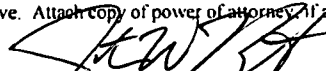



UNITED STATES BANKRUPTCY COURT		Southern District of Ohio		PROOF OF CLAIM	
Name of Debtor: Columbus Campus, LLC			Case Number: 09-37019		
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.					
Name of Creditor (the person or other entity to whom the debtor owes money or property): Hickory Chase Community Authority			Check this box to indicate that this claim amends a previously filed claim.		
Name and address where notices should be sent:  Hickory Chase Community Authority c/o Justin W. Ristau, Esq. Bricker & Eckler LLP, 100 South Third Street, Columbus, Ohio 43215			Court Claim Number: _____ (If known)		
Telephone number: (614) 227-2300			Filed on: _____		
Name and address where payment should be sent (if different from above):  Same as above.			Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.		
Telephone number:			Check this box if you are the debtor or trustee in this case.		
1. Amount of Claim as of Date Case Filed: \$ <u>Unliquidated/unknown</u> See attached exhibit			5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.		
If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.			Specify the priority of the claim.		
If all or part of your claim is entitled to priority, complete item 5.			1. Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).		
1. Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.			2. Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).		
2. Basis for Claim: <u>Money loaned - See Exhibit A</u> (See instruction #2 on reverse side.)			3. Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).		
3. Last four digits of any number by which creditor identifies debtor: _____			4. Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).		
3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)			5. Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).		
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.			6. Other – Specify applicable paragraph of 11 U.S.C. §507 (a)( ).		
Nature of property or right of setoff: <input checked="" type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input checked="" type="checkbox"/> Other (Revenue Stream)			Amount entitled to priority: \$ _____		
Describe:			*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.		
Value of Property: \$ <u>Unknown</u> Annual Interest Rate %					
Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: <u>ORC 323.11, 349.07, 5709.91</u>					
Amount of Secured Claim: \$ * <u>Unliquidated/unknown - See attached exhibit</u>					
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.					
7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See definition of "redacted" on reverse side.)					
DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.					
If the documents are not available, please explain:					
Date: 02/25/2010			FOR COURT USE ONLY		
Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.			Erickson Ret. Cor		
/s/ Justin W. Ristau, Esq.  , attorney for Hickory Chase Community Authority			 01605		

**Penalty for presenting fraudulent claim:** Fine of up to \$500,000 or imprisonment for up to 5 years, or both, 18 U.S.C. §§ 152 and 3571.

**INSTRUCTIONS FOR PROOF OF CLAIM FORM**

*The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, there may be exceptions to these general rules.*

**Items to be completed in Proof of Claim form****Court, Name of Debtor, and Case Number:**

Fill in the federal judicial district where the bankruptcy case was filed (for example, Central District of California), the bankruptcy debtor's name, and the bankruptcy case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is located at the top of the notice.

**Creditor's Name and Address:**

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

**1. Amount of Claim as of Date Case Filed:**

State the total amount owed to the creditor on the date of the Bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

**2. Basis for Claim:**

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card.

**3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:**

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

**3a. Debtor May Have Scheduled Account As:**

Use this space to report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

**4. Secured Claim:**

Check the appropriate box and provide the requested information if the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See DEFINITIONS, below.) State the type and the value of property that secures the claim, attach copies of lien

documentation, and state annual interest rate and the amount past due on the claim as of the date of the bankruptcy filing.

**5. Amount of Claim Entitled to Priority Under 11 U.S.C. §507(a).**

If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See DEFINITIONS, below.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

**6. Credits:**

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

**7. Documents:**

Attach to this proof of claim form redacted copies documenting the existence of the debt and of any lien securing the debt. You may also attach a summary. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary. FRBP 3001(c) and (d). Do not send original documents, as attachments may be destroyed after scanning.

**Date and Signature:**

The person filing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2), authorizes courts to establish local rules specifying what constitutes a signature. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. Attach a complete copy of any power of attorney. Criminal penalties apply for making a false statement on a proof of claim.

**DEFINITIONS****Debtor**

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

**Creditor**

A creditor is the person, corporation, or other entity owed a debt by the debtor on the date of the bankruptcy filing.

**Claim**

A claim is the creditor's right to receive payment on a debt that was owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

**Proof of Claim**

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

**Secured Claim Under 11 U.S.C. §506(a)**

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car.

A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

**Unsecured Claim**

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

**Claim Entitled to Priority Under 11 U.S.C. §507(a)**

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

**Redacted**

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor should redact and use only the last four digits of any social-security, individual's tax-identification, or financial-account number, all but the initials of a minor's name and only the year of any person's date of birth.

**Evidence of Perfection**

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

**INFORMATION****Acknowledgment of Filing of Claim**

To receive acknowledgment of your filing, you may either enclose a stamped self-addressed envelope and a copy of this proof of claim or you may access the court's PACER system ([www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov)) for a small fee to view your filed proof of claim.

**Offers to Purchase a Claim**

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.

Columbus Campus LLC  
Case No. 09-37019  
PROOF OF CLAIM OF HICKORY CHASE COMMUNITY AUTHORITY

**Exhibit A**

In order to finance certain public infrastructure improvements for the land located in Hilliard, Ohio upon which the Hickory Chase Campus was constructed (the "Property"), the Hickory Chase Community Authority (the "Authority") issued its \$25,760,000 Infrastructure Improvement Revenue Bonds, Series 2008 (Hickory Chase Project) (the "Series 2008 Bonds"), determined to sell the Series 2008 Bonds, and entered into a Trust Agreement (the "Trust Agreement") and related agreements with Wells Fargo Bank, National Association and other relevant parties. A copy of the Trust Agreement is attached hereto as Exhibit 1. Debtor Columbus Campus LLC is the landowner of the Property.

Repayment of the bonds is secured by a revenue stream comprised of the following:

- 1) service payments in lieu of taxes (the "Service Payments") required under Ohio Revised Code Sections 5709.40, 5709.42, and 5709.43, Ordinance No. 07-23, passed by the Council of the City of Hilliard, Ohio on March 26, 2007 and effective April 26, 2007, as amended by Ordinance 08-02, passed on January 28, 2008 and effective January 29, 2008, and the Service Payment Agreement (the "Service Payment Agreement") between the City of Hilliard, Ohio and Columbus Campus LLC, dated June 12, 2007, as amended by the Amendment to the Service Payment Agreement, dated January 29, 2008. A copy of the Service Payment Agreement is attached hereto as Exhibit 2;

Columbus Campus LLC  
Case No. 09-37019  
**PROOF OF CLAIM OF HICKORY CHASE COMMUNITY AUTHORITY**  
Exhibit A Continued (page 2 of 3)

- 2) impact fees paid to the City of Hilliard, Ohio by Columbus Campus LLC each time a unit is occupied; and
- 3) Community Development charges (the "Charges") levied pursuant to the Declaration Of Covenants And Restrictions For The Hickory Chase Community Authority (the "Declaration") entered into by Columbus Campus LLC on April 24, 2008, which was recorded on April 29, 2008 with the Recorder of Franklin County, Ohio as Instrument Number 200804290065262, and authorized under Ohio Revised Code Section 349.07. A copy of the Declaration is attached hereto as Exhibit 3.

Under Ohio Revised Code Sections 323.11 and 5709.91, any Service Payments are a lien on the Property. In addition, the covenants contained in the Declaration run with the land and authorize the Authority to levy the Charges, which, if unpaid, are a lien on the Property as established under Ohio Revised Code Section 349.07.

Under Ohio law, any sale of the Property is subject to any current or future liens on the Property established under Ohio Revised Code Sections 323.11, 349.07, and 5709.91 for Charges levied and not paid pursuant to the Declaration and for the payment of Service Payments.

The maximum future Charge related to the claim of the Authority is \$63,780,951.00. The maximum future Charge equals 110% of the bond debt service payments to be made in each year between now and 2037 and assumes no service



payments are received at all (because Service Payments to be received based on future value of the property is not certain).

**Columbus Campus LLC**

**Case No. 09-37019**

**PROOF OF CLAIM OF HICKORY CHASE COMMUNITY AUTHORITY**

**Exhibit A Continued (page 3 of 3)**

More detailed information regarding the future Charge is in set forth in *Schedule IX; Projected Debt Service Coverage*, and more specifically, the column identified as "Maximum Community Development Charges." A copy of Schedule IX is attached hereto as Exhibit 4.

---

**TRUST AGREEMENT**

between

**HICKORY CHASE COMMUNITY AUTHORITY**

and

**WELLS FARGO BANK, NATIONAL ASSOCIATION**

as Trustee

Dated as of

March 1, 2008

SECURING

\$25,760,000

INFRASTRUCTURE IMPROVEMENT REVENUE BONDS, SERIES 2008  
(HICKORY CHASE PROJECT)

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# TRUST AGREEMENT

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## **TRUST AGREEMENT**

**THIS TRUST AGREEMENT** (the "Trust Agreement" or the "Agreement") dated as of March 1, 2008, by and between **HICKORY CHASE COMMUNITY AUTHORITY** (the "Authority"), a body both corporate and politic and performing essential functions of the State, duly created and existing under and by virtue of Chapter 349 of the Revised Code, with its principal office located in Hilliard, Ohio, and **WELLS FARGO BANK, NATIONAL ASSOCIATION** (the "Trustee"), a national banking association organized and existing under and by virtue of the laws of the United States of America and authorized to exercise corporate trust powers in the State, with its corporate trust offices located in Columbia, Maryland, as Trustee, is entered into under the following conditions:

### **WITNESSETH:**

WHEREAS, by the laws of the State, and particularly Chapter 349 of the Revised Code, and pursuant to the Series 2008 Bond Resolution referred to below, the Authority is authorized and empowered to, among other things, enter into this Trust Agreement and to do or cause to be done all the acts and things herein provided or required to be done, and to issue the \$25,760,000 Infrastructure Improvement Revenue Bonds, Series 2008 (Hickory Chase Project) (the "Series 2008 Bonds") as hereinafter provided for;

WHEREAS, for the purposes of providing moneys to pay costs Community Land Development and acquiring and constructing Community Facilities, the Authority has determined to sell the Series 2008 Bonds and to enter into this Trust Agreement to secure the Series 2008 Bonds and any Additional Bonds issuable under this Trust Agreement (collectively, the "Bonds") as set forth and declared in this Trust Agreement;

WHEREAS, all acts, conditions and things required to happen, exist and be performed precedent to and in the execution and delivery of this Trust Agreement have happened, exist and have been performed in order to make the Bonds, when authorized and issued in accordance with this Trust Agreement, legal and valid special obligations of the Authority, in accordance with the terms of those Bonds and of this Trust Agreement, and in order to make this Trust Agreement a valid, binding and legal trust agreement for the security of the Bonds in accordance with its terms; and

WHEREAS, the Trustee has accepted the trusts created by this Trust Agreement, and in evidence of that acceptance has joined in the execution of this Trust Agreement;

**NOW THEREFORE, THIS TRUST AGREEMENT WITNESSETH**, that in order to secure the payment of the Debt Service Charges according to their true intent and meaning, and to secure the performance and observance of all the covenants, agreements and conditions contained in the Bonds and in this Trust Agreement and to declare the terms and conditions upon and subject to which the Bonds are and are intended to be issued, authenticated, delivered, accepted, held, secured and enforced, the Authority, in consideration of the premises and the acceptance by the Trustee of the trusts created by this Trust Agreement and for other good and valuable consideration, the receipt of which is hereby acknowledged, has executed and delivered

this Trust Agreement, and has pledged, and by these presents does hereby pledge, as provided in this Trust Agreement, the Pledged Receipts and the Special Funds or Accounts pledged under or pursuant to the applicable Bond Proceedings, unto Wells Fargo Bank, National Association, as Trustee, and to its successors in that trust and to it and its assigns, and hereby covenants and agrees to apply the Pledged Receipts and the Special Funds or Accounts so pledged to the extent and in the manner provided in this Trust Agreement.

Subject to its provisions, this Trust Agreement is made for the equal and proportionate benefit, security and protection of all Holders of Bonds issued under and secured by this Trust Agreement, and for the enforcement of the payment of the Debt Service Charges, according to the true intent and meaning thereof and of this Trust Agreement, and to secure the performance of and compliance with the covenants, terms and conditions of this Trust Agreement, without preference, priority or distinction of any one Bond over any other by reason of series designation, number, date of execution, authentication, issuance, sale, or delivery, date of the Bonds or of maturity, or otherwise, to the extent provided in and except as otherwise permitted by this Trust Agreement, it being intended that the security of this Trust Agreement shall take effect from its date without regard to the date of actual issue, sale or disposition of the Bonds as though upon the date of this Trust Agreement all the Bonds were actually issued, sold and delivered to purchasers for value; provided, however, that if all Debt Service Charges are paid or caused to be paid in accordance with Sections 10.01 and 10.02, and the Authority shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Trust Agreement to be kept, performed and observed by it, and shall pay or cause to be paid to the Trustee, Registrar, Authenticating Agent, Paying Agent and providers of Credit Support Instruments all moneys due or to become due to them in accordance with the terms and provisions of this Trust Agreement, then this Trust Agreement and the rights granted by this Trust Agreement shall cease, determine and be void; otherwise this Trust Agreement shall be and remain in full force and effect as and to the extent provided in it.

It is expressly declared that all Bonds issued and secured under this Trust Agreement are to be issued, authenticated and delivered and all Pledged Receipts are to be dealt with, disposed of and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes provided in this Trust Agreement, and the Authority has agreed and covenanted, and does hereby further agree and covenant, with the Trustee and with the respective Holders from time to time of the Bonds, as follows:

[Remainder of Page Intentionally Left Blank]

## ARTICLE I

### DEFINITIONS

**Section 1.01. Definitions; Interpretation.** In addition to the words and terms defined elsewhere in this Trust Agreement, unless the context or use clearly indicates another meaning or intent, the words or terms capitalized or otherwise used as defined terms herein are used with the meanings set forth in the Master Definitions List attached to the Intergovernmental Cooperation Agreement and incorporated herein by this reference. Such definitions shall be equally applicable to both the singular and plural forms of the words and terms defined therein.

The terms "hereof," "hereby," "herein," "hereto," "hereunder," "hereinafter" and similar terms refer to this Trust Agreement. Words of any gender include the correlative worth of the other genders, unless the sense indicates otherwise.

**Section 1.02. Section and Article References; Captions.** Any reference to a section or provision of the Constitution of the State or the Act, or to a section, provision or chapter of the Revised Code, or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this paragraph, if it constitutes in any way an impairment of the rights or obligations of the Authority, the Holders, the Trustee or the Registrar under this Trust Agreement, the Bond Proceedings, the Bonds, the Bond Purchase Agreement or any other instrument or document entered into in connection with any of the foregoing, including without limitation, any alteration of the obligation to pay Debt Service Charges in the amount and manner, at the times, and from the sources provided in the Bond Proceedings, except as permitted herein.

The captions and headings in this Trust Agreement are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

[END OF ARTICLE I]



## ARTICLE II

### FORM, AUTHENTICATION, REGISTRATION, PAYMENT, AND EXCHANGE AND TRANSFER OF BONDS

#### Section 2.01. Authorization; Pledge; Security; Form of Bonds.

(a) Authorization. The Series 2008 Bonds shall be issued pursuant to and as authorized by the Act and the applicable Bond Proceedings to pay Project Costs as provided in the Petition and the Declaration.

After the issuance of the Series 2008 Bonds pursuant to this Trust Agreement, the Authority may issue Additional Bonds from time to time for the purposes of (i) funding costs of completing the Infrastructure Improvements; and (ii) refunding Bonds previously issued pursuant to this Trust Agreement.

Additional Bonds shall be on a parity with the Series 2008 Bonds and any Additional Bonds issued and outstanding at the time or under this Trust Agreement as to the security interest of the Trustee in the Pledged Receipts and shall be equally and ratably payable from the Special Funds; provided, that nothing herein shall prevent payment of Debt Service Charges on any series of Additional Bonds from (i) being otherwise secured and protected from sources or by property, instruments or documents not applicable to the Series 2008 Bonds or any one or more series of Additional Bonds; or (ii) not being secured or protected from sources or by property, instruments or documents applicable to the Series 2008 Bonds and any Additional Bonds issued and outstanding at the time or under this Trust Agreement.

(b) Pledge. There are hereby pledged, in priority to all other expenses, claims and payments, to the security of the Bonds and for the payment of Debt Service Charges, the gross amount of Pledged Receipts and the Special Funds. Subject to that superior pledge as stated in the preceding sentence, the Pledged Receipts are pledged for the establishment and maintenance of any Required Reserve pursuant to the applicable Bond Proceedings, and for the payment and satisfaction of any other requirements with respect to the Bonds including payments relating to any Credit Support Instrument. In accordance with the Act, all Pledged Receipts are immediately subject to the lien of this pledge upon their receipt by the Authority, and that pledge creates a perfected security interest for all purposes of Chapter 1309 of the Revised Code without necessity for separation or delivery of funds or for the filing or recording of the Bond Proceedings or any certificate, statement or other document with respect thereto or for any act of appropriation.

(c) Security. All Bonds shall be equally and ratably secured, without distinction by reason of series designation, number, date of authorization, issuance, sale, execution or delivery, or date of the Bonds or of maturity, by the pledge of the Pledged Receipts to the extent provided in, and except as otherwise permitted by, this Trust Agreement. Nothing in this Trust Agreement shall prevent the Authority from providing or causing to be provided a Credit Support Instrument or a Required Reserve pledged or relating to the payment of Debt Service Charges on any one or more Bonds and not on other Bonds. Nothing herein shall prevent a subordinated pledge of the Pledged Receipts to secure Notes or Additional Bonds; provided, however, no Series Resolution

shall adversely affect the priority of any Bonds then outstanding without the consent of all of the Holders of the Bonds so affected.

Nothing in the Act, this Trust Agreement or the other Bond Proceedings gives the Holders of Bonds, and they do not have, the right to have levied by the Authority, or otherwise levy any excises or taxes for the payment of Debt Service Charges; each Bond shall bear on its face a statement to that effect and to the effect that the right of Holders to the payment of Debt Service Charges is limited to payment from the Pledged Receipts, and any other source of moneys as provided in this Trust Agreement and the Bond Proceedings. However, nothing in this Trust Agreement or in the Bond Proceedings shall be deemed to prohibit the Authority, of its own volition, from using to the extent lawfully authorized to do so any other resources for the fulfillment of the terms, conditions or obligations of the Bond Proceedings and the Bonds.

(d) Form of the Bonds. The Series 2008 Bonds, the certificate of authentication and the form of assignment shall be substantially in the respective forms thereof set forth in Exhibit A to this Trust Agreement with any omissions, insertions and variations which may be authorized or permitted by the applicable Bond Proceedings and consistent with this Trust Agreement. Additional Bonds, the certificate of authentication of such Additional Bonds and the form of assignment of such Additional Bonds shall be in the form set forth in the Supplemental Trust Agreement authorizing such Additional Bonds.

All Bonds shall express on their faces the purpose or purposes for which issued and shall bear such other statements or legends as may be required or permitted by law and the applicable Bond Proceedings.

Debt Service Charges shall be payable in lawful money of the United States or, as may be and if specified or provided for in the applicable Series Resolution, in such other or additional coin, currency, or medium of exchange or value.

(e) Execution. The Series 2008 Bonds shall be executed in a manner consistent with this Trust Agreement, the Series 2008 Bond Resolution, and law in effect at the time of their issuance. The Series 2008 Bonds shall be executed by two of the following officers of the Authority: the Chair, the Vice Chair, and the Treasurer; provided, that any one or more or all of those signatures may be a facsimile signature. In case any officer of the Authority whose manual or facsimile signature appears on any Series 2008 Bond ceases to be that officer before the authentication and delivery of the Series 2008 Bond, that signature nevertheless shall be valid and sufficient for all purposes, the same as if the officer had remained in office until that time. In case the seal of the Authority has changed after a facsimile has been imprinted on the Series 2008 Bonds, such facsimile seal shall continue to be sufficient for all purposes. Any Series 2008 Bond may be executed on behalf of the Authority by an officer who on the date of execution is the proper officer, even though on the date of the Series 2008 Bond that Person was not the proper officer.

Additional Bonds, if issued, shall be executed in a manner consistent with the applicable Bond Proceedings and the law in effect at the time of their issuance.

## **Section 2.02. Authentication and Delivery of Bonds.**

(a) Authentication. No Bond shall be valid or become obligatory for any purpose or entitled to any security or benefit under this Trust Agreement or any applicable Supplemental Trust Agreement unless and until the certificate of authentication referred to in Section 2.01 of this Trust Agreement has been endorsed upon that Bond. Such certificate of authentication may be executed by any Person authorized to do so by an Authenticating Agent, but it shall not be necessary that the same Person sign the certificates of authentication on all Bonds.

The authentication of any Bond by an Authenticating Agent shall be conclusive evidence that Bond has been duly authenticated and delivered, and is entitled to the security and benefit, under this Trust Agreement and any applicable Supplemental Trust Agreement.

(b) Conditions to Authentication of Bonds. Before any Bonds are initially authenticated by an Authenticating Agent and delivered by or on behalf of the Trustee, there shall have been filed with the Trustee the following:

1. A copy, certified by the Secretary of the Authority, of the Series Resolution authorizing the issuance and delivery of the Bonds.
2. An original executed counterpart of this Trust Agreement.
3. A request and authorization to the Trustee on behalf of the Authority, signed by its Authorized Officers, to authenticate and deliver the Bonds to or on the order of the Original Purchaser identified, and upon payment of an amount specified, in that request and authorization.
4. A certificate of the Authorized Officers in form satisfactory to and filed with the Trustee setting forth the following:
  - (i) the Authority is not in default, and the authentication and delivery of the Bonds will not result in any default, of any of its covenants or obligations under the Developer's Agreement, the Developer Services Agreement, the Intergovernmental Cooperation Agreement, or any other agreement to which it is a party in connection with the issuance of the Bonds;
  - (ii) the Aggregate Outstanding Principal Amount of the Bonds then being issued, and the amount of any outstanding Notes or other obligations of the Authority, will not exceed in aggregate the amount of obligations that may be issued or outstanding under the Act, the applicable Bond Proceedings, and the School Compensation Agreement;
  - (iii) upon the issuance and delivery of the Bonds, the amount in or of the Bond Reserve Fund for such Bonds is not less than the applicable Required Reserve required under this Trust Agreement and the applicable Bond Proceedings; and

(iv) any other requirements provided in this Trust Agreement and any applicable Bond Proceedings for the issuance of the Bonds have been met.

The Trustee may reasonably require further evidence of the satisfaction of the preceding requirements. The authentication of those Bonds by the Trustee shall be conclusive evidence that those requirements have been met for purposes of the validity and binding effect of those Bonds and the right of the Holders of those Bonds and of any appertaining coupons to share in the pledges, Pledged Receipts and Special Funds and Accounts as provided in this Trust Agreement and the applicable Series Resolution.

5. If Additional Bonds are to be authenticated and delivered to pay costs of completing the Project:

(i) the Supplemental Trust Agreement pursuant to which such Additional Bonds are issued;

(ii) certification of the Authority and the Design Professional that (A) there is an excess of Project Costs over amounts available from the proceeds of the Series 2008 Bonds on deposit in the Construction Account established under this Trust Agreement to pay such Project Costs; (B) the Work on the Infrastructure Improvements has been conducted or is being conducted in accordance with the terms of the Developer's Agreement; and (C) the Additional Bonds are needed in order to complete such Infrastructure Improvements; and

(iii) an estimate of the Administrator that the Available Service Payments to be received in each year following the issuance, authentication and delivery of Additional Bonds are projected to be at least one hundred twenty-five percent (125%) of the projected Debt Service Charges of the Series 2008 Bonds and the Additional Bonds in each such year.

6. If Additional Bonds are to be authenticated and delivered as Refunding Bonds:

(i) the Supplemental Trust Agreement pursuant to which such Additional Bonds are issued;

(ii) evidence that either (A) moneys (which may include all or a portion of the Additional Bonds to be issued as Refunding Bonds) in an amount sufficient to effect payment of the Debt Service Charges and applicable redemption price, if any, of the Bonds to be refunded, together with accrued interest on the Bonds to be refunded to the maturity or redemption date thereof, as the case may be; or (B) Defeasance Obligations in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications and any moneys, as shall be necessary to comply with the provisions of Article X

of this Trust Agreement, which Defeasance Obligations and moneys shall be held in trust and used only as provided in Article X of this Trust Agreement; provided, that in either case the sufficiency of such moneys or Defeasance Obligations for such purpose shall be independently verified to the satisfaction of the Trustee by the certificate of a firm of independent certified public accountants of national reputation; and

(iii) either (A) evidence that the Debt Service Charges payable with respect to all Bonds outstanding under this Trust Agreement in any year after the issuance of the Refunding Bonds will not exceed the Debt Service Charges on the Bonds outstanding in such year prior to the issuance of such Refunding Bonds; or (B), if (A) shall not be true, an estimate by the Administrator that Debt Service Charges on Bonds outstanding under this Trust Agreement in any year after the issuance of the Refunding Bonds are not projected to require the collection of Community Development Charges.

7. A written opinion of Bond Counsel retained or designated by the Authority, who may be the counsel to whom reference is made in any other subparagraph of this Section 2.02(b), to the effect that documents submitted to the Trustee in connection with that request and authorization comply with the requirements of this Trust Agreement and any applicable Supplemental Trust Agreement, and that all legal conditions precedent to the issuance of the Bonds as provided in this Trust Agreement and any applicable Supplemental Trust Agreement have been complied with, and that those Bonds, when duly executed, authenticated and delivered, will be valid and legal special obligations of the Authority, in accordance with their terms, and will be secured by this Trust Agreement and any applicable Supplemental Trust Agreement together with all Bonds then outstanding under this Trust Agreement and any applicable Supplemental Trust Agreement.

8. If the Bonds to be authenticated and delivered by the Trustee are Additional Bonds, a written opinion of Bond Counsel retained or designated by the Authority, who may be the counsel to whom reference is made in any other subparagraph of this Section 2.02(b), that those Additional Bonds, when duly executed, authenticated and delivered, will be secured on a parity of lien with all other Outstanding Bonds to the extent required by this Trust Agreement and any applicable Supplemental Trust Agreement to provide for payment of Debt Service Charges, and the issuance of the Additional Bonds will not adversely affect the exclusion from gross income for federal tax purposes of interest on any outstanding tax-exempt Bonds.

(c) Delivery. When the documents and opinions referred to in Section 2.02(b) have been filed with the Trustee and the Bonds have been executed and authenticated, the Trustee, itself or by an agent authorized to do so by the Trustee, shall deliver the Bonds to or on the order of the Original Purchaser, upon payment of the amount specified in the applicable request and authorization.

