

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A COMMUNITY REINVESTMENT ACT AGREEMENT WITH FORTEC MEDICAL, INC. AND 10125 WELLMAN REAL ESTATE, LLC, FOR PARCEL #2 AT HUDSON CROSSING PARKWAY; AND DECLARING AN EMERGENCY.

WHEREAS, Hudson has encouraged the development of real property located in the area designated as Community Reinvestment Act (“CRA”) Area #3A under the Ohio Revised Code; and

WHEREAS, 10125 Wellman Real Estate, LLC (“Wellman”), and ForTec Medical, Inc. (“ForTec”) have submitted an application to Hudson for real estate tax relief under the CRA; and

WHEREAS, Wellman and ForTec are affiliated entities with Wellman being the proposed owner of the real property in Hudson known as Parcel #3 on Hudson Crossing Parkway and ForTec being the company that will employ persons to manage and operate ForTec’s business operations at that location; and

WHEREAS, the City Manager has investigated the application of Wellman and ForTec and has recommended the same to the Council of Hudson on the basis that these companies are qualified by financial responsibility and business experience to create and preserve employment opportunities in Community Reinvestment Area #3A and improve the economic climate of Hudson and, therefore, the City should enter into an agreement with the companies to provide real estate tax abatement for a period of fifteen (15) years ; and

WHEREAS, this Council wishes to consider an agreement with ForTec and Wellman providing for the tax relief under the CRA and setting forth the obligations of the parties thereunder (the “CRA Agreement”); and

WHEREAS, it is found that before the passage of this Resolution, the City has fulfilled the requirements of Ohio Revised Code Section 3735.673 by giving at least thirty (30) days advance notice to the legislative authority of the City of Streetsboro from which ForTec is relocating its business and to the Ohio Director of Development of the relocation of ForTec and to supply such legislative authority and the Director with a copy of the CRA Agreement that is the subject of this Resolution, along with a statement of the reason(s) for the relocation; and

WHEREAS, the Hudson City School District has been properly notified of the CRA Agreement under Ohio Revised Code Section 3735.671(A)(1) and 5709.83 and the District’s Board of Education has officially acknowledged notification and waived all other notification requirements and approved the CRA Agreement pursuant to its Resolution # 17-01-05-08.

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

Section 1. The City Manager is authorized and directed to enter into a Community Reinvestment Act Agreement with 10125 Wellman Real Estate, LLC, an Ohio limited liability company, and ForTec Medical, Inc., an Ohio corporation, a copy of which Agreement is attached hereto as "Exhibit 1" and incorporated herein fully as if by reference.

Section 2. This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public health and welfare and for the further reason it is immediately necessary in order to create employment opportunities within the City of Hudson at the earliest possible time; wherefore, this Resolution shall be in effect immediately upon its passage provided it receives the affirmative vote of five (5) members of Council except that six (6) affirmative votes shall be required if all members are present; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED:

David A. Basil, Mayor

ATTEST:

Elizabeth Slagle, Clerk of Council

I certify that the foregoing Resolution was duly passed by the Council of said Municipality on _____, 2017.

Elizabeth Slagle, Clerk of Council

First Reading: December 20, 2016
Second Reading: January 3, 2017

EXHIBIT 1

COMMUNITY REINVESTMENT AREA AGREEMENT

This agreement (“Agreement”) is made and entered into by and between the City of Hudson, Ohio, a municipal corporation with its main offices located at 115 Executive Parkway Suite 400, Hudson, Ohio 44236 (hereinafter referred to as “Hudson”) and 10125 Wellman Real Estate, LLC, an Ohio limited liability company with its main offices located at 10125 Wellman Road, Streetsboro, Ohio 44241 (hereinafter referred to as “Wellman”), and ForTec Medical, Inc., an Ohio for-profit corporation with its main offices at 10125 Wellman Road, Streetsboro, Ohio 44241 (hereinafter referred to as “ForTec” or “Employer”), (hereinafter Wellman and ForTec are referred to collectively as the “Applicant”).

