

1 RESOLUTION NO 2009-483

2  
3 SPONSOR Mr. Pry

4  
5 DATE December 14, 2009

COMMITTEE: Planning

6  
7 **A Resolution authorizing the County Executive to execute a Development Agreement between**  
8 **the County, the City of Akron (“City”), Summit County Port Authority (“Port Authority”)**  
9 **and Bridgestone Americas Tire Operations, LLC (“BATO”) for the construction of a new**  
10 **technical center within the City of Akron, Council District 8, wherein the County will**  
11 **contribute \$6,800,000.00 for the costs of the technical center and/or associated parking**  
12 **facility, and an additional \$500,000.00 for the construction of a covered skywalk between**  
13 **the technical center and parking facility, for the Executive’s Department of Community**  
14 **and Economic Development, and declaring an emergency.**

15  
16 WHEREAS, pursuant to Resolution No. 2008-350, this Council ratified and confirmed a  
17 letter of support between the County, City, Port Authority and BATO for the construction of a new  
18 technical center on the existing Firestone campus (the “Project”); and

19  
20 WHEREAS, since that time, the parties have been negotiating the terms of a Development  
21 Agreement, that would set forth the roles and responsibilities of the parties in the Project; and

22  
23 WHEREAS, the Development Agreement provides that a new 260,000 square foot technical  
24 center facility will be constructed, a multi-level parking facility will be constructed, a skywalk  
25 between those two structures will be constructed, and certain neighborhood improvements and  
26 redevelopment will be undertaken; and

27  
28 WHEREAS, pursuant to the Development Agreement, the County is obligated to make a  
29 contribution of \$6.8 million to the construction of the parking facility and a \$500,000.00  
30 contribution to the construction of the skywalk; and

31  
32 WHEREAS, pursuant to the Development Agreement, in the event that BATO were to  
33 relocate within twenty (20) years after the construction of the Project, BATO is obligated to repay  
34 the County a pro-rata share of the County’s contribution to the Project; and

35  
36 WHEREAS, the Port Authority will finance the Project, using in part the contribution of the  
37 County, and will own the technical center, parking facility and skywalk and will lease the same  
38 back to BATO for thirty (30) years; and

39  
40 WHEREAS, the City will provide assistance to the Project in the form of tax increment  
41 financing, site preparation, infrastructure improvements, a portion of the skywalk, land donation, the  
42 purchase of the current technical center and the construction of certain neighborhood improvements;  
43 and

44  
45 WHEREAS, in addition to the obligations contained in the Development Agreement, the  
46 State of Ohio has approved a reduction in BATO’s commercial activity tax for a period of fifteen  
47 (15) years, provided that BATO maintains its technical center operations in the City for the next  
48 eighteen (18) years; and

3  
4 WHEREAS, this Council finds and determines that it is necessary and in the best interest of  
5 the County, and will assist economic development and the retention of jobs within Summit County,  
6 to authorize the Executive to execute the aforementioned Development Agreement and a  
7 subsequent cooperative agreement, materially consistent with the terms of the Development  
8 Agreement.

9  
10 NOW, THEREFORE, BE IT RESOLVED by the Council of the County of Summit, State  
11 of Ohio, that:

12  
13 SECTION 1

14  
15 The County Executive is hereby authorized to enter into and execute on behalf of the  
16 County, a Development Agreement with the City, Port Authority and BATO, materially consistent  
17 with the Development Agreement attached hereto as Exhibit A, and also to enter into a Cooperative  
18 Agreement with the City, Port Authority and BATO that will provide for the financing of the  
19 Project, with terms that are materially consistent with the terms of the Development Agreement.

20  
21 SECTION 2

22  
23 This Resolution is hereby declared to be an emergency in the interest of the health, safety  
24 and welfare of the citizens of the County of Summit and for the further reason that it is necessary to  
25 immediately ensure that BATO will remain within Summit County and continue to provide  
26 valuable contributions to the economy of the Summit County.

27  
28 SECTION 3

29  
30 Provided this Resolution receives the affirmative vote of eight members, it shall take effect  
31 immediately upon its adoption and approval by the Executive; otherwise it shall take effect and be  
32 in force at the earliest time provided by law.

33  
34 SECTION 4

35  
36 It is found and determined that all formal actions of this Council concerning and relating to  
37 the adoption of this Resolution were adopted in an open meeting of this Council, and that all  
38 deliberations of this Council and any of its committees that resulted in such formal action were in  
39 meetings open to the public, in compliance with legal requirements, including Section 121.22 of the  
40 Ohio Revised Code.

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RESOLUTION NO. 2009-483

PAGE THREE

INTRODUCED November 30, 2009

ADOPTED December 14, 2009

Shirley P. Green  
CLERK OF COUNCIL

Nick Kostandaras  
PRESIDENT

APPROVED December 15, 2009

[Signature]  
EXECUTIVE

December 15, 2009  
ENACTED EFFECTIVE

Voice Vote: 11-0 YES: Comunale, Crawford, Crossland, Feeman, Kostandaras  
Poda, Prentice, Rodgers, Schmidt, Shapiro, Smith

TEW DRAFT OF 11/25/2009 @ 12:00 PM EST

09-483

DEVELOPMENT AGREEMENT

AMONG

CITY OF AKRON, OHIO

AND

COUNTY OF SUMMIT, OHIO

AND

BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC

AND

SUMMIT COUNTY PORT AUTHORITY

DATED \_\_\_\_\_, 2009

FILE COPY

## DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into as of the latest date on which it is signed by any of the Parties (the "Effective Date") by and among BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC, a Delaware limited liability company formerly known as Bridgestone Firestone North American Tire, LLC ("BATO"), the CITY OF AKRON, OHIO, an Ohio municipal corporation (the "City"), COUNTY OF SUMMIT, OHIO, an Ohio Charter county (the "County"), and SUMMIT COUNTY PORT AUTHORITY, a port authority and political subdivision and body corporate and politic duly organized and validly existing under the laws of the State of Ohio (the "Port Authority"). BATO, the City, the County and the Port Authority are collectively referred to as the "Parties" and individually a "Party".

## RECITALS

A. The Parties agree to work cooperatively to enhance the economic health and prosperity of the region by investing public and private funds to retain technology-based jobs and create an environment conducive to innovation and research.

B. The City has adopted and intends to implement the Firestone Park Redevelopment Plan and South Main-Wilbeth Urban Renewal Area Plan, an urban redevelopment and renewal plan ("Firestone Park Urban Redevelopment Plan") for the Firestone Park Urban Renewal and Redevelopment Area.

C. In connection with the foregoing, BATO intends to redevelop certain real property owned by it or its affiliates and other real property in the vicinity thereof currently owned by the City (collectively, the "BATO Project Area") which is generally depicted on the site plan attached hereto as Exhibit A (the "Site Plan").

D. To carry out the City's Firestone Park Urban Redevelopment Plan, which includes the BATO Project Area, to create jobs and employment opportunities, to carry out the City's public purposes of providing for and furthering the revitalization of the area in an environmentally safe and sound manner, and at the request of BATO, the City has agreed to assist with the Project (defined below) by (i) providing certain financial and tax incentives under a tax increment financing program in accordance with Ohio Revised Code Chapter 5709, specifically Sections 5709.41 through 5709.43 (the "Act"), (ii) assisting in securing other financial and tax incentives and assistance from public and private entities, and (iii) constructing or causing the construction of various improvements as more specifically set forth in this Agreement.

E. To create and retain jobs and employment opportunities, BATO has requested and the County has agreed to assist with the Project by, among other things, providing certain financial assistance as more specifically set forth in this Agreement.

