

# ANNUAL DEVELOPMENT ACTIVITY AND DISCLOSURE REPORT

For the Period Ending December 31, 2008

*\$8,850,000 Cleveland-Cuyahoga County Port Authority  
Development Revenue Bonds, Series 2004D  
(City of Garfield Heights Project)*

Prepared by:

**MuniCap, Inc.**

April 2, 2009

## ANNUAL DEVELOPMENT ACTIVITY AND DISCLOSURE REPORT

I.	UPDATED INFORMATION	1
II.	INTRODUCTION	2
III.	DEVELOPMENT ACTIVITY	3
	A. Overview	3
	B. Status of Development	3
	C. Status of Leasing	4
	D. Status of Public Improvements	4
IV.	TRUSTEE ACCOUNTS	6
V.	DISTRICT OPERATIONS	7
	A. Annual Special Assessment	7
	B. Special Assessments Collection	11
	C. Collection Efforts	11
VI.	DISTRICT FINANCIAL INFORMATION	12
	A. Fund Balances	12
	B. Changes to the Rate and Method of Apportionment	12
	C. Changes in the Ad Valorem Tax Rates	12
	D. Changes in Assessed Value	12
	E. District Financing Payments Levied	13
	F. Status of Collection of Ad Valorem and Financing Payments	13
	G. Assessed Value Appeals	14
	H. Principal District Taxpayers	15
	I. Land Use Amendments	15
	J. Changes to Project and Development Status	16
VII.	SIGNIFICANT EVENTS	17
	A. Developer Significant Events	17
	B. Listed Events	17

## ***I. UPDATED INFORMATION***

---

Information updated for the period ending January 12, 2009 is as follows:

- As of January 12, 2009, the developer reports that construction of the Chick-Fil-A restaurant, which was expected to commence in August 2008, is still pending. The developer also reports that construction of Dollar Tree, BW-3 and Retail N is on hold pending completion of an active methane gas system and repair of all underground structures, which is expected to be completed in May 2009.
- As of January 12, 2009, the developer reports that the total leasable space for both development phases is approximately 713,936 square feet, as compared to 690,000 square feet of total leasable space at the time the Series 2004 Bonds were issued. The increase is due to an additional 3.0142 acres of land that was acquired from Peter J, Ltd and Boyas Excavating, Inc. in February 2005. As a result, the total leasable space consists of approximately 502,752 square feet in Phase I and approximately 211,184 square feet in Phase II.
- As of January 12, 2009, the developer reports that leases have been executed for 467,195 square feet of Phase I development, representing 92.9 percent of the Phase I leasable space. According to the developer, the remaining leasable space in Phase I, including outlot parcels, is 35,567 square feet.
- As of January 12, 2009, the developer reports that leases have been executed for 104,513 square feet of Phase II development, representing 49.5 percent of the Phase II leasable space. According to the developer, the remaining leasable space in Phase II is 106,671 square feet.
- According to the Cuyahoga County Auditor's Office, 2007 service payments to be collected in 2008 were estimated to be \$3,276,324. According to the Cuyahoga County Auditor's Office, 2007 service payments to be collected in 2008 were due in January 2008 and July 2008.
- As of March 6, 2009, Cuyahoga County reports that \$1,449,110 in first half 2007 service payments were collected from the property owners within the development site, representing 88.5 percent of first half service payments due.
- As of March 6, 2009, the county reports that \$1,476,420 in second half 2007 service payments were collected from the property owners within the development site, representing 90.1 percent of the second half payments due. As a result, 2007 service payments in the aggregate amount of \$2,925,530 have been collected in 2008, representing 89.3 percent of the total 2007 service payments due for collection in 2008.
- According to the Cuyahoga County Auditor's Office, 2007 service payments in the amount of \$348,240 remain outstanding on four parcels.
- The Cuyahoga County Board of Revision reports that there has been no change in the real property valuation complaints and counter complaints for the tax years 2006 and 2007 filed by the owners of the taxable property within the district. According to the Cuyahoga County Board of Revision, the decision was pending as of March 11, 2009.
- According to the Cuyahoga County Auditor's website, the effective millage rate has increased from 83.883455 for the 2007 tax year to 85.546957 per \$1,000 of assessed value for the 2008 tax year.

## ***II. INTRODUCTION***

---

Cleveland-Cuyahoga County Port Authority (the “Authority”) issued the \$8,850,000 Cleveland-Cuyahoga County Port Authority Development Revenue Bonds (“Port of Cleveland Bond Fund”) Series 2004D (“City of Garfield Heights Project”) (the “Series 2004D Bonds”), pursuant to (i) the terms of a Trust Indenture dated as of November 1, 1997 (the “Basic Indenture”), as supplemented by an Eighteenth Supplemental Trust Indenture, dated as of September 1, 2004 (the “Series 2004D Supplemental Indenture”), and (ii) The Huntington National Bank, a national banking association, as trustee.

As outlined in the Official Statement, the Series 2004D Bonds were sold to fund the costs of acquisition of certain real property (the “Series 2004D Project Site”) and the construction of the certain public improvements including roads, utilities and other public improvements relating thereto (the “Series 2004D Project”). The project is being developed by Garfield Land Development, LLC (the “Owner”) and Heritage Development Company, LLC (the “Developer”). The project consists of a retail center with multiple big-box tenants, containing approximately 690,000 square feet of space and consisting of two phases (the “Development”), located on approximately 97 acres of land adjacent to the Series 2004D Project (the “Development Site”).

As outlined in the Official Statement, the owner and the City of Garfield Heights (the “City”) have established a tax increment financing district (the “TIF District”) covering approximately 200 acres, including the development site, in order to finance the Series 2004D Project. Under Ohio law, improvements made to property in the TIF District will be exempt from real property taxes for a period of eighteen years, commencing in 2004 through 2021 (for real property taxes payable in the years 2005 through the end of 2022).

