

*J. [Signature]*

**CLARK COUNTY – SPRINGFIELD TOWNSHIP – CITY OF SPRINGFIELD  
COOPERATIVE ECONOMIC DEVELOPMENT AGREEMENT**

This Agreement is entered into this \_\_\_ day of \_\_\_\_\_, 1999, by and between THE BOARD OF COUNTY COMMISSIONERS, CLARK COUNTY, OHIO, ("COUNTY"), THE CITY OF SPRINGFIELD, OHIO, ("CITY") and THE BOARD OF TOWNSHIP TRUSTEES OF SPRINGFIELD TOWNSHIP, CLARK COUNTY, OHIO, ("TOWNSHIP").

WHEREAS, COUNTY, TOWNSHIP and CITY are political subdivisions located entirely within the State of Ohio and TOWNSHIP and CITY are contiguous and overlapping political subdivisions located entirely within Clark County, Ohio; and

WHEREAS, COUNTY, TOWNSHIP and CITY wish to cooperate in creating and preserving jobs and employment opportunities and to cooperate in inducing and fostering economic development within the State of Ohio, and more particularly within the territories to which this Agreement pertains; and,

WHEREAS, the parties hereto wish to accomplish the purpose of extending the CITY'S municipal powers useful to stimulate economic development (among other municipal powers) to portions of the territories to which this Agreement pertains and the parties hereto recognize that such an extension of municipal powers will operate to the mutual benefit of COUNTY, TOWNSHIP and CITY and to those businesses and residents who choose to locate within the territories to which this Agreement pertains; and,

WHEREAS, COUNTY, TOWNSHIP and CITY wish to cooperate in improving and advancing the welfare of the citizens of Clark County residing within the territories to which this Agreement pertains, including, but not limited to, making municipal water and sewer services more widely available within such territory; and,

WHEREAS, COUNTY, TOWNSHIP and CITY wish to cooperate in facilitating development within the territory of TOWNSHIP while also preserving the geographic integrity of TOWNSHIP, to the extent consistent with the wishes of TOWNSHIP'S landowners; and,

WHEREAS, COUNTY deems it necessary to provide for making available the treatment of sewage generated within the areas described in Article I of this Agreement and, in order to accomplish this, it is necessary to arrange for construction of a sewer interceptor to connect the areas described in Article I to the sewer system operated by CITY; and,

WHEREAS, COUNTY, TOWNSHIP and CITY, in pursuing the above mentioned public purposes, intend to avail themselves of all powers available under the Constitution of the State of Ohio, of the laws adopted by the Ohio General Assembly as well as the all municipal powers available to CITY under its municipal charter, including, but not limited to Section 13 of Article VIII and all sections of Article XVIII of the Ohio Constitution and Sections 307.15, 307.74, 701.07, 6103.21, 6301.22 and Chapter 6117 of the Ohio Revised Code; and,

WHEREAS, the parties hereto recognize that new economic development within the territories to which this Agreement pertains will result in increasing the real property and personal property tax bases for the TOWNSHIP; thereby furthering the economic welfare of the people of COUNTY, TOWNSHIP as well as of the CITY and will facilitate the provision of quality education in Clark County; thereby enhancing the availability of appropriately skilled individuals for employment by employers within COUNTY, TOWNSHIP and CITY and consequently furthering the creation and preservation of job and employment opportunities within COUNTY, TOWNSHIP and CITY; and,

WHEREAS, the parties hereto each wish to extend full and good faith cooperation to each other in accomplishing the foregoing objectives and further, recognizing that certain of the public improvements described in this Agreement will require funding, wish to share the burdens of designing and constructing public improvements, as described in this Agreement, which the parties hereto recognize will benefit all of their respective residents and businesses and will operate to preserve and protect the public health, safety and welfare of the citizens of COUNTY, TOWNSHIP and CITY; and,

WHEREAS, the Board of County Commissioners of Clark County, Ohio have passed Resolution No. \_\_\_ on \_\_\_\_\_, 1999, the Board of Township Trustees of TOWNSHIP have passed Resolution No. \_\_\_ on \_\_\_\_\_, 1999 and the City Commission of CITY has enacted Ordinance No. 99-\_\_\_ on \_\_\_\_\_, 1999 which authorize the respective parties to enter into this Agreement, all in accordance with Section 701.07 of the Ohio Revised Code.

NOW, THEREFORE, the parties hereto agree as follows:

## ARTICLE I – DESIGNATION OF TERRITORIES

Section 1. This Agreement is applicable to the following three territories located within the boundaries of TOWNSHIP:

- A) The territory described and outlined in blue in EXHIBIT A, attached hereto and incorporated herein by this reference, is hereinafter referred to sometimes as the "Corporate Park Extension Area" and sometimes as "Area 1."

- B) The territory described and outlined in blue in EXHIBIT B, attached hereto and incorporated herein by this reference, is hereinafter referred to sometimes as the "Southern Interceptor Joint Service Area" and sometimes as "Area 2."
- C) The territory described and outlined in blue in EXHIBIT C, attached hereto and incorporated herein by this reference, is hereinafter referred to sometimes as the "West Leffel Lane Transitional Service Area" and sometimes as "Area 3."

Section 2. Any of the above territories may be altered by mutual agreement of the TOWNSHIP, the COUNTY and the CITY, but only by means of appropriate legislation authorizing such alteration approved by the legislative authorities of all three of the parties hereto. Such alteration, in order to be effective, must be authorized by appropriate legislation passed by each of the parties hereto within a 90 day period.

Section 3. Should any alteration of the above mentioned territories require a survey to be made, CITY shall have the responsibility to acquire the services of a surveyor to perform such survey and TOWNSHIP and CITY shall share the costs of such surveying services equally.

## ARTICLE II – ADJUSTMENT OF MUNICIPAL BOUNDARIES

Section 1. TOWNSHIP and CITY agree to cooperate fully and in good faith with each other to achieve the successful annexation to CITY of lands located within the territories described in Article I, under the following circumstances and subject to the following limitations:

- A) When a majority of landowners of non-residential lands within an annexation area comprised entirely of non-residential lands petition for annexation to the CITY, such lands shall be annexed.
- B) When all landowners of residential lands within an annexation area comprised entirely of residential lands petition for annexation to the CITY, such lands shall be annexed.
- C) When a majority of landowners of lands within an annexation area petition for annexation to the CITY and the land owners of all residential lands within such annexation area are signatories to the petition, such lands shall be annexed.
- D) The following lands are exempted from this Article II and shall not be required to be annexed to CITY under the terms of this Article:
  - (i.) Lands owned by TOWNSHIP, while such lands are maintained in a use directly performing township functions,

- (ii.) Lands owned by COUNTY, while such lands are maintained in a use directly performing county functions, and
- (iii.) Lands owned by a church [as defined in Subsection 5709.07(C) of the Ohio Revised Code] while such lands are maintained in a use qualifying such lands for exemption from property taxes under Subsection 5709.07(A)(2) of the Ohio Revised Code.

However, if any of such lands are converted to a different use than as set forth in items i, ii, and iii, above, then such converted land shall be thereafter subject to the provisions of this Article II, and shall not be included in the exemption contained in this Subsection 1(D).

- E) Nothing in this Agreement obligates the CITY to accept the annexation of any lands to the CITY and the CITY shall continue to have complete discretion to accept or reject lands sought to be annexed to CITY.

As used in this Article II, the term "annexation area" means an area described in a petition seeking annexation of the described area to the CITY.

Section 2. Throughout the time COUNTY and TOWNSHIP maintain compliance with the provisions of this Article II, CITY shall not exclude lands annexed to CITY, which are included in the territories described in Article I and are annexed through implementation of this Agreement, by initiating a change to TOWNSHIP'S boundary under Chapter 503 of the Ohio Revised Code to exclude such annexed lands from TOWNSHIP. The TOWNSHIP will further discourage and deny any petitions from landowners who seek to initiate a change to the TOWNSHIP'S boundary to exclude lands annexed to CITY which are included in the territories described in Article I and are annexed through implementation of this Agreement, and the CITY agrees to cooperate fully and in good faith with the TOWNSHIP'S efforts to resist such change to the TOWNSHIP'S boundary.

Section 3. TOWNSHIP and CITY recognize, agree and each of their governing bodies have adopted findings in the legislation mentioned in the recitals to this Agreement that, within the territories described in Article I, annexation of any portion of such territories will be for the general good of the territory sought to be annexed when subject to the terms of this Agreement.

Section 4. TOWNSHIP and CITY recognize, agree and each of their governing bodies have adopted findings in the legislation mentioned in the recitals to this Agreement that, within the territories described in Article I, annexation of any portion of such territories will be for the good of the CITY and TOWNSHIP individually and as a whole.

Section 5. TOWNSHIP and CITY recognize, agree and each of their governing bodies have adopted findings in the legislation mentioned in the recitals to this Agreement that, within the territories described in Article I, annexation of any portion of such territories that results in:

- A) an island or islands of TOWNSHIP territory being located within CITY and/or
- B) an island or islands of CITY territory being located within TOWNSHIP

will not be detrimental to the provision of government services or sewer and water utility services provided to residents and businesses located within such islands [which TOWNSHIP and CITY recognize as being especially true when territory annexed to CITY will not be excluded from TOWNSHIP] and the creation of such island or islands is neither unreasonable nor arbitrary and should not and will not prevent the annexation of territory to CITY.

Section 6. TOWNSHIP and CITY recognize, agree and each of their governing bodies have adopted findings in the legislation mentioned in the recitals to this Agreement that, within the territories described in Article I, the annexation of territory to CITY not customarily recognized as contiguous to the corporate boundary of CITY [whether due to the smallness of the area of geometric coincidence between the annexation area and the corporate boundary of CITY or the contiguity of the annexation area and the corporate boundary of the CITY being by a long and narrow strip of land] will not, in any meaningful way, be detrimental to the unity of CITY or of TOWNSHIP and should not and will not prevent the annexation of such territory to CITY.

Section 7. TOWNSHIP and CITY recognize, agree and each of their governing bodies have adopted findings in the legislation mentioned in the recitals to this Agreement that no annexation area sought to be annexed to CITY in accordance with this Agreement can possibly be unreasonably large, regardless of its size and regardless of its configuration; provided it is within the territories described in Article I.

Section 8. The parties hereto recognize that COUNTY now is and may hereafter be charged with statutory responsibilities as a quasi-judicial body under Ohio laws governing annexation procedures and since COUNTY can not contractually limit its discretion and powers in performing its quasi-judicial function, COUNTY has not been included as a contractual participant in Sections 1 through 7 of this Article II.

Section 9. Full and good faith cooperation by TOWNSHIP, as mentioned in Section 1 of this Article II, means undertaking such actions as may be requested by CITY which will contribute to the success of the annexation of lands to CITY and refraining from acts which would be detrimental to the success of the annexation of lands to CITY and, with the intent not to limit the broad meaning of the foregoing clause but to emphasize certain acts and refraining from acts encompassed in the foregoing, shall include, but not be limited to the TOWNSHIP:

- A) Signing and providing affidavits and furnishing representatives to provide factual testimony at annexation hearings which would favor annexation;
- B) Refraining from encouraging opposition to annexations;

- C) Participating as a party litigant, to the extent such party would have standing to do so, in vigorously defending any annexation covered by this Agreement which may be challenged, for any reason, with such defense to be continued throughout any and all appeals;
- D) Requesting the Clark County Engineer to fully cooperate with and assist the CITY and landowners to facilitate the presentation of an accurate annexation map to the Clark County Commissioners (recognizing that the primary responsibility for preparing a suitable map is the landowner's);
- E) Requesting that the Clark County Prosecutor facilitate and defend any annexation pursued in accordance with this Agreement;
- F) To support and provide testimony in favor of any legislation which may now, or in the future be pending before the Ohio General Assembly which would be beneficial to the enforcement of this Agreement or would further the purposes of this Agreement;
- G) To oppose and provide testimony in opposition to any legislation which may now, or in the future be pending before the Ohio General Assembly which would be detrimental to the enforcement of this Agreement or would frustrate the purposes of this Agreement;
- H) TOWNSHIP and CITY agree to vigorously resist, in both administrative and judicial forums, actions by third party political subdivisions to annex, merge or consolidate any portion of the territory described in Article I into any third party political subdivision; and
- I) Each party shall bear its own costs in any legal proceedings.

Section 10. By means of this Agreement the parties hereto have provided for the availability of governmental services and water and sewer services within the territories described in Article I and recognize that the parties hereto providing such services are fully able to adequately provide such services and that the residences and businesses within such territories will be properly served.

Section 11. Full and good faith cooperation by CITY, as mentioned in Section 2 of this Article II, means undertaking such actions as may be requested by TOWNSHIP which will be detrimental to the success of changing the TOWNSHIP'S boundary under the procedures described in Chapter 503 of the Ohio Revised Code to exclude lands annexed to CITY, which are included in the territories described in Article I and are annexed through implementation of this Agreement, from TOWNSHIP, and refraining from acts which would contribute to the success of changing the TOWNSHIP'S boundary under the procedures described in Chapter 503 of the Ohio Revised Code to exclude lands annexed to CITY, which are included in the territories described in Article I and are annexed through implementation of this Agreement, from TOWNSHIP, and, with the intent not to limit the broad meaning of the foregoing clause but to emphasize certain acts and refraining from acts encompassed in the foregoing, shall include, but not be limited to the CITY:

- (A) Signing and providing affidavits and furnishing representatives to provide factual testimony at any hearings to oppose such change in TOWNSHIP'S boundaries;
- (B) Refraining from encouraging any effort to change TOWNSHIP'S boundaries by any party;
- (C) Participating as a party litigant, to the extent such party would have standing to do so, in vigorously opposing any effort to change the TOWNSHIP'S boundary pursuant to 503 of the Ohio Revised Code to exclude lands annexed to CITY which are included in the territories described in Article I and are annexed through implementation of this Agreement, such litigation continuing throughout any and all appeals;
- (D) Requesting the Clark County Engineer to cooperate with and assist the TOWNSHIP and CITY to facilitate the presentation of an accurate map to the Clark County Commissioners of the area covered by this Agreement which is not to be subject to a change in TOWNSHIP'S boundaries pursuant to 503 of the Ohio Revised Code;
- (E) Joining with the TOWNSHIP to request the Clark County Prosecutor to defend against any effort to change the TOWNSHIP'S boundary pursuant to 503 of the Ohio Revised Code to exclude lands annexed to CITY which are included in the territories described in Article I and are annexed through implementation of this Agreement;
- (F) To support and provide testimony in favor of any legislation which may now or in the future be pending before the Ohio General Assembly which would be beneficial to the enforcement of this Agreement or would further the purposes of this Agreement;
- (G) To oppose and provide testimony in opposition to any legislation which may now or in the future be pending before the Ohio General Assembly which would be detrimental to the enforcement of this Agreement or would frustrate the purposes of this Agreement;
- (H) The TOWNSHIP and CITY agree to vigorously resist, in both administrative and judicial forums, any action by any third party to change the TOWNSHIP'S boundary pursuant to 503 of the Ohio Revised Code to exclude lands annexed to CITY, which are included in the territories described in Article I and are annexed through implementation of this Agreement, from the TOWNSHIP; and
- (I) Each party shall bear its own costs in any legal proceedings that are required by this Section.

Section 12. The terms "residential property" and "non-residential property" have the same meaning in this Article II as the meaning given to those terms in Article IV.

Section 13. The parties agree that, during the term of this Agreement, new taxes may be authorized by the Ohio General Assembly and some current taxes may be reduced or eliminated by the Ohio General Assembly. The parties, therefore, agree to meet and discuss if any new tax involving the lands described in Article I arises during the term of this Agreement, or if local government or other current tax forms change. The parties will use their best efforts to cooperate for their mutual benefit in the event of such changed circumstances regarding Ohio law governing sources of tax revenues available to Ohio political subdivisions.

Section 14. The parties hereto agree that any one or more of them may object to the tax assessments or evaluations or re-evaluations of property located in the territory described in Article I from time to time. In the event a party which does not have standing to object to the tax assessments or evaluations or re-evaluations of property located in the territory described in Article I but would be prejudiced by such tax assessments or evaluations or re-evaluations of property located in the territory described in Article I, then the other parties hereto shall cooperate with each other such that the party or parties with the legal standing to challenge such assessments or evaluations or re-evaluations shall use their good faith best efforts to pursue those challenges on behalf of such challenging parties to the mutual benefit of all parties hereto.

Section 15. Each section and each part of each section of this Article II is hereby declared to be an interdependent section or part of a section of this Article II and it is hereby agreed and declared to be the controlling intent of the parties hereto that if any such section or part of a section of this Article II, or any provision thereof, or the application thereof to any entity or circumstances, is held to be invalid or unenforceable, then the remaining sections or parts of sections in this Article II and the application of such provisions shall also no longer be enforceable, all such provisions being given in exchange for each other and being therefore interdependent and either all being binding upon the parties hereto or none being binding upon the parties hereto.

### **ARTICLE III – TOWNSHIP & CITY GOVERNMENTAL SERVICES AND PAYMENTS TO TOWNSHIP**

Section 1. With respect to territory located within the boundaries of TOWNSHIP but which is not a part of CITY, this Agreement shall have no effect on the obligations of TOWNSHIP to provide services and CITY shall continue to have no obligation at all to provide services or products. With respect to territory located within the boundaries of CITY but which is not a part of TOWNSHIP, this Agreement shall have no effect on the obligations of CITY to provide services or products and TOWNSHIP shall continue to have no obligation at all to provide services.

**Section 2.** With respect to territory described in Article I which becomes annexed to CITY and which also continues to be included within TOWNSHIP, CITY shall be the primary provider and, to the extent feasible, first responder in providing the following governmental services to the same extent and in the same quality as CITY provides these services throughout its jurisdiction in general:

- A) Fire protection services,
- B) Emergency medical services,
- C) Rescue services
- D) Municipal police services,
- E) Maintenance of traffic control devices (i.e. signs and signals, other than at railroad crossings),
- F) Arrange for the supply of energy to street lights in existence on the date first above written or which are thereafter required by the CITY,
- G) Enforcement of CITY'S Codified Ordinances (e.g. Building Code, Fire Code),
- H) The CITY and TOWNSHIP shall develop subdivision, zoning and other development standards to its mutual satisfaction.

**Section 3.** With respect to territory described in Article I which becomes annexed to CITY and which also continues to be included within TOWNSHIP, TOWNSHIP shall be the primary provider of the following governmental services to the same extent and in the same quality as TOWNSHIP provides these services throughout its jurisdiction in general:

- A) Clearing snow and ice from streets and roads,
- B) Salting or in some other way deicing streets and roads,
- C) Pavement maintenance – including berm and shoulder repair, street sweeping, crack sealing, pothole repair, resurfacing (defined as replacing two inches or less of surface pavement) chip and seal resurfacing or its equivalent, striping, setting reflective safety devices in pavement (when required by state guidelines) and any other fixing of pavement generally regarded by political subdivisions (including the Ohio Department of Transportation) as pavement maintenance,
- D) Road right-of-way maintenance – including repairing or replacing turf, mowing grass, cleaning up trash and litter, cleaning and fixing road drainage ditches and storm water retention areas, repairing and replacing guardrails and any other cleaning and fixing of road right-of-way generally regarded by political subdivisions (including the Ohio Department of Transportation) as road right-of-way maintenance.

- E) All roads that, absent annexation, would have been considered and maintained as TOWNSHIP'S roads shall count as TOWNSHIP'S roads for road tax purposes and gas tax distribution due to the TOWNSHIP'S obligation to maintain those roadways; further, TOWNSHIP and CITY specifically agree that this provision is both authorized and necessary under Ohio Revised Code Section 701.07.

Section 4. Notwithstanding the provisions of Section 2 of this Article III, CITY and TOWNSHIP agree that this Agreement shall not affect the continuation of mutual aid arrangements and agreements for fire protection in effect on the date first above written. This section is not intended to limit the ability of CITY and TOWNSHIP to negotiate mutual aid arrangements in the future as they shall find mutually advantageous.

Section 5. With respect to territory described in Article I which becomes annexed to CITY and which also continues to be included within TOWNSHIP, TOWNSHIP shall be responsible to arrange for and bear the cost of necessary road reconstruction work on the public roadways. For purposes of this Agreement, the term "reconstruction" means an asphalt overlay of more than two (2) inches and also includes reconstruction of the road base and road drainage facilities. Notwithstanding the foregoing, CITY will reimburse TOWNSHIP for fifty percent (50%) of the total construction contract amount of TOWNSHIP'S costs for such reconstruction project; provided, TOWNSHIP has informed CITY, in writing, of its intent to engage in such road reconstruction and has provided an engineer's estimate of the construction costs on or before June 1 of the year preceding the intended reconstruction.

Section 6. It is not the intent of this Agreement to limit or to restrict the ability or jurisdiction of other governmental authorities, not a party to this Agreement, to provide their services within the territory described in Article I or to have any other effect on such governmental authorities whatsoever.

Section 7. In consideration of the services provided by TOWNSHIP in territory located within CITY, CITY agrees to pay to TOWNSHIP an Annual Services Fee computed as 12.5% of "Fee Calculation Income Taxes" collected by the CITY from industrial and commercial taxpayers, located within both the CITY and within the territory described in Article I, during the service year [i.e. the calendar year in which services were provided] for which the Annual Services Fee is being made. The Annual Services Fee for a service year is due and payable on or before April 1 of the year following the service year to which such payment is attributable. The term "Fee Calculation Income Taxes" shall mean the net sum of income taxes collected by the CITY in a calendar year from the net profit, as allocated to the CITY as provided in Ohio Revised Code Section 718.02, attributable to business conducted by industrial and commercial taxpayers, located both within the CITY and within the territory described in Article I, by permanent resident businesses located therein, and net income taxes collected by the CITY in a calendar year from all salaries, wages,

commissions, or other compensation earned by employees who are employees of permanent, resident industrial and commercial employers for work performed within the said defined area. Agriculture is not considered to be an industrial or commercial activity. The term "net sum of income taxes" means taxes collected less refunds and less costs of collection directly related to collection of delinquent taxes which are Fee Calculation Income Taxes. The parties hereto agree that municipal income taxes collected from individuals residing in territory which is in both the CITY and the TOWNSHIP and is within the territory described in Article I shall not be included in the term "Fee Calculation Income Taxes," with the exception that net municipal income taxes attributable to net profit earned by and collected from a sole proprietorship whose principal place of business is located in territory which is in both the CITY and the TOWNSHIP and is within the territory described in Article I shall be included in the term "Fee Calculation Income Taxes."

Section 8. Payments made by CITY to TOWNSHIP as described in this Article III are in lieu of any payments which would be required to be made by CITY to TOWNSHIP under Sections 709.12 and 709.19 of the Ohio Revised Code or under any laws of similar effect.

Section 9. CITY agrees to indemnify and save TOWNSHIP harmless from liability which may result to TOWNSHIP as a result of CITY failing to properly maintain traffic control devices [see Subsection 2(E), above] and thereby creating a nuisance in the public right-of-way within the TOWNSHIP. TOWNSHIP agrees to indemnify and save CITY harmless from liability which may result to CITY as a result of TOWNSHIP failing to properly maintain public road pavement and right-of-way [see Subsection 3(C & D), above] and thereby creating a nuisance in the public right-of-way within the CITY.

#### **ARTICLE IV – WATER AND SEWER UTILITY SERVICES**

Section 1. Upon the effective date of this Agreement, CITY shall proceed to have a sewer interceptor (herein referred to as the "Southern Interceptor") designed, extending generally from the manhole in the CITY'S sewer system at the headworks of CITY'S wastewater treatment plant on Dayton Road in Springfield, then running generally southeast along and generally parallel to the north east side of Mill Creek's unnamed eastern branch to the Springfield-Xenia Road just south of the Sunnyland Subdivision, then south along Springfield-Xenia Road to West Possum Road, then east along West Possum Road to Springfield-Jamestown Road then south along Springfield-Jamestown Road to East Possum Road then east along East Possum Road to Mitchell Road, then east along Mitchell Road approximately one forth mile and then running due north to Laybourne Road; all as further described in the map attached hereto as EXHIBIT D, a copy of which is attached hereto and incorporated herein by this reference.

**Section 2.** COUNTY shall do all things necessary to convey to CITY all permanent and temporary easements and rights-of-way in COUNTY owned property necessary to construct, operate and maintain the Southern Interceptor. TOWNSHIP shall do all things necessary to convey to CITY all permanent and temporary easements and rights-of-way in TOWNSHIP owned property necessary to construct, operate and maintain the Southern Interceptor. In the event acquiring necessary right-of-way for the construction, maintenance and operation of the Southern Interceptor will require invoking COUNTY'S powers of eminent domain, then COUNTY shall do all things necessary to expeditiously acquire all permanent and temporary easements and rights-of-way necessary to construct, operate and maintain the Southern Interceptor. The costs of acquiring such easements and rights-of-way shall be born entirely by COUNTY, with the COUNTY being free to provide the funding for such costs through the various alternatives available to COUNTY as provided for in Section 15 of this Article. COUNTY shall thereafter convey all such easements and rights-of-way to CITY prior to CITY commencing construction of the Southern Interceptor. In consideration for the conveyance of such easements and rights-of-way to the CITY, the CITY shall reimburse COUNTY for its payment(s) of cash, just compensation paid to private landowners for easements and rights-of-way necessary for the Southern Interceptor and for its cash payments for appraisal fees, expert witness fees and court costs. The said reimbursement to the COUNTY for its payment(s) of cash, just compensation paid to private landowners for easements and rights-of-way necessary for the Southern Interceptor and for its cash payments for related appraisal fees, expert witness fees and court costs shall be paid by CITY from the funds acquired by the CITY for the design and construction of the Southern Interceptor.

**Section 3.** CITY shall make the necessary applications to the Ohio EPA for permit(s) to install the Southern Interceptor and shall bear the costs of such application process. COUNTY and TOWNSHIP shall fully cooperate with CITY to provide such data as may be needed and to do whatever else is necessary to secure such permit(s) to install the Southern Interceptor.

**Section 4.** CITY shall use its best efforts to obtain funding suitable to CITY to finance the design and construction of the Southern Interceptor. Obtaining such funding by CITY is a condition precedent to any obligation to construct the Southern Interceptor and to the effectiveness of Sections 5 through 22 of this Article IV.

**Section 5.** Following the effective date of this Agreement, COUNTY and CITY shall enter into negotiations to design a utility supply agreement wherein CITY would supply certain sewer and water services to county sewer district(s) or subdistricts established under Chapter 6117 and Sections 307.15, 307.74, 6103.21 6103.22 of the Ohio Revised Code. The said county sewer district(s) and subdistrict(s) shall be established and, if necessary the existing sewer district shall be redefined as to boundaries, so as to both comply with applicable law and to comply with the terms of this Agreement; and further so as to allow compliance with the terms of this Agreement and with the customary provisions placed in bond indentures and other bond security

arrangements [said sewer district(s) and subdistrict(s) so structured are hereinafter referred to as the "Clark County Sewer District Structure"]. There is no obligation on the part of COUNTY or of CITY to form such Clark County Sewer District Structure or to enter into such utility supply agreement; unless both COUNTY and CITY determine it to be in their mutual best interests.