F. BATO has requested or will request that the Port Authority issue one or more series of revenue bonds ("Bonds") to pay for the construction of the Tech Center, the Parking Facility and the Pedestrian Connector (each as defined below), to be located in the BATO Project Area and constituting "port authority facilities" as defined under Ohio Revised Code Section 4582.21.

G. With the assistance of the City, the County and the Port Authority as detailed below in this Agreement, BATO intends to redevelop or cause the redevelopment of the BATO Project Area as generally described as follows (collectively, the "Project"):

i. Construction of a new approximately 260,000 square foot technical center facility that will be the research and development headquarters of BATO and certain of BATO's affiliates for both North and South America (the "Tech Center"), which Tech Center is to be constructed on the parcel of land identified on Exhibit B attached hereto and incorporated herein (the "Tech Center Parcel").

ii. Construction of a new multi-level parking facility providing parking for approximately 410 vehicles (the "Parking Facility") on the real property currently owned by the City and identified on Exhibit C attached hereto and incorporated herein (the "Parking Facility Parcel") to serve the Tech Center.

iii. Construction of an elevated pedestrian walk-way or other acceptable pedestrian connector between the Parking Facility and the Tech Center (the "Pedestrian Connector" and together with the Tech Center, the Tech Center Parcel, the Parking Facility and the Parking Facility Parcel, the "Project Property").

H. The City has determined that the Project is in furtherance of the Firestone Park Urban Redevelopment Plan, and therefore, the City desires to enter into this Agreement upon the terms and conditions detailed herein.

I. The preliminary sources and uses of the various funds necessary for the completion of the Project are described on the chart attached hereto as Exhibit D, which sources and uses will be modified over time by agreement of the Parties as the redevelopment plans are prepared and the Project develops (the "Funding Chart").

J. In addition to the agreements set forth herein regarding the Project, BATO and the City have made certain agreements regarding the possible sale and leaseback of certain property presently owned by BATO, such property being more fully described as the ATC Complex Property in Section 1.5.A hereof.

K. The Parties desire to memorialize in this Agreement their understandings as to their various responsibilities, duties, rights and obligations with respect to the Project and certain related matters.

NOW, THEREFORE, in consideration of the mutual promises and covenants stated below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## SECTION I THE PROJECT.

### Section 1.1. BATO's Obligations.

A. Construction of the Project. In cooperation with the Parties, BATO agrees to cause the Port Authority to construct, for use by BATO and its affiliates, the Tech Center, the Parking Facility and the Pedestrian Connector in accordance with the Project Timetable attached hereto as Exhibit E, which Project Timetable will be modified over time as agreed to by the

Parties hereto as the redevelopment plans are prepared and the Project develops (as modified by agreement of the Parties from time to time, the "Project Timetable"), and using the funding sources shown on the Funding Chart. The Parties acknowledge that the Project Timetable may need updating and revision after the Effective Date and shall work cooperatively to revise the Project Timetable as further information becomes available. BATO shall use reasonable efforts to seek out, obtain bids from and award work to local contractors, but BATO reserves the right, in each case, to accept only those bids and to ultimately enter into only those contracts that it reasonably determines to be in its best interests.

B. Convey Land. In exchange for the City's covenants under this Agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged by BATO, and without requiring any further consideration, BATO agrees to convey to the City by limited warranty deed, good and marketable fee simple title to (1) the Tech Center Parcel at the time and in the manner provided in Section 1.8 hereof, and (2) a strip of land consisting of approximately 0.413 acres, more or less, along the easterly side of Main Street beginning on the north side of East Wilbeth Road and continuing to the south side of East Firestone Boulevard, all as more fully described in Exhibit F hereto ("Road Widening Parcel"), for the purpose of allowing the City to widen Main Street. BATO agrees that the Tech Center Parcel and the Parking Facility Parcel are each a part of and subject to the City's Firestone Park Urban Redevelopment Plan. In connection therewith, BATO agrees to cooperate with the City towards achieving the goals set forth in the City's Firestone Park Urban Redevelopment Plan. Prior to its submitting an application for a building permit, BATO agrees to submit its design plans and specifications for the Tech Center, the Parking Facility and the Pedestrian Connector for City review and approval (i) to the City's Director of Planning and Urban Development and (ii) to the City's Urban Design and Historic Preservation Commission.

C. Obligations Regarding ATC Complex Property. BATO shall sell the ATC Complex Property to the City and shall lease a portion of the ATC Complex Property back from the City, all as more fully provided in Section 1.5 hereof.

D. Parking. Before the completion of construction of the Parking Facility, BATO shall enter into a written agreement with the City and the Port Authority, on reasonable terms mutually agreeable to all Parties, to allow for (i) public parking at the Parking Facility for special events, and (ii) BATO's use of the surface parking lot located adjacent to the Parking Facility for BATO and its employees and invitees at such mutually agreeable times to be identified by BATO and the City when such surface lot is not otherwise being used by the public.

E. Completion and Operation of Project. BATO will complete the Project in accordance with the Project Timetable, subject to modification from time to time by the mutual agreement of the Parties. The Project will be used by BATO in the manner more fully described in Section 6.1 hereof. The Project will at all times be operated and maintained in such manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other applicable governmental regulations.

F. Satisfaction of Preconditions. BATO shall use its reasonable best efforts to enter into leases and agreements and secure the financings and take all such actions as are necessary to satisfy or fulfill the Preconditions listed in Section 1.7 hereof.

Section 1.2. City's Obligations.

A. Land Donation. After approval of the City Planning Commission and City Council and at the time and in the manner provided in Section 1.8 hereof, the City shall convey the Tech Center Parcel and the Parking Facility Parcel to the Port Authority by quit-claim deed, subject to the Firestone Park Urban Redevelopment Plan. The City shall retain such interest in the Tech Center Parcel and the Parking Facility Parcel necessary for public improvements or public rights of way, and any such easement or rights of way held by the City prior to or at the time of conveyance shall not merge in the deed.

B. Tax Increment Financing. The City shall use its best efforts to exempt 100% of the increase in assessed value of all of the properties in the Project Property under a tax increment financing program for a period of thirty (30) years (the "TIF") in accordance with the Act. The City shall introduce and advocate the ordinance required under the Act to establish the TIF (the "Ordinance") at a time mutually determined by it and BATO, which time is anticipated to be at or near the completion of Project construction. That period beginning on the Effective Date and continuing through any period of exemption pursuant to the Ordinance is hereinafter referred to as the "TIF Period."

C. BATO Project Area Improvements. The City shall pay for the construction of the improvements listed on Exhibit G hereto (the "BATO Project Area Improvements") to be constructed or installed by the Port Authority, BATO or the City, as specified on Exhibit G and in accordance with the Project Timetable, provided that the City's aggregate obligation to pay for the construction or installation of the BATO Project Area Improvements shall not exceed \$2,600,000. The Parties shall work cooperatively to determine what costs of the Project from among those listed on Exhibit G hereto this amount shall fund. The City's contribution pursuant to this Section 1.2.C. shall be made at or near the commencement of the installation and construction of the BATO Project Area Improvements (on an as needed, when needed basis), but in no event earlier than April 2010, and shall be deposited to and disbursed from a separate account pursuant to the terms and conditions of the Cooperative Agreement (as defined in Section 1.7.E below).