The information provided herein is not intended to supplement or otherwise relate to the information provided in the Official Statement and any such intent is expressly disavowed. Rather, this report responds to the specific requirements of the continuing disclosure agreement.

**No representation is made as to the materiality or completeness of the information provided herein or as to whether other relevant information exists with respect to the period covered by this report. Other matters or events may have occurred or become known during or since that period that may be material. All information is provided as of December 31, 2008, unless otherwise stated, and no representation is made that the information contained in this report is indicative of information that may pertain since the end of the period covered by this report or in the future.**

### **III. DEVELOPMENT ACTIVITY**

---

#### **A. OVERVIEW**

According to the Official Statement, the development is expected to consist of a retail development with multiple big-box tenants, containing approximately 690,000 square feet of space and consisting of two development phases. Phase I is expected to consist of approximately 500,000 square feet of space and Phase II is expected to consist of 190,000 square feet of space. The project is being developed by Garfield Land Development, LLC and Heritage Development Company, LLC. At the time bonds were issued, the owner had seven executed leases which included Wal-mart, Giant Eagle, Jo-Ann Stores, Inc., Dick's Sporting Goods, Circuit City, Bed Bath and Beyond and Office Max. In addition to the executed leases, the owner had also signed letters of intent with a number of prospective tenants, which would account for approximately 56,000 square feet. According to the Official Statement, the owner had signed a letter of intent with a tenant that would account for approximately 105,000 square feet in Phase II of the development.

The developer reports that Garfield Land Development, LLC acquired 3.0142 acres of property in Block C by exercising its option to purchase from Peter J, Ltd and Boyas Excavating, Inc. on February 25, 2008.

#### **B. PUBLIC IMPROVEMENTS**

According to the Official Statement, the Series 2004D Bonds were issued to pay the costs of acquisition of certain real property and the construction of roads, utilities and other public improvements relating thereto, in connection with a retail development project.

As of January 12, 2009, the developer reports that \$7,309,333 had been expended for construction of the public improvements, representing 94.4 percent of the total amount to be funded with the Series 2004D Bonds. Table III-1 below shows the public improvements, the original budget and the amount spent by line item as reported by the developer as of January 12, 2009.

**Table III-1**  
**Budget of Public Improvements**

<b>Public Improvements</b>	<b>Budget</b>	<b>Amount Spent</b>	<b>Percent Complete</b>
E 98th & Vista Way pavement & utilities, dedicated trunk lines	\$3,968,400	\$3,534,333	89.06%
Reimburse for ROW E. 98th and road earthwork	\$1,400,000	\$1,400,000	100.00%
E 98th & Auntenucci improvements	\$1,100,000	\$1,100,000	100.00%
New Drive Snider - Cannata Building, retaining wall and landscape	\$350,000	\$350,000	100.00%
Traffic signals	\$200,000	\$200,000	100.00%
Soft costs	\$725,000	\$725,000	100.00%
<b>Total public improvements</b>	<b>\$7,743,400</b>	<b>\$7,309,333</b>	<b>94.39%</b>

As of January 12, 2009, the developer reports that construction of the E. 98<sup>th</sup> & Vista Way pavements, utilities and dedicated trunk lines are complete except for minor improvements that are being delayed by Environmental Protection Agency (EPA) approvals pending completion of an active methane gas system and repair of all underground structures. The developer also reports that construction of public improvements on this section is expected to be finalized once approvals are received. According to the developer, all other public improvements are complete.

### **C. STATUS OF DEVELOPMENT**

According to the Official Statement, the development is expected to be constructed in two phases. Phase I of the development is expected to include approximately 500,000 square feet of space and Phase II is expected to include approximately 190,000 square feet of space. As of January 12, 2009, the developer reports that the total leasable space for both development phases is approximately 713,936 square feet, as compared to 690,000 square feet of total leasable space at the time the Series 2004 Bonds were issued. The increase is due to an additional 3.0142 acres of land that was acquired from Peter J, Ltd and Boyas Excavating, Inc. in February 2005. As a result, the total leasable space consists of approximately 502,752 square feet in Phase I and approximately 211,184 square feet in Phase II.

As of January 12, 2009, the developer reports that all lots adjacent to I-480 are complete. The developer also reports that the Applebee's Restaurant is open for business. According to the developer, construction of the Chick-Fil-A restaurant, which was expected to commence in August 2008, is still pending. Construction of Dollar Tree, BW-3 and Retail N is on hold pending completion of an active methane gas system and repair of all underground structures, which is expected to be completed in May 2009.

### **D. STATUS OF LEASING**

According the Official Statement, at the time bonds were issued, the owner had seven executed leases, which included Wal-mart, Giant Eagle, Jo-Ann Stores, Inc., Dick's Sporting Goods, Circuit City, Bed Bath and Beyond and Office Max. In addition to the executed leases, the owner had also signed letters of intent with a number of prospective tenants, which would account for approximately 56,000 square feet. According to the Official Statement, the owner had signed a letter of intent with a tenant that would account for approximately 105,000 square feet in Phase II of the development.

As of January 12, 2009, the developer reports that the total leasable space for both development phases is approximately 713,936 square feet, as compared to 690,000 square feet of total leasable space at the time the Series 2004 Bonds were issued. The increase is due to an additional 3.0142 acres of land that was acquired from Peter J, Ltd and Boyas Excavating, Inc. in February 2005. As a result, the total leasable space consists of approximately 502,752 square feet in Phase I and approximately 211,184 square feet in Phase II.

As of January 12, 2009, the developer reports that leases have been executed for 467,195 square feet of Phase I development, representing 92.9 percent of the Phase I leasable space. According to the developer, the remaining leasable space in Phase I, including outlot parcels, is 35,567 square feet. The developer also reports that leases have been executed for 104,513 square feet of Phase II development, representing 49.5 percent of the Phase II leasable space. According to the developer, the remaining leasable space in Phase II is 106,671 square feet.