Section 6. Upon completion of the Southern Interceptor, establishment of a Clark County Sewer District Structure and consummation of a utility supply agreement between COUNTY and CITY, residential property located within both the Southern Interceptor Joint Service Area and a county sewer district may obtain available utility services without entering into any kind of agreement with the CITY containing a promise to cooperate with annexation of such property to CITY. The term "residential property" as used in this section means property for which a certificate of occupancy for a dwelling on such property was issued on or before the date first above written or property which the owner is able to prove by other means that such property contained an occupied dwelling on the date first above written or for which a Building Permit was issued on or before 6/8/99. The purpose of the foregoing sentence is to prevent property owners owning dwellings occupied on the effective date of this Agreement and located within the Southern Interceptor Joint Service Area from being required to annex such dwelling into CITY in order to obtain sewer or water utility services; while allowing the CITY to require that new residential development subsequent to the effective date of this Agreement be either annexed to the CITY or be made subject to a Development Incentive Agreement with CITY [the Development Incentive Agreement will be in the form customarily used by CITY at the time the property owner seeks to obtain sewer or water services from CITY] in order to begin to receive or to continue to receive sewer and/or water utility services. The parties hereto anticipate that there may be one or more lots or small clusters of lots which do not fit the description of residential property, but are both substantially surrounded by lots which are residential property and will also be developed as residences (hereinafter referred to as "residential pockets"). The CITY intends to make a determination, on a case by case basis, as to whether it is practical and in the CITY'S best interests to require annexation of the residential pocket and provide municipal governmental services and water and sewer services within such residential pocket. If the CITY determines that it is either not practical or not in the CITY'S best interests to require annexation of the residential pocket and to provide municipal governmental services and water and sewer services within such residential pocket; then the CITY intends to not require annexation of the residential pocket and to allow the residential pocket to be included in and to receive such utility services as may be available from a county sewer district. Occupants of residential property covered by this Section will not be required to pay municipal income taxes to CITY as a condition in order to receive utility services for such property, as described in this Agreement.

Section 7. Upon completion of the Southern Interceptor, establishment of a Clark County Sewer District Structure and consummation of a utility supply agreement between COUNTY and CITY; residential property within both the West Leffel Lane Transitional Service Area and a county sewer district may obtain available utility

services without entering into any kind of agreement with the CITY containing a promise to cooperate with annexation of such property to CITY; provided the owner of such property seeking to obtain such sewer and/or water utility services was the owner of such property on the date first above written. The term "residential property" as used in this section shall have the same meaning as given to this term in Section 6, above. The purpose of the foregoing sentence is to prevent property owners owning an occupied dwelling on property within the West Leffel Lane Transitional Service Area on the date first above written from being required to annex such dwelling into CITY in order to obtain sewer or water utility services, while providing for permitting CITY to require subsequent owners to be required to annex their property to CITY or, if not contiguous to the boundary of CITY, enter into a Development Incentive Agreement with CITY [the Development Incentive Agreement will be in the form customarily used by CITY at the time the property owner seeks to obtain sewer or water services from CITY] to begin to receive or to continue to receive sewer and/or water utility services.

Section 8. Upon completion of the Southern Interceptor, establishment of a Clark County Sewer District Structure and consummation of a utility supply agreement between COUNTY and CITY, residential property within both the Corporate Park Extension Area and a county sewer district may obtain available utility services without entering into any kind of agreement with the CITY containing a promise to cooperate with annexation of such property to CITY; provided the owner of such property seeking to obtain such sewer and/or water utility services was the owner of such property on the date first above written. The term "residential property" as used in this section shall have the same meaning as given to this term in Section 6, above. The purpose of the foregoing sentence is to prevent property owners owning an occupied dwelling on property within the Corporate Park Extension Area on the date first above written from being required to annex such dwelling into CITY in order to obtain sewer or water utility services, while providing for permitting CITY to require subsequent owners to be required to annex their property to CITY or, if not contiguous to the boundary of CITY, enter into a Development Incentive Agreement with CITY [the Development Incentive Agreement will be in the form customarily used by CITY at the time the property owner seeks to obtain sewer or water services from CITY] to begin to receive or to continue to receive sewer and/or water utility services.

Section 9. Non-residential property [i.e. property that does not qualify as residential property as defined in Section 6, above] located within the territory described in Article I shall not be included in any county sewer district and shall be required to be annexed to CITY prior to receiving sewer and/or water utility services or shall be required to enter into a Development Incentive Agreement with CITY [the Development Incentive Agreement will be in the form customarily used by CITY at the time the property owner seeks to obtain sewer or water services from CITY]. The term "non-residential property" includes property which is non-residential property on the date first above written and property which is converted to non-residential property after the date first above written. Property receiving sewer or water utility service on the date it is converted to non-residential property may continue to receive sewer and/or

water services only upon entering into a Development Incentive Agreement with CITY [the Development Incentive Agreement will be in the form customarily used by CITY at the time the property was converted to non-residential property]. Property located in territory described in Article I and also included within a county sewer district, which is converted to non-residential property shall be excluded from the county sewer district upon the written request of CITY.

Section 10. The following properties are excepted from the operation of Section 9 of this Article IV:

- A) Lands owned by TOWNSHIP, while such lands are maintained in a use directly performing township functions,
- B) Lands owned by COUNTY, while such lands are maintained in a use directly performing county functions, and
- C) Lands owned by a church [as defined in Subsection 5709.07(C) of the Ohio Revised Code] while such lands are maintained in a use qualifying such lands for exemption from property taxes under Subsection 5709.07(A)(2) of the Ohio Revised Code.

However, if any of such lands are converted to a different use than as set forth above, then such converted land shall be thereafter subject to the provisions of this Article IV, other than Section 10.

Section 11. In the event a residential property is situated on a parcel of land which exceeds five acres, the CITY shall define an area around the dwelling on such property which defined area will constitute the residential property for the purposes of Sections 6, 7 and 8 of this Article IV and the balance of the parcel of property will be considered non-residential property. In the event a residential property of five acres or less is subdivided, the CITY shall define an area around the original dwelling on such property, which defined area will constitute the residential property for the purposes of Sections 6, 7 and 8 of this Article IV and the balance of the parcel of property will be considered non-residential property which will be subject to Section 9 of this Article IV.

Section 12. Upon completion of the Southern Interceptor, establishment of a Clark County Sewer District Structure and consummation of a utility supply agreement between COUNTY and CITY, the COUNTY may arrange to have a water main(s) designed and constructed to connect the CITY'S water system to the said county sewer district(s). Upon the conveyance of the water main(s) and related rights in real property to CITY, at no cost to CITY, and after acceptance of same by CITY, water services will be available to customers pursuant to the utility supply agreement between COUNTY and CITY and pursuant to the terms of this Agreement. All such water main(s) shall be fully compliant with CITY'S specifications and other requirements before they will be accepted by CITY.

Section 13. The parties hereto understand and agree that CITY shall not be required to extend any sewer or water utility services to the Corporate Park Extension Area until after the Southern Interceptor has been constructed and is ready to be used to provide sewer services. The parties hereto further understand and agree that CITY shall have no obligation to expand or to agree to an expansion of any county sewer district established as a result of the negotiations described in Section 5, above, and the CITY shall have no obligation to allow taps to the Southern Interceptor other than as are needed to serve the county sewer district(s), should one or more be created and a utility supply agreement be entered into between COUNTY and CITY.

Section 14. COUNTY and TOWNSHIP each agree to pay to CITY the sum of One Hundred Thousand Dollars per year (\$100,000.00/yr.) on or before December 31 of 1999, 2000, 2001, 2002 and 2003, for a total of One Million Dollars (\$1,000,000.00). The funds contributed by COUNTY to assist the CITY in creating the infrastructure described in this Agreement is for the purpose of furthering the economic development of Clark County and to promote the creation and preservation of jobs and employment opportunities in Clark County; the said contribution is not for the purpose of purchasing any capacity in sewer or water facilities. The funds contributed by TOWNSHIP to assist the CITY in creating the infrastructure described in this Agreement is for the purpose of providing funds for the improvement of roads within the territory of TOWNSHIP and CITY agrees to apply the funding provided by TOWNSHIP as described in this Section toward defraying CITY'S costs incurred in making road improvements performed as a part of creating the infrastructure described in this Agreement. The CITY will deduct the said One Million Dollars (\$1,000,000.00) from its costs in determining the connection fee (i.e. tapping fee) which will be required for connection to the Southern Interceptor. No connection fees of any nature have been waived; however, the CITY will not be prohibited from waiving or adjusting connection fees when deemed necessary by the CITY to induce economic development within the areas described in Article I. The parties hereto understand and agree the Southern Interceptor shall be the property of CITY and the CITY shall have complete discretion in selecting customers and providing utility services and extending infrastructure to properties located beyond the corporate boundaries of the CITY; this sentence is to be read in the context of the rest of this Agreement.

Section 15. COUNTY hereby agrees to provide for all costs and expenses of construction and installation of all water and sewer facilities within the county sewer district(s) established in the territory described in Article I and shall construct, maintain and repair all such water and sewer facilities within such county sewer district(s) to the applicable standards established by the Water Environment Federation and to specifications established by CITY, all without risk or cost to CITY. This section is not intended to preclude COUNTY from providing for such costs of construction and maintenance of water and sewer facilities through assessments, debt financing, seeking funding from benefited landowners or developers or through any other lawful means. This section is not intended to preclude COUNTY and CITY from reallocating responsibility for construction, installation and maintenance of water and sewer utility

infrastructure in county sewer districts in future utility supply agreements between COUNTY and CITY. COUNTY shall obtain from the Ohio EPA any and all approvals required for the construction or reconstruction of sewer facilities within the county sewer districts. The parties hereto recognize that assessments imposed by the COUNTY on lands within the areas described in Article I to fund water and sewer infrastructure will continue to be assessments collected for the benefit of the COUNTY after such lands have been annexed into the CITY.

Section 16. Should CITY require construction of water mains or sewer pipes larger than needed to service a county sewer district and require conveyance of the ownership of such water main and/or sewer pipe to CITY, then CITY shall pay to COUNTY the proportionate share of the cost of construction of such water main or sewer pipe, as applicable, as can be attributed to the additional costs to COUNTY to construct the larger sized water main or sewer pipe, as applicable. The CITY shall be responsible for the maintenance of such water mains and sewer pipes conveyed to CITY.

Section 17. COUNTY agrees that all water lines and all sewers, laterals, connections and appurtenances which are hereafter constructed within the said county sewer district(s) shall be designed and constructed according to specifications established by CITY. Within thirty (30) days after any such improvements have been constructed, the COUNTY will file with the CITY, at no cost to the CITY, a complete set of "as built" plans for the improvements constructed. The COUNTY hereby agrees that it shall prevent any extension, connection or tapping into any sewer line connected to the Southern Interceptor or into any water lines supplied with CITY'S water service for the purpose of serving any property located outside of a county sewer district established as described in Section 5, above. COUNTY further agrees not to sell, lease or give any interest in or right of privilege to utilize the Southern Interceptor to any individual, association, partnership or incorporated entity, a portion of whose premises are located outside the territorial limits of a county sewer district established as described in Section 5, above.

Section 18. Should lands included within a county sewer district be later annexed into CITY, upon the effective date of such annexation the annexed lands shall be excluded from such county sewer district and any related utility supply agreement shall thereafter no longer be applicable to such annexed land. Should CITY determine it is necessary for CITY to assume ownership and control of any water or sewer infrastructure belonging to COUNTY so that such annexed lands may be properly served by CITY, upon CITY'S request COUNTY shall convey such infrastructure to CITY, free and clear of encumbrances, and CITY shall pay to COUNTY the depreciated fair value of such infrastructure. The COUNTY and CITY acknowledge that it will be necessary for the CITY to own all water and sewer infrastructure and related rights-of-way within the territories included within the corporate boundaries of CITY as well as the water and sewer infrastructure and related rights-of-way which the CITY would use as water transmission lines and sewer collector lines extending through areas served

by a county sewer district to serve direct customers of the CITY beyond the areas served by the county sewer district. The CITY and COUNTY do not anticipate that it will be necessary for the CITY to become the owner of local water distribution lines used to serve customers of a county sewer district which branch off of the above mentioned infrastructure used by CITY as a water transmission line. The CITY and COUNTY do not anticipate that it will be necessary for the CITY to become the owner of local sewer service lines used to serve customers of a county sewer district which branch off of the above mentioned infrastructure used by CITY as a sewer collector line. Should unanticipated circumstances arise regarding such local water distribution lines or local sewer service lines, COUNTY and CITY intend to meet together and engage in good faith negotiations to determine a mutually advantageous way of dealing with the unanticipated circumstances.

Section 19. With regard to properties located within the TOWNSHIP and the territory described in Article I, but outside the CITY, the CITY will not initiate complaints to health or environmental regulatory agencies with the intent of having such properties required to connect to the Southern Interceptor. This section is not intended to preclude the CITY from pursuing other remedies to protect the public health and safety or to in any way prevent the CITY from exercising its police powers to protect the public welfare.

Section 20. The parties hereto agree that the above mentioned utility supply agreement, when negotiated, will provide for minimum utility service rates to be charged to the end users of the utility services which will be One Hundred Twenty percent (120%) of the CITY'S normal utility service rates charged to end users of the utility services. For purposes of this Section, a county sewer district is not the end user of utility services it delivers to its customers.

Section 21. Should the CITY construct sewer facilities that will discharge into any sewer infrastructure of a county sewer district, the CITY shall construct such sewer facilities in conformance with applicable minimum standards established by the Water Environment Federation and CITY shall allow COUNTY an opportunity to review the plans for such sewer facilities to verify compliance with this Section.

Section 22. The parties hereto wish to cooperate with each other to make more uniform the water and sewer utility rates paid by residential customers within the boundaries of TOWNSHIP, but outside of the corporate boundaries of CITY, and therefore agree as follows:

- A) Should COUNTY and CITY agree to a utility supply agreement as referred to above in this Article, the COUNTY shall have the option of entering into a like utility supply agreement wherein the CITY would supply water and sewer services to the Sunnyland Subdivision, which the COUNTY would serve as part of a Chapter 6117 county sewer district. Should the Sunnyland Subdivision be served by a Chapter 6117 county sewer district by means of a utility supply agreement between COUNTY

and CITY, those Sunnyland Subdivision customers previously served as direct customers of the CITY will cease to be direct customers of the CITY and will become customers of the Chapter 6117 county sewer district and the CITY shall have no further direct utility service responsibility to such customers.

- B) Notwithstanding the provisions of Section 6 of Article IV, no previously unserved residential customers located within the boundaries of the Southern Interceptor Joint Service Area may be connected to water or sewer facilities served by CITY'S Water Treatment or Wastewater Treatment Plants unless and until COUNTY and CITY have entered into a utility supply agreement providing for uniform water and uniform sewer rates (depending upon whether sewer, water or both sewer and water services are to be provided under the utility supply agreement) to be applied in:
- (i.) The area covered by the June 7, 1953 Contract pertaining to Garden Acres,
  - (ii.) The area covered by the W. Darrell Howard letter of May 25, 1972 and the Alfred P. Strozdas letter of May 31, 1972,
  - (iii.) The area covered by the December 9, 1986 Limecrest Sewer District Agreement,
  - (iv.) The area covered by the May 27, 1981 Agreement pertaining to Maplewood District No. 2, as amended August 28, 1991.
  - (v.) The area covered by the February 28, 1966 Contract pertaining to Maplewood Sewer District No. 2 as amended August 28, 1991
  - (vi.) The area covered by the James L. Caplinger letter of April 20, 1966 and the attached Agreement document dated August 9, 1937 pertaining to Rockway.
  - (vii.) Residential sectors located within the boundaries of TOWNSHIP within the Southern Interceptor Joint Service Area, but outside the boundaries of CITY.

For purposes of this Section, a residential sector within the Southern Interceptor Joint Service Area is either a platted subdivision, the entirety of which is used for residential purposes or a group of contiguous and abutting lots, the entirety of which are used for residential purposes which would receive water and/or sewer service as a customer of a Chapter 6117 county sewer district. The parties hereto recognize that the COUNTY and/or CITY may determine that a utility supply agreement which does not provide for the above described uniformity of utility rates is not in the mutual best interest of CITY and COUNTY. This Section is not intended to preclude CITY from entering into Development Incentive Agreements and providing water and/or sewer services to customers

outside of the territory described in Article I or, as limited by the terms of this Agreement, to customers within the territory described in Article I.

- C) From time to time, as needed over the next five years, the parties to this Agreement intend to meet together or as subgroups of the parties, through their designated representatives, to engage in good faith discussions and negotiations to determine whether a practical, prudent, economical, efficient, and mutually beneficial contractual relationship can be entered into among two or more of the parties wherein all residential water and sewer utility customers, located within the boundaries of TOWNSHIP but outside the boundaries of CITY, excepting the Corporate Park Extension Area and the West Leffel Lane Transitional Service Area, who receive water and/or sewer utility services receive those services at uniform water rates and uniform sewer rates. This Subsection 22(C) shall not be construed as creating any right on the part of any two of the parties to this Agreement to contractually bind the third party without the consent of such third party.

#### **ARTICLE V – HOTEL/MOTEL AND VARIOUS OTHER TAXES**

Section 1. In the event a portion of the Corporate Park Extension Area or West Leffel Lane Transitional Service Area is annexed to CITY and the CITY after such annexation collects taxes imposed pursuant to Sections 5739.02 and 5739.024 of the Ohio Revised Code from a hotel(s) or motel(s); then, of the taxes imposed pursuant to Sections 5739.02 and 5739.024 of the Ohio Revised Code collected by CITY from such hotel(s) or motel(s), the CITY will make the required payments to the required separate fund from which contributions are made to convention or visitor's bureaus operating within Clark County, Ohio and, of the remaining balance, CITY shall pay 50% to TOWNSHIP and retain 50% for CITY.

Section 2. TOWNSHIP and CITY recognize that there may be opportunities to cooperate together to more efficiently provide various services to their residents and businesses and that revenues may be available to fund providing such services in a cooperative manner from various tax sources such as, by way of example only and not by way of limitation, Ohio estate taxes and various property tax levies, as well as from other types of revenues such as, by way of example only and not by way of limitation, service fees; therefore, TOWNSHIP and CITY agree to meet, by their designated representatives, at mutually acceptable times to negotiate concerning cooperation on providing services and designating the revenues to fund such services.

#### **ARTICLE VI – COUNTY SERVICES**

Section 1. COUNTY, through direction given to the Clark County Engineer and by providing sufficient funding, shall cooperate with CITY to accomplish the practical and efficient maintenance of roadways located within the areas described in

Article I of this Agreement through the negotiation of responsibility and equitable cost sharing arrangements for the maintenance of such roadways. By this Section the parties particularly wish to provide for situations in which it would be most practical and efficient for COUNTY to provide the maintenance of roads within the territory described in Article I, but in which the CITY would be the recipient of road funds commonly used to fund the maintenance of such roads.

Section 2. It is not the intent of this Article to impose any duties upon the Clark County Engineer with respect to the territory described in Article I which are in addition to those duties imposed upon county engineers by the Ohio Revised Code.

Section 3. COUNTY agrees to indemnify and save TOWNSHIP and CITY harmless from liability which may result to TOWNSHIP and/or CITY as a result of COUNTY failing to properly maintain bridges, roadways and drainage and watercourses, thereby creating a nuisance. TOWNSHIP agrees to indemnify and save COUNTY harmless from liability which may result to COUNTY as a result of TOWNSHIP failing to properly maintain public road pavement and right-of-way on or around a bridge and thereby creating a nuisance in the public right-of-way on or around a bridge within the TOWNSHIP. CITY agrees to indemnify and save COUNTY harmless from liability which may result to COUNTY as a result of CITY failing to properly maintain traffic control devices on or around a bridge and thereby creating a nuisance in the public right-of-way on or around a bridge within the CITY.

## ARTICLE VII – GENERAL PROVISIONS

Section 1. Term. The initial term of this Agreement shall commence on the date hereof and shall terminate December 31, 2050 (unless otherwise terminated prior to that date as provided herein). At the expiration of the initial term of this Agreement, the Agreement shall automatically be renewed for a period of 50 years, and the Agreement shall continue to be automatically renewed thereafter for similar 50-year periods at the end of each renewal period with no limit upon the number of such renewals; unless the legislative authorities of the CITY, the COUNTY and the TOWNSHIP each affirmatively act to terminate this Agreement. In order for any such termination to be effective, legislative action of one party to terminate this Agreement must occur and be effective within a period of 90 days from the date of legislative action of the other parties terminating this Agreement. The provision herein for automatic extension of this Agreement except upon legislative action by each of the parties hereto terminating this Agreement recognizes that the accrual of benefits to the parties from this Agreement may take decades and that the construction of water and sanitary sewer service facilities and public roadways along with other possible capital improvements provided for herein is of permanent usefulness and duration.

Section 2. Early Termination. This Agreement may be terminated at any time by mutual consent of the TOWNSHIP and the CITY as authorized by their respective legislative authorities. In order for any such termination to be effective, legislative action of one party to terminate this Agreement must occur and be effective within a period of 90 days from the date of legislative action of the other party terminating this Agreement.

Section 3. Support of Agreement. In the event that this Agreement, or any of its terms, conditions or provisions, is challenged by any third party or parties in a court of law the parties agree to cooperate with one another and to use their best efforts in defending this Agreement with the object of upholding this Agreement. Each party shall bear its own costs in any such proceeding challenging this Agreement or any term or provisions thereof.

Section 4. Signing Other Documents. The parties agree to cooperate with one another and to use their best efforts in the implementation of this Agreement and to sign or cause to be signed, in a timely fashion, all other necessary instruments, legislation, petitions and similar documents, and to take such other actions in order to effectuate the purposes of this Agreement.

Section 5. Cooperation in Pursuing Grants. The parties hereto agree to cooperate with each other in contributing to the success of applications to obtain grants of funding to perform projects in the territory described in Article I which would be to the mutual benefit of the parties hereto. This Section is not intended to obligate any party hereto to contribute matching funds or to apply any other form of such party's economic resources in contributing to the success of applications to obtain grants of funding to perform projects in the territory described in Article I.

Section 6. Mediation. In the event the parties have a dispute as to any of the terms or applicability of this Agreement, the parties agree to use their best efforts to resolve the dispute through a mutually acceptable mediation process prior to any party filing a lawsuit. Each party participating in mediation shall pay its own costs of mediation, including their proportionate share of the compensation and administrative expenses required by the mediator and by the mediation services provider selected by the parties. If a mediator has not been selected by the parties within sixty (60) days after one of the parties has requested that a dispute arising under this Agreement be mediated, then any of the parties may commence a lawsuit or commence such other method of pursuing such remedies as may be available to any of the parties.

Section 7. Defaults. A failure to comply with the terms of this Agreement shall constitute a default hereunder. The party in default shall have ninety (90) days, after receiving written notice from the other party of the event of default, to cure that default. If the default is not cured within that time period, the non-defaulting party may sue the defaulting party for specific performance under this Agreement or for damages or both; or may pursue such other remedies as may be available.

**Section 8. Amendments.**

- A) This Agreement may be amended by the COUNTY, TOWNSHIP and the CITY only in a writing approved by the legislative authorities of all three parties by means of appropriate legislation authorizing such amendment. Such amendment, in order to be effective, must be authorized by appropriate legislation authorizing such amendment(s) approved by the legislative authorities of all three of the parties hereto. Such amendment(s), in order to be effective, must be authorized by appropriate legislation passed by each of the parties hereto within a 90 day period.
- B) In the event Article II ceases to be binding on the parties hereto, the TOWNSHIP and CITY may meet together to determine whether any amendments to the remaining provisions of this Agreement can be negotiated to their mutual benefit. In the event Article II ceases to be binding on the parties hereto, the TOWNSHIP and CITY shall each have the right to terminate this Agreement, unilaterally, at their discretion.

**Section 9. Immunities Preserved.** By entering into this Agreement, neither the COUNTY, the CITY nor the TOWNSHIP intend to relinquish or waive any of the immunities they now have or may hereafter be accorded under state and/or federal laws, including, without the limitation of any such immunities, all those immunities accorded to governmental entities and their officers and employees under Chapter 2744 of the Ohio Revised Code.

**Section 10. Powers Preserved.** This Agreement is not intended to be in derogation of the powers granted to municipal corporations by Article XVIII, Ohio Constitution, or any other provisions of the Ohio Constitution or of CITY'S municipal charter or of the Ohio Revised Code; nor is it intended to be in derogation of the powers granted to townships under any provisions of the Ohio Constitution or of the Ohio Revised Code; nor is it intended to be in derogation of the powers granted to boards of county commissioners under any provisions of the Ohio Constitution or of the Ohio Revised Code.

**Section 11. Beneficiaries.** This Agreement shall inure to the benefit of and shall be binding upon the COUNTY, TOWNSHIP, and the CITY and their respective successors; subject, however, to the specific provisions hereof. This Agreement shall not inure to the benefit of anyone other than as provided in the immediately preceding sentence. This Agreement is not intended to and does not create rights or benefits of any kind for any persons or entities which are not a party to this Agreement.

**Section 12. Severability.** Except as otherwise provided in Article II, Section 15 hereof, in the event that any section or provision of this Agreement, or any covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, or any application thereof, is held to be illegal or invalid for any reason:

- A) that illegality or invalidity shall not affect the remainder hereof or thereof, any other section or provision hereof, or any other covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein or therein,
- B) the illegality or invalidity of any application hereof or thereof shall not affect any legal and valid application hereof or thereof, and
- C) each section, provision, covenant, agreement, obligation or action, or part thereof, shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law.

Section 13. Character of Payments. Nothing in this Agreement is to be interpreted as the sharing of the proceeds of any tax levy by and between the CITY and the TOWNSHIP. All language within this Agreement which employs an amount of any tax to be collected as part of a calculation for determining a sum to be paid by one party to another of the parties to this Agreement is intended, and therefore to be interpreted, as a reasonable, practical and convenient mechanism which the parties have agreed to use to compute, in a less controversial manner, the payments to be made by one party to another for services and other items of value to be received by the paying party. No payments to be made under this Agreement are intended to be a sharing of proceeds of any tax levy proscribed by Subsection 701.07(D) of the Ohio Revised Code. The parties do not consider estate taxes to be a tax levy.

Section 14. Merger. This Agreement, which includes the recitals hereto, constitutes the entire understanding of the parties hereto and shall not be altered, changed, modified, or amended, except by similar instruments in writing, executed by the parties hereto as provided in this Agreement. It is not intended that any utility supply agreement entered into between COUNTY and CITY or that any mutual aid agreement between CITY and TOWNSHIP or that any roadway maintenance cooperation agreement between CITY and COUNTY be merged with this Agreement.

Section 15. Liberal Construction. The parties agree that just as Ohio Revised Code Section 701.07 is to be liberally construed to allow parties to enter into Cooperative Economic Development Agreements, the parties further agree that this Agreement shall be liberally construed in order to facilitate the desire of each of the parties to carry out this Agreement by providing government improvements and facilities and services, by promoting and supporting economic development, by creating and preserving employment opportunities, and by allowing for the sharing by the CITY, TOWNSHIP, COUNTY and the State of Ohio, in the benefits of economic development, even if the economic development does not occur in an unincorporated area. Each provision of this Agreement shall be construed and interpreted so as to permit maximum advantage to the parties allowed by Ohio Revised Code Section 701.07.