D. Pedestrian Connector. In connection with the Port Authority's agreement to construct the Pedestrian Connector for use by BATO as set forth in Section 1.1.A. above, the construction costs for the Pedestrian Connector shall be shared equally between BATO, the City and the County provided that (i) the City's share of the construction costs of the Pedestrian Connector shall not exceed \$500,000, and (ii) the County's share of the construction costs of the Pedestrian Connector shall not exceed \$500,000, and (iii) BATO agrees to pay the construction costs of the Pedestrian Connector in excess of what the City and the County are liable for hereunder. The ownership of the Pedestrian Connector shall be titled in the same names and interests as the Parking Facility, subject to any public streets or rights-of-way. The Parties agree that the City's obligations with respect to the Pedestrian Connector construction are in addition to and not a part of the City's obligations to construct and install the BATO Project Area Improvements pursuant to Section 1.2.C above. The City's contribution pursuant to this Section 1.2.D shall be funded at or near the commencement of the construction of the Pedestrian Connector (on an as needed, when needed basis) and shall be deposited to and disbursed from a separate account pursuant to the terms and conditions of the Cooperative Agreement. The County's contribution pursuant to this Section 1.2.D shall be made at or near the commencement



of the Parking Facility construction (in one lump sum) and shall be deposited to and disbursed from a separate account pursuant to the terms and conditions of the Cooperative Agreement.

E. Obligations Regarding ATC Complex Property. The City shall purchase the ATC Complex Property from BATO and shall lease a portion of the ATC Complex Property back to BATO, all as more fully provided in Section 1.5 hereof.

F. Firestone Park Neighborhood Improvements. Beginning in 2010, the City will work with BATO to support and coordinate the redevelopment of the Firestone Park Neighborhood, which is generally that part of the City surrounding the Firestone campus and within the South Main Street and Firestone Parkway corridors and the Firestone Park Urban Renewal and Redevelopment Area (the "Firestone Park Neighborhood"). In connection therewith, the City agrees to expend \$10,000,000 to further redevelop the Firestone Park Neighborhood, which redevelopment may include the acquisition and clearance of property, transportation improvements, streetscape improvements and public park open space enhancements and as otherwise described on Exhibit H attached hereto and incorporated herein ("Firestone Park Neighborhood Improvements"). The City commits to having expended \$10,000,000 on the Firestone Park Neighborhood Improvements by December 31, 2012; provided that BATO acknowledges and agrees that the City may seek out sources of funding for the costs of the Firestone Park Neighborhood Improvements, which other funds from other sources will be included and count towards the City's \$10,000,000 commitment pursuant to this Section 1.2.F. In connection with and in consideration of the City's construction of the Firestone Park Neighborhood Improvements, BATO agrees to cooperate with the City as reasonably requested by the City as necessary and convenient for the construction of the Firestone Park Neighborhood Improvements.

Section 1.3. County's Obligations. In addition to the County's obligations pursuant to Section 1.2.D above, the County shall contribute \$6,800,000, which amount shall be used by the Port Authority for the payment of costs associated with the construction of the Parking Facility. In consideration of the County's contribution required under this Section 1.3, BATO specifically agrees that it will cause the Parking Facility to be constructed as part of and prior to the completion of the Project. The County's contribution pursuant to this Section 1.3 shall be made at or near the commencement of the Parking Facility construction (in one lump sum) and shall be deposited to and disbursed from a separate account pursuant to the terms and conditions of the Cooperative Agreement.

Section 1.4. Port Authority's Obligations.

A. Lease. The Port Authority will accept title to the Tech Center Parcel and the Parking Facility Parcel and agrees to lease (the "Lender Lease") the Project to the purchaser of the Bonds designated by BATO (the "Lender"), which Lender will sublease (the "Sublease") the Project to BATO. The term of the Lender Lease shall be for 30 years or as otherwise specified by BATO, such term to be co-terminus with the maturity date of the Bonds, and shall be subject to the review and approval of BATO. The Parties shall have the right to review the Lender Lease to confirm that its terms and conditions are not in conflict with this Agreement.

B. Construction Agency Agreement. The Port Authority will enter into a construction agency agreement ("Construction Agency Agreement") with BATO and/or the Lender, wherein BATO or the Lender will act as construction agent for the Port Authority in

connection with the acquisition, construction and installation of the Tech Center, the Parking Facility, the Pedestrian Connector and the BATO Project Area Improvements.

C. Sales Tax Savings. The Port Authority shall cooperate with BATO in BATO's efforts to obtain the Port Authority's sales tax savings provided that the Parties acknowledge that the pursuit of the sales tax savings shall be in the sole discretion of BATO.

D. Bonds. At the request of BATO, the Port Authority shall submit to the Port Authority's Board of Directors for consideration the proposal to issue the Bonds in accordance with the Project Timetable.

Section 1.5. Agreements Regarding ATC Complex Property.

A. ATC Complex Description. BATO currently owns the real property comprising BATO's former headquarters building located at 1200 Firestone Parkway, Akron, Ohio, BATO's clubhouse building located at 1301 South Main Street, Akron, Ohio, and surrounding land, such property being designated as parcel nos. 6760156, 6729396, and 6853086 (the "Former ATC Building"), parcel no. 6729397 (the "Clubhouse") and parcel nos. 6753057 and 6753056 (the "Former Railway Parcels) in the real property records of the County and all of which is depicted and described on the site plan attached hereto as Exhibit I (collectively, the "ATC Complex Property").

B. Trade Name Signage. The City acknowledges that BATO owns the signage containing BATO's trademarks and trade names installed and placed in, on and outside of the buildings located on the ATC Complex Property, including but not limited to the "FIRESTONE" sign located on the roof of the Former ATC Building. The City consents to BATO's removal of the "FIRESTONE" sign if BATO so desires to remove it prior to the ATC Closing Date (defined below) provided that BATO shall promptly repair any and all damages caused by such sign removal.

C. Environmental Agreement. On the Effective Date, the City and BATO shall execute and deliver to each other that certain Environmental Agreement relating to the ATC Complex Property (the "Environmental Agreement").

D. Conveyance and Lease of the ATC Complex Property.

1. BATO shall convey and the City shall purchase the ATC Complex Property in accordance with the terms and conditions set forth in this Section 1.5 unless BATO shall have conveyed title to all of the ATC Complex Property to a third party on or before the date that is ninety (90) days after BATO notifies the City in writing that an occupancy certificate has been issued for the Tech Center (the "City Purchase Obligation Trigger Date") following the construction thereof pursuant to, and in accordance with, this Agreement.

2. If BATO conveys title to all of the ATC Complex Property to a third party on or before the City Purchase Obligation Trigger Date, the City's obligation to purchase the ATC Complex Property shall automatically terminate, without further action by any Party hereto. BATO shall notify the City within seven business days after the date on which BATO conveys title to the ATC Complex Property.

3. If (i) BATO does not convey title to the ATC Complex Property to a third party on or before the City Purchase Obligation Trigger Date, or the City exercises its Right of First Refusal (in accordance with Section F below) (ii) the ATC Complex Property is in substantially the same condition as on the Effective Date hereof, subject to normal wear and tear, unless the change in condition is the result of either (a) the exercise of eminent domain or other such action by the City or the County or (b) the performance of an obligation under the Environmental Agreement and (iii) BATO has not caused an Event of Default hereunder which remains uncured beyond the applicable grace period, then within thirty (30) days after the City Purchase Obligation Trigger Date, the City and BATO shall execute and enter into a contract to sell the ATC Complex Property to the City in exchange for a purchase price of \$5,000,000 (the "ATC Purchase Price"). The contract shall be in the form of Exhibit J attached hereto ("ATC Purchase Agreement") and shall be modified pursuant to this Agreement as necessary to incorporate the agreed upon business terms prior to its execution and delivery. The date on which the ATC Complex Property is conveyed by BATO to the City pursuant to the ATC Purchase Agreement shall be referred to as the "ATC Closing Date."