(d) Replacement Bonds. All Bonds authenticated and delivered upon any transfer or exchange or partial redemption of Bonds, or pursuant to Section 2.08, shall be valid special obligations of the Authority, evidencing the same obligation, and entitled to the same security and benefit under this Trust Agreement, as the Predecessor Bonds surrendered or replaced.

**Section 2.03. Registered Bonds.** Registered Bonds shall be issued in denominations as provided in the applicable Series Resolution. Each Registered Bond shall be of a single maturity of the same series and shall be dated as of the date of the Bonds of the applicable series originally issued. So long as any Registered Bonds remain unpaid, the Authority will cause the Register to be maintained and kept at the principal office of the Registrar for those Bonds.

**Section 2.04. Book Entry.**

(a) Except as provided in this Article II, the Series 2008 Bonds shall be deposited with DTC and the Series 2008 Bonds shall be registered in the name of Cede & Co., as nominee for DTC. The Authority and the Trustee shall enter into the Letter of Representations with DTC, and the provisions of such Letter of Representations shall be incorporated herein by reference. The provisions of the Letter of Representations shall control to the extent provisions therein are inconsistent with any provision of this Trust Agreement.

Additional Bonds shall be registered in accordance with the terms of the Supplemental Trust Agreement authorizing their issuance.

(b) The Series 2008 Bonds shall be initially issued in the form of a single fully registered certificate in the amount of the stated maturity of the Series 2008 Bonds. Upon initial issuance, the ownership of such Series 2008 Bonds shall be registered on the Register in the name of Cede & Co., as nominee of DTC. The Trustee and the Authority may treat DTC (or its nominee) as the sole and exclusive registered owner of the Series 2008 Bonds registered in its name for the purposes of payment of the principal, or redemption price of or interest on the Series 2008 Bonds, selecting the Series 2008 Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Holders under this Trust Agreement, registering the transfer of Series 2008 Bonds, obtaining any consent or other action to be taken by Holders and for all other purposes whatsoever; and neither the Trustee nor the Authority shall be affected by any notice to the contrary. Neither the Trustee nor the Authority shall have any responsibility or obligation to any DTC Participant, any person claiming a beneficial ownership interest in the Series 2008 Bonds under or through DTC or any DTC Participant, or any other person which is not shown on the Register as being a registered owner, with respect to the accuracy of any records maintained by DTC or any DTC Participant or others that clear through or maintain a custodial relationship with a DTC Participant, either directly or indirectly (an "Indirect Participant"); the payment of DTC or any DTC Participant or Indirect Participant of any amount in respect of the principal or redemption price of or interest on the Series 2008 Bonds; any notice which is permitted or required to be given to Holders under this Trust Agreement; the selection by DTC of any person to receive payment in the event of a partial redemption of the Series 2008 Bonds; or any consent given or other action taken by DTC as Holder. The Trustee shall pay from moneys available hereunder all principal of, and premium, if any, and interest on the Series 2008 Bonds only to or "upon the order of" DTC (as that term is used in the Uniform Commercial Code as adopted in the State), and all such payments shall be valid and effective to fully satisfy

and discharge the Authority's obligations with respect to the principal of, and premium, if any, and interest on the Series 2008 Bonds to the extent of the sum or sums so paid. Except as otherwise provided in this Article II, no person other than DTC shall receive an authenticated Series 2008 Bond certificate for each separate stated maturity and series evidencing the obligation of the Authority to make payments of principal of, and premium, if any, and interest on the Series 2008 Bonds pursuant to this Trust Agreement. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions of this Trust Agreement with respect to transfers of Series 2008 Bonds, the word "Cede & Co." in this Trust Agreement shall refer to such new nominee of DTC.

**Section 2.05. Payment and Ownership of Bonds.** While in book entry form, payment of interest for any Bond registered in the name of Cede & Co. shall be made by wire transfer of same day funds or such other manner as permitted by the Letter of Representations, to the account of Cede & Co. on the Interest Payment Date, the redemption date or the maturity date at the address indicated for Cede & Co. on the Register. If and to the extent, however, that the Authority shall fail to make payment or provision for payment of interest on any Bond on any Interest Payment Date, that interest shall cease to be payable to the Person who was the Holder of that Bond (or of one or more Predecessor Bonds) as of the applicable Regular Record Date. When moneys become available for payment of the interest, (i) the Trustee shall establish a Special Record Date for the payment of that interest which shall be not more than fifteen (15) nor fewer than ten (10) Business Days prior to the date of the proposed payment, and (ii) the Trustee shall cause notice of the proposed payment and of the Special Record Date to be mailed by first class mail, postage prepaid, to each Holder at its address as it appears on the Register not fewer than ten (10) Business Days prior to the Special Record Date and, thereafter, the interest shall be payable to the Persons who are the Holders of the Bonds (or their respective Predecessor Bonds) at the close of business on the Special Record Date.

**Section 2.06. Delivery of Bond Certificates.** In the event the Authority determines that it is in the best interest of the Beneficial Owners that they be able to obtain Bond certificates, the Authority may notify DTC and the Trustee, whereupon DTC will notify the DTC Participants, of the availability through DTC of Bond certificates. In such event, the Trustee shall issue, transfer and exchange, at the Authority's expense, Bond certificates as requested by DTC in appropriate amounts. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the Authority and the Trustee and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is no successor securities depository), the Authority and the Trustee shall be obligated to deliver Bond certificates as described in this Trust Agreement, provided that the expense in connection therewith shall be paid by the Authority. In the event Bond certificates are issued, the provisions of this Trust Agreement shall apply to, among other things, the transfer and exchange of such certificates and the method of payment of principal of, premium, if any, and interest on such certificates. Whenever DTC requests the Authority and the Trustee to do so, the Trustee and the Authority will cooperate with DTC in taking appropriate action after reasonable notice (a) to make available one or more separate certificates evidencing the Bonds to any DTC Participant having Bonds credited to its DTC account or (b) to arrange for another securities depository to maintain custody of certificates evidencing the Bonds.

**Section 2.07. Payment, Transfer, Exchange and Registration of Registered Bonds.**

(a) Payment. Unless otherwise permitted in this Trust Agreement, the principal of and any redemption premium on Registered Bonds shall be payable on presentation and surrender of the Bonds at the corporate trust office of the Trustee, and payment of the interest on Registered Bonds shall be by check or draft mailed by the Trustee on each Interest Payment Date to the Person who appears on the Register as the Holder of the Bond as of the Record Date applicable to such Interest Payment Date, and to the address of that Holder as it then appears on the Register.

The registered owner of a Registered Bond shall be deemed and regarded as the absolute owner of that Bond for all purposes, and payment of or on account of the principal of and any premium and interest on that Bond shall be made to or upon the order of that Holder or his legal representative, and the Authority, the Trustee, the Authenticating Agent or the Paying Agent shall not be affected by any notice to the contrary, but the registration may be changed as provided in or permitted by this Trust Agreement. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Bond, including any interest on it, to the extent of the sum or sums so paid.

(b) Transfer and Exchange. A Registered Bond may be transferred or exchanged only upon the Register, upon its surrender at the designated office of an Authenticating Agent together with an assignment or request for exchange duly executed by the registered owner or his duly authorized attorney in such form as is satisfactory to the Registrar. Upon the transfer or exchange of any Registered Bond and on request of the Registrar, the Authority shall cause to be executed in the name of the transferee or the registered owner a new Registered Bond or Bonds of the same series, of any denomination or denominations permitted by the applicable Series Resolution, in an aggregate principal amount equal to that amount of the Predecessor Bond, and bearing any interest at the same rate (or determined in the same manner) and maturing on the same date or dates as the Predecessor Bond.

In all cases in which Registered Bonds are transferred or exchanged, the Authority shall cause to be executed and an Authenticating Agent shall authenticate and deliver Bonds in accordance with the provisions of this Trust Agreement and any applicable Supplemental Trust Agreement. The Authority and an Authenticating Agent:

(i) Shall not be required to make any transfer or exchange of (A) any Bond then subject to redemption during a period beginning at the opening of business fifteen (15) days before the day of the mailing of a notice of redemption and ending at the close of business on the day of the mailing, or (B) any Bond so selected for redemption, in whole or in part.

(ii) Shall make the transfer or exchange without charge, except that the Authority and the Authenticating Agent may make a charge sufficient to reimburse them for any tax, excise or governmental charge required to be paid with respect to the transfer or exchange, which charge shall be paid before a new Bond is delivered.



For purposes of this Section, the "designated office" of the Trustee as an Authenticating Agent shall be its corporate trust office, and of any other Authenticating Agent shall be as established by the Trustee or by the applicable Bond Proceedings.

**Section 2.08. Mutilated, Lost, Wrongfully Taken or Destroyed Bonds.** If any Bond is mutilated, lost, wrongfully taken or destroyed (referred to in this Section as a "lost Bond"), in the absence of written notice to the Authority or the Registrar that the lost Bond has been acquired by a bona fide purchaser, the Authority shall cause to be executed and an Authenticating Agent shall authenticate a new Bond of like date, maturity and denomination, and bearing any interest at the same rate (or determined in the same manner), as that lost Bond.

In the case of a mutilated Bond, the mutilated Bond shall first be surrendered to the Registrar. In case of a lost, wrongfully taken or destroyed Bond, there first shall be furnished to the Authority and the Registrar evidence of the loss, wrongful taking or destruction satisfactory to the Registrar, together with indemnity satisfactory to the Registrar and the Treasurer of the Authority.

If the lost Bond has matured, instead of issuing a new Bond the Authority may pay, or may direct the Trustee to pay, the same without surrender or issuance of a new Bond upon the furnishing of the evidence and, if applicable, satisfactory indemnity as in the case of issuance of a new Bond.

The Authority and the Trustee may charge the Holder of the applicable Bond for reasonable fees and expenses, including legal fees and printing expenses, in connection with actions pursuant to this Section.

Every new Bond issued pursuant to this Section shall constitute, consistent with the provisions of the Predecessor Bond, an additional contractual obligation of the Authority, whether or not the Predecessor Bond shall be found at any time. Any new Bond issued pursuant to this Section may contain or have imprinted or stamped on it a statement to the effect, or a symbol indicating, that it is issued to replace a lost Bond.

All Bonds shall be held and owned on the express condition that the foregoing provisions of this Section are exclusive with respect to the replacement or payment of lost Bonds and shall preclude any and all other rights or remedies, notwithstanding any law or statute to the contrary now in effect or hereafter enacted, with respect to the replacement or payment of negotiable instruments or investment securities or other securities without their surrender.

The Trustee shall promptly advise in writing any other Authenticating Agent or Paying Agent for the applicable series of the issuance of any new Bonds or the payment of any matured Bond pursuant to this Section.

**Section 2.09. Non-presentment of Bonds.** If a Bond is not presented for payment when due in whole or in part, whether at maturity, prior redemption or otherwise, or a check or draft for interest is uncashed, and if moneys for the purpose of paying and sufficient to pay the amount involved have been made available to the Trustee for the benefit of the Holder, all liability of the Authority to that Holder for that payment shall thereupon cease and be discharged completely,

and it shall thereupon be the duty of the Paying Agent to hold those moneys in trust, without liability for interest on them, for the exclusive benefit of that Holder. Subject to the provisions of this Section, that Holder (and successive Holders of that Bond) shall thereafter be restricted exclusively to those moneys for any claim of whatever nature on his part under this Trust Agreement or on or with respect to that amount then due on that Bond or that check or draft.

Any moneys so held by the Paying Agent and remaining unclaimed by the Holder (or successive Holders) of that Bond, for a period of three years after the date on which that Bond became payable as provided above or on which that check or draft was issued, shall be paid to the Authority and thereafter the Holder (or successive Holders) of that Bond shall look only to the Authority for payment and then only to the amounts so received from the Paying Agent without any interest on those amounts, and the Paying Agent shall have no further responsibility with respect to those moneys.

Upon termination of this Trust Agreement, the moneys paid to the Trustee pursuant to this section shall be paid to the Authority and thereafter the Holder (or successive Holders) of that Bond shall look only to the Authority for payment and then only to the amounts so received by the Authority without any interest on those amounts, and the Trustee shall have no further responsibility with respect to those moneys.

**Section 2.10. Safekeeping and Cancellation of Bonds.** Unless otherwise provided by a Series Resolution, any Bond surrendered for the purpose of payment or retirement, or for transfer or exchange, or for replacement or payment pursuant to Section 2.05, shall be cancelled upon surrender to the Trustee, an Authenticating Agent or any Paying Agent. Any such Bonds cancelled by any Authenticating Agent or a Paying Agent other than the Trustee shall be promptly transmitted by the Authenticating Agent or Paying Agent to the Trustee. Certification of such surrender and cancellation shall be made to the Authority by the Trustee at least twice each Fiscal Year.

Unless otherwise directed by the Authority, cancelled Bonds shall be retained and stored, or microfilm or computer image copies made and retained, by the Trustee for a period of at least six years after their cancellation. Those cancelled Bonds may be destroyed by the Trustee by shredding or incineration six years after their cancellation, or if microfilmed or computer imaged, six months after their cancellation, or at any earlier time directed by the Authority. Certification of any destruction of cancelled Bonds, describing the manner of destruction, shall be provided by the Trustee to the Authority.

**Section 2.11. Payment by Wire Transfer.** Notwithstanding any provision of this Trust Agreement or of any Bond to the contrary, with the approval of the Authority the Trustee may, upon the written request of any registered owner of a Registered Bond, enter into an agreement with that owner providing for payments to that owner of principal of and any interest and premium on that owner's Bond or Bonds, or any portion thereof, other than any payment of the entire unpaid principal amount of an Bond, at a place and in a manner (including the wire transfer of federal funds) other than as provided above, in a Supplemental Trust Agreement or in a Series Resolution, and in the case of principal or premium, without prior presentation or surrender of the Bond upon any conditions satisfactory to the Trustee and the Authority. That payment in any event shall be made to the Person in whose name a Bond is registered on the

Register, (i) as to principal or premium on the date that principal or premium is due and (ii) as to interest as of the applicable Interest Payment Date. The Trustee will furnish a copy of each of those agreements to each Authenticating Agent or Paying Agent for the applicable Bonds, and to the Authority. Any payment of principal, premium or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Trust Agreement.

**[END OF ARTICLE III]**

## ARTICLE III

### PRIOR REDEMPTION OF SERIES 2008 BONDS

#### Section 3.01. Privilege of Prior Redemption.

(a) Extraordinary Mandatory Redemption in Whole or in Part. The Series 2008 Bonds are subject to extraordinary mandatory redemption prior to maturity by the Authority in whole on any date or in part (as selected by the Authority) on the Interest Payment Date immediately following the occurrence of any relevant event described in this Section 3.01(a):

(i) at a redemption price equal to (A) one hundred five percent (105%) of the principal amount of the Series 2008 Bonds to be redeemed, if such redemption occurs prior to December 1, 2018, or (B) the par amount of the Series 2008 Bonds to be redeemed if such redemption occurs on or after December 1, 2018; plus, in each case, interest accrued to the redemption date, from amounts on deposit in the Debt Service Fund resulting from the prepayment in whole or in part of any Community Development Charges pursuant to the Declaration;

(ii) at a redemption price equal to the par amount of the Series 2008 Bonds to be redeemed, plus interest accrued to the redemption date, from amounts on deposit in the Debt Service Fund resulting from the transfer from the Construction Account on or after the date that is the latest of (A) the date that is one (1) year after the completion date for all of the Work on the Infrastructure Improvements; (B) the date on which the Authority has paid all Project Costs, including interest on those Project Costs; or (C) abandonment of the Project prior to completion; and

(iii) at a redemption price equal to the par amount of the Series 2008 Bonds to be redeemed, plus interest accrued to the redemption date, from amounts on deposit in the Debt Service Fund as a result of the deposit of funds for such redemption by the Developer, or on behalf of the Developer by KeyBank, National Association (the "Construction Lender") only upon the Authority's receipt of written instructions from the Developer, or on behalf of the Developer by the Construction Lender, directing the Authority to exercise such extraordinary mandatory redemption following the occurrence of an event of default under the Construction Loan Agreement between the Developer and the Construction Lender and on file with the Authority; provided, that amounts necessary for such redemption are on deposit in the Debt Service Fund prior to the giving of notice of such redemption to the Holders of the Series 2008 Bonds to be redeemed.

Any extraordinary mandatory redemption described in paragraphs (i), (ii), and (iii) of this Section 3.01(a), if in whole, shall occur on a date, established by the Trustee, which date shall be not less than thirty (30) nor more than sixty (60) days after the occurrence of the relevant event

described above and only after written notice from the Trustee to the Issuer and the holders of the Series 2008 Bonds. Such notice shall specify the redemption date and the basis for the mandatory redemption.

**(b) Mandatory Sinking Fund Redemption.** The Series 2008 Bonds maturing on December 1, 2027 are subject to mandatory sinking fund redemption at a price equal to one hundred percent (100%) of the principal amount thereof plus accrued interest thereon on December 1 in the years and in the principal amounts set forth below:

<u>Year</u>	Principal Amount to be <u>Redeemed</u>	<u>Year</u>	Principal Amount to be <u>Redeemed</u>
2016	\$105,000	2022	\$765,000
2017	160,000	2023	815,000
2018	465,000	2024	870,000
2019	625,000	2025	930,000
2020	670,000	2026	990,000
2021	715,000		

The remaining principal amount of such Series 2008 Bonds (\$1,055,000) will mature at stated maturity on December 1, 2027.

The Series 2008 Bonds maturing on December 1, 2038 are subject to mandatory sinking fund redemption at a price equal to one hundred percent (100%) of the principal amount thereof plus accrued interest thereon on December 1 in the years and in the principal amounts set forth below:

<u>Year</u>	Principal Amount to be <u>Redeemed</u>	<u>Year</u>	Principal Amount to be <u>Redeemed</u>
2028	\$1,130,000	2033	\$1,585,000
2029	1,210,000	2034	1,695,000
2030	1,290,000	2035	1,810,000
2031	1,380,000	2036	1,940,000
2032	1,480,000	2037	2,075,000

The remaining principal amount of such Series 2008 Bonds (\$2,000,000) will mature at stated maturity on December 1, 2038.

**(c) Optional Redemption.** The Series 2008 Bonds shall be subject to optional redemption prior to stated maturity on or after December 1, 2018 by and at the sole option of the Authority, either in whole on any date or in part (as selected by the Authority) on any Interest Payment Date and in denominations of \$100,000 or any integral multiple of \$1,000 in excess thereof, at the

redemption price of one hundred percent (100%) of the principal amount of the Series 2008 Bonds to be redeemed, plus accrued interest thereon to the redemption date.

**(d) Partial Redemption.** If fewer than all of the Series 2008 Bonds are to be redeemed, the selection of Series 2008 Bonds to be redeemed, or portions thereof in amounts of \$100,000 or any integral multiple of \$1,000 in excess thereof, shall be made by lot by the Trustee in any manner which the Trustee may determine (or if required by the Depository in any manner the Depository may determine); provided, however, any such partial redemption shall cause to be redeemed, as nearly as practicable, a principal amount of Series 2008 Bonds from each maturity, such that the remaining installments of principal of and interest on the Series 2008 Bonds shall be in substantially equal amounts; and, provided, further, in the event that any of the Series 2008 Bonds are subject to Mandatory Sinking Fund Requirements, the installments of such Mandatory Sinking Fund Requirements within each maturity of the Series 2008 Bonds shall also be reduced, as nearly as practicable, within such maturity, such that the remaining installments of principal of and interest on the Series 2008 Bonds of such maturity shall be in substantially equal amounts, it being the intent of this provision to spread the effect of a partial redemption through each year in which the Series 2008 Bonds continue to be outstanding, rather than employ any method of redemption that would merely shorten the final maturity of the Series 2008 Bonds.

In the case of a partial redemption of Series 2008 Bonds by lot when Series 2008 Bonds of denominations greater than \$1,000 are then outstanding, each \$1,000 unit of face value of principal thereof shall be treated as though it were a separate Series 2008 Bond of the denomination of \$1,000. If it is determined that one or more, but not all of the \$1,000 units of face value represented by a Series 2008 Bond are to be called for redemption, then upon notice of redemption of a \$1,000 unit or units, the Holder of that Series 2008 Bond shall surrender the Series 2008 Bond to the Trustee (a) for payment of the redemption price of the \$1,000 unit or units of face value called for redemption (including without limitation, the interest accrued to the date fixed for redemption and any premium), and (b) for issuance, without charge to the Holder thereof, of a new Series 2008 Bond or Series 2008 Bonds, of any authorized denomination or denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Series 2008 Bond surrendered.

**(e) Authority's Election to Redeem.** Except in the case of redemption pursuant to any Mandatory Sinking Fund Requirements or pursuant to other mandatory redemption provisions, Series 2008 Bonds shall be redeemed only upon written notice from the Authority to the Trustee of its election to redeem Series 2008 Bonds. That notice shall specify the redemption date and the principal amount of each maturity of Series 2008 Bonds to be redeemed, and shall be given at least forty-five (45) days prior to the redemption date or within such shorter period as shall be acceptable to the Trustee. In the case of any optional redemption of Series 2008 Bonds pursuant to Section 3.01(c) hereof, there shall be on deposit moneys which will be sufficient to redeem at the redemption prices thereof such Bonds being redeemed, prior to the notice of redemption given pursuant to Section 3.03 of this Trust Agreement.

**Section 3.02. Redemption Procedure.** If notice of redemption has been given to the Holders as provided in Section 3.03, the Authority shall, and hereby covenants that it will, prior to the redemption date pay to the Trustee for deposit in the appropriate Special Fund or Account

an amount in cash which, together with any other moneys available or to be timely available for the redemption and held by the Trustee or the Paying Agent, will be sufficient on the redemption date to redeem at the redemption price (including any interest accrued to the redemption date) all the Bonds to be redeemed.

**Section 3.03. Notice of Call for Redemption.** When Series 2008 Bonds (or portions thereof) are to be redeemed pursuant to the terms of Article III of this Trust Agreement other than upon mandatory sinking fund redemption or other mandatory redemption, the Authority shall give or cause to be given notice of the redemption of the Series 2008 Bonds to the Trustee pursuant to Section 3.01(e) of this Trust Agreement. The notice may state (i) that it is conditioned upon the deposit of moneys, in an amount equal to the amount necessary to effect the redemption, with the Trustee no later than the date that is five (5) Business Days prior to the redemption date, or (ii) that the Authority retains the right to rescind such notice on or prior to the scheduled redemption date (in either case, a "Conditional Redemption"), and such notice and optional redemption shall be of no effect if such moneys are not so deposited or if the notice is rescinded. The Trustee shall send notice of any redemption, identifying the Series 2008 Bonds or portions thereof to be redeemed, the redemption date and the method and place of payment to each Holder of a Series 2008 Bond called for redemption to the Holder's address listed on the Register as of the close of business on the fifteenth day preceding that mailing. Such notice shall be sent by the Trustee by first class mail between thirty (30) and sixty (60) days prior to the scheduled redemption date. With respect to Series 2008 Bonds held in book entry form, if the Trustee sends notice of redemption to DTC, the Trustee shall not be required to give the notice set forth above. Failure so to give that notice to, or failure to receive that notice by, the Holder of any Series 2008 Bond shall not affect in any respect the validity of the proceedings for the redemption of other Series 2008 Bonds.

In addition to the foregoing, the redemption notice shall contain with respect to each Series 2008 Bond being redeemed (i) the CUSIP number, (ii) the date of issue, (iii) the interest rate, (iv) the maturity date, and (v) any other descriptive information determined by the Trustee to be needed to identify the Series 2008 Bonds to be redeemed. If a redemption is a Conditional Redemption, the notice shall so state. The Trustee shall also send each notice of redemption at least thirty (30) days before the redemption date to (A) any Rating Service then rating the Series 2008 Bonds to be redeemed; and (B) at least one of the national information services that disseminate notices of redemption of bonds such as the Series 2008 Bonds, such services to be identified by the Trustee; provided, however, that failure to provide the notice required by this sentence shall not affect the validity of the notice of redemption required by this Section 3.03. For purposes of this Section 3.03, "Rating Service" shall mean either Moody's Investors Service or Standard & Poor's Ratings Group and their respective successors.

**Section 3.04. Payment of Redeemed Series 2008 Bonds.** If mailed notice has been given in the manner provided in Section 3.03, the Series 2008 Bonds, or portions thereof, so called for redemption and identified in the notice shall become due and payable on the redemption date so designated at the redemption price, plus any interest accrued to the redemption date, upon presentation and surrender of the Series 2008 Bonds at the place or places specified in the notice, and the Series 2008 Bonds, or portions of the Series 2008 Bonds, shall be paid at the redemption price plus any interest accrued to the redemption date.

If moneys for the redemption of the Series 2008 Bonds or portions thereof to be redeemed are held on the redemption date by the Authority, Trustee or Paying Agent so as to be available therefor, then from and after that date the Series 2008 Bonds or the portions thereof so called for redemption shall no longer be considered as outstanding and if interest-bearing shall cease to bear interest. To any extent that those moneys are not so available on the redemption date, or notices have not been mailed as provided in Section 3.03, those Series 2008 Bonds or portions thereof not paid at redemption shall continue to bear or accrue interest until paid at maturity or subsequent prior redemption at the same rate (or determined in the same manner) as they would have had they not been called for redemption.

If a Series 2008 Bond is redeemed in part only, on or after the redemption date and upon surrender of the Series 2008 Bond to the Trustee, the Authority shall cause to be executed and an Authenticating Agent shall authenticate and deliver, without charge to the Holder, a new Series 2008 Bond or Series 2008 Bonds in authorized denominations and form and in Aggregate Outstanding Principal Amount equal to that unmatured and unredeemed amount of that Series 2008 Bond and bearing or accruing any interest at the same rate (or determined in the same manner) and maturing on the same date or dates as the Predecessor Bond.

All moneys held by the Trustee and the Paying Agent for the redemption of particular Series 2008 Bonds shall be held in trust for the account of their Holders and shall be paid to them upon presentation and surrender of the Series 2008 Bonds.

**[END OF ARTICLE III]**



## ARTICLE IV

### FUNDS AND ACCOUNTS; REVENUES

**Section 4.01. Pledge and Assignment of Pledged Receipts.** Subject only to the provisions of this Trust Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein, there are hereby pledged to secure the payment of the principal of, premium, if any, and interest on the Bonds in accordance with their terms and the provisions of this Trust Agreement, all of the Pledged Receipts. Said pledge shall constitute a lien on and security interest in such assets and shall attach, be perfected and be valid and binding from and after delivery by the Trustee of the Bonds, without any physical delivery thereof or further act.