Section 16. Captions and Headings. The captions and headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections hereof.

IN WITNESS WHEREOF, the COUNTY, TOWNSHIP and the CITY have caused this Agreement to be duly signed in their respective names by their duly authorized officers as of the date first above written.

ATTEST:

THE CITY OF SPRINGFIELD, OHIO

\_\_\_\_\_  
Alvin D. Wansing,  
Director of Utilities

By: \_\_\_\_\_  
Warren R. Copeland, Mayor

APPROVED AS TO FORM  
AND CORRECTNESS:

By: \_\_\_\_\_  
Matthew J. Kridler, City Manager

\_\_\_\_\_  
Deputy Law Director

THE BOARD OF TOWNSHIP TRUSTEES OF  
SPRINGFIELD TOWNSHIP, CLARK COUNTY,  
OHIO

ATTEST:

By: \_\_\_\_\_  
Ron Lowe, Township Trustee

\_\_\_\_\_  
Herb Greer,  
Township Clerk

By: \_\_\_\_\_  
U. Timothy Juergens, Township Trustee

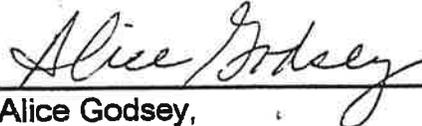
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AND CORRECTNESS:

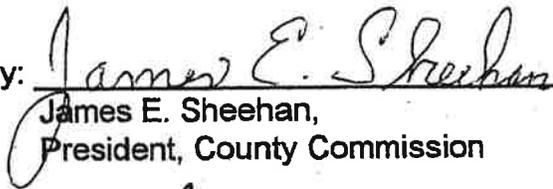
By: \_\_\_\_\_  
Doug Smith, Township Trustee

\_\_\_\_\_  
Alfred E. Schrader, Esq.  
Attorney for TOWNSHIP

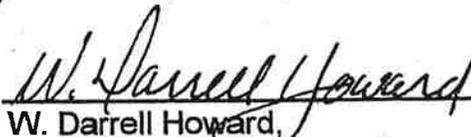
THE BOARD OF COUNTY COMMISSIONERS OF  
CLARK COUNTY, OHIO

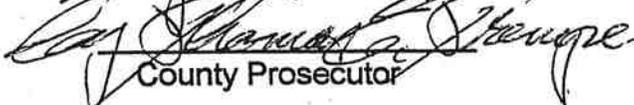
ATTEST:

  
\_\_\_\_\_  
Alice Godsey,  
Director of Utilities

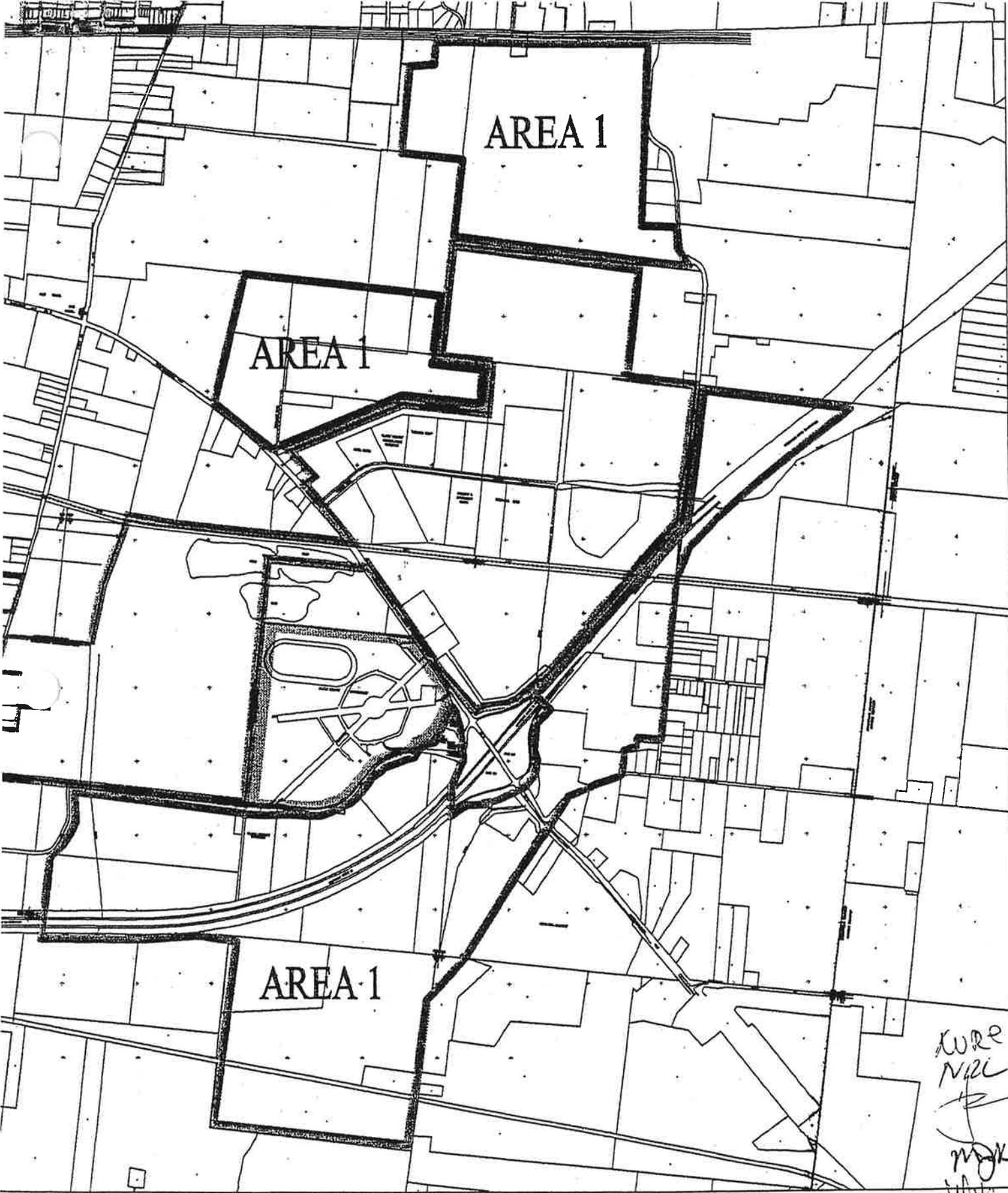
By:   
\_\_\_\_\_  
James E. Sheehan,  
President, County Commission

APPROVED AS TO FORM  
AND CORRECTNESS:

By:   
\_\_\_\_\_  
W. Darrell Howard,  
County Administrator

  
  
\_\_\_\_\_  
County Prosecutor

Resolution No. 1025-99

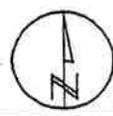


AREA 1

AREA 1

AREA 1

BOUNDARY



NOT TO SCALE

*KURE*  
*NRL*  
*mk*  
*WJH*  
*2/2/12*

EXHIBIT





AREA 2

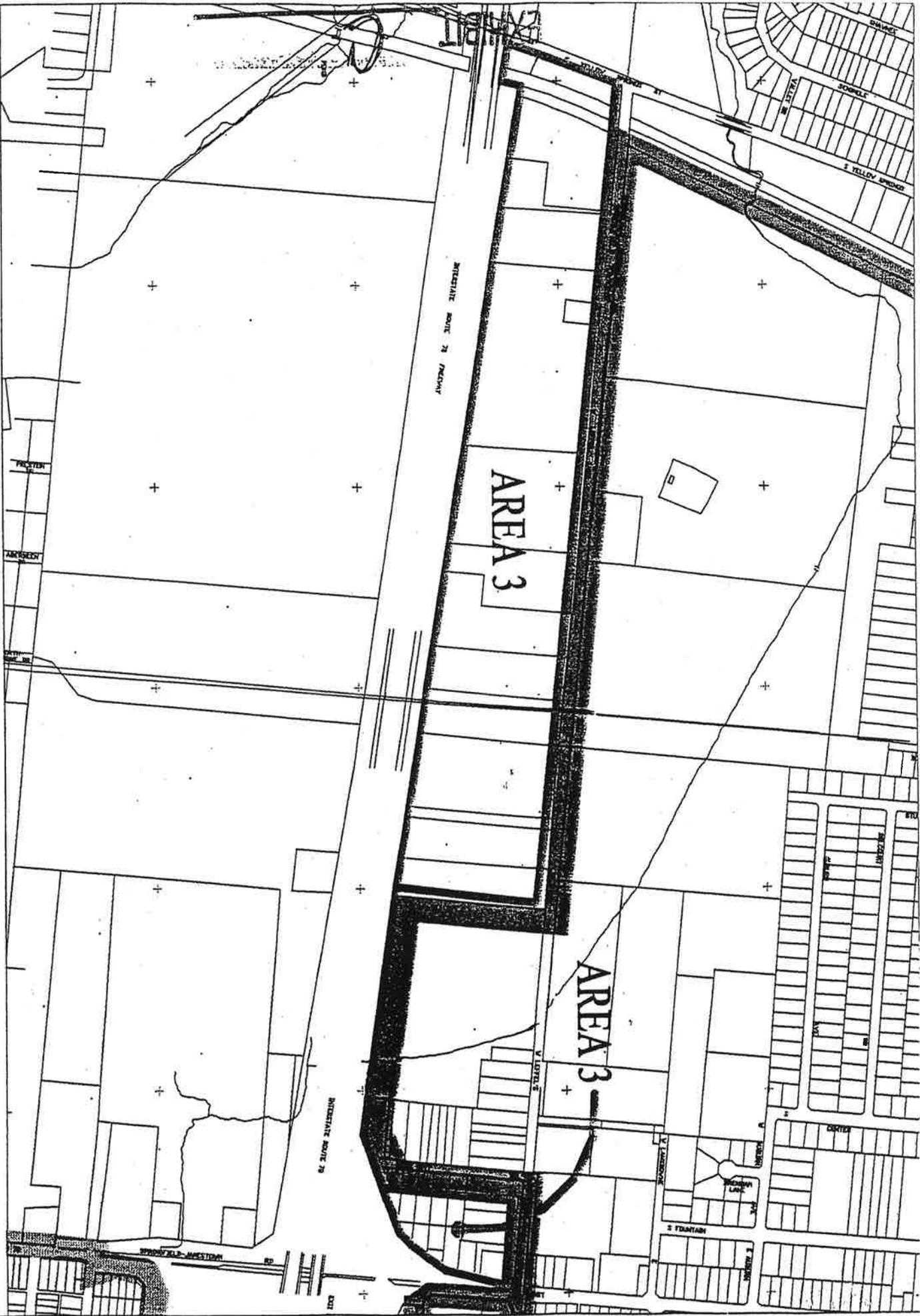
EXHIBIT B



NOT TO SCALE

*WRE  
NRC  
MOR  
S. W. R.*

BOUNDARY



BOUNDARY

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*APR 2020*

AREA 3

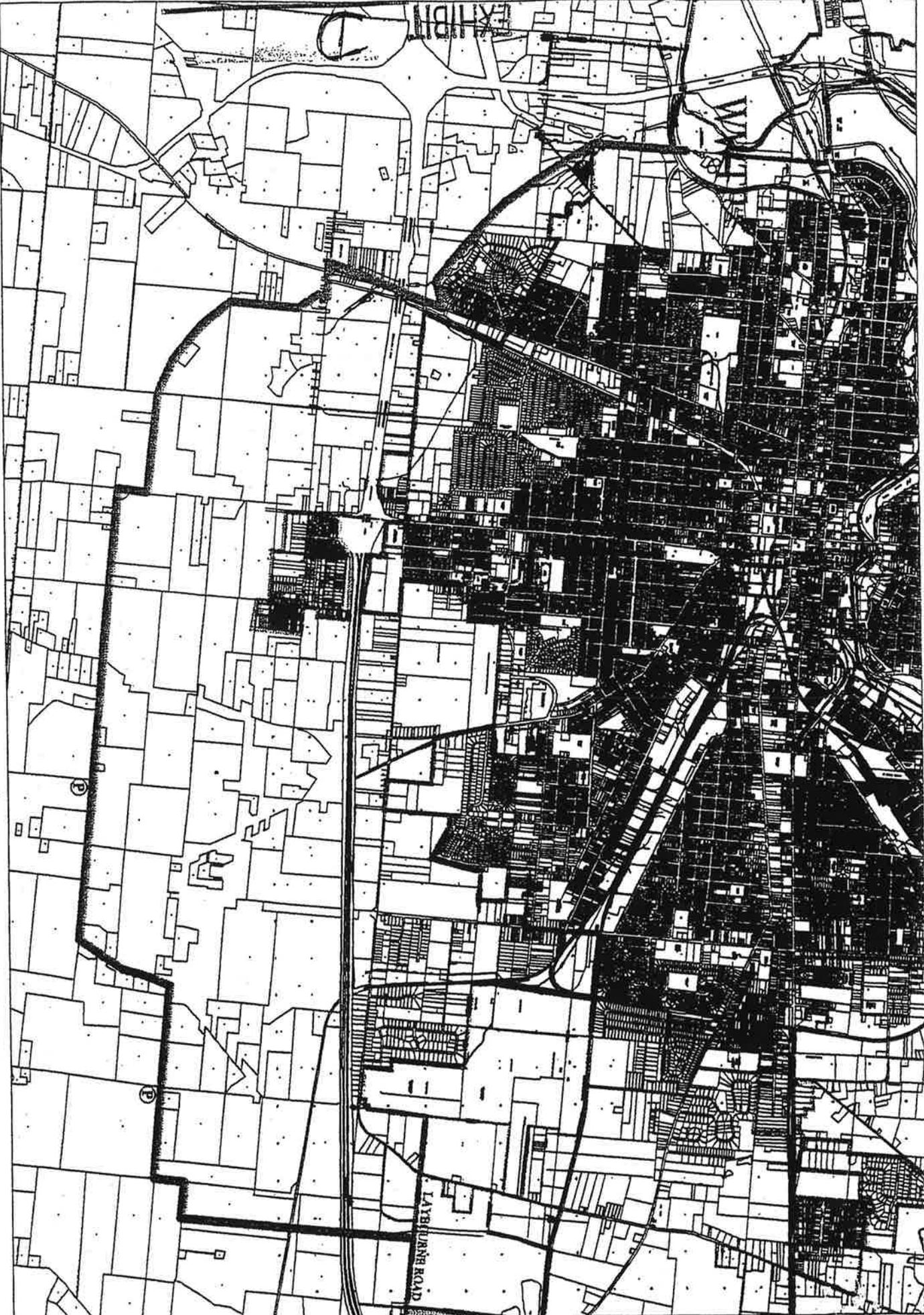
AREA 3



INC

CALB

EXHIBIT D



PROPOSED SOUTHERN INTERCEPTOR SEWER

PROPOSED PUMP STATION

WRF  
 MPC  
 MPC  
 MPC



SCALE

**COOPERATIVE ECONOMIC DEVELOPMENT AGREEMENT  
CITY OF SPRINGFIELD - SPRINGFIELD TOWNSHIP - CLARK COUNTY**

**PHASE II CEDA SUMMARY**

*NOTE: Enabling legislation is ORC 701.07 (Cooperative Economic Development Agreement - CEDA) which became effective 3/22/99 (HB#434).*

- A. Area Defined
- Covers all of Springfield Township not covered by the 1999 Phase I CEDA
  - Certain areas under previous annexation commitments are excepted [Bechtle Avenue Corridor and vicinity of Springview facility]
- B. Annexation Cooperation [same as Phase I CEDA]
- City shall not annex properties in the area without win/win annexation with the Township.
  - Township shall support annexations in the area consistent with the CEDA agreement.
  - Annexation with no township withdrawal
  - Township will support annexations in the defined area consistent with the CEDA agreement.
  - Limited exemption from annexation for County and Township governmental property and church property.
- C. Revenue Sharing [same as Phase I CEDA]
- Residential and Agriculture:
    - City retains income tax and any applicable city millage.
    - Township retains applicable township millage.
  - Industrial and Commercial:
    - 12-1/2% of net income tax shared with township
    - City retains applicable city millage.
    - Township retains applicable township millage.
  - No payments in lieu of taxes are required after annexation of territory
  - Hotel/motel excise tax collected in area to be split 50/50 city and township
  - Agreement to discuss other divisions of services and related allocations of tax revenues (i.e., estate tax; gas tax; motor vehicle tax; permissive motor vehicle tax; local government distributions; and health tax.)

06/14/00

WJH, JS, AG, PS, PHT

D. Initial Service Responsibilities [same as Phase I CEDA]

1. City of Springfield

a. Service Responsibilities

- Fire Response
- EMS Response
- Rescue Services (i.e., confined space, etc.)
- City Police Coverage
- Utility Maintenance (sanitary & storm sewers)
- Traffic Signal Maintenance (or county/state)
- Planning and Zoning
- Building Inspection
- Code Enforcement
- Street Lighting

b. Major Road Reconstruction Assistance

- 50/50 Split (similar to AirparkOhio agreement)

2. Springfield Township

a. Service Responsibilities

- Snow Clearance (plowing and salting)
- Roadway Maintenance (incl. sweeping, pothole patching, crack sealing, etc.)
- Pavement Replacement (up to 2" resurface)
- R-O-W Maintenance (incl. mowing, trash/litter, retention areas, etc.)

b. Major Road Reconstruction

- Split 50/50 (similar to AirparkOhio agreement)

3. County Responsibilities

a. Service Responsibilities

- Bridge Replacement/Maintenance
- Ditch Cleaning and Watercourse Maintenance

b. Major Road Reconstruction of County Roads in Area

E. Utility Availability When Infrastructure In Place – County Utility Districts [same as Phase I CEDA in Southern Interceptor Joint Service Area, i.e. Area2]

- Residences located within the defined utility districts may receive County utility services (supplied by the City through a standard utility district agreement) and will not be required to annex to the City or execute a DIA.
- City shall have no obligation to expand utility districts.
- Distribution lines to the utility districts shall be at the sole expense of the County and/or Township.

- City will have discretion to extend County/Township distribution service lines at its expense to service other areas.
- City shall have no obligation to allow taps beyond those necessary to service the agreed to utility districts.
- All non-residential property areas connecting to utility service (except in designated utility districts or one-time exempt connections) to be annexed (or DIA) to the City but remain in the Township.
- All residential properties having a certificate of occupancy or provably in existence and occupied on or before an agreed to date may connect to utility service in a utility district without being required to annex to the City or enter into a DIA.
- All residential properties not having a certificate of occupancy or which cannot be proven to have been in existence and occupied on or before the agreed to date connecting to utility service to be annexed (or DIA) to the City but remain in the Township.
- All residential properties connected to utility service and thereafter converted to non-residential use to continue receiving utility service must annex (or DIA) to the City but will remain in the Township.

F. Miscellaneous Provisions

1. Transitional Conditions – [Transition Period extends between signing CEDA and annexation of East and West Annexation Corridors]
  - The benefits of the CEDA will not be available to the area until the East [Route 40 corridor] and West [territory west of Forest Hills Subdivision] Annexation Corridors are annexed to the City
  - DIA agreements will be available during the transition period
  - Parties to cooperate in dealing with potential City obligation to maintain Route 40
  - Parties agree to meet and negotiate over alternative solutions to annexation barrier and Route 40 problems
  - If annexation of the Annexation Corridors should not be successful or the Route 40 problem not resolved and the CEDA is terminated, any territory from the area annexed during the transition period will not be removed from the township
2. Application of Regulations/Standards
  - The City and Township shall develop subdivision, zoning and other development standards to their mutual satisfaction.
3. Use of Recent and Future Legislation
  - The City, County and Township shall cooperate fully on legislative changes which could enhance the objectives of this agreement.

# **CLARK COUNTY – SPRINGFIELD TOWNSHIP – CITY OF SPRINGFIELD COOPERATIVE ECONOMIC DEVELOPMENT AGREEMENT**

## **PHASE II**

This Phase II CEDA (hereinafter the "Phase II CEDA") is entered into this 1st day of December, 2000, by and between THE BOARD OF COUNTY COMMISSIONERS, CLARK COUNTY, OHIO, ("COUNTY"), THE CITY OF SPRINGFIELD, OHIO, ("CITY") and THE BOARD OF TOWNSHIP TRUSTEES OF SPRINGFIELD TOWNSHIP, CLARK COUNTY, OHIO, ("TOWNSHIP").

WHEREAS, COUNTY, TOWNSHIP and CITY are political subdivisions located entirely within the State of Ohio and TOWNSHIP and CITY are contiguous and overlapping political subdivisions located entirely within Clark County, Ohio; and

WHEREAS, COUNTY, TOWNSHIP and CITY wish to cooperate in creating and preserving jobs and employment opportunities and to cooperate in inducing and fostering economic development within the State of Ohio, and more particularly within the territories to which this Phase II CEDA pertains; and,

WHEREAS, the parties hereto wish to accomplish the purpose of extending the CITY'S municipal powers useful to stimulate economic development (among other municipal powers) to portions of the territories to which this Phase II CEDA pertains and the parties hereto recognize that such an extension of municipal powers will operate to the mutual benefit of COUNTY, TOWNSHIP and CITY and to those businesses and residents who choose to locate within the territories to which this Phase II CEDA pertains; and,

Whereas, COUNTY, TOWNSHIP and CITY have previously entered into a COOPERATIVE ECONOMIC DEVELOPMENT AGREEMENT dated December 8, 1999 (hereinafter the "Phase I CEDA") covering portions of Springfield Township described therein as the Corporate Park Extension Area (sometimes called "Area 1"), the Southern Interceptor Joint Service Area (sometimes called "Area 2") and the West Leffel Lane Transitional Service Area (sometimes called "Area 3"); and,

WHEREAS, COUNTY, TOWNSHIP and CITY wish to extend benefits to the balance of Springfield Township similar to those conferred on Area 2 by the Phase I CEDA, but not creating any obligations on the part of any of the parties hereto to finance, design or construct new infrastructure within the territories governed by this Phase II CEDA, since all discussions of how to provide new infrastructure have been deferred by the parties to the future, when the public will and community resources may make the financing, design and construction of new infrastructure feasible; and,

WHEREAS, COUNTY, TOWNSHIP and CITY wish to cooperate in improving and advancing the welfare of the citizens of Clark County residing within the territories to which this Phase II CEDA pertains, including, but not limited to, making municipal water and sewer services more widely available within such territory; and,

WHEREAS, COUNTY, TOWNSHIP and CITY wish to cooperate in facilitating development within the territory of TOWNSHIP while also preserving the geographic integrity of TOWNSHIP, to the extent consistent with the wishes of TOWNSHIP'S landowners; and,

WHEREAS, COUNTY, TOWNSHIP and CITY, in pursuing the above mentioned public purposes, intend to avail themselves of all powers available under the Constitution of the State of Ohio, of the laws adopted by the Ohio General Assembly as well as the all municipal powers available to CITY under its municipal charter, including, but not limited to Section 13 of Article VIII and all sections of Article XVIII of the Ohio Constitution and Sections 307.15, 307.74, 701.07, 6103.21, 6301.22 and Chapter 6117 of the Ohio Revised Code; and,

WHEREAS, the parties hereto recognize that new economic development within the territories to which this Phase II CEDA pertains will result in increasing the real property and personal property tax bases for the TOWNSHIP; thereby furthering the economic welfare of the people of COUNTY, TOWNSHIP as well as of the CITY and will facilitate the provision of quality education in Clark County; thereby enhancing the availability of appropriately skilled individuals for employment by employers within COUNTY, TOWNSHIP and CITY and consequently furthering the creation and preservation of job and employment opportunities within COUNTY, TOWNSHIP and CITY; and,

WHEREAS, the parties hereto each wish to extend full and good faith cooperation to each other in accomplishing the foregoing objectives and further, recognizing that certain of the public improvements described in this Phase II CEDA will require funding, wish to share the burdens of designing and constructing public improvements, as described in this Phase II CEDA, which the parties hereto recognize will benefit all of their respective residents and businesses and will operate to preserve and protect the public health, safety and welfare of the citizens of COUNTY, TOWNSHIP and CITY; and,

WHEREAS, the Board of County Commissioners of Clark County, Ohio have passed Resolution No. 1104-00 on November 21, 2000, the Board of Township Trustees of TOWNSHIP have passed Resolution No. 1114-2000 on November 14, 2000 and the City Commission of CITY has enacted Ordinance No. 00-392 on November 14, 2000 which authorize the respective parties to enter into this Phase II CEDA, all in accordance with Section 701.07 of the Ohio Revised Code.

NOW, THEREFORE, the parties hereto agree as follows:

## **ARTICLE I – DESIGNATION OF TERRITORIES**

Section 1. This Phase II CEDA is applicable to the territory described and outlined and crosshatched in blue in **EXHIBIT E**, attached hereto and incorporated herein by this reference, is hereinafter referred to sometimes as the "Springfield Township Remaining Area" and sometimes as "Area 4." The Springfield Township Remaining Area includes all of Springfield Township excluding:

- A) Area 1,
- B) Area 2,
- C) Area 3,
- D) Areas annexed to CITY during 1999 and before,
- E) Territory in Springfield Township between U. S. Route 68 and St. Paris Pike and north of State Route 41, and
- F) The area encompassing parcels numbered 07-00017-300-003, 07-00017-300-005, 07-00017-300-006 and 07-00017-300-007 by the Clark County Auditor.

Section 2. Any of the above territories may be altered by mutual agreement of the TOWNSHIP, the COUNTY and the CITY, but only by means of appropriate legislation authorizing such alteration approved by the legislative authorities of all three of the parties hereto. Such alteration, in order to be effective, must be authorized by appropriate legislation passed by each of the parties hereto within a 90 day period.

Section 3. Should any alteration of the above mentioned territories require a survey to be made, CITY shall have the responsibility to acquire the services of a surveyor to perform such survey and TOWNSHIP and CITY shall share the costs of such surveying services equally.

## **ARTICLE II – ADJUSTMENT OF MUNICIPAL BOUNDARIES**

Section 1. TOWNSHIP and CITY agree to cooperate fully and in good faith with each other to achieve the successful annexation to CITY of lands located within Area 4, under the following circumstances and subject to the following limitations:

- A) When a majority of landowners of non-residential lands within an annexation area comprised entirely of non-residential lands petition for annexation to the CITY, such lands shall be annexed.
- B) When all landowners of residential lands within an annexation area comprised entirely of residential lands petition for annexation to the CITY, such lands shall be annexed.

- C) When a majority of landowners of lands within an annexation area petition for annexation to the CITY and the land owners of all residential lands within such annexation area are signatories to the petition, such lands shall be annexed.
- D) The following lands are exempted from this Article II and shall not be required to be annexed to CITY under the terms of this Article:
- (i.) Lands owned by TOWNSHIP, while such lands are maintained in a use directly performing township functions,
  - (ii.) Lands owned by COUNTY, while such lands are maintained in a use directly performing county functions, and
  - (iii.) Lands owned by a church [as defined in Subsection 5709.07(C) of the Ohio Revised Code] while such lands are maintained in a use qualifying such lands for exemption from property taxes under Subsection 5709.07(A)(2) of the Ohio Revised Code.
- However, if any of such lands are converted to a different use than as set forth in items i, ii, and iii, above, then such converted land shall be thereafter subject to the provisions of this Article II, and shall not be included in the exemption contained in this Subsection 1(D).
- E) Nothing in this Phase II CEDA obligates the CITY to accept the annexation of any lands to the CITY and the CITY shall continue to have complete discretion to accept or reject lands sought to be annexed to CITY.

