income Tax of the District and the operating income and expenses of the District for the preceding quarter and projections for the next quarter. The Treasurer’s report shall be provided to the Contracting Parties.

The City does not currently levy an income tax. In the event that the City levies an income tax subsequent to the execution of this Contract, both the City income tax and the Income Tax shall apply. Pursuant to R.C. Section 718.16, the City shall grant a credit against its income tax to residents of the City who work in the District to the same extent that it grants a credit against its income tax to its residents who are employed in another municipal corporation. If the City levies an income tax subsequent to the execution of this Contract, at the City’s election, the parties shall negotiate in good faith with each other and the Board to allow the Income Tax to be administered, collected, enforced and distributed by the City instead of by City B. In such an event, the City rather than City B shall be entitled to the compensation for administering, collecting, enforcing and distributing the Income Tax. Notwithstanding the above, City B shall remain a party to this Contract and the Development and Compensation Agreement executed among the City, City B, the Township, the County and ProLogis even if the City levies an income tax and, pursuant to this Section 10, administers, collects, enforces and distributes the JEDD Income Tax.

Section 11. New, Expanded or Additional Services, Facilities or Improvements. Specific infrastructure improvements within the District will be in accordance with the Economic Development Plan for the District, and although many of the specific infrastructure improvements have not yet been determined, significant public infrastructure improvements will be constructed, including public infrastructure improvements outside the boundaries of the JEDD that serve the JEDD. In addition, significant public infrastructure improvements and private improvements are to be constructed by ProLogis or its designees, including those portions of public infrastructure improvements for which ProLogis may receive full or partial reimbursement as described in Section 9(K) above.

A public improvement budget for the District has been proposed and is estimated as follows:

| | |
|--|---------------|
| ▪ Public Roadway Extensions | \$4,668,590 |
| ▪ Drainage Improvements | 634,000 |
| ▪ Permit Design, Testing and Survey Cost | 1,000,000 |
| ▪ Water & Sanitary Sewer Extensions | 2,180,800 |
| ▪ Wetland Mitigation Monitoring | <u>40,000</u> |

Total \$8,523,390

Private investments for improvements to be made in the District are estimated as approximately \$100 million to \$250 million for construction of new buildings to contain, cumulatively, approximately 5 million to 8 million square feet of space; approximately \$10 million to \$300 million for acquisition of machinery and equipment; approximately \$5 million to \$300 million for acquisition of furniture and fixtures; and approximately \$25 million to \$300 million for acquisition of inventory.

Section 12. Annexation. *[INTENTIONALLY OMITTED.]*

Section 13. Zoning; Planning. The Contracting Parties agree that zoning and planning considerations in the development of the District shall be at the final discretion of the City and the Zoning Code located in the Codified Ordinances of Pataskala, Part Twelve shall be applicable to the District, subject to the limitations on zoning and planning provided herein. The Contracting Parties further agree that, to the extent permitted by law, the building standards of the City shall prevail in the District and the City shall be the permit issuing/enforcing authority. The provisions of this Section constitute an agreement by the Contracting Parties pursuant to Section 715.80 of the Revised Code, provided that the City, City B and the Township may enter into other agreements in accordance with Section 715.80 of the Revised Code.

Section 14. Defaults and Remedies. A failure to comply with the terms of this Contract shall constitute a default hereunder. The Contracting Party in default shall have thirty (30) days after receiving written notice from the other Contracting Party of the event of default to cure that default. If the default is not cured within that time period, the nondefaulting Contracting Party may sue the defaulting Contracting Party for specific performance under this Contract or for actual damages or both. Other than as provided in Section 6 hereof, this Contract may not be canceled or terminated because of a default unless the City, City B and the Township agree to such cancellation or termination.

Section 15. Amendments. In addition to the amendments provided for in Section 5 hereof, this Contract may be amended by the City, City B and the Township only in a writing approved by the respective legislative authorities of each of the Contracting Parties by appropriate legislation authorizing that amendment. In order for such amendment to be effective, the legislative actions of the Contracting Parties that amend this Contract must occur and be effective within a period of one hundred eighty (180) days of each other.

