

John M. [Signature]  
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## AGREEMENT

The City of Cincinnati, an Ohio municipal corporation (the "City"), and the Board of Education of the City School District of the City of Cincinnati, a board of education under the laws of the state of Ohio (the "Board") enter into this agreement (the "Agreement") on July 2, 1999 (the date of execution by the final executing party).

### RECITALS.

A. The City is authorized by state law to enter into agreements, and to establish Community Reinvestment Areas, providing for exemptions in whole or in part from real property taxation and/or tangible personal property taxation for certain property within the City. The City is also authorized by state law to approve real property tax credits for costs of abatement of certain nuisances.

B. The City (pursuant to City Resolution No. 98-1989) and the Board (pursuant to Board Resolution dated September 8, 1989) established in 1989 a procedure to provide for City support to the Board corresponding to an adjusted calculation of revenues that would have been received by the Board had certain tax exemptions not been authorized by the City. This Agreement supersedes the 1989 procedure.

C. Certain state statutes authorizing municipal corporations to approve exemptions from real property taxation, as amended by the Ohio General Assembly in Amended Substitute Senate Bill 19, effective July 22, 1994 ("Senate Bill 19"), and to approve real property tax credits for costs of abatement of certain nuisances, also authorize boards of education to approve certain provisions relating to those exemptions and credits. State statutes further authorize municipal corporations and boards of education to enter into agreements for compensation to the board of education for taxes that would have been received by the board of education if not for certain property tax exemptions approved by the municipal corporation.

D. The City and the Board are prepared to agree to general terms relating to these statutes, both to accommodate the need for prompt action on many projects dependent on the tax exemptions and tax credits, and to establish agreed compensation to the Board relating to certain tax exemptions.

E. The City and the Board of County Commissioners of Hamilton County, Ohio ("Hamilton County") are parties to a *Memorandum of Understanding between Hamilton County and the City of Cincinnati*, executed August 21, 1995 (the "Memorandum of Understanding"), and an *Amendment to Memorandum of Understanding*, executed April 27, 1996 (the "Amendment to Memorandum of Understanding"). In the Amendment to Memorandum of Understanding Hamilton County agreed to contract to make payments (then estimated at approximately \$5,000,000 annually) to the Board in lieu of exempt real property taxes on new or renovated stadiums; and the City and Hamilton County agreed to seek a mechanism to generate an additional \$5,000,000 annually for 20 years for capital improvement needs of the Board. This Agreement provides that mechanism, in the form of City funding as provided herein. Hamilton County has entered into a contract with the Board, dated February 14, 1996, providing for payments in lieu of exempt real property taxes on new or renovated stadiums.

F. Ohio Revised Code ("ORC") Sections 725.02(B), 1728.10, 3735.671(A), 5709.40(B)(2), 5709.41(C)(2), 5709.62(D), and 5709.82 authorize the parties to enter into this Agreement. City Ordinance No. 276-1999 authorizes execution of this Agreement on behalf of the City, and Board Resolution dated March 16, 1999 authorizes execution of this Agreement on behalf of the Board.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein, the parties hereto covenant and agree with each other as follows:

**SECTION I. CITY COMPENSATION TO BOARD; USE OF FUNDS BY BOARD; CITY SERVICES.**

A. **Compensation.** Pursuant to ORC Section 5709.82, commencing in the year 2000, and for nineteen years thereafter, the City agrees to provide annual compensation to the Board in the amount of Five Million Dollars (\$5,000,000), subject to the conditions stated herein. Aggregate payments pursuant to this Section I.A shall not in any circumstances exceed \$100,000,000. The annual cash payment amount will be paid in two semi-annual payments of \$2,500,000 each, made on or before April 15 and October 15 of each year (in years 2000 through and including 2019). Provided, however, that:

1. The amount of cash payments by the City in any calendar year shall not exceed the calculated amount of "Additional Tax Revenues" (defined below) applicable to the calendar year of payment, plus any amounts carried forward from prior years as specified below in this Section I.A.

2. In the event that calculation of Additional Tax Revenues requires cash payments by the City in any calendar year from 2000 through 2019 to be less than \$5,000,000, the Term (defined in Section IV, below) of this Agreement shall be automatically extended (with no amendment required), for so many additional six-month extensions of the Term (not exceeding cumulatively an additional five years) as is required to allow for payment of the anticipated aggregate payment amount pursuant to this Section I.A of \$100,000,000. In no event shall the Term be automatically extended beyond December 31, 2024. (For example, if due to the calculation of Additional Tax Revenues cumulative payments payable pursuant to this Section I.A in years 2000 through 2019 equal \$96,000,000, then the Term would be automatically extended at least through December 31, 2020; if then in 2020 additional payments payable pursuant to this Section I.A totaled \$3,500,000 [cumulative total \$99,500,000], the Term would again be automatically extended, at least through June 30, 2021; if then prior to June 30, 2021 additional payments payable pursuant to this Section I.A totaled \$500,000 [cumulative total \$100,000,000], the Term would expire as of June 30, 2021.)

The payments hereunder are made as compensation to the Board (as authorized by statute) for additional property tax revenues that the Board would have received if the City had not authorized tax exemptions for certain projects, assuming that those projects would have been constructed without the City-authorized tax exemption.



"Additional Tax Revenues" as used herein are defined as the amount of additional tax revenues that would have been distributed to the Board from property tax payments that would have been due and owing in each calendar year from 1999 through and including 2019 (and during such additional periods as the Term may be automatically extended as provided above in this Section I.A), if not for exemptions of real property taxes and/or tangible personal property taxes authorized by the City (either prior to or subsequent to execution of this Agreement) under the authority of ORC Chapters 725 or 1728, or ORC Sections 3735.65-70, 5709.40, 5709.41, 5709.62, 5709.84, or 5709.88 (or under other the authority of any other statutes in connection with which a municipal corporation is now or hereafter authorized by statute to provide compensation to a school district), assuming that those projects would have been constructed without the City-authorized tax exemption. Additional Tax Revenues shall be calculated based on property assessments, millage rates (adjusted as necessary to reflect the Board's actual net loss of additional tax revenue), and like information that is provided by or readily available from the Hamilton County Auditor. Tax exemption projects will be included in the calculation of Additional Tax Revenues whether or not the projects are defined under Section II of this Agreement as "Applicable Projects." The calculation of Additional Tax Revenues that would have been distributed to the Board in a particular calendar year from 1999 through 2019 (and during such additional periods as the Term may be automatically extended as provided above in this Section I.A) shall be based on assessed values (as determined by the Hamilton County Auditor) applicable to the previous tax year, which would have been the basis for taxes billed and payable in the subject calendar year. (For example, the calculation of additional amounts that would have been distributed to the Board in calendar year 1999 shall be based on assessed values for tax year 1998. If not for exemption, the taxes based on those assessed values would have been billed and payable in January 1999 and July 1999.) The calculations of Additional Tax Revenues shall be made with the assumption, solely for the purposes of this Agreement, that each project would have been implemented even if tax exemption had not been authorized by the City. (This assumption shall not be construed as an acknowledgment by the City that each project would in fact have been implemented even if tax exemption had not been authorized by the City.) Additional Tax Revenues are calculated over the 21-year period of 1999 through 2019 (and during such additional periods as the Term may be automatically extended as provided above in this Section I.A) even though payments under this Section I.A are made over the 20-year period of 2000 through 2019 (and during such additional periods as the Term may be automatically extended as provided above in this Section I.A).

The calculation of Additional Tax Revenues for each calendar year will be offset and reduced by:

1. All payments due to the Board in that calendar year by the City, or by enterprises, owners, lessees or developers, pursuant to Section II.C of this Agreement or otherwise, with respect to Applicable Projects; and
2. All amounts distributed or to be distributed to the Board in that calendar year from any service payments in lieu of taxes required and paid under ORC Section 1728.11 or 1728.111 with respect to Applicable Projects.