WITNESSETH

WHEREAS, Hudson has encouraged the development of real property located in the area designated as Community Reinvestment Area #3A;

WHEREAS, Applicant is desirous of building a large national corporate headquarters on Parcel #3 at Hudson Crossing Parkway, Hudson, Ohio 44256, hereinafter referred to as the “PROJECT,” within the boundaries of the City’s Community Reinvestment Area #3A, provided that the appropriate development incentives are available to support the economic viability of the PROJECT;

WHEREAS, the Council of Hudson, Ohio by Resolution No. 10-28, adopted February 3, 2010, designated the area within which the PROJECT is located as “Community Reinvestment Area #3A”, pursuant to Chapter 3735 of the Ohio Revised Code (“ORC”);

WHEREAS, effective March 17, 2010, the Director of Development of the State of Ohio determined that the aforementioned area designated in Resolution No. 10-28 contained the characteristics set forth in ORC Section 3735.66 and confirmed said area as a Community Reinvestment Area under ORC Chapter 3735;

WHEREAS, Hudson, having the appropriate authority for the stated type of PROJECT, is desirous of providing Applicant with incentives available for the development of the PROJECT in Community Reinvestment Area #3A under ORC Chapter 3735;

WHEREAS, Applicant has submitted a proposed CRA agreement application (attached hereto as “Exhibit A”) to Hudson (hereinafter referred to as “Application”);

WHEREAS, Applicant has remitted the required State application fee of \$750.00 made payable to the Ohio Treasurer with the Application to be forwarded to the Ohio Department of Development with a fully-executed copy of this Agreement;

WHEREAS, the City Manager of Hudson has investigated the Applicant’s Application and has recommended the same to the Council of Hudson on the basis that Applicant is qualified by financial responsibility and business experience to create and preserve employment opportunities in Community Reinvestment Area #3A and to improve the economic climate of Hudson;

WHEREAS, the PROJECT site as proposed by Applicant is located in the Hudson City School District (“School District”) and the Board of Education of the School District has been notified in accordance with ORC Section 5709.83 and been given a copy of the Application and the Agreement;

WHEREAS, Hudson and the School District are entering into an agreement to share income tax revenues from the PROJECT over the life of this Agreement and ForTec has agreed to enter into an agreement with the School District whereby ForTec will make payments in lieu of taxes (“PILOT”) to the School District over the fifteen-year period provided for in this Agreement at a rate of 25% of the taxes that would have been charged and payable that year upon the real property had that property not been exempted from taxation;

WHEREAS, in accordance with ORC Section 3735.673, Hudson has notified the legislative authority of the City of Streetsboro, Ohio of the fact that the Applicant will be moving its national corporate headquarters facility to Hudson and that Hudson is providing development incentives to the Applicant pursuant to ORC Chapter 3735; and

WHEREAS, pursuant to ORC Section 3735.67(A) and in conformance with the format required under ORC Section 3735.671(B), the parties hereto desire to set forth their agreement with respect to matters hereinafter contained;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties agree as follows:

1. Applicant shall use commercially reasonable efforts to develop and cause the construction of an approximate 70,000 square foot national corporate headquarters facility on Parcel #3 at Hudson Crossing Parkway in Hudson, Ohio.

The PROJECT will involve a total investment by the Applicant of at least Four Million Five Hundred Thousand Dollars (\$4,500,000.00).

The PROJECT will begin during year 2017 and will be completed during the year 2017.

2. ForTec Medical, Inc. (hereinafter “ForTec”), agrees to transfer 70 existing fulltime equivalent (“FTE”) jobs and 13 part-time jobs (“Transferred Jobs”) from its existing facility in Streetsboro, Ohio to the PROJECT site in 2017.

Within sixty (60) months after the date of completion of the PROJECT, Fortec shall create 50 new FTE jobs (“New Jobs”).

Employer’s anticipated schedule for hiring the New Jobs is as follows: create ten (10) new FTE jobs in the first year after the date of PROJECT construction completion, ten (10) new FTE jobs in the second year after PROJECT completion, ten (10) new FTE jobs in the third year after PROJECT completion, ten (10) new FTE jobs in the fourth year after PROJECT completion, and ten (10) new FTE jobs in the fifth year after PROJECT

completion. The job creation period begins on the date of PROJECT construction completion and all jobs will be in place within sixty (60) months thereafter.