**Section 4.02. Creation of Funds and Accounts.** The Funds and Accounts described in this Section are hereby created and are designated as indicated. Each fund is to be maintained as a separate trust account, provided that separate subaccounts may be maintained in any such account. Additional Funds and Accounts may be created in accordance with this Trust Agreement. The Funds and Accounts are:

- A. the Revenue Fund designated "Hickory Chase Community Authority Revenue Fund", together with the "Service Payment Account" and the "Community Development Charge Account" therein;
- B. the Impact Fee Fund designated "Hickory Chase Community Authority Impact Fee Fund";
- C. the Debt Service Fund designated "Hickory Chase Community Authority Debt Service Fund", together with the "Principal Payment Account" and the "Interest Payment Account" therein;
- D. the Project Fund designated "Hickory Chase Community Authority Project Fund", together with the "Construction Account" and the "Capitalized Interest Account" therein;
- E. the Bond Reserve Fund designated "Hickory Chase Community Authority Bond Reserve Fund";
- F. the Supplemental Reserve Fund designated "Hickory Chase Community Authority Supplemental Reserve Fund";
- G. the Rebate Fund designated "Hickory Chase Community Authority Rebate Fund";
- H. the Administrative Expense Fund designated "Hickory Chase Community Authority Administrative Expense Fund"; and
- I. the Surplus Fund designated "Hickory Chase Community Authority Surplus Fund."

**(a) Revenue Fund.** The Revenue Fund shall be maintained and held in the custody of the Trustee. So long as any Bonds secured by this Trust Agreement remain outstanding and notwithstanding any ordinance or resolution to the contrary, all Pledged Receipts other than Impact Fees received by the Trustee shall initially be deposited, transferred, or credited to the Revenue Fund without necessity for any act of appropriation. Moneys shall be disbursed from the Revenue Fund pursuant to the provisions of Section 4.03 hereof.

All Available Service Payments deposited with the Trustee shall be credited to and held in the Service Payment Account. Any other Pledged Receipts not identified as Available Service Payments, Impact Fees or Community Development Charges shall be credited to and held in the Service Payment Account. Amounts held in the Service Payment Account shall be applied to make the payments described in Paragraphs "FIRST" through "SIXTH" of Section 4.03(c) hereof at the times set forth therein and to make the transfers set forth in Section 4.03(d) hereof.

All Community Development Charges deposited with the Trustee shall be credited to and held in the Community Development Charge Account. In the event that on the fifth Business Day prior to any Interest Payment Date moneys in the Service Payment Account, the Impact Fee Fund, and the Supplemental Reserve Fund are not sufficient to fully fund the deposits required by Paragraphs "FIRST" through "FIFTH" of Section 4.03(c) hereof in the order of priority set forth therein, then any moneys in the Community Development Charge Account shall be used to remedy such insufficiency. Amounts remaining on deposit in the Community Development Charge Account after making any required payments described in Paragraphs "FIRST" through "FIFTH" of Section 4.03(c) hereof shall be applied to make the transfers set forth in Section 4.03(d) hereof.

The Revenue Fund constitutes a Special Fund under this Trust Agreement.

**(b) Impact Fee Fund.** The Impact Fee Fund shall be maintained and held in the custody of the Trustee. All Impact Fees deposited with the Trustee shall be credited to and held in the Impact Fee Fund. In the event that on the fifth Business Day prior to any Interest Payment Date moneys in the Service Payment Account are not sufficient to fully fund the deposits required by Paragraphs "FIRST" through "FIFTH" of Section 4.03(c) hereof in the order of priority set forth therein, then any moneys in the Impact Fee Fund shall be used to remedy any such insufficiency. Any investment earnings on deposits in the Impact Fee Fund shall be transferred to the Interest Payment Account and the Principal Payment Account in accordance with Section 4.07 hereof. The Impact Fee Fund constitutes a Special Fund under this Trust Agreement.

**(c) Debt Service Fund.** The Debt Service Fund shall be maintained and held in the custody of the Trustee. All moneys received by or on account of the Authority and required by the applicable Bond Proceedings to be deposited, transferred, or credited to the Debt Service Fund, and all other moneys transferred or allocated to or received for the purposes of the Debt Service Fund shall be deposited with the Trustee and credited to the Debt Service Fund, subject to the applicable Bond Proceedings, without necessity for any act of appropriation. The Debt Service Fund is a trust fund pledged to the payment of Debt Service Charges to the extent provided in Section 2(c) of the Series 2008 Bond Resolution, and payment of Debt Service Charges from the Debt Service Fund shall be made or provided for by the Trustee in accordance

with the Bond Proceedings without necessity for any act of appropriation. The Trustee shall establish separate accounts within the Debt Service Fund for each separate series of Bonds.

The Debt Service Fund constitutes a Special Fund under this Trust Agreement.

(d) Project Fund. The Project Fund shall be maintained and held in the custody of the Trustee. The Trustee may establish separate accounts therein for accounting purposes. Moneys in the Project Fund may be transferred among and between accounts and subaccounts established in the Project Fund, subject to any limitations in the applicable Bond Proceedings. Moneys in the Project Fund shall be disbursed in accordance with Section 4.05 hereof. Subject to the provisions of Section 4.05, disbursements from the Construction Account shall be made to pay for (i) the costs of issuance of the Bonds, (ii) the Advanced Project Costs identified in the Developer Services Agreement, (iii) the Project Costs in connection with the Project, and (iv) other costs as provided herein. The Construction Account shall be closed and any balance shall be transferred to the Debt Service Fund to be used to redeem the Bonds in accordance with Section 3.01(a)(ii) hereof on or after the date that is the latest of (A) the date that is one (1) year after the completion date for all of the Work on the Infrastructure Improvements; (B) the date on which the Authority has paid all Project Costs, including interest on those Project Costs; or (C) abandonment of the Project prior to completion.

The Capitalized Interest Account shall be maintained as an account within the Project Fund. On the fifth Business Day prior to each Interest Payment Date or any redemption date occurring on or before June 1, 2011, the Trustee shall transfer amounts in the Capitalized Interest Account to the Interest Payment Account to pay interest due on the Series 2008 Bonds on such date. After the payment of interest on the Series 2008 Bonds on June 1, 2011, the Capitalized Interest Account shall be closed and any balance shall be transferred (i) if the Construction Account is open, to the Construction Account, or (ii) if the Construction Account is closed, (A) first, to the Interest Payment Account to the extent amounts on deposit therein are insufficient pay interest on the Bonds on the next succeeding Interest Payment Date, and (B) second, to the Principal Payment Account.

Moneys in the Project Fund and separate accounts therein may be invested and reinvested by the Trustee in any Eligible Investments as provided in Section 4.07 hereof. An investment made from moneys credited to the Project Fund shall constitute part of the Project Fund, and all proceeds of sale and income from that investment shall be credited to the Project Fund and accounts therein as determined by the Trustee; provided, that, prior to June 1, 2011, any interest earnings on moneys in the Capitalized Interest Account shall be transferred (i) if the Construction Account is open, to the Construction Account, or (ii) if the Construction Account is closed, to the Service Payment Account.

The Project Fund constitutes a Special Fund under this Trust Agreement.

(e) Bond Reserve Fund. The Bond Reserve Fund shall be maintained and held in the custody of the Trustee. Amounts on deposit in the Bond Reserve Fund may be used to pay principal of and interest on the Series 2008 Bonds at their stated maturity. Upon the issuance of Additional Bonds, the Trustee shall establish separate accounts within the Bond Reserve Fund

for each Series of Bonds for which a Reserve Requirement has been specified, and each account shall secure only the Series of Bonds for which the Reserve Requirement was specified.

In the event that on the fifth Business Day prior to any Interest Payment Date moneys on deposit in the Service Payment Account, the Impact Fee Fund, the Supplemental Reserve Fund, and the Community Development Charge Account are not sufficient to fully fund the deposits required by Paragraphs "FIRST" through "FOURTH" of Section 4.03(c) hereof in the order of priority set forth therein, the Trustee shall withdraw from the Bond Reserve Fund the moneys necessary to make up such insufficiency.

Subject to the provisions of Section 4.03(g) of this Trust Agreement, upon payment in full of the Bonds, any amounts in the Bond Reserve Fund shall be transferred (i) first, to the Rebate Fund if and to the extent that amounts on deposit therein are insufficient to pay the required Rebate amounts; (ii) second, to the Administrative Expense Fund if and to the extent that amounts on deposit therein are insufficient to pay the required Administrative Expenses; and (iii) third, to the extent such amounts are remaining on deposit in the Bond Reserve Fund (A) as a result of the deposit of Bond proceeds, Service Payments or Impact Fees, to the City and released from the lien of this Trust Agreement, or (B) as a result of the deposit of Community Development Charges, to the Authority and released from the lien of this Trust Agreement.

The Bond Reserve Fund constitutes a Special Fund under this Trust Agreement.

**(f) Supplemental Reserve Fund.** The Supplemental Reserve Fund shall be maintained and held in the custody of the Trustee. Notwithstanding any other requirements of Article IV of this Trust Agreement, amounts on deposit in the Supplemental Reserve Fund may be used to pay principal of and interest on the Series 2008 Bonds at their stated maturity.

In the event that on the fifth Business Day prior to any Interest Payment Date moneys on deposit in the Service Payment Account and the Impact Fee Fund are not sufficient to fully fund the deposits required by Paragraphs "FIRST" through "FIFTH" of Section 4.03(c) hereof in the order of priority set forth therein, the Trustee shall transfer from the Supplemental Reserve Fund the amount of such insufficiency.

Subject to the provisions of Section 4.03(g) of this Trust Agreement, upon payment in full of the Bonds, any amounts in the Supplemental Reserve Fund shall be transferred (i) first, to the Rebate Fund if and to the extent that amounts on deposit therein are insufficient to pay the required Rebate amounts; (ii) second, to the Administrative Expense Fund, if and to the extent that amounts on deposit therein are insufficient to pay the required Administrative Expenses, and (iii) third, to the City and released from the lien of this Trust Agreement in accordance with the Intergovernmental Cooperation Agreement.

The Supplemental Reserve Fund constitutes a Special Fund under this Trust Agreement.

**(g) Rebate Fund.** The Rebate Fund shall be maintained and held in the custody of the Trustee. The Trustee shall make deposits and disbursements from the Rebate Fund in accordance with the written instructions received from the Authority, shall invest the amounts held in the Rebate Fund pursuant to written instructions from the Authority and shall deposit

income from such investments immediately upon receipt thereof in the Rebate Fund. Any such written instructions from the Authority received by the Trustee after the Closing Date shall be accompanied by an opinion of Bond Counsel addressed to the Trustee to the effect that the use of the new instructions will not cause interest on any of the Series 2008 Bonds to be included in gross income for federal income tax purposes.

If a deposit to the Rebate Fund is required as a result of the computations made or caused to be made by the Authority, the Trustee shall upon receipt of written direction from the Authority accept such payment for the benefit of the Authority.

Not later than thirty (30) days after the fifth anniversary of the first Business Day of the month in which the Series 2008 Bonds are issued (or such other date as the Authority may choose, provided the Authority receives an opinion of Bond Counsel that such change will not cause interest on such Series 2008 Bonds to be included in gross income for federal income tax purposes), and every five (5) years thereafter until final retirement of the Series 2008 Bonds, upon written direction from the Authority, the Trustee shall pay to the United States of America ninety percent (90%) of the amount required to be on deposit in the Rebate Fund as of such payment date in respect of the Series 2008 Bonds. Not later than thirty (30) days after the final retirement of the Series 2008 Bonds, upon written direction from the Authority the Trustee shall pay to the United States of America one hundred percent (100%) of the balance of the amount required to be on deposit in the Rebate Fund in respect of the Series 2008 Bonds or such lesser amount as the Authority shall direct.

If amounts in excess of that required to be rebated to the United States of America accumulate in the Rebate Fund such amounts shall be transferred to the Service Payment Account. Records of the determinations required by this Section and the instructions must be retained by the Trustee until six (6) years after the Series 2008 Bonds are no longer outstanding. The Trustee shall make information regarding the Series 2008 Bonds and investments of the proceeds thereof available to the Authority upon request.

The Rebate Fund does not constitute a Special Fund under this Trust Agreement.

**(h) Administrative Expense Fund.** The Administrative Expense Fund shall be maintained and held in the custody of the Trustee. Moneys deposited in the Administrative Expense Fund shall be disbursed by the Trustee to pay Administrative Expenses as such Administrative Expenses become due and payable.

The Administrative Expense Fund does not constitute a Special Fund under this Trust Agreement.

**(i) The Surplus Fund.** The Surplus Fund shall be maintained and held in the custody of the Trustee. Moneys will be deposited in, transferred to and disbursed from the Surplus Fund pursuant to the provisions of Section 4.03 hereof.

The Surplus Fund constitutes a Special Fund under this Trust Agreement.

#### **Section 4.03. Flow of Pledged Receipts.**

(a) All Pledged Receipts shall be held in the custody of the Trustee and disbursed as provided in this Section 4.03.

(b) Pledged Receipts received by the Trustee shall be deposited in the Service Payment Account, except that: (i) Community Development Charges shall be deposited in the Community Development Charge Account; and (ii) Impact Fees shall be deposited in the Impact Fee Fund.

(c) On the fifth Business Day prior to each Interest Payment Date, after applying any amounts on deposit in the Capitalized Interest Account as set forth in Section 4.02(d) hereof, amounts on deposit in the Service Payment Account shall be transferred to the Funds and Accounts set forth below in Paragraphs "FIRST" through "SIXTH" of this Section 4.03(c):

FIRST: to the Rebate Fund, an amount that, when added to the amounts already on deposit in such Fund, will be sufficient to pay any amounts due pursuant to Section 4.02(g) hereof;

SECOND: to the Administrative Expense Fund, an amount that, when added to the amounts already on deposit in such Fund, will be sufficient to pay Administrative Expenses due from the date of such transfer through the Interest Payment Date next following such Interest Payment Date, as estimated by the Administrator on the immediately preceding Calculation Date;

THIRD: to the Interest Payment Account, an amount that, when added to the amounts already on deposit in such account, will be sufficient to pay interest on the Bonds on such Interest Payment Date;

FOURTH: to the Principal Payment Account, an amount that, when added to the amounts already on deposit in such account, will be sufficient to pay principal of (including, but not limited to, any amounts payable to satisfy any Mandatory Sinking Fund Requirements on) the Bonds due on such Interest Payment Date or other date scheduled therefor;

FIFTH: to the Bond Reserve Fund, an amount that, when added to the amounts already on deposit in such fund, will be sufficient to make the balance in the Bond Reserve Fund equal to the Series 2008 Required Reserve and any other applicable Required Reserve; and

SIXTH: to the Supplemental Reserve Fund, solely from moneys in the Service Payment Account, an amount that, when added to the amounts already on deposit in such fund, will be sufficient to make the balance in the Supplemental Reserve Fund equal to the Supplemental Reserve Requirement.

(d) On December 16th in any calendar year:

(i) moneys on deposit in the Service Payment Account shall be transferred to the City free of the lien of this Trust Agreement in accordance with the Service Payment Agreement and the Intergovernmental Cooperation Agreement;

(ii) moneys on deposit in the Community Development Charge Account shall (A) remain in the Community Development Charge Account to the extent that the Trustee has received an estimate from the Administrator that amounts on deposit in the Community Development Charge Account are projected to be necessary to pay Period Debt Service and Administrative Expenses in the succeeding calendar year; or (B) be transferred to the Authority free of the lien of this Trust Agreement and refunded to the Owners in accordance with the Declaration; provided, further, that any moneys in the Community Development Charge Account when Debt Service Charges are paid in full or upon defeasance of the Bonds shall be transferred to the Authority free of the lien of this Trust Agreement and refunded to the Owners in accordance with the Declaration.

(e) Any moneys on deposit in the Impact Fee Fund on December 16, 2018 after the transfers required in Section 4.03(c) of this Trust Agreement are complete shall be applied on such date first, to fund the Bond Reserve Fund up to the Reserve Requirement; second, to fund the Supplemental Reserve Fund up to the Supplemental Reserve Requirement; and third, if any amounts remain after such application, to be transferred to the City and released from the lien of this Trust Agreement in accordance with the Service Payment Agreement and the Intergovernmental Cooperation Agreement.

(f) On December 16th in any calendar year, all moneys on deposit in the Revenue Fund and not required to be transferred to the City, to be transferred to the Authority or to remain in the Community Development Charge Account in accordance with Section 4.03(d) hereof shall be transferred to the Surplus Fund. Any moneys in the Surplus Fund shall be disbursed at any time after the transfer described in the preceding sentence to satisfy any insufficiency in the deposits required by Paragraphs "FIRST" through "SIXTH" of Section 4.03(c) hereof.

(g) Whenever the amounts on deposit in the Bond Reserve Fund together with the amounts on deposit in the Supplemental Reserve Fund equal or exceed the amount required to redeem or pay the Outstanding Bonds, including interest accrued to the date of payment or redemption and premium, if any, due upon redemption, the Trustee shall apply the amounts in, first, the Supplemental Reserve Fund, and second, the Bond Reserve Fund on the next succeeding Interest Payment Date or other permitted redemption date to the payment and redemption, in accordance with the Bonds, and the remaining balance in the Bond Reserve Fund and the Supplemental Reserve Fund, as applicable, shall be applied in accordance with Section 4.02(e) and Section 4.02(f) hereof.

**Section 4.04. Allocation of Series 2008 Bond Proceeds; Allocation of Additional Bond Proceeds.**

(a) Series 2008 Bond Proceeds. All of the net proceeds from the sale of the Series 2008 Bonds shall be received by the Trustee for and on behalf of the Authority for the purposes, and shall be allocated, deposited and credited, as specified in the Certificate of Award and as follows:

(i) To the Capitalized Interest Account, \$5,493,410.31, which is necessary to pay interest on the Series 2008 Bonds for a period of three years after the date of issuance of the Series 2008 Bonds.

(ii) To the Bond Reserve Fund, \$2,362,837.50, which amount is equal to the Series 2008 Required Reserve.

(iii) To the Construction Account, \$17,517,667.19, which amount equals the remaining proceeds from the sale of the Series 2008 Bonds.

(b) Additional Bond Proceeds. All of the proceeds from the sale of Additional Bonds shall be received by the Trustee for and on behalf of the Authority and shall be allocated, deposited and credited as provided in the Series Resolution and the Supplemental Trust Agreement authorizing the issuance of such Additional Bonds.

**Section 4.05. Disbursements from the Construction Account.** Moneys held in the Construction Account shall be disbursed as provided in this Section 4.05.

(a) Costs of Issuance. Within sixty (60) days after the Closing Date the Issuer may submit to the Trustee one or more special disbursement requests executed by the Authorized Officers in connection with the payment of costs of issuance of the Series 2008 Bonds and other amounts not directly related to the construction of the Infrastructure Improvements, which include, but are not limited to, builder's risk insurance required by the Developer's Agreement and general liability insurance for the Authority. The Trustee shall pay the amount of any special disbursement request to each payee indicated thereon from moneys on deposit in the Construction Account.

(b) Advanced Project Costs. The amount of \$168,690.58 deposited in the Construction Account shall be disbursed by the Trustee on behalf of the Authority upon receipt of a requisition for reimbursement of Advanced Project Costs executed by the Authorized Officers pursuant to the terms of the Developer Services Agreement.

(c) Inspection. No payment or disbursement hereunder shall be made by the Trustee on behalf of the Authority for any Project Costs until the Work that is the subject of such payment or disbursement with respect to such Project Costs has been inspected and found by the Design Professional, the City Engineer and the Authorized Officers to be completed in accordance with the Construction Documents; provided, that no inspection shall be made with respect to the payment of the special disbursement requests identified in Section 4.05(a) hereof or the Advanced Project Costs identified in Section 4.05(b) hereof. Unless otherwise provided, the City Engineer shall make or cause to be made regular ongoing site inspections of the Project.

(d) General. Moneys on deposit in the Construction Account shall be disbursed from time to time with respect to portions of the Project Costs, upon receipt by the Trustee of a Requisition executed by the Design Professional, the City Engineer and the Authorized Officers substantially in the form attached hereto as Exhibit B. Each Requisition for Work related to the Project shall be subject to retainage as required by Sections 153.12, 153.13, 153.14 and 153.63 of the Revised Code, as shown on Schedule 1 to Exhibit B. Any Requisition or Retainage Requisition (as defined herein) under subsections (d), (e) or (f) of this Section 4.05 may be in the



form of a communication by email, or facsimile transmission, but if in such form, it shall be promptly confirmed by a Requisition or Retainage Requisition executed and approved by the Design Professional, the City Engineer and the Authorized Officers.

(e) Payment Upon Requisition. Upon receipt of a Requisition executed by the Design Professional, the City Engineer shall conduct a review in order to (i) confirm that the Work that is the subject of such Requisition is complete, and that the Work with respect to such Project Costs identified therein for which payment is requested was done in accordance with all applicable governmental laws, rules and regulations and applicable Construction Documents therefor, and (ii) enable the City Engineer to give the certifications set forth in the Certificate and Approval of City Engineer in the form attached to the form of Requisition attached hereto as Exhibit B (each a "Certificate and Approval") with respect to such Requisition. The Authority agrees to cooperate with the City Engineer in conducting each such review and to provide the City Engineer with such additional information and documentation as is reasonably necessary for the City Engineer to conclude each such review.

Within ten (10) Business Days of receipt of a Requisition executed by the Design Professional, the City Engineer shall (i) approve and execute the Requisition, which approval shall not be unreasonably withheld, and deliver the Requisition accompanied by an executed Certificate and Approval to the Authorized Officers; or (ii) in the event the City Engineer disapproves the Requisition, give written notification to the Authority of the City Engineer's disapproval, in whole or in part, as applicable, of such Requisition, specifying the reasons for such disapproval and the additional requirements to be satisfied for approval of such Requisition.

If a Requisition is approved by the City Engineer, the Authorized Officers shall review the sufficiency of such approved Requisition and either (i) approve and execute such Requisition, and then forward the Requisition and the accompanying Certificate and Approval to the Trustee for payment; or (ii) disapprove such Requisition, specifying the reasons for such disapproval and the additional requirements to be satisfied for such Requisition.

If a Requisition is approved only in part, the City Engineer shall specify the extent to which such Requisition is approved and shall deliver such partially approved Requisition accompanied by, to the extent of the approved payment, an executed Certificate and Approval to the Authorized Officers. The Authorized Officers shall review the sufficiency of such partially approved Requisition and either (i) execute and forward such partially approved Requisition and the accompanying Certificate and Approval to the Trustee, and any such Work shall be processed for payment under this Trust Agreement notwithstanding such partial denial; or (ii) disapprove such partially approved Requisition, specifying the reasons for such disapproval and the additional requirements to be satisfied for such Requisition.

Pursuant to the terms of this Trust Agreement, the Trustee shall make payment within three (3) Business Days of receipt of any approved or partially approved Requisition to the persons identified in, and pursuant to, such Requisition.

In the event a change altering the specifications of certain Work conducted on the Project becomes necessary, a Requisition (the "Change Order Requisition") may be submitted to the Trustee by the Authorized Officers and the Design Professional, which Change Order

Requisition shall request the Trustee to pay additional funds to satisfy the cost of such change order; provided, however, that in no event shall the Trustee authorize a Change Order Requisition unless:

- (i) there are sufficient moneys on deposit in the Construction Account to pay the Change Order Requisition in addition to the total amount of all other Requisitions reasonably expected to complete all remaining Work on the Project in accordance with the Construction Documents and the Infrastructure Improvements, as such amount is determined by the Authorized Officers and the Design Professional; or
- (ii) the Authority has issued Additional Bonds sufficient to pay the Change Order Requisition in addition to all other Requisitions reasonably expected to complete all remaining Work on the Project in accordance with the Construction Documents and the Infrastructure Improvements, and the proceeds from such Additional Bonds are either on deposit or in the process of collection to the credit of an appropriate fund created under this Trust Agreement, free from any previous encumbrances.

**(f) Completion and Retainage.** Upon completion of the Project, the Design Professional shall submit to the City Engineer a Requisition request equal to the total amount of the Project Costs not yet paid (the "Completion Requisition"), less all retainages previously retained and not yet paid (the "Retainage"). Within ten (10) Business Days of receipt of the Completion Requisition from the Design Professional, the City Engineer shall either (i) approve and execute the Completion Requisition, which approval shall not be unreasonably withheld, and deliver to the Authorized Officers (A) the Completion Requisition, and (B) an executed Certificate and Approval specifying that the Project is complete and all Work has been performed in accordance with the all applicable governmental laws, rules and regulations and all applicable Construction Documents; or (ii) disapprove such Completion Requisition, specifying the reasons for such disapproval and the additional requirements to be satisfied for such Completion Requisition. Upon receipt of a Completion Requisition executed by the Design Professional and the City Engineer and the accompanying Certificate and Approval, the Authorized Officers shall (i) approve and execute such Completion Requisition and forward the Completion Requisition and the accompanying Certificate and Approval to the Trustee for payment; or (ii) disapprove such Completion Requisition, specifying the reasons for such disapproval and the additional requirements to be satisfied for approval of such Completion Requisition. Upon receipt of a Completion Requisition executed by the Design Professional, the City Engineer and the Authorized Officers and a Certificate and Approval executed by the City Engineer, the Trustee shall pay the Completion Requisition within three (3) Business Days of such receipt.

Within thirty (30) days from the receipt by the Trustee of the Completion Requisition executed by the Design Professional, the City Engineer and the Authorized Officers and the accompanying Certificate and Approval executed by the City Engineer, the Design Professional shall submit to the City Engineer a requisition request (the "Retainage Requisition", attached hereto as Exhibit C) for the Retainage. Within ten (10) Business Days of receipt of the Retainage Requisition from the Design Professional, the City Engineer shall review the Retainage Requisition and determine if any warranty work is required with respect to the

Developer's Agreement. If warranty work is required for any Work, the City Engineer shall identify the required warranty work to the Authority. If no such warranty work is required, within ten (10) Business Days of receipt thereof, the City Engineer shall approve and execute the Retainage Requisition and the Retainage Certificate and Approval (the "Retainage Certificate and Approval", attached to Exhibit C attached hereto) and forward the Retainage Requisition and the Retainage Certificate and Approval to the Authorized Officers. Upon receipt of a Retainage Requisition executed by the Design Professional and the City Engineer and the accompanying Retainage Certificate and Approval, the Authorized Officers shall either (i) approve and execute the Retainage Requisition and shall forward the Retainage Requisition and the accompanying Retainage Certificate and Approval to the Trustee for payment; or (ii) disapprove such Retainage Requisition, specifying the reasons for such disapproval and the additional requirements to be satisfied for approval of such Retainage Requisition. Upon receipt of a Retainage Requisition executed by the Design Professional, the City Engineer and the Authorized Officers and a Retainage Certificate and Approval executed by the City Engineer, the Trustee shall pay the Retainage to the contractors identified on such requisition within three (3) Business Days of such receipt.