4. BATO shall lease at least 310,398 square feet of the ATC Complex Property on the ATC Closing Date pursuant to the terms and conditions of the lease agreement attached hereto and incorporated herein as Exhibit K (the "Lease Agreement"). The Lease Agreement shall be modified pursuant to this Agreement as necessary to incorporate the agreed upon business terms prior to its execution and delivery. BATO shall lease from the City the entire first floor of the Former ATC Building, excepting common areas on the first floor (representing approximately 200,000 square feet) and BATO shall specify such additional approximately 110,398 square feet of the ATC Complex Property that will be the subject of the Lease Agreement prior to the ATC Closing Date. The location of those portions of the Former ATC Building in addition to the first floor shall be subject to the City's reasonable approval. BATO may, in its sole discretion, lease more than 310,398 square feet of the ATC Complex Property pursuant to the Lease Agreement.

E. BATO's Obligation to Market the ATC Complex Property.

1. Within thirty (30) days after the Effective Date, BATO shall cause the ATC Complex Property to be listed for sale and, unless the ATC Complex Property is conveyed to a third party prior to the City Purchase Obligation Trigger Date, the ATC Complex Property shall remain available for sale until the City Purchase Obligation Trigger Date.

2. BATO shall pay for, direct and control all of the marketing activities and efforts, and shall use its best efforts to coordinate all such marketing activities with the City and to keep the City apprised of all such marketing activities and efforts.

3. BATO shall have no obligation to accept any offer that it receives.

4. BATO shall have no obligation to execute a real estate sale contract, or to convey title, pursuant to an offer that it received if BATO does not believe, in its sole discretion, that doing so would be in the best interest of BATO.

F. The City's Right of First Refusal to Purchase the ATC Complex Property.

1. BATO shall immediately provide written notice to the City of any offers ("Offer Notice") to purchase all or any portion of the ATC Complex Property ("ATC Purchase Offer") that BATO receives prior to the City Purchase Obligation Trigger Date. If BATO desires to accept such ATC Purchase Offer, BATO shall notify the City in the Offer Notice of its desire to accept such ATC Purchase Offer. The Offer Notice shall contain a copy of the ATC Purchase Offer and all other applicable terms and conditions.

2. If BATO desires to accept an ATC Purchase Offer, the City shall have the right to purchase the ATC Complex Property or the part of the ATC Complex Property which is the subject of the ATC Purchase Offer (the whole or that part of the ATC Complex Property being referred to as the "Offer Property"), at the same price set forth in the Offer Notice and on the same terms and conditions set forth in the Purchase Agreement and the Environmental Agreement. The City's right under this Section 1.5.F shall be referred to as the City's "Right of First Refusal."

3. Within thirty (30) days after the City's receipt of the Offer Notice, the City shall notify BATO in writing of the City's election to either accept or reject the ATC Purchase Offer ("City's ROFR Notice").

4. If the City's ROFR Notice is not received within said thirty (30) day period or if the City elects to reject the ATC Purchase Offer, BATO may sell the ATC Complex Property (but not less than the entire ATC Complex Property without the express written approval of the City), to a third party on the terms and conditions set forth in the ATC Purchase Offer and Offer Notice and the City's Right of First Refusal shall terminate as to such ATC Purchase Offer provided that:

a. the Right of First Refusal shall remain in effect with respect to the all or any portion of the ATC Complex Property not conveyed pursuant to the ATC Purchase Offer; and

b. BATO shall not agree to a reduction of the purchase price, more favorable terms to the third party purchaser, or any change in the consideration to be given to exchange for the Offer Property other than as set forth in the ATC Purchase Offer and Offer Notice, without first giving the City a new Offer Notice of the reduction, more favorable terms or change. Upon receipt of the new Offer Notice, the Right of First Refusal shall apply to the Offer Property at the new price, or on the new or changed terms set forth in the new Offer Notice.

5. Notwithstanding any other provision of this Agreement, BATO shall not accept an offer to purchase a portion of the ATC Complex Property ("Portion Property") or convey title to the Portion Property, without the express written approval of the City, which approval may be denied in the City's sole discretion. Upon BATO conveying the Portion Property, the City's rights and obligations set forth in this Section 1.5, including but not limited to its right of first refusal, shall remain in full force and effect with respect to the remainder of the ATC Complex Property ("Remainder Property"); provided, however, that the ATC Purchase Price for the Remainder Property shall be reduced by

the amount that BATO has received in consideration of the sale of the Portion Property, and the business terms of the ATC Purchase Agreement and the Lease Agreement shall be modified accordingly prior to their respective execution and delivery

6. If the purchase transaction contemplated in the ATC Purchase Offer is not closed for any reason (other than BATO's breach of this Agreement or the agreement to sell to a third party) or if the ATC Complex Property is not conveyed in accordance with the ATC Purchase Offer and the City is obligated to purchase the ATC Complex Property pursuant to Section 1.5.D above, then the City's Right of First Refusal shall be reinstated as to the ATC Complex Property until the City Purchase Obligation Trigger Date.

G. Interim Operating Covenants. From the Effective Date of this Agreement until the date that is the earlier to occur of (i) the date of execution and delivery of the ATC Purchase Agreement and (ii) the date on which BATO sells the entire ATC Complex Property pursuant to an ATC Purchase Offer, BATO agrees that it shall:

1. Operations. Continue to operate, manage and maintain the ATC Complex Property, including but not limited to the buildings' operating systems, in the ordinary course of BATO's business and substantially in accordance with BATO's present practice, as of the Effective Date of this Agreement, subject to normal and ordinary wear and tear and to the requirements of the Environmental Agreement.

2. Comply with Governmental Regulations. Not knowingly and deliberately take any action or fail to take any action that BATO reasonably knows would result in a failure to comply in all material respects with all Governmental Regulations (as defined in the ATC Purchase Agreement) applicable to the ATC Complex Property, it being understood and agreed that prior to the ATC Closing Date, BATO will have the right to contest or protest any such Governmental Regulations at its sole cost and expense.

3. Notices. To the extent received by BATO, promptly deliver to the City copies of written notices of lawsuits and written notices of violations materially affecting the ATC Complex Property.

4. Environmental Agreement. Comply with the Environmental Agreement.

Section 1.6. First Energy Funds. The Parties acknowledge that, at the City's request, First Energy Corporation has committed to pay \$600,000 ("First Energy Funds") to the City on the condition that the City expends the First Energy Funds on the construction and installation of electrical tie-in work necessary for the operation of the Project and other capital improvements. The City shall accept the First Energy Funds, which shall be deposited to and disbursed from a separate account pursuant to the Cooperative Agreement.

Section 1.7. Preconditions. All of BATO's, the City's, the County's and the Port Authority's obligations under this Agreement are conditioned on the following in accordance with the Project Timetable:

A. Land Transfers and Lease. BATO and the City shall convey, and the City and the Port Authority, respectively, shall accept title to the Tech Center Parcel and the Parking Facility Parcel as contemplated herein, and the Port Authority and the Lender shall enter into the Lender

Lease for the Project and related improvements, all upon terms and conditions acceptable to the Port Authority and the Lender. The City and the County shall have the right to review the Lender Lease to confirm that its terms and conditions are not in conflict with this Agreement.

B. Sublease. The Lender and BATO shall have entered into the Sublease on terms and conditions to be mutually agreed upon by BATO and the Lender. The City and the County shall have the right to review the Sublease to confirm that its terms and conditions are not in conflict with this Agreement.

