

**PUBLIC MEETING NOTICE AND AGENDA
VILLAGE OF HUNTLEY
VILLAGE BOARD MEETING**

**THURSDAY, APRIL 13, 2017
7:00 P.M. or soon thereafter**



1. Call to Order
2. Pledge of Allegiance
3. Public Comments
4. Consent Agenda:
 - a) Approval of the March 9, 2017 Village Board, March 16, 2017 Committee of the Whole and the March 23, 2017 Village Board Meeting Minutes
 - b) Approval of a Resolution approving a Façade Improvement Assistance Program Grant for Lisa Rossow and Lynn Klein, 11810 E. Main Street
 - c) Approval of a Resolution Awarding a Municipal Partnership Initiative (MPI) Contract to J.A. Johnson Paving Company in the amount not to exceed \$50,000 to complete 2017 Pavement Patching
 - d) Approval of a Resolution Approving a Bid Award to Visu-Sewer, Inc. to Complete Sewer Televising, Jetting and Lining
 - e) Approval of a Resolution Approving a Budget Amendment and Change Order to Muscat Painting in the Amount of \$10,125.00 for the Village of Huntley Streetlight Pole Base Repainting Program
 - f) Approval of an Ordinance Adopting the Amended and Restated Village of Huntley Personnel Manual
 - g) Approval of the April 13, 2017 Bill List in the amount of \$255,440.25
5. Items Removed from the Consent Agenda
6. Items for Discussion and Consideration:
 - a) Consideration of a Resolution Authorizing Execution of Business Development Agreement Estoppel and Consent to Assignment – Viking TDC to Huntley Tax Holdings, LLC, Huntley Grove Commercial
7. Village Attorney's Report
8. Village Manager's Report

9. Village President's Report

10. Unfinished Business

11. New Business

12. Executive Session

- a) Probable or Imminent Litigation and Pending Litigation
- b) Contractual
- c) Property Acquisition, Purchase, Sale or Lease of Real Estate
- d) Appointment, Employment, Dismissal, Compensation, Discipline and Performance of an Employee of the Village of Huntley
- e) Collective Bargaining
- f) Appointment, Discipline or Removal of Public Officers
- g) Appointment of a Public Officer
- h) Review of Closed Session Minutes
- i) Other

13. Possible Action on any Closed Session Item

14. Adjournment

MEETING LOCATION
Village of Huntley Municipal Complex
10987 Main Street
Huntley, IL 60142

The Village of Huntley is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding accessibility of the meeting or the facilities, are requested to contact Mr. David Johnson, Village Manager at 847-515-5200. The Village Board Room is handicap accessible.



David J. Johnson, Village Manager

Agenda Item: **Consideration of a Resolution Authorizing Execution of Business Development Agreement Estoppel and Consent to Assignment – Viking TDC to Huntley Tax Holdings, LLC, Huntley Grove Commercial**

Department: **Village Manager’s Office**

Introduction

In March, 2007, the Village approved a Business Development Agreement with TDC Huntley, LLC (Tucker Development) to assist with the development of Huntley Grove, which includes Walmart, Autozone, McDonald’s, Burger King, a multi-tenant retail building, and additional outlots at the southeast corner of Rt. 47 and Kreutzer Road. The agreement provides for a sales tax rebate to the developer that totals \$4,325,000. To date, approximately \$2,031,085 has been paid to the developer, with \$2,293,314 remaining to be paid. The sales tax generated from all businesses on the site is split 50/50 between the developer and the Village.

Staff Analysis

In 2012, the bank holding the loans on the property sold the loans to an Ohio-based firm. Tucker Development joint ventured with the buyer in a new entity (Viking-TDC Huntley, LLC) and has continued to lease and manage the project. As part of this process, on May 10, 2012, the Village approved an Estoppel and Confirmation Agreement confirming the status of the original Business Development Agreement, acknowledging that neither party was in default at that time, and that the Village acknowledged that the assignment of TDC’s rights under the Business Development Agreement was permitted under the agreement. Viking-TDC is now seeking to assign all of its right, title and interest in, to and under the Business Development Agreement to Huntley Tax Holdings, LLC (HTH). To do so requires Village Board approval of a second estoppel agreement with consent to make the assignment to HTH.

Financial Impact

The terms of the original Business Development agreement remain in place.

Legal Analysis

The Village Attorney has reviewed the agreement and all is in order for approval.

Action Requested

A motion of the Village Board Approving a Resolution Authorizing Execution of a Business Development Agreement Estoppel and Consent to Assignment - Viking TDC to Huntley Tax Holdings, LLC, Huntley Grove Commercial

Exhibits

- Draft Resolution
- Business Development Agreement Estoppel and Consent to Assignment

**BUSINESS DEVELOPMENT AGREEMENT ESTOPPEL
AND CONSENT TO ASSIGNMENT**

THIS BUSINESS DEVELOPMENT AGREEMENT ESTOPPEL AND CONSENT TO ASSIGNMENT (this “Estoppel”) is made effective as of the ____ day of _____, 2017 (the “Effective Date”) by **VILLAGE OF HUNTLEY**, a municipal corporation organized under the laws of the State of Illinois (the “Village”) for the benefit of **HUNTLEY TAX HOLDINGS, LLC**, an Ohio limited liability company (“HTH”), together with any entities with which such entity shall in the future contract to sell any of its assets or business, and any lender providing financing for such entity or any such purchase (collectively, the “Beneficiary”).