(g) Reliance by Trustee. In paying any special disbursement request under Section 4.05(a) or any requisition under Section 4.05(b), the Trustee shall be entitled to rely as to the completeness and accuracy of all statements in such requisition upon the approval of such requisition by the Authorized Officers, execution thereof, and communication thereof by telegram, telex, or facsimile transmission, to be conclusive evidence of such approval. In paying any Requisition or Retainage Requisition under subsections (d), (e) or (f) of this Section 4.05, the Trustee shall be entitled to rely as to the completeness and accuracy of all statements in such Requisition or Retainage Requisition upon the approval of such Requisition or Retainage Requisition by the Design Professional, the City Engineer and the Authorized Officers, execution thereof, and communication thereof by telegram, telex, or facsimile transmission, to be conclusive evidence of such approval.

(h) Time for Payment. In connection with the submittal of any requisition under Section 4.05(a) or Section 4.05(b), the Trustee on behalf of the Authority shall remit payment in accordance with such requisition on the Closing Date. In connection with the submittal of any other requisition under this Section 4.05, the Trustee on behalf of the Authority shall remit payment in accordance with such requisition submitted in compliance with this Trust Agreement within three (3) Business Days following receipt of such requisition.

**Section 4.06. Moneys to be Held in Trust.** All moneys required or permitted to be deposited with or paid to the Trustee or any Paying Agent under any provision of this Trust Agreement, and any investments of those moneys, shall be held by the Trustee or the Paying Agent in trust for the purposes intended until used for or applied to those purposes.

**Section 4.07. Investments of Money.** Moneys in the Special Funds shall be invested and reinvested by the Trustee in Eligible Investments at the oral (promptly confirmed in writing) or written direction of the Authorized Officers so long as no Event of Default shall have occurred and be continuing; provided, however, moneys in the Debt Service Fund and moneys in the Project Fund shall only be invested in Eligible Investments that mature or are subject to redemption by and at the option of the Holder not later than five years from the date of that

investment. Unless otherwise provided in the applicable Bond Proceedings, interest on any moneys or proceeds of any investments in each fund, account or subaccount shall be credited to such fund, account or subaccount; provided, that:

- (i) on the fifth Business Day prior to any Interest Payment Date, the interest earnings on any moneys in the Impact Fee Fund shall be transferred (A) first, to the Interest Payment Account to the extent amounts on deposit therein are insufficient pay interest on the Bonds on the next succeeding Interest Payment Date, and (B) second, to the Principal Payment Account;
- (ii) on the fifth Business Day prior to any Interest Payment Date, the interest earnings on any moneys in the Capitalized Interest Account shall be transferred (A) to the Construction Account if such account is open, or (B) to the Service Payment Account if the Construction Account is closed;
- (iii) amounts in the Bond Reserve Fund in excess of any applicable Reserve Requirement shall be transferred to the Service Payment Account on July 20 of each year; and
- (iv) amounts in the Supplemental Reserve Fund in excess of the Supplemental Reserve Requirement shall be transferred to the Service Payment Account on July 20 of each year.

At no time shall any funds constituting gross proceeds of the Series 2008 Bonds be used in any manner as would constitute failure of compliance with Section 148 of the Code.

In the event of investment of moneys in any fund, the Trustee is authorized to sell, surrender, exchange or otherwise dispose of investments so made and to hold, dispose of, reinvest, or otherwise apply the proceeds thereof in a manner consistent with this Trust Agreement. With respect to investments of moneys in the Debt Service Fund or the Bond Reserve Fund, the Trustee may, with the consent of the Authority, purchase or sell such investments to itself or any of its affiliates. Investment of moneys in any fund shall be valued at cost or current market, whichever is lower. The Trustee shall not be responsible for any depreciation in the value of any investments or for any loss arising from investment of moneys in the Debt Service Fund, the Bond Reserve Fund or the Supplemental Reserve Fund.

The Trustee shall value the Eligible Investments in the Bond Reserve Fund and in the Supplemental Reserve Fund at least annually, on or prior to the Calculation Date, and shall so value those Eligible Investments and, if so directed, the Eligible Investments in any other Special Funds held by the Trustee hereunder, at any time upon the request of the Authorized Officers on reasonable notice to the Trustee (which period of notice may be waived by the Trustee); provided, that such value shall be determined net of any profit, gain or income accrued with respect to any Eligible Investments therein. The Trustee shall promptly give notice to the Authority and to the Administrator of the annual valuation of Eligible Investments in the Bond Reserve Fund and in the Supplemental Reserve Fund. If the balance in the Bond Reserve Fund is in any case greater than the applicable Reserve Requirement, or if the balance in the Supplemental Reserve Fund is in any

case greater than the Supplemental Reserve Requirement, the Trustee shall notify the Authority and the Administrator of such fact, and shall transfer the excess amount to the Service Payment Account on the next succeeding July 20 in accordance with this Section 4.07.

**[END OF ARTICLE IV]**

## ARTICLE V

### ADDITIONAL COVENANTS OF THE AUTHORITY

**Section 5.01. Power to Issue Bonds and Make Pledges.** The Authority is duly authorized pursuant to law to create and issue the Bonds and enter into this Trust Agreement and to pledge the Pledged Receipts, the Debt Service Fund and other Special Funds and Accounts pledged in the manner and to the extent provided in this Trust Agreement. The Bonds and the provisions of this Trust Agreement are and will be the valid and legally enforceable special obligations of the Authority, all in accordance with their terms and the terms of this Trust Agreement. To the extent permitted by law, the Authority shall at all times preserve, protect and defend the pledge of the Pledged Receipts, the Debt Service Fund and other Special Funds and Accounts under this Trust Agreement and all the rights of the Holders under this Trust Agreement against all claims and demands of all Persons whomsoever.

**Section 5.02. Extension of Payment of Bonds and Interest.** The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any interest on the Bonds, by the purchase or funding of those Bonds or claims for interest or by any other arrangement. In case the maturity of any of the Bonds or the time for payment of any interest is extended with the consent of the Holder, such Bonds or claims for interest shall not be entitled in case of any Event of Default to the benefit of this Trust Agreement or to any payment out of the Special Funds (except moneys specifically held for the payment of the particular Bonds or interest pursuant to this Trust Agreement), except subject to the prior payment of all Outstanding Bonds the maturity of which has not been extended and of such portion of any accrued interest on the Bonds as is not represented by such extended claims for interest.

#### **Section 5.03. Further Covenants.**

(a) **Payment.** From the sources provided in this Trust Agreement, the Authority shall pay or cause to be paid the Debt Service Charges on each and all of the Bonds on the dates, at the places and in the manner provided in this Trust Agreement, in the applicable Bond Proceedings, and in the Bonds, according to the true intent and meaning thereof.

(b) **Maintenance of Pledge.** The Authority will not make any pledge or assignment of or create or suffer any lien or encumbrance upon the Pledged Receipts prior to or on parity with the pledge thereof, except as and if authorized or permitted under this Trust Agreement and the applicable Bond Proceedings.

(c) **Maintenance and Collection of Community Development Charges.** The Authority agrees that it will use its best efforts to cause a semiannual settlement with the County Treasurer in accordance with Chapters 321 and 323 of the Revised Code on or before each February 15th and on or before each August 15th, or by such other dates as may be specified in the Revised Code for the settlement of accounts between the Treasurer of the Authority and the County Treasurer for semiannual tax settlement, of all Community Development Charges payable to the Authority as a result of the Charge levied on real property within the District. Within ten (10) days of receipt, the Authority shall deposit the Community Development Charges received

pursuant to such settlement (or Delinquent Community Development Charges, as provided below) with the Trustee for deposit into the Community Development Charge Account.

The Authority covenants to enforce its right to collect the Community Development Charges by promptly pursuing or causing to be pursued remedies appropriate and available to it for the collection of delinquent Community Development Charges. Within sixty (60) days of receiving the "Delinquent Community Development Charges Report" pursuant to the Administration Agreement, the Authority further covenants to initiate foreclosure and contract actions against any Person if such Person owes and has failed to pay, within the time period(s) specified in the Declaration, an amount of Community Development Charges equaling five percent (5%) or more of the total current annual Community Development Charges due.

Subject to any limitations set forth in the Petition and the Declaration, the Authority shall determine or cause to be determined the amount of Community Development Charges necessary to pay projected Period Debt Service and Administrative Expenses and shall enter into such valid and legally enforceable contracts or agreements to cause such Community Development Charges to be collected at such times and in such amounts which will provide amounts necessary and appropriate to (i) pay when due all Debt Service Charges on Outstanding Bonds and provide for any costs of operation, maintenance and repair of Community Facilities if any are to be made by the Authority, and (ii) provide for the establishment and maintenance of any Required Reserve or other reserve.

**(d) Observance of Covenants.** The Authority will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions contained in this Trust Agreement, the Bond Proceedings and any and every Outstanding Bond executed, authenticated and delivered under this Trust Agreement, including, but not limited to, the enforcement of the payment of Community Development Charges.

**(e) Tax Covenants.** The Authority covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (i) the Bonds will not constitute private activity bonds, arbitrage bonds or hedge bonds under Section 141, 148 or 149 of the Code, or be treated other than as bonds to which Section 103(a) of the Code applies, and (ii) the interest on the Bonds will not be treated as a preference item under Section 57 of the Code.

The Authority further covenants that (i) it will take or cause to be taken such actions that may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, (ii) it will not take or authorize to be taken any actions that would adversely affect such exclusion, and (iii) it, or persons acting for it, will, among other acts of compliance, (A) apply the proceeds of the Bonds to the governmental purposes set forth herein, (B) restrict the yield on investment property, (C) make timely and adequate payments to the federal government, (D) maintain books and records and make calculations and reports, and (E) refrain from certain uses of those proceeds and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure that exclusion of that interest under the Code.

The Authority shall (i) make or effect any election, selection, designation, choice, consent, approval or waiver with respect to the Bonds as the Authority is permitted to make or give under the federal income tax laws, including, without limitation, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by the Authorized Officers, which action shall be in writing and signed by the Authorized Officers, (ii) take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the Authority, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds, and (iii) give one or more appropriate certificates, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the Authority regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Bonds.

**(f) Duties Binding on All with Authority; Enforcement by Mandamus.** Each provision of the Bond Proceedings is binding upon the officer, board, or other Person or body as may from time to time have the authority under law to take the actions as may be necessary to perform all or any part of the duty required by the provision. Each duty of the Authority and its members, officers and employees undertaken pursuant to the Bond Proceedings is established as a duty of the Authority and of each board, institution, member, officer and employee having authority to perform that duty and is specifically enjoined by law resulting from an office, trust or station within the meaning of Section 2731.01 of the Revised Code, providing for enforcement by writ of mandamus.

**(g) Account and Records; Inspection.** The Authority shall keep or cause to be kept proper books of record and account in which complete and correct entries are made of its transactions relating to this Trust Agreement and Special Funds and Accounts. The Trustee, the Original Purchaser, or the Holders of twenty-five percent (25%) or more in Aggregate Outstanding Principal Amount of Bonds, or their authorized representatives, and any providers of Credit Support Instruments or their authorized representatives shall have the right at all reasonable times to inspect those records and accounts and other documents relating to Special Funds and Accounts.

**(h) Further Assurance.** The Authority will at any and all times adopt, make, do, execute and deliver such further resolutions, instruments and assurances as may be necessary or desirable to carry out the purposes of this Trust Agreement and the Bond Proceedings.

**(i) Waiver of Laws.** The Authority will not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of, any stay or extension law at any time in force which may affect its covenants and agreements contained in the Bond Proceedings or in the Bonds, and all benefit or advantage of any such law or laws is expressly waived by the Authority.



(j) Settlement of Claims. In the event any Community Development Charges, Service Payments, or Impact Fees are not paid when due and become delinquent, the Trustee shall not, without the prior written consent of the Authority, agree to accept any payment in respect of such Delinquent Charges, delinquent Service Payments or delinquent Impact Fees from any Person, including but not limited to the County Treasurer, that is less than the amount levied pursuant to the Declaration or due pursuant to the Service Payment Agreement.

(k) Maintain Existence. The Authority shall, while any Bonds are outstanding, maintain its existence, will not dissolve or otherwise dispose of all or substantially all of its assets and shall not consolidate with or merge into any other entity or permit one or more entities to consolidate with or merge into it, if such disposition, consolidation or merger would adversely affect the security for the Bonds or the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

[END OF ARTICLE V]

## ARTICLE VI

### THE TRUSTEE, AUTHENTICATING AGENT, PAYING AGENT AND REGISTRAR

**Section 6.01. Trustee's Acceptance and Responsibilities.** The Trustee hereby accepts the trusts imposed upon it by this Trust Agreement, and agrees to perform those trusts as an ordinarily prudent corporate trustee under a trust agreement and, if an Event of Default has occurred and is continuing, as an ordinarily prudent man under a trust agreement, securing securities of a public entity, but only upon and subject to the following express terms and conditions:

(a) The Trustee may execute any of the trusts or powers of, and perform any of its duties under, this Trust Agreement by or through attorneys, agents or employees but shall be answerable for their conduct in accordance with the standard specified above. The Trustee shall be entitled to advice of counsel concerning all matters of trusts or powers of and duties under this Trust Agreement, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with those trusts, powers and duties. The Trustee may act upon the opinion or advice of any attorney (who may be an attorney for the Authority) approved by the Trustee in the exercise of reasonable care, and the Trustee shall not be responsible for any loss or damage resulting from any action or non-action taken in good faith in reliance upon that opinion or advice.

(b) Except for its certificate of authentication on the Bonds, the Trustee shall not be responsible for (i) any recital in this Trust Agreement or in the Bonds, (ii) the validity or priority of this Trust Agreement, (iii) the validity of execution by the Authority of this Trust Agreement or any Supplemental Trust Agreement or instruments of further assurance, (iv) the sufficiency of the security for the Bonds issued under and intended to be secured by this Trust Agreement, or (v) except as may be provided in this Trust Agreement, for the application by the Authority of the proceeds of the Bonds. The Trustee shall not be bound to ascertain as to the performance or observance of any covenants, conditions or agreements on the part of the Authority under this Trust Agreement, but the Trustee may require of the Authority full information and advice as to the performance of those covenants, conditions and agreements.

(c) In the absence of bad faith or negligence on its part, the Trustee shall be protected in acting upon any notice, request, consent, certificate, report, order, budget, affidavit, letter, telegram, telecommunication, or other paper or document believed to be genuine and correct and to have been signed or sent by the proper Person or Persons. However, in the case of any such paper or document which by any provision of this Trust Agreement is required to be furnished to the Trustee, the Trustee shall be under a duty to examine it to determine whether or not it conforms to the requirements of this Trust Agreement. Any action taken by the Trustee pursuant to this Trust Agreement upon the request, authority or consent of any Person who at the time of making that request or giving that authority or consent is the Holder of any Bond, shall be conclusive and binding upon all future Holders of the same Bond and upon Holders of Bonds issued in exchange for or in place of that as a Predecessor Bond.

(d) As to the existence or non-existence of any fact or the sufficiency or validity of any instrument, report, paper, document or proceedings, in the absence of bad faith or negligence on its part the Trustee shall be entitled to rely upon a certificate signed on behalf of the Authority by the Authorized Officers, as sufficient evidence of the facts contained or referred to in that certificate. The Trustee may accept a similar certificate to the effect that any resolution or other legislation in the form set forth or incorporated or referred to in that certificate has been duly adopted or enacted by the Authority as conclusive evidence that such resolution or legislation has been duly adopted or enacted and is in full force and effect. Prior to the occurrence of any Event of Default of which the Trustee has notice, the Trustee may accept a similar certificate to the effect that any particular transaction or action is necessary or expedient, but may at its discretion obtain such further evidence it deems necessary or advisable, but shall in no case be bound to obtain such further evidence.

(e) The Series 2008 Bond Resolution, opinions, reports, certificates and other instruments provided for in this Trust Agreement may be accepted by the Trustee as conclusive evidence of the facts and conclusions stated in them and shall be full warrant, protection and authority to the Trustee for its actions taken under this Trust Agreement in reliance on them.

(f) The permissive right of the Trustee to do things enumerated in this Trust Agreement shall not be construed as a duty and the Trustee, subject to the above provisions of this Article, shall not be answerable for other than its negligence, bad faith or willful misconduct.

(g) Except as may be expressly required by law or this Trust Agreement, the Trustee shall not be required to give any Bond or surety in respect of the execution of the trusts, powers and duties or otherwise in respect of the premises.

(h) Notwithstanding any provision contained elsewhere in this Trust Agreement, the Trustee may, but shall not be required to, demand in respect of the authentication of any Bonds or any action whatsoever within the purview of this Trust Agreement, any showings, certificates, reports, opinions or other information, or official action or evidence of official action, in addition to that required by the terms of this Trust Agreement as a condition of that action by the Trustee, considered by it desirable for the purpose of establishing the right of the Authority to the authentication of any Bonds or the taking of any other action by the Trustee.

(i) Before taking action under Section 6.02 or Article VII (with the exception of any action required to be taken under Section 7.02), the Trustee may require that satisfactory indemnity be furnished for the reimbursement to it of all reasonable expenses to which it may be put and to protect it against all liability by reason of any action so taken, except liability which is adjudicated to have resulted from its negligence, bad faith or willful misconduct by reason of any action so taken. The Trustee may take such action without such indemnity, and in that case the Authority shall reimburse the Trustee for all such expenses from moneys available for that purpose.

(j) Unless otherwise provided in this Trust Agreement, moneys received by the Trustee under this Trust Agreement need not be segregated from other funds except to the extent required by this Trust Agreement or other Bond Proceedings or by law. The Trustee shall not be

under any liability for interest on any moneys received by it under this Trust Agreement except as may be provided in this Trust Agreement or as may be agreed upon with the Authority.

(k) No provision of this Trust Agreement shall be construed to relieve the Trustee from liability for its own negligent action, negligent failure to act, bad faith or wilful misconduct, except that:

(i) The Trustee shall not be liable for any error of judgment made reasonably and in good faith by any one of its officers, employees or agents, unless it shall be established that the Trustee was negligent in ascertaining the pertinent facts;

(ii) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in Aggregate Outstanding Principal Amount of the Bonds, and otherwise authorized in this Trust Agreement, relating to the time, method and place of conducting any proceeding for any remedy available to, or exercising any trust, duty or power conferred upon, the Trustee under this Trust Agreement; and

(iii) No provision of this Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties under this Trust Agreement, or in the exercise of any of its rights or powers.

The provisions of this Section 6.01 shall apply to any Authenticating Agent and any Paying Agent as provided in Section 6.08.

**Section 6.02. Intervention by Trustee.** In any judicial proceeding to which the Authority is a party and which in the opinion of the Trustee and its attorney has a substantial bearing on the interest of Holders, the Trustee may intervene on behalf of Holders and shall do so if requested in writing by the Holders of at least fifty percent (50%) of the Aggregate Outstanding Principal Amount of the Bonds. The rights and obligations of the Trustee under this Section are subject to the approval of intervention by a court of competent jurisdiction.

**Section 6.03. Successor Trustee.** Any corporation or association into which the Trustee may be converted or merged, or with which it or any successor to it may be consolidated, or to which it may sell or transfer its assets and trust business as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, shall ipso facto be and become successor Trustee hereunder and vested with all such rights, powers and duties as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties to this Trust Agreement; provided, however, that any such successor Trustee shall be a corporate trustee which may be a trust company or a bank having the powers of a trust company within the State, or outside the State but authorized to exercise trust powers within the State.

**Section 6.04. Resignation of the Trustee.** The Trustee may at any time resign from the trusts created by this Trust Agreement by giving written notice mailed to the Authority with copy of such notice to any Securities Depository which is then a Holder, each Original Purchaser of then outstanding series of Bonds, and any Authenticating Agent, Paying Agent and Registrar not less than sixty (60) days before the resignation is stated to take effect. The resignation shall take effect immediately upon the appointment pursuant to Section 6.06 of a successor Trustee if the successor Trustee is appointed before the time stated in the notice and accepts the trusts of this Trust Agreement.

**Section 6.05. Removal of the Trustee.** The Trustee may be removed at any time by (i) the Holders by an instrument or concurrent instruments in writing delivered to the Trustee and to the Authority and signed by or on behalf of the Holders of not less than one hundred percent (100%) of the Aggregate Outstanding Principal Amount of Bonds, or (ii) so long as no Event of Default has occurred and is continuing, by the written order of the Authority delivered to the Trustee and mailed to each Original Purchaser of then outstanding series of Bonds, any Securities Depository which is then a Holder, and any Authenticating Agent, Paying Agent, and Registrar not less than sixty (60) days before the removal is to take effect.

The Trustee may also be removed at any time by a court of competent jurisdiction, upon the application of the Authority or the Holders of not less than twenty-five percent (25%) in Aggregate Outstanding Principal Amount of the Bonds, for any breach of trust or for acting or proceeding in violation of or for failing to act or proceed in accordance with any provision of this Trust Agreement with respect to the trusts, powers and duties of the Trustee.

The Authority shall publish notice of removal of the Trustee at least once in a financial or other newspaper of national circulation not less than thirty (30) days before the removal is to take effect.

**Section 6.06. Powers and Appointment of Successor Trustee.** If the Trustee resigns or is removed, or is dissolved, or otherwise becomes incapable of acting as Trustee under this Trust Agreement, or if the Trustee is taken under the control of any public officer or officers or of a receiver appointed by a court, a successor Trustee shall be appointed by the Authority. However, following ten (10) days after the notice of resignation or instrument of removal is delivered as provided in Section 6.04 or 6.05, or the Trustee is dissolved, taken under control or otherwise incapable of action as above provided, then the Holders of a majority in Aggregate Outstanding Principal Amount of Bonds, by an instrument or concurrent instruments in writing signed by or on behalf of those Holders filed with the Authority, may designate a successor Trustee unless prior to that filing a successor Trustee has been appointed by the Authority.

Each successor Trustee appointed pursuant to the provisions of this Section shall have the same qualifications as provided for a successor Trustee in Section 6.03, shall have a reported capital and surplus of not less than \$100,000,000, shall be willing to accept the trusteeship under the terms and conditions of this Trust Agreement, and shall give notice of its appointment as successor Trustee by one publication in a financial or other newspaper of national circulation.

Each successor Trustee so appointed shall execute, acknowledge and deliver to its predecessor and to the Authority an instrument in writing accepting that appointment, and

thereupon that successor without any further act shall become fully vested with all the rights, powers, trusts, duties and obligations of its predecessor as Trustee. The predecessor Trustee shall on the written request of its successor or of the Authority execute and deliver an instrument transferring to the successor Trustee all the rights, powers and trusts of the predecessor Trustee. Should any instrument in writing from the Authority be required by a successor Trustee for more fully and certainly vesting in that successor the rights, powers, trusts and duties vested or intended to be vested in the predecessor Trustee, any and all of those instruments in writing shall, on request of the successor Trustee, be executed, acknowledged and delivered by the Authority.

In the event of a change in Trustee, the predecessor Trustee shall cease to be custodian of any Special Funds and Accounts, moneys or investments it may hold pursuant to this Trust Agreement and cease to be, as Trustee, the Registrar, Authenticating Agent and Paying Agent, and the successor Trustee as Trustee shall assume those duties.

**Section 6.07. Trustee as Paying Agent, Authenticating Agent and Registrar.** The Trustee agrees to act as the Registrar, the Paying Agent and the Authenticating Agent for and in respect to the Series 2008 Bonds to the extent provided in this Trust Agreement and in the applicable Bond Proceedings.

**Section 6.08. Designation, Resignation, Removal and Succession of the Authenticating Agent, the Paying Agent and the Registrar.**

(a) **Authenticating Agent.** The Trustee shall be the Authenticating Agent for the Series 2008 Bonds for purposes of authenticating and delivering the Series 2008 Bonds.

In addition, with the consent of the Authority, the Trustee may appoint an Authenticating Agent with power to act on its behalf and subject to its direction in the authentication and delivery of Bonds. For all purposes of this Trust Agreement, the authentication and delivery of Series 2008 Bonds by an Authenticating Agent so designated by the Trustee pursuant to this Trust Agreement shall be deemed to be authentication and delivery of those Series 2008 Bonds by the Trustee.

(b) **The Paying Agent and the Registrar.** The Trustee shall be the Paying Agent for the Series 2008 Bonds. In addition, with the consent of the Authority, the Trustee may appoint a Paying Agent with power to act on its behalf and subject to its directions in the payment of Debt Service Charges.

The Trustee shall be the Registrar for the Series 2008 Bonds.

(c) **Merger or Consolidation.** Any corporation or association with or into which any Authenticating Agent, Paying Agent or Registrar may be merged or consolidated, or with which it may be consolidated, or any corporation or association resulting from any merger, consolidation or conversion to which that Agent or Registrar may be a party, or any corporation or association succeeding to the business of that Agent or Registrar, shall be the successor of that Authenticating Agent, Paying Agent or Registrar for the purposes of this Trust Agreement, if that successor corporation or association is otherwise eligible under this Trust Agreement, without

the execution or filing of any paper or any further act on the part of the parties hereto or the Agent or Registrar or the successor.

(d) **Resignation and Removal.** Unless otherwise provided in a Supplemental Trust Agreement, an Authenticating Agent, a Paying Agent or a Registrar may resign at any time by giving written notice by mail to the Authority and the Trustee, and the Authority and the Trustee may at any time terminate the agency of any Authenticating Agent, Paying Agent or Registrar, by giving written notice to that Person and to the Trustee or the Authority, as the case may be. Upon receiving notice of resignation or upon termination, or in case at any time any Agent or Registrar ceases to be eligible under this Section, or if the position of Agent or Registrar becomes vacant for any reason, the Authority or the Trustee may appoint a successor. The Trustee or the Authority shall give written notice of the appointment of a successor Authenticating Agent, Paying Agent or Registrar to the other, and the Trustee, within ten (10) days after that appointment, shall mail notice of that appointment to all Holders affected by the change as their names and addresses appear on the Register on the date of that appointment.

(e) **Trustee Payments.** The Trustee shall pay to any Authenticating Agent, Paying Agent or Registrar appointed by it reasonable compensation for its services, and the Trustee shall be entitled to be reimbursed by the Authority for the payments it makes, subject to the provisions of Section 6.09, but in no event shall the Trustee be obligated to risk its own funds.

(f) **Applicability of Section 6.01.** The provisions of Section 6.01 shall to the extent applicable apply to any Authenticating Agent, Paying Agent or Registrar, except as otherwise provided in an agreement approved by the Authority.

(g) **Not Applicable to Trustee.** Subsections (c), (d), and (e) of this Section do not apply to the Trustee in its capacities as Authenticating Agent, Paying Agent or Registrar.