As used in this Article II, the term "annexation area" means an area described in a petition seeking annexation of the described area to the CITY.

Section 2. Throughout the time COUNTY and TOWNSHIP maintain compliance with the provisions of this Article II, CITY shall not exclude lands annexed to CITY, which are included in Area 4 and are annexed through implementation of this Phase II CEDA, by initiating a change to TOWNSHIP'S boundary under Chapter 503 of the Ohio Revised Code to exclude such annexed lands from TOWNSHIP. The TOWNSHIP will further discourage and deny any petitions from landowners who seek to initiate a change to the TOWNSHIP'S boundary to exclude lands annexed to CITY which are included in Area 4 and are annexed through implementation of this Phase II CEDA, and the CITY agrees to cooperate fully and in good faith with the TOWNSHIP'S efforts to resist such change to the TOWNSHIP'S boundary.

Section 3. TOWNSHIP and CITY recognize, agree and each of their governing bodies have adopted findings in the legislation mentioned in the recitals to this Phase II CEDA that, within Area 4, annexation of any portion of such territories will be for the general good of the territory sought to be annexed when subject to the terms of this Phase II CEDA.

Section 4. TOWNSHIP and CITY recognize, agree and each of their governing bodies have adopted findings in the legislation mentioned in the recitals to this Phase II CEDA that, within Area 4, annexation of any portion of such territories will be for the good of the CITY and TOWNSHIP individually and as a whole.

Section 5. TOWNSHIP and CITY recognize, agree and each of their governing bodies have adopted findings in the legislation mentioned in the recitals to this Phase II CEDA that, within Area 4, annexation of any portion of such territories that results in:

- A) an island or islands of TOWNSHIP territory being located within CITY and/or
- B) an island or islands of CITY territory being located within TOWNSHIP

will not be detrimental to the provision of government services or sewer and water utility services provided to residents and businesses located within such islands [which TOWNSHIP and CITY recognize as being especially true when territory annexed to CITY will not be excluded from TOWNSHIP] and the creation of such island or islands is neither unreasonable nor arbitrary and should not and will not prevent the annexation of territory to CITY.

Section 6. TOWNSHIP and CITY recognize, agree and each of their governing bodies have adopted findings in the legislation mentioned in the recitals to this Phase II CEDA that, within Area 4, the annexation of territory to CITY not customarily recognized as contiguous to the corporate boundary of CITY [whether due to the smallness of the area of geometric coincidence between the annexation area and the corporate boundary of CITY or the contiguity of the annexation area and the corporate boundary of the CITY being by a long and narrow strip of land] will not, in any meaningful way, be detrimental to the unity of CITY or of TOWNSHIP and should not and will not prevent the annexation of such territory to CITY.

Section 7. TOWNSHIP and CITY recognize, agree and each of their governing bodies have adopted findings in the legislation mentioned in the recitals to this Phase II CEDA that no annexation area sought to be annexed to CITY in accordance with this Phase II CEDA can possibly be unreasonably large, regardless of its size and regardless of its configuration; provided it is within Area 4.

Section 8. The parties hereto recognize that COUNTY now is and may hereafter be charged with statutory responsibilities as a quasi-judicial body under Ohio laws governing annexation procedures and since COUNTY can not contractually limit its discretion and powers in performing its quasi-judicial function, COUNTY has not been included as a contractual participant in Sections 1 through 7 of this Article II.

Section 9. Full and good faith cooperation by TOWNSHIP, as mentioned in Section 1 of this Article II, means undertaking such actions as may be requested by CITY which will contribute to the success of the annexation of lands to CITY and

refraining from acts which would be detrimental to the success of the annexation of lands to CITY and, with the intent not to limit the broad meaning of the foregoing clause but to emphasize certain acts and refraining from acts encompassed in the foregoing, shall include, but not be limited to the TOWNSHIP:

- A) Signing and providing affidavits and furnishing representatives to provide factual testimony at annexation hearings which would favor annexation;
- B) Refraining from encouraging opposition to annexations;
- C) Participating as a party litigant, to the extent such party would have standing to do so, in vigorously defending any annexation covered by this Phase II CEDA which may be challenged, for any reason, with such defense to be continued throughout any and all appeals;
- D) Requesting the Clark County Engineer to fully cooperate with and assist the CITY and landowners to facilitate the presentation of an accurate annexation map to the Clark County Commissioners (recognizing that the primary responsibility for preparing a suitable map is the landowner's);
- E) Requesting that the Clark County Prosecutor facilitate and defend any annexation pursued in accordance with this Phase II CEDA;
- F) To support and provide testimony in favor of any legislation which may now, or in the future be pending before the Ohio General Assembly which would be beneficial to the enforcement of this Phase II CEDA or would further the purposes of this Phase II CEDA;
- G) To oppose and provide testimony in opposition to any legislation which may now, or in the future be pending before the Ohio General Assembly which would be detrimental to the enforcement of this Phase II CEDA or would frustrate the purposes of this Phase II CEDA;
- H) TOWNSHIP and CITY agree to vigorously resist, in both administrative and judicial forums, actions by third party political subdivisions to annex, merge or consolidate any portion of Area 4 into any third party political subdivision; and
- I) Each party shall bear its own costs in any legal proceedings.

Section 10. Full and good faith cooperation by CITY, as mentioned in Section 2 of this Article II, means undertaking such actions as may be requested by TOWNSHIP which will be detrimental to the success of changing the TOWNSHIP'S boundary under the procedures described in Chapter 503 of the Ohio Revised Code to exclude lands annexed to CITY, which are included in Area 4 and are annexed through implementation of this Phase II CEDA, from TOWNSHIP, and refraining from acts which would contribute to the success of changing the TOWNSHIP'S boundary under the procedures described in Chapter 503 of the Ohio Revised Code to exclude lands annexed to CITY, which are included in Area 4 and are annexed through implementation of this Phase II CEDA, from TOWNSHIP, and, with the intent not to limit

the broad meaning of the foregoing clause but to emphasize certain acts and refraining from acts encompassed in the foregoing, shall include, but not be limited to the CITY:

- (A) Signing and providing affidavits and furnishing representatives to provide factual testimony at any hearings to oppose such change in TOWNSHIP'S boundaries;
- (B) Refraining from encouraging any effort to change TOWNSHIP'S boundaries by any party;
- (C) Participating as a party litigant, to the extent such party would have standing to do so, in vigorously opposing any effort to change the TOWNSHIP'S boundary pursuant to 503 of the Ohio Revised Code to exclude lands annexed to CITY which are included in Area 4 and are annexed through implementation of this Phase II CEDA, such litigation continuing throughout any and all appeals;
- (D) Requesting the Clark County Engineer to cooperate with and assist the TOWNSHIP and CITY to facilitate the presentation of an accurate map to the Clark County Commissioners of the area covered by this Phase II CEDA which is not to be subject to a change in TOWNSHIP'S boundaries pursuant to 503 of the Ohio Revised Code;
- (E) Joining with the TOWNSHIP to request the Clark County Prosecutor to defend against any effort to change the TOWNSHIP'S boundary pursuant to 503 of the Ohio Revised Code to exclude lands annexed to CITY which are included in Area 4 and are annexed through implementation of this Phase II CEDA;
- (F) To support and provide testimony in favor of any legislation which may now or in the future be pending before the Ohio General Assembly which would be beneficial to the enforcement of this Phase II CEDA or would further the purposes of this Phase II CEDA;
- (G) To oppose and provide testimony in opposition to any legislation which may now or in the future be pending before the Ohio General Assembly which would be detrimental to the enforcement of this Phase II CEDA or would frustrate the purposes of this Phase II CEDA;
- (H) The TOWNSHIP and CITY agree to vigorously resist, in both administrative and judicial forums, any action by any third party to change the TOWNSHIP'S boundary pursuant to 503 of the Ohio Revised Code to exclude lands annexed to CITY, which are included in Area 4 and are annexed through implementation of this Phase II CEDA, from the TOWNSHIP; and

- (I) Each party shall bear its own costs in any legal proceedings that are required by this Section.

Section 11. The terms "residential property" and "non-residential property" have the same meaning in this Article II as the meaning given to those terms in Article IV.

Section 12. The parties agree that, during the term of this Phase II CEDA, new taxes may be authorized by the Ohio General Assembly and some current taxes may be reduced or eliminated by the Ohio General Assembly. The parties, therefore, agree to meet and discuss if any new tax involving Area 4 arises during the term of this Phase II CEDA, or if local government or other current tax forms change. The parties will use their best efforts to cooperate for their mutual benefit in the event of such changed circumstances regarding Ohio law governing sources of tax revenues available to Ohio political subdivisions.

Section 13. The parties hereto agree that any one or more of them may object to the tax assessments or evaluations or re-evaluations of property located in Area 4 from time to time. In the event a party which does not have standing to object to the tax assessments or evaluations or re-evaluations of property located in Area 4 but would be prejudiced by such tax assessments or evaluations or re-evaluations of property located in Area 4, then the other parties hereto shall cooperate with each other such that the party or parties with the legal standing to challenge such assessments or evaluations or re-evaluations shall use their good faith best efforts to pursue those challenges on behalf of such challenging parties to the mutual benefit of all parties hereto.

Section 14. Each section and each part of each section of this Article II is hereby declared to be an interdependent section or part of a section of this Article II and it is hereby agreed and declared to be the controlling intent of the parties hereto that if any such section or part of a section of this Article II, or any provision thereof, or the application thereof to any entity or circumstances, is held to be invalid or unenforceable, then the remaining sections or parts of sections in this Article II and the application of such provisions shall also no longer be enforceable, all such provisions being given in exchange for each other and being therefore interdependent and either all being binding upon the parties hereto or none being binding upon the parties hereto.

### **ARTICLE III – TOWNSHIP & CITY GOVERNMENTAL SERVICES AND PAYMENTS TO TOWNSHIP**

Section 1. With respect to territory located within the boundaries of TOWNSHIP but which is not a part of CITY, this Phase II CEDA shall have no effect on the obligations of TOWNSHIP to provide services and CITY shall continue to have no obligation at all to provide services or products. With respect to territory located within the boundaries of CITY but which is not a part of TOWNSHIP, this Phase II CEDA shall

have no effect on the obligations of CITY to provide services or products and TOWNSHIP shall continue to have no obligation at all to provide services.

Section 2. With respect to any portion of Area 4 which becomes annexed to CITY and which also continues to be included within TOWNSHIP, CITY shall be the primary provider and, to the extent feasible, first responder in providing the following governmental services to the same extent and in the same quality as CITY provides these services throughout its jurisdiction in general:

- A) Fire protection services,
- B) Emergency medical services,
- C) Rescue services
- D) Municipal police services,
- E) Maintenance of traffic control devices (i.e. signs and signals, other than at railroad crossings),
- F) Arrange for the supply of energy to street lights in existence on the date first above written or which are thereafter required by the CITY,
- G) Enforcement of CITY'S Codified Ordinances (e.g. Building Code, Fire Code),
- H) The CITY and TOWNSHIP shall develop subdivision, zoning and other development standards to their mutual satisfaction.

Section 3. With respect to any portion of Area 4 which becomes annexed to CITY and which also continues to be included within TOWNSHIP, TOWNSHIP shall be the primary provider of the following governmental services to the same extent and in the same quality as TOWNSHIP provides these services throughout its jurisdiction in general:

- A) Clearing snow and ice from streets and roads,
- B) Salting or in some other way deicing streets and roads,
- C) Pavement maintenance -- including berm and shoulder repair, street sweeping, crack sealing, pothole repair, resurfacing (defined as replacing two inches or less of surface pavement) chip and seal resurfacing or its equivalent, striping, setting reflective safety devices in pavement (when required by state guidelines) and any other fixing of pavement generally regarded by political subdivisions (including the Ohio Department of Transportation) as pavement maintenance,
- D) Road right-of-way maintenance -- including repairing or replacing turf, mowing grass, cleaning up trash and litter, cleaning and fixing road drainage ditches and storm water retention areas, repairing and replacing guardrails and any other cleaning and fixing of road right-of-way generally

regarded by political subdivisions (including the Ohio Department of Transportation) as road right-of-way maintenance.

- E) All roads that, absent annexation, would have been considered and maintained as TOWNSHIP'S roads shall count as TOWNSHIP'S roads for road tax purposes and gas tax distribution due to the TOWNSHIP'S obligation to maintain those roadways; further, TOWNSHIP and CITY specifically agree that this provision is both authorized and necessary under Ohio Revised Code Section 701.07.

Section 4. Notwithstanding the provisions of Section 2 of this Article III, CITY and TOWNSHIP agree that this Phase II CEDA shall not affect the continuation of mutual aid arrangements and agreements for fire protection in effect on the date first above written. This section is not intended to limit the ability of CITY and TOWNSHIP to negotiate mutual aid arrangements in the future as they shall find mutually advantageous.

Section 5. With respect to any portion of Area 4 which becomes annexed to CITY and which also continues to be included within TOWNSHIP, TOWNSHIP shall be responsible to arrange for and bear the cost of necessary road reconstruction work on the public roadways. For purposes of this Phase II CEDA, the term "reconstruction" means an asphalt overlay of more than two (2) inches and also includes reconstruction of the road base and road drainage facilities. Notwithstanding the foregoing, CITY will reimburse TOWNSHIP for fifty percent (50%) of the total construction contract amount of TOWNSHIP'S costs for such reconstruction project; provided, TOWNSHIP has informed CITY, in writing, of its intent to engage in such road reconstruction and has provided an engineer's estimate of the construction costs on or before June 1 of the year preceding the intended reconstruction.

Section 6. It is not the intent of this Phase II CEDA to limit or to restrict the ability or jurisdiction of other governmental authorities, not a party to this Phase II CEDA, to provide their services within Area 4 or to have any other effect on such governmental authorities whatsoever.

Section 7. In consideration of the services provided by TOWNSHIP in territory located within CITY, CITY agrees to pay to TOWNSHIP an Annual Services Fee computed as 12.5% of "Fee Calculation Income Taxes" collected by the CITY from industrial and commercial taxpayers, located within both the CITY and within Area 4, during the service year [i.e. the calendar year in which services were provided] for which the Annual Services Fee is being made. The Annual Services Fee for a service year is due and payable on or before April 1 of the year following the service year to which such payment is attributable. The term "Fee Calculation Income Taxes" shall mean the net sum of income taxes collected by the CITY in a calendar year from the net profit, as allocated to the CITY as provided in Ohio Revised Code Section 718.02, attributable to business conducted by industrial and commercial taxpayers, located both within the CITY and within Area 4, by permanent resident businesses located

therein, and net income taxes collected by the CITY in a calendar year from all salaries, wages, commissions, or other compensation earned by employees who are employees of permanent, resident industrial and commercial employers for work performed within the said defined area. Agriculture is not considered to be an industrial or commercial activity. The term "net sum of income taxes" means taxes collected less refunds and less costs of collection directly related to collection of delinquent taxes which are Fee Calculation Income Taxes. The parties hereto agree that municipal income taxes collected from individuals residing in territory which is in both the CITY and the TOWNSHIP and is within Area 4 shall not be included in the term "Fee Calculation Income Taxes," with the exception that net municipal income taxes attributable to net profit earned by and collected from a sole proprietorship whose principal place of business is located in territory which is in both the CITY and the TOWNSHIP and is within Area 4 shall be included in the term "Fee Calculation Income Taxes."

Section 8. Payments made by CITY to TOWNSHIP as described in this Article III are in lieu of any payments which would be required to be made by CITY to TOWNSHIP under Sections 709.12 and 709.19 of the Ohio Revised Code or under any laws of similar effect.

Section 9. CITY agrees to indemnify and save TOWNSHIP harmless from liability which may result to TOWNSHIP as a result of CITY failing to properly maintain traffic control devices [see Subsection 2(E), above] and thereby creating a nuisance in the public right-of-way within the TOWNSHIP. TOWNSHIP agrees to indemnify and save CITY harmless from liability which may result to CITY as a result of TOWNSHIP failing to properly maintain public road pavement and right-of-way [see Subsection 3(C & D), above] and thereby creating a nuisance in the public right-of-way within the CITY.

#### **ARTICLE IV – WATER AND SEWER UTILITY SERVICES**

Section 1. Following the effective date of this Phase II CEDA, COUNTY and CITY shall enter into negotiations to design a utility supply agreement wherein CITY would supply certain sewer and water services to county sewer district(s) or subdistricts established under Chapter 6117 and Sections 307.15, 307.74, 6103.21 6103.22 of the Ohio Revised Code. The said county sewer district(s) and subdistrict(s) shall be established and, if necessary the existing sewer district shall be redefined as to boundaries, so as to both comply with applicable law and to comply with the terms of this Phase II CEDA; and further so as to allow compliance with the terms of this Phase II CEDA and with the customary provisions placed in bond indentures and other bond security arrangements [said sewer district(s) and subdistrict(s) so structured are hereinafter referred to as the "Clark County Sewer District Structure"]. There is no obligation on the part of COUNTY or of CITY to form such Clark County Sewer District Structure or to enter into such utility supply agreement; unless both COUNTY and CITY determine it to be in their mutual best interests.

Section 2. Upon establishment of a Clark County Sewer District Structure and consummation of a utility supply agreement between COUNTY and CITY, residential property located within both Area 4 and a county sewer district may obtain available utility services without entering into any kind of agreement with the CITY containing a promise to cooperate with annexation of such property to CITY. The term "residential property" as used in this section means property for which a certificate of occupancy for a dwelling on such property was issued on or before the date first above written or property which the owner is able to prove by other means that such property contained an occupied dwelling on the date first above written or for which a Building Permit was issued on or before June 8, 1999. The purpose of the foregoing sentence is to prevent property owners owning dwellings occupied on June 8, 1999 CEDA and located within Area 4 from being required to annex such dwelling into CITY in order to obtain sewer or water utility services; while allowing the CITY to require that new residential development subsequent to June 8, 1999 be either annexed to the CITY or be made subject to a Development Incentive Agreement with CITY [the Development Incentive Agreement will be in the form customarily used by CITY at the time the property owner seeks to obtain sewer or water services from CITY] in order to begin to receive or to continue to receive sewer and/or water utility services. The parties hereto anticipate that there may be one or more lots or small clusters of lots which do not fit the description of residential property, but are both substantially surrounded by lots which are residential property and will also be developed as residences (hereinafter referred to as "residential pockets"). The CITY intends to make a determination, on a case by case basis, as to whether it is practical and in the CITY'S best interests to require annexation of the residential pocket and provide municipal governmental services and water and sewer services within such residential pocket. If the CITY determines that it is either not practical or not in the CITY'S best interests to require annexation of the residential pocket and to provide municipal governmental services and water and sewer services within such residential pocket; then the CITY intends to not require annexation of the residential pocket and to allow the residential pocket to be included in and to receive such utility services as may be available from a county sewer district. Occupants of residential property covered by this Section will not be required to pay municipal income taxes to CITY as a condition in order to receive utility services for such property, as described in this Phase II CEDA.

Section 3. Non-residential property [i.e. property that does not qualify as residential property as defined in Section 2, above] located within Area 4 shall not be included in any county sewer district and shall be required to be annexed to CITY prior to receiving sewer and/or water utility services or shall be required to enter into a Development Incentive Agreement with CITY [the Development Incentive Agreement will be in the form customarily used by CITY at the time the property owner seeks to obtain sewer or water services from CITY]. The term "non-residential property" includes property which is non-residential property on June 8, 1999 and property which is converted to non-residential property after June 8, 1999. Property receiving sewer or water utility service on the date it is converted to non-residential property may continue to receive sewer and/or water services only upon entering into a Development

Incentive Agreement with CITY [the Development Incentive Agreement will be in the form customarily used by CITY at the time the property was converted to non-residential property]. Property located in Area 4 and also included within a county sewer district, which is converted to non-residential property shall be excluded from the county sewer district upon the written request of CITY.

Section 4. The following properties are excepted from the operation of Section 3 of this Article IV:

- A) Lands owned by TOWNSHIP, while such lands are maintained in a use directly performing township functions,
- B) Lands owned by COUNTY, while such lands are maintained in a use directly performing county functions, and
- C) Lands owned by a church [as defined in Subsection 5709.07(C) of the Ohio Revised Code] while such lands are maintained in a use qualifying such lands for exemption from property taxes under Subsection 5709.07(A)(2) of the Ohio Revised Code.

However, if any of such lands are converted to a different use than as set forth above, then such converted land shall be thereafter subject to the provisions of this Article IV, other than Section 10.

Section 5. In the event a residential property is situated on a parcel of land which exceeds five acres, the CITY shall define an area around the dwelling on such property which defined area will constitute the residential property for the purposes of Section 2 of this Article IV and the balance of the parcel of property will be considered non-residential property. In the event a residential property of five acres or less is subdivided, the CITY shall define an area around the original dwelling on such property, which defined area will constitute the residential property for the purposes of Section 2 of this Article IV and the balance of the parcel of property will be considered non-residential property which will be subject to Section 3 of this Article IV.

Section 6. Upon establishment of a Clark County Sewer District Structure and consummation of a utility supply agreement between COUNTY and CITY, the COUNTY may arrange to have a water main(s) designed and constructed to connect the CITY'S water system to the said county sewer district(s). Upon the conveyance of the water main(s) and related rights in real property to CITY, at no cost to CITY, and after acceptance of same by CITY, water services will be available to customers pursuant to the utility supply agreement between COUNTY and CITY and pursuant to the terms of this Phase II CEDA. All such water main(s) shall be fully compliant with CITY'S specifications and other requirements before they will be accepted by CITY.

Section 7. Upon establishment of a Clark County Sewer District Structure and consummation of a utility supply agreement between COUNTY and CITY, the COUNTY may arrange to have sewer line(s) designed and constructed to connect the CITY'S sewer system to the said county sewer district(s). Upon the conveyance of the sewer

line(s) and related rights in real property to CITY, at no cost to CITY, and after acceptance of same by CITY, sewer services will be available to customers pursuant to the utility supply agreement between COUNTY and CITY and pursuant to the terms of this Phase II CEDA. All such sewer line(s) shall be fully compliant with CITY'S specifications and other requirements before they will be accepted by CITY.

Section 8. COUNTY hereby agrees to provide for all costs and expenses of construction and installation of all water and sewer facilities within the county sewer district(s) established in Area 4 and shall construct, maintain and repair all such water and sewer facilities within such county sewer district(s) to the applicable standards established by the Water Environment Federation and to specifications established by CITY, all without risk or cost to CITY. This section is not intended to preclude COUNTY from providing for such costs of construction and maintenance of water and sewer facilities through assessments, debt financing, seeking funding from benefited landowners or developers or through any other lawful means. This section is not intended to preclude COUNTY and CITY from reallocating responsibility for construction, installation and maintenance of water and sewer utility infrastructure in county sewer districts in future utility supply agreements between COUNTY and CITY. COUNTY shall obtain from the Ohio EPA any and all approvals required for the construction or reconstruction of sewer facilities within the county sewer districts. The parties hereto recognize that assessments imposed by the COUNTY on lands within Area 4 to fund water and sewer infrastructure will continue to be assessments collected for the benefit of the COUNTY after such lands have been annexed into the CITY.

Section 9. Should CITY require construction of water mains or sewer pipes larger than needed to service a county sewer district and require conveyance of the ownership of such water main and/or sewer pipe to CITY, then CITY shall pay to COUNTY the proportionate share of the cost of construction of such water main or sewer pipe, as applicable, as can be attributed to the additional costs to COUNTY to construct the larger sized water main or sewer pipe, as applicable. The CITY shall be responsible for the maintenance of such water mains and sewer pipes conveyed to CITY.

Section 10. COUNTY agrees that all water lines and all sewers, laterals, connections and appurtenances which are hereafter constructed within the said county sewer district(s) shall be designed and constructed according to specifications established by CITY. Within thirty (30) days after any such improvements have been constructed, the COUNTY will file with the CITY, at no cost to the CITY, a complete set of "as built" plans for the improvements constructed. The COUNTY hereby agrees that it shall prevent any extension, connection or tapping into any sewer line connected to the Southern Interceptor or into any water lines supplied with CITY'S water service for the purpose of serving any property located outside of a county sewer district established as described in Section 1, above. COUNTY further agrees not to sell, lease or give any interest in or right of privilege to utilize the Southern Interceptor to any individual, association, partnership or incorporated entity, a portion of whose

premises are located outside the territorial limits of a county sewer district established as described in Section 1, above.

Section 11. Should lands included within a county sewer district be later annexed into CITY, upon the effective date of such annexation the annexed lands shall be excluded from such county sewer district and any related utility supply agreement shall thereafter no longer be applicable to such annexed land. Should CITY determine it is necessary for CITY to assume ownership and control of any water or sewer infrastructure belonging to COUNTY so that such annexed lands may be properly served by CITY, upon CITY'S request COUNTY shall convey such infrastructure to CITY, free and clear of encumbrances, and CITY shall pay to COUNTY the depreciated fair value of such infrastructure. The COUNTY and CITY acknowledge that it will be necessary for the CITY to own all water and sewer infrastructure and related rights-of-way within the territories included within the corporate boundaries of CITY as well as the water and sewer infrastructure and related rights-of-way which the CITY would use as water transmission lines and sewer collector lines extending through areas served by a county sewer district to serve direct customers of the CITY beyond the areas served by the county sewer district. The CITY and COUNTY do not anticipate that it will be necessary for the CITY to become the owner of local water distribution lines used to serve customers of a county sewer district which branch off of the above mentioned infrastructure used by CITY as a water transmission line. The CITY and COUNTY do not anticipate that it will be necessary for the CITY to become the owner of local sewer service lines used to serve customers of a county sewer district which branch off of the above mentioned infrastructure used by CITY as a sewer collector line. Should unanticipated circumstances arise regarding such local water distribution lines or local sewer service lines, COUNTY and CITY intend to meet together and engage in good faith negotiations to determine a mutually advantageous way of dealing with the unanticipated circumstances.

Section 12. In circumstances where:

- A) lands formerly served by the CITY as a direct CITY customer become included within a county sewer district with the consent of the CITY and
- B) which are served by CITY owned local water distribution lines which will serve county sewer district customers only and/or which are served by local sewer service lines which will serve county sewer district customers only;

should CITY determine that CITY has no need to own such water and sewer infrastructure and that COUNTY should assume ownership and control of such local water distribution lines and local sewer service lines; then, if COUNTY consents in writing, the CITY may convey such infrastructure to COUNTY, free and clear of encumbrances, and COUNTY shall pay to CITY the depreciated fair value of such infrastructure. The COUNTY and CITY acknowledge that it will be necessary for the CITY to own all water and sewer infrastructure and related rights-of-way which the CITY would use as water transmission lines and sewer collector lines extending

through areas served by a county sewer district to serve future, potential direct customers of the CITY beyond the areas served by the county sewer district. The CITY and COUNTY do not anticipate that it may be necessary for the CITY to continue as the owner of local water distribution lines and local sewer collection lines used to serve customers of a county sewer district which will not be needed in the future to serve direct CITY customers beyond the county sewer district. Should unanticipated circumstances arise regarding such local water distribution lines or local sewer service lines, COUNTY and CITY intend to meet together and engage in good faith negotiations to determine a mutually advantageous way of dealing with the unanticipated circumstances.