1. **Recitals.** On March 1, 2007, the Village and TDC Huntley, LLC (“TDC”) entered into a Business Development Agreement (the “Business Development Agreement”) pursuant to which the Village agreed to pay certain tax revenue from the real property described therein (the “Property”) to TDC. TDC assigned all of its right, title and interest in, to and under the Business Development Agreement to Viking-TDC Huntley, LLC, an Illinois limited liability company (“Viking-TDC”) by Assignment and Assumption of Business Development Agreement effective May 11, 2012. Following the execution of this Estoppel, Viking-TDC intends to assign all of its right, title and interest in, to and under the Business Development Agreement to HTH. The Village acknowledges that HTH and any Beneficiary will rely on the statements contained herein in closing such acquisition.
2. **Village’s Estoppel.** The Village hereby certifies to HTH and any Beneficiary as follows:
 - a. A true, correct and complete copy of the Business Development Agreement is attached hereto as Exhibit A. As of the Effective Date, the Business Development Agreement is unmodified and in full force and effect.
 - b. As of the Effective Date, Viking-TDC and the Village each are in full compliance with the terms of the Business Development Agreement and no default exists as of the Effective Date.
 - c. As of the Effective Date, the aggregate amount of Rebate Payment (as defined in the Business Development Agreement) paid by the Village under the Business Development Agreement is \$2,031,085.41. As a result, as of the Effective Date, the outstanding balance of the Rebate Cap (as defined in the Business Development Agreement) is \$2,293,349.59.
 - d. Village has received all information required pursuant to the Business Development Agreement, including without limitation pursuant to Section 2.5 thereof, to make Rebate Payments.
 - e. All conditions precedent to the Village’s obligations to make Rebate Payments contained in the Business Development Agreement, including without limitation, those contained in Section 2.3 thereof, have been fully satisfied and no obligation remains with respect thereto.
 - f. As of the Effective Date, all obligations of “Purchaser” under that certain Annexation Agreement by among the Village, Viking-TDC (as successor-in-interest to TDC) and Harris, N.A., as trustee under a Trust Agreement dated July 1, 2005, known as Trust Number 11-5527, dated February, 2007 governing the Property (the “Annexation Agreement”) have been satisfied and no default exists as of the Effective Date.
3. **Consent to Assignment.** Pursuant to Section 15.2 of the Business Development Agreement, the Village hereby consents to the assignment of the Business Development Agreement to

HTH and agrees to make all payments due under the Business Development Agreement to HTH from and after receipt of notice that such assignment to WTH has been completed, including without limitation payments due after receipt of such notice that relate to a period prior thereto.

4. **Notices.** Upon notice from TDC and HTH, all notices or other correspondence to the "Purchaser" under the Business Development Agreement, and all payments under the Business Development Agreement, shall be sent to the following address:

Purchaser: Huntley Tax Holdings, LLC
4901 Hunt Road
Suite 102
Cincinnati, OH 45242

**VILLAGE OF HUNTLEY, a municipal corporation
organized under the laws of the state of Illinois**

WITNESS:

By: _____
Name: _____
Title: _____

EXHIBIT A

Business Development Agreement

**RESOLUTION AUTHORIZING
EXECUTION OF BUSINESS DEVELOPMENT AGREEMENT
ESTOPPEL AND CONSENT TO ASSIGNMENT**

Huntley Tax Holdings, LLC (HTH)

Resolution (R)2017-04.XX

WHEREAS, the Village of Huntley and TDC Huntley, LLC entered into a Business Development Agreement on March 1, 2007 for the commercial property known as Huntley Grove; and

WHEREAS, the Business Development Agreement provides for the assignment of all of TDC's rights; and

WHEREAS, TDC Huntley, LLC assigned all of its rights under the Business Development Agreement to Viking-TDC Huntley, LLC (VTH) upon VTH's acquisition of the property known as Huntley Grove; and

WHEREAS, VTH requested the Village execute an Estoppel and Confirmation Agreement prior to acquiring title to the property and the Village approved said agreement by resolution on May 10, 2012; and

WHEREAS, VTH is now seeking to assign all of its right, title and interest in, to and under the Business Development Agreement to Huntley Tax Holdings, LLC (HTH) via a Business Development Agreement Estoppel and Consent to Assignment.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF HUNTLEY as follows:

SECTION I: The Village of Huntley approves the execution of the Business Development Agreement Estoppel and Consent to Assignment.

SECTION II: The Village President and Village Clerk are authorized to execute said Business Development Agreement Estoppel and Consent to Assignment in the form attached hereto and a copy of which is incorporated herein.

SECTION III: This Resolution shall be in full force and effect from and after its passage and approval as provided by law.

SECTION IV: All Resolutions and parts of resolutions in conflict herewith are hereby repealed.

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Goldman	_____	_____	_____	_____
Trustee Hoeft	_____	_____	_____	_____
Trustee Kanakaris	_____	_____	_____	_____
Trustee Leopold	_____	_____	_____	_____
Trustee Piwko	_____	_____	_____	_____
Trustee Westberg	_____	_____	_____	_____

PASSED and APPROVED this 13th day of April, 2017.

APPROVED:

ATTEST:

Village President

Village Clerk