**Section 6.09. Fees, Charges and Expenses of Trustee, Paying Agent, Authenticating Agent and Registrar.** The Trustee shall be entitled to payment of reasonable fees for its services rendered under this Trust Agreement and to reimbursement of its reasonable expenses, charges and other disbursements and those of its attorneys, agents and employees incurred in and about the administration and execution of the trusts hereby created and the performance of its powers and duties under this Trust Agreement, including those as Paying Agent, Authenticating Agent and Registrar.

The Paying Agent, Authenticating Agent and Registrar shall be entitled to payment and reimbursement of their reasonable fees and charges as such agents. The reasonable fees for the respective ordinary services and charges of the foregoing shall be entitled to payment and reimbursement from (i) the Pledged Receipts, (ii) the Project Fund or (iii) from other moneys available therefor. Any amounts payable to the Trustee, the Registrar or any Paying Agent or Authenticating Agent pursuant to this Section 6.09 shall be payable upon demand and shall bear interest from the date of demand therefor at a rate which is the rate announced by the Trustee in its lending capacity as a bank as its "prime rate" or "base rate" on the date of such demand, (i) shall be an additional obligation secured by this Trust Agreement, (ii) shall be given a preference in payment over any Debt Service Charges, and (iii) shall be paid out of the Pledged Receipts, if not caused otherwise to be paid. The initial or acceptance fees of the Trustee and the fees,

charges and expenses of the Trustee, the Registrar or any Paying Agent and Authenticating Agent to which reference is made above, may be paid by the Authority from the Project Fund as and when those fees, charges and expenses become due to the extent that payment of those fees, charges and expenses from the Project Fund is in accordance with generally accepted accounting principles.

Without creating a default or an Event of Default, the Authority may contest in good faith the necessity for any service or expense and the reasonableness of any fee, charge or expense under this Section. The Trustee, the Paying Agent, the Authenticating Agent and the Registrar shall not be entitled to payment or reimbursement under this Section for services or expenses occasioned by their own negligence, bad faith or willful misconduct.

The Authority will, to the extent permitted by law, immediately upon demand pay or reimburse the Trustee for all attorneys fees, costs and expenses incurred by the Trustee in any proceedings involving an insolvent or a debtor under federal bankruptcy law, or in any action proceeding or dispute of any kind in which the Trustee is made a party, or appears as in intervenor or party plaintiff or defendant, affecting or relating to the Series 2008 Bonds or any other Bonds secured hereby, this Trust Agreement, or the Authority or any action to protect the security hereof, and any such amounts paid by the Trustee shall, except as may be limited by law, be added to the indebtedness secured hereby and secured by the lien and security interest of this Trust Agreement.

Payment or reimbursement under this Section shall be from any moneys of the Authority available for that purpose.

**Section 6.10. Adoption of Authentication.** In the case of any Bonds having been authenticated but not delivered, any successor Trustee or Authenticating Agent may adopt the certificate of authentication of the predecessor Trustee or Authenticating Agent and deliver the Bonds so authenticated as provided in this Trust Agreement. If any Bonds shall not have been authenticated, any successor Trustee or Authenticating Agent may authenticate such Bonds either in the name of its predecessor or in its own name. In all such cases that certificate of authentication shall have the same force and effect as provided in the Bonds or in this Trust Agreement with respect to the certificate of authentication of the Trustee or Authenticating Agent.

**Section 6.11. Trustee, Authenticating Agent, Registrar and Paying Agent May Deal in Bonds.** The Trustee, Authenticating Agent, Registrar and Paying Agent, and any of their directors, officers, employees or agents, may buy, sell, hold and deal in the Bonds, and may in good faith become owners of Bonds with the same rights as Holders that they would have under this Trust Agreement if they did not hold those capacities.

**Section 6.12. Right of Trustee to Advance Funds.** The Trustee is authorized to advance funds to make payments and incur expenses as required by this Trust Agreement. The Trustee may make those advances, but without prejudice to any rights of the Trustee or the Holders against the Authority for failure of the Authority to do so.



Any amount so paid at any time, with interest thereon at a rate which is the rate announced by the Trustee in its lending capacity as a bank as its "prime rate" or "base rate" on the date of such payment, (i) shall be an additional obligation secured by this Trust Agreement, (ii) shall be given a preference in payment over any Debt Service Charges, and (iii) shall be paid out of the Pledged Receipts, if not caused otherwise to be paid. The Trustee shall make the advance, if it shall have been requested to do so by the Holders of at least twenty-five percent (25%) in Aggregate Outstanding Principal Amount of the Bonds and shall have been provided with adequate funds for the purpose of making the advance.

**[END OF ARTICLE VI]**

## ARTICLE VII

### DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND HOLDERS

**Section 7.01. Events of Default.** The occurrence of any of the following events, subject to the provisions of Sections 7.03 and 7.07, is declared to be and to constitute an Event of Default under this Trust Agreement:

(a) Failure of the Authority to pay any interest on any Bond, when and as the same shall have become due and payable;

(b) Failure of the Authority to pay the principal or Accreted Amount of or any redemption premium on any Bond, when and as the same shall have become due and payable, whether at maturity or call for mandatory redemption;

(c) Failure to perform or observe duly or punctually any covenant, condition or agreement contained in the Service Payment Agreement and to be performed by the Authority or the City, which failure shall have continued for a period of sixty (60) days after written notice of it to the Authority or the City given by the Trustee or the Holders of not less than twenty-five percent (25%) in Aggregate Outstanding Principal Amount of affected Bonds; and

(d) Failure to perform or observe duly or punctually any other covenant, condition or agreement contained in the Bonds or this Trust Agreement and to be performed by the Authority, which failure shall have continued for a period of sixty (60) days after written notice of it to the Authority given by the Trustee or the Holders of not less than twenty-five percent (25%) in Aggregate Outstanding Principal Amount of affected Bonds.

The Trustee shall not be required to take notice, and shall not be deemed to have notice or knowledge, of any Event of Default described in subparagraph (c) or (d) above, unless the Trustee is notified specifically of the Event of Default in a written instrument delivered to it by the Authority or by the Holders of at least twenty-five percent (25%) of the Aggregate Outstanding Principal Amount of Bonds. In the absence of delivery of a notice satisfying the requirements, the Trustee may assume conclusively that there is no Event of Default as described in subparagraph (c) or (d) above.

**Section 7.02. Notices of Events of Default.** If an Event of Default occurs, the Trustee, within five (5) Business Days after having knowledge of that Event of Default, shall give written notice of that Event of Default to the Authority and the City.

The Trustee shall give to the Original Purchaser of each series of Bonds then outstanding, to the Holders and to any Paying Agent or Authenticating Agent written notice by mail of each Event of Default known to the Trustee within thirty (30) days after having knowledge of its occurrence, unless the Event of Default has been remedied or cured before the giving of that notice. Except in the case of an Event of Default described in subparagraph (a) or (b) of Section 7.01, the Trustee shall be protected in withholding that notice if and so long as the board of directors, the executive committee or a trust committee of directors or responsible officers of the

Trustee in good faith determines that the withholding of that notice is in the interests of the Holders. Notice to the Holders shall be given by mailing notice to all Holders of Registered Bonds, as their names and addresses appear on the Register at the close of business fifteen (15) days prior to the mailing of that notice.

**Section 7.03. Remedies.** If an Event of Default as described in subparagraph (a) or (b) of Section 7.01 has occurred and is continuing the Trustee shall, and if an Event of Default as described in subparagraph (c) or (d) of Section 7.01 has occurred and is continuing the Trustee may and upon the written request of the Holders of not less than twenty-five percent (25%) in Aggregate Outstanding Principal Amount of Bonds shall, subject to the provisions of Section 6.01, proceed in its own name to protect and enforce its rights and the rights of the Holders under this Trust Agreement by such of the following remedies as the Trustee, being advised by counsel, shall deem most effective to protect and enforce those rights:

(a) By mandamus or other suit, action or proceeding at law or in equity enforce all the rights of the Holders, including the compelling of the performance of all duties of the Authority under the Bond Proceedings, the Authority and the City under the Service Payment Agreement and the Intergovernmental Cooperation Agreement, and the enforcement of the payment of Debt Service Charges;

(b) Bring suit upon the Bonds;

(c) Enjoin unlawful activities or activities in violation of the rights of the Holders under this Trust Agreement; and

(d) In the case of an Event of Default described in subparagraph (a) or (b) of Section 7.01, apply to a court having jurisdiction of the cause to appoint a receiver (which may be the Trustee) to receive and administer the Pledged Receipts, with full power to pay and to provide for payment of Debt Service Charges, and with such powers, subject to the discretion of the court, as are accorded receivers in general equity cases, excluding any power (i) to pledge additional revenues or receipts or other income or moneys of the Authority to the payment of those Debt Service Charges, and (ii) to take possession of, mortgage or cause the sale or otherwise dispose of any capital facilities.

Notwithstanding anything in this Trust Agreement to the contrary, neither the Trustee nor the Holders of any Bonds shall have any right to cause the acceleration of the payment of principal of, premium, if any, or interest on any Bonds. If the Authority fails to make any payment of principal of, premium, if any, or interest on any Bonds, the item in default shall continue to be an obligation of the Authority (payable only from Pledged Receipts) until such payment shall have been fully paid.

**Section 7.04. Enforcement of Rights Under Agreement.** Upon the occurrence and continuance of any Event of Default the Trustee may proceed, and upon the written request of the Holders of not less than twenty-five percent (25%) in Aggregate Outstanding Principal Amount of the Bonds shall proceed, subject to the provisions of Section 6.01, to protect and enforce its rights and the rights of the Holders under this Trust Agreement by such suits, actions or special proceedings in equity or at law, either for the specific performance of any covenant or

agreement contained in this Trust Agreement or in the aid or execution of any power granted in this Trust Agreement or for the enforcement of any proper legal or equitable remedy, as the Trustee, being advised by counsel, shall deem most effective to protect and enforce those rights.

In the enforcement of any remedy under this Trust Agreement the Trustee shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any default becoming due and at any time remaining unpaid on account of principal, Accreted Amount, interest or otherwise under any of the provisions of this Trust Agreement or of the Bonds, with interest on overdue payments at the rate or rates of interest specified or provided for in those Bonds, the applicable Series Resolution, together with any and all costs and expenses of collection and of all proceedings under this Trust Agreement and under the Bonds, without prejudice to any other right or remedy of the Trustee or of the Holders, and to recover and enforce judgment or decree against the Authority, but solely as provided in this Trust Agreement and in the Bonds, for any portion of such amounts remaining unpaid, with interest, costs and expenses, and to collect (but solely from the Pledged Receipts and the Special Funds and Accounts from which the Bonds are payable) in any manner provided by law, the moneys adjudged or decreed to be payable.

The Holders of not less than a majority in Aggregate Outstanding Principal Amount of the Bonds shall have the right at any time, by an instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting any and all remedial proceedings under this Trust Agreement. However, (i) that direction shall not be otherwise than in accordance with the provisions of law or of this Trust Agreement, (ii) the Trustee shall be indemnified as provided in Section 6.01, and (iii) the Trustee shall have the right to decline to follow any such direction which in its opinion would be unjustly prejudicial to Holders not parties to that direction.

No remedy by the terms of this Trust Agreement conferred upon or reserved to the Trustee (or to the Holders of the Bonds) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and in addition to any other remedy given to the Trustee or to the Holders of the Bonds under this Trust Agreement or now or hereafter existing.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of or acquiescence in that default or Event of Default. Every such right and power may be exercised from time to time and as often as may be deemed expedient.

On the occurrence of an Event of Default, neither the Authority nor anyone claiming through or under it, shall set up, claim, or seek to take advantage of any laws now or hereafter in force, in order to prevent or hinder the enforcement of this Trust Agreement, but the Authority, for itself and all who claim through or under it, hereby waives, to the extent it may lawfully do so, the benefit of all such laws to which it may be entitled.

**Section 7.05. Effect of Abandonment of or Adverse Decision in Any Proceeding or Recovery of Judgment.** If any proceeding taken by the Trustee on account of any Event of Default is discontinued or abandoned for any reason, or is determined adversely, then and in every such case the Authority, the Trustee and the Holders shall be restored to their former

respective positions and rights under this Trust Agreement, and all right, remedies, powers and duties of the Trustee shall continue as though no such proceeding had been taken.

No recovery of any judgment by the Trustee, and no levy of any execution under any judgment under this Trust Agreement, shall affect in any manner or to any extent the rights and duties provided for in this Trust Agreement, or any rights, powers or remedies of the Trustee under this Trust Agreement, or any rights, powers or remedies of the Holders of the Bonds, but those rights, powers and remedies of the Trustee and of the Holders of the Bonds shall continue unimpaired as before.

**Section 7.06. Remedies Vested in Trustee.** All rights of action (including the right to file proof of claims) under this Trust Agreement and under any of the Bonds may be enforced by the Trustee without possession of any of the Bonds and without production of any of the Bonds at any trial or other proceedings relative thereto. Any suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds. Any recovery of judgment shall be for the benefit of the Holders of the Bonds then outstanding, subject to the provisions of this Trust Agreement.

**Section 7.07. Waivers of Events of Default.** At any time the Trustee may in its discretion waive any Event of Default under this Trust Agreement and its consequences, and shall do so upon the written request of the Holders of (i) at least a majority in Aggregate Outstanding Principal Amount of all the Bonds in respect of which an Event of Default in the payment of Debt Service Charges has occurred, or (ii) at least twenty-five percent (25%) in Aggregate Outstanding Principal Amount of all Bonds in case of any other Event of Default. In case of any such waiver, the Authority, the Trustee, and the Holders shall be restored to their common respective positions and rights under this Trust Agreement. No such waiver shall extend to or impair any rights consequent on any subsequent or other Event of Default.

**Section 7.08. Limitations on Remedial Action by Holders.** No Holder of any Bond shall have the right to institute any suit, action or proceeding for the enforcement of or for the execution of any trust of this Trust Agreement or for the appointment of a receiver or any other remedy under this Trust Agreement unless (i) an Event of Default has occurred, (ii) that Holder or another Holder has previously given to the Trustee written notice of that Event of Default, (iii) the Holders of at least twenty-five percent (25%) in Aggregate Outstanding Principal Amount of Bonds have made written request to the Trustee and afforded the Trustee reasonable opportunity to proceed to exercise the powers granted above in this Article, or to institute such action, suit or proceeding in its own name and have also offered to the Trustee indemnity as provided in Section 6.01, and (iv) the Trustee shall thereafter have failed or refused to exercise the powers granted above in this Article, or to institute such action, suit or proceeding in its own name, within a reasonable time. That notification, request and offer of indemnity are in every case to be, at the option of the Trustee, conditions precedent to the execution of the powers and trusts of this Trust Agreement, and to any action or cause of action for the enforcement of this Trust Agreement or for the appointment of a receiver or for any other remedy under this Trust Agreement.

It is understood and intended that no one or more Holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the benefit of this Trust Agreement

by its or their action or to enforce any right under this Trust Agreement except in the manner provided in this Trust Agreement, and that the proceedings shall be instituted, had and maintained in the manner provided in this Trust Agreement and for the benefit of the Holders of all Bonds then outstanding. Subject to the foregoing, each Holder shall have a right of action to enforce the payment of the principal and Accreted Amount of and interest on any Bond owned by that Holder at and after the due date thereof at the place, from the sources and in manner stated in that Bond.

**Section 7.09. Application of Moneys.** All moneys received by the Trustee or a receiver pursuant to any right given or action taken under the provisions of this Article, subject to any provisions made pursuant to Article IV of this Trust Agreement, and after payment of the costs, expenses, liabilities and advances incurred or made by the Trustee or receiver, shall be applied as follows:

(a) Unless the principal of all the Bonds shall have become or have been declared due and payable pursuant to this Article, all such moneys shall be applied:

First: To the payment to the Persons entitled thereto of all installments of interest then due on the Bonds, in the order of the maturity of the installments of that interest and beginning with the earliest maturity, and if the amount available is not sufficient to pay in full any particular installment, then to the payment thereof ratably, according to the amounts due on that installment, to the Persons entitled thereto, without any discrimination or privilege except as to any difference in the respective rates of interest specified in the Bonds; and

Second: To the payment to the Persons entitled thereto of the unpaid principal or Accreted Amount of any of the Bonds which shall have become due (other than Bonds previously called for redemption for the payment of which moneys are held pursuant to the provisions of this Trust Agreement), whether at stated maturity, by redemption or pursuant to any Mandatory Sinking Fund Requirements, in order of their due dates and beginning with the earliest due date, with interest on the Bonds from the respective dates upon which they became due, and if the amount available is not sufficient to pay in full all Bonds due on any particular date, together with all such interest, then to the payment of the Bonds ratably, according to the amount of principal or Accreted Amount due on such date, to the Persons entitled thereto without any discrimination or privilege.

(b) If the principal and accrued Accreted Amount of all the Bonds has become due or has been declared due and payable pursuant to this Article, all such moneys shall be applied to the payment of the principal and accrued Accreted Amount and interest then due and unpaid upon the Bonds, without preference or priority of principal or Accreted Amount over interest or of interest over principal or Accreted Amount, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal, Accreted Amount and interest, to the Persons entitled thereto without any discrimination or privilege except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal of all the Bonds has been declared due and payable pursuant to this Article, and if that declaration thereafter has been rescinded and annulled under the

provisions of Sections 7.03 and 7.07, then, subject to the provisions of subparagraph (b) of this Section in the event that the principal of all the Bonds shall later become due and payable, the moneys shall be applied in accordance with the provisions of subparagraph (a) of this Section.

(d) Whenever moneys are to be applied pursuant to the provisions of this Section, those moneys shall be applied as provided in this Section at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of moneys available for application and the likelihood of additional moneys becoming available for application in the future. Whenever the Trustee shall direct the application of those moneys, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon that date interest or Accreted Amount on the amounts of principal to be paid on that date, and for which moneys are available, shall cease to accrue. Unless otherwise provided in a Supplemental Trust Agreement, the Trustee shall give such notice as it may deem appropriate of the deposit of any such moneys and of fixing of any such date, and the Trustee shall not be required to direct payment to the Holder of any unpaid Bond until that Bond is presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

The above subparagraphs (a), (b), (c) and (d) of this Section shall apply to the application of Pledged Receipts received by any receiver appointed and acting pursuant to Section 7.03.

The provisions of this Section are in all respects subject to the provisions of Section 6.01.

Whenever all Bonds and interest and accrued Accreted Amount thereon have been paid under the provisions of this Section, and all expenses and charges of the Trustee, Authenticating Agent, Registrar and Paying Agent and all other expenses payable under this Trust Agreement have been paid, any balance remaining in the Debt Service Fund or other Special Funds or Accounts shall be paid to the Authority.

**[END OF ARTICLE VII]**

## ARTICLE VIII

### SUPPLEMENTAL TRUST AGREEMENTS

#### **Section 8.01. Supplemental Trust Agreements Not Requiring Consent of Holders.**

The Authority and the Trustee, without the consent of or notice to any of the Holders, may enter into agreements supplemental to this Trust Agreement as shall not, in the opinion of the Authority and the Trustee, be inconsistent with the terms and provisions of this Trust Agreement for any one or more of the following purposes:

- (i) to cure any ambiguity, inconsistency or formal defect or omission in this Trust Agreement;
- (ii) to grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Holders or the Trustee;
- (iii) to subject additional revenues or receipts to the lien and pledge of this Trust Agreement;
- (iv) to add to the Authority's covenants and agreements contained in this Trust Agreement other covenants and agreements thereafter to be observed for the protection of all or particular Holders, or to surrender or limit any right, power or authority reserved to or conferred upon the Authority in this Trust Agreement, including the limitation of rights of redemption so that in certain instances Bonds of different series will be redeemed in some prescribed relation to one another;
- (v) to evidence any succession to the Authority and the assumption by that successor of the Authority's covenants and agreements contained in this Trust Agreement and the Bonds;
- (vi) in connection with the issuance of Additional Bonds in accordance with Article II of this Trust Agreement, any applicable Supplemental Trust Agreement and any applicable Series Resolution, including any and all appropriate provisions relating to the issuance of Additional Bonds in form other than Registered Bonds;
- (vii) to permit compliance with changes in federal or state securities or tax laws or regulations;
- (viii) to permit the exchange of Bonds, at the option of the Holders, for coupon Bonds payable to bearer, in an aggregate principal amount not exceeding the unmatured and unredeemed principal amount or Accreted Amount of the Predecessor Bonds, bearing interest at the same rate or rates and maturing on the same date or dates, with coupons attached representing all unpaid interest due or to become due on the Predecessor Bonds, but only if, in the opinion of nationally recognized Bond counsel, that exchange would not result in inclusion of the interest on any of the Bonds in a Holder's gross income for federal income tax purposes;
- (ix) to permit the Trustee to comply with any obligations imposed upon it by law;



(x) to specify further the duties and responsibilities of, and to define further the relationship among, the Trustee and any other Authenticating Agent, Registrar or Paying Agent;

(xi) the transfer of Bonds from one Securities Depository to another, and the succession of Securities Depositories, and the withdrawal of Bonds issued to a Securities Depository for holding in a book entry system and the issuance of replacement Registered Bonds to others than a Securities Depository;

(xii) to limit the Eligible Investments of moneys in the Funds and Accounts, or to add to that list other Eligible Investments; provided that the addition of Eligible Investments must be approved by each Rating Service that has at the Authority's request assigned a rating to, and at the time maintains a rating on, Outstanding Bonds; and

(xiii) to make such provisions as may be appropriate in connection with interest rate swaps, caps or other hedges; or to issue options pertinent to the purchase or redemption of Bonds, and any other amendment which, in the judgment of the Trustee, (i) is not to the prejudice of the Trustee or the Holders of Outstanding Bonds which that amendment may affect, or (ii) is not to the prejudice of the Trustee or to the substantial prejudice of the Holders of Outstanding Bonds and is consented to and approved by the owners of at least a majority of the Aggregate Outstanding Principal Amount of the Bonds which that amendment affects.

The provisions of clauses (vii) and (ix) of the preceding paragraph shall not be deemed to constitute a waiver by the Trustee, the Authority or any Holder of any right which it may have in the absence of those clauses (vii) and (ix) to contest the application of any change in law to this Trust Agreement or the Bonds.

#### **Section 8.02. Supplemental Trust Agreements Requiring Consent of Holders.**

Exclusive of Supplemental Trust Agreements referred to in Section 8.01 and subject to the terms, provisions and limitations contained in this Section and not otherwise, the Holders of not less than a majority in Aggregate Outstanding Principal Amount of the Bonds shall have the right, from time to time, anything contained in this Trust Agreement to the contrary notwithstanding, to consent to and approve the execution by the Authority and the Trustee of such other agreement or agreements supplemental to this Trust Agreement as may be deemed necessary and desirable by the Authority for the purpose of modifying, altering, adding to or rescinding, in any particular, any of the terms or provisions contained in this Trust Agreement. However, nothing in this Section or elsewhere in this Trust Agreement shall permit or be construed as permitting:

(i) an extension of the maturity of the principal or Accreted Amount of or the interest on any Bond, or a reduction in the principal amount or Accreted Amount of or the rate of interest or redemption premium on any Bond, or a reduction in the amount or extension of the time of any payment required by any Mandatory Sinking Fund Requirements, without the consent of the Holder of each Bond so affected; or

(ii) a reduction in the Aggregate Outstanding Principal Amount of the Bonds required for consent to such Supplemental Trust Agreement without the consent of the Holders of all of the Bonds then outstanding.

Bonds owned or held by or for the account of the Authority shall not be deemed outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds provided for in this Section, and the Authority shall not be entitled with respect to such Bonds to give any consent or take any other action provided for in this Section. At the time of any consent or other action taken under this Section, the Authority shall furnish the Trustee a certificate of the Authorized Officers, upon which the Trustee may rely, describing all Bonds so to be excluded.

If at any time the Authority requests the Trustee to enter into a Supplemental Trust Agreement for any of the purposes of this Section, the Trustee, upon being satisfactorily indemnified with respect to expenses, shall cause notice of the proposed execution of that Supplemental Trust Agreement to be mailed to each Original Purchaser of the series of Bonds then outstanding, and to all Holders of Bonds then outstanding at their addresses as they appear in the Register. The Trustee shall not, however, be subject to any liability to any Holder by reason of its failure to mail, or the failure of the Holder to receive, the notice required by this Section, and any such failure shall not affect the validity of that Supplemental Trust Agreement when consented to and approved as provided in this Section. The notice shall briefly set forth the nature of the proposed Supplemental Trust Agreement and shall state that copies of it are on file at the office of the Trustee for inspection by all Holders.

If within such period, not exceeding twelve (12) months, following the mailing of that notice, as shall be prescribed by the Authority, the Trustee receives instruments purporting to be executed by the Holders of not less than a majority in Aggregate Outstanding Principal Amount of the Bonds and which instruments refer to the proposed Supplemental Trust Agreement described in the notice and specifically consent to and approve the execution of it in substantially the form of the copy referred to in the notice as on file with the Trustee, thereupon, but not otherwise, the Trustee shall execute that Supplemental Trust Agreement in substantially that form, without liability or responsibility to any Holder of any Bond, whether or not that Holder shall have consented thereto.

That consent shall be binding upon the Holder of the Bond giving that consent and, anything in Section 11.01 to the contrary notwithstanding, upon any subsequent Holder of that Bond and of any Bond issued in exchange for it, whether or not that subsequent Holder has notice of the consent. However, the consent may be revoked by the Holder of the Bond who gave the consent if still the Holder, or by a subsequent Holder of that Bond, by filing a written revocation with the Trustee received by the Trustee prior to the date of execution by the Trustee of the Supplemental Trust Agreement. Promptly after the Holders of the required percentage of Bonds have filed their consents to the Supplemental Trust Agreement, the Trustee shall make and file with the Authority a written statement to that effect. That written statement shall be conclusive evidence that those consents have been so filed.

If the Holders of the required percentage in Aggregate Outstanding Principal Amount of the Bonds have consented to and approved the execution of the Supplemental Trust Agreement as provided in this Section, no Holder of any Bond shall have any right to object to the execution of that Supplemental Trust Agreement, or to object to any of the terms and provisions contained

in or the operation of that Supplemental Trust Agreement, or in any manner to question the propriety of the execution of that Supplemental Trust Agreement or to enjoin or restrain the Trustee or the Authority from executing it or from taking any action pursuant to its provisions.

**Section 8.03. Authorization to Trustee; Effect of Supplement.** The Trustee is authorized to join with the Authority in the execution and delivery of any Supplemental Trust Agreement provided for in this Article and to make the further agreements and stipulations that may be contained in that Supplemental Trust Agreement.