Section 16. Binding Effect; Mandamus. This Contract shall inure to the benefit of and shall be binding upon the District, the City, City B and the Township their respective permitted successors, subject, however, to the specific provisions hereof. This Contract shall not inure to the benefit of anyone other than as provided in the immediately preceding sentence. All of the obligations and duties of the Board, the City, City B and the Township under this Contract are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the Board, the City, City B and the Township within the meaning of Section 2731.01 of the Revised Code.

Section 17. Support of Contract. The City, City B and the Township agree to cooperate with each other and to use their best efforts to do all things necessary for the creation and continued operation of the District. In the event that this Contract or any part thereof is challenged by any third party or parties in a court of law, the City, City B and the Township agree to cooperate with one another and to use their best efforts in defending this Contract with the object of upholding this Contract. The City, City B and the Township shall each bear its own costs in any such proceeding challenging this Contract or any term or provision thereof. In the event that the District becomes a party to a lawsuit in a court of law, funds of the District shall be used to pay costs related to such proceeding. If such funds are not available therefor, and the Contracting Parties determine that the Board has acted in good faith and in accordance with this Contract, the costs of any such proceeding shall be allocated among the Contracting Parties as follows: the City 92.00%; City B 7.00%; and the Township 1.00%. Any payment by a Contracting Party under this Section shall be subject to the provisions of Section 24 hereof.

Section 18. Signing Other Documents. The Contracting Parties agree to cooperate with one another and to use their best efforts in the implementation of this Contract and to sign or cause to be signed, in a timely manner, all other necessary instruments and documents, and to take any and all actions, in order to effectuate the purposes of this Contract.

Section 19. Severability. In the event that any section, paragraph or provision of this Contract, 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:

(a) 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,

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

(c) each section, paragraph, 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 full extent permitted by law.

Section 20. Governing Law. This Contract shall be governed exclusively by and construed in accordance with the laws of the State, and in particular Sections 715.72 through 715.83 of the Revised Code. In the event that Sections 715.72 through 715.83 of the Revised Code are amended or supplemented by the enactment of a new section or sections of the Revised Code relating to joint economic development districts, the Contracting Parties may agree at the time to follow either the provisions of Sections 715.72 through 715.83 existing on the date of this Contract or the provisions of Sections 715.72 through 715.83 as amended or supplemented, to the extent permitted by law. Nothing in this Contract shall limit the ability of the District, the City, City B or the Township to aggregate to acquire preferential rates for telecable, telephone, gas, electric or other utility services.

Section 21. Consent of Contracting Parties. Pursuant to Section 715.81 of the Revised Code, the City, City B and the Township hereby consent to and approve the tax exemptions provided under the Community Reinvestment Area Agreement entered into on December 17, 2007 pursuant to Sections 3735.65 through 3735.70 of the Revised Code among the City, ProLogis, Howard P. Emswiler, Trustee of the Howard P. Emswiler Revocable Trust U/A dated December 27, 1978 as amended, and Rosemary A. Emswiler, Trustee of the Rosemary A. Emswiler Revocable Trust U/A dated December 27, 1978 as amended.

Section 22. Notice. Any notices, statements, acknowledgements, consents, approvals, certificates or requests required to be given on behalf of any Contracting Party shall be made in writing addressed as follows and sent by registered or certified mail, return receipt requested, and shall be deemed delivered when the return receipt is signed, refused or unclaimed:

If to the Township, to:

Township of Harrison
6750 Outville Road
Pataskala, OH 43062

If to the City, to:

Mayor
City of Pataskala
621 West Broad Street
Pataskala, OH 43062

With a copy to:

City Administrator
City of Pataskala
621 West Broad Street
Pataskala, OH 43062

If to City B, to:

Mayor
City of Newark
40 West Main Street
Newark, OH 43055-5521

With a copy to:

Economic Development Director
City of Newark
40 West Main Street
Newark, OH 43055-5521

or to any such other persons or addresses as may be specified by any party, from time to time, by prior written notification.