Table III-2 on the following page provides a list of tenants and the lease status as reported by the developer as of January 12, 2009. Please note: Since Garfield Land Development is no longer the owner of Phase I, they are not aware of the current leasing status. The following was accurate as of the time of sale on December 31, 2006.

**Table III-2**  
**Status of Leasing**

<b>Tenant</b>	<b>Square Footage</b>	<b>Percent of Phase</b>	<b>Percent of Total</b>
<b>Phase I</b>			
Wal-Mart	146,704	29.2%	20.5%
Circuit City (Bankrupt)	33,862	6.7%	4.7%
Sally Beauty	2,000	0.4%	0.3%
Fashion Bug	7,824	1.6%	1.1%
Office Max	19,983	4.0%	2.8%
Bed, Bath & Beyond	30,122	6.0%	4.2%
Joann, Etc. (Vacant)	35,274	7.0%	4.9%
Dick's Sporting Goods	47,662	9.5%	6.7%
Giant Eagle	80,305	16.0%	11.2%
Alltel	1,960	0.4%	0.3%
AJ Wright	25,000	5.0%	3.5%
Bestcuts	1,200	0.2%	0.2%
Qdoba	2,400	0.5%	0.3%
360 Clothing	1,312	0.3%	0.2%
Petsmart (Vacant)	20,087	4.0%	2.8%
Radio Shack	2,400	0.5%	0.3%
Nail Salon	1,200	0.2%	0.2%
Mattress Matters	2,998	0.6%	0.4%
Payless Shoes	3,000	0.6%	0.4%
Fatburger	1,902	0.4%	0.3%
Remaining Leasable Space	35,567	7.1%	5.0%
<i>Subtotal Phase I</i>	502,762	100.0%	70.4%
<b>Phase II</b>			
Home Improvement	104,513	49.5%	14.6%
Remaining Leasable Space	106,671	50.5%	14.9%
<i>Subtotal Phase II</i>	211,184	100.0%	29.6%
<b>Total Development</b>	713,946	100.0%	100.0%

#### ***IV. TRUSTEE ACCOUNTS***

The trustee for the Series 2004D Bonds is The Huntington National Bank. The balance as of December 31, 2007, interest paid, disbursements, additional proceeds, and account balances for each fund, as of December 31, 2008, are shown by the following table.

**Table IV-1  
Account Balances**

	<b>Balance 12/31/07</b>	<b>Interest Paid</b>	<b>Additional Proceeds</b>	<b>Disburse- ments</b>	<b>Balance 12/31/08</b>
Service Payment Account	\$15,065	\$2,867	\$1,864,796	\$1,035,860	\$846,868
Project Fund	\$96,650	\$564	\$0	\$68,800	\$28,414
Interest Account	\$268	\$0	\$456,089	\$456,356	\$0
Reserve Fund	\$885,000	\$38,533	\$0	\$38,321	\$885,213
Cost of Issuance Fund	\$561	\$0	\$0	\$561	\$0
<b>Total</b>	<b>\$997,543</b>	<b>\$41,964</b>	<b>\$2,320,885</b>	<b>\$1,599,897</b>	<b>\$1,760,495</b>

Additional proceeds to the Service Payment Account represent service payments collected by the county and transferred by the city for the payment of debt service. Additional proceeds to the Interest Account represent transfers of investment income in excess of the reserve requirement from the Reserve Fund and service payment collections from the Service Payment Account. Disbursements from the Service Payment Account were for the payment of debt service and administrative expenses. Disbursements from the Cost of Issuance Fund represent transfers to the Interest Account to close the account.

The bond proceeds in the Reserve Fund are invested in Royal Bank Canada Investment Agreement earning 4.33 percent and maturing on May 15, 2023. Amounts in the Service Payment Account and the Project Fund are invested in money market funds currently earning approximately 0.01 percent per year. Table IV-2 below shows the approximate rate of return on the investments as of December 31, 2008.

According to the Trust Indenture, dated September 30, 2004, an investment made from moneys credited to a fund will constitute part of that respective fund and of the account or subaccount therein to which the moneys invested were credited. Investment earnings, when realized and net of any losses, on all of the funds and the accounts and subaccounts therein, except for the Project Fund, the Bond Fund, and the Primary Reserve Fund are required, when realized, to be deposited in the Revenue Fund. Investment earnings from the Project Fund, the Bond Fund and the Primary Reserve Fund are required to be credited to the fund and the account therein to which the moneys invested were credited.

**Table IV-2  
Rate of Return**

<b>Account</b>	<b>Rate of Return</b>
Service Payment Account	0.01%
Project Fund	0.01%
Reserve Fund	4.33%

## V. *DISTRICT OPERATIONS*

---

### A. ANNUAL SPECIAL ASSESSMENT

The Cleveland-Cuyahoga County Port Authority and the Summit County Port Authority issued \$8,850,000 of development revenue bonds in December 2004 related to the City of Garfield Heights Project. The bonds are to be repaid from pledged revenues that comprises of service payments, which are payments in lieu of taxes (PILOTS), in an amount equal to the increase in real property taxes, and to the extent service payments are not sufficient, special assessments levied on the taxable property in the Garfield Height's special assessment district.

An annual assessment equal to \$1,200,000 has been levied each fiscal year for eighteen years beginning in 2007 to 2024 pursuant to Ordinance Number 46-2004, dated as of September 27, 2004, Resolution Number 48-2004 and a petition filed by the property owners, dated as of September 10, 2004. The annual assessment is to be abated such that the amount actually collected is the amount required to pay annual debt service and other expenses, after taking into consideration service payments and other funds available for that purpose. This report has been prepared to explain the methodology used to calculate annual required installment for 2009.