Any Supplemental Trust Agreement executed in accordance with the provisions of this Article shall thereafter form a part of this Trust Agreement and all the terms and conditions contained in it as to any provision authorized to be contained in it shall be and shall be deemed to be part of the terms and conditions of this Trust Agreement for any and all purposes; this Trust Agreement shall be and shall be deemed to be modified and amended in accordance therewith; and the respective rights, limitations of rights, duties, immunities and obligations under this Trust Agreement of the Authority, the Trustee, Authenticating Agent, Registrar, Paying Agent and all Holders of Bonds then outstanding shall thereafter be determined, exercised and enforced thereunder, subject in all respects to such modifications and amendments.

Express reference to an executed Supplemental Trust Agreement may be made in the text of any Bonds thereafter issued if deemed necessary or desirable by the Trustee or the Authority. A copy of any Supplemental Trust Agreement provided for in this Article, except one entered into pursuant to clause (vi) of Section 8.01, shall be mailed by the Trustee to the Original Purchaser of, and to each Rating Service that has at the Authority's request assigned a rating to, each series of Bonds affected by it.

The execution and delivery of each Supplemental Trust Agreement in which a Series Resolution is set forth shall constitute certification and conclusive evidence that the Series Resolution as set forth in it is a true and exact copy of the Series Resolution as adopted or authorized by the Authority and in effect at the time of execution and delivery of that Supplemental Trust Agreement.

**Section 8.04. Opinion of Counsel.** The Trustee shall be entitled to receive, and shall be fully protected in relying upon, the opinion of any counsel approved by it, who may be counsel for or designated by the Authority, as conclusive evidence that any proposed Supplemental Trust Agreement complies with the provisions of this Trust Agreement, and that it is proper for the Trustee, under the provisions of this Article, to join in its execution.

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**Section 8.05. Modification by Unanimous Consent; Modification with Owner Consent.** Notwithstanding anything contained elsewhere in this Trust Agreement, the rights and obligations of the Authority and of the Holders of the Bonds, and the terms and provisions of the Bonds and this Trust Agreement or any Supplemental Trust Agreement, may be modified or altered in any respect with the consents of the Authority and of the Holders of all of the Bonds then outstanding affected, as determined by the Trustee, by the modification or alteration; provided, that no amendment, modification or alteration may be made materially affecting the interests of the Owner without the prior written consent of the Owner; provided, further, that any modification to Article II or Article IV hereof would materially affect the Owner.

**[END OF ARTICLE VIII]**

## ARTICLE IX

### THE ADMINISTRATOR

**Section 9.01. Appointment of Administrator.** The Authority shall appoint an Administrator who shall enter into an Administration Agreement with the Authority for the benefit of the Authority, the Trustee and the Holders, and perform the duties specified in this Trust Agreement, the Declaration and the Administration Agreement, but only upon and subject to the terms of this Trust Agreement, the Declaration and the Administration Agreement, to all of which the parties hereto and the Holders agree.

**Section 9.02. Duties of Administrator.**

(a) The Administrator shall agree to perform and shall perform the following duties in connection with the Bonds:

(i) calculate the estimated Annual Required Installment to be collected in each year, as provided and as determined in accordance with Section 9.02(c) hereof;

(ii) prepare an annual report for submission to the Trustee and the Authority containing findings of the financial analysis, summary of development status and an explanation of the methodology employed to calculate the amount of the Annual Required Installment applicable to such year;

(iii) provide such advice and assistance as may be required by the Authority in the collection and the distribution of Service Payments, Impact Fees, and Community Development Charges;

(iv) calculate the amount of Administrative Expenses due and provide estimates to the Trustee of the amount of such Administrative Expenses payable during each calendar year; and

(v) perform such additional duties as may be specified in this Trust Agreement, the Declaration or the Administration Agreement.

(b) In the event of a failure by the Administrator to comply with any provision of this Section 9.02 or of the Administration Agreement, the Trustee may, and upon request of the Holders of at least twenty-five percent (25%) of the Aggregate Outstanding Principal Amount of Outstanding Bonds shall, subject to its rights to be indemnified to its satisfaction, take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Administrator to comply with its obligations under this Trust Agreement or the Administration Agreement. In addition, the Trustee shall provide to any Holder requesting the same copies of all reports received from the Administrator.

(c) On or prior to the Calculation Date occurring in each year, the Administrator shall calculate the Annual Required Installment. Subject to the provisions of the Petition and the Declaration, the Administrator may adjust the Annual Required Installment upwards to the extent the Administrator provides the Trustee and the Authority with an estimate evidencing that

such upward adjustment is projected to be necessary in order to permit the payment of Period Debt Service and Administrative Expenses when due.

**Section 9.03. Qualifications, Resignation, Removal and Appointment of Successor Administrator.** In the event of the removal, resignation or disqualification of the Administrator, the successor Administrator shall be designated by the Authority, provided that, if no designation shall be made by the Authority, the Authority shall perform the duties of the Administrator hereunder. In the event that a successor Administrator shall be appointed by the Authority or otherwise, such Administrator shall be a nationally recognized accounting firm or an entity which is, in the opinion of the Authorized Officers, qualified to serve as an Administrator by virtue of having sufficient experience in community development infrastructure financing in the State. Any Administrator serving hereunder shall be required to maintain at least \$1,000,000 of errors and omissions insurance coverage.

So long as no Event of Default has occurred or is continuing hereunder, the Authority may remove the Administrator initially appointed and any successor thereto upon one hundred twenty (120) days' written notice to the Administrator or such successor, and shall appoint a successor or successors thereto. The Authority shall provide prior written notice to Trustee of its intention to remove or replace the then-acting Administrator and the identity of any proposed successor or successors thereto. The Trustee shall have thirty (30) days from the date of such notice to provide the Authority written comments or concerns of the Trustee relating to any intention to remove or replace the Administrator. The Authority agrees to consider any such comments or concerns in making its decision to remove or replace the Administrator provided, notwithstanding any provision or statement herein to the contrary, any decision by the Authority to remove or replace the Administrator or to appoint a successor thereto shall at all times be at the sole discretion of the Authority. The Authority shall also provide notice to the Trustee of the removal of the Administrator and the appointment of any successor Administrator.

The Administrator may resign from its obligations hereunder upon one hundred twenty (120) days' written notice to the Authority and the Trustee. Any resignation or removal of the Administrator shall become effective upon acceptance of that resignation by the Authority.

Notwithstanding anything to the contrary herein, upon the occurrence of an Event of Default hereunder the Trustee may, and shall, after being indemnified to its satisfaction, upon the direction of a majority in principal amount of Holders of the Outstanding Bonds, remove or replace the Person, including the Authority, then acting as the Administrator and appoint a successor Administrator.

**Section 9.04. Rights of Administrator.** The Administrator shall be afforded the same rights with respect to limitation of responsibilities, liability, notice, compensation and reimbursement given to the Trustee pursuant to Article VI hereof.

**[END OF ARTICLE IX]**

## ARTICLE X

### DEFEASANCE

**Section 10.01. Release of Agreement.** If the Authority shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of the Outstanding Bonds all Debt Service Charges due or to become due thereon, and provision shall also be made for paying all other sums payable under this Trust Agreement by the Authority, then and in that event this Trust Agreement shall cease, determine and become null and void, and the covenants, agreements and other obligations of the Authority under this Trust Agreement shall be discharged and satisfied, and thereupon the Trustee shall execute and deliver to the Authority such instruments to evidence that release and discharge as may be reasonably required by the Authority, and the Trustee, Authenticating Agent and Paying Agent shall assign and deliver to the Authority any moneys, investments and Special Funds and Accounts at the time subject to the lien of this Trust Agreement which may then be in their possession except for such as are held by the Trustee and Paying Agent (i) for the payment of Debt Service Charges or (ii) for payment to any provider of a Credit Support Instrument.

**Section 10.02. Payment of Debt Service Charges.** Debt Service Charges due or to become due on Outstanding Bonds shall be deemed to have been paid or caused to be paid within the meaning of Section 10.01 if:

(a) the Trustee, the Paying Agent, or the Authority, shall hold, in trust for and irrevocably committed thereto, sufficient moneys; or

(b) the Trustee or the Authority shall hold, in trust for and irrevocably committed thereto, non-callable Federal Securities verified by a firm of independent certified public accountants of national reputation to be of such maturities and Interest Payment Dates and to bear such interest or other investment income as will be, without further investment or reinvestment of either the principal amount of or the interest earnings from them (likewise to be held in trust and committed, except as hereinafter provided), sufficient, together with any moneys referred to in (a) above, for the payment, when due, of all Debt Service Charges to the date or respective dates of maturity or redemption, as the case may be; provided, that if any Bonds are to be redeemed prior to their maturity, notice of that redemption shall have been duly given or irrevocable provision reasonably satisfactory to the Trustee shall have been duly made for the giving of that notice. Any moneys held in cash by the Trustee or Authority in accordance with the provisions of this paragraph shall be invested only in Federal Securities of which the maturities or redemption dates (at the option of the Holder) shall coincide as nearly as practicable with, but be not later than, the date or dates at which the moneys will be required for the purposes stated above. Any income or interest earned by, or increment to, the investments held under this paragraph, to the extent not required for the purposes of this Section, at the Authority's request shall be transferred to the Authority from time to time, free of any trust or lien.

Within thirty (30) days after Bonds are deemed paid or caused to be paid pursuant to Section 10.02 or 10.03, the Trustee shall cause notice (i) to be given by mail to each Holder of those Bonds at the name and address shown on the Register on the date on which those Bonds

are deemed paid or caused to be paid, and (ii) to be published at least once in a financial or other newspaper of national circulation. That notice shall state the numbers or other identification of Bonds deemed paid or caused to be paid or that all Bonds or all Bonds of a particular series or a particular maturity of a series are deemed paid or caused to be paid, set forth a general description of the obligations held pursuant to subparagraph (b) of the first paragraph of this Section 10.02, and specify the date or dates on which any of the Bonds are to be called for redemption pursuant to notice of redemption given or for which irrevocable provisions have been made for such notice pursuant to the first paragraph of this Section 10.02.

**Section 10.03. Partial Defeasance.** This Trust Agreement shall cease, determine and become null and void, and the covenants, agreements and other obligations of the Authority shall be discharged and satisfied, as to any series of Bonds, or as to certain of the Bonds of any series of Bonds, as specified by the Authority, upon deposit by the Authority with the Trustee of sufficient moneys or Federal Securities satisfying the requirements of Section 10.02 with respect to the Debt Service Charges on those Bonds or series of Bonds.

**Section 10.04. Survival of Certain Provisions.** The provisions of this Trust Agreement that relate to the maturity of the Bonds, Accreted Amount and interest payments and Accreted Amount and Interest Payment Dates, optional and mandatory redemption provisions, credit against Mandatory Sinking Fund Requirements, exchange, transfer and registration of Bonds, replacement of mutilated, destroyed, lost or wrongfully taken Bonds, the safekeeping and cancellation of Bonds, nonpresentment of Bonds and unclaimed moneys, the holding of moneys in trust, and the duties and indemnification of the Trustee, the Authority, the Paying Agent or the Authenticating Agent in connection with the foregoing, shall remain in effect and be binding upon the Trustee, the Authority, the Authenticating Agent, the Paying Agent and the Holders notwithstanding the release and discharge of this Trust Agreement. The provisions of this Article X shall survive any release, discharge and satisfaction of this Trust Agreement.

**[END OF ARTICLE X]**



## ARTICLE XI

### MISCELLANEOUS

**Section 11.01. Instruments of Holders.** Any consent, request, direction, approval, objection or other instrument required by this Trust Agreement to be signed or executed by the Holders may be in any number of concurrent writings of similar tenor and may be signed or executed by such Holders in Person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Trust Agreement, and shall be conclusive in favor of the Trustee with regard to any action taken under such instrument, namely:

(a) The fact and date of the execution by any Person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within that jurisdiction that the Person signing that writing acknowledged before him the execution thereof, or by affidavit of any witness to that execution.

(b) The fact of ownership of Registered Bonds shall be proved by the Register.

Nothing contained above in this Section shall be construed as limiting the Trustee to such proof. It is intended that the Trustee may accept any other or additional evidence which it deems to be sufficient. Any request or consent of the Holder of any Predecessor Bond shall bind every future Holder of the same Bond in respect to anything done or suffered to be done by the Authority, the Trustee or any Authenticating Agent or Paying Agent pursuant to that request or consent.

**Section 11.02. Limitation of Rights.** With the exception of rights expressly conferred in this Trust Agreement or in any Supplemental Trust Agreement, nothing expressed or mentioned in or to be implied from this Trust Agreement or the Bonds is intended or shall be construed to give to any Person other than the Authority, the Trustee, the Holders of the Bonds and any other Person specifically mentioned in a particular Supplemental Trust Agreement (including without limitation the providers of Credit Support Instruments), any legal or equitable right, remedy or claim under or in respect to this Trust Agreement or any covenants, conditions and provisions contained in this Trust Agreement. This Trust Agreement and all of those covenants, conditions and provisions are intended to be and being for the sole and exclusive benefit of the parties to it and of the Holders of the Bonds as provided in this Trust Agreement.

**Section 11.03. Severability.** In case any section or provision of this Trust Agreement, or in case any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Trust Agreement, or any application thereof, is for any reason held to be illegal or invalid, that illegality or invalidity shall not affect the remainder thereof or any other section or provision of this Trust Agreement or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Trust Agreement, which shall be construed and enforced as if that illegal or invalid portion were not contained in it. Any such illegality or invalidity or inoperability or any application thereof shall not affect any legal and valid application thereof, and each such section,

provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

**Section 11.04. Notices.** It shall be sufficient service or giving of any notice, request, complaint, demand or other instrument or document, if it is duly mailed by first-class mail, or delivered.

As to the Authority:

Hickory Chase Community Authority  
4383 Davidson Road  
Hilliard, Ohio, 43026  
Attention: Heidi Shuryan, Secretary

With a copy to:

City of Hilliard  
3800 Municipal Way  
Hilliard, OH 43206  
Attention: Michelle Kelly-Underwood, as Director of Finance

As to the Trustee:

Wells Fargo Bank, National Association  
9062 Old Annapolis Road  
Columbia, Maryland 21045  
Attention: CMES

The Authority and the Trustee may, by notice given under this Section, designate any further, different or more specific addresses to which subsequent mailings shall be sent.

In connection with any notice mailed pursuant to the provisions of this Trust Agreement, a certificate or affidavit of the Trustee, the Authority, an Authenticating Agent, a Paying Agent, an Registrar, or the Holders of the Bonds, whichever or whoever mailed that notice, that the notice was so mailed shall be conclusive evidence of the proper mailing of the notice.

If because of the suspension of delivery of first class mail or for any other reason, the Trustee or other Person is unable to mail by the required class of mail any notice required to be mailed by the provisions of this Trust Agreement, the Trustee or other Person shall give that notice in such other manner as in its judgment most effectively approximates mailing of that notice, and the giving of that notice in that manner for all purposes of this Trust Agreement shall be deemed to be in compliance with the requirements for mailing of that notice.

Except as otherwise provided in this Trust Agreement, the mailing of any notice shall be deemed complete upon deposit of that notice in the mail, and the giving of any notice by any

other means of delivery shall be deemed complete upon receipt of the notice by the delivery service.

**Section 11.05. Payments Due on Saturdays, Sundays and Holidays.** If any Interest Payment Date, date of maturity of the principal or Accreted Amount of any Bonds, or date fixed for redemption of any Bonds (each referred to in this Section as "the applicable date") is a Saturday or Sunday, or a day on which:

(i) the Trustee is required, or authorized or not prohibited, by law (including without limitation, executive orders) to close and is closed, then payment of interest, principal, Accreted Amount and any redemption premium (each referred to in this Section as the "payment") need not be made by the Trustee or any Paying Agent on that date, and that payment shall be made on the next succeeding Business Day on which the Trustee and the Paying Agent are open for business with the same force and effect as if that payment were made on the applicable date, and no interest shall accrue for the period after that applicable date, or

(ii) a Paying Agent is required, or authorized or not prohibited, by law (including without limitation, executive orders) to close and is closed, then the payment need not be made by that Paying Agent on that date, and the payment shall be made on the next succeeding Business Day on which that Paying Agent is open for business with the same force and effect as if the payment were made on the applicable date, and no interest shall accrue for the period after that applicable date.

If, however, the Trustee is open for business on the applicable date it shall make any payment with respect to interest on Outstanding Bonds and principal and Accreted Amount of and premium on Bonds presented to it for payment, regardless of whether any other Paying Agent is open for business or closed on that date.

**Section 11.06. No Right to Levy of Excises or Taxes.** Nothing in this Trust Agreement shall be construed as giving the Holders of any Bonds or the Trustee the right or expectation, and they shall have no right, to have excises or taxes levied by the Authority or otherwise, or applied, obligated or pledged, for the payment of Debt Service Charges.

**Section 11.07. Extent of Covenants: No Personal Liability.** All of the covenants, stipulations, obligations and agreements of the Authority contained in this Trust Agreement are and shall be deemed to be covenants, stipulations, obligations and agreements of the Authority to the full extent authorized by the Act and permitted by the Ohio Constitution. No such covenant, stipulation, obligation or agreement shall be deemed to be that of any present or future member of the Authority, or officer, agent or employee of the Authority, in their individual capacity, and neither the members of the Authority nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of their issuance.

**Section 11.08. Consents.** Any consent, permission or approval by the Trustee or Authority required or contemplated by this Trust Agreement shall not be unreasonably withheld or delayed.

**Section 11.09. Assignments.** The Authority has assigned to the Trustee for the benefit of the Holders its rights under and interest in Article II of the Developer Services Agreement, including the right to enforce the provisions of Article II of the Developer Services Agreement for the benefit of the Holders. The Trustee hereby acknowledges and consents to the assignment by the Authority to the Trustee of its interests in Article II of the Developer Services Agreement.

The Authority specifically acknowledges that the pledge of Pledged Receipts in Section 2.01(b) hereof includes an assignment by the Authority to the Trustee for the benefit of the Holders of all right, title and interest of the Authority in and to the Special Account of the TIF Fund and in and to the Intergovernmental Cooperation Agreement. The Trustee hereby acknowledges and consents to the assignment by the Authority to the Trustee of its interests in the Special Account of the TIF Fund and in the Intergovernmental Cooperation Agreement.

**Section 11.10. Binding Effect.** This Trust Agreement shall inure to the benefit of and shall be binding upon the Authority and the Trustee and their respective successors and assigns, subject, however, to the limitations contained in this Trust Agreement.


**Section 11.11. Counterparts.** This Trust Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 11.12. Governing Law.** This Trust Agreement and the Bonds are and shall be deemed contracts made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

**[END OF ARTICLE XI]**

IN WITNESS WHEREOF, the Authority has caused this Trust Agreement to be executed in its name and on its behalf by its duly Authorized Officers, and Wells Fargo Bank, National Association, as Trustee, in token of its acceptance of the trusts created hereunder, has caused this Trust Agreement to be executed in its name, all as of March 1, 2008.

**HICKORY CHASE COMMUNITY AUTHORITY**

By:   
Chairperson

And by:   
Treasurer

**WELLS FARGO BANK, NATIONAL ASSOCIATION,  
Trustee**

By: \_\_\_\_\_

Title: \_\_\_\_\_

IN WITNESS WHEREOF, the Authority has caused this Trust Agreement to be executed in its name and on its behalf by its duly Authorized Officers, and Wells Fargo Bank, National Association, as Trustee, in token of its acceptance of the trusts created hereunder, has caused this Trust Agreement to be executed in its name, all as of March 1, 2008.

**HICKORY CHASE COMMUNITY AUTHORITY**

By: \_\_\_\_\_  
Chairperson

And by: \_\_\_\_\_  
Treasurer

**WELLS FARGO BANK, NATIONAL ASSOCIATION,  
Trustee**

By:  \_\_\_\_\_

Title: Vice President

**EXHIBIT A**

R-

**UNITED STATES OF AMERICA  
STATE OF OHIO  
HICKORY CHASE COMMUNITY AUTHORITY  
INFRASTRUCTURE IMPROVEMENT REVENUE BOND  
SERIES 2008 (HICKORY CHASE PROJECT)**

<u>Maturity Date</u>	<u>Dated</u>	<u>Interest Rate</u>	<u>CUSIP Number</u>
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HICKORY CHASE COMMUNITY AUTHORITY (the "Authority"), a new community authority as defined in Chapter 349 of the Revised Code, (the "Act") and a body both corporate and politic, for value received, promises to pay to Cede & Co., or registered assigns, but solely from the sources and in the manner referred to herein, the principal amount of

\_\_\_\_\_ (\$ \_\_\_\_\_)

on the aforesaid Maturity Date, unless this Series 2008 Bond is called for earlier redemption, and to pay from those sources interest thereon at the rate set forth above, payable on June 1 and December 1 of each year commencing December 1, 2008 (each an "Interest Payment Date") until the principal amount is paid or duly provided for. Interest shall be calculated on the basis of a 360-day year and twelve 30-day months. This Series 2008 Bond will bear interest from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from its date.

The principal of and any premium on this Series 2008 Bond is payable upon presentation and surrender hereof at the corporate trust office of the trustee, presently Wells Fargo Bank, National Association (the "Trustee"). Interest payable on each Interest Payment Date will be paid or transmitted by wire transfer to the person in whose name this Series 2008 Bond (or one or more Predecessor Bonds) is registered (the "Holder") at the close of business on the fifteenth day of the calendar month immediately preceding that Interest Payment Date (the "Regular Record Date") on the registration books for this issue maintained by the Trustee, as Registrar. Any interest which is not timely paid or duly provided for shall cease to be payable to the Holder hereof (or of one or more Predecessor Bonds) as of the Regular Record Date, and shall be payable to the Holder hereof (or of one or more Predecessor Bonds) at the close of business on a Special Record Date to be fixed by the Trustee for the payment of that overdue interest. Notice of the Special Record Date shall be mailed to Holders not less than ten days prior thereto. The principal of and interest on this Series 2008 Bond are payable in lawful money of the United States of America, without deduction for the services of the paying agent.

The Series 2008 Bonds shall not constitute the personal obligation, either jointly or severally, of the members or officers of the Authority.

This Series 2008 Bond shall not be entitled to any security or benefit under the Trust Agreement or be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed.

This Series 2008 Bond represents one of the duly authorized issue of Infrastructure Improvement Revenue Bonds, Series 2008 (Hickory Chase Project) (the "Series 2008 Bonds") issuable under the Trust Agreement dated as of March 1, 2008 (the "Trust Agreement"), between the Authority and the Trustee, aggregating in principal amount \$\_\_\_ and issued to acquire, construct, equip and install the Project, as defined in the Trust Agreement. The Series 2008 Bonds are special obligations of the Authority, issued or to be issued under and are to be secured and entitled equally and ratably to the protection given by the Trust Agreement. The Series 2008 Bonds are issued pursuant to the Act, and in accordance with resolutions duly adopted by the Authority.

All capitalized words used as defined terms to the extent not defined herein shall have the meaning assigned to those words and terms in the Trust Agreement.

**NEITHER THE SERIES 2008 BONDS, NOR THE RESOLUTIONS AUTHORIZING THE SERIES 2008 BONDS, NOR THE TRUST AGREEMENT CONSTITUTES A GENERAL OBLIGATION, DEBT OR BONDED INDEBTEDNESS OF THE AUTHORITY AND NEITHER THE FAITH AND CREDIT NOR TAXING POWER OF THE AUTHORITY OR ANY OTHER POLITICAL SUBDIVISION IS PLEDGED TO THE PAYMENT OF PRINCIPAL OF OR INTEREST ON THE SERIES 2008 BONDS AND, FURTHER, THE HOLDERS HAVE NOT BEEN GIVEN AND HAVE NO RIGHT TO HAVE EXCISES OR TAXES LEVIED BY THE AUTHORITY FOR THE PAYMENT OF THE DEBT SERVICE CHARGES.**

Reference is made to the Trust Agreement for a more complete description of the Project, the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the Authority, the Trustee and the Holders of the Bonds, and the terms and conditions upon which the Series 2008 Bonds are issued and secured. Each Holder assents, by its acceptance hereof, to all of the provisions of the Trust Agreement. A copy of the Trust Agreement is on file in the corporate trust office of the Trustee.

This Series 2008 Bond is a limited special obligation of the Authority payable solely from the Pledged Receipts, as defined and as provided in the Trust Agreement, and is an obligation of the Authority only to the extent of the Pledged Receipts.

The Series 2008 Bonds, and the interest payable thereon, do not represent or constitute a debt of the Authority within the meaning of the provisions of the Constitution or statutes of the State of Ohio or a pledge of the faith and credit of the Authority. The Series 2008 Bonds, as to principal, premium, if any, and interest, are not an obligation of the State of Ohio, or of any political subdivision thereof, and are payable solely and only from Pledged Receipts. No



covenant or agreement contained in the Series 2008 Bonds shall be deemed to be a covenant or agreement of any member of the Board of Trustees of the Authority or of any officer or employee of the Authority in his or her individual capacity, nor any officer or employee of the Authority executing the Series 2008 Bonds shall be liable personally on the Series 2008 Bonds or be subject to any personal liability or accountability by reason of the issuance of the Series 2008 Bonds.

The Series 2008 Bonds are initially issuable only as fully registered bonds in the denominations of \$100,000 and integral multiples of \$1,000 in excess thereof, and are exchangeable for Series 2008 Bonds of other Authorized Denominations in equal aggregate principal amounts at the office of the Registrar specified on the face hereof, but only in the manner and subject to the limitations provided in the Trust Agreement. This Series 2008 Bond is transferable at the office of the Registrar, by the Holder in person or by his attorney, duly authorized in writing, upon presentation and surrender hereof to the Registrar. The Registrar is not required to transfer or exchange (i) any Series 2008 Bond during a period beginning at the opening of business fifteen (15) days before the day of the mailing of a notice of redemption of Series 2008 Bonds and ending at the close of business on the day of such mailing, or (ii) any Series 2008 Bonds so selected for redemption in whole or in part.

Except as otherwise described in the immediately following paragraph, the Series 2008 Bonds are issuable only as fully registered bonds (except as hereinafter provided), registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), which shall be considered to be the Holder of the Series 2008 Bonds for all purposes of the Trust Agreement and the Series 2008 Bond Resolution, including, without limitation, payment by the Authority of principal, interest and premium, if any, and the delivery of notices. Each maturity of the Series 2008 Bonds shall be evidenced by a single certificate in the aggregate principal amount of the Series 2008 Bonds maturing on such maturity date, and all such certificates shall be immobilized in the custody of DTC with the owners of book entry interests in the Series 2008 Bonds having no right to receive Series 2008 Bonds in the form of physical securities or certificates. Ownership of book entry interests in the Series 2008 Bonds shall be shown by book entry on the system maintained and operated by DTC and its participants (the "Participants"), and certain persons acting through those Participants. Transfers of ownership of book entry interests are to be made only by that book entry system, and the Authority and the Trustee having no responsibility therefor. DTC is to maintain records of the positions of Participants in the Series 2008 Bonds, and the Participants and persons acting through Participants are to maintain records of the purchasers and owners of book entry interests. The Series 2008 Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository (as defined in the Trust Agreement) or to another nominee of a Depository, without further action by the Authority.

