

COPY

CEDA AGREEMENT

**SPRINGFIELD CITY
CLARK COUNTY
SPRINGFIELD TOWNSHIP**

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

This Agreement is entered into this 8th day of December, 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. 1025-99 on November 23, 1999, the Board of Township Trustees of TOWNSHIP have adopted a motion on November 23, 1999 authorizing entering into this Agreement and have also passed a *Nunc Pro Tunc* Resolution on July 11, 2000 making certain legislative findings and the City Commission of CITY has enacted Ordinance No. 99-384 effective on December 7, 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 fourth 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