#### Annual Required Installment

Commencing with calendar year 2007 and ending in 2024, annual special assessments have been levied in eighteen annual consecutive installments of \$1,200,000 each on the assessed land, and abated to such an amount sufficient to pay the annual required installment each year. The annual required installment is defined in Section 1.2 of the Cooperative Agreement as "aggregate period debt service and administrative requirements, less total available assets and less service payments from the additional TIF property." Aggregate period debt service and the administrative requirement are defined as (i.) total bond service charges due and payable with respect to the Project Debt on November 15th following that date (without regard to any acceleration of the maturity of the Project Debt), plus (ii.) total bond service charges due and payable on the Project Debt during the next calendar year, plus (iii.) total administrative expenses estimated by the Administrator to be due and payable from the calculation date (i.e., August 15<sup>th</sup>) through November 15<sup>th</sup> of the next calendar year together with any other administrative expenses that may be due and have not been paid at the time such amounts are certified by the Administrator, plus (iv.) any amounts required to replenish any deficiency in the Summit County Port Authority Bond Fund (SCPABF) Bond Reserve Deposit or in the Port Authority Cleveland Bond Fund (POCBF) Bond Reserve Deposit at the time such amounts are certified by the Administrator, plus (v.) any amounts required to replenish any deficiency in any Special Fund, as defined by the Indentures at the time such amounts are certified by the Administrator.

Total available assets for any given year are defined in the Cooperative Agreement as the sum of:

(i) the value of amounts attributable to Financing Payments made hereunder held by (a) the Series 2004A Trustee in the Revenue Fund established under the SCPABF Indenture, in the Series 2004A Interest Subaccount of the Interest Payment Account of the Bond Fund established under the SCPABF Indenture, and in the 2004A Principal Subaccount of the Principal Payment Account of the Bond Fund established under the SCPABF Indenture and not yet used to make the payments of Bond Service Charges, (b) the POCBF Trustee in the Revenue Fund established under the POCBF Indenture, in the Series 2004D Interest Subaccount of the Interest Account of the Bond Fund, and in the 2004D Principal Subaccount of the Principal Account of the Bond Fund established under the POCBF Indenture and not yet used to make the payments of Bond Service Charges, (c) the Disbursing Agent in the Service Payment Account and the Assessment Account of the Revenue Holding Fund established under the Disbursing Agreement, plus (ii) the amount of Service Payments estimated by the Administrator (assuming that existing levies will expire as scheduled, unless the renewal or replacement levies have been approved by the electorate prior to the Calculation Date, and assuming further that the properties from which Service Payments will be derived will be valued at the most current value of those properties as estimated by the County Auditor as of the Calculation Date) to be received by the City and paid to the Disbursing Agent from the Calculation Date through November 1 of the following calendar year, plus (iii) the amount of

any Special Assessment Payments to be made from the Calculation Date through November 1 of the calendar year in which the calculation is made, plus (iv) if either or both of the Series 2004D PRF Account of the Primary Reserve Fund established under the SCPAEF Supplemental Indenture or the Series 2004D PRF Account of the Primary Reserve Fund established under the POCBF Supplemental Indenture is invested in any fixed rate investment instrument, amounts estimated by the Administrator to be received by the respective Trustee as investment earnings on such amounts through May 1<sup>st</sup> of the succeeding calendar year, plus (v) the amount of any other revenues or amounts other than those mentioned in (i) through (iv) above to the extent that such revenues are expected to be available to pay Bond Service Charges or Administrative Amounts, including, without limitation, (a) amounts in the POCBF Capitalized Interest Subaccount and the SCPABF Capitalized Interest Subaccount as provided in Section 3.2 of the Disbursing Agreement, (b) amounts in the Bond Reserve Deposit (or deemed to be in the Bond Reserve Deposit pursuant to the Indentures) to pay the last payment of principal and interest on the Bonds as provided in the Indentures, and (c) amounts in the Additional Bond Reserve Fund. The Total Available Assets for any calendar year will be determined by the Administrator on or about the Calculation Date of the preceding calendar year.

Table V-1 provides a summary of the annual required installment for the 2009 fiscal year. Bond proceeds in the capitalized interest account and investment earnings on the reserve fund, which constitute total available assets, will be sufficient to pay aggregate period debt service and the administrative requirement. Accordingly, the annual required installment for the 2009 taxable year is zero. Each of these numbers is explained in the following sections.

#### Aggregate Period Debt Service and Administrative Requirements

##### *Debt Service*

Debt service on the Series 2004D Bonds includes interest payment of \$224,044 due on November 15, 2008, May 15, 2009 and November 15, 2009. These payments equal six interest payments on the outstanding principal amount of \$8,535,000 for the period through May 15, 2009 and \$8,200,000 through November 15, 2009 at an annual interest rate of 5.25 percent. There is principal payment of \$335,000 due the Series 2004D Bonds on May 15, 2009. As a result, total debt service on the Series 2004D Bonds is \$998,338.

##### *Port Authority Fee*

The annual fee of the Port Authority is equal to 0.5 percent of the principal amount of the bonds outstanding. The amount of bonds outstanding is for the bond years ending May 15, 2008 and May 15, 2009 is equal to \$8,850,000 and \$8,535,000, respectively. As a result, the annual fee of the Port Authority for fiscal year 2008 and 2009 is equal to \$44,250 and \$42,675. As of August 31, 2008, Port Authority fee in the amount of \$22,125 has been paid for fiscal year 2008. As a result, the fiscal year 2008 balance that needs to be funded is \$22,125, resulting in total fees due to the Port Authority through November 15, 2009 of \$63,175.