If any Depository determines not to continue to act as a Depository for the Series 2008 Bonds for use in a book entry system, the Authority may attempt to have established a securities depository/book entry system relationship with another qualified Depository. If the Authority does not or is unable to do so, the Authority, after making provision for notification of the owners of book entry interests by appropriate notice to the then Depository, shall permit withdrawal of the Series 2008 Bonds from the Depository, and authenticate and deliver Series

2008 Bond certificates in fully registered form (in Authorized Denominations, as defined in the Trust Agreement) to the assigns of the Depository or its nominee (if the Series 2008 Bonds are held by a nominee), all at the cost and expense (including costs of printing or otherwise preparing and delivering replacement Series 2008 Bonds) of the Authority.

#### Optional Redemption

The Series 2008 Bonds are subject to optional redemption prior to their stated maturity on or after December 1, 2018 by and at the sole option of the Authority, either in whole, at any time, or in part (as selected by the Authority), on any Interest Payment Date, in denominations of \$100,000 or any integral multiple of \$1,000 in excess thereof, at the redemption price of one hundred percent (100%) of the principal amount of the Series 2008 Bonds to be redeemed, plus accrued interest thereon to the redemption date.

#### Mandatory Sinking Fund Redemption

The Series 2008 Bonds maturing on December 1, 20\_\_ are subject to mandatory sinking fund redemption at a price equal to one hundred percent (100%) of the principal amount thereof plus accrued interest on December 1 in the years and in the principal amounts set forth below:

<u>Year</u>	<u>Principal Amount to be Redeemed</u>
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The remaining principal amount of such Bonds (\$\_\_\_\_\_) will mature at stated maturity on December 1, 20\_\_.

#### Extraordinary Mandatory Redemption

The Series 2008 Bonds are also subject to extraordinary mandatory redemption by the Authority in whole, on any date, or in part, on any Interest Payment Date immediately following the occurrence of any relevant event, including:

- (i) at a redemption price equal to (A) one hundred five percent (105%) of the principal amount of the Series 2008 Bonds to be redeemed, if such redemption occurs prior to December 1, 2018, or (B) the par amount of the Series 2008 Bonds to be redeemed if such redemption occurs on or after December 1, 2018; plus, in each case, interest accrued to the redemption date, from amounts on deposit in the Debt Service Fund resulting from the prepayment in whole or in part of any Community Development Charges pursuant to the Declaration;
- (ii) at a redemption price equal to the par amount of the principal amount of the Series 2008 Bonds to be redeemed, plus interest accrued to the redemption date, from amounts on deposit in the Debt Service Fund resulting from the transfer from the Construction Account on or after the date that is the latest of (A) the date that is one (1) year after the

completion date for all of the Work on the Infrastructure Improvements; (B) the date on which the Authority has paid all Project Costs, including interest on those Project Costs; or (C) abandonment of the Project prior to completion; and

(iii) at a redemption price equal to the par amount of the Series 2008 Bonds to be redeemed, plus interest accrued to the redemption date, from amounts on deposit in the Debt Service Fund as a result of the deposit of funds for such redemption by the Developer, or on behalf of the Developer by KeyBank, National Association (the "Construction Lender") only upon the Authority's receipt of written instructions from the Developer, or on behalf of the Developer by the Construction Lender, directing the Authority to exercise such extraordinary mandatory redemption following the occurrence of an event of default under the Construction Loan Agreement between the Developer and the Construction Lender and on file with the Authority; provided, that amounts necessary for such redemption are on deposit in the Debt Service Fund prior to the giving of notice of such redemption to the Holders of the Series 2008 Bonds to be redeemed.

Any extraordinary mandatory redemption described in paragraphs (i), (ii), and (iii) above, if in whole, shall occur on a date, established by the Trustee, which date shall be not less than thirty (30) nor more than sixty (60) days after the occurrence of the relevant event described above and only after written notice from the Trustee to the Issuer and the holders of the Series 2008 Bonds. Such notice shall specify the redemption date and the basis for the mandatory redemption.

#### Selection of Series 2008 Bonds to be Redeemed

If fewer than all of the Series 2008 Bonds are to be redeemed, the selection of Series 2008 Bonds to be redeemed, or portions thereof in denominations of \$100,000 or any integral multiple of \$1,000 in excess thereof, shall be made by lot by the Trustee in any manner which the Trustee may determine (or if required by the Depository in any manner the Depository may determine); provided, however, any such partial redemption shall cause to be redeemed, as nearly as practicable, a principal amount of Series 2008 Bonds from each maturity, such that the remaining installments of principal of and interest on the Series 2008 Bonds shall be in substantially equal amounts; and, provided, further, in the event that any of the Series 2008 Bonds are subject to Mandatory Sinking Fund Requirements, the installments of such Mandatory Sinking Fund Requirements within each maturity of the Series 2008 Bonds shall also be reduced, as nearly as practicable, within such maturity, such that the remaining installments of principal of and interest on the Series 2008 Bonds of such maturity shall be in substantially equal amounts.

The Trust Agreement contains provisions authorizing the Authority and the Trustee, to enter into Supplemental Trust Agreements for certain purposes and in certain cases without the necessity of obtaining the consent of the Holders, for such purposes as modifying, altering, amending, adding to or rescinding, terms and provisions of the Trust Agreement.

This Series 2008 Bond is transferable by the registered Holder hereof in person or by his attorney duly authorized in writing at the corporate trust office of the Trustee as Bond Registrar, upon presentation hereof to the Trustee, all subject to the terms and conditions provided in the Trust Agreement.

Except as provided in the Trust Agreement, the Holders or registered Holders of the Series 2008 Bonds are not entitled to enforce the provisions of the Trust Agreement or to institute, appear in or defend any suit, action or proceeding to enforce any provisions of the Trust Agreement or to take any action with respect to any event of default under the Trust Agreement.

IN WITNESS OF THE ABOVE, the Authority, under the authority described in this Series 2008 Bond, has caused this Series 2008 Bond to be executed by the Chair and the Treasurer of the Authority, as of the date stated above.

**HICKORY CHASE COMMUNITY AUTHORITY**

By: \_\_\_\_\_

\_\_\_\_\_  
Chair, Board of Trustees

By: \_\_\_\_\_

\_\_\_\_\_  
Treasurer, Board of Trustees

## CERTIFICATE OF AUTHENTICATION

This Series 2008 Bond is one of the Series 2008 Bonds issued under the provisions of the within-mentioned Trust Agreement.

**WELLS FARGO BANK, NATIONAL  
ASSOCIATION, Trustee**

Authentication Date: \_\_\_\_\_ By: \_\_\_\_\_  
Authorized Signor

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### ASSIGNMENT

For value received, the undersigned sells, assigns and transfers this Series 2008 Bond to

\_\_\_\_\_  
(Please Print or Typewrite Name and Address and Zip Code of Transferee)

(INSERT SOCIAL SECURITY NUMBER OR OTHER TAX  
IDENTIFICATION NUMBER OF TRANSFEE)

and does hereby irrevocably constitute and appoint \_\_\_\_\_  
as attorney to transfer this Series 2008 Bond on the books kept for registration of the Series 2008  
Bonds, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_

Notice: The assignor's signature to this assignment must correspond with the name as it  
appears upon the face of this Series 2008 Bond in every particular, without  
alternation or any change whatever.

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Unless the Series 2008 Bond is presented by an authorized representative of DTC to the  
Authority or the paying agent for registration of transfer, exchange, or payment, and any Series  
2008 Bond issued is registered in the name of Cede & Co. or in such other name as is requested  
by an authorized representative of DTC (and any payment is made to Cede & Co. or to such  
other entity as is requested by an authorized representative of DTC), ANY TRANSFER,  
PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY  
PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest  
herein.

**EXHIBIT B**

**WRITTEN REQUISITION**

Wells Fargo Bank, National Association  
9062 Old Annapolis Road  
Columbia, Maryland 21045  
Attention: CMES

Re: Certificate and Request for Disbursement of Funds from the Construction Account

You are hereby requested to disburse from the Construction Account, which was created pursuant to the Trust Agreement (the "Trust Agreement"), dated as of March 1, 2008, between the Hickory Chase Community Authority (the "Authority") and Wells Fargo Bank, National Association, as Trustee (the "Trustee"), the amount of \$\_\_\_\_\_ for the purposes set forth on Schedule 1 attached hereto to be paid pursuant to this Written Requisition No. \_\_\_\_\_ to the payee(s) listed on such Schedule 1 for the purposes therein set forth.

Capitalized terms used herein and not otherwise defined herein shall have the meanings given such terms in the Master Definitions List attached to Intergovernmental Cooperation Agreement and incorporated herein by this reference.

This Written Requisition consists of the following:

- (i) Authority's Certificate hereinbelow;
- (ii) Certificate and Approval of the City Engineer;
- (iii) Amount and description of the Project Costs as provided in Schedule 1 hereto;
- (iv) Project Budget and Draw Request Summary, attached as Schedule 2 hereto; and
- (vi) Invoices and lien waivers to the extent required, attached as Schedule 3 hereto.

The undersigned Authorized Officers do hereby certify for and on behalf of the Authority that:

(i) We have read the Trust Agreement and definitions relating thereto and have reviewed appropriate records and documents relating to the matters covered by this Written Requisition.

(ii) The amount and nature and the name and address of the payee of each item of the Project Costs hereby requested to be paid are shown on Schedule 1 attached hereto;

(iii) The disbursement herein requested is for an obligation properly incurred, is a proper charge against the Construction Account as a Project Cost, has not been the basis of any

previous withdrawal from the Construction Account, and, if for acquisition or installation of the Project, was made in accordance with the Construction Documents;

(iv) The Project has not been materially injured or damaged by fire or other casualty in a manner which, if not repaired or replaced, would materially impair the ability of Authority to meet its obligations under the Developer's Agreement;

(v) The Authority is in material compliance with all provisions and requirements of the Developer's Agreement;

(vi) No event of default set forth in the Developer's Agreement, and no event which but for the lapse of time or the giving of notice or both would be such an event of default, has occurred and is continuing;

(vii) The Authority is not in material default under any of the Construction Documents;

(viii) The item or category of the Project Costs for which funding is being requested by this Written Requisition and a cumulative summary of payments by category or item to date are set forth in Schedule 2 attached hereto;

(ix) Attached hereto as Schedule 3 are lien waivers from any materialmen, contractors and subcontractors who have provided services or materials to the Project in excess of Fifteen Thousand Dollars (\$15,000) and who were paid pursuant to the previous Written Requisition immediately preceding this Written Requisition, and the Authority acknowledges its obligation to require, or require provision of, certain security pursuant to the Developer's Agreement in the event any mechanic's liens are filed in connection with the Project;

(x) The Project is being and has been installed substantially in accordance with the Construction Documents, and all materials for which payment is requested have been delivered to and remain on the Project site;

(xi) The payment requested hereby does not include any amount which is entitled to be retained under any holdbacks or retainages provided for in any agreement;

(xii) The Authority has asserted its entitlement to all available manufacturer's warranties to date upon acquisition of possession of or title to such improvements or any part thereof which warranties have vested in Authority;

(xiii) All proceeds of the Construction Account heretofore disbursed have been spent in accordance with the Written Requisition applicable thereto;

(xiv) The amount requested herein represents \$\_\_\_\_\_ from the original estimated cost in the budget and \$\_\_\_\_\_ remains in the budget after payment has been made with respect to this Written Requisition, including any retainage amounts as required by the Trust Agreement in the amount of \$\_\_\_\_\_; and

(xv) All governmental approvals, permits and inspections required in connection with the construction of the Project which has been completed to the date of this Written Requisition have been received or approved, as applicable.

(xvi) The Authority hereby certifies that (check one of the following:

(a) ☐ This requisition does not constitute (i) a Change Order Requisition under Section 4.05(e) of the Trust Agreement, or (ii) the Completion Requisition under Section 4.05(f) of the Trust Agreement.

(b) ☐ This requisition constitutes a Change Order Requisition under Section 4.05(e) of the Trust Agreement. Accordingly, the undersigned hereby further certifies:

(A) That there are sufficient moneys on deposit in the Construction Account to pay that Change Order Requisition in addition to the total amount of all other Requisitions reasonably expected to complete all remaining Work on the Project in accordance with the Construction Documents and the Infrastructure Improvements, as such amount is determined by the Authorized Officers and the Design Professional; or

(B) the Authority has issued Additional Bonds sufficient to pay the Change Order Requisition in addition to all other Requisitions reasonably expected to complete all remaining Work on the Project in accordance with the Construction Documents and the Infrastructure Improvements, and the proceeds from such Additional Bonds are either on deposit or in the process of collection to the credit of an appropriate fund created under this Trust Agreement, free from any previous encumbrances.

(c) ☐ This requisition constitutes the Completion Requisition under Section 4.05(f) of the Trust Agreement.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

HICKORY CHASE COMMUNITY AUTHORITY

By: \_\_\_\_\_  
Authorized Officer

By: \_\_\_\_\_  
Authorized Officer



**Schedule 1**

Written Requisition No. \_\_\_\_\_ for the Hickory Chase Community Authority

For the purpose of making the following payments in respect of Work performed by or paid for by the following Payee(s):

Payee :

\_\_\_\_\_  
\_\_\_\_\_

Address of Payee :

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

Amount of Payee Invoice :

\$ \_\_\_\_\_

Purpose of Payment and  
Description of Work:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Payment Requested by this Written Requisition

\$ \_\_\_\_\_

Retainage withheld (eight percent (8%) of the labor portion of the contract until the contract is fifty percent (50%) complete, after which time no further retainage shall be withheld; and eight percent (8%) of the amount requested for materials purchased before they are incorporated into the Project)

\$ \_\_\_\_\_

APPROVED:	APPROVED:
Evans, Mechwart, Hambleton & Tilton	City Engineer, City of Hilliard, Ohio
as Design Professional	
By: _____	By: _____
Printed Name: _____	Printed Name: _____
Title: _____	

**Schedule 3**

**Invoices and Lien Waivers**

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**Certificate and Approval of City Engineer**

I, \_\_\_\_\_, hereby certify that I am the City Engineer for the City of Hilliard, Ohio (the "City") that I have all authority necessary to execute this certificate, as City Engineer pursuant to the Intergovernmental Cooperation Agreement (the "Intergovernmental Cooperation Agreement"), dated as of March 1, 2008, among the Hickory Chase Community Authority (the "Authority"), the City, and Wells Fargo Bank, National Association, as Trustee (the "Trustee") and the Trust Agreement (the "Trust Agreement"), dated as of March 1, 2008, between the Authority and the Trustee, and I hereby certify as follows:

Capitalized terms used herein and not otherwise defined herein shall have the meaning given such terms in the Intergovernmental Cooperation Agreement.

1. I have conducted a site visit on \_\_\_\_\_, 200\_ to ascertain the portion of the Work completed on the Project identified in Written Requisition No. \_\_\_\_ and have reviewed the Written Requisition and such supporting materials as I have deemed appropriate to make the certifications herein set forth, is the basis as to the certifications set forth herein.

2. The portion of the Work with respect to the Project identified in the foregoing Written Requisition No. \_\_\_\_ has been completed.

3. All governmental approvals, permits and inspections required in connection with the construction of the Project which has been completed to the date of such Written Requisition have been received or approved, as applicable.

4. Such Work was completed in accordance with (i) the Construction Documents, (ii) the terms of the Trust Agreement, the Intergovernmental Cooperation Agreement, and the Developer's Agreement, and (iii) all applicable governmental permits.

5. The funds of the Project being requested for payment are the Project Costs of such Work specified in such Written Requisition.

6. Written Requisition No. \_\_\_\_ is hereby approved.

7. If the Written Requisition is the Completion Requisition, the Project is complete and all Work has been performed in accordance with the all applicable governmental laws, rules and regulations and all applicable Construction Documents.

IN WITNESS WHEREOF, I have executed this Certificate and Approval of City Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

CITY ENGINEER  
CITY OF HILLIARD, OHIO,

By: \_\_\_\_\_

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

**EXHIBIT C**

**RETAINAGE REQUISITION**

Wells Fargo Bank, National Association  
9062 Old Annapolis Road  
Columbia, Maryland 21045  
Attention: CMES

Re: Certificate and Request for Disbursement of Funds from the Construction Account

You are hereby requested to disburse from the Construction Account, which was created by the Trust Agreement dated as of March 1, 2008 (the "Trust Agreement"), between the Hickory Chase Community Authority (the "Authority") and Wells Fargo Bank, National Association, as Trustee (the "Trustee"), the amount of \$\_\_\_\_\_, which is the Retainage, as more fully set forth on Schedule 1 attached hereto to be paid pursuant to this Retainage Requisition to the contractors identified thereon.

Capitalized terms used herein and not otherwise defined herein shall have the meanings given such terms in the Trust Agreement.

This Retainage Requisition consists of the additional following forms:

- (i) Certificate and Approval of the City Engineer in Connection with the Retainage Requisition;
- (ii) Amount and description of the Project Costs as provided in Schedule 1 hereto;
- (iii) Authority's Certificate, as part of Schedule 1 hereto;
- (v) Invoices and lien waivers to the extent required, attached as Schedule 2 hereto.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_.

HICKORY CHASE COMMUNITY AUTHORITY

By: \_\_\_\_\_  
Authorized Officer

By: \_\_\_\_\_  
Authorized Officer

**Schedule 1**

Retainage Requisition for the Hickory Chase Community Authority, Ohio

For the purpose of making the following payments for the Retainage and in respect of Work performed by the following Payee(s):

Payee : \_\_\_\_\_

\_\_\_\_\_

Address of Payee : \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

Amount of Payee Invoice : \$ \_\_\_\_\_

Purpose of Payment : \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Payment Requested by this Retainage Requisition \$ \_\_\_\_\_

APPROVED:	APPROVED:
Evans, Mechwart, Hambleton & Tilton	City Engineer, City of Hilliard, Ohio
as Design Professional	
By: _____	By: _____
Printed Name: _____	Printed Name: _____
Title: _____	

**Schedule 2**

**Invoices and Lien Waivers**

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**Certificate and Approval of City Engineer**  
**In Connection with the Retainage Requisition**

I, \_\_\_\_\_, hereby certify that I am the City Engineer for the City of Hilliard, Ohio (the "City") that I have all authority necessary to execute this certificate, as City Engineer, pursuant to the Intergovernmental Cooperation Agreement (the "Intergovernmental Cooperation Agreement"), dated as of March 1, 2008, among the Hickory Chase Community Authority (the "Authority"), the City, and Wells Fargo Bank, National Association, as Trustee (the "Trustee") and the Trust Agreement (the "Trust Agreement"), dated as of March 1, 2008, between the Authority the Trustee, and I hereby certify for and on behalf of the City Engineer:

Terms used herein and not otherwise defined herein shall have the meaning given such terms in the Master Definitions List attached to the Intergovernmental Cooperation Agreement and incorporated herein by this reference.

1. I have conducted a site visit on \_\_\_\_\_, 200\_ to ascertain the portion of the Work completed, including any Work required to be completed by warranty, on the Project identified in Retainage Requisition or to verify all Work has been completed for disbursement of the Retainage, and have reviewed the Retainage Requisition and such supporting materials as I have deemed appropriate to make the certifications herein set forth, is the basis as to the certifications set forth herein.

2. The portion of the Work with respect to the Project identified in the foregoing Retainage Requisition has been completed for disbursement of the Retainage has been completed or with respect to all previous Work completed.

3. All governmental approvals, permits and inspections required in connection with the construction of the Project which has been completed to the date of such Retainage Requisition have been received or approved, as applicable.

4. Such Work was completed in accordance with (i) the Construction Documents, (ii) the terms of the Intergovernmental Cooperation Agreement, Trust Agreement, and Developer's Agreement, and (iii) all applicable governmental permits.

5. The costs of the Project being requested for payment are the Project Costs of such Work specified in such Retainage Requisition and/or the Retainage.

6. Retainage Requisition is hereby approved.

IN WITNESS WHEREOF, I have executed this Certificate and Approval of City Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

CITY ENGINEER  
CITY OF HILLIARD, OHIO,

By: \_\_\_\_\_

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

28160176  
CHICAGO TITLE BOX - COM



200804290065259

Pgs: 42 \$348.00 T20080025226  
04/29/2008 12:26PM BKCHICAGO TIT  
Robert C. Ronigowski  
Franklin County Recorder

### SERVICE PAYMENT AGREEMENT

THIS SERVICE PAYMENT AGREEMENT (the "Agreement" or the "Service Payment Agreement") is made and entered into as of the 12 day of May, 2007, between the CITY OF HILLIARD, OHIO (the "City"), a municipal corporation, having an address for purposes hereof at 3800 Municipal Way, Hilliard, Ohio 43026, and COLUMBUS CAMPUS, LLC (the "Developer"), a Maryland limited liability company, having an address for purposes hereof at 701 Maiden Choice Lane, Baltimore, Maryland 21228.

### WITNESSETH:

WHEREAS, the Developer is exploring the development of an approximately 83-acre site (the "Development Site") located within the municipal corporate boundaries of the City as a continuing care retirement community (the "Development"); and

WHEREAS, upon completion the Development would significantly increase the assessed valuation of the Development Site; and

WHEREAS, an approximately 78.386-acre portion of the Development Site would be developed as an independent living facility as part of the Developer's continuum of care (the "TIF Site"), which TIF Site is identified and described in Exhibit A hereto incorporated by reference herein and is located within the municipal corporate boundaries of the City, and the territorial boundaries of the County of Franklin, Ohio (the "County") and the Hilliard City School District (the "School District"); and

WHEREAS, the Developer (collectively, with its successors and assigns, as owners of the parcels included in the TIF Site, the "Owners") has contracted to purchase a fee simple interest in the TIF Site identified in Exhibit A; and

WHEREAS, pursuant to Ohio Revised Code ("O.R.C.") Sections 5709.40, 5709.42 and 5709.43 (together with related provisions of the Ohio Revised Code, the "TIF Act"), and Ordinance No. 07-23 (Amended) passed by the Council of the City ("City Council") on March 26, 2007, a copy of which is attached as Exhibit B hereto and incorporated herein by reference (the "TIF Ordinance"), the City has, among other actions: (1) declared the improvements to the real property (the "Improvements") included in the TIF Site to be a public purpose and exempt from real property taxation for a period of up to thirty (30) years; (2) provided for service payments in lieu of taxes (the "Service Payments"), as an obligation running with the land for the Exemption Period, as defined herein, payable with respect to the real property comprising the TIF Site; (3) described and authorized certain Infrastructure Improvements (as identified in Exhibit B to the TIF Ordinance) to be paid from the Service Payments; and (4) determined to enter into this Service Payment Agreement with the Developer, to provide for the payment of the Service Payments by the Developer with respect to certain real property owned by the Developer, its successors and assigns, and to provide for the use of the Service Payments to pay costs of or relating to the Infrastructure Improvements, among other uses provided by Ohio law, for the Exemption Period, as defined herein; and

WHEREAS, pursuant to the TIF Act, the TIF Ordinance and this Service Payment Agreement, the Developer wishes to agree, for itself and for each of its successors and assigns as Owners of all or any portion of or interest in any of the real property comprising the TIF Site, effective at such time as the Developer becomes an Owner of the TIF Site, and to pay Service Payments in an amount equal to the amount of real property taxes that would have been paid with respect to the real property comprising the TIF Site had the TIF Exemption not been granted by the City under the TIF Act and the TIF Ordinance and applied for and allowed thereunder; and

EXHIBIT

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## SERVICE PAYMENT AGREEMENT

THIS SERVICE PAYMENT AGREEMENT (the "Agreement" or the "Service Payment Agreement") is made and entered into as of the 12 day of May 2007, between the CITY OF HILLIARD, OHIO (the "City"), a municipal corporation, having an address for purposes hereof at 3800 Municipal Way, Hilliard, Ohio 43026, and COLUMBUS CAMPUS, LLC (the "Developer"), a Maryland limited liability company, having an address for purposes hereof at 701 Maiden Choice Lane, Baltimore, Maryland 21228.

### WITNESSETH:

WHEREAS, the Developer is exploring the development of an approximately 83-acre site (the "Development Site") located within the municipal corporate boundaries of the City as a continuing care retirement community (the "Development"); and

WHEREAS, upon completion the Development would significantly increase the assessed valuation of the Development Site; and

WHEREAS, an approximately 78.386-acre portion of the Development Site would be developed as an independent living facility as part of the Developer's continuum of care (the "TIF Site"), which TIF Site is identified and described in Exhibit A hereto incorporated by reference herein and is located within the municipal corporate boundaries of the City, and the territorial boundaries of the County of Franklin, Ohio (the "County") and the Hilliard City School District (the "School District"); and

WHEREAS, the Developer (collectively, with its successors and assigns, as owners of the parcels included in the TIF Site, the "Owners") has contracted to purchase a fee simple interest in the TIF Site identified in Exhibit A; and

WHEREAS, pursuant to Ohio Revised Code ("O.R.C.") Sections 5709.40, 5709.42 and 5709.43 (together with related provisions of the Ohio Revised Code, the "TIF Act"), and Ordinance No. 07-23 (Amended) passed by the Council of the City ("City Council") on March 26, 2007, a copy of which is attached as Exhibit B hereto and incorporated herein by reference (the "TIF Ordinance"), the City has, among other actions: (1) declared the improvements to the real property (the "Improvements") included in the TIF Site to be a public purpose and exempt from real property taxation for a period of up to thirty (30) years; (2) provided for service payments in lieu of taxes (the "Service Payments"), as an obligation running with the land for the Exemption Period, as defined herein, payable with respect to the real property comprising the TIF Site; (3) described and authorized certain Infrastructure Improvements (as identified in Exhibit B to the TIF Ordinance) to be paid from the Service Payments; and (4) determined to enter into this Service Payment Agreement with the Developer, to provide for the payment of the Service Payments by the Developer with respect to certain real property owned by the Developer, its successors and assigns, and to provide for the use of the Service Payments to pay costs of or relating to the Infrastructure Improvements, among other uses provided by Ohio law, for the Exemption Period, as defined herein; and

WHEREAS, pursuant to the TIF Act, the TIF Ordinance and this Service Payment Agreement, the Developer wishes to agree, for itself and for each of its successors and assigns as Owners of all or any portion of or interest in any of the real property comprising the TIF Site, effective at such time as the Developer becomes an Owner of the TIF Site, and to pay Service Payments in an amount equal to the amount of real property taxes that would have been paid with respect to the real property comprising the TIF Site had the TIF Exemption not been granted by the City under the TIF Act and the TIF Ordinance and applied for and allowed thereunder; and

WHEREAS, the School District has approved the real property tax exemptions provided for in the TIF Ordinance and has waived notice requirements under the terms set forth in the Compensation Agreement between the City and the School District dated May 15, 2007 (the "School Compensation Agreement");

*June*

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the City and the Developer, covenant, agree, and bind themselves as follows:

**SECTION 1. TERMS.** For the purposes of this Agreement the following terms shall have the meaning set forth opposite each term:

**"Accounts"** means the School District Account, Special Account, and Excess Account.

**"Assigned Service Payments"** means the portion of the Service Payments credited to the Special Account of the TIF Fund from time to time pursuant to Section 5 hereof.