C. BATO Financing. At the request of BATO, the Port Authority shall have agreed to issue the Bonds, and the Bonds shall have been issued and sold and the proceeds thereof made available to the Port Authority to pay the costs of the Project. Additionally, BATO shall have provided evidence satisfactory to the County, the City and the Port Authority of financing commitments from the Lender necessary to complete the Project, which commitments may be contingent upon the performance by the City, the County and the Port Authority of their respective obligations under this Agreement.

D. Funding Sources. The funding sources listed on the Funding Chart from entities other than the Parties hereto shall have been materially procured, or agreed upon substitutes provided.

E. Cooperative Agreement and Other Agreements. BATO, the Port Authority, the County, the City and the Lender (if such Lender so requires) shall have entered into a Cooperative Agreement ("Cooperative Agreement") in accordance with the Project Timetable, which shall govern (i) the flow of TIF funds from the County to the Port Authority or its trustee for the Bonds, and (ii) the flow of funds from the City, the County and First Energy Corporation to the Port Authority or its trustee for the Bonds (acting as disbursement agent) in connection with the grants described in Sections 1.2.C, 1.2.D, 1.3 and 1.6 hereof. The execution of the Cooperative Agreement by the parties shall occur in conjunction with the issuance of the Bonds. The Parties agree to negotiate the Cooperative Agreement in good faith and it shall include all usual and customary terms and conditions including BATO's indemnification of the City, the County and the Port Authority for claims or damages arising from the issuance of the Bonds. BATO, the City, the County, the Port Authority and/or any other required parties shall have entered into such other agreements as may be necessary or desirable for the construction and operation of Project, upon terms and conditions acceptable to the parties thereto.

F. Approvals Required. This Agreement, the execution and delivery thereof, and the performance by each of the Parties of their respective obligations hereunder shall have been approved to the full extent legally required by (i) the City Council of the City, (ii) the County Council of the County, (iii) the Board of Directors of the Port Authority, (iv) the Board of Managers of BATO, (v) the Board of Directors of Bridgestone Americas, Inc., and (vi) the Board of Directors of Bridgestone Corporation. The Parties agree to use their reasonable best efforts to secure all such approvals on or before December 31, 2009.

G. TIF Ordinance. The final adoption and approval by the City Council of the City of the Ordinance (as defined in Section 1.2.B hereof) and all other resolutions and acts or undertakings as may be legally required to provide to BATO the tax increment financing arrangement described in Section II hereof. Adoption of the Ordinance shall be a continuing

condition to the performance by BATO of its obligations hereunder, notwithstanding that BATO may have performed some of its obligations prior to introduction of the Ordinance.

H. Permits and Approvals. The receipt by BATO and the City and other governmental entities of all governmental permits, variances, approvals, zonings and rezonings as may be necessary to construct and operate the Project. The City and the County agree to cooperate with BATO to grant such permits, variances, approvals, zonings and rezonings and other matters within its control as may be necessary to construct the Project.

I. Environmental Agreement. The City and BATO shall have executed and delivered to each other the Environmental Agreement.

J. Finalization of ODOD Grant. BATO shall have finalized its grant agreement with the Ohio Department of Development (“ODOD”) concerning BATO’s application to the ODOD’s Job Retention Tax Credit Program.

K. Performance of Obligations. As to each Party hereto, the performance of all obligations of the other Parties under this Agreement, including conditional obligations, and all other agreements contemplated by, or flowing from, this Agreement, including but not limited to the Lender Lease, the Sublease, the Environmental Agreement, the ATC Purchase Agreement and the Lease Agreement.

Section 1.8. Final Designation of Parcels. The Parties recognize and agree that the designations of the Tech Center Parcel (as indicated in Exhibit B hereto) and the Parking Facility Parcel (as indicated in Exhibit C hereto) are preliminary and are based on the best available information. Following the Effective Date, BATO shall determine the final parameters of the Tech Center Parcel and the Parties shall cooperate to determine the final parameters of the Parking Facility Parcel. BATO shall, at its expense, undertake such surveys, title work and environmental assessments as may be required by the Lender in connection with the development of the Lender Lease and the purchase of the Bonds. The Parties shall, to the extent necessary, cooperate to have existing parcels of real property redrawn or re-platted to accommodate the final designations of the Tech Center Parcel and the Parking Facility Parcel.

Section 1.9. Time of Performance. Notwithstanding any aspect of the Project Timetable to the contrary, the Parties agree that the following shall occur simultaneously, and that the performance of each shall be interdependent on the performance of the others: (i) the conveyance of the Tech Center Parcel by BATO to the City, as provided in Section 1.1.B hereof, shall occur prior to the City’s enacting the Ordinance (as defined in Section 1.2.B hereof); (ii) the conveyance of the Tech Center Parcel and the Parking Facility Parcel by the City to the Port Authority, as provided in Section 1.2.A hereof, (iii) the execution and delivery of the Lender Lease by the Port Authority and the Lender, as provided in Section 1.4.A hereof, (iv) the execution and delivery of the Sublease by the Lender and BATO, as provided in Section 1.4.A hereof, (v) the execution and delivery of the Construction Agency Agreement by the Port Authority, BATO and/or the Lender, as provided in Section 1.4.B hereof, (vi) the execution and delivery of the Cooperative Agreement by BATO, the Port Authority, the City and the County, as provided in Section 1.7.E hereof, (vii) the execution and delivery of the Declaration by BATO, the Port Authority and the Lender, as provided in Section 2.5 hereof, (viii) the execution and delivery of the Environmental Agreement by BATO and the City, and (ix) the execution and

delivery by the Parties and the Lender, as appropriate, of all other documents, agreements and instruments as may be required in connection with the issuance and purchase of the Bonds.

Section 1.10. Additional Obligations. The Parties acknowledge and agree that each of the Parties shall use their best efforts to secure, including meeting the conditions for, all funding sources listed on the Funding Chart, but they further acknowledge and agree, however, that the Funding Chart is preliminary and not all funding sources listed thereon are firmly committed or achievable. The Parties further acknowledge and agree that the Funding Chart as identified on the Effective Date is preliminary and the Parties agree to work cooperatively to revise the Funding Chart as more cost information is available. The Parties also agree to work cooperatively to secure State and federal grants and other donations that may be available for the Project, including those identified on the Funding Chart.

## SECTION II OBLIGATIONS UNDER THE TIF.

### Section 2.1. Payments in Lieu of Taxes.

A. In connection with the Firestone Park Urban Redevelopment Plan and upon the passing of the Ordinance, BATO covenants and agrees for itself and its successors and assigns to or of the Project Property or any part thereof (BATO and each successor and assign is individually referred to as an "Owner" and collectively as the "Owners") and for any successors in interest to the leasehold estate created in and to the Project Property or any part thereof (each a "Lessee" and collectively the "Lessees"), but not including any sublessees, that the Owners and Lessees shall be jointly and severally responsible for making semi-annual payments in lieu of taxes, including the payment of applicable penalties and interest (collectively, "Payments in Lieu of Taxes") with respect to the improvements on the Tech Center Parcel and the Parking Facility Parcel (including the Pedestrian Connector) comprising a part of the Project Property (collectively, the "Improvements" as that term is defined in Ohio Revised Code Section 5709.41) pursuant to and in accordance with the requirements of the Act and the Ordinance. Such Payments in Lieu of Taxes shall be paid to the Fiscal Officer of Summit County (or the Fiscal Officer's designated agent for collection of the Payments in Lieu of Taxes), in such amounts as the real property taxes that would have been charged and payable against the Improvements had the exemption from taxation not been granted and on or before the date on which the semi-annual payment of real property taxes would otherwise have been due and payable for the Improvements, and otherwise shall be in accordance with the requirement of the Act and the Ordinance, including any interest and/or penalty assessed on any late payment of the Payments in Lieu of Taxes (established under Ohio Revised Code Sections 323.121(B)(1) and 5703.47 as the same may be amended from time to time). The obligations of the Owners and the Lessees to make the Payments in Lieu of Taxes shall be unconditional, and shall not be terminated for any cause, and there shall be no right to suspend or set off such Payments in Lieu of Taxes for any cause, including without limitation any acts or circumstances that may constitute failure of consideration, destruction or damage to the Project Property or the structures on the Project Property, commercial frustration of purpose, or any failure by the City or the Port Authority to perform or observe any obligation or covenant, whether express or implied, arising out of or in connection with the Cooperative Agreement or the Ordinance. No Owner or Lessee shall, under any circumstances, be required in any tax year to both pay Payments in Lieu of Taxes with respect to the Improvements and reimburse local taxing authorities for the amount of real property taxes that would have been payable to local taxing authorities had the Improvement not been exempted from taxation pursuant to the Ordinance.