The offset amount shall be the full required payment or distribution amount. Provided, however, that to the extent that the Board provides documentation that less than full required payments or

distributions have been collected, the calculation of Additional Tax Revenues shall be adjusted as appropriate, and the uncollected amount shall be (i) paid by the City to the Board, to the extent that total payments under this Section I.A for the applicable calendar year were less than \$5,000,000; or (ii) to the extent not payable as stated in the preceding clause, carried forward to subsequent calendar years as provided in the next paragraph.

Calculated amounts of Additional Tax Revenues in excess of payments by the City pursuant to this Section I.A shall be carried forward on a cumulative basis to subsequent calendar years until 2019. (For example, payments by the City pursuant to this Section I.A to be made in April 2010 and October 2010 shall be based on the calculation of Additional Tax Revenues [less offsets as required above] for the calendar year 2010, including in that calculation any cumulative Additional Tax Revenues carried forward from prior calendar years [beginning with 1999] that are in excess of payments by the City pursuant to this Section I.A.)

If City payments in a calendar year are required to be less than \$5,000,000 because of the calculation of Additional Tax Revenues, any required reduction in payment amount shall be applied first to the October payment, and secondly (if necessary) to the April payment. (For example, if \$4,000,000 were to be paid in a particular calendar year, \$2,500,000 would be due by April 15, and \$1,500,000 would be due by October 15.)

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The City and the Board agree to meet not later than February 1 of each year during the Term to confer and share available information pertinent to calculation of Additional Tax Revenues. The Board agrees, at or prior to the meeting, to provide to the City a report (certified by the Treasurer of the Board) on the status of agreements executed pursuant to Section II.C.1 (and similar agreements executed prior to this Agreement), including for each agreement payments due (including for the then-current calendar year) and payments received. The City agrees to prepare an initial calculation of Additional Tax Revenues for 1999 and submit the calculation to the Board within thirty days of the date of this Agreement; to submit a revised calculation (reflecting offsets for payments received by the Board during 1999) by March 1, 2000; and to submit subsequent annual calculations to the Board by March 1 of each subsequent year during the Term. The City will consider and respond to any objections by the Board to the City calculations.

The Board acknowledges and agrees that upon the City's execution of this Agreement and performance of its obligations under this Agreement the City will have fully satisfied and complied with any obligations of the City contained in Paragraph 16 of the Memorandum of Understanding, or Paragraph J of the Amendment to Memorandum of Understanding.

B. Use of Funds by Board. The Board agrees to:

1. Account for all funds paid to the Board by the City pursuant to the above Section I.A in a separate fund, and apply the funds solely for the purposes of capital improvements to, or replacement of, public school buildings and grounds (not including administrative facilities) within the corporate limits of the City (or for the payment of principal and interest for notes and bonds issued by the Board for those capital improvements or replacements).

2. Establish in advance of expenditure of any of such funds a capital improvement program consistent with this Section I.B (including itemization of capital projects, cost estimates and performance schedules), with correction of any building and fire code violations as the first priorities of the capital improvement program.

3. Submit the proposed capital improvement program (and any proposed revisions to the program) to the City in advance, with a reasonable opportunity for City review and comment. City approval is not required.

4. In contracts for the capital improvements, to the extent permitted by law, seek to increase the opportunities for participation by minority and female vendors and contractors, through implementation of the Board's then-current policies for such participation.

5. In performing or contracting for performance of the capital improvement program, comply with the following provisions of the federal Immigration and Nationality Act: 8 U.S.C.A. §1324a(a)(1)(A), and 8 U.S.C.A. §1324a(a)(2). (Any noncompliance with those provisions shall be solely determined by final unappealable determination resulting from actions by the federal agencies authorized to enforce the Immigration and Nationality Act, or by actions of the U.S. Attorney General in accordance with Executive Order of the U.S. President, dated February 13, 1996.)

6. In performing or contracting for performance of the capital improvement program, comply with the following equal employment opportunity standards:

a. The Board agrees not to discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Board agrees to insure that applicants are employed without regard to their race, color, religion, sex, or national origin, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Relevant actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Board agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The Board agrees, in all solicitations or advertisement for employees placed by or on behalf of the Board, to state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

c. The Board agrees to include the above provisions in every contract or purchase order in connection with any construction, and to require the inclusion of these provisions in every subcontract entered into by any construction contractors, so that the provisions will be binding upon each contractor, subcontractor, or vendor.



as the case may be. For the purpose of including the provisions in any construction contract, subcontract, or purchase order, as required hereby, the first paragraph of this subsection shall be changed to read "During the performance of this Contract, the Contractor agrees as follows:"; and the term "Board" shall be changed to "Contractor."

7. Report to the City semi-annually on the balance of the separate fund, the uses of the funds in relation to the capital improvement program, and compliance with the other requirements in this Section I.B; and provide documentation thereof in a form reasonably acceptable to the City.

C. City Services. In each year during the Term the City agrees to provide municipal services benefitting the Board in the form of school nurses, school crossing guards, and school resource officers, or other services mutually agreed from time to time between the City and the Board. The extent of these services will be determined by the City, following discussions with the Board, and shall be conditioned on annual appropriation of funds for these purposes as required by law. Provision of services by the City of a nature or extent different than that requested by the Board does not constitute a breach or default under this Agreement.

However, the City agrees that in 1999 through 2000 the extent of services provided by the City in the form of school nurses, school crossing guards, and school resource officers shall not be less than that provided by the City in 1998, provided that (i) the City is not obligated to expend for these services in excess of \$2,477,000 in 1999, and \$2,531,000 in 2000; and (ii) adequate space, mutually agreeable to both the Board and the City (including, with respect to school nurses, the City's Board of Health), is provided in school facilities for the school nurses and school resource officers to provide services.

## SECTION II. TAX EXEMPTIONS AND TAX CREDITS.

A. Applicable Projects. This Section II applies to "Applicable Projects," hereby defined as projects for which tax exemptions or tax credits are both:

1. Established, authorized or granted by the City pursuant to ORC Chapters 725 or 1728; or pursuant to ORC Sections 715.263, 3735.671 (implementing an exemption under Section 3735.67), 5709.40-43, or 5709.62(C)(1); and

2. Authorized by ordinance of the City during the Term, excepting, however, any project expressly designated by City Council of the City ("City Council") as not subject to this Agreement. (For particular projects City Council may determine to authorize tax exemptions or tax credits upon terms not requiring Board approval under the provisions of the applicable statute, and designate the project as not subject to this Agreement; those projects would not be "Applicable Projects" under this Agreement.)

Provided, however, the Board and the City acknowledge and agree that the following are not Applicable Projects under this Agreement, inasmuch as approval by the Board is not required for tax

exemptions of up to 100 percent for these projects: (i) projects for which tax exemptions are established, authorized or granted by the City during the Term pursuant to ORC Sections 5709.62(C)(2) (environmental remediation in an enterprise zone), 5709.62(C)(3) (large manufacturing facility in an enterprise zone), 5709.84 (local railroad operations), 5709.86 (abandoned school property), or 5709.88 (improvement of environmentally remediated property); (ii) exemptions pursuant to ORC Section 3735.67 ("Community Reinvestment Areas" as defined in ORC Section 3735.65) in Community Reinvestment Areas established prior to July 1, 1994 (only so long as the Community Reinvestment Area is not and does not become subject to the provisions of ORC Section 3735.671 [requiring written agreements for exemptions of commercial or industrial uses]); (iii) residential uses (provided no part of the new structure or remodeling is to be used for commercial or industrial purposes) exempted pursuant to ORC Section 3735.67 in Community Reinvestment Areas subject to the provisions of ORC Section 3735.671; or (iv) additional exemptions or credits authorized by statutes that may be enacted or amended after execution of this Agreement, provided that Board approval is not required by those statutes.

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The Board and the City agree that urban renewal redevelopment of the "Fifth and Race / Parkade Project Site" (defined as that real property bounded on the south by Fifth Street, on the east by Race Street, on the north by Sixth Street, and on the west by the existing Regal Hotel property), or any portion of that site, also constitutes an Applicable Project, whether or not the redevelopment is accomplished pursuant to that certain January 23, 1998 *Lease Agreement for Private Redevelopment* between the City and Race Street Development, Ltd. (as that lease has been and may be amended from time to time).