At the PROJECT site, Employer currently has no fulltime permanent employees, no part-time permanent employees, no fulltime temporary employees, and no part-time temporary employees.

The annual payroll for the Transferred Jobs is approximately \$8,500,000.00 and the creation of the 50 new FTE jobs by the fifth year after PROJECT construction completion will result in \$835,000.00 of annual payroll for permanent employees.

3. Applicant shall provide to the proper Tax Incentive Review Council any information reasonably required by that Council to evaluate the Applicant's compliance with the Agreement, including returns filed pursuant to ORC Section 5711.02, if requested by that Council.
4. Hudson hereby grants Applicant a tax exemption for the assessed value of the PROJECT pursuant to ORC Section 3735.67, which shall be in the following amount: One Hundred Percent (100%) of the assessed value of the PROJECT, for a period of fifteen (15) full tax years. The exemption commences the first tax year for which the improvements that comprise the PROJECT situated on the real property would first be taxable were that property not exempted from taxation. No exemption shall commence after tax year 2018 (not due and payable until year 2019) nor extend beyond tax year 2032 (not due and payable until year 2033).

Years of Tax Exemption

Tax Exemption Amount

15 years

100%

Applicant must file the appropriate tax forms with the Summit County Fiscal Officer to effect and maintain the exemptions covered in this Agreement.

5. Applicant shall pay an annual fee equal to the greater of one percent of the dollar value of incentives offered and received under this Agreement or Five Hundred Dollars (\$500.00); provided, however, if the incentives exceed Two Hundred Fifty Thousand Dollars (\$250,000.00), the fee shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00).

The fee shall be paid to Hudson's Finance Director once per year for each year this Agreement is effective and shall be paid on or before the anniversary date of the Effective Date of this Agreement (as defined in Section 12 below) and in the form of a check made payable to the "City of Hudson." This fee shall be deposited by Hudson into a special fund created for such purpose and shall be used exclusively for the purpose of complying with ORC Section 3735.671(D) and by the Tax Incentive Review Council created under ORC Section 5709.85 exclusively for the purposes of performing the duties prescribed under that section.

6. Applicant shall pay such real and tangible personal property taxes as are not exempted under this Agreement and are charged against the entire property at which the PROJECT

is located and shall file all tax reports and returns as required by law. If Applicant fails to pay such taxes or file such returns and reports, all incentives granted under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter. Notwithstanding anything to the contrary, Applicant shall have the right to contest and/or appeal any such real and tangible personal property taxes, and the incentives granted under this Agreement shall not be rescinded so long as such contest or appeal is conducted substantially in the manner provided by applicable laws and upon the final, non-appealable conclusion of such contest or appeal, Applicant timely pays all amounts determined to be due and payable.

7. Hudson shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.
8. If for any reason the Community Reinvestment Area designation expires, the Director of the Ohio Department of Development revokes certification of the CRA area/zone, or Hudson revokes the designation of the area/zone, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless Applicant materially fails to fulfill its obligations under this Agreement and Hudson terminates or modifies the exemptions from taxation granted under this Agreement.
9. If Applicant materially fails to fulfill its obligations under this Agreement, or if Hudson determines that the certification as to delinquent taxes required by this Agreement is fraudulent, Hudson may terminate or modify the exemptions from taxation granted under this Agreement.
10. Applicant hereby certifies that at the time this Agreement is executed, Applicant does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which Applicant is liable under ORC Chapters 5733, 5735, 5739, 5741, 5743, 5747 or 5753, or, if such delinquent taxes are owed, Applicant currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against Applicant. For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.
11. Applicant affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio or a political subdivision of the State; (2) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; and (3) any other moneys to the State, a State agency or a political subdivision of the State that are past due, whether or not the amounts owed are being contested in a court of law.
12. Applicant and Hudson acknowledge that this Agreement must be approved by formal action of the legislative authority of Hudson as a condition for this Agreement to take

effect. The “Effective Date” of this Agreement shall be the date upon which the formal approval of this Agreement by the Hudson City Council takes effect.