Section 13. With regard to properties located within the TOWNSHIP and Area 4, but outside the CITY, the CITY will not initiate complaints to health or environmental regulatory agencies with the intent of having such properties required to connect to public sewer lines. This section is not intended to preclude the CITY from pursuing other remedies to protect the public health and safety or to in any way prevent the CITY from exercising its police powers to protect the public welfare.

Section 14. The parties hereto agree that the above mentioned utility supply agreement, when negotiated, will provide for minimum utility service rates to be charged to the end users of the utility services which will be One Hundred Twenty percent (120%) of the CITY'S normal utility service rates charged to end users of the utility services. For purposes of this Section, a county sewer district is not the end user of utility services it delivers to its customers.

Section 15. Should the CITY construct sewer facilities that will discharge into any sewer infrastructure of a county sewer district, the CITY shall construct such sewer facilities in conformance with applicable minimum standards established by the Water Environment Federation and CITY shall allow COUNTY an opportunity to review the plans for such sewer facilities to verify compliance with this Section.

## **ARTICLE V – HOTEL/MOTEL AND VARIOUS OTHER TAXES**

Section 1. In the event a portion of Area 4 is annexed to CITY and the CITY after such annexation collects taxes imposed pursuant to Sections 5739.02 and 5739.024 of the Ohio Revised Code from a hotel(s) or motel(s); then, of the taxes imposed pursuant to Sections 5739.02 and 5739.024 of the Ohio Revised Code collected by CITY from such hotel(s) or motel(s), the CITY will make the required payments to the required separate fund from which contributions are made to convention or visitor's bureaus operating within Clark County, Ohio and, of the remaining balance, CITY shall pay 50% to TOWNSHIP and retain 50% for CITY.

Section 2. TOWNSHIP and CITY recognize that there may be opportunities to cooperate together to more efficiently provide various services to their residents and businesses and that revenues may be available to fund providing such services in a cooperative manner from various tax sources such as, by way of example only and not by way of limitation, Ohio estate taxes and various property tax levies, as well as from other types of revenues such as, by way of example only and not by way of limitation, service fees; therefore, TOWNSHIP and CITY agree to meet, by their designated representatives, at mutually acceptable times to negotiate concerning cooperation on providing services and designating the revenues to fund such services.

## ARTICLE VI – COUNTY SERVICES

Section 1. COUNTY, through direction given to the Clark County Engineer and by providing sufficient funding, shall cooperate with CITY to accomplish the practical and efficient maintenance of roadways located within Area 4 through the negotiation of responsibility and equitable cost sharing arrangements for the maintenance of such roadways. By this Section the parties particularly wish to provide for situations in which it would be most practical and efficient for COUNTY to provide the maintenance of roads within Area 4 but in which the CITY would be the recipient of road funds commonly used to fund the maintenance of such roads.

Section 2. It is not the intent of this Article to impose any duties upon the Clark County Engineer with respect to Area 4 which are in addition to those duties imposed upon county engineers by the Ohio Revised Code.

Section 3. COUNTY agrees to indemnify and save TOWNSHIP and CITY harmless from liability which may result to TOWNSHIP and/or CITY as a result of COUNTY failing to properly maintain bridges, roadways and drainage and watercourses, thereby creating a nuisance. TOWNSHIP agrees to indemnify and save COUNTY harmless from liability which may result to COUNTY as a result of TOWNSHIP failing to properly maintain public road pavement and right-of-way on or around a bridge and thereby creating a nuisance in the public right-of-way on or around a bridge within the TOWNSHIP. CITY agrees to indemnify and save COUNTY harmless from liability which may result to COUNTY as a result of CITY failing to properly maintain traffic control devices on or around a bridge and thereby creating a nuisance in the public right-of-way on or around a bridge within the CITY.

## ARTICLE VII – GENERAL PROVISIONS

Section 1. Term. The initial term of this Phase II CEDA shall commence on the date hereof and shall terminate December 31, 2050 (unless otherwise terminated prior to that date as provided herein). At the expiration of the initial term of this Phase II CEDA, the Agreement shall automatically be renewed for a period of 50 years, and the Agreement shall continue to be automatically renewed thereafter for similar 50-year

periods at the end of each renewal period with no limit upon the number of such renewals; unless the legislative authorities of the CITY, the COUNTY and the TOWNSHIP each affirmatively act to terminate this Phase II CEDA. In order for any such termination to be effective, legislative action of one party to terminate this Phase II CEDA must occur and be effective within a period of 90 days from the date of legislative action of the other parties terminating this Phase II CEDA. The provision herein for automatic extension of this Phase II CEDA except upon legislative action by each of the parties hereto terminating this Phase II CEDA recognizes that the accrual of benefits to the parties from this Phase II CEDA may take decades and that the construction of water and sanitary sewer service facilities and public roadways along with other possible capital improvements provided for herein is of permanent usefulness and duration.

Section 2. Early Termination. This Phase II CEDA may be terminated at any time by mutual consent of the TOWNSHIP and the CITY as authorized by their respective legislative authorities. In order for any such termination to be effective, legislative action of one party to terminate this Phase II CEDA must occur and be effective within a period of 90 days from the date of legislative action of the other party terminating this Phase II CEDA.

Section 3. Support of Agreement. In the event that this Phase II CEDA, or any of its terms, conditions or provisions, is challenged by any third party or parties in a court of law the parties agree to cooperate with one another and to use their best efforts in defending this Phase II CEDA with the object of upholding this Phase II CEDA. Each party shall bear its own costs in any such proceeding challenging this Phase II CEDA or any term or provisions thereof.

Section 4. Signing Other Documents. The parties agree to cooperate with one another and to use their best efforts in the implementation of this Phase II CEDA and to sign or cause to be signed, in a timely fashion, all other necessary instruments, legislation, petitions and similar documents, and to take such other actions in order to effectuate the purposes of this Phase II CEDA.

Section 5. Cooperation in Pursuing Grants. The parties hereto agree to cooperate with each other in contributing to the success of applications to obtain grants of funding to perform projects in Area 4 which would be to the mutual benefit of the parties hereto. This Section is not intended to obligate any party hereto to contribute matching funds or to apply any other form of such party's economic resources in contributing to the success of applications to obtain grants of funding to perform projects in Area 4.

Section 6. Mediation. In the event the parties have a dispute as to any of the terms or applicability of this Phase II CEDA, the parties agree to use their best efforts to resolve the dispute through a mutually acceptable mediation process prior to any party filing a lawsuit. Each party participating in mediation shall pay its own costs of

mediation, including their proportionate share of the compensation and administrative expenses required by the mediator and by the mediation services provider selected by the parties. If a mediator has not been selected by the parties within sixty (60) days after one of the parties has requested that a dispute arising under this Phase II CEDA be mediated, then any of the parties may commence a lawsuit or commence such other method of pursuing such remedies as may be available to any of the parties.

Section 7. Defaults. A failure to comply with the terms of this Phase II CEDA shall constitute a default hereunder. The party in default shall have ninety (90) days, after receiving written notice from the other party of the event of default, to cure that default. If the default is not cured within that time period, the non-defaulting party may sue the defaulting party for specific performance under this Phase II CEDA or for damages or both; or may pursue such other remedies as may be available.

Section 8. Amendments.

- A) This Phase II CEDA may be amended by the COUNTY, TOWNSHIP and the CITY only in a writing approved by the legislative authorities of all three parties by means of appropriate legislation authorizing such amendment. Such amendment, in order to be effective, must be authorized by appropriate legislation authorizing such amendment(s) approved by the legislative authorities of all three of the parties hereto. Such amendment(s), in order to be effective, must be authorized by appropriate legislation passed by each of the parties hereto within a 90 day period.
- B) In the event Article II ceases to be binding on the parties hereto, the TOWNSHIP and CITY may meet together to determine whether any amendments to the remaining provisions of this Phase II CEDA can be negotiated to their mutual benefit. In the event Article II ceases to be binding on the parties hereto, the TOWNSHIP and CITY shall each have the right to terminate this Phase II CEDA, unilaterally, at their discretion.

Section 9. Immunities Preserved. By entering into this Phase II CEDA, neither the COUNTY, the CITY nor the TOWNSHIP intend to relinquish or waive any of the immunities they now have or may hereafter be accorded under state and/or federal laws, including, without the limitation of any such immunities, all those immunities accorded to governmental entities and their officers and employees under Chapter 2744 of the Ohio Revised Code.

Section 10. Powers Preserved. This Phase II CEDA is not intended to be in derogation of the powers granted to municipal corporations by Article XVIII, Ohio Constitution, or any other provisions of the Ohio Constitution or of CITY'S municipal charter or of the Ohio Revised Code; nor is it intended to be in derogation of the powers granted to townships under any provisions of the Ohio Constitution or of the Ohio Revised Code; nor is it intended to be in derogation of the powers granted to

boards of county commissioners under any provisions of the Ohio Constitution or of the Ohio Revised Code.

Section 11. Beneficiaries. This Phase II CEDA shall inure to the benefit of and shall be binding upon the COUNTY, TOWNSHIP, and the CITY and their respective successors; subject, however, to the specific provisions hereof. This Phase II CEDA shall not inure to the benefit of anyone other than as provided in the immediately preceding sentence. This Phase II CEDA is not intended to and does not create rights or benefits of any kind for any persons or entities which are not a party to this Phase II CEDA.

Section 12. Severability. Except as otherwise provided in Article II, Section 15 hereof, in the event that any section or provision of this Phase II CEDA, or any covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, or any application thereof, is held to be illegal or invalid for any reason:

- A) that illegality or invalidity shall not affect the remainder hereof or thereof, any other section or provision hereof, or any other covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein or therein,
- B) the illegality or invalidity of any application hereof or thereof shall not affect any legal and valid application hereof or thereof, and
- C) each section, provision, covenant, agreement, obligation or action, or part thereof, shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law.

Section 13. Character of Payments. Nothing in this Phase II CEDA is to be interpreted as the sharing of the proceeds of any tax levy by and between the CITY and the TOWNSHIP. All language within this Phase II CEDA which employs an amount of any tax to be collected as part of a calculation for determining a sum to be paid by one party to another of the parties to this Phase II CEDA is intended, and therefore to be interpreted, as a reasonable, practical and convenient mechanism which the parties have agreed to use to compute, in a less controversial manner, the payments to be made by one party to another for services and other items of value to be received by the paying party. No payments to be made under this Phase II CEDA are intended to be a sharing of proceeds of any tax levy proscribed by Subsection 701.07(D) of the Ohio Revised Code. The parties do not consider estate taxes to be a tax levy.

Section 14. Merger. This Phase II CEDA, which includes the recitals hereto, constitutes the entire understanding of the parties hereto and shall not be altered, changed, modified, or amended, except by similar instruments in writing, executed by the parties hereto as provided in this Phase II CEDA. It is not intended that any utility supply agreement entered into between COUNTY and CITY or that any mutual aid agreement between CITY and TOWNSHIP or that any roadway maintenance

cooperation agreement between CITY and COUNTY be merged with this Phase II CEDA. There are no Exhibits A, B, C, or D to this Phase II CEDA. Nothing in this Phase II CEDA is intended to affect the rights and obligations of the parties hereto under their Phase I CEDA.

Section 15. Liberal Construction. The parties agree that just as Ohio Revised Code Section 701.07 is to be liberally construed to allow parties to enter into Cooperative Economic Development Agreements, the parties further agree that this Phase II CEDA shall be liberally construed in order to facilitate the desire of each of the parties to carry out this Phase II CEDA by providing government improvements and facilities and services, by promoting and supporting economic development, by creating and preserving employment opportunities, and by allowing for the sharing by the CITY, TOWNSHIP, COUNTY and the State of Ohio, in the benefits of economic development, even if the economic development does not occur in an unincorporated area. Each provision of this Phase II CEDA shall be construed and interpreted so as to permit maximum advantage to the parties allowed by Ohio Revised Code Section 701.07.

Section 16. Captions and Headings. The captions and headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections hereof.

## **ARTICLE VIII – TEMPORARY TRANSITIONAL PROVISIONS**

Section 1. Annexation Corridors. Upon the signing of this Phase II CEDA, CITY will assist 1) property owners in the portion of Springfield Township described and designated in yellow on **EXHIBIT F**, attached hereto and incorporated herein by this reference, which is hereinafter referred to sometimes as the "Eastern Annexation Corridor" and sometimes called "Area 5" and 2) property owners in the portion of Springfield Township described and designated in yellow on **EXHIBIT G**, attached hereto and incorporated herein by this reference, which is hereinafter referred to sometimes as the "Western Annexation Corridor" and sometimes as "Area 6" in pursuing annexation of their property into The City of Springfield, Ohio. In providing assistance to such property owners, the CITY will:

- A) prepare the necessary annexation petitions,
- B) tender the petitions to property owners for signatures,
- C) prepare necessary maps
- D) assist property owners in filing their annexation petitions and
- E) assist property owners in preparing notices required under applicable statutes.

All of the parties to this Phase II CEDA shall cooperate to obtain the support of State of Ohio and the support of other political subdivisions, included within Areas 5 and 6, to the subject annexations (i.e obtain their signatures to the annexation petitions). All of

the parties to this Phase II CEDA shall cooperate to expedite subject annexation processes. Should either annexation of the Eastern Annexation Corridor or of the Western Annexation Corridor or both prove impractical or unsuccessful, then the parties to this Phase II CEDA shall cooperate with each other in designing an alternate corridor or alternate corridors to successfully accomplish annexation of both 1) at least five acres of privately owned lands in Springfield Township immediately west of the Forest Hills Subdivision and 2) at least five acres of privately owned lands in Springfield Township in the vicinity (i.e. within 200 yards) of the intersection of Bird Road and State Route 40 within the corporate limits of The City of Springfield, Ohio.

Section 2. State Route 40 Obligations. The parties to this Phase II CEDA shall cooperate and jointly pursue new state legislation and/or other effective legal measures or processes which will effectively insulate CITY from any obligation to construct, reconstruct or maintain state highways running through territory subject to the jurisdiction of both the CITY and the TOWNSHIP and which are located within Areas 1, 2, 3 or 4.

Section 3. Temporary status of Area 4. The provisions of Articles III, IV, V, VI and VII of this Phase II CEDA are temporarily suspended with respect to benefits to Area 4, pending successful completion of the annexations described in Section 1 of this Article and accomplishment of the objective stated in Section 2 of this Article (hereinafter the "Temporary Suspension Period"). Notwithstanding the foregoing, CITY and COUNTY intend to proceed with discussions on utility a supply agreement(s) and the design/designation of county sewer district areas. During the Temporary Suspension Period, the following restrictions and limitations shall be observed by the parties to this Phase II CEDA, unless subsequently modified by mutual agreement of all parties to this Phase II CEDA adopted by each of them in appropriate legislation:

- A) There will be no transfer of CITY, direct water or sewer customers to a county sewer district so as to become a COUNTY utility customer,
- B) New residential utility customers [i.e. customers requesting service after 6/8/99] not currently within CITY'S corporate boundaries and not within a defined county sewer district must sign a Development Incentive Agreement with the CITY, in the form customarily used by CITY at the time the property owner seeks to obtain sewer or water services from CITY,
- C) New commercial and industrial utility customers [i.e. customers requesting service after 6/8/99] not currently within CITY'S corporate boundaries and not in a defined county sewer district must sign a Development Incentive Agreement with the CITY, in the form customarily used by CITY at the time the property owner seeks to obtain sewer or water services from CITY, even if such new customer may ultimately be permanently included in a county sewer district and not annexed to the CITY.

The parties to this Phase II CEDA understand and agree that the CITY will collect and retain all revenue generated under existing and new Development Incentive Agreements entered into between property owners and the CITY and such revenues are recognized to be the property of CITY.

Section 4. Annexed Territory not to be removed from the Township. TOWNSHIP and CITY agree that the provisions of Article II will apply to portions of Area 4 which may be annexed to the CITY while this Article VIII is operative (i.e. during the Temporary Suspension Period) and the provisions of Article II will continue to be binding with respect to any portion of Area 4 which was annexed to the CITY during the operative period of Article VIII (i.e. the annexation petition was filed with COUNTY during the Temporary Suspension Period), even if this agreement is terminated under Article VIII, Section 5.

Section 5. Unsuccessful Annexation of an Annexation Corridor. The parties to this Phase II CEDA recognize that in the event the annexation of Area 5 or Area 6 or both of them is unsuccessful that, notwithstanding their efforts to design alternate annexation corridors, no alternate annexation corridor may be feasible or practical. In the event the CITY determines that no alternate annexation corridor, as described in Section 1 of this Article, is feasible and practical, the CITY may, but is not required to, unilaterally terminate this Phase II CEDA. If the CITY terminates this Phase II CEDA under this section, the parties agree to meet to discuss and negotiate over other possible methods of accomplishing the spirit of the 1999 Memorandum Of Intent in Area 4.

Section 6. Termination of Article VIII. After both the Eastern Annexation Corridor and the Western Annexation Corridor (or their alternate corridors should alternate corridors have been necessary) have been successfully annexed to The City of Springfield, Ohio and the annexation of such areas are secure by operation of ORC §709.21 and after the new state legislation effectively insulating CITY from any obligation to construct, reconstruct or maintain state highways running through territory subject to the jurisdiction of both the CITY and the TOWNSHIP and which are located within Areas 1, 2, 3 or 4 has been signed by the Governor of the State of Ohio and is effective (or the other effective legal measures or processes intended to effectively insulate CITY from any obligation to construct, reconstruct or maintain state highways running through territory subject to the jurisdiction of both the CITY and the TOWNSHIP and which are located within Areas 1, 2, 3 or 4 have been successfully completed to CITY'S satisfaction) then:

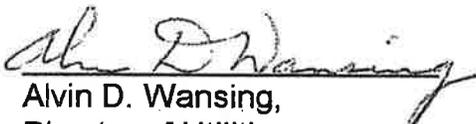
- A) CITY will consent to mutual, prospective termination of the new residential Development Incentive Agreements referred to in Subsection 3(B) of this Article; provided, however, that the CITY will collect all revenue due under those Development Incentive Agreements and revenue not yet due under those Development Incentive Agreements will be excused,

- B) For new commercial/industrial customers [as referred to in Subsection 3(C) of this Article] which the CITY is willing to permit to be included in a county sewer district, CITY will consent to mutual, prospective termination of such new commercial/industrial customer's Development Incentive Agreement upon such customer being permanently included in a county sewer district and not annexed to the CITY; provided, however, that the CITY will collect all revenue due under those Development Incentive Agreements and revenue not yet due under those Development Incentive Agreements will be excused,
- C) The Development Incentive Agreements of all other new commercial/industrial customers [as referred to in Subsection 3(C) of this Article] shall continue in effect; however when practical, the CITY will require that such other new commercial/industrial customers commence and prosecute proceedings to annex their property to The City of Springfield, Ohio; provided, however, that the CITY will collect all revenue due under those Development Incentive Agreements through the date the subject annexation becomes effective and revenue not yet due under those Development Incentive Agreements on such effective date will be excused, and
- D) This Article VIII will terminate and cease to be effective prospectively.

IN WITNESS WHEREOF, the COUNTY, TOWNSHIP and the CITY have caused this Phase II CEDA to be duly signed in their respective names by their duly authorized officers as of the date first above written.

ATTEST:

THE CITY OF SPRINGFIELD, OHIO

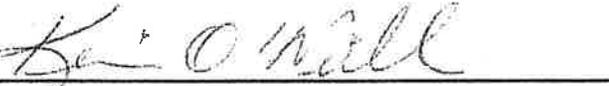
  
 Alvin D. Wansing,  
 Director of Utilities

By:   
 Warren R. Copeland, Mayor

By:   
 Martin K. Mahoney, Assistant Mayor

APPROVED AS TO FORM  
 AND CORRECTNESS:

  
 Deputy Law Director

By:   
 Kevin O'Neill, Commissioner

By:   
 Daniel J. Martin, Commissioner

By: Joyce A. Beverly Casey  
Joyce A. Beverly Casey, Commissioner

By: Matthew J. Kridler  
Matthew J. Kridler, City Manager

**THE BOARD OF TOWNSHIP TRUSTEES OF  
SPRINGFIELD TOWNSHIP, CLARK COUNTY,  
OHIO**

ATTEST:  
Herb Greer  
Township Clerk

By: Ron Lowe  
Ron Lowe, Township Trustee

By: U. Timothy Juergens  
U. Timothy Juergens, Township Trustee

APPROVED AS TO FORM  
AND CORRECTNESS:

By: Doug Smith  
Doug Smith, Township Trustee

Alfred E. Schrader, Esq.  
Attorney for TOWNSHIP

**THE BOARD OF COUNTY COMMISSIONERS OF  
CLARK COUNTY, OHIO**

ATTEST:  
Alice Godsey  
Alice Godsey,  
Director of Utilities

By: James E. Sheehan  
James E. Sheehan,  
President, County Commission

APPROVED AS TO FORM  
AND CORRECTNESS:

By: W. Darrell Howard  
W. Darrell Howard,  
County Administrator

County Prosecutor  
County Prosecutor

Resolution No. 1104-00

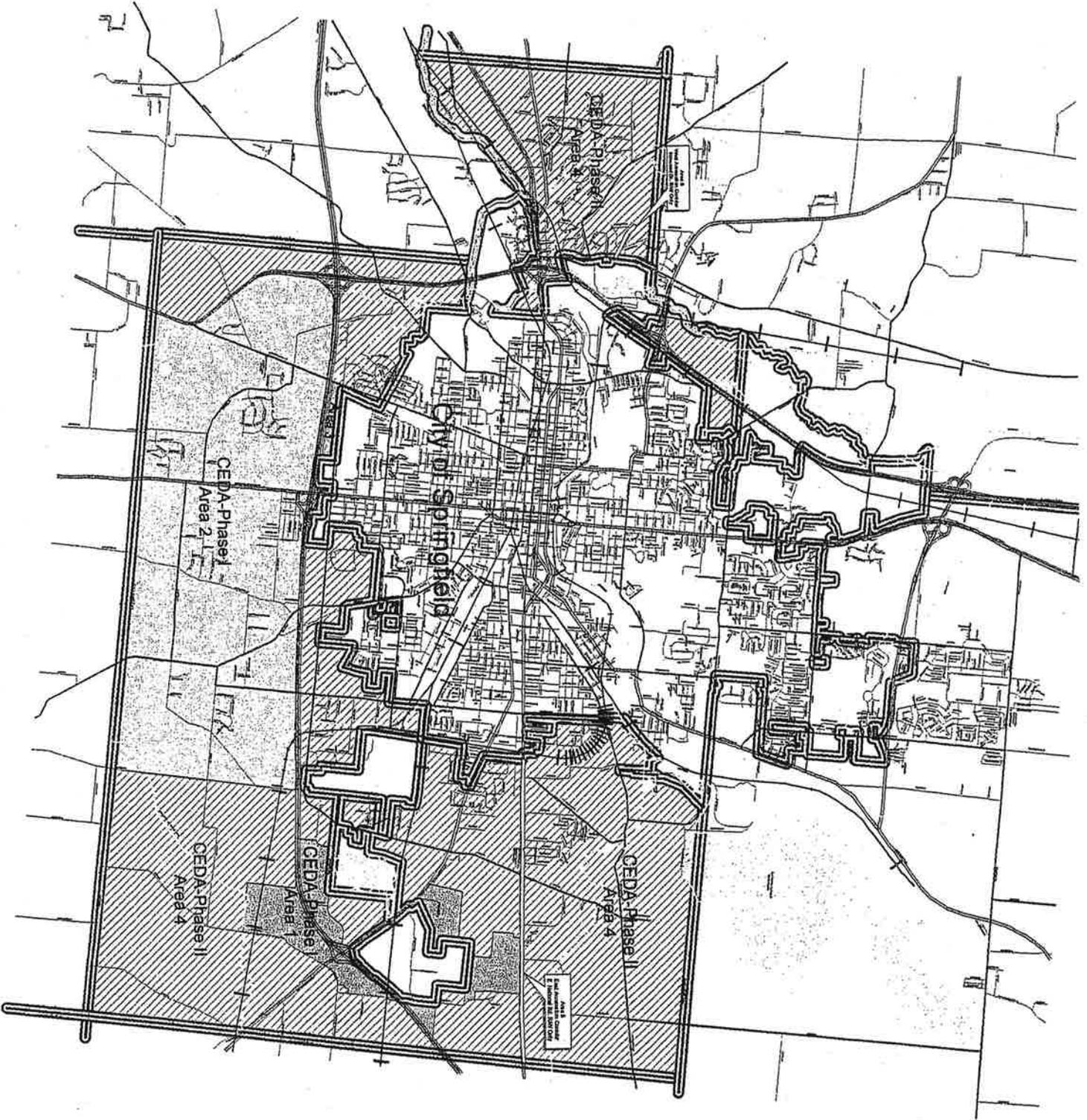
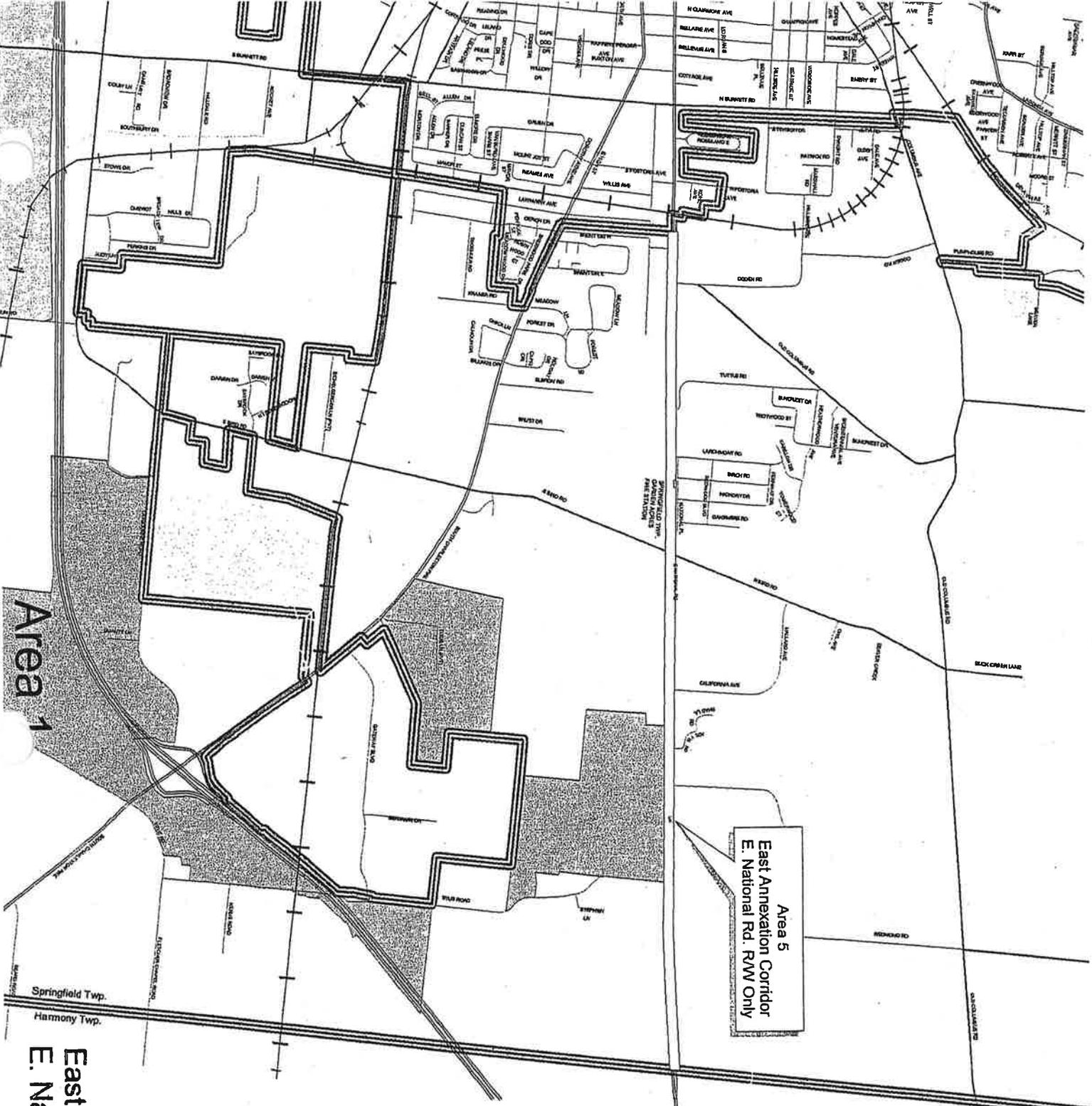