B. Board Approval of Tax Exemptions and Tax Credits, and Waiver of Notice. As further detailed in this Section II, for all Applicable Projects the Board approves City-authorized real and personal property tax exemption percentages and exemption periods, and real property tax credits for abatement of nuisances, up to the maximums authorized by applicable statutes. Thus, with respect to each Applicable Project the Board hereby approves exemption from taxation and tax credits as follows:

1. Urban Renewal Projects: For projects pursuant to ORC Chapter 725, the Board approves exemptions of up to 100 percent of the assessed valuation of "improvements" as defined in Chapter 725, for up to thirty years.

2. Nuisance Abatement Projects: The Board approves tax credits, as authorized by ORC Section 715.263, of up to 100 percent of the cost of abatement of nuisances, not limited by the amount of real property taxes due on the subject lot or parcel for a single tax year.

3. Community Urban Redevelopment Corporation Projects: For projects pursuant to ORC Chapter 1728, the Board approves exemptions of up to 100 percent of the assessed valuation of improvements made in accordance with Chapter 1728, for up to the maximum applicable period authorized by ORC Section 1728.10.

4. Community Reinvestment Area Commercial/Industrial Projects: For construction or remodeling of commercial or industrial properties located within Community Reinvestment



Areas established by City Council after July 1, 1994 (or otherwise subject to the provisions of ORC Section 3735.671), the Board approves exemptions of up to 100 percent of: (i) the amount by which remodeling increases the assessed value of a remodeled structure (for remodeling projects); and (ii) the assessed value of a new structure (for new construction projects). The exemptions may be for periods up to the maximum applicable period authorized by ORC Section 3735.67(D).

5. Public Improvement Projects Serving Improved Private Property: For projects pursuant to ORC Section 5709.40, the Board approves exemptions of up to 100 percent of the assessed valuation of "improvement" (as defined in ORC Section 5709.40) for up to thirty years. The Board approves continuation of the exemption periods (but not in excess of thirty years) after the date on which the public improvements are paid in full from the municipal public improvement tax increment equivalent fund. The Board further approves for these projects exemption from real property taxation in a percentage (up to 100%) in excess of the incremental demand placed on the public improvements (designated pursuant to ORC Section 5709.40(D)) that is directly attributable to the exempted improvement.

6. City Property Sold or Leased for Urban Renewal: For projects pursuant to ORC Section 5709.41, the Board approves exemptions of up to 100 percent of the assessed valuation of "improvement" (as defined in ORC Section 5709.41) for up to thirty years.

7. Enterprise Zone Projects: For projects pursuant to ORC Section 5709.62(C)(1) ("Enterprise Zone Projects"), the Board approves exemptions of up to 100 percent of the assessed value of tangible personal property "first used in business" (as defined in the statute) at the project site as a result of the agreement, and of up to 100 percent of the increase in the assessed valuation of real property constituting the project site, for up to the maximum periods authorized by ORC Section 5709.62(C)(1). Those periods may include separate exemption periods for each separate exempt real or personal property asset. (Note: Section II.E. below, contains conditional payment requirements applicable to Enterprise Zone Projects in addition to those specified in Section II.C.)

The Board makes these binding approvals pursuant to ORC Sections 715.263, 725.02(B), 1728.10, 3735.671(A), 5709.40(B)(2), 5709.41(C)(2), or 5709.62(D), as applicable, and the Board acknowledges that no separate (or subsequent to this Agreement) review, approval or resolution by the Board with respect to the separate exemptions, tax credits and agreements for Applicable Projects is required to effectuate the Board's approval. The Board waives any right it may have had to separate (or subsequent to this Agreement) review, approval or resolution for Applicable Projects.

The Board waives any statutory requirement that the City provide the Board advance notice or notification prior to (i) taking formal action to adopt, approve or enter into any agreement or instrument granting or approving tax exemption and tax credits for Applicable Projects under ORC Chapters 725 or 1728 or ORC Sections 715.263, 3735.671 (implementing an exemption under Section 3735.67), 5709.40, 5709.41, or 5709.62(C)(1), or (ii) forwarding applications for tax exemption for Applicable Projects under ORC Section 3735.67 to the Hamilton County Auditor. However, the City agrees to transmit a copy of proposed legislation for tax exemptions or tax credits



to the Board (addressed to the Superintendent of Cincinnati Public Schools, P.O. Box 5381, Cincinnati, OH 45201-5381), concurrently with submission of the proposed legislation to City Council; and to likewise transmit to the Board (addressed to the Superintendent) a copy of applications for tax exemption for Applicable Projects under ORC Section 3735.67, concurrently with the forwarding of the applications to the Hamilton County Auditor.

C. Payments to Board in Connection with Tax Exemptions. The City hereby agrees that for each Applicable Project (other than the exceptions stated below in Section II.D, and subject to the additional requirements of Section II.E for Enterprise Zone Projects) the City will follow one of the two alternative procedures described in the following Sections II.C.1 and II.C.2:

1. First Alternative -- Agreement by Developer to Make Payments to Board: Except as provided in Section II.C.2, below, for each Applicable Project the City will condition its approval of the tax exemption on the enterprise, owner, lessee and/or developer of each project entering into an agreement with the Board, in a form acceptable to the Board (approval not to be unreasonably withheld or delayed), as described herein. Each agreement will obligate the enterprise, owner, lessee and/or developer to pay directly to the Board, during the exemption period, semi-annual payments (due by the due date for the payment of Hamilton County real property taxes) in a total annual amount of a specified percentage (not less than 25 percent) of the "Total Exempted Property Taxes" which would have been payable in that calendar year. ("Total Exempted Property Taxes" means the total of additional real property taxes and personal property taxes that would, if not for the exemption, have been levied by and distributable to all overlapping taxing subdivisions (not only those taxes levied by and distributable to the Board) on the exempt real property and personal property, as applicable.) The payment obligation may be contingent on the subject tax exemption taking effect following any necessary approvals by county or state officials. Provided, however, that in the case of projects pursuant to ORC Chapter 1728, the payments to the Board for a project may be reduced by any amount distributed to the Board from any service charges in lieu of taxes required and paid under ORC Section 1728.11 or 1728.111 with respect to the project.

2. Second Alternative -- Payments by Developer in Lieu of Taxes: As an alternative to its obligations under Section II.C.1, above, the City may instead for any Applicable Project:

a. Require the enterprise, owner, lessee and/or developer to make semi-annual payments in lieu of taxes ("Payments in Lieu of Taxes") to the City (or to Hamilton County for subsequent distribution to the City) during the exemption period in a total annual amount not less than 25 percent of the Total Exempted Property Taxes with respect to the project. Such obligation must run with the land and bind subsequent owners as well. The semiannual payments shall be due by the due date for the payment of Hamilton County real property taxes. (The payment obligation may be contingent on the subject tax exemption taking effect following any necessary approvals by county or state officials.); and

b. Use reasonable efforts to enforce the Payments in Lieu of Taxes obligation, and, if permitted by applicable agreements, to revoke the subject tax exemption if compliance is not obtained; and

c. During the exemption period, pay to the Board (in semi-annual payments) a total annual amount equal to the lesser of the following, calculated separately for each project:

i. 25% of the Total Exempted Property Taxes for that year for the project; or

ii. A pro-rata share of the amount of Payments in Lieu of Taxes paid to the City, or remitted to the City by Hamilton County, in that calendar year with respect to the project. The pro-rata share due to the Board is the percent equal to 25 percent divided by X, with X being the percentage of Total Exempted Property Taxes that are required to be paid as Payments in Lieu of Taxes. (For projects implemented pursuant to ORC Chapter 1728, the City, as an impacted city, is authorized to require Payments in Lieu of Taxes in a percentage less than 100 percent of Total Exempted Property Taxes.) For example, if, for a project, the required Payment in Lieu of Taxes is 100 percent of the Total Exempted Property Taxes, then the pro-rata share due to the Board is 25 percent ( $25\% / 100\%$ ) of the amount received by the City. The purpose for the limitation established by this subparagraph is to allocate receipts ratably between the Board and the City in the event Payments in Lieu of Taxes are not fully collected.

