FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT ("First Amendment") is made and entered into as of the 13th day of November, 2011, by and between the City of Crescent Springs, Kentucky ("City"), and Visconsi Buttermilk Ltd., an Ohio limited liability company ("Developer").

RECITALS:

WHEREAS, the City entered into a Development Agreement with Bear Creek Capital, LLC ("Bear Creek") on May 14, 2004, which was subsequently amended by that certain Amended and Restated Development Agreement dated September 17, 2004 between the City and Bear Creek (collectively, the "Original Agreement")

WHEREAS, the Original Agreement pertains to the construction and development of a shopping center commonly known as the Buttermilk Towne Center (the "Shopping Center"); and

WHEREAS, the City is the fee simple title owner of the 46, more or less, acre tract of real property located in the MLU zone on the east side of Anderson Road, in Crescent Springs, Kentucky (the "Site"), upon which the Shopping Center is built; and

WHEREAS, on September 17, 2004, Bear Creek assigned all of its right, title, and interest under the Original Agreement to Buttermilk Towne Center, LLC ("BTC"); and

WHEREAS, BTC petitioned for bankruptcy on April 28, 2010 in the United States Bankruptcy Court, Eastern District of Kentucky, Covington Division (the "Bankruptcy Court") in the case captioned In re: Buttermilk Towne Center, LLC, Case Number 10-21162; and

WHEREAS, on October 29, 2011, the Bankruptcy Court approved the October 17, 2011 Asset Purchase Agreement (the "APA") by and between BTC, Developer, and Bank of America, N.A., by which Developer purchased substantially all of BTC’s assets; and

WHEREAS, Developer and City now desire to acknowledge the assignment of BTC’s rights and obligations under the Original Agreement to Developer and to make certain amendments to the Original Agreement;

NOW, THEREFORE, for good and valuable consideration, including, without limitation, the mutual promises, covenants and agreements hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The parties hereby acknowledge the accuracy of the Recitals which are incorporated herein by this reference.
2. Capitalized terms not otherwise expressly defined herein shall have the meanings ascribed to them in the Original Agreement.

3. Notwithstanding Article 9, Section (B) of the Original Agreement, or any other provisions of the Original Agreement purporting to limit BTC’s right to assign its interest therein, City acknowledges and Developer accepts BTC’s assignment of all of its rights and obligations under the Original Agreement, provided that the Original Agreement is modified as follows:

(a) Any references in the Original Agreement to Developer’s obligation to construct a Commercial Office Building, including but not limited to Article 4, Section 2, subpart (i), are hereby deleted. Developer shall have no obligation to construct a Commercial Office Building.

(b) Any limitations or restraints in the Original Agreement on the ownership of the leasehold interest in the Site or Shopping Center, including but not limited to Article 4, Section 3.2 of the Original Agreement, which limits ownership of the leasehold interest in the Site and Shopping Center to Bear Creek, BTC, or an entity owned and controlled by Bear Creek, BTC, Matthew C. Daniels or Timothy S. Baird, are hereby deleted.

(c) Any obligations created by the Original Agreement to construct a bridge extending from the Shopping Center over railroad tracks to Buttermilk Crossing (the “Bridge”), including but not limited to any such obligation created by (i) Article 4, Section 2, subpart (d), (ii) Article 4, Section 2, subpart (d)(i)(c), or (iii) any similar obligation created by any Exhibit of the Original Agreement, are hereby deleted. Developer shall have no obligation whatsoever to construct the Bridge. Further, Developer shall not be obligated to pay City the amount initially estimated for construction of the Bridge in the event Developer does not, for any reason, construct the Bridge.

(d) The following language is hereby deleted from Article 10, Section (P): “Subject to the limitations in Section 5.”

4. In exchange for City’s agreement to the terms and conditions set forth in Paragraph 3(c) of this First Amendment, Developer agrees to pay City, within thirty (30) days of the closing of the transaction contemplated by the APA, the sum of Five Hundred Thousand Dollars and 00/100 ($500,000.00).

5. City agrees to cooperate with Developer in its efforts to achieve a public dedication of Clock Tower Drive (the ring road encompassing the Shopping Center).
City will use all reasonable efforts to effect such dedication and will accept such
dedication, provided that (i) reasonable engineering tests (such as core samples), to be
performed by City within a reasonable amount of time from the date of this First
Amendment, demonstrate that Clock Tower Drive complies with all applicable
subdivision regulations and (ii) Developer will pay to City, upon the effective date of the
public dedication described herein, the sum of Thirty-Five Thousand Dollars and 00/100
($35,000.00) for an overlay for various road infrastructure improvements.

6. City acknowledges that (i) all MLU zoning requirements are currently
satisfied by the Shopping Center’s construction, including but not limited to all
construction time limitations and any twenty per cent (20%) open/recreational space
requirement, and (ii) all of Developer’s construction obligations under the Original
Agreement, including all obligations set forth in Article 4, Section 2 (“Obligations of the
Developer”), have been completed pursuant to the terms and conditions of the Original
Agreement.

7. City promises and covenants to make any and all efforts to amend the
MLU zoning ordinances where necessary to allow for upscale drive-thru businesses,
provided that those businesses derive the majority (defined as more than fifty per cent
(50%)) of their sales and revenues from non-drive-thru commercial activity. Such drive-
thr business include, but are not limited to, Starbucks Coffee, Caribou Coffee, Chili’s
Restaurants, Ruby Tuesday’s, are other similar establishments.

8. All notices sent to Developer under this First Amendment shall be sent to:

Visconsi Buttermilk Ltd.
30050 Chagrin Boulevard, Suite 360
Pepper Pike, Ohio 44124-5704

With a copy to:

Gregg S. Levy
McCarthy, Lebit, Crystal & Liffman Co., L.P.A.
101 W. Prospect Avenue
Suite 1800
Cleveland, Ohio 44115

9. This First Amendment may be executed in one or more counterparts,
including by facsimile and PDF, each of which shall be deemed an original hereof, but all
of which, together, shall constitute a single agreement.

10. Except as expressly modified and amended herein, all of the terms and
provisions of the Original Agreement shall hereby govern the rights and obligations of
Developer and City. However, in the event there is any conflict between the provisions
of the Original Agreement and this First Amendment, the provisions of this First
Amendment shall control.
IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the day and year first written above.

DEVELOPER:

Visconsi Buttermilk Ltd.
an Ohio limited liability company

By: [Signature]
Print Name: Anthoni Visconsi II
Its: Managing Member

CITY:

City of Crescent Springs, Kentucky

By: [Signature]
Print Name: James Collett
Its: Mayor