13. Exemptions from taxation granted under this Agreement shall be revoked if it is determined that Applicant, any successor property owner, or any related member (as those terms are defined in ORC Section 3735.671) has violated the prohibition against entering into this Agreement under division (E) of ORC Section 3735.671 or ORC Sections 5709.62 or 5709.63 prior to the time prescribed by that division or either of those sections.
14. Applicant affirmatively covenants that it has made no materially false statements to the State or local political subdivisions in the process of obtaining approval of the Community Reinvestment Area incentives. If any representative of Applicant has knowingly made a materially false statement to the State or local political subdivision to obtain the Community Reinvestment Area incentives, Applicant shall be required to immediately return all benefits received under this Community Reinvestment Area Agreement pursuant to ORC Section 9.66(C)(2) and shall be ineligible for any future economic development assistance from the State, any State agency or a political subdivision pursuant to ORC Section 9.66(C)(1). Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to ORC Section 2921.13(D)(1), which is punishable by a fine of not more than \$1,000 and/or a term of imprisonment of not more than six months.
15. Transfer and Assignment. This Agreement is not transferable or assignable without the express, written approval of Hudson and any such assignment shall operate to release the transferring Applicant from any and all liability hereunder. Hudson acknowledges that it would be unreasonable to withhold such consent in the event of a proposed transfer or assignment to any parent, subsidiary, or affiliate of the Applicant or to any third party so long as with respect to all or any part of such proposed transfer or assignment, the proposed transferee or assignee adequately and sufficiently demonstrates to Hudson, to Hudson’s reasonable satisfaction, its financial ability, business experience and intentions.
16. Termination or Modifications of Incentives.
 - A. If the Applicant fails to retain the Transferred Jobs and to meet 75% of the New Jobs as set forth in Section 2 of this Agreement in any given tax year (except for any temporary cessation of operations arising out of the damage, destruction, renovation or restoration of the PROJECT), the tax exemption set forth in Section 4 shall not be awarded for that tax year.
 - B. If the PROJECT does not proceed as set forth in Section 1 of this Agreement or within any approved extension period, Hudson may terminate the Agreement upon recommendation of the Tax Incentive Review Committee.

The City of Hudson, Ohio, by Jane Howington, its City Manager, and pursuant to City Council Resolution No. 16-197, has caused this instrument to be executed this ____ day of _____, 2016, and 10125 Wellman Real Estate, LLC, by _____, its _____, and ForTec Medical, Inc., by _____, its _____ have caused this instrument to be executed on this ____ day of _____, 2016.

CITY OF HUDSON, OHIO

By: _____
Jane Howington, City Manager

10125 WELLMAN REAL ESTATE, LLC

By: _____
(Signature)

(Print Name and Title)

FORTEC MEDICAL, INC.

By: _____
(Signature)

(Print Name and Title)

APPROVED AS TO FORM.

R. Todd Hunt, City Solicitor

3. Name of principal owner(s) or officers of the business:

Drew C. Forhan

4. Employment:

a. State the enterprise's current employment level at the proposed project site:

0

b. Will the project involve the relocation of employment positions or assets from one Ohio location to another?

Yes X No

c. If yes, state the locations from which employment positions or assets will be relocated and the location to where the employment positions or assets will be located:

From: 10125 Wellman Rd., Streetsboro, OH 44241

To: Hudson Crossing Parkway, Parcel #3, Hudson, OH 44236

d. State the enterprise's current employment level in Ohio (itemized for full-time, part-time, permanent, and temporary employees):

117 full time, 20 part time

e. State the enterprise's current employment level for each facility to be affected by the relocation of employment positions or assets:

Streetsboro, OH: 70 full time, 13 part time

f. What is the projected impact of the relocation, detailing the number and type of employees and/or assets to be relocated?

All 83 employees will be relocated. All assets (approx. \$4.5m) will be relocated.

5. Does the Property Owner owe:

a. Any delinquent taxes to the State of Ohio or a political subdivision of the State?