The City shall remit the amounts due to the Board under this paragraph in semi-annual payments, made on or before each March 31 and September 30.

- Provided, however, that in the case of projects pursuant to ORC Chapter 1728, the payments by the developer to the City and/or County, and by the City to the Board, may be reduced by any amount distributed to the Board from any service payments in lieu of taxes required and paid under ORC Section 1728.11 or 1728.111 with respect to the project.

The City may require Payments in Lieu of Taxes to the City in excess of 25 percent of Total Exempted Property Taxes, without increasing the City's obligations to make payments to the Board.

D. Exceptions to Section II.C. The agreements and payments specified in Section II.C, above, are not required with respect to the following projects:

1. Qualifying Housing Units Exception: Section II.C does not apply to a project or any portion thereof for construction or rehabilitation of "Qualifying Housing Units," defined in this Agreement as a project or any portion thereof for:



- a. Rehabilitation of an existing structure or structures for residential use; or
- b. New construction of housing with an average value per unit of \$200,000 or less, as determined by a pre-construction appraisal prior to the City's approval of the tax exemption. The \$200,000 average value limit will increase by three percent (3%) (compounded) each January 1 during the Term hereof, with the first increase to be effective January 1, 2000. (For example, for projects approved in 2000 the average value limit is \$206,000, and for projects approved in 2001 the average value limit is \$212,180.) If a new housing construction project is to be implemented in separate construction phases, each phase shall be evaluated separately for purposes of eligibility for this Qualifying Housing Units exception.

If an Applicable Project combines Qualifying Housing Units and non-residential uses, then the payment obligations specified in Section II.C shall apply only to the non-residential uses, by calculating Total Additional Property Taxes only with reference to the non-residential portions of the improvements.

(Note: the agreements and payments specified in Section II.C, above, also are not applicable to new construction of housing exempted because of location in Community Reinvestment Areas, provided that such construction is not an Applicable Project [see Section II.A].)

2. Exception for Tax Credits for Costs of Nuisance Abatement: Section II.C does not apply to any tax credit projects approved by the City pursuant to ORC Section 715.263.
3. Exception for Fifth and Race / Parkade Project Site: Section II.C does not apply to any project implemented or authorized by the City for urban renewal redevelopment of the Fifth and Race / Parkade Project Site, or any portion of that site.

4. Exception for June 1995 Agreement Properties. On June 16, 1995 the Board, the City and Hamilton County entered into a certain *Agreement* including terms by which the Board agreed to approve tax exemptions for: (i) improvements to be constructed upon the "Jackson Street properties and adjacent parcels" (the "Jackson Street properties" are particularly described in *Exhibit A*, attached hereto and incorporated herein by this reference; no adjacent parcels are included); and (ii) improvements in the form of a parking garage or related uses on the property at the northeast corner of Ninth and Walnut Streets (as particularly described in *Exhibit B*, attached hereto and incorporated herein by this reference). In accordance with that June 16, 1995 Agreement, Section II.C does not apply to any project implemented or authorized by the City for the properties described in Exhibits A and B.

E. Conditional Additional Payment Requirement for Enterprise Zone Projects. Prior to this Agreement, for most Enterprise Zone Projects the City has conditioned approval of tax exemption on the enterprise executing an agreement with the Board providing for payment of the full amount of additional real and personal property taxes the Board would have received if the project were implemented without the tax exemption (a "Full Payment Board Agreement"). The City agrees that for each Applicable Project that is an Enterprise Zone Project, the City will condition City

approval of the tax exemption on the execution of a Full Payment Board Agreement (instead of payment of 25 percent of Total Exempted Property Taxes, as otherwise required by Section II.C, above), unless at the time of City Council approval of a project at least 75 percent of the cumulative total of required real property and personal property investment that is eligible for tax exemption, as stated in agreements for prior Enterprise Zone Projects approved by City Council after January 1, 1999 (the "Cumulative Total") together with the proposed agreement under consideration, is in connection with projects conditioned on execution of Full Payment Board Agreements. Provided, however, that nothing in this Agreement is meant to or shall preclude the City:

1. From approving Enterprise Zone Projects in accordance with law, without a Full Payment Board Agreement, if the projects are expressly designated by City Council as not Applicable Projects under this Agreement; or
2. From seeking separate Board approvals of additional Enterprise Zone Projects to be implemented without a Full Payment Board Agreement, and if such additional projects are approved by the Board in its discretion in accordance with law, from approving and executing agreements for such projects.

Solely for purposes of calculation of the Cumulative Total, all Enterprise Zone Projects pursuant to ORC Section 5709.62(C)(1) approved by the City after January 1, 1999 shall be included in the calculation, regardless of whether or not a particular project is an Applicable Project or may have received separate Board approval aside from the approvals stated in this Agreement, and including projects approved after January 1, 1999 but prior to the date of this Agreement. (As noted in Section II.A.2 of this Agreement, City Council may expressly designate any project as not an Applicable Project, and therefore not subject to the provisions and requirements of this Agreement. Nevertheless, any such project — or projects separately approved by the Board — that is approved by the City pursuant to ORC Section 5709.62(C)(1) after January 1, 1999, shall be included, together with Enterprise Zone Projects that are Applicable Projects, in the calculation of the Cumulative Total.) However, if an Enterprise Zone Project pursuant to ORC Section 5709.62(C)(1) approved by the City after January 1, 1999 does not result in actual exemption of real or personal property taxes because the project is not implemented (as evidenced by termination of an agreement, repeal of City Council approval, or other reasonable documentation as provided to the Board by the City), then it shall not be included in (or shall be deleted from) the calculation of the Cumulative Total. Projects approved pursuant to ORC Sections 5709.62(C)(2) or 5709.62(C)(3) shall not be included in the calculation of the Cumulative Total.

The City agrees to prepare a calculation of the Cumulative Total and submit the calculation to the Board within thirty days after the date of this Agreement; and to submit subsequent updated calculations annually during the Term (or more often as the City may deem necessary to demonstrate that the foregoing 75 percent test is satisfied at the time of City approval of an Enterprise Zone Project without a Full Payment Board Agreement). The City will consider and respond to any objections by the Board to the City calculations.

If the foregoing 75 percent test is satisfied at the time of City approval of a new Enterprise Zone Project, as demonstrated by (i) a current City report on the Cumulative Total that incorporates



all Enterprise Zone Projects applicable for the calculation approved prior to the new project under consideration, and (ii) the provisions of the proposed agreement for the new project under consideration, then the standard provisions of Section II.C, above (requiring payment to the Board of not less than 25 percent of Total Exempted Property Taxes), shall apply, and a Full Payment Board Agreement is not required. No further action by the Board is required to authorize the City to approve such Enterprise Zone Projects without requiring a Full Payment Board Agreement, or to execute agreements in connection therewith. The City may forward to the Board the current City report on the Cumulative Total together with the copy of proposed City legislation required to be forwarded to the Board for an Enterprise Zone Project, as specified in the final paragraph of Section II.B of this Agreement.

(For example, if (i) in June 2010 City Council is considering approval of an Applicable Project that is an Enterprise Zone Project, (ii) the Cumulative Total, as stated in a current City Cumulative Total report provided to the Board that includes all agreements for Enterprise Zone Projects under ORC Section 5709.62(C)(1) [whether or not Applicable Projects] approved after January 1, 1999 and before the June 2010 City Council action, is \$38,000,000; (iii) the proposed agreement for the project under consideration provides for \$2,000,000 of required real property and personal property investment that is eligible for tax exemption; and (iv) among the prior approved projects at least \$30,000,000 [being 75 percent of the total of \$38,000,000 plus \$2,000,000] of the Cumulative Total is in connection with projects for which the enterprises have executed Full Payment Board Agreements, then a Full Payment Board Agreement is not required for the new project, but the requirements of Section II.C shall apply.)