##### *Administrative Expenses*

Administrative expenses (other than the Port Authority fee) include the trustee and the administrator. The annual fee of the trustee is equal to 0.07 percent of the principal amount of the bonds outstanding. The amount of bonds outstanding is \$8,850,000. As a result, the annual fee of the trustee for fiscal year 2008 is equal to \$6,195. The fees and expenses of the administrator are estimated to be \$10,000. Accordingly, total administrative expenses for each fiscal year are estimated to be \$16,195.

As of August 31, 2008, administrator's fees for the first and second quarter of 2008 and the semi-annual trustee fees in the amount of \$2,500 and \$3,098, respectively, were still outstanding. As a result, the fiscal year 2008 administrative expenses that need to be funded include \$7,500 and \$6,195 for the administrator and trustee, respectively. Accordingly, the aggregate administrative expenses for fiscal years 2008 and 2009 are estimated to be \$29,890.

**Table V-1**  
**Annual Required Installment**

<i>Aggregate Period Debt Service and Administrative Requirements</i>	
Interest on Series 2004D Bonds, November 15, 2008	\$224,044
Interest on Series 2004D Bonds, May 15, 2009	\$224,044
Principal on Series 2004D Bonds May 15, 2009	\$335,000
Interest on Series 2004D Bonds, November 15, 2009	\$215,250
<i>Sub-total debt service</i>	\$998,338
Port Authority Fee	\$63,175
Administrative Expenses	\$29,890
<i>Total aggregate period debt service and administrative requirements</i>	\$1,091,403
<i>Total Available Assets</i>	
Estimated 2007 second-half service payments	(\$1,222,507)
Estimated 2008 service payments	(\$2,419,089)
Reserve fund interest income	(\$57,481)
<i>Total available assets</i>	(\$3,699,077)
<b>Annual Required Installment</b>	<b>\$0</b>

Total Available Assets

*Estimated Service Payments*

Pursuant to Ordinance Number 92-2003, dated as of December 15, 2003, the improvements to the property within the district are exempt from real property taxation for a period of eighteen years as from 2007 to 2024. However, according to the terms of the Cooperative Agreement, dated September 1, 2004, the developer and property owners within the special assessment district has agreed to make service payments, together with all interest and penalties thereon for nonpayment of such service payments, for a period of eighteen years in lieu of said exempt taxes, and the service payments shall be in an amount equal to the taxes that would have been levied had the improvements not been exempt from taxation.

The definition of Total Available Assets provides for service payments to be estimated based on “the most current value of properties as estimated by the Cuyahoga County Auditor as of the Calculation Date.” By the first day of October of the year prior to taxes being collected, the county auditor must prepare the final tax list, which assigns the true value of the parcels within the special assessment district. The estimated true value of the taxable property in the district as of January 1, 2008 is \$111,594,400. This value is used as “the most current value” for purposes of estimating the service payments.

The true value of the taxable property in the special assessment district for the base year was equal to \$1,290,700. The incremental assessed value is, therefore, estimated to equal \$110,303,700 (\$111,594,400 - \$1,290,700 = \$110,303,700). Taxable property in Ohio is assessed at a rate of 35 percent of true value, resulting in an assessed value of \$38,606,295 on the incremental value, as shown in the table on the following page.

**Table V-2**  
**Estimated Service Payments**  
**Collected in 2008**

Estimated True Value at January 1, 2008	\$111,594,400
Base Year True Value	(\$1,290,700)
Incremental Value	\$110,303,700
Assessed Value at 35% of True Value	\$38,606,295
Real Property Tax Rate per \$1000 of Assessed Value	82.994009
Total PILOTS	\$3,204,091
School District share	(\$785,002)
<b>Estimated Service Payments</b>	<b>\$2,419,089</b>

According to the County Auditor's Office, the real property tax rate for City of Garfield Heights in fiscal year 2009 is estimated to be 82.994009 mills per \$1000 of assessed value. Accordingly, and as shown in the table above, based on the 35 percent assessment of the assessed value of the taxable property in the district and the real property tax rate, service payment revenues are estimated to be equal to \$3,204,091 for fiscal year 2009.

Pursuant to the Compensation Agreement between the City of Garfield Heights, the Garfield Heights School District and the developer, dated as of December 16, 2003, the city agreed to make certain payments to the school district from the PILOTS received by the city in accordance with the TIF Ordinance. The school district share on these payments shall be equal to fifty percent of the school district percentage of the overall real tax rate for the tax year for which the PILOTS are calculated to nearest thousandth. According to the County Auditor's Office, the school district share of total real property taxes for 2008 is equal to 49.0 percent. As a result, the PILOTS that are payable to the school district for fiscal year 2008 is equal to \$785,002 ( $\$3,204,091 \times .490 \times .500 = \$785,002$ ). Accordingly, the estimated service payments available for fiscal year 2009 are to be equal to \$2,419,089 as shown in the Table V-2 above.

*Reserve Fund Income*

As of August 30, 2008, the balance in the reserve fund was \$885,000, which is the Series 2004D reserve requirement. Bond proceeds in the reserve fund in the amount of \$885,000 are invested in Royal Bank Canada Investment Agreement earning a 4.33 percent per annum and maturing on May 15, 2023. At this rate, a semi-annual interest income of \$19,160 is estimated to be earned by the next debt service payment of November 15, 2008.

**Table V-3**  
**Reserve Fund Interest Income**

Reserve Fund:	
Estimated interest to November 15, 2008	\$19,160
Estimated interest through November 15, 2009	\$38,321
<b>Total Reserve Fund income available</b>	<b>\$57,481</b>

An additional \$38,321 in investment income will be earned during the fiscal year 2009 and will be made available to pay aggregate period debt service and the administrative requirements for fiscal year 2009. Accordingly, the estimated reserve fund income that may be applied to pay aggregate period debt service and the administrative requirements for fiscal year 2009 is equal \$57,481, as shown in Table V-3 above.