B. BATO's, and each subsequent Owner's and subsequent Lessee's, responsibility hereunder and under the Cooperative Agreement, including but not limited to responsibility for payment of Payments in Lieu of Taxes, shall continue during the TIF Period regardless of BATO's occupancy of the Tech Center Parcel or the Parking Facility Parcel.

Section 2.2. Service Payments. Provided that (i) a Relocation (as defined in Section 6.2) has not occurred, and (ii) BATO is not otherwise in default hereunder, then the City agrees to transfer all payments actually received from the County's Fiscal Officer as Payments in Lieu of Taxes on the Project Property, and not otherwise payable to the Akron Public Schools pursuant to that certain Compensation Agreement dated June 1, 1997 between the City and the Akron Public Schools relating to the TIF (the "Service Payments"), which Service Payments shall be transferred to the Port Authority's trustee for payment on the Bonds as long as the Bonds are outstanding. In the event that the Bonds are no longer outstanding, and as long as (I) a Relocation has not occurred, and (II) BATO is not otherwise in default hereunder, then the City agrees to transfer all Service Payments received to BATO. While the Bonds are outstanding, the Service Payments shall be used to reduce the amount of payments due under the Sublease (defined below) by BATO to the Lender, which payments will be pledged to the Port Authority's trustee as security for the payment of principal and interest on the Bonds. The City and BATO shall cooperate to not permit other property tax exemptions on the BATO Project Area unless agreed to by the Parties.

Section 2.3. Application for Exemption. The Port Authority and BATO, for themselves and their successors and assigns and on behalf of any future owner of the Project Property, do hereby grant their consent to the City to permit the City to file or cause to be filed, pursuant to Ohio Revised Code Section 5709.911, all legally necessary applications, petitions, forms and supporting documents to obtain the exemption from real property taxation for increases in assessed value of the real estate comprising the Project Property and to enable the City to collect Service Payments from the County's Fiscal Officer.

Section 2.4. Financial Information.

A. Reports by BATO to City and Tax Incentive Review Council. During the TIF Period, BATO or any subsequent owner or owners of the Project Property shall comply with reasonable requests for information made pursuant to and within the scope of the information to be provided as referenced in Ohio Revised Code Section 5709.85 by the tax incentive review council (the "TIRC") established and operated with respect to the Project Property.

B. Trade Secrets. Generally, information regarding the financial status and performance of Bridgestone operating units is made available only in the form of the consolidated annual report of Bridgestone Corporation, the ultimate parent company of BATO. Information is not generally made available regarding the separate-company financial status or results of operations of BATO ("BATO Financial Information"). BATO regards BATO Financial Information as trade secrets within the meaning of Ohio Revised Code Section 1333.61(D). BATO believes that BATO Financial Information reveals financial, cost and other information regarding its North American tire operations that is not available to the public and the disclosure of which would be damaging to BATO if made available to its competitors. BATO Financial Information is not publicly disclosed to the U. S. Securities Exchange Commission or any other person. In the event that BATO Financial Information is required to be provided at any time to the City or the TIRC in accordance with Section 2.4.A hereof, BATO

may, in its discretion, prominently designate such BATO Financial Information as trade secrets, in which case the City and the TIRC shall not provide any such BATO Financial information to any third party without the prior written consent of BATO or as directed by an order issued by a court of competent jurisdiction; provided, that BATO continues to comply with the remaining provisions of this Section 2.4.B. If, upon the request of any third party for any BATO Financial Information, BATO declines to authorize the release of such BATO Financial Information, BATO shall initiate or defend, as the case may be, at its sole cost and expense, all legal proceedings as may be required to establish the BATO Financial Information as trade secrets and to otherwise prevent its disclosure, and BATO shall indemnify and hold the City and the TIRC harmless from and against all losses, costs and expenses incurred as a result of their refusal to make BATO Financial Information available to any third party.

Section 2.5. Declaration of TIF Covenants and Urban Renewal Area Plan Covenants.

The real property comprising the Project Property shall be subject to (i) covenants running with the land as set forth in this Section II and (ii) all covenants required by the Firestone Park Urban Redevelopment Plan, and such covenants shall be evidenced by the Port Authority, BATO and the Lender signing and recording a Declaration of Covenants (the "Declaration") in form and substance satisfactory to BATO, the City and the Port Authority. The Declaration shall be enforceable by the City and the Port Authority, and shall be recorded with the real estate records of the County prior in time to the Lender Lease and the Sublease and all memoranda thereof are recorded, and subject only to the following: all streets and public rights of way, all laws, ordinances, rules, regulations, codes, orders and judgments, all real estate taxes, both general and special, not yet due and payable, and other encumbrances agreed to in writing by the City. BATO agrees to cause any and all holders of mortgages, liens or other encumbrances affecting the Project Property to be subordinate to the Declaration.

SECTION III PREVAILING WAGE. BATO acknowledges and agrees that pursuant to Ohio Revised Code Chapter 4115 ("Chapter 4115"), wages paid to laborers and mechanics employed in connection with construction of portions of the project utilizing the Bonds are required to be paid at not less than the prevailing rates of wages, as determined in accordance with the requirements of Chapter 4115. To the extent required by Chapter 4115, BATO shall comply, and BATO shall require compliance by all applicable contractors, with all applicable requirements of all applicable laws, including but not limited to Chapter 4115, and including but not limited to (i) obtaining from the Ohio Department of Commerce its determination of the prevailing rates of wages, (ii) obtaining the designation of a prevailing wage coordinator, (iii) insuring that all subcontractors receive notification of changes in prevailing wage rates as required by Chapter 4115, and (iv) paying prevailing wages as required by Chapter 4115. BATO shall indemnify and hold the Parties and their respective officers, directors, advisors and employees harmless from and against any and all liabilities, claims and damages arising out of or relating to BATO's failure to pay prevailing rates of wages, as determined in accordance with the requirements of Chapter 4115, or BATO's breach or noncompliance with this Section III.

SECTION IV REPRESENTATIONS AND WARRANTIES.

Section 4.1. BATO's Representations and Warranties. BATO hereby covenants, represents and warrants to the City, the County and the Port Authority as follows:

A. It is a limited liability company duly organized and validly existing under the laws of the State of Delaware.

B. Upon approval by the Board of Managers of BATO, the Board of Directors of Bridgestone Americas, Inc., and the Board of Directors of Bridgestone Corporation, which approval is a precondition pursuant to Section 1.7.F. above, BATO will have the full power and authority to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by those documents. That execution, delivery and performance do not, and will not, violate any provision of law applicable to BATO or BATO's Certificate of Formation or Limited Liability Company Agreement and do not, and will not, conflict with or result in a default under any material agreement or instrument to which BATO is a party or by which it is bound.