### SECTION III. WAIVER OF SHARING OF CITY INCOME TAXES (ORC SECTION 5709.82).

This Section III applies to actions taken by the City on or after July 1, 1994, which are subject to the conditional compensation provisions of ORC Section 5709.82(C) and (D). The Board agrees that this Agreement constitutes the agreement for compensation to the school district provided for in ORC Section 5709.82(C) and (D) (or under any other statute now existing, or adopted during the Term, requiring any form of sharing or allocation of municipal income taxes in connection with municipal corporation authorization of tax exemptions or tax credits), and that as authorized by those subsections the City will have no obligation to pay to the Board revenues from City income taxes as might otherwise be required by those subsections (or other such statute) with respect to exemptions, agreements or projects authorized by the City. The Board waives any claim to compensation pursuant to ORC Section 5709.82(C) or (D) other than the compensation expressly provided for in this Agreement. Provided, however, that if during the Term City Council elects to designate a project (that would otherwise be an Applicable Project) as not subject to this Agreement — as contemplated by Section II.A.2 — then that project would remain subject to the conditional income tax-sharing obligations of ORC Section 5709.82(C) and (D), if applicable under the terms of those sections; and the waiver provided in this Section III would not apply to that project.

The Board acknowledges that no separate (or subsequent to this Agreement) review, approval, negotiation or resolution by the Board with respect to the separate exemptions, agreements or projects that are subject to the terms of this Section III is required with respect to the agreement

under this section. The Board waives any right it may have had to separate (or subsequent to this Agreement) review, approval, negotiation or resolution.

#### SECTION IV. TERM; DEFAULT; NON-SEVERABILITY; TERMINATION.

The term hereof ("Term") commences on the final date that the City and the Board have executed this Agreement. The Term ends on December 31, 2019 (being the end of the calendar year in which the final payment by the City is required pursuant to Section I.A), subject to possible automatic extension as expressly provided in Section I.A of this Agreement.

Material failure by the City to meet its obligations hereunder, including without limitation failure to make the payments required pursuant to Section I.A. not cured by the City within the period stated below, would constitute a default by the City. Material failure by the Board to meet its obligations hereunder, including without limitation rescission by the Board of its agreements as to approvals stated in Section II, waivers stated in Section III, or confirmations stated in Section IX.B, not cured by the Board within the period stated below, would constitute a default by the Board. If either party is in default of its obligations under this Agreement, the other party, before exercising other remedies, shall first give written notice to the defaulting party to cure the default within thirty (30) days; if the default is not so cured, then in addition to any other remedies available at law or in equity, the party that gave notice may terminate this Agreement.

The provisions of this Agreement are not severable. If any material provision of this Agreement shall, to any extent, be held invalid or unenforceable by final non-appealable order of any court of competent jurisdiction, then either party may terminate this Agreement upon written notice to the other party at least thirty (30) days in advance of termination.

Provided, however, that upon expiration or termination of the Term: (i) the Board approvals stated in this Agreement with respect to projects approved by the City prior to expiration or termination will remain in full effect, and (ii) any City obligation to make payments pursuant to Section II.C.2.c for Applicable Projects authorized prior to expiration or termination of this Agreement will remain in full effect until the separate periods for those payments have expired.

#### SECTION V. BOARD ACKNOWLEDGMENT AND AGREEMENT AS TO CERTAIN PROJECTS.

A. Certain Previously Approved Projects. Prior to the effective date of Senate Bill 19, City Council adopted certain ordinances declaring certain improvements to be a public purpose under ORC Section 5709.41, as itemized in this paragraph (the "Previously Approved Projects"). In accordance with the provisions of Section 8 of Senate Bill 19, the Board acknowledges and agrees that (i) the Previously Approved Projects and improvements constructed thereon are not subject to the amendments made by Senate Bill 19 to ORC Sections 1728.07, 1728.10, 1728.111, 5709.41, 5709.43, 5709.82 and 5709.83, and (ii) ORC Sections 1728.07, 1728.10, 1728.111, 5709.41, 5709.43, 5709.82 and 5709.83 in effect prior to the effective date of Senate Bill 19 apply to the Previously Approved Projects and improvements constructed thereon. The Board further acknowledges and agrees that the Previously Approved Projects are not subject to the terms of



Section II.C of this Agreement. The Previously Approved Projects and the respective ordinances declaring the improvements to be a public purpose are:

1. The Fountain Square West project, Ordinance No. 153 - 1994;
2. The Adams Landing project, Ordinance No. 229-1994;
3. The Garfield Place Residential Development project, Ordinance No. 230-1994; and
4. The Parkade Garage Site project, Ordinance No. 231-1994.

Previously Approved Projects shall be included in the calculation of Additional Tax Revenues pursuant to Section I.A., above.

B. Prior Enterprise Zone Agreements. After the effective date of Senate Bill 19 but prior to the date of this Agreement the City has entered into certain enterprise zone agreements (the "Prior Enterprise Zone Agreements"), pursuant to ORC Section 5709.62(C)(1), providing for exemption of tangible personal property and/or real property, in percentages of up to 100%. In each Prior Enterprise Zone Agreement, the enterprise has entered into a separate agreement with the Board obligating the enterprise to make payments to the Board in compensation for payments the Board would have received if not for the exemption. The Board approves the Prior Enterprise Zone Agreements and the exemptions provided therein, and acknowledges that the separate agreements between the Board and the enterprises constitute the agreements for compensation to the school district contemplated by ORC Section 5709.82(C) for those projects; consequently, no additional compensation to the school district is required under ORC Section 5709.82(D) with respect to the Prior Enterprise Zone Agreements.

#### SECTION VI. SHARED FACILITIES.

The Board and the City agree to work cooperatively to maximize mutual cost-savings and efficiencies through the means of shared use of facilities (such as use of school facilities for public recreational purposes, and use of City recreational facilities for school purposes), consistent with needs for primary uses.

#### SECTION VII. DISPUTE RESOLUTION.

If requested by either party, the City and the Board will establish a three-member committee to assist in resolution of disputes which may arise concerning calculations required under this Agreement, or other issues arising under this Agreement (including but not limited to determinations as to whether a matter under this Agreement is "material"). The City will appoint one member, the Board will appoint one member, and those appointees will appoint the third member. The committee will recommend to the City and the Board resolutions of any such disputes. The committee's recommendations will not be binding.

## SECTION VIII. NOTICES.

Except as may otherwise be provided herein, all notices, demands, requests and other communications under this Agreement shall be in writing and shall be either personally delivered, sent by registered or certified mail, or sent by courier, to the following addresses (or to such other address as may be designated by written notice transmitted in accordance with this provision):

1. In case of the City, to:

City Manager, City of Cincinnati  
Room 152 City Hall  
801 Plum Street  
Cincinnati, Ohio 45202

with copies to:

Director of Finance  
Room 250 City Hall  
810 Plum Street  
Cincinnati, Ohio 45202

and

Director, Dept. of Economic Development  
City of Cincinnati  
Centennial Plaza II, Suite 710  
805 Central Avenue  
Cincinnati, Ohio 45202

2. In case of the Board, to:

If by mail:

Superintendent of Schools  
Cincinnati Public Schools  
P.O. Box 5381  
Cincinnati, OH 45201-5381

with a copy to:

Treasurer, Cincinnati Public Schools  
P.O. Box 5384  
Cincinnati, OH 45201-5384

If by personal delivery or by courier:

Superintendent of Schools  
Cincinnati Public Schools  
2651 Burnet Avenue  
Cincinnati, OH 45219-2551

with a copy to:

Treasurer, Cincinnati Public Schools  
2651 Burnet Avenue  
Cincinnati, OH 45219-2551.

## SECTION IX. MISCELLANEOUS PROVISIONS.

A. City Resolution No. 98-1989. City Resolution No. 98-1989 has no further force and effect after the execution of this Agreement, and the City has no payment obligations with respect to that resolution. The Board waives all claims it may have for payments with respect to that resolution, or with respect to any exemptions approved prior to the date of this Agreement (except to the extent of any City payment obligations established by separate agreements with the Board relating to such prior exemptions).

B. Confirmations. With respect to particular projects or agreements within the scope of projects approved by the Board under this Agreement, the Board agrees: (i) if requested by the City, to provide written confirmation of the applicability of this Agreement to the project or agreement, and (ii) if requested by the City, to adopt a resolution in a form reasonably acceptable to the City confirming the Board's approval of the exemption or tax credit, approval of the agreement for the project, and waiver of any income-tax sharing requirements (Section III). The Board agrees not to unreasonably delay providing the written confirmation or confirming resolution.