EXHIBIT **F**



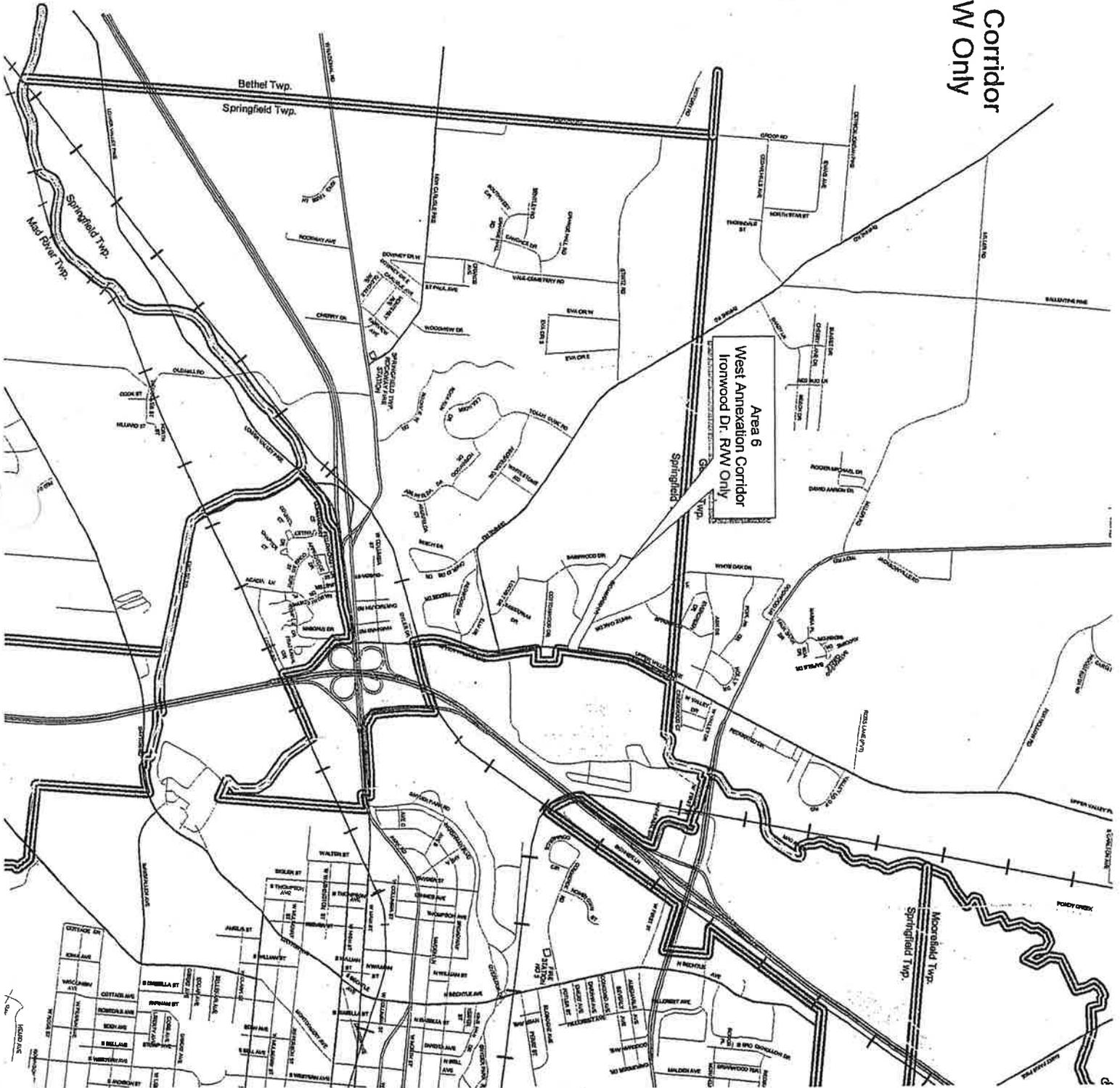
Area 1

Area 5  
 East Annexation Corridor  
 E. National Rd. RW Only

Springfield Twp.  
 Harmony Twp.

Area 5  
 East Annexation Corridor  
 E. National Rd. RW Only

Area 6  
West Annexation Corridor  
Ironwood Dr. R/W Only



**CLARK COUNTY – SPRINGFIELD TOWNSHIP – CITY OF SPRINGFIELD  
SPRINGFIELD TOWNSHIP CEDA REGIONAL PLANNING COMMISSION  
ESTABLISHMENT AGREEMENT**

This CEDA Regional Planning Commission Establishment Agreement (hereinafter the "Establishment Agreement") is entered into this 1 day of October, 2002, by and among CITY PLANNING BOARD OF THE CITY OF SPRINGFIELD, OHIO (hereinafter "CITY PLANNING BOARD"), THE BOARD OF COUNTY COMMISSIONERS, CLARK COUNTY, OHIO, (hereinafter "COUNTY"), THE BOARD OF TOWNSHIP TRUSTEES OF SPRINGFIELD TOWNSHIP, CLARK COUNTY, OHIO, ("hereinafter TOWNSHIP"), THE CITY OF SPRINGFIELD, OHIO, ("THE CITY OF SPRINGFIELD, OHIO, (hereinafter "MUNICIPALITY") and the CLARK COUNTY PLANNING COMMISSION (hereinafter "COUNTY PLANNING BOARD").

WHEREAS, COUNTY, TOWNSHIP and MUNICIPALITY are political subdivisions located entirely within the State of Ohio and TOWNSHIP and MUNICIPALITY are contiguous and overlapping political subdivisions located entirely within Clark County, Ohio; and

WHEREAS, CITY PLANNING BOARD is a Planning Commission for MUNICIPALITY established in accordance with and through implementation of the powers vested in MUNICIPALITY and its City Commission under its Municipal Charter, its Ordinances and Chapter 713 of the Ohio Revised Code (hereinafter "ORC")

WHEREAS, COUNTY, TOWNSHIP and MUNICIPALITY wish to cooperate in creating and preserving jobs and employment opportunities and to cooperate in inducing and fostering economic development within the State of Ohio, and more particularly within the territories to which this Establishment Agreement pertains; and,

Whereas, COUNTY, TOWNSHIP and MUNICIPALITY have previously entered into a "Cooperative Economic Development Agreement" dated December 8th, 1999 (hereinafter the "Phase I CEDA") covering portions of Springfield Township described therein as the "Corporate Park Extension Area" (sometimes called "Area 1"), the "Southern Interceptor Joint Service Area" (sometimes called "Area 2") and the "West Leffel Lane Transitional Service Area" (sometimes called "Area 3"); and,

Whereas, COUNTY, TOWNSHIP and MUNICIPALITY have previously entered into a "Cooperative Economic Development Agreement" dated December 1st, 2000 (hereinafter the "Phase II CEDA") covering portions of Springfield Township described therein as the "Springfield Township Remaining Area" (sometimes called "Area 4"); and,

WHEREAS, COUNTY, TOWNSHIP and MUNICIPALITY wish to honor their mutual promises to cooperate in zoning and subdivision regulation matters within Area 1, Area 2, Area 3, and Area 4 (hereinafter collectively the "CEDA Territory") as stated in Article III, Subsection 2(H) of the Phase I CEDA and in Article III, Subsection 2(H) of the Phase II CEDA; and,

WHEREAS, COUNTY, TOWNSHIP and MUNICIPALITY wish to cooperate in improving and advancing the health, safety and welfare of the citizens of Clark County residing within the CEDA Territory; and,

WHEREAS, ORC Section 713.21 provides for the establishment of Regional Planning Commissions by the planning commission of any municipal corporation, any board of township trustees and the board of county commissioners; and,

WHEREAS, CITY PLANNING BOARD is vested with powers under ORC Chapter 713 and Chapter 157 of MUNICIPALITY'S Codified Ordinances to participate in the establishment of regional planning commissions; and,

WHEREAS, the parties hereto wish to establish a planning commission for the CEDA Territory which will represent the interests of the three political subdivisions which have cooperated to secure the benefits of cooperative economic development district status to the CEDA Territory, which will be knowledgeable concerning the planning and land use regulation policy objectives of the said three political subdivisions and wish to establish planning, zoning, platting and subdivision regulation mechanisms which will be effective, efficient, promote uniformity, facilitate expeditious decision making and be responsive to the public health, safety and welfare needs of the CEDA Territory and the development need within the CEDA Territory; and,

WHEREAS, the parties hereto, in pursuing the above mentioned public purposes, intend to avail themselves of all powers available under the Constitution of the State of Ohio, of the laws adopted by the Ohio General Assembly as well as the all municipal powers available to MUNICIPALITY under its municipal charter; and,

WHEREAS, to further facilitate achievement of the above mentioned public purposes, COUNTY, TOWNSHIP and MUNICIPALITY will provide the resources necessary to enable the proper functioning of the regional planning commission established by this Establishment Agreement, but subject to the limitations described in this Establishment Agreement.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

## **ARTICLE I – ESTABLISHMENT OF REGIONAL PLANNING COMMISSION**

Section 1. By the powers vested in them, as referenced in the recitals to this Establishment Agreement, CITY PLANNING BOARD, TOWNSHIP and COUNTY do hereby establish an ORC Section 713.21 regional planning commission which shall have jurisdiction throughout the CEDA Territory (hereinafter the "COMMISSION"). The COMMISSION shall have all powers of an ORC Section 713.21 regional planning commission and such powers as are conferred upon the COMMISSION in Article II of this Establishment Agreement.

Section 2. The COMMISSION shall consist of seven (7) members. Each of the COMMISSION members shall serve for a period of three years and shall be appointed as follows:

- A) Two (2) members shall be appointed by the TOWNSHIP,
- B) Two (2) members shall be appointed by the CITY PLANNING BOARD,
- C) One (1) member shall be appointed by the COUNTY and shall be a resident of MUNICIPALITY,
- D) One (1) member shall be appointed by the COUNTY and shall be a resident of TOWNSHIP,
- E) The seventh member of the COMMISSION shall be appointed by a majority vote of the six members described in subdivisions A through D of this Section and shall be a resident of Clark County. This seventh member shall serve as Chairperson of the COMMISSION.

Section 3. The terms of the initial members of the COMMISSION shall expire as follows:

- A) One member appointed and designated by the TOWNSHIP shall serve a term expiring November 30, 2004,
- B) One member appointed and designated by the TOWNSHIP shall serve a term expiring November 30, 2003,
- C) One member appointed and designated by the CITY PLANNING BOARD shall serve a term expiring November 30, 2004,
- D) One member appointed and designated by the CITY PLANNING BOARD shall serve a term expiring November 30, 2003,
- E) The two members appointed by the COUNTY shall serve a terms expiring November 30, 2002, and
- F) The seventh member, appointed as specified in Subsection 1(E) of this Article, shall serve a term expiring November 30, 2004,

Section 4. Members of the COMMISSION shall continue to serve on the COMMISSION and shall have all powers and duties of a member of the COMMISSION until the member is replaced by a properly appointed successor. Notwithstanding the foregoing, a member of the COMMISSION may resign by giving written notice of his/her resignation, both to the Secretary of the Commission and to the body appointing such member, at least twenty one (21) days prior to the next, regularly scheduled meeting of the COMMISSION. Members of the COMMISSION shall serve at the pleasure of the body appointing the member and any member of the COMMISSION may be removed from the COMMISSION by the body appointing such member at any time and without cause.

Section 5. If any COMMISSION member is absent from three of any six consecutive regularly scheduled meetings, or if such member is unwilling or unable to attend a regularly scheduled, prearranged discussion of the public business of the COMMISSION which fails to qualify as a "meeting" for lack of quorum, such member's seat shall immediately become vacant. Such member shall have the opportunity to explain his/her absence to the body appointing such member and may be reappointed by such appointing body to complete the balance of his/her term.

Section 6. Any vacancy on the COMMISSION shall be promptly filled by an appointment by the body who appointed the member whose seat has become vacant. The appointee to a vacant seat shall have the same qualifications specified in Section 2 of this Article as the member whose vacancy is so filled and such appointee shall serve for the unexpired term of the member whose vacancy is so filled.

Section 7. All members of the COMMISSION shall serve without compensation.

## **ARTICLE II – COMMISSION PLANNING AND PLATTING POWERS**

Section 1. The COMMISSION is recognized by the parties to this Establishment Agreement as vested with all statutory powers possessed by regional planning commissions pursuant to ORC Sections 713.21 and 713.23. The COMMISSION shall be both the planning commission and platting commission for the CEDA Territory. This Establishment Agreement is not intended to limit such statutory powers and to the extent the exercise of such statutory powers is regulated by this Establishment Agreement, such regulation is intended to be directory to the COMMISSION and not mandatory.

Section 2. The COMMISSION hereby is clothed with the following municipal powers and duties which shall be operative within that portion of the CEDA Territory included within MUNICIPALITY'S corporate boundaries (hereinafter the "Overlap Territory"):

- A) To make or cause to be made plans and maps of the whole or any portion of the Overlap Territory, which plans and maps shall show the COMMISSION'S recommendations for the general location, character, extent, design, removal, relocation, widening or extension of streets, alleys, ways, street fixtures, viaducts, bridges, parks, parkways, boulevards, parking areas, playgrounds, monuments, memorials, public works and improvements; and to make such changes and enlargements in, and amendments and additions to, such plans and maps as are deemed advisable;
- B) To act and perform the functions and duties of a platting commission or a platting commissioner for the Overlap Territory, in the manner permitted in ORC Sections 713.03 and 735.17;
- C) To perform all the powers and duties permitted to be performed by a director of public service, as specified in ORC Section 735.15, relating to the location of public buildings, Municipal and County, within the Overlap Territory, and the plans and specifications thereof;
- D) To perform all the duties and functions required of a planning commission under ORC Section 711.09, relating to major streets, thoroughfares, parks and subdivisions within the Overlap Territory;
- E) As pertaining to the Overlap Territory, to do and perform all duties, functions and things authorized by municipal planning commissions to be done and performed under the provisions of ORC Sections 713.01 to 713.05, inclusive, as the same now provides or hereafter may be amended, save those acts, duties and functions herein excepted, reserved or prohibited, and save as such provisions may be in conflict with Chapter 157 of MUNICIPALITY'S Codified Ordinances, or MUNICIPALITY'S Charter or other ordinances of MUNICIPALITY; and,
- F) As pertaining to the Overlap Territory, to coordinate all its activities to the extent that the same are relevant or pertain to the duties, power and authority of the Board of Adjustment and the Board of Park Trustees of MUNICIPALITY, if any, and the County Commissioners of Clark County, or any planning or zoning authority now or hereafter created or established by the County Commissioners.

The COMMISSION shall exercise the powers and duties transferred and delegated to it pursuant to this Section so as to implement the municipal planning and platting policy objectives described in Section 157.07 of MUNICIPALITY'S Codified Ordinances.

Section 3. To the fullest extent permitted under ORC Subsection 713.23 (C), the COUNTY PLANNING BOARD does hereby delegate unto the COMMISSION all of its functions, powers and duties with respect to that portion of the CEDA Territory located outside of the MUNICIPALITY'S corporate boundaries (hereinafter the "Unincorporated Territory").

Section 4. At the first scheduled meeting of the COMMISSION the COMMISSION shall commence consideration for adoption the following plans currently in place for the CEDA Territory:

- A) The Official Thoroughfare Plan Clark County, Ohio,
- B) The MUNICIPALITY'S 1978 Thoroughfare Plan, and
- C) The Clark County Comprehensive Land Use Plan

This Section is not intended to require a final determination on adoption of the said plans at the first scheduled meeting of the COMMISSION, but that the COMMISSION commence consideration at such meeting and thereafter exercise all diligence in its deliberations on such adoptions and expeditiously pursue to completion its deliberations.

Section 5. Before either the CITY PLANNING BOARD or the COMMISSION adopts any plan at variance with an existing plan governing all or a portion of the territory encompassed within MUNICIPALITY'S' corporate boundaries, the CITY PLANNING BOARD and the COMMISSION shall hold a joint meeting to discuss such proposed plan.

Section 6. Before either the COUNTY PLANNING BOARD or the COMMISSION adopts any plan at variance with an existing plan governing all or a portion of the Unincorporated Territory, the COUNTY PLANNING BOARD and the COMMISSION shall hold a joint meeting to discuss such proposed plan.

Section 7. After adopting a thoroughfare plan for the CEDA Territory, the COMMISSION shall proceed to draft, consider and adopt subdivision regulations of uniform application for the entire CEDA Territory, all in accordance with applicable law. The subdivision regulations for the CEDA Territory may include rules requiring the actual construction of streets or other improvements or facilities and/or rules governing assurance of that construction as a condition precedent to approval of a plat of a subdivision. The subdivision regulations adopted by the COMMISSION shall provide for their administration by the COMMISSION and may provide for the modification thereof in specific uses, where unusual or exceptional factors or conditions require such modifications by the COMMISSION.

- A) Prior to adopting subdivision regulations for the CEDA Territory, the COMMISSION, CITY PLANNING BOARD and COUNTY PLANNING BOARD shall conduct a joint hearing regarding the adoption of such subdivision regulations. The COMMISSION shall make all necessary arrangements for such joint hearing and shall serve notice on the CITY PLANNING BOARD, TOWNSHIP, COUNTY PLANNING BOARD, COUNTY and MUNICIPALITY of the hearing date, time and venue at least thirty (30) prior to the hearing date.

- B) Subdivision regulations adopted by the COMMISSION shall be forwarded to the COUNTY and MUNICIPALITY for hearings and adoption by their respective legislative bodies. In the event either the COUNTY or the MUNICIPALITY fails to adopt the said subdivision regulations, the COMMISSION shall recommence the subdivision regulation adoption procedure beginning with step (A), above, with subdivisions regulations revised as necessary for adoption by both COUNTY and MUNICIPALITY.
- C) After the subdivision regulations adopted by the COMMISSION have also been adopted by both the COUNTY and the MUNICIPALITY, the COMMISSION shall publish the adopted subdivision regulations in accordance with applicable law [currently ORC Sections 731.17-731.42].
- D) After the COUNTY'S Board of County Commissioners and the MUNICIPALITY'S City Commission have both adopted the COMMISSION'S subdivision regulations for the CEDA Territory, the COMMISSION shall certify a copy of its subdivision regulations to the Clark County Recorder in accordance with law.
- E) All amendments to subdivision regulations adopted by the COMMISSION for the CEDA Territory shall be adopted using the procedure specified in this Section.

Section 8. With respect to plats of lands within the CEDA Territory, authority is hereby vested in the COMMISSION to approve plats which are in compliance with applicable subdivision regulations. The processing of a plat submitted for approval by the COMMISSION shall be subject to the following:

- A) The COMMISSION shall immediately schedule a meeting to consider the submitted plat,
- B) With respect to plats of lands in the Unincorporated Territory, the COMMISSION shall immediately give notice of such meeting to TOWNSHIP'S board of township trustees in accordance with applicable law [currently ORC Section 711.10],
- C) The COMMISSION shall endorse its approval or refusal of approval on the plat within thirty (30) days after submission of plat to the COMMISSION; however, the applicant for plat approval may waive this requirement, provided such waiver is made in writing.
- D) The COMMISSION may approve plats conditioned on completing compliance with applicable subdivision regulations, but only if such conditional approval is provided for in the subdivision regulations.

### **ARTICLE III – OFFICIAL ACTIONS AND ADMINISTRATIVE OPERATIONS**

Section 1. The regular meetings of the COMMISSION shall be held once each month. The COMMISSION may meet at such additional times as the COMMISSION may determine. The Chairperson may call an emergency meeting of the COMMISSION; provided at least forty eight (48) hours written notice of such emergency meeting is delivered to those members which may be found in Clark County and; provided further that any member may waive his/her right to such advance notice at the emergency meeting. The chairperson may cancel a meeting if no member has proposed business to be conducted at the meeting. The time of regular meetings shall be specified in the rules and regulations of the Board. Notice of meeting times and venues shall be published by the Secretary of the Commission on a bulletin board located in the building where the COMMISSION normally meets and which is designated for providing information to the public and, in addition, twenty four hours notice of the time place and purpose of emergency meetings shall also be given to members of the public requesting notification of emergency meetings, if the requesting party has provided to the Secretary of the Commission:

- A) A stamped and self addressed envelope if notice is requested to be made by mail or
- B) A FAX telephone number if notice is requested to be made by FAX or
- C) An e-mail address if notice is requested to be made by e-mail.

The Secretary of the Commission shall publish notice of meetings of the COMMISSION, other than emergency meetings, at least seven days prior to the meeting date.

Section 2. The principal office and mailing address of the COMMISSION shall be determined by the COMMISSION at its first meeting and may be changed by the COMMISSION from time to time. The COUNTY shall provide the COMMISSION with a meeting place, with any necessary public address system to conduct its meetings and with such facilities as are necessary to record the proceedings of such meetings, with such storage space as is necessary for the records of the COMMISSION and with such facilities as are necessary to enable the COMMISSION to respond to requests for public records.

Section 3. A minimum of four members shall constitute a quorum for COMMISSION meeting purposes. The COMMISSION shall act through resolutions adopted by the COMMISSION. A resolution must receive the affirmative vote of at least a majority of quorum of the COMMISSION to be adopted. A resolution adopted by the COMMISSION shall be immediately effective, unless otherwise provided by law.

Section 4. The COMMISSION may adopt by-laws for the regulation of its affairs and the conduct of its business, consistent with this Establishment Agreement. Unless provided otherwise in its by-laws, proceedings of the COMMISSION will be conducted generally pursuant to Robert's Rules of Order; however, a failure to strictly adhere to such rules shall not affect the validity of COMMISSION action. The

COMMISSION shall designate by resolution or in its by-laws those Officers who may sign documents on behalf of the COMMISSION. The by-laws of the COMMISSION may provide for additional officers of the COMMISSION. The by-laws of the COMMISSION may provide for the establishment of committees, for their functioning and for ratification of their actions; provided, that all such by-laws shall conform to the legal requirements governing ORC Section 713.21 regional planning commissions.

Section 5. The COUNTY'S Planning Director shall serve as the Secretary of the Commission and his/her staff shall provide necessary record keeping services, shall take minutes of COMMISSION meetings, shall perform other clerical services necessary for the COMMISSION to perform its duties and may perform such other duties as the COMMISSION may from time to time assign to the Secretary of the Commission.

Section 6. The Secretary of the Commission shall keep the minutes of the meetings of the COMMISSION in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of this Establishment Agreement and with the COMMISSION'S by-laws and as otherwise required by law. The Secretary of the Commission shall be the custodian of the public records of the COMMISSION and shall retain such records at his/her offices. The Secretary of the Commission shall serve a copy of all minutes, resolutions and recommendations of the COMMISSION on TOWNSHIP'S Township Clerk and on MUNICIPALITY'S City Clerk immediately after the COMMISSION meeting producing such minutes, resolutions and recommendations.

Section 7. Comment Period before Final Action on Rezoning.

- A) MUNICIPALITY shall allow a twenty (20) day period following the day on which the Secretary of the Commission serves on TOWNSHIP'S Township Clerk a copy of all minutes, resolutions and recommendations of the COMMISSION pertaining to a rezoning of territory located both within the CEDA Territory and within MUNICIPALITY'S corporate boundaries prior to MUNICIPALITY'S City Commission adopting final legislation on such rezoning. The purpose of the said twenty (20) day period is to allow TOWNSHIP an opportunity to comment on the said rezoning matter prior to final action on the such rezoning by MUNICIPALITY'S City Commission.
  
- B) TOWNSHIP shall allow a twenty (20) day period following the day on which the Secretary of the Commission serves on MUNICIPALITY'S City Clerk a copy of all minutes, resolutions and recommendations of the COMMISSION pertaining to a rezoning of territory located within the CEDA Territory but not within MUNICIPALITY'S corporate boundaries prior to TOWNSHIP adopting final legislation on such rezoning. The purpose of the said twenty (20) day period is to allow MUNICIPALITY an opportunity to comment on the said rezoning matter prior to final action on the such rezoning by TOWNSHIP.

Section 8. COUNTY, TOWNSHIP and MUNICIPALITY shall provide such funding resources as they mutually deem necessary to enable the COMMISSION to perform its functions as an ORC Section 713.21 regional planning commission for the CEDA Territory, subject to the following:

- A) On or before January 31 of each calendar year throughout the term of this Establishment Agreement MUNICIPALITY shall provide five hundred dollars (\$500.00) of funding to the COMMISSION to enable the COMMISSION to purchase such official stationary and other office supplies as it may need to perform its functions (hereinafter "routine expenses"),
- B) By mutual agreement, COUNTY, TOWNSHIP and MUNICIPALITY may provide additional funding to the COMMISSION (i.e. funding for all non-routine expenses and routine expenses beyond \$500.00 in a calendar year) with each such party to provide an equal share of such additional funding,
- C) All funding provided to the COMMISSION shall be paid into the COUNTY'S treasury in accordance with applicable law [currently ORC Section 713.21],
- D) The costs of providing annual training for each of the members of the COMMISSION shall be born by the following parties;
  - i) Training costs for members appointed pursuant to Article I, Subsection 2(A) shall be born by TOWNSHIP,
  - ii) Training costs for members appointed pursuant to Article I, Subsection 2(B) shall be born by MUNICIPALITY
  - iii) Training costs for members appointed pursuant to Article I, Subsections 2(C) and 2(D) shall be born by COUNTY, and
  - iv) Training costs for the member appointed pursuant to Article I, Subsection 2(E) shall be born by MUNICIPALITY, COUNTY and TOWNSHIP in equal portions.