C. The provision of financial assistance to be made available to BATO under this Agreement and the commitments therefor made by the Parties hereto have induced BATO to undertake the transactions contemplated by this Agreement.

D. BATO presently intends to use or operate the Project during the TIF Period in the manner described in Section 6.1 hereof and knows of no reason why the Project will not be so fully operational for such a period of time. If, in the future, there is a threat of a Relocation or a substantial reduction in the utilization of the Tech Center, BATO will immediately notify the City of such threat.

E. The Project will be completed in accordance with the Project Timetable, and will be operated and maintained in such manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other applicable governmental regulations.

F. BATO's representations and warranties contained in this Section IV shall survive the termination, expiration or completion of this Agreement.

## SECTION V DEFAULT.

Section 5.1. Definition of an Event of Default. Each of the following events shall be an "Event of Default":

A. BATO shall fail to make any payment required by this Agreement when such payment is so required, including but not limited to Payments in Lieu of Taxes as required by Section 2.1 hereof, and the continuation of such failure for a period of five calendar days;

B. BATO shall fail to make reasonable efforts to keep the Project on schedule according to the Project Timetable;

C. BATO shall fail to observe and perform any other agreement, term or condition contained in this Agreement, and the continuation of such failure for a period of thirty calendar days after notice thereof shall have been given to BATO by any one of the City, the County or the Port Authority, or for such longer period as the City, the County or the Port Authority may agree to in writing;

D. The City, the County or the Port Authority shall fail to observe and perform any covenant, term or condition contained in this Agreement, and the continuation of such failure for a period of thirty calendar days after notice thereof shall have been given to the defaulting Party by at least one of the non-defaulting Parties;

E. Any representation or warranty made by BATO herein or any statement in any report, certificate, financial statement or other instrument furnished in connection with this Agreement or with the issuance of the Bonds shall at any time prove to have been false or misleading in any material respect when made or given;

F. A “default” or an “Event of Default” has occurred and is continuing under the Cooperative Agreement, the Lender Lease, the Sublease, the Environmental Agreement, the ATC Purchase Agreement or the Lease Agreement, which default or Event of Default remains uncured beyond any applicable grace period pursuant to such agreement;

G. Any Party shall be adjudicated bankrupt or adjudged to be insolvent;

H. A receiver or trustee shall be appointed for any Party’s property and affairs;

I. Any Party shall voluntarily make an assignment for the benefit of creditors or shall file a petition in bankruptcy or insolvency or for reorganization or shall make application for the appointment of a receiver or if any similar petitions are filed against any Party and not dismissed within ninety calendar days; or

J. Any execution or attachment shall be issued against any Party or any of that Party’s property is not bonded off or otherwise dismissed within ninety calendar days, whereby the Project or any portion thereof shall be taken or occupied by someone other than the Port Authority, the City or BATO; provided however, that this clause shall not prohibit BATO from contesting any attachment, execution or similar action by whatever legal means are available.

#### Section 5.2. Remedies.

A. Remedies by BATO. Upon the occurrence of an Event of Default by either the City, the County or the Port Authority, BATO may, in addition to and without prejudice of any other rights and remedies at law or in equity, exercise one or more of the following remedies:

1. Terminate the defaulting Party’s rights under this Agreement by written notice to each of the other Parties; or

2. Bring an enforcement action by appropriate judicial proceedings, in which case the defaulting Party hereby acknowledges that an Event of Default confers upon the enforcing party a “clearly enforceable legal right” as that term is used in equity.

B. Remedies by the City, the County or the Port Authority. Upon the occurrence of an Event of Default by BATO, then the City, the County or the Port Authority may, in addition to and without prejudice of any other rights and remedies at law or in equity, exercise one or more of the following remedies:

1. Terminate BATO’s rights under this Agreement by written notice to each of the other Parties, in which case the non-defaulting Parties shall have no further obligations hereunder; or

2. Bring an enforcement action by appropriate judicial proceedings, in which case the defaulting party hereby acknowledges that an Event of Default confers upon the enforcing party a “clearly enforceable legal right” as that term is used in equity.

Section 5.3. Reimbursement of Costs for Enforcement. If an Event of Default should occur and the non-defaulting Party should incur expenses, including attorneys' fees, in connection with the enforcement of this Agreement against the defaulting Party or Parties or the collection of sums due hereunder, the defaulting Party or Parties shall be obligated to reimburse the non-defaulting Parties, as applicable, for the reasonable expenses so incurred upon demand. The provisions of this Section 5.3 shall survive the expiration or termination of this Agreement.

Section 5.4. No Exclusive Remedy. Other than as provided in Section 6.5 hereof, no remedy conferred upon or reserved to any Party by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, or now or hereafter existing at law, in equity or by statute.

## SECTION VI AGREEMENTS REGARDING CONTINUING STATUS OF TECH CENTER.

Section 6.1. Anticipated Operation. BATO anticipates and intends that the Tech Center, once completed, will function as the principal research and development facility of BATO and certain of its affiliates with respect to their business operations conducted in North and South America, and that the Tech Center will continue to function in such capacity for a period at least coterminous with the TIF Period.

Section 6.2. Consequence of Relocation. In the event that, at any time during the TIF Period and for any reason, BATO ceases or substantially diminishes or relocates its operation of the Tech Center as the principal research and development facility of BATO and those of its affiliates utilizing the Tech Center with respect to their business operations conducted in North and South America (such event being hereinafter referred to as a "Relocation"), the provisions of this Section VI shall apply.

### Section 6.3. Treatment of Certain Project Contribution.

A. The Parties acknowledge and agree that the City will have made monetary contributions to the Project and caused expenditures required of the City pursuant to Sections 1.2.C and 1.2.D (collectively, the "City Project Contribution"). The Parties further agree that the term the "City Project Contribution" shall mean the actual amount expended by the City to fulfill its obligations pursuant to Sections 1.2.C and 1.2.D above. In the event that a Relocation occurs:

1. at any time during the calendar year in which the City Purchase Obligation Trigger Date occurs or at any time during the succeeding two calendar years (the "Initial Period"), then BATO shall promptly pay to the City a lump sum amount in cash equal to the initial aggregate amount of the City Project Contribution; OR

2. at any time during the 17 calendar year period immediately following the Initial Period (the "Subsequent Period"), then BATO shall promptly pay to the City a lump sum amount in cash equal to the initial aggregate amount of the City Project Contribution minus one-seventeenth of the aggregate amount for each full calendar year that has elapsed during the Subsequent Period.

B. The Parties acknowledge and agree that the County will have made monetary contributions to the Project and caused expenditures required of the County under the provisions

of Sections 1.2.D and 1.3 hereof (the "County Project Contribution"). Therefore, in the event that a Relocation occurs:

1. at a time during the Initial Period, then BATO shall promptly pay to the County a lump sum amount in cash equal to the initial aggregate amount of the County Project Contribution; OR

2. at any time during the Subsequent Period, then BATO shall promptly pay to the County a lump sum amount in cash equal to the initial aggregate amount of the County Project Contribution minus one-seventeenth of the aggregate amount for each full calendar year that has elapsed during the Subsequent Period.

Section 6.4. Agreements Regarding ATC Complex Property.