The City agrees, if requested by the Board, to provide from time to time written confirmation (if such be the case, or otherwise specifying with particularity any exception) that this Agreement remains in full force and effect and has not been amended or superseded. If requested by the Board, the City agrees from time to time to provide the Board the City's then-current calculation of Additional Tax Revenues. The City agrees not to unreasonably delay providing a written confirmation or calculation.

C. Recording. At the election of the City this Agreement may be recorded in the records of the Hamilton County Recorder, in the miscellaneous records and/or with respect to any property that is the subject of a tax exemption to which this Agreement applies (with a legal description of a subject property attached to the Agreement by the City).

D. Entire Agreement; Not Binding Before Execution. This Agreement and any exhibits attached hereto contain the entire Agreement between the parties as to the matters contained herein. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Notwithstanding any legislative approvals, any representations to the contrary, or other facts, the parties are not bound to the provisions of this Agreement prior to execution of this document by both parties. The parties acknowledge that this Agreement addresses only those matters expressly addressed herein, and is not intended as a comprehensive and global resolution of all matters that may be in dispute between the parties.

E. No Guarantee. The Board and the City acknowledge that neither party makes any guarantee to the other that the party's obligations stated in this Agreement will, if challenged in court,



be determined to be valid. In the event of a challenge, the City agrees to assert and use reasonable efforts to defend the City's right to comply with all City agreements herein, and the Board agrees to assert and use reasonable efforts to defend the Board's right to comply with all Board agreements herein. However, both the City and the Board expressly agree that a final determination by a court of competent jurisdiction (with no remaining right of appeal) as to the validity of any agreements herein will be binding upon both the City and the Board. (This does not negate or supersede the right of the Board or the City to terminate this Agreement, as provided in Section IV, if material agreements herein are so determined to be invalid or unenforceable.)


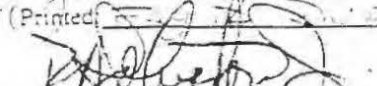
F. Conforming or Correcting Amendments. In the event of amendments to the Ohio statutes that are the subject of this Agreement, or termination of this Agreement due to a court determination of invalidity as provided in above paragraph E, the parties agree to cooperate and exercise reasonable efforts to attempt to amend this Agreement as necessary to conform the Agreement to the amended statutes, or to attempt to restate this Agreement to correct any matter causing a determination of invalidity, in a manner preserving the present intent and effect of this Agreement. In the event of changes in Ohio statutes relating to real and personal property taxation that reduce the calculation of Additional Tax Revenues to significantly less than \$5,000,000 per year, then the City and the Board agree to meet and negotiate in good faith appropriate amendments to this Agreement, with the goal of identifying an alternative mutually acceptable statutory and contractual basis for the remaining balance of City payments anticipated by Section I.A. This paragraph does not obligate either party to expend funds not otherwise expressly required under this Agreement. Any such amendment or restatement of this Agreement is conditioned on new authorization by the Board and by City Council of the City.

G. No Third-Party Beneficiaries. Neither the City nor the Board shall have any liability to any third party with respect to this Agreement.

EXECUTED in Cincinnati, Ohio as of the date first written above.

WITNESSES:

As to City:

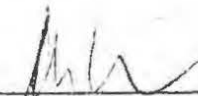
  
(Printed: Robert H. Johnston Jr.)  
  
(Printed: Robert H. Johnston Jr.)

CITY OF CINCINNATI

By:

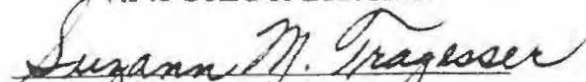
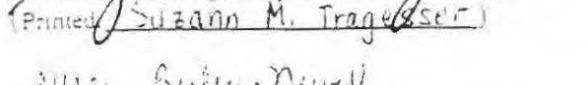
Name printed:

Title:

  
Richard Mader  
Deputy City Manager

WITNESSES:

As to Board of Education:

  
(Printed: Suzann M. Trageser)  
  
Susan Bailey Newell

Printed: \_\_\_\_\_

RECOMMENDED BY:

Andis Udris  
Andis Udris, Director of Economic  
Development, City of Cincinnati

Cheryl Meadows  
Cheryl Meadows, Director of Neighborhood  
Services, City of Cincinnati

APPROVED AS TO FORM:

Henry F. Lutterberger  
Assistant City Solicitor, City of Cincinnati

BOARD OF EDUCATION OF THE CITY  
SCHOOL DISTRICT OF THE CITY OF  
CINCINNATI

By: Linwood L. Battle  
Name printed: LYNWOOD L. BATTLE  
Title: PRESIDENT

By: Richard L. Gannon  
RICHARD L. GANNON  
TREASURER / CFO

STATE OF OHIO, COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this 30 day of JUNE,  
1999, by Richard L. Gannon, the Deputy City Mayor of the City of Cincinnati, an Ohio municipal  
corporation, on behalf of the corporation.

David A. D'Avignon  
Notary Public

David A. D'Avignon, Attorney at Law  
Notary Public - State of Ohio  
My Commission has no Expiration date  
Section 147.03 R. C.

STATE OF OHIO, COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this 2nd day of July,  
1999, by Linwood L. Battle and Richard L. Gannon, the PRESIDENT AND TREASURER of the Board of Education of the  
City School District of the City of Cincinnati, a board of education under the laws of the state of Ohio  
Hamilton County, Ohio, on behalf of the board of education.

Susan Bailey-Newell  
Notary Public

SUSAN MARIE BAILEY-NEWELL, Attorney at Law  
Notary Public - State of Ohio  
My Commission has No Expiration Date  
Section 147.03





EXHIBIT A-2 ("JACKSON STREET PROPERTIES")

76-2-79

Situate in the City of Cincinnati, County of Hamilton, and State of Ohio (Known as 23 East Twelfth Street), and being the west part of Lot 61 Joseph Benham's Subdivision of Arthur St. Clair's estate, as recorded in Deed Book 22, page 317, Records of Hamilton County, Ohio, and more particularly described as follows:

That parcel of real estate beginning at the southeast corner of Twelfth and Jackson Streets; thence east along the south line of Twelfth Street 47 feet; thence south parallel with Jackson Street 30' 6", more or less, to the north line of Lot 60 in Joseph Benham's Subdivision, as shown on plat recorded in Deed Book 22, pages 317 and 318, Hamilton County, Ohio Records; thence west parallel with Twelfth Street along the north line of said Lot 60, 47 feet to Jackson Street; thence north on the east side of Jackson Street 30' 6", more or less, to Twelfth Street and the place of beginning.

Prior Deed Reference: 5423, page 371

76-2-276

Situate in the City of Cincinnati, Hamilton County, Ohio, and being a part of Lot 61 of the subdivision made by Joseph S. Benham, Trustee, said premises being more particularly described as follows:

Commencing at a point in the south line of Twelfth Street, which point lies 16-1/2 feet in a westwardly direction measured along such south line of Twelfth Street from the northeast corner of such Lot 61; thence westwardly along the south line of Twelfth Street 11-1/2 feet to a point; thence southwardly parallel to Jackson Street 30' 6"; thence eastwardly parallel with Twelfth Street and on the south line of said Lot 61 11-1/2 feet to a point; thence northwardly, parallel to Jackson Street 30' 6" to the place of beginning.

Prior Deed Reference: 5423, page 371

76-2-80, 81

Situate in the City of Cincinnati, Hamilton County, Ohio, on the south side of Twelfth Street between Jackson and Walnut Streets, and being 16.5 feet off the east end of Lot 61 and 16.5 feet off the east end of Lot 60 of the Subdivision made by Joseph S. Benham, Trustee, said premises being more particularly described as follows:

Commencing at the northeast corner of said Lot 61, thence westwardly along the south line of Twelfth Street 16.5 feet, thence southwardly parallel with Jackson Street, 30 feet 6 inches, thence eastwardly parallel with Twelfth Street and on the south line of said Lot 61 to the east line of the part of said Lot 60 conveyed by Nicholas Longworth to N. Schmidt by deed recorded in Deed Book 190, page 135, of the Hamilton County Records, thence southwardly on said east line 24 feet to the south line of said Lot 60, thence eastwardly on said south line to the east line of said Lots 60 and 61, thence northwardly on said east line of Lots 60 and 61, 54.5 feet to the place of beginning and being part of real estate conveyed to the grantors herein by deed recorded in Official Record Book 5635, page 911, Hamilton County, Ohio Records.