*Summary*

Aggregate period debt service and administrative expenses are estimated to be equal to \$1,091,403. Total available assets are estimated to be equal to \$3,699,077, resulting in an estimated surplus of \$2,607,674. As a result,

the annual required installment for the fiscal year 2009 is zero. As a result, special assessments to be collected in 2008 will be fully abated.

**B. SERVICE PAYMENT COLLECTION**

According to the Cuyahoga County Auditor’s Office, property taxes are paid semi-annually and are due each January and July. According to the Cuyahoga County Auditor’s Office, service payments to be collected in 2008 are estimated to be \$3,276,324, which is \$1,176,578 greater than what was estimated (\$1,515,746) in the 2007 annual assessment levy report. The difference between the estimated service payments and the actual service payments is explained by the increase in the true values used by the county on all parcels and the changes in the ad valorem tax rates, which were not available at the time the annual assessment report was prepared.

As of March 6, 2009, Cuyahoga County reports that \$1,449,110 in first half 2007 service payments were collected from the property owners within the development site, representing 88.5 percent of first half service payments due. These service payments were distributed to the Authority, the school district and City of Garfield Height on October 6, 2008.

As of March 6, 2009, the county reports that \$1,476,420 in second half 2007 service payments were collected from the property owners within the development site, representing 90.1 percent of the second half payments due. As a result, 2007 service payments in the aggregate amount of \$2,925,530 have been collected, representing 89.3 percent of the service payments due for collection in 2008. Service payment credits in the amount of \$2,554 were given to property owners by the county for early payment. According to the county, 2007 service payments in the amount of \$348,240 remain outstanding on four parcels. Table V-4 below shows the delinquent parcels by landowner and the amount outstanding as reported by the Cuyahoga County as of March 6, 2009. Distribution of the 2007 second half service payments is expected to occur before the end of the month of March 2009.

**Table V-4  
2007 Delinquent Service Payments**

Parcel Number	Owner	Outstanding Service Payment
542-16-001	Garfield Land Development, LLC	\$88,788
543-06-002	Garfield Land Development, LLC	\$16,550
543-09-001	Garfield Land Development, LLC	\$211,284
542-27-003	GHLFP	\$31,617
<b>Total</b>		<b>\$348,240</b>

**C. COLLECTION EFFORTS**

As of March 6, 2009, Cuyahoga County reports that 2007 service payments in the amount of \$348,240 remain outstanding on four parcels. A delinquency notice is sent for the collection of outstanding service payments in the regular billing cycle during January and June. A third notice is sent in October. Parcels receive a ten percent penalty for each collection period outstanding.

## **VI. DISTRICT FINANCIAL INFORMATION**

---

The information provided in this section is intended to meet the requirements for the annual report as provided for in Section 2(a) of the Continuing Disclosure Agreement. The items listed below are in the same format and order as the items required for the annual report as listed in the Continuing Disclosure Agreement.

All information in this section is provided as of December 31, 2008, unless otherwise stated.

### **A. FUND BALANCES**

The fund balances in all of the funds and accounts provided for in the Trust Indenture are included in Table IV-1 of Section IV, "Trustee Accounts," section of this report.

### **B. CHANGES TO THE RATE AND METHOD OF APPORTIONMENT**

There have been no changes to the Rate and Method of Apportionment of the Service Payments or Special Assessments by the Port Authority.

### **C. CHANGES IN THE AD VALOREM TAX RATES**

According to the Cuyahoga County Treasurer's website, the effective millage rate has increased from 83.883455 for the 2007 tax year to 85.546957 per \$1,000 of assessed value for the 2008 tax year. Table VI-1 below shows the effective millage rates for tax years 2006 through 2008.

**Table VI-1**  
**Ad Valorem Tax Rates**

<b>Tax Year</b>	<b>Millage Rate</b>
2006	82.994009
2007	83.882455
2008	85.546957

### **D. CHANGES IN ASSESSED VALUE OF REAL PROPERTY**

As of January 1, 2008, the true value of the taxable property within the development site was \$111,594,400. The base year true value was \$1,290,700. As shown in Table VI-2 on the following page, taxable property in Ohio is assessed at a rate of 35 percent of true value. As a result, the total incremental true value and incremental assessed value were \$110,303,700 and \$38,606,295, respectively.

**Table VI-2**  
**Summary of True Market, Assessed and Incremental Values**

<b>Parcel Number</b>	<b>Owner</b>	<b>Base Year True Value</b>	<b>2008 True Value</b>	<b>Incremental Value</b>	<b>Incremental Assessed Value</b>
542-37-001	Board of Education	\$0	\$0	\$0	\$0
542-39-036	Boyas Excavating Inc	\$232,100	\$2,034,400	\$1,802,300	\$630,805
543-03-002	City View Center	\$0	\$4,028,500	\$4,028,500	\$1,409,975
543-06-002	City View Center	\$0	\$563,700	\$563,700	\$197,295
542-16-001	City View Center	\$246,700	\$3,024,200	\$2,777,500	\$972,125
542-16-003	City View Center	\$182,700	\$661,200	\$478,500	\$167,475
543-01-001	City View Center	\$0	\$974,900	\$974,900	\$341,215
543-01-002	City View Center	\$0	\$18,913,200	\$18,913,200	\$6,619,620
543-03-001	City View Center	\$9,100	\$1,677,800	\$1,668,700	\$584,045
543-06-001	City View Center	\$0	\$56,894,800	\$56,894,800	\$19,913,180
543-09-001	Garfield Land Development LLC	\$0	\$7,196,500	\$7,196,500	\$2,518,775
542-27-003	GHLFP	\$152,100	\$1,076,900	\$924,800	\$323,680
542-27-001	Peter J. Ltd	\$0	\$557,900	\$557,900	\$195,265
543-07-001	Peter J. Ltd	\$194,900	\$4,420,600	\$4,225,700	\$1,478,995
542-16-002	Vista Way Partners LLC	\$61,800	\$3,731,800	\$3,670,000	\$1,284,500
542-16-004	Vista Way Partners LLC	\$5,400	\$1,126,200	\$1,120,800	\$392,280
542-16-005	Vista Way Partners LLC	\$0	\$1,284,500	\$1,284,500	\$449,575
542-25-039	Vista Way Partners LLC	\$169,800	\$2,309,300	\$2,139,500	\$748,825
542-25-043	Vista Way Partners LLC	\$36,100	\$1,118,000	\$1,081,900	\$378,665
<b>Total</b>		<b>\$1,290,700</b>	<b>\$111,594,400</b>	<b>\$110,303,700</b>	<b>\$38,606,295</b>

**E. DISTRICT FINANCING PAYMENTS LEVIED**

Special assessments to be collected in fiscal years 2008 and 2009 were fully abated.