Section 9. COUNTY'S Planning Department shall provide the COMMISSION with such staff services as are necessary to the COMMISSION performing its functions as a regional planning commission for matters in the Unincorporated Territory. MUNICIPALITY'S Planning Department shall provide the COMMISSION with such staff services as are necessary to the COMMISSION performing its functions as a regional planning commission for matters in the Overlap Territory.

Section 10. COUNTY'S Purchasing Department shall perform necessary purchasing functions on behalf of the COMMISSION. All purchases shall be made by the COMMISSION in compliance with the procedures specified by applicable law [currently in ORC Sections 307.86 through 307.92].

## **ARTICLE IV – GENERAL TERMS**

Section 1. Term. The initial term of this Establishment Agreement shall commence on the date hereof and shall terminate December 31, 2050 (unless otherwise terminated prior to that date as provided herein). At the expiration of the initial term of this Establishment Agreement it shall automatically be renewed for a period of 50 years, and this Establishment Agreement shall continue to be automatically renewed thereafter for similar 50-year periods at the end of each renewal period with no limit upon the number of such renewals; ; unless the legislative authorities of the CITY, the COUNTY and the TOWNSHIP each affirmatively act to terminate this Establishment Agreement. In order for any such termination to be effective, legislative action of one party to terminate this Establishment Agreement must occur and be effective within a period of 90 days from the date of legislative action of the other parties terminating this Establishment Agreement. The provision herein for automatic extension of this Establishment Agreement except upon legislative action by each of the parties hereto terminating this Establishment Agreement recognizes that the accrual of benefits to the parties from the Phase I CEDA and the Phase II CEDA may take decades. Notwithstanding the foregoing, in the event either the Phase I CEDA or the Phase II CEDA is terminated, this Establishment Agreement shall automatically terminate effective on the earliest date of termination of either the Phase I CEDA or the Phase II CEDA.

Section 2. Early Termination. This Establishment Agreement may be terminated at any time by mutual consent of the TOWNSHIP and the MUNICIPALITY as authorized by their respective legislative authorities. In order for any such termination to be effective, legislative action of one party to terminate this Establishment Agreement must occur and be effective within a period of 90 days from the date of legislative action of the other party terminating this Establishment Agreement.

Section 3. Support of Agreement. In the event that this Establishment Agreement, or any of its terms, conditions or provisions, is challenged by any third party or parties in a court of law the parties agree to cooperate with one another and to use their best efforts in defending this Establishment with the object of upholding this Establishment Agreement. Each party shall bear its own costs in any such proceeding challenging this Establishment Agreement or any term or provisions thereof.

Section 4. Signing Other Documents. The parties agree to cooperate with one another and to use their best efforts in the implementation of this Establishment Agreement and to sign or cause to be signed, in a timely fashion, all other necessary instruments, legislation, petitions and similar documents, and to take such other actions in order to effectuate the purposes of this Establishment Agreement.

Section 5. CEDA Agreements. Nothing in this Establishment Agreement is intended to affect the rights and obligations of the COUNTY, TOWNSHIP or MUNICIPALITY under their Phase I CEDA or their Phase II CEDA. The terms and

conditions of the said Phase I CEDA and Phase II CEDA continue in effect and are not merged into this Establishment Agreement in any respect. With respect to the rights and obligations among the COUNTY, TOWNSHIP and MUNICIPALITY, in the event of any conflict between this Establishment Agreement and their Phase I CEDA and Phase II CEDA, the terms and conditions of their Phase I CEDA and Phase II CEDA shall prevail.

Section 6. Mediation. In the event the parties have a dispute as to any of the terms or applicability of this Establishment Agreement, the parties agree to use their best efforts to resolve the dispute through a mutually acceptable mediation process prior to any party filing a lawsuit. Each party participating in mediation shall pay its own costs of mediation, including their proportionate share of the compensation and administrative expenses required by the mediator and by the mediation services provider selected by the parties. If a mediator has not been selected by the parties within sixty (60) days after one of the parties has requested that a dispute arising under this Establishment Agreement be mediated, then any of the parties may commence a lawsuit or commence such other method of pursuing such remedies as may be available to any of the parties.

Section 7. Defaults. A failure to comply with the terms of this Establishment Agreement shall constitute a default hereunder. The party in default shall have ninety (90) days, after receiving written notice from the other party of the event of default, to cure that default. If the default is not cured within that time period, the non-defaulting party may sue the defaulting party for specific performance under this Establishment Agreement or for damages or both; or may pursue such other remedies as may be available.

Section 8. Amendments. This Establishment Agreement may be amended by the parties hereto only in a writing approved by the all of the parties hereto by means of appropriate legislation authorizing such amendment [resolutions and ordinances are deemed to be legislation for purposes of this Establishment Agreement]. Such amendment(s), in order to be effective, must be authorized by appropriate legislation passed by each of the parties hereto within a 90 day period.

Section 9. Immunities Preserved. By entering into this Establishment Agreement, neither the COUNTY, the CITY PLANNING BOARD, MUNICIPALITY, COUNTY PLANNING BOARD nor the TOWNSHIP intend to relinquish or waive any of the immunities they now have or may hereafter be accorded under state and/or federal laws, including, without the limitation of any such immunities, all those immunities accorded to governmental entities and their officers and employees under Chapter 2744 of the Ohio Revised Code.

Section 10. Powers Preserved. This Establishment Agreement is not intended to be in derogation of the powers granted to municipal corporations by Article XVIII, Ohio Constitution, or any other provisions of the Ohio Constitution or of CITY'S municipal charter or of the Ohio Revised Code; nor is it intended to be in derogation of

the powers granted to townships under any provisions of the Ohio Constitution or of the Ohio Revised Code; nor is it intended to be in derogation of the powers granted to boards of county commissioners under any provisions of the Ohio Constitution or of the Ohio Revised Code.

Section 11. Beneficiaries. This Establishment Agreement shall inure to the benefit of and shall be binding upon the COUNTY, TOWNSHIP, COUNTY PLANNING BOARD, MUNICIPALITY and the CITY PLANNING BOARD and their respective successors; subject, however, to the specific provisions hereof. This Establishment Agreement shall not inure to the benefit of anyone other than as provided in the immediately preceding sentence. This Establishment Agreement is not intended to and does not create rights or benefits of any kind for any persons or entities which are not a party to this Establishment Agreement.

Section 12. Non-Severability. Each provision of this Establishment Agreement is an essential and integral part of the entire agreement among the parties hereto and the illegality or invalidity of any portion of this Establishment Agreement shall result in the unenforceability of this Establishment Agreement in its entirety. In the event that any section or provision of this Establishment Agreement, or any covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, or any application thereof, is held to be illegal or invalid for any reason, that illegality or invalidity shall affect the remainder hereof or thereof and this Establishment Agreement shall automatically terminate. In the event this Establishment Agreement is terminated pursuant to this Section, the parties hereto agree to engage in good faith consultations with each other to determine whether a substitute agreement to establish a cooperative planning and platting regulatory system for the CEDA Territory would be practical and mutually beneficial.

Section 14. Merger. This Establishment Agreement, which includes the recitals hereto, constitutes the entire understanding of the parties hereto with regard to establishment of a regional planning commission for the CEDA Territory and shall not be altered, changed, modified, or amended, except by similar instruments in writing, executed by the parties hereto as provided in this Establishment Agreement. It is not intended that any utility supply agreement entered into between COUNTY and MUNICIPALITY or that any mutual aid agreement between MUNICIPALITY and TOWNSHIP or that any roadway maintenance cooperation agreement between MUNICIPALITY and COUNTY be merged with this Establishment Agreement.

Section 15. Captions and Headings. The captions and headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections hereof.

IN WITNESS WHEREOF, the COUNTY, TOWNSHIP, CITY PLANNING BOARD, MUNICIPALITY and the COUNTY PLANNING BOARD have caused this Establishment Agreement to be duly signed in their respective names by their duly authorized officers as of the date first above written.

**CLARK COUNTY – SPRINGFIELD TOWNSHIP – CITY OF SPRINGFIELD  
SPRINGFIELD TOWNSHIP CEDA REGIONAL PLANNING COMMISSION  
ESTABLISHMENT AGREEMENT**

This CEDA Regional Planning Commission Establishment Agreement (hereinafter the "Establishment Agreement") is entered into this 1 day of October, 2002, by and among CITY PLANNING BOARD OF THE CITY OF SPRINGFIELD, OHIO (hereinafter "CITY PLANNING BOARD"), THE BOARD OF COUNTY COMMISSIONERS, CLARK COUNTY, OHIO, (hereinafter "COUNTY"), THE BOARD OF TOWNSHIP TRUSTEES OF SPRINGFIELD TOWNSHIP, CLARK COUNTY, OHIO, ("hereinafter TOWNSHIP"), THE CITY OF SPRINGFIELD, OHIO, ("THE CITY OF SPRINGFIELD, OHIO, (hereinafter "MUNICIPALITY") and the CLARK COUNTY PLANNING COMMISSION (hereinafter "COUNTY PLANNING BOARD").

WHEREAS, COUNTY, TOWNSHIP and MUNICIPALITY are political subdivisions located entirely within the State of Ohio and TOWNSHIP and MUNICIPALITY are contiguous and overlapping political subdivisions located entirely within Clark County, Ohio; and

WHEREAS, CITY PLANNING BOARD is a Planning Commission for MUNICIPALITY established in accordance with and through implementation of the powers vested in MUNICIPALITY and its City Commission under its Municipal Charter, its Ordinances and Chapter 713 of the Ohio Revised Code (hereinafter "ORC")

WHEREAS, COUNTY, TOWNSHIP and MUNICIPALITY wish to cooperate in creating and preserving jobs and employment opportunities and to cooperate in inducing and fostering economic development within the State of Ohio, and more particularly within the territories to which this Establishment Agreement pertains; and,

Whereas, COUNTY, TOWNSHIP and MUNICIPALITY have previously entered into a "Cooperative Economic Development Agreement" dated December 8th, 1999 (hereinafter the "Phase I CEDA") covering portions of Springfield Township described therein as the "Corporate Park Extension Area" (sometimes called "Area 1"), the "Southern Interceptor Joint Service Area" (sometimes called "Area 2") and the "West Leffel Lane Transitional Service Area" (sometimes called "Area 3"); and,

Whereas, COUNTY, TOWNSHIP and MUNICIPALITY have previously entered into a "Cooperative Economic Development Agreement" dated December 1st, 2000 (hereinafter the "Phase II CEDA") covering portions of Springfield Township described therein as the "Springfield Township Remaining Area" (sometimes called "Area 4"); and,

WHEREAS, COUNTY, TOWNSHIP and MUNICIPALITY wish to honor their mutual promises to cooperate in zoning and subdivision regulation matters within Area 1, Area 2, Area 3, and Area 4 (hereinafter collectively the "CEDA Territory") as stated in Article III, Subsection 2(H) of the Phase I CEDA and in Article III, Subsection 2(H) of the Phase II CEDA; and,

WHEREAS, COUNTY, TOWNSHIP and MUNICIPALITY wish to cooperate in improving and advancing the health, safety and welfare of the citizens of Clark County residing within the CEDA Territory; and,

WHEREAS, ORC Section 713.21 provides for the establishment of Regional Planning Commissions by the planning commission of any municipal corporation, any board of township trustees and the board of county commissioners; and,

WHEREAS, CITY PLANNING BOARD is vested with powers under ORC Chapter 713 and Chapter 157 of MUNICIPALITY'S Codified Ordinances to participate in the establishment of regional planning commissions; and,

WHEREAS, the parties hereto wish to establish a planning commission for the CEDA Territory which will represent the interests of the three political subdivisions which have cooperated to secure the benefits of cooperative economic development district status to the CEDA Territory, which will be knowledgeable concerning the planning and land use regulation policy objectives of the said three political subdivisions and wish to establish planning, zoning, platting and subdivision regulation mechanisms which will be effective, efficient, promote uniformity, facilitate expeditious decision making and be responsive to the public health, safety and welfare needs of the CEDA Territory and the development need within the CEDA Territory; and,

WHEREAS, the parties hereto, in pursuing the above mentioned public purposes, intend to avail themselves of all powers available under the Constitution of the State of Ohio, of the laws adopted by the Ohio General Assembly as well as the all municipal powers available to MUNICIPALITY under its municipal charter; and,

WHEREAS, to further facilitate achievement of the above mentioned public purposes, COUNTY, TOWNSHIP and MUNICIPALITY will provide the resources necessary to enable the proper functioning of the regional planning commission established by this Establishment Agreement, but subject to the limitations described in this Establishment Agreement.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

## **ARTICLE I – ESTABLISHMENT OF REGIONAL PLANNING COMMISSION**

Section 1. By the powers vested in them, as referenced in the recitals to this Establishment Agreement, CITY PLANNING BOARD, TOWNSHIP and COUNTY do hereby establish an ORC Section 713.21 regional planning commission which shall have jurisdiction throughout the CEDA Territory (hereinafter the "COMMISSION"). The COMMISSION shall have all powers of an ORC Section 713.21 regional planning commission and such powers as are conferred upon the COMMISSION in Article II of this Establishment Agreement.

Section 2. The COMMISSION shall consist of seven (7) members. Each of the COMMISSION members shall serve for a period of three years and shall be appointed as follows:

- A) Two (2) members shall be appointed by the TOWNSHIP,
- B) Two (2) members shall be appointed by the CITY PLANNING BOARD,
- C) One (1) member shall be appointed by the COUNTY and shall be a resident of MUNICIPALITY,
- D) One (1) member shall be appointed by the COUNTY and shall be a resident of TOWNSHIP,
- E) The seventh member of the COMMISSION shall be appointed by a majority vote of the six members described in subdivisions A through D of this Section and shall be a resident of Clark County. This seventh member shall serve as Chairperson of the COMMISSION.

Section 3. The terms of the initial members of the COMMISSION shall expire as follows:

- A) One member appointed and designated by the TOWNSHIP shall serve a term expiring November 30, 2004,
- B) One member appointed and designated by the TOWNSHIP shall serve a term expiring November 30, 2003,
- C) One member appointed and designated by the CITY PLANNING BOARD shall serve a term expiring November 30, 2004,
- D) One member appointed and designated by the CITY PLANNING BOARD shall serve a term expiring November 30, 2003,
- E) The two members appointed by the COUNTY shall serve a terms expiring November 30, 2002, and
- F) The seventh member, appointed as specified in Subsection 1(E) of this Article, shall serve a term expiring November 30, 2004,

Section 4. Members of the COMMISSION shall continue to serve on the COMMISSION and shall have all powers and duties of a member of the COMMISSION until the member is replaced by a properly appointed successor. Notwithstanding the foregoing, a member of the COMMISSION may resign by giving written notice of his/her resignation, both to the Secretary of the Commission and to the body appointing such member, at least twenty one (21) days prior to the next, regularly scheduled meeting of the COMMISSION. Members of the COMMISSION shall serve at the pleasure of the body appointing the member and any member of the COMMISSION may be removed from the COMMISSION by the body appointing such member at any time and without cause.

Section 5. If any COMMISSION member is absent from three of any six consecutive regularly scheduled meetings, or if such member is unwilling or unable to attend a regularly scheduled, prearranged discussion of the public business of the COMMISSION which fails to qualify as a "meeting" for lack of quorum, such member's seat shall immediately become vacant. Such member shall have the opportunity to explain his/her absence to the body appointing such member and may be reappointed by such appointing body to complete the balance of his/her term.

Section 6. Any vacancy on the COMMISSION shall be promptly filled by an appointment by the body who appointed the member whose seat has become vacant. The appointee to a vacant seat shall have the same qualifications specified in Section 2 of this Article as the member whose vacancy is so filled and such appointee shall serve for the unexpired term of the member whose vacancy is so filled.

Section 7. All members of the COMMISSION shall serve without compensation.

## **ARTICLE II – COMMISSION PLANNING AND PLATTING POWERS**

Section 1. The COMMISSION is recognized by the parties to this Establishment Agreement as vested with all statutory powers possessed by regional planning commissions pursuant to ORC Sections 713.21 and 713.23. The COMMISSION shall be both the planning commission and platting commission for the CEDA Territory. This Establishment Agreement is not intended to limit such statutory powers and to the extent the exercise of such statutory powers is regulated by this Establishment Agreement, such regulation is intended to be directory to the COMMISSION and not mandatory.

Section 2. The COMMISSION hereby is clothed with the following municipal powers and duties which shall be operative within that portion of the CEDA Territory included within MUNICIPALITY'S corporate boundaries (hereinafter the "Overlap Territory"):

- A) To make or cause to be made plans and maps of the whole or any portion of the Overlap Territory, which plans and maps shall show the COMMISSION'S recommendations for the general location, character, extent, design, removal, relocation, widening or extension of streets, alleys, ways, street fixtures, viaducts, bridges, parks, parkways, boulevards, parking areas, playgrounds, monuments, memorials, public works and improvements; and to make such changes and enlargements in, and amendments and additions to, such plans and maps as are deemed advisable;
- B) To act and perform the functions and duties of a platting commission or a platting commissioner for the Overlap Territory, in the manner permitted in ORC Sections 713.03 and 735.17;
- C) To perform all the powers and duties permitted to be performed by a director of public service, as specified in ORC Section 735.15, relating to the location of public buildings, Municipal and County, within the Overlap Territory, and the plans and specifications thereof;
- D) To perform all the duties and functions required of a planning commission under ORC Section 711.09, relating to major streets, thoroughfares, parks and subdivisions within the Overlap Territory;
- E) As pertaining to the Overlap Territory, to do and perform all duties, functions and things authorized by municipal planning commissions to be done and performed under the provisions of ORC Sections 713.01 to 713.05, inclusive, as the same now provides or hereafter may be amended, save those acts, duties and functions herein excepted, reserved or prohibited, and save as such provisions may be in conflict with Chapter 157 of MUNICIPALITY'S Codified Ordinances, or MUNICIPALITY'S Charter or other ordinances of MUNICIPALITY; and,
- F) As pertaining to the Overlap Territory, to coordinate all its activities to the extent that the same are relevant or pertain to the duties, power and authority of the Board of Adjustment and the Board of Park Trustees of MUNICIPALITY, if any, and the County Commissioners of Clark County, or any planning or zoning authority now or hereafter created or established by the County Commissioners.

The COMMISSION shall exercise the powers and duties transferred and delegated to it pursuant to this Section so as to implement the municipal planning and platting policy objectives described in Section 157.07 of MUNICIPALITY'S Codified Ordinances.

Section 3. To the fullest extent permitted under ORC Subsection 713.23 (C ), the COUNTY PLANNING BOARD does hereby delegate unto the COMMISSION all of its functions, powers and duties with respect to that portion of the CEDA Territory located outside of the MUNICIPALITY'S corporate boundaries (hereinafter the "Unincorporated Territory").

Section 4. At the first scheduled meeting of the COMMISSION the COMMISSION shall commence consideration for adoption the following plans currently in place for the CEDA Territory:

- A) The Official Thoroughfare Plan Clark County, Ohio,
- B) The MUNICIPALITY'S 1978 Thoroughfare Plan, and
- C) The Clark County Comprehensive Land Use Plan

This Section is not intended to require a final determination on adoption of the said plans at the first scheduled meeting of the COMMISSION, but that the COMMISSION commence consideration at such meeting and thereafter exercise all diligence in its deliberations on such adoptions and expeditiously pursue to completion its deliberations.

Section 5. Before either the CITY PLANNING BOARD or the COMMISSION adopts any plan at variance with an existing plan governing all or a portion of the territory encompassed within MUNICIPALITY'S' corporate boundaries, the CITY PLANNING BOARD and the COMMISSION shall hold a joint meeting to discuss such proposed plan.

Section 6. Before either the COUNTY PLANNING BOARD or the COMMISSION adopts any plan at variance with an existing plan governing all or a portion of the Unincorporated Territory, the COUNTY PLANNING BOARD and the COMMISSION shall hold a joint meeting to discuss such proposed plan.

Section 7. After adopting a thoroughfare plan for the CEDA Territory, the COMMISSION shall proceed to draft, consider and adopt subdivision regulations of uniform application for the entire CEDA Territory, all in accordance with applicable law. The subdivision regulations for the CEDA Territory may include rules requiring the actual construction of streets or other improvements or facilities and/or rules governing assurance of that construction as a condition precedent to approval of a plat of a subdivision. The subdivision regulations adopted by the COMMISSION shall provide for their administration by the COMMISSION and may provide for the modification thereof in specific uses, where unusual or exceptional factors or conditions require such modifications by the COMMISSION.

- A) Prior to adopting subdivision regulations for the CEDA Territory, the COMMISSION, CITY PLANNING BOARD and COUNTY PLANNING BOARD shall conduct a joint hearing regarding the adoption of such subdivision regulations. The COMMISSION shall make all necessary arrangements for such joint hearing and shall serve notice on the CITY PLANNING BOARD, TOWNSHIP, COUNTY PLANNING BOARD, COUNTY and MUNICIPALITY of the hearing date, time and venue at least thirty (30) prior to the hearing date.

- B) Subdivision regulations adopted by the COMMISSION shall be forwarded to the COUNTY and MUNICIPALITY for hearings and adoption by their respective legislative bodies. In the event either the COUNTY or the MUNICIPALITY fails to adopt the said subdivision regulations, the COMMISSION shall recommence the subdivision regulation adoption procedure beginning with step (A), above, with subdivisions regulations revised as necessary for adoption by both COUNTY and MUNICIPALITY.
- C) After the subdivision regulations adopted by the COMMISSION have also been adopted by both the COUNTY and the MUNICIPALITY, the COMMISSION shall publish the adopted subdivision regulations in accordance with applicable law [currently ORC Sections 731.17-731.42].
- D) After the COUNTY'S Board of County Commissioners and the MUNICIPALITY'S City Commission have both adopted the COMMISSION'S subdivision regulations for the CEDA Territory, the COMMISSION shall certify a copy of its subdivision regulations to the Clark County Recorder in accordance with law.
- E) All amendments to subdivision regulations adopted by the COMMISSION for the CEDA Territory shall be adopted using the procedure specified in this Section.

Section 8. With respect to plats of lands within the CEDA Territory, authority is hereby vested in the COMMISSION to approve plats which are in compliance with applicable subdivision regulations. The processing of a plat submitted for approval by the COMMISSION shall be subject to the following:

- A) The COMMISSION shall immediately schedule a meeting to consider the submitted plat,
- B) With respect to plats of lands in the Unincorporated Territory, the COMMISSION shall immediately give notice of such meeting to TOWNSHIP'S board of township trustees in accordance with applicable law [currently ORC Section 711.10],
- C) The COMMISSION shall endorse its approval or refusal of approval on the plat within thirty (30) days after submission of plat to the COMMISSION; however, the applicant for plat approval may waive this requirement, provided such waiver is made in writing.
- D) The COMMISSION may approve plats conditioned on completing compliance with applicable subdivision regulations, but only if such conditional approval is provided for in the subdivision regulations.

### **ARTICLE III – OFFICIAL ACTIONS AND ADMINISTRATIVE OPERATIONS**

Section 1. The regular meetings of the COMMISSION shall be held once each month. The COMMISSION may meet at such additional times as the COMMISSION may determine. The Chairperson may call an emergency meeting of the COMMISSION; provided at least forty eight (48) hours written notice of such emergency meeting is delivered to those members which may be found in Clark County and; provided further that any member may waive his/her right to such advance notice at the emergency meeting. The chairperson may cancel a meeting if no member has proposed business to be conducted at the meeting. The time of regular meetings shall be specified in the rules and regulations of the Board. Notice of meeting times and venues shall be published by the Secretary of the Commission on a bulletin board located in the building where the COMMISSION normally meets and which is designated for providing information to the public and, in addition, twenty four hours notice of the time place and purpose of emergency meetings shall also be given to members of the public requesting notification of emergency meetings, if the requesting party has provided to the Secretary of the Commission:

- A) A stamped and self addressed envelope if notice is requested to be made by mail or
- B) A FAX telephone number if notice is requested to be made by FAX or
- C) An e-mail address if notice is requested to be made by e-mail.

The Secretary of the Commission shall publish notice of meetings of the COMMISSION, other than emergency meetings, at least seven days prior to the meeting date.

Section 2. The principal office and mailing address of the COMMISSION shall be determined by the COMMISSION at its first meeting and may be changed by the COMMISSION from time to time. The COUNTY shall provide the COMMISSION with a meeting place, with any necessary public address system to conduct its meetings and with such facilities as are necessary to record the proceedings of such meetings, with such storage space as is necessary for the records of the COMMISSION and with such facilities as are necessary to enable the COMMISSION to respond to requests for public records.

Section 3. A minimum of four members shall constitute a quorum for COMMISSION meeting purposes. The COMMISSION shall act through resolutions adopted by the COMMISSION. A resolution must receive the affirmative vote of at least a majority of quorum of the COMMISSION to be adopted. A resolution adopted by the COMMISSION shall be immediately effective, unless otherwise provided by law.

Section 4. The COMMISSION may adopt by-laws for the regulation of its affairs and the conduct of its business, consistent with this Establishment Agreement. Unless provided otherwise in its by-laws, proceedings of the COMMISSION will be conducted generally pursuant to Robert's Rules of Order; however, a failure to strictly adhere to such rules shall not affect the validity of COMMISSION action. The

COMMISSION shall designate by resolution or in its by-laws those Officers who may sign documents on behalf of the COMMISSION. The by-laws of the COMMISSION may provide for additional officers of the COMMISSION. The by-laws of the COMMISSION may provide for the establishment of committees, for their functioning and for ratification of their actions; provided, that all such by-laws shall conform to the legal requirements governing ORC Section 713.21 regional planning commissions.

Section 5. The COUNTY'S Planning Director shall serve as the Secretary of the Commission and his/her staff shall provide necessary record keeping services, shall take minutes of COMMISSION meetings, shall perform other clerical services necessary for the COMMISSION to perform its duties and may perform such other duties as the COMMISSION may from time to time assign to the Secretary of the Commission.

Section 6. The Secretary of the Commission shall keep the minutes of the meetings of the COMMISSION in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of this Establishment Agreement and with the COMMISSION'S by-laws and as otherwise required by law. The Secretary of the Commission shall be the custodian of the public records of the COMMISSION and shall retain such records at his/her offices. The Secretary of the Commission shall serve a copy of all minutes, resolutions and recommendations of the COMMISSION on TOWNSHIP'S Township Clerk and on MUNICIPALITY'S City Clerk immediately after the COMMISSION meeting producing such minutes, resolutions and recommendations.

Section 7. Comment Period before Final Action on Rezoning.

- A) MUNICIPALITY shall allow a twenty (20) day period following the day on which the Secretary of the Commission serves on TOWNSHIP'S Township Clerk a copy of all minutes, resolutions and recommendations of the COMMISSION pertaining to a rezoning of territory located both within the CEDA Territory and within MUNICIPALITY'S corporate boundaries prior to MUNICIPALITY'S City Commission adopting final legislation on such rezoning. The purpose of the said twenty (20) day period is to allow TOWNSHIP an opportunity to comment on the said rezoning matter prior to final action on the such rezoning by MUNICIPALITY'S City Commission.
  