Prior Deed Reference: 5635, page 911

76-2-83

Being Lot No. 59 in Benham's Subdivision of the St. Clair property fronting 24 feet on the east side of Jackson Street and extending back between lines parallel with Twelfth Street as per plat 75 feet and lying 54.5 feet south of Twelfth Street. Being the same premises conveyed to the Grantor herein by deed recorded in Deed Book 5635, page 911, Hamilton County, Ohio Records.

Prior Deed Reference: 5635, page 911

76-2-84, 85, 86

Situated in the City of Cincinnati, Hamilton County, Ohio, and being Lots 37, 38, and 39, as shown on Benham's Subdivision recorded in Deed Book 21, page 383, Hamilton County, Ohio Records, excepting 1 foot and 1.5 inches by 75 feet in depth off the southerly side of said Lot 37. Conveyed to owner by deed recorded in Official Record Book 5385, page 911.

Prior Deed Reference: 5385, page 911

76-2-82

Situate in the City of Cincinnati, Hamilton County, Ohio, lying on the east line of Jackson Street south of Twelfth Street and being part of Lot 60 of Benham's Subdivision and running back to the line of a brick house on Twelfth Street, that is the east line of the lot is to be on a line with the west line of said brick house continued across Lot 60 aforesaid, said lot being 24 feet front by 58.5 feet deep and by metes and bounds being described as follows:

Beginning at a point in the east line of Jackson Street, 30.6 feet south of Twelfth Street, thence southwardly along the east line of Jackson Street, 24 feet to a point; thence from said two points eastwardly between parallel lines 53.5 feet. Conveyed to owner by deed recorded in Official Record Book 5635, page 911.

Prior Deed Reference: 5635, page 911

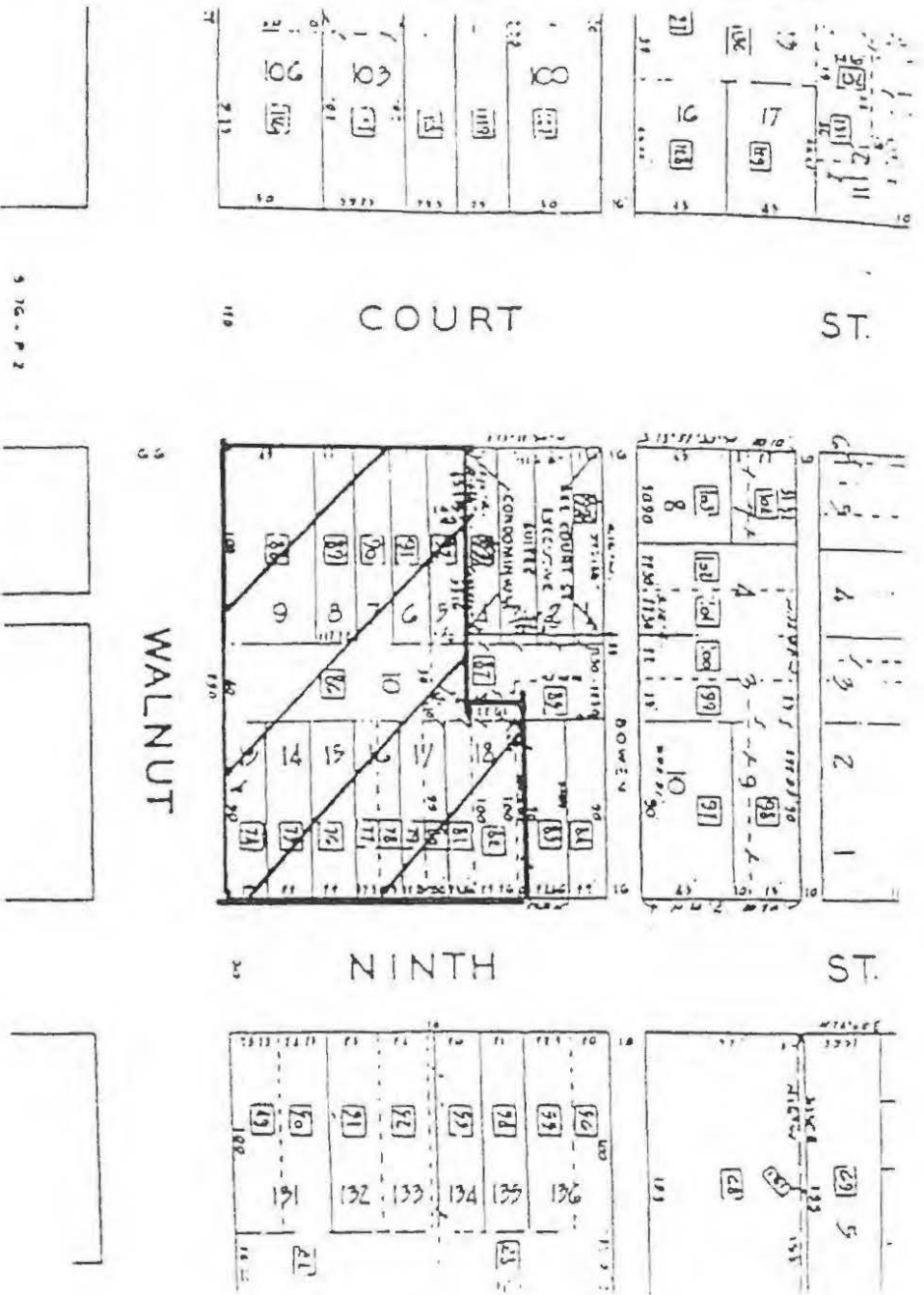
76-2-89, 90, 91, 92, 93, 94

All that lot of land in the City of Cincinnati, Hamilton County, Ohio, and being Lots 30, 31, 32 and 33 of Arthur St. Clair Subdivision as recorded in Deed Book 41, page 133 of the Hamilton County, Ohio Records, and Lot 34 and part of Lot 35 of Jos. S. Benham's Subdivision as recorded in Deed Book 21, page 382 of the Hamilton County, Ohio Records. Beginning at the northeast corner of Central Parkway and Jackson Street; thence northwardly along the east line of Jackson Street 135.27 feet; thence eastwardly parallel with Twelfth Street 75.49 feet; thence southwardly 135.17 feet to a point in the north line of Central Parkway 75.08 feet to the place of beginning.

Prior Deed Reference: 5418, page 604



# EXHIBIT B (NORTHEAST CORNER NINTH & WALNUT)



U.S. BANK SUB. CO.  
ST. CLAIR'S OFFICE  
HENRY AVERY'S SUB.  
O.C. 28 - F. 21. R.O.

(BOOK 79 PAGE 1)

"Northeast Corner of Ninth & Walnut": Auditor's Parcels 79-1-74 through 82, 86, 87 (part), and 88 through 92.

## FIRST AMENDMENT TO AGREEMENT

The City of Cincinnati, an Ohio municipal corporation (the "City"), and the Board of Education of the City School District of the City of Cincinnati, a board of education under the laws of the state of Ohio (the "Board") enter into this First Amendment to Agreement ("First Amendment") on December 18, 2002 (the date of execution by the final executing party).

### RECITALS.

A. The City and the Board entered into an agreement on July 2, 1999, providing for exemptions in whole or in part from real property taxation and/or tangible personal property taxation for certain property within the City (the "Agreement").

B. The Agreement in Section IX. F. Conforming or Correcting Amendments provides that in the event of amendments to the Ohio statutes that are the subject of this Agreement, the parties agree to cooperate and exercise reasonable efforts to attempt to amend this Agreement as necessary to conform the Agreement to the amended statutes. This paragraph does not obligate either party to expend funds not otherwise expressly required under this Agreement. Any such amendment or restatement of this Agreement is conditioned on new authorization by the Board and by City Council of the City.