**F. STATUS OF COLLECTION OF AD VALOREM AND FINANCING PAYMENTS**

According to the Cuyahoga County Auditor's Office, property taxes are paid semi-annually and are due each January and July. According to the Cuyahoga County Auditor's Office, 2007 service payments to be collected in 2008 are estimated to be \$3,276,324, which is \$1,176,578 greater than what was estimated (\$1,515,746) in the 2007 annual assessment levy report. The difference between the estimated service payments and the actual service payments is explained by the increase in the true values used by the county on all parcels and the changes in the ad valorem tax rates, which were not available at the time the annual assessment report was prepared.

As of March 6, 2009, Cuyahoga County reports that 2007 service payments in the amount of \$1,449,110 and \$1,476,420 for first and second half installments, respectively, have been collected in 2008. As a result, service payments in the aggregate amount of \$2,925,530 have been collected, representing 89.3 percent of the 2007 service payments due for collection in 2008. Service payment credits in the amount of \$2,554 were given to property owners by the county for early payment. According to the county, service payments in the amount of \$348,240 remain outstanding on four parcels. Table VI-3 on the following page shows the amount of 2007 service payments due for collection in 2008, the amount of service payments collected, the amount of credits given, and the amount outstanding as reported by Cuyahoga County as of March 6, 2009.

**Table VI-3**  
**2007 Service Payment Collections**

	Service Payment	Percent of Total Due
2007 Service Payments due:	\$3,276,324	100.0%
First half installment	\$1,449,110	44.2%
Second half installment	\$1,476,420	45.1%
<i>Less: Credits for early payment</i>	(\$2,554)	0.1%
Total paid	\$2,925,530	89.3%
<b>Total outstanding</b>	<b>\$348,240</b>	<b>10.6%</b>

As previously mentioned in Section V, “District Operations,” of this report, a delinquency notice is sent to collect on outstanding service payments in the regular billing cycle during January and June. A third notice is sent in October. Parcels receive a ten percent penalty for each collection period outstanding.

### G. ASSESSED VALUE APPEALS

According to the Cuyahoga County Board of Revision, GHLP, LLC filed a complaint against the tax year 2006 real property valuation for parcel 542-27-003 on April 2, 2008. GHLP, LLC claimed that this property consists of a large mound of municipal solid waste capped in accordance with EPA standards and subject to certain restrictive covenants by the EPA preventing its future use. According to GHLP, LLC, the use restrictions, the presence of solid waste, and the significant cost to remove the solid waste to make the parcel usable render the parcel valueless. As a result, GHLP, LLC claimed that the tax year 2006 true market value should have been \$10 as opposed to \$1,076,900. As of March 11, 2009, the Cuyahoga County Board of Revision reports that this complaint is still pending.

According to the Cuyahoga County Board of Revision, the Board of Education for Garfield Heights City School District filed a complaint against the tax year 2006 real property valuation for nine parcels, which belongs to Garfield Land Development, LLC, on April 2, 2007. The Board of Education for Garfield Heights City School District claimed that the true market value for all parcels should have been \$100,000,000 as opposed to \$49,377,700. The reason for complaints was based on the sales price of subject property. As of March 11, 2009, the Cuyahoga County Board of Revision reports that these complaints are still pending.

According to the Cuyahoga County Board of Revision, Garfield Land Development, LLC filed a counter-complaint against the above mentioned complaints on May 27, 2007 requesting the original assessed values to remain intact. As of March 11, 2009, the Cuyahoga County Board of Revision reports that these complaints are still pending.

According to the Cuyahoga County Board of Revision, the Board of Education for Garfield Heights City School District filed a complaint against the tax year 2007 real property valuation for eighteen parcels within the district on March 19, 2008. The Board of Education for Garfield Heights City School District claimed that the total true market value for all parcels should have been \$122,754,000 as opposed to \$111,594,400, based on the recent sale of subject property and sales of comparable properties. As of March 11, 2009, the Cuyahoga County Board of Revision reports that these complaints are still pending.

According to the Cuyahoga County Board of Revision, Garfield Land Development, LLC filed a counter-complaint against the above-mentioned complaints on May 30, 2008, requesting the total true market value to be \$83,695,800 as opposed \$111,594,400. The Garfield Land Development, LLC counter-complaint was based on the fact that the complaints include parcels with different ownership as well as parcels previously included in a tax year 2006 filing. As of March 11, 2009, the Cuyahoga County Board of Revision reports that this complaint is still pending.

Table VI-2 below provides the tax parcel numbers, owner, and complainant’s opinion of true value as reported by Cuyahoga County Board of Revision on March 11, 2009.