A. In the event that (i) a Relocation occurs, (ii) the City purchases the ATC Complex Property pursuant to the provisions of Section 1.5.B hereof and the City continues to own the ATC Complex Property at the time a Relocation occurs, and (iii) BATO has not obtained the Covenant Not To Sue (in accordance with the terms and conditions of the Environmental Agreement) for the ATC Complex Property, then BATO shall promptly pay to the City an amount equal to the ATC Purchase Price minus one-twentieth of the principal amount for each year following the ATC Closing Date (the "ATC Indebtedness Payoff Amount"). Notwithstanding the foregoing, the ATC Indebtedness Payoff Amount shall be reduced (but not below zero) by the amount, if any, that the City has realized upon a sale of all or any part of the ATC Complex Property prior to the Relocation.

B. The Parties agree that the actual amount of the City's indebtedness on the date of the Relocation which was incurred by the City to pay for the ATC Purchase Price shall not be considered when determining the ATC Indebtedness Payoff Amount.

C. Any payment required under the provisions of Section 6.4.A. shall be made by BATO in cash and in a single, lump sum on or prior to the date that is sixty (60) days following the date of the Relocation.

Section 6.5. Exclusive Remedy. Other than as expressly provided in this Section VI and notwithstanding any provision of Section V to the contrary, none of the City or the County shall have any claim, remedy or cause of action against BATO or any of its affiliates in connection with or that solely arises out of a Relocation. This Section 6.5 shall not limit the City's or the County's remedies for any default other than a Relocation.

SECTION VII GENERAL PROVISIONS.

Section 7.1. Force Majeure. The City, the County, the Port Authority and BATO shall not be required to perform any term, condition or covenant in this Agreement so long as such performance is prevented by any cause that is not reasonably within the control of the City, the County or BATO and that, by the exercise of due diligence, the City, the County, the Port Authority or BATO is unable to prevent or overcome, including but not limited to weather conditions, acts of God, labor unrest and strikes, shortages of materials, war, civil disturbances, acts of terrorism and governmental delays and shutdowns.



To the Port Authority: Summit County Port Authority  
One Cascade Plaza, 18th Floor  
Akron, Ohio 44308  
Attn: President

With a copy to: Roetzel & Andress  
222 South Main Street  
Akron, OH 44308  
Attn: George Sarkis, Esq.

09-483

Section 7.3. Savings Clause/Governing Law. If one or more provisions of this Agreement or any application of any provision shall be deemed or declared to be invalid, illegal or unenforceable in any respect, the validity, legality, or enforceability of the remaining provisions of this Agreement shall in no way be affected or implied. The Agreement shall be governed by the laws of the State of Ohio.

Section 7.4. Modification. This Agreement shall not be changed, modified or amended, except by a writing signed by all Parties.

Section 7.5. Status of Parties; No Third-Party Beneficiaries. The relationship between BATO, the County, the City and the Port Authority pursuant to this Agreement is and shall be at all times and under all circumstances, one of independent contracting parties and shall not be one of joint venture or partnership. There are no actual or intended third-party beneficiaries of this Agreement.

Section 7.6. No Continuing Waiver. The waiver of any Party of a breach of any provision of this Agreement shall not operate or be construed to be a waiver of any subsequent breach. No waiver shall be effective unless provided in writing and signed by the Party against whom it is sought to be enforced.

Section 7.7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

Section 7.8. Binding Nature. This Agreement shall bind, and inure to the benefit and burden of, the Parties and their respective successors and assigns. BATO may not assign its interest, or a portion of its interest, in this Agreement without the prior written consent of the City, the County, the Port Authority and the Lender.

Section 7.9. Singular and Plural Intention. In this Agreement, unless a clear, contrary intent appears, the singular number includes the plural number and vice versa.

Section 7.10. Good Faith Cooperation and Commitment. The Parties agree that details of the Project shall evolve over time and may involve improvements and funding sources not contemplated as of the date hereof. The Parties agree to cooperate in good faith in all aspects of their obligations under this Agreement to facilitate in an expeditious and cost effective manner the commencement and completion of the Project.



Section 7.11. Governmental Approval. This Agreement shall not be effective unless and until approved by the Akron City Council, the County of Summit Council and the Port Authority Board of Directors.

Section 7.12. Other Approvals and Agreements. In the event that any provision of this Agreement requires the approval or agreement of the parties, or words of similar meaning, including, without limitation, changes or modifications to the Site Plan, Funding Chart or Project Timetable, such approval or agreement may be given on behalf of the City by the Mayor of the City or his/her designee, and on behalf of the County by the County Executive or his/her designee, and on behalf of the Port Authority by the President or his designee.

*[The balance of this page intentionally left blank. Signature Page immediately follows.]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth below.

BRIDGESTONE AMERICAS TIRE  
OPERATIONS, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_, 2009

Approved as to form and correctness:

THE CITY OF AKRON,  
an Ohio municipal corporation

By: \_\_\_\_\_  
Cheri B. Cunningham, Esq.  
City of Akron - Director of Law  
Date: \_\_\_\_\_, 2009

By: \_\_\_\_\_  
Donald L. Plusquellic  
Mayor  
Date: \_\_\_\_\_, 2009

Approved as to form and correctness

COUNTY OF SUMMIT, OHIO,  
an Ohio county

By: \_\_\_\_\_  
Richard E. Dobbins  
County of Summit, Ohio  
Director, Department of Law  
Date: \_\_\_\_\_, 2009

By: \_\_\_\_\_  
Russell M. Pry  
Executive  
Date: \_\_\_\_\_, 2009

SUMMIT COUNTY PORT AUTHORITY

By: \_\_\_\_\_  
Christopher J. Burnham,  
its President

Date: \_\_\_\_\_, 2009  
And

By: \_\_\_\_\_  
Elizabeth Leonard  
Assistant Secretary

Date: \_\_\_\_\_, 2009

CERTIFICATE OF DIRECTOR OF FINANCE

09 - 483

The undersigned, fiscal officer of the City, hereby certifies that the money required to meet the obligations of the City during the year 2009 under the foregoing Agreement 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 COUNTY FISCAL OFFICER 09-483

The undersigned, Fiscal Officer of the County, hereby certifies that the money required to meet the obligations of the County during the year 2009 under the foregoing Agreement has been lawfully appropriated by the Council of the County for such purposes and is in the treasury of the County 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.

\_\_\_\_\_  
Fiscal Officer

## CERTIFICATE OF FISCAL OFFICER OF SUMMIT COUNTY PORT AUTHORITY

The undersigned, Assistant Secretary and Assistant Fiscal Officer of the Summit County Port Authority, hereby certifies that the money required to meet the obligations of the Port Authority during the year 2009 under the foregoing Agreement has been lawfully appropriated by the Board of Directors of the Port Authority for such purposes and is in the treasury of the Port Authority 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.

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Assistant Secretary and  
Assistant Fiscal Officer

SCHEDULE OF EXHIBITS

The following exhibits are attached to this Agreement and incorporated herein by reference.

- EXHIBIT A - SITE PLAN
- EXHIBIT B - TECH CENTER PARCEL
- EXHIBIT C - PARKING FACILITY PARCEL
- EXHIBIT D - FUNDING CHART
- EXHIBIT E - PROJECT TIMETABLE
- EXHIBIT F - ROAD WIDENING PARCEL
- EXHIBIT G - BATO PROJECT AREA IMPROVEMENTS
- EXHIBIT H - FIRESTONE PARK NEIGHBORHOOD  
IMPROVEMENTS
- EXHIBIT I - ATC COMPLEX PROPERTY
- EXHIBIT J - ATC PURCHASE AGREEMENT
- EXHIBIT K - LEASE AGREEMENT