C. Ohio Revised Code Section 5709.40 was amended effective December 13, 2001, to authorize the legislative authority of a municipal corporation to adopt an ordinance creating incentive districts.

D. Ohio Revised Code Section 5709.40 (C) that authorizes the creation of the incentive districts requires that the ordinance specify the life of the district and the percentage of the improvements to be exempted.

E. Ohio Revised Code Section 5709.40 authorizes the parties to enter into this First Amendment. City Ordinance No. 410 - 2002 authorizes execution of this First Amendment on behalf of the City, and Board Resolution dated December 16, 2002, 2002 authorizes execution of this Amendment to Agreement on behalf of the Board.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein, the parties hereto covenant and agree with each other as follows:

1. SECTION II. TAX EXEMPTIONS AND TAX CREDITS. B. Board Approval of Tax Exemptions and Tax Credits and Waiver of Notice. 5. Public Improvement Projects Servicing Improved Private Property ("Section II. B. 5."):

"5. Public Improvement Projects Servicing Improved Private Property: For projects pursuant to ORC Section 5709.40, the Board approves exemptions of up to 100 percent of the assessed valuation of "improvement" (as defined in ORC

separately for each project; and for the incentive districts a total annual amount equal to the lesser of iii. or iv.:

i. 25% of the Total Exempted Property Taxes for that year for the project; or

ii. A pro-rata share of the amount of Payments in Lieu of Taxes paid to the City, or remitted to the City by Hamilton County, in that calendar year with respect to the project. The pro-rata share due to the Board is the percent equal to 25 percent divided by X, with X being the percentage of Total Exempted Property Taxes that are required to be paid as Payments in Lieu of Taxes. (For projects implemented pursuant to ORC Chapter 1728, the City, as an impacted city, is authorized to require Payments in Lieu of Taxes in a percentage less than 100 percent of Total Exempted Property Taxes.) For example, if, for a project, the required Payment in Lieu of Taxes is 100 percent of the Total Exempted Property Taxes, then the pro-rata share due to the Board is 25 percent ( $25\% / 100\%$ ) of the amount received by the City. The purpose for the limitation established by this subparagraph is to allocate receipts ratably between the Board and the City in the event Payments in Lieu of Taxes are not fully collected; and

iii. 27% of the Total Exempted Property Taxes for that year for the incentive district; or

iv. A pro-rata share of the amount of Payments in Lieu of Taxes paid to the City, or remitted to the City by Hamilton County, in that calendar year with respect to the incentive district. The pro-rata share due to the Board is the percent equal to 27 percent divided by X, with X being the percentage of Total Exempted Property Taxes that are required to be paid as Payments in Lieu of Taxes. For example, if, for an incentive district, the required Payment in Lieu of Taxes is 100 percent of the Total Exempted Property Taxes, then the pro-rata share due to the Board is 27 percent ( $27\% / 100\%$ ) of the amount received by the City. The purpose for the limitation established by this subparagraph is to allocate receipts ratably between the Board and the City in the event Payments in Lieu of Taxes are not fully collected; and

v. Provided, however after the City issues notes or bonds based on or committing the City portion of an incentive district's service payments in lieu of taxes to pay principal or interest on such notes or bonds, the City will pay to the Board no more than



27% of the Total Exempted Property Taxes for that year for incentive districts.

The City shall remit the amounts due to the Board under this paragraph in semi-annual payments, made on or before each March 31 and September 30."

4. SECTION IX. MISCELLANEOUS PROVISIONS. F. Conforming or Correcting Amendments. ("Section XI. F.");

**F. Conforming or Correcting Amendments.** In the event of amendments to the Ohio statutes that are the subject of this Agreement, or termination of this Agreement due to a court determination of invalidity as provided in above paragraph E, the parties agree to cooperate and exercise reasonable efforts to attempt to amend this Agreement as necessary to conform the Agreement to the amended statutes, or to attempt to restate this Agreement to correct any matter causing a determination of invalidity, in a manner preserving the present intent and effect of this Agreement. In the event of changes in Ohio statutes relating to real and personal property taxation that reduce the calculation of Additional Tax Revenues to significantly less than \$5,000,000 per year, then the City and the Board agree to meet and negotiate in good faith appropriate amendments to this Agreement, with the goal of identifying an alternative mutually acceptable statutory and contractual basis for the remaining balance of City payments anticipated by Section I.A. This paragraph does not obligate either party to expend funds not otherwise expressly required under this Agreement. Any such amendment or restatement of this Agreement is conditioned on new authorization by the Board and by City Council of the City.

is hereby deleted and there shall be substituted in its place:

**F. Conforming or Correcting Amendments.** In the event of amendments to the Ohio statutes that are the subject of this Agreement, or termination of this Agreement due to a court determination of invalidity as provided in above paragraph E, the parties agree to cooperate and exercise reasonable efforts to attempt to amend this Agreement as necessary to conform the Agreement to the amended statutes, or to attempt to restate this Agreement to correct any matter causing a determination of invalidity, in a manner preserving the present intent and effect of this Agreement. In the event of changes in Ohio statutes relating to real and personal property taxation that reduce the calculation of Additional Tax Revenues to significantly less than \$5,000,000 per year, then the City and the Board agree to meet and negotiate in good faith appropriate amendments to this Agreement, with the goal of identifying an alternative mutually acceptable statutory and contractual basis for the

remaining balance of City payments anticipated by Section I.A. In the event of an amendment to the statutory school funding formula governing the "23 mill charge off" which affects the funding to the Board as a result of the Incentive District exemptions or Individual TIF Project exemptions approved in this Agreement, the City and the Board will amend this Agreement to determine how to adjust the payments by the City to the Board so that neither the City nor the Board shall be adversely affected by such amendment to the statutory school funding formula; that is, the City will increase its payment to the Board if the amendment to the statutory funding formula governing the "23 mill charge off" results in less funding for the Board, and the City will decrease its payment to the Board if the amendment to the statutory funding formula governing the "23 mill charge off" results in more funding for the Board; provided, however, in no case will the City be required to increase its payment to the Board if there is any outstanding note or bond obligation of the City as a result of an expenditure in an Incentive District or Individual TIF Projects. Any such amendment or restatement of this Agreement is conditioned on new authorization by the Board and by City Council of the City.

EXECUTED in Cincinnati, Ohio as of the date first written above.

WITNESSES:

As to City:

*Scott C. Stiles*  
(Printed: Scott C. Stiles)

*Brandon J. Cull*  
(Printed: Brandon J. Cull)

CITY OF CINCINNATI

By: *Valerie A. Lemmon*  
Name printed: Valerie A. Lemmon  
Title: City Manager

WITNESSES:

As to Board of Education:

*Amy Smith*  
(Printed: AMY SMITH)

*Bonnie J. King*  
(Printed: Bonnie J. King)

BOARD OF EDUCATION OF THE  
CITY SCHOOL DISTRICT OF THE  
CITY OF CINCINNATI

By: *Michael J. Geoghegan*  
Name printed: Michael J. GEOGHEGAN  
Title: Treasurer/CFO

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APPROVED AS TO FORM:

Henry F. Luttinger  
Assistant City Solicitor, City of Cincinnati



STATE OF OHIO, COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this 18 day of December, 2002, by Valerie Lemme, the City Manager of the City of Cincinnati, an Ohio municipal corporation, on behalf of the corporation.

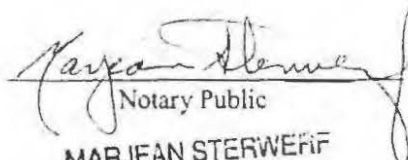




TRINA PORTER  
Notary Public, State of Ohio  
My Commission Expires April 24, 2004

STATE OF OHIO, COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of December, 2002, by Michael Dougherty the Treasurer/CFO of the Board of Education of the City School District of the City of Cincinnati, a board of education under the laws of the state of Ohio Hamilton County, Ohio, on behalf of the board of education.



MARJEAN STERWERF  
Notary Public, State of Ohio  
My Commission Expires Sept. 25, 2003