**Table VI-4**  
**Summary of Complaints against Fiscal Year 2006 Valuation of Real Property**

<b>Permanent Parcel Number</b>	<b>Owner</b>	<b>2006 Complainant's Opinion of True Value</b>	<b>2006 Tax Year True Value</b>
542-16-001	Garfield Land Development LLC	\$7,428,571	\$3,683,700
542-16-003	Garfield Land Development LLC	\$571,428	\$264,500
543-01-001	Garfield Land Development LLC	\$857,142	\$390,000
543-01-002	Garfield Land Development LLC	\$12,571,428	\$6,284,600
543-03-001	Garfield Land Development LLC	\$1,857,142	\$895,000
543-03-002	Garfield Land Development LLC	\$3,714,285	\$1,821,600
543-06-001	Garfield Land Development LLC	\$49,857,142	\$24,421,200
543-07-001	Garfield Land Development LLC	\$8,857,142	\$4,420,600
543-09-009	Garfield Land Development LLC	\$14,285,720	\$7,196,500
<b>Total</b>		<b>\$100,000,000</b>	<b>\$49,377,700</b>

**H. PRINCIPAL DISTRICT TAXPAYERS**

According to the tax record maintained by Cuyahoga County, the list of property owners responsible for more than five percent of the levy of 2007 service payments due for collection in 2008 are shown in Table VI-5 below.

**Table VI-5**  
**Principal District Taxpayers**

<b>Parcel Number</b>	<b>Current Owner</b>	<b>2007 Service Payments</b>	<b>Percent</b>
542-16-003	City View Center	\$14,213	0.4%
543-01-001	City View Center	\$28,957	0.9%
543-03-002	City View Center	\$119,658	3.7%
543-01-002	City View Center	\$561,774	17.1%
543-06-001	City View Center	\$1,689,932	51.6%
<i>Subtotal City View Center</i>		<i>\$2,464,099</i>	<i>75.2%</i>
542-25-043	Vista Way Partners LLC	\$32,135	1.0%
542-16-004	Vista Way Partners LLC	\$33,291	1.0%
542-16-005	Vista Way Partners LLC	\$38,153	1.2%
542-25-039	Vista Way Partners LLC	\$63,549	1.9%
542-16-002	Vista Way Partners LLC	\$109,009	3.3%
<i>Subtotal Vista Way Partners LLC</i>		<i>\$276,324</i>	<i>8.4%</i>
<i>Other Entities</i>		<i>\$536,087</i>	<i>16.4%</i>
<b>Total</b>		<b>\$3,276,324</b>	<b>100.0%</b>

**I. LAND USE AMENDMENTS**

As of January 12, 2009, the developer has not reported any significant amendments to land use entitlements or legal challenges to the construction of the project. The developer reported one challenge, which was administrative in nature. According to the developer, on March 18, 2008, the developer received Rule 13 Authorization from the Ohio Environmental Protection Agency (OEPA), allowing for final construction of utilities, methane protection systems, and structural systems over old landfill areas. Consent document with Rule 13 addressed past storm water and landfill violations of 1994 construction season. OEPA was not against project, only very cautious in granting approvals or authorizations. Their authorization process is not set-up for

construction on landfills, but for the permitting and enforcement of activated or closed landfills. This authorization from the OEPA allows for final construction of the project.

#### **J. CHANGES TO PROJECT AND DEVELOPMENT STATUS**

As of January 12, 2009, the developer reports that that there have been no changes approved by the Port Authority regarding the project to be constructed. The development status is explained in Section III, "Development Activity," of the report.

## ***VII. SIGNIFICANT EVENTS***

---

### **A. DEVELOPER SIGNIFICANT EVENTS**

According to the continuing disclosure agreement, developer significant events include the following:

- (i) material damage to or destruction of any development or improvements within the development site;
- (ii) the exercise of an option to purchase or sell any land within the development site by the developer or the owner;
- (iii) material default by the developer or the owner any affiliate of either on any loan with respect to the construction or permanent financing of the development;
- (iv) material default by the developer or the owner or any affiliate on any loan secured by property within the development site owned by the developer or owner or any affiliate of either;
- (v) the filing by or against the developer or owner or owners of more than 25% interest in the developer or the owner of any petition or other proceeding under any bankruptcy, insolvency or similar law or any determination that the developer or the owner or an owner of a 25% or greater interest in the developer or owner is unable to pay its debts as they become due; and
- (vi) the filing of any lawsuit with a claim for damages in excess of \$1,000,000 against the developer, which may adversely affect the completion of the development, the project or litigation in excess of \$1,000,000, which would materially adversely affect the financial condition of the developer.

Other than the lawsuit against City View Center, LLC described below the administrator is not aware of the occurrence of any other significant events as of the date of this report. A significant event notice for this event was filed with the NRS MIR, the trustee and the Authority on March 24, 2009.

There have been reports in the media recently that a receiver was appointed for the Project as a result of default in the payment of taxes by the Developer and Owner, which were paid by the Mortgagee of the Development Site. A lawsuit was filed and receiver appointed for the Developer and Owner. See *Bank of New York Trust Company vs. City View Center, LLC, Case No. 1:09-CV-00328-KMO* in the U.S. District Court for the Northern District of Ohio.

### **B. LISTED EVENTS**

Pursuant to the Continuing Disclosure Agreement, listed events include the following:

- (i) delinquency in payment when due of any principal of or interest on the bonds;
- (ii) occurrence of any material default under the indenture (other than described in clause (i) above);
- (iii) draws on the reserve fund;
- (iv) substitution of a credit provider for cash deposits in the reserve fund, or their failure to perform;
- (v) adverse tax opinions or events affecting the tax exempt status of the bonds;
- (vi) amendment to the indenture modifying the rights of the bondholders;
- (vii) giving of notice of optional or unscheduled redemption of bonds;

- (viii) defeasance of bonds or any portion thereof;
- (ix) the release or substitution of property securing repayment of the bonds;
- (x) any change in the rating, if any, on the bonds;
- (xi) the continuing disclosure event notices provided to the administrator by the developer as more particularly set forth in the developer's continuing disclosure agreement.

The administrator does not have knowledge of any listed event as of the date of this report.