- B) TOWNSHIP shall allow a twenty (20) day period following the day on which the Secretary of the Commission serves on MUNICIPALITY'S City Clerk a copy of all minutes, resolutions and recommendations of the COMMISSION pertaining to a rezoning of territory located within the CEDA Territory but not within MUNICIPALITY'S corporate boundaries prior to TOWNSHIP adopting final legislation on such rezoning. The purpose of the said twenty (20) day period is to allow MUNICIPALITY an opportunity to comment on the said rezoning matter prior to final action on the such rezoning by TOWNSHIP.

Section 8. COUNTY, TOWNSHIP and MUNICIPALITY shall provide such funding resources as they mutually deem necessary to enable the COMMISSION to perform its functions as an ORC Section 713.21 regional planning commission for the CEDA Territory, subject to the following:

- A) On or before January 31 of each calendar year throughout the term of this Establishment Agreement MUNICIPALITY shall provide five hundred dollars (\$500.00) of funding to the COMMISSION to enable the COMMISSION to purchase such official stationary and other office supplies as it may need to perform its functions (hereinafter "routine expenses"),
- B) By mutual agreement, COUNTY, TOWNSHIP and MUNICIPALITY may provide additional funding to the COMMISSION (i.e. funding for all non-routine expenses and routine expenses beyond \$500.00 in a calendar year) with each such party to provide an equal share of such additional funding,
- C) All funding provided to the COMMISSION shall be paid into the COUNTY'S treasury in accordance with applicable law [currently ORC Section 713.21],
- D) The costs of providing annual training for each of the members of the COMMISSION shall be born by the following parties;
  - i) Training costs for members appointed pursuant to Article I, Subsection 2(A) shall be born by TOWNSHIP,
  - ii) Training costs for members appointed pursuant to Article I, Subsection 2(B) shall be born by MUNICIPALITY
  - iii) Training costs for members appointed pursuant to Article I, Subsections 2(C) and 2(D) shall be born by COUNTY, and
  - iv) Training costs for the member appointed pursuant to Article I, Subsection 2(E) shall be born by MUNICIPALITY, COUNTY and TOWNSHIP in equal portions.

Section 9. COUNTY'S Planning Department shall provide the COMMISSION with such staff services as are necessary to the COMMISSION performing its functions as a regional planning commission for matters in the Unincorporated Territory. MUNICIPALITY'S Planning Department shall provide the COMMISSION with such staff services as are necessary to the COMMISSION performing its functions as a regional planning commission for matters in the Overlap Territory.

Section 10. COUNTY'S Purchasing Department shall perform necessary purchasing functions on behalf of the COMMISSION. All purchases shall be made by the COMMISSION in compliance with the procedures specified by applicable law [currently in ORC Sections 307.86 through 307.92].

## **ARTICLE IV – GENERAL TERMS**

Section 1. Term. The initial term of this Establishment Agreement shall commence on the date hereof and shall terminate December 31, 2050 (unless otherwise terminated prior to that date as provided herein). At the expiration of the initial term of this Establishment Agreement it shall automatically be renewed for a period of 50 years, and this Establishment Agreement shall continue to be automatically renewed thereafter for similar 50-year periods at the end of each renewal period with no limit upon the number of such renewals; ; unless the legislative authorities of the CITY, the COUNTY and the TOWNSHIP each affirmatively act to terminate this Establishment Agreement. In order for any such termination to be effective, legislative action of one party to terminate this Establishment Agreement must occur and be effective within a period of 90 days from the date of legislative action of the other parties terminating this Establishment Agreement. The provision herein for automatic extension of this Establishment Agreement except upon legislative action by each of the parties hereto terminating this Establishment Agreement recognizes that the accrual of benefits to the parties from the Phase I CEDA and the Phase II CEDA may take decades. Notwithstanding the foregoing, in the event either the Phase I CEDA or the Phase II CEDA is terminated, this Establishment Agreement shall automatically terminate effective on the earliest date of termination of either the Phase I CEDA or the Phase II CEDA.

Section 2. Early Termination. This Establishment Agreement may be terminated at any time by mutual consent of the TOWNSHIP and the MUNICIPALITY as authorized by their respective legislative authorities. In order for any such termination to be effective, legislative action of one party to terminate this Establishment Agreement must occur and be effective within a period of 90 days from the date of legislative action of the other party terminating this Establishment Agreement.

Section 3. Support of Agreement. In the event that this Establishment Agreement, or any of its terms, conditions or provisions, is challenged by any third party or parties in a court of law the parties agree to cooperate with one another and to use their best efforts in defending this Establishment with the object of upholding this Establishment Agreement. Each party shall bear its own costs in any such proceeding challenging this Establishment Agreement or any term or provisions thereof.

Section 4. Signing Other Documents. The parties agree to cooperate with one another and to use their best efforts in the implementation of this Establishment Agreement and to sign or cause to be signed, in a timely fashion, all other necessary instruments, legislation, petitions and similar documents, and to take such other actions in order to effectuate the purposes of this Establishment Agreement.

Section 5. CEDA Agreements. Nothing in this Establishment Agreement is intended to affect the rights and obligations of the COUNTY, TOWNSHIP or MUNICIPALITY under their Phase I CEDA or their Phase II CEDA. The terms and

conditions of the said Phase I CEDA and Phase II CEDA continue in effect and are not merged into this Establishment Agreement in any respect. With respect to the rights and obligations among the COUNTY, TOWNSHIP and MUNICIPALITY, in the event of any conflict between this Establishment Agreement and their Phase I CEDA and Phase II CEDA, the terms and conditions of their Phase I CEDA and Phase II CEDA shall prevail.

Section 6. Mediation. In the event the parties have a dispute as to any of the terms or applicability of this Establishment Agreement, the parties agree to use their best efforts to resolve the dispute through a mutually acceptable mediation process prior to any party filing a lawsuit. Each party participating in mediation shall pay its own costs of mediation, including their proportionate share of the compensation and administrative expenses required by the mediator and by the mediation services provider selected by the parties. If a mediator has not been selected by the parties within sixty (60) days after one of the parties has requested that a dispute arising under this Establishment Agreement be mediated, then any of the parties may commence a lawsuit or commence such other method of pursuing such remedies as may be available to any of the parties.

Section 7. Defaults. A failure to comply with the terms of this Establishment Agreement shall constitute a default hereunder. The party in default shall have ninety (90) days, after receiving written notice from the other party of the event of default, to cure that default. If the default is not cured within that time period, the non-defaulting party may sue the defaulting party for specific performance under this Establishment Agreement or for damages or both; or may pursue such other remedies as may be available.

Section 8. Amendments. This Establishment Agreement may be amended by the parties hereto only in a writing approved by the all of the parties hereto by means of appropriate legislation authorizing such amendment [resolutions and ordinances are deemed to be legislation for purposes of this Establishment Agreement]. Such amendment(s), in order to be effective, must be authorized by appropriate legislation passed by each of the parties hereto within a 90 day period.

Section 9. Immunities Preserved. By entering into this Establishment Agreement, neither the COUNTY, the CITY PLANNING BOARD, MUNICIPALITY, COUNTY PLANNING BOARD nor the TOWNSHIP intend to relinquish or waive any of the immunities they now have or may hereafter be accorded under state and/or federal laws, including, without the limitation of any such immunities, all those immunities accorded to governmental entities and their officers and employees under Chapter 2744 of the Ohio Revised Code.

Section 10. Powers Preserved. This Establishment Agreement is not intended to be in derogation of the powers granted to municipal corporations by Article XVIII, Ohio Constitution, or any other provisions of the Ohio Constitution or of CITY'S municipal charter or of the Ohio Revised Code; nor is it intended to be in derogation of

the powers granted to townships under any provisions of the Ohio Constitution or of the Ohio Revised Code; nor is it intended to be in derogation of the powers granted to boards of county commissioners under any provisions of the Ohio Constitution or of the Ohio Revised Code.

Section 11. Beneficiaries. This Establishment Agreement shall inure to the benefit of and shall be binding upon the COUNTY, TOWNSHIP, COUNTY PLANNING BOARD, MUNICIPALITY and the CITY PLANNING BOARD and their respective successors; subject, however, to the specific provisions hereof. This Establishment Agreement shall not inure to the benefit of anyone other than as provided in the immediately preceding sentence. This Establishment Agreement is not intended to and does not create rights or benefits of any kind for any persons or entities which are not a party to this Establishment Agreement.

Section 12. Non-Severability. Each provision of this Establishment Agreement is an essential and integral part of the entire agreement among the parties hereto and the illegality or invalidity of any portion of this Establishment Agreement shall result in the unenforceability of this Establishment Agreement in its entirety. In the event that any section or provision of this Establishment Agreement, or any covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, or any application thereof, is held to be illegal or invalid for any reason, that illegality or invalidity shall affect the remainder hereof or thereof and this Establishment Agreement shall automatically terminate. In the event this Establishment Agreement is terminated pursuant to this Section, the parties hereto agree to engage in good faith consultations with each other to determine whether a substitute agreement to establish a cooperative planning and platting regulatory system for the CEDA Territory would be practical and mutually beneficial.

Section 14. Merger. This Establishment Agreement, which includes the recitals hereto, constitutes the entire understanding of the parties hereto with regard to establishment of a regional planning commission for the CEDA Territory and shall not be altered, changed, modified, or amended, except by similar instruments in writing, executed by the parties hereto as provided in this Establishment Agreement. It is not intended that any utility supply agreement entered into between COUNTY and MUNICIPALITY or that any mutual aid agreement between MUNICIPALITY and TOWNSHIP or that any roadway maintenance cooperation agreement between MUNICIPALITY and COUNTY be merged with this Establishment Agreement.

Section 15. Captions and Headings. The captions and headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections hereof.

IN WITNESS WHEREOF, the COUNTY, TOWNSHIP, CITY PLANNING BOARD, MUNICIPALITY and the COUNTY PLANNING BOARD have caused this Establishment Agreement to be duly signed in their respective names by their duly authorized officers as of the date first above written.

## ARTICLE I – ESTABLISHMENT OF REGIONAL PLANNING COMMISSION

Section 1. By the powers vested in them, as referenced in the recitals to this Establishment Agreement, CITY PLANNING BOARD, TOWNSHIP and COUNTY do hereby establish an ORC Section 713.21 regional planning commission which shall have jurisdiction throughout the CEDA Territory (hereinafter the "COMMISSION"). The COMMISSION shall have all powers of an ORC Section 713.21 regional planning commission and such powers as are conferred upon the COMMISSION in Article II of this Establishment Agreement.

Section 2. The COMMISSION shall consist of seven (7) members. Each of the COMMISSION members shall serve for a period of three years and shall be appointed as follows:

- A) Two (2) members shall be appointed by the TOWNSHIP,
- B) Two (2) members shall be appointed by the CITY PLANNING BOARD,
- C) One (1) member shall be appointed by the COUNTY and shall be a resident of MUNICIPALITY,
- D) One (1) member shall be appointed by the COUNTY and shall be a resident of TOWNSHIP,
- E) The seventh member of the COMMISSION shall be appointed by a majority vote of the six members described in subdivisions A through D of this Section and shall be a resident of Clark County. This seventh member shall serve as Chairperson of the COMMISSION.

Section 3. The terms of the initial members of the COMMISSION shall expire as follows:

- A) One member appointed and designated by the TOWNSHIP shall serve a term expiring November 30, 2004,
- B) One member appointed and designated by the TOWNSHIP shall serve a term expiring November 30, 2003,
- C) One member appointed and designated by the CITY PLANNING BOARD shall serve a term expiring November 30, 2004,
- D) One member appointed and designated by the CITY PLANNING BOARD shall serve a term expiring November 30, 2003,
- E) The two members appointed by the COUNTY shall serve a terms expiring November 30, 2002, and
- F) The seventh member, appointed as specified in Subsection 1(E) of this Article, shall serve a term expiring November 30, 2004,

Section 4. Members of the COMMISSION shall continue to serve on the COMMISSION and shall have all powers and duties of a member of the COMMISSION until the member is replaced by a properly appointed successor. Notwithstanding the foregoing, a member of the COMMISSION may resign by giving written notice of his/her resignation, both to the Secretary of the Commission and to the body appointing such member, at least twenty one (21) days prior to the next, regularly scheduled meeting of the COMMISSION. Members of the COMMISSION shall serve at the pleasure of the body appointing the member and any member of the COMMISSION may be removed from the COMMISSION by the body appointing such member at any time and without cause.

Section 5. If any COMMISSION member is absent from three of any six consecutive regularly scheduled meetings, or if such member is unwilling or unable to attend a regularly scheduled, prearranged discussion of the public business of the COMMISSION which fails to qualify as a "meeting" for lack of quorum, such member's seat shall immediately become vacant. Such member shall have the opportunity to explain his/her absence to the body appointing such member and may be reappointed by such appointing body to complete the balance of his/her term.

Section 6. Any vacancy on the COMMISSION shall be promptly filled by an appointment by the body who appointed the member whose seat has become vacant. The appointee to a vacant seat shall have the same qualifications specified in Section 2 of this Article as the member whose vacancy is so filled and such appointee shall serve for the unexpired term of the member whose vacancy is so filled.

Section 7. All members of the COMMISSION shall serve without compensation.

## **ARTICLE II – COMMISSION PLANNING AND PLATTING POWERS**

Section 1. The COMMISSION is recognized by the parties to this Establishment Agreement as vested with all statutory powers possessed by regional planning commissions pursuant to ORC Sections 713.21 and 713.23. The COMMISSION shall be both the planning commission and platting commission for the CEDA Territory. This Establishment Agreement is not intended to limit such statutory powers and to the extent the exercise of such statutory powers is regulated by this Establishment Agreement, such regulation is intended to be directory to the COMMISSION and not mandatory.

Section 2. The COMMISSION hereby is clothed with the following municipal powers and duties which shall be operative within that portion of the CEDA Territory included within MUNICIPALITY'S corporate boundaries (hereinafter the "Overlap Territory"):

- A) To make or cause to be made plans and maps of the whole or any portion of the Overlap Territory, which plans and maps shall show the COMMISSION'S recommendations for the general location, character, extent, design, removal, relocation, widening or extension of streets, alleys, ways, street fixtures, viaducts, bridges, parks, parkways, boulevards, parking areas, playgrounds, monuments, memorials, public works and improvements; and to make such changes and enlargements in, and amendments and additions to, such plans and maps as are deemed advisable;
- B) To act and perform the functions and duties of a platting commission or a platting commissioner for the Overlap Territory, in the manner permitted in ORC Sections 713.03 and 735.17;
- C) To perform all the powers and duties permitted to be performed by a director of public service, as specified in ORC Section 735.15, relating to the location of public buildings, Municipal and County, within the Overlap Territory, and the plans and specifications thereof;
- D) To perform all the duties and functions required of a planning commission under ORC Section 711.09, relating to major streets, thoroughfares, parks and subdivisions within the Overlap Territory;
- E) As pertaining to the Overlap Territory, to do and perform all duties, functions and things authorized by municipal planning commissions to be done and performed under the provisions of ORC Sections 713.01 to 713.05, inclusive, as the same now provides or hereafter may be amended, save those acts, duties and functions herein excepted, reserved or prohibited, and save as such provisions may be in conflict with Chapter 157 of MUNICIPALITY'S Codified Ordinances, or MUNICIPALITY'S Charter or other ordinances of MUNICIPALITY; and,
- F) As pertaining to the Overlap Territory, to coordinate all its activities to the extent that the same are relevant or pertain to the duties, power and authority of the Board of Adjustment and the Board of Park Trustees of MUNICIPALITY, if any, and the County Commissioners of Clark County, or any planning or zoning authority now or hereafter created or established by the County Commissioners.

The COMMISSION shall exercise the powers and duties transferred and delegated to it pursuant to this Section so as to implement the municipal planning and platting policy objectives described in Section 157.07 of MUNICIPALITY'S Codified Ordinances.

Section 3. To the fullest extent permitted under ORC Subsection 713.23 (C ), the COUNTY PLANNING BOARD does hereby delegate unto the COMMISSION all of its functions, powers and duties with respect to that portion of the CEDA Territory located outside of the MUNICIPALITY'S corporate boundaries (hereinafter the "Unincorporated Territory").

Section 4. At the first scheduled meeting of the COMMISSION the COMMISSION shall commence consideration for adoption the following plans currently in place for the CEDA Territory:

- A) The Official Thoroughfare Plan Clark County, Ohio,
- B) The MUNICIPALITY'S 2002 Thoroughfare Plan, and
- C) The Clark County Comprehensive Land Use Plan

This Section is not intended to require a final determination on adoption of the said plans at the first scheduled meeting of the COMMISSION, but that the COMMISSION commence consideration at such meeting and thereafter exercise all diligence in its deliberations on such adoptions and expeditiously pursue to completion its deliberations.

Section 5. Before either the CITY PLANNING BOARD or the COMMISSION adopts any plan at variance with an existing plan governing all or a portion of the territory encompassed within MUNICIPALITY'S' corporate boundaries, the CITY PLANNING BOARD and the COMMISSION shall hold a joint meeting to discuss such proposed plan.

Section 6. Before either the COUNTY PLANNING BOARD or the COMMISSION adopts any plan at variance with an existing plan governing all or a portion of the Unincorporated Territory, the COUNTY PLANNING BOARD and the COMMISSION shall hold a joint meeting to discuss such proposed plan.

Section 7. After adopting a thoroughfare plan for the CEDA Territory, the COMMISSION shall proceed to draft, consider and adopt subdivision regulations of uniform application for the entire CEDA Territory, all in accordance with applicable law. The subdivision regulations for the CEDA Territory may include rules requiring the actual construction of streets or other improvements or facilities and/or rules governing assurance of that construction as a condition precedent to approval of a plat of a subdivision. The subdivision regulations adopted by the COMMISSION shall provide for their administration by the COMMISSION and may provide for the modification thereof in specific uses, where unusual or exceptional factors or conditions require such modifications by the COMMISSION.

- A) Prior to adopting subdivision regulations for the CEDA Territory, the COMMISSION, CITY PLANNING BOARD and COUNTY PLANNING BOARD shall conduct a joint hearing regarding the adoption of such subdivision regulations. The COMMISSION shall make all necessary arrangements for such joint hearing and shall serve notice on the CITY PLANNING BOARD, TOWNSHIP, COUNTY PLANNING BOARD, COUNTY and MUNICIPALITY of the hearing date, time and venue at least thirty (30) prior to the hearing date.

- B) Subdivision regulations adopted by the COMMISSION shall be forwarded to the COUNTY and MUNICIPALITY for hearings and adoption by their respective legislative bodies. In the event either the COUNTY or the MUNICIPALITY fails to adopt the said subdivision regulations, the COMMISSION shall recommence the subdivision regulation adoption procedure beginning with step (A), above, with subdivisions regulations revised as necessary for adoption by both COUNTY and MUNICIPALITY.
- C) After the subdivision regulations adopted by the COMMISSION have also been adopted by both the COUNTY and the MUNICIPALITY, the COMMISSION shall publish the adopted subdivision regulations in accordance with applicable law [currently ORC Sections 731.17-731.42].
- D) After the COUNTY'S Board of County Commissioners and the MUNICIPALITY'S City Commission have both adopted the COMMISSION'S subdivision regulations for the CEDA Territory, the COMMISSION shall certify a copy of its subdivision regulations to the Clark County Recorder in accordance with law.
- E) All amendments to subdivision regulations adopted by the COMMISSION for the CEDA Territory shall be adopted using the procedure specified in this Section.

Section 8. With respect to plats of lands within the CEDA Territory, authority is hereby vested in the COMMISSION to approve plats which are in compliance with applicable subdivision regulations. The processing of a plat submitted for approval by the COMMISSION shall be subject to the following:

- A) The COMMISSION shall immediately schedule a meeting to consider the submitted plat,
- B) With respect to plats of lands in the Unincorporated Territory, the COMMISSION shall immediately give notice of such meeting to TOWNSHIP'S board of township trustees in accordance with applicable law [currently ORC Section 711.10],
- C) The COMMISSION shall endorse its approval or refusal of approval on the plat within thirty (30) days after submission of plat to the COMMISSION; however, the applicant for plat approval may waive this requirement, provided such waiver is made in writing.
- D) The COMMISSION may approve plats conditioned on completing compliance with applicable subdivision regulations, but only if such conditional approval is provided for in the subdivision regulations.

## ARTICLE III – OFFICIAL ACTIONS AND ADMINISTRATIVE OPERATIONS

Section 1. The regular meetings of the COMMISSION shall be held once each month. The COMMISSION may meet at such additional times as the COMMISSION may determine. The Chairperson may call an emergency meeting of the COMMISSION; provided at least forty eight (48) hours written notice of such emergency meeting is delivered to those members which may be found in Clark County and; provided further that any member may waive his/her right to such advance notice at the emergency meeting. The chairperson may cancel a meeting if no member has proposed business to be conducted at the meeting. The time of regular meetings shall be specified in the rules and regulations of the Board. Notice of meeting times and venues shall be published by the Secretary of the Commission on a bulletin board located in the building where the COMMISSION normally meets and which is designated for providing information to the public and, in addition, twenty four hours notice of the time place and purpose of emergency meetings shall also be given to members of the public requesting notification of emergency meetings, if the requesting party has provided to the Secretary of the Commission:

- A) A stamped and self addressed envelope if notice is requested to be made by mail or
- B) A FAX telephone number if notice is requested to be made by FAX or
- C) An e-mail address if notice is requested to be made by e-mail.

The Secretary of the Commission shall publish notice of meetings of the COMMISSION, other than emergency meetings, at least seven days prior to the meeting date.

Section 2. The principal office and mailing address of the COMMISSION shall be determined by the COMMISSION at its first meeting and may be changed by the COMMISSION from time to time. The COUNTY shall provide the COMMISSION with a meeting place, with any necessary public address system to conduct its meetings and with such facilities as are necessary to record the proceedings of such meetings, with such storage space as is necessary for the records of the COMMISSION and with such facilities as are necessary to enable the COMMISSION to respond to requests for public records.

Section 3. A minimum of four members shall constitute a quorum for COMMISSION meeting purposes. The COMMISSION shall act through resolutions adopted by the COMMISSION. A resolution must receive the affirmative vote of at least a majority of quorum of the COMMISSION to be adopted. A resolution adopted by the COMMISSION shall be immediately effective, unless otherwise provided by law.

Section 4. The COMMISSION may adopt by-laws for the regulation of its affairs and the conduct of its business, consistent with this Establishment Agreement. Unless provided otherwise in its by-laws, proceedings of the COMMISSION will be conducted generally pursuant to Robert's Rules of Order; however, a failure to strictly adhere to such rules shall not affect the validity of COMMISSION action. The

COMMISSION shall designate by resolution or in its by-laws those Officers who may sign documents on behalf of the COMMISSION. The by-laws of the COMMISSION may provide for additional officers of the COMMISSION. The by-laws of the COMMISSION may provide for the establishment of committees, for their functioning and for ratification of their actions; provided, that all such by-laws shall conform to the legal requirements governing ORC Section 713.21 regional planning commissions.

Section 5. The COUNTY'S Planning Director shall serve as the Secretary of the Commission and his/her staff shall provide necessary record keeping services, shall take minutes of COMMISSION meetings, shall perform other clerical services necessary for the COMMISSION to perform its duties and may perform such other duties as the COMMISSION may from time to time assign to the Secretary of the Commission.

Section 6. The Secretary of the Commission shall keep the minutes of the meetings of the COMMISSION in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of this Establishment Agreement and with the COMMISSION'S by-laws and as otherwise required by law. The Secretary of the Commission shall be the custodian of the public records of the COMMISSION and shall retain such records at his/her offices. The Secretary of the Commission shall serve a copy of all minutes, resolutions and recommendations of the COMMISSION on TOWNSHIP'S Township Clerk and on MUNICIPALITY'S City Clerk immediately after the COMMISSION meeting producing such minutes, resolutions and recommendations.

Section 7. Comment Period before Final Action on Rezoning.

- A) MUNICIPALITY shall allow a twenty (20) day period following the day on which the Secretary of the Commission serves on TOWNSHIP'S Township Clerk a copy of all minutes, resolutions and recommendations of the COMMISSION pertaining to a rezoning of territory located both within the CEDA Territory and within MUNICIPALITY'S corporate boundaries prior to MUNICIPALITY'S City Commission adopting final legislation on such rezoning. The purpose of the said twenty (20) day period is to allow TOWNSHIP an opportunity to comment on the said rezoning matter prior to final action on the such rezoning by MUNICIPALITY'S City Commission.
- B) TOWNSHIP shall allow a twenty (20) day period following the day on which the Secretary of the Commission serves on MUNICIPALITY'S City Clerk a copy of all minutes, resolutions and recommendations of the COMMISSION pertaining to a rezoning of territory located within the CEDA Territory but not within MUNICIPALITY'S corporate boundaries prior to TOWNSHIP adopting final legislation on such rezoning. The purpose of the said twenty (20) day period is to allow MUNICIPALITY an opportunity to comment on the said rezoning matter prior to final action on the such rezoning by TOWNSHIP.

Section 8. COUNTY, TOWNSHIP and MUNICIPALITY shall provide such funding resources as they mutually deem necessary to enable the COMMISSION to perform its functions as an ORC Section 713.21 regional planning commission for the CEDA Territory, subject to the following:

- A) On or before January 31 of each calendar year throughout the term of this Establishment Agreement MUNICIPALITY shall provide five hundred dollars (\$500.00) of funding to the COMMISSION to enable the COMMISSION to purchase such official stationary and other office supplies as it may need to perform its functions (hereinafter "routine expenses"),
- B) By mutual agreement, COUNTY, TOWNSHIP and MUNICIPALITY may provide additional funding to the COMMISSION (i.e. funding for all non-routine expenses and routine expenses beyond \$500.00 in a calendar year) with each such party to provide an equal share of such additional funding,
- C) All funding provided to the COMMISSION shall be paid into the COUNTY'S treasury in accordance with applicable law [currently ORC Section 713.21],
- D) The costs of providing annual training for each of the members of the COMMISSION shall be born by the following parties;
  - i) Training costs for members appointed pursuant to Article I, Subsection 2(A) shall be born by TOWNSHIP,
  - ii) Training costs for members appointed pursuant to Article I, Subsection 2(B) shall be born by MUNICIPALITY
  - iii) Training costs for members appointed pursuant to Article I, Subsections 2(C) and 2(D) shall be born by COUNTY, and
  - iv) Training costs for the member appointed pursuant to Article I, Subsection 2(E) shall be born by MUNICIPALITY, COUNTY and TOWNSHIP in equal portions.

Section 9. COUNTY'S Planning Department shall provide the COMMISSION with such staff services as are necessary to the COMMISSION performing its functions as a regional planning commission for matters in the Unincorporated Territory. MUNICIPALITY'S Planning Department shall provide the COMMISSION with such staff services as are necessary to the COMMISSION performing its functions as a regional planning commission for matters in the Overlap Territory.

Section 10. COUNTY'S Purchasing Department shall perform necessary purchasing functions on behalf of the COMMISSION. All purchases shall be made by the COMMISSION in compliance with the procedures specified by applicable law [currently in ORC Sections 307.86 through 307.92].