Yes _____ No X

b. Any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State?

Yes _____ No X

c. Any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not?

Yes _____ No X

d. If yes to any of the above, please provide details of each instance including but not limited to the location, amounts and/or case identification numbers (add additional sheets).

6. Project Description:

New headquarters for ForTec Medical, a national surgical laser company

7. Project will begin January 1, 2017 and be completed September 30, 2017, provided a tax exemption is provided.

8. New Hire:

a. Estimate the number of new employees the property owner will cause to be created at the facility that is the project site (job creation projection must be itemized by the name of the employer, full-time, part-time, permanent, and temporary):

ForTec Medical, Inc.

Full time permanent employees: + 50 Part time permanent employees: +5

b. State the time frame of this projected hiring: 5 years

c. State proposed schedule for hiring (itemize by full-time, part-time, permanent, and temporary employees):

2018: Full time +10, part time +1, 2019: Full time +10, part time +1, 2020: Full time +10, part time +1, 2021: Full time +10, part time +1, 2022: Full time +10, part time +1

9. Payroll:

- a. Estimate the amount of annual payroll such new employees will add:

\$800,000 full time, \$35,000 part time per year

(New annual payroll must be itemized by full-time, part-time, permanent, and temporary new employees).

- b. Indicate separately the amount of existing annual payroll relating to any job retention claim resulting from the project:

\$ 8,500,000.00

10. Investment:

Estimate the amount to be invested by the enterprise to establish, expand, renovate or occupy a facility:

a. Acquisition of Buildings:	\$ <u>n/a</u>
b. Additions / New Construction:	\$ <u>4,500,000</u>
c. Improvements to Existing Buildings:	\$ <u>n/a</u>
d. Machinery & Equipment:	\$ <u>n/a</u>
e. Furniture & Fixtures:	\$ <u>250,000</u>
f. Inventory:	\$ <u>n/a</u>
Total New Project Investment:	\$ <u>4,750,000</u>

11. Tax Incentive Requests:

- a. The business requests the following tax exemption incentives: 100 % for 15 years, covering real property, as described above. Be specific as to the rate and term.
- b. Business' reasons for requesting tax incentives (be as quantitatively specific as possible).
ForTec Medical can expand to meet forecasted growth needs at its current Streetsboro, property. This expansion investment would be approximately \$500,000. Tax incentives are required to help justify and finance the relocation of the business and the construction of a new building, which would cost almost ten times the proposed expansion and renovation project.

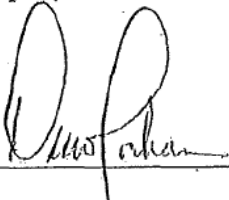
Submission of this application expressly authorizes the City of Hudson to contact the Ohio Environmental Protection Agency to confirm statements contained within this application including item #5 and to review applicable confidential records. As part of this application, the property owner may also be required to directly request from the Ohio Department of Taxation, or complete a waiver form allowing the Department of Taxation to release specific tax records to the local jurisdiction considering the request.

The Applicant agrees to supply additional information upon request

The Applicant affirmatively covenants that the information contained in and submitted with this application is complete and correct and is aware of the ORC Sections 9.66(C)(1) and 2921.13(D)(1) penalties for falsification which could result in the forfeiture of all current and future economic development assistance benefits, as well as a fine of not more than \$1,000 and/or a term of imprisonment of not more than six months.

Drew C. Forhan
Name of Property Owner

11-12-2016
Date



Drew C. Forhan, Chairman & Founder

Signature

Typed Name and Title

- * A copy of this proposal must be forwarded by the local governments to the affected Board of Education along with notice of the meeting date on which the local government will review the proposal. Notice must be given a minimum of fourteen (14) days prior to the scheduled meeting to permit the Board of Education to appear and/or comment before the legislative authorities considering the request.
- ** Attach to Final Community Reinvestment Area Agreement as Exhibit A.

Please note that copies of this proposal must be included in the finalized Community Reinvestment Area Agreement and be forwarded to the Ohio Department of Taxation and the Ohio Department of Development within fifteen (15) days of final approval.