Section 23 Miscellaneous. The captions and headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections hereof. When using the phrase “to the extent permitted by law” herein, “law” means statutes of the State as interpreted by the courts of the State or the federal courts.

Section 24. Limited Obligation of Contracting Parties. Notwithstanding anything to the contrary contained herein, each covenant, agreement or obligation of each Contracting Party herein that requires the expenditure of funds by on or behalf of such Contracting Party shall be limited to sources described herein or to moneys appropriated by the legislative authority of such Contracting Party for the specified purpose, and shall not constitute a general obligation or debt of that Contracting Party. Anything in this Agreement to the contrary notwithstanding, this Agreement shall not constitute a general obligation, debt or bonded indebtedness or a pledge of the faith and credit or taxing power of any Contracting Party, and the other Contracting Parties hereto shall have no right to have excises, ad valorem taxes or other taxes levied by such Contracting Party for the fulfillment of its obligations hereunder. Nothing herein shall be deemed to prohibit a Contracting Party from lawfully using, of its own volition, any of its general resources for the fulfillment of any of the terms and conditions of this Agreement. . If a Contracting Party fails to appropriate sufficient funds to pay amounts payable by it when due under this Agreement, that Contracting Party shall not be entitled to participate in the distribution of the property, assets or funds of the District upon termination of this Agreement.

Section 25. No Benefit to Third Parties. The provisions of this Contract are solely for the benefit of the Contracting Parties and the District, and no other party shall have any rights as third party beneficiaries of any of the provisions hereof. The rights and duties of a Contracting Party hereunder may not be subdivided, assigned or transferred without the prior written consent of the other Contracting Parties and, if such consent is given, no such subdivision, assignment or transfer shall be effective for any purpose unless and until the assignee or transferee assumes in writing all of the subdividor’s, assignor’s or transferor’s obligations hereunder to the extent of the interest assigned or transferred.

Section 26. Filing with State Director of Development. Upon creation of the District, the City shall file a copy of each of the documents described in divisions (A) to (G) of Section 715.76 of the Ohio Revised Code with the State Director of Development.

[Remainder of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, the City, City B and the Township have caused this Contract to be duly signed in their respective names by their duly authorized officers as of the date hereinbefore written.

CITY OF PATASKALA, OHIO

By: _____

Its: City Administrator

Date: _____

APPROVED AS TO FORM:

Law Director, Pataskala, Ohio

CITY OF NEWARK, OHIO

By: _____

Its: Mayor

Date: _____

APPROVED AS TO FORM:

Law Director, Newark, Ohio

HARRISON TOWNSHIP (LICKING COUNTY), OHIO

By: _____
Township Trustee

By: _____
Township Trustee

By: _____
Township Trustee

Date: _____

EXHIBIT A

[INSERT MAP OF JEDD]

EXHIBIT B

[INSERT LEGAL DESCRIPTION OF JEDD]

CERTIFICATE OF FISCAL OFFICER

The undersigned, fiscal officer of the City of Pataskala, Ohio (the "City"), hereby certifies that the money required to meet the obligations of the City during the year 2008 under the foregoing Contract has been lawfully appropriated by the Council of the City for such purposes and is in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Director of Finance

CERTIFICATE OF FISCAL OFFICER

The undersigned, fiscal officer of the City of Newark, Ohio ("City B"), hereby certifies that the money required to meet the obligations of City B during the year 2008 under the foregoing Contract has been lawfully appropriated by the Council of City B for such purposes and is in the treasury of City B or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

City Auditor

CERTIFICATE OF FISCAL OFFICER

The undersigned, fiscal officer of the Township of Harrison, in the County of Licking, Ohio (the "Township"), hereby certifies that the money required to meet the obligations of the Township during the year 2008 under the foregoing Contract has been lawfully appropriated by the Board of Trustees of the Township for such purposes and is in the treasury of the Township or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Township Fiscal Officer