**"City"** means the City of Hilliard, Ohio

**"City Council"** means the Council of the City of Hilliard, Ohio.

**"County"** means the County of Franklin, Ohio.

**"Developer"** means Columbus Campus, LLC, its successors and assigns.

**"Development"** means a continuing care retirement community located on approximately 83 acres.

**"Excess Account"** means the Account in the TIF Fund into which Excess Service Payments are deposited pursuant to Section 5 hereof.

**"Excess Service Payments"** means amounts remaining in the TIF Fund and credited to the Excess Account following the required deposits to the School District Account and the Special Account pursuant to Section 5 hereof.

**"Exemption Period"** means the period commencing with the tax year (not earlier than the date that the Developer closes on the purchase of the TIF Site) in which the Improvement first appears on the tax list and duplicate of real and public utility property (the "Commencement Date") and ending on the earlier to occur of (a) the thirtieth (30th) anniversary of such Commencement Date, or (b) the date on which any obligations of the City, or any other government entity authorized under Ohio law issued to finance the cost of making the Infrastructure Improvements, are paid in full.

**"Improvement" and "Improvements"** means the increase in the assessed value of any real property comprising the TIF Site that would first appear on the tax list and duplicate of real and public utility property after the effective date set forth in the TIF Ordinance passed under the TIF Act were it not for the exemption granted by the TIF Ordinance, and, with respect to this Agreement, the improvements made by the Owners to the TIF Site.

**"Infrastructure Improvements"** means those Infrastructure Improvements identified in Exhibit B to the TIF Ordinance.

**"O.R.C."** means Ohio Revised Code.

**"Obligee"** means the City, the Treasurer of the County, any governmental issuer of bonds to finance the Public Improvements, and the holders of such bonds.

**"Owners"** means the owners from time to time, including the Developer, of the real property comprising the TIF Site.

**"Public Improvements"** means the specific Infrastructure Improvements identified in Exhibit C hereof.

**"School Compensation Agreement"** means the Compensation Agreement between the City and the School District, dated *June 15* 2007.

**"School Compensation Amount"** means the amount to be paid to the School District in accordance with the terms of the School Compensation Agreement from monies deposited into the School District Account of the TIF Fund pursuant to Section 5 hereof.

**"School District"** means the Hilliard City School District.

**"School District Account"** means the Account in the TIF Fund into which the School Compensation Amount shall be deposited and from which the School Compensation Amount is paid in accordance with the terms of the School Compensation Agreement.

**"Service Payment Agreement"** means this Agreement.

**"Service Payments"** means the payments to be made in lieu of taxes by the Owners of the real property comprising the TIF Site pursuant to the terms of this Agreement.

**"Service Payment Dates"** means the final date (after the effective date hereof) for payment of the first semiannual installment of real property taxes that would have been payable with respect to any of the Improvements but for the TIF Exemption, and shall thereafter be the semiannual dates for the payment of installments of real property taxes (or such other installments as may then be required or allowed with respect to real property taxes in the state of Ohio) on or before the final date for payment (without delinquency) of each installment of real property taxes in such year and each year thereafter.

**"Special Account"** means the Account in the TIF Fund into which Assigned Service Payments are deposited.

**"TIF Act"** means Sections 5709.40 through 5709.43 of the Ohio Revised Code, together with related provisions of the Ohio Revised Code.

**"TIF Exemption"** has the meaning given to that term in Section 1 of the TIF Ordinance.

**"TIF Fund"** means the City's Municipal Public Improvement Tax Increment Equivalent Fund.

**"TIF Ordinance"** means Ordinance No. 07-23 (Amended), passed by the City Council on March 26, 2007, as the same may be amended from time to time.

"TIF Site" means the approximately 78.386-acre site upon which the independent living facilities and associated common community facilities will be constructed, and described in Exhibit A.

**SECTION 2. DEVELOPMENT.** In the event (a) that this Agreement becomes effective in the manner provided in Section 12 hereof and (b) Britton Parkway is constructed such that the Developer has received its first occupancy permit as required under the Ansmil PUD Development Text dated March 28, 2007, approved by the Hilliard City Council (a copy of which is in the office of the Clerk of Council), the Developer guarantees that, upon full build-out of the TIF Site and appraisal by the County Auditor (but in no event later than construction year 2017), the true value (presently identified as "Market Total Value" on the records of the County Auditor) of the TIF Site (as determined by the County Auditor and referred to herein as the "True Value") shall be sustained annually during the term of this Agreement in an amount not less than One Hundred Forty Million Dollars (\$140,000,000) (the "Minimum Value").

**SECTION 3. PUBLIC IMPROVEMENTS.** The parties intend that the Developer shall endeavor to cause the creation of a new community authority (the "Authority") and district in accordance with O.R.C. Chapter 349 with respect to the TIF Site, and subject to compliance with the terms and conditions of this Agreement by the Developer, the City hereby consents to the creation of the Authority. The Authority shall undertake the construction and financing of the costs of the Public Improvements in accordance with all applicable laws. The City agrees to enter into such agreements as shall be necessary to provide for the transfer of the Assigned Service Payments and Impact Fees (as defined in Section 6 below) to the Authority or to the trustee for bonds or other obligations issued by the Authority to finance the Public Improvements as provided herein; provided however, that nothing contained in this Agreement shall require the City to undertake the construction of the Public Improvements, issue its bonds to finance the Public Improvements, pledge any of the revenues of the City (other than the Assigned Service Payments, Impact Fees, or relevant portion of the TIF Fund) for the payment of costs of the Public Improvements or the debt service charges on the bonds (other than as specifically provided in this Agreement), and none of the obligations of the City under this Agreement shall constitute a general obligation, debt or bonded indebtedness of the City. The parties acknowledge that: (1) time is of the essence with respect to the completion of the Public Improvements, and (2) the Authority shall be responsible for the construction and financing of the Public Improvements (and the Authority shall cause contractors with respect to the Public Improvements to further indemnify and hold harmless the City and its agents, employees and public officials from and against any and all suits, claims, damages, losses, and expenses (including reasonable attorney fees) arising or allegedly arising out of, or resulting from the construction of the Public Improvements), and (3) the City shall not be responsible for the construction and financing of the Public Improvements but agrees to use its best efforts to enter into the agreements with the Authority described in this Section within a time period sufficient to result in the financing and construction of the Public Improvements for completion and operation by August 31, 2008; provided, however, that the City shall have no liability for failure to meet this deadline.

It is a requirement of the zoning approval for the Ansmil PUD (of which the TIF Site and the Public Improvements are a part) that any land needed for the Public Improvements shall be dedicated to the City by the developer(s) of the Ansmil PUD. However, in the event that land shall be needed for the portion of the Public Improvements consisting of the Leap Road Improvements and the intersection at Davidson Road and Britton Parkway, to the extent such land is not under the control of the developer(s) of the Ansmil PUD, and, if the Authority is unable to acquire the property rights sufficient for those portions of the Public Improvements to be made, then the City may agree to negotiate with the property owners under its municipal authority upon approval by the Hilliard City Council. Any costs associated therewith (including reasonable attorneys' fees) shall be repaid by the Authority to the City from the proceeds of the debt financing.

**SECTION 4. TAX EXEMPTION; OBLIGATION TO MAKE SERVICE PAYMENTS.** Pursuant to the TIF Act and the TIF Ordinance, the City has declared that 100% of the Improvements to the TIF Site are a public purpose entitled to exemption from real property taxation for the Exemption Period. During the term of this Service Payment Agreement, the Service Payments to be made by the Owners will equal the real property taxes that would have been payable with respect to 100% of the Improvements to the TIF Site had such exemption not been granted, which Service Payments will vary from time to time, including as the assessed value of the real property comprising the TIF Site (and of the Improvements) and the applicable tax rates vary. Each of the Owners shall pay the Service Payments, when due, on each applicable Service Payment Date until termination or expiration of this Service Payment Agreement.

In the event that any Service Payment or any installment thereof, is not paid when due by any Owner on any Service Payment Date, to the extent that the County does not impose a late fee or delinquency charge, the City may impose and collect a late payment charge, payable to the City, in the amount of the charges for late payment of real property taxes, including penalty and interest, which would have been paid pursuant to O.R.C. Section 323.121 on the delinquent amount.

Except with respect to the Minimum Value guarantee described in Section 2 hereof, no Owner shall, under any circumstances, be required to pay both real property taxes with respect to an Improvement and Service Payments for any tax year with respect to that Improvement, whether pursuant to O.R.C. Section 4709.42, the TIF Ordinance, this Agreement or any other applicable law.

**SECTION 5. DEPOSITS OF SERVICE PAYMENTS.** Upon receipt by the City from the County, the Service Payments shall be deposited into the TIF Fund and credited to the following Accounts in the priority set forth below:

**FIRST:** The portion of the Service Payment, representing the School Compensation Amount, as calculated in accordance with the terms of the School Compensation Agreement, shall be credited to the School District Account; and

**SECOND:** A portion of the Service Payment representing that amount required to pay the principal, interest, and related costs, fees and expenses of the bonds or other obligations issued to finance the Public Improvements, including the funding of any reserves for such bonds, due in that year, shall be credited to the Special Account; and

**THIRD:** That portion of the Service Payment remaining after the deposits required in FIRST and SECOND above shall constitute Excess Service Payments and be credited to the Excess Account.

Amounts credited to the Special Account shall constitute Assigned Service Payments that may be assigned to the trustee for any obligations issued to finance Public Improvements.

Excess Service Payments shall be used first to be deposited to the Special Account to pay debt service or other charges on the bonds issued to finance the Public Improvements to the extent required and, after December 15 of each year, any unused Excess Service Payments may then be used by the City for such purposes authorized by the TIF Act and the TIF Ordinance.

Any supplemental payments required to be made pursuant to the Minimum Value guarantee portions of this Agreement shall be credited to the Accounts in the same relative proportion as the Service Payments are required to be deposited under this Section 5.

**SECTION 6. APPLICATION OF IMPACT FEES.** In accordance with Chapter 1187 of the City Code, the Developer is required to pay development impact fees in the amount of \$1,500 per independent living unit developed on the TIF Site (the "Impact Fees"). The City agrees, for the first ten years that this

Agreement is in effect, to deposit the Impact Fees received with respect to the TIF Site into the Special Account or such other fund provided in the trust agreement or indenture executed in connection with the issuance of the bonds (or other obligations) issued by the Authority to finance the Public Improvements and that such amounts will be available during such ten-year period to pay the debt service charges on (including the funding of reserves for) such bonds (or other obligations). At the end of such ten-year period, any Impact Fees that have not been used to pay debt service charges on (including the funding of reserves for) the bonds (or other obligations) issued to finance the Public Improvements shall be released from the lien of the trust agreement or indenture and shall be transferred to the City and used for any lawful purpose. Notwithstanding anything herein to the contrary, if in any year the amount of Service Payments on deposit in the Special Account is at least one and one-half times the average annual debt service charges on the bonds (or other obligations) issued to finance the Public Improvements, then the City shall not be required to deposit Impact Fees into the Special Account for that year.

#### SECTION 7. ADDITIONAL OBLIGATIONS.

A. Should any Owner default hereunder, such Owner shall pay in addition to the Service Payments such amount as is required to reimburse the City and any other Obligee for any and all reasonably and actually incurred costs, expenses and amounts (including reasonable attorneys' fees) incurred by the City and any other such Obligee to enforce the provisions of this Service Payment Agreement.

B. Promptly upon the effective date of this Service Payment Agreement, the Developer shall, at its sole cost and expense, cause this Service Payment Agreement to be recorded in the Franklin County, Ohio real property records, it being understood and agreed that the lien of this Service Payment Agreement shall, in accordance with O.R.C. Sections 323.11 and 5709.91, be prior to any mortgage, assignment, lease or other conveyance of any part of or interest in the TIF Site, and prior to any security instrument encumbering all or any part of or interest in the Improvements; provided, however, that nothing contained in this Agreement shall be construed to permit acceleration of the Service Payments beyond the current year that such Service Payments are due. During the term of this Service Payment Agreement, the Owners shall each cause all instruments of conveyance of any interest in all or any portion of the TIF Site, and of any improvements thereto, to subsequent mortgagees, lessees, successors, assigns or transferees, to be made expressly subordinate and subject to this Service Payment Agreement.

C. The obligation to perform and observe the agreements on the Owners' parts contained herein shall be binding and enforceable against each and every Owner by the County Treasurer, to the extent applicable, and shall also, to the extent permitted by law, be enforceable by the City, the School District to the extent provided in this Agreement, and by each of the other Obligees, as intended third-party beneficiaries of this Service Payment Agreement, including the holders from time to time of any of the bonds issued to finance the Public Improvements and any trustee with respect to such bonds, but subject to the provisions of Sections 8, 12 and 15 hereof.

#### SECTION 8. BINDING NATURE OF OBLIGATIONS; SECURITY FOR PAYMENT.

Anything herein to the contrary notwithstanding, upon the effective date of this Agreement, the Owners' obligation hereunder to pay Service Payments and to perform and observe any other agreements on their part contained herein (but expressly subject to Section 2 hereof), shall be absolute and unconditional and shall be covenants running with the land and shall be binding and enforceable by the City, the School District to the extent provided in this Agreement, the holders from time to time of any bonds issued to finance the Public Improvements, and the trustee for such bonds, against the Owners, as applicable, but only to the extent of the respective Owners' obligations and only with respect to its or their interest in the

TIF Site and the Improvements, or any part thereof or any interest therein. Each Owner's obligation to pay the Service Payments and any payments under the Minimum Value guarantee shall be secured by a lien on its interest in the TIF Site and the Improvements, as provided by law and described in Section 15.

Subject to the provisions of Section 2 hereof, the obligations of the Owners will not be terminated for any cause including, without limiting the generality of the foregoing, but by way of example, delay in completion of or failure to complete the Improvements or any other improvements included in the Development, the Infrastructure Improvements or any other obligation of the City or the Developer hereunder; any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Development or the Infrastructure Improvements; commercial frustration of purpose; any change in the constitution, tax or other laws or judicial decisions or administrative rulings of or administrative actions by or under authority of the United States of America or of the State or any political subdivision thereof. Except as may be expressly provided herein, nothing contained in this Service Payment Agreement shall be construed to release any Owner from the performance of any of the agreements or obligations on its part contained in this Service Payment Agreement.

**SECTION 9. PAYMENT OF TAXES; CONTESTS.** Each Owner shall pay, cause, or require to be paid, as the same become due, all taxes, assessments, whether general or special, and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the TIF Site (except as otherwise provided herein) or any personal property or fixtures installed or brought therein or thereon (including, without limiting the generality of the foregoing, and by way of example, any taxes levied against an Owner with respect to the receipts, income or profits from leasing or subleasing space within the Improvements, which, if not paid, may become or be made a lien on all or any portion of the TIF Site) and all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the TIF Site. Notwithstanding the foregoing, nothing herein is intended to prevent any Owner (or a successor, assign or transferee), at its expense and in good faith from contesting the amount or validity of any taxes, assessments or other charges (including but not limited to seeking a reduction in the valuation of the TIF Site), and the only recourse of the City to enforce the payment of those items will be to the TIF Site, and the interest or interests of the respective Owner therein; provided, however, that in the event that any such contest or a tax exemption for all or a portion of the Improvements results in a reduction in the True Value of the TIF Site to an amount less than \$140,000,000, then, in addition to paying the Service Payment to the Franklin County Treasurer, the Owner shall make a supplemental payment to the City in an amount equal to the real property taxes that would have been assessed on the difference between the True Value of the TIF Site and \$140,000,000 of True Value, but only if the Public Improvements are constructed as provided herein. Nothing in this Service Payment Agreement shall require an Owner or any other person to pay or reimburse for payment of any Federal, State or local tax of any kind or character (whether based on gross or net income, gross receipts or otherwise) which is imposed or levied on the City, or any other entity, on funds held by the trustee for bonds issued to finance the Public Improvements or by a depository of the City, or on the holders of such bonds or any other Obligations.

**SECTION 10. NOTICES.** All notices, designations, certificates, requests or other communications under this Service Payment Agreement shall be sufficiently given and shall be deemed given on receipt when personally delivered, or 48 hours after being mailed by registered or certified mail, postage prepaid: if to the City at 3800 Municipal Way, Hilliard, Ohio 43026, Attention: Mayor, with copies to the Finance Director and the Director of Law at the same address; and, if to the Developer, at its registered address for tax bills. The City and the Developer may, by notice given under this Service Payment Agreement, designate any further or different addresses to which subsequent notices, designations, certificates, requests or other communications shall be sent, and shall provide copies of all such communications to any of the others to all of the others.

**SECTION 11. EXEMPTION APPLICATIONS.** Promptly upon the effective date of this Service Payment Agreement, the Developer shall consent in writing on the required DTE 24P form (or any other applicable or required forms) to the City's application for exemption from real property taxation with respect to the TIF Site pursuant to O.R.C. Section 5709.911(B)(1). The City and the Developer shall cooperate with each other, and execute such further documents and provide such further information as are reasonably required in connection with the filing and processing of such applications. The parties hereto intend that such exemption from real property taxation will apply initially to the 2008 tax year and shall use due diligence and commercially reasonable efforts to that end. The Developer shall continuously use due diligence and employ commercially reasonable efforts to keep such exemptions in force, not permitting the same to lapse or be suspended or revoked for any reason within the Developer's control.

**SECTION 12. EFFECTIVE DATE; DURATION OF AGREEMENT.** This Service Payment Agreement shall become effective on the date that the Developer (a) has acquired fee simple title to the TIF Site and (b) has delivered written notice to the City that the Developer intends to proceed with the Development. If the conditions set forth in (a) and (b) above are not satisfied by January 31, 2008, then this Agreement shall be null and void. Unless sooner terminated, this Agreement shall expire at the end of the Exemption Period; provided, however, that the covenant of the Developer that the True Value of the TIF Site shall be at least equal to the Minimum Value (subject to the conditions set forth in Section 2 and Section 9 hereof) shall survive the termination or expiration of this Agreement and remain in effect for 30 years from the effective date of this Agreement. For any year that this Agreement remains in effect, if the Exemption Period has expired and, because the TIF Site is not assessed and taxed for real property tax purposes at a True Value of at least \$140,000,000 (other than as a result in a change in State law), the Owner of the TIF Site is not making real property tax payments based on a True Value of at least \$140,000,000, then the Owner of the TIF Site shall make payments in lieu of taxes to the City in an amount equal to the real property taxes that would be payable on \$140,000,000 True Value less the amount of real property taxes actually paid on the TIF Site. Such amounts shall be paid directly to the City at the same time that real property taxes are due and payable. Upon expiration or termination of this Agreement, the City will cause this Service Payment Agreement to be cancelled of record.

**SECTION 13. APPLICATION OF SERVICE PAYMENTS.** The Service Payments shall be made by or on behalf of the Owners to the Franklin County Treasurer (or to or on behalf of the City if so authorized by the Franklin County Treasurer) on or before the applicable Service Payment Dates. Upon receipt of the Service Payments from the Franklin County Treasurer, the City shall deposit the Service Payments in the TIF Fund; provided that all such amounts received by the City shall be allocated to and deposited in the Accounts as provided herein. Each Service Payment received by the City shall be used as set forth in Section 5 hereof.

**SECTION 14. DEFAULTS AND REMEDIES.** The following shall be events of default under this Service Payment Agreement:

- (a) the failure of the Developer to pay no later than the fifth calendar day following its due date any Service Payment, or any installment thereof, due by the Developer as an Owner, including any applicable late payment charges;
- (b) the failure of the Developer to perform or observe any other covenant made by it in or pursuant to this Service Payment Agreement, which failure shall continue for more than thirty (30) days following written notice thereof by the City.

Upon the occurrence and continuation of any event of default, in addition to other rights of enforcement granted hereunder, the City shall be entitled to exercise any and all remedies available to it



hereunder, including the remedies described in Section 15, or under applicable law. Waiver by the City of any event of default shall not be deemed to extend to any subsequent or other event of default under this Service Payment Agreement.

**SECTION 15. ENFORCEMENT; FORECLOSURE OF LIEN.** The provisions of this Service Payment Agreement may be enforced to the fullest extent permitted by law, by the City and the Treasurer of the County of Franklin (Ohio) and, with respect to the obligations of the Developer and the other Owners, to the fullest extent permitted by law, by the School District to the extent provided in this Agreement, and to the extent applicable, any of the Obligees. It is the intention and agreement of the Developer, as an Owner, that this Service Payment Agreement and the covenants herein made shall be specifically enforceable by the City, by the School District to the extent provided in this Agreement, and by each of the Obligees against the Owners, by mandatory injunction or any other remedy at law or in equity, subject to Sections 8 and 12 hereof. It is the further intention and agreement of the Developer, as an Owner, that this Service Payment Agreement shall constitute and be deemed to be a lien encumbering and running with the real property comprising the TIF Site to secure the obligations of the Owners to make Service Payments and any payments under the Minimum Value guarantee (and, if applicable, pay interest and penalties), intended to have the same lien rights as real estate taxes and the same priority in accordance with O.R.C. §§323.11 and 5709.91. In furtherance of the foregoing, it is the intention of the Developer, as an Owner, that the City or the Obligees may, upon the occurrence of an event of default set forth in Section 14 hereof, and without limiting any other right or remedy otherwise available to the City, the School District or any such Obligee, take all such steps as may be legally available to it to foreclose upon such lien pursuant to the procedures and requirements of Ohio law relating to either mortgage liens or delinquent real estate taxes; provided that nothing contained in this Agreement shall be deemed to authorize any acceleration of Service Payments due in future years. The provisions of this Section shall encumber and run with the real property comprising the TIF Site.

Notwithstanding anything in this Agreement to the contrary, the School District's rights as third party beneficiary hereunder shall be effective only during the term of the Exemption Period.

**SECTION 16. COUNTERPARTS; CAPTIONS.** This Service Payment Agreement may be executed in counterpart, and in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same Agreement. Captions have been provided herein for convenience only and shall not affect the construction or interpretation of this Service Payment Agreement.

**SECTION 17. GOVERNING LAW AND CHOICE OF FORUM.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Developer, its employees, contractors, subcontractors and agents arising out of or relating to this Agreement or its breach will be decided in a state court of competent jurisdiction within the State of Ohio.

**SECTION 18. ENTIRE AGREEMENT.** This document (with its exhibits) contains the entire agreement between the parties and supersedes any prior discussions, representations, warranties, or agreements between them respecting the subject matter. No changes or amendments shall be made or be binding unless made in writing and signed by each of the parties.

**SECTION 19. NO CITY EXPENDITURES.** Nothing contained in this Agreement shall be construed to require the City to expend funds in connection with the performance of this Agreement in the 2007 fiscal year.

**SECTION 20. ADDITIONAL DOCUMENTS; AMENDMENT.** The parties hereto agree for themselves and their respective successors, assigns and transferees, to execute any further agreements,

documents or instruments as may be reasonably necessary to fully effectuate the purpose and intent of this Service Payment Agreement in compliance with all laws and ordinances controlling this Service Payment Agreement. Any amendment to this Service Payment Agreement must be in writing and signed by or on behalf of all parties or their respective permitted successors, assigns, and transferees.

**SECTION 21. INDEMNIFICATION.** In addition to the obligations of the Owner as set forth in Section 7 hereof, the Developer shall indemnify, defend and hold harmless the City and its agents, employees and public officials from and against any and all suits, claims, damages, losses and expenses (including reasonable attorney fees) arising or allegedly arising out of, or resulting from the construction of the Improvements.

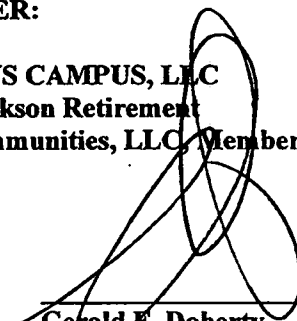
The parties have caused this Service Payment Agreement to be executed by their duly authorized officers, effective as of the date first written above.

**DEVELOPER:**

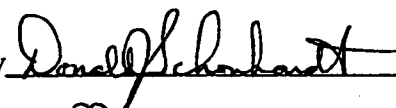
**COLUMBUS CAMPUS, LLC**

By: Erickson Retirement  
Communities, LLC Member

By:

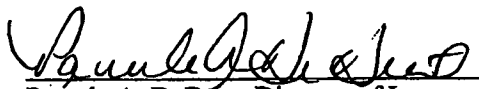
  
Gerald F. Doherty  
Executive Vice President,  
General Counsel and  
Secretary

**THE CITY OF HILLIARD, OHIO**

By:   
Its Mayor

Print Name Donald S. Schonhardt

Approved as to form:

  
Pamela A. DeDent, Director of Law  
City of Hilliard

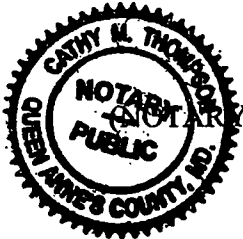
This Instrument Prepared By: Price D. Finley, Esq., Bricker & Eckler LLP,  
100 South Third Street, Columbus, Ohio 43215

STATE OF MARYLAND

COUNTY OF BALTIMORE

On this the 23<sup>rd</sup> day of May, 2007, before me, Cathy M. Thompson, the undersigned officer, personally appeared Gerald F. Doherty, who acknowledged himself to be the Executive Vice President, General Counsel and Secretary of Erickson Retirement Communities, LLC, a Maryland limited liability company, as sole Member of Columbus Campus, LLC, a Maryland limited liability company, and that he, as such Executive Vice President, General Counsel and Secretary being authorized to do so, executed the foregoing Service Payment Agreement for the purposes therein contained, by signing the name of the company by himself as such officer.

Witness my hand and seal.



(NOTARY SEAL)

*Cathy M. Thompson*  
\_\_\_\_\_  
Notary Public, State of Maryland

My Commission Expires:

CATHY M. THOMPSON  
Notary Public  
Queen Anne's County, Maryland  
My Commission Expires December 1, 2007

STATE OF OHIO  
COUNTY OF FRANKLIN

The foregoing Service Payment Agreement was signed before me on May 24, 2007 by Donald J. Schonhardt, as Mayor of the City of Hilliard, an Ohio municipal corporation, who acknowledged the signing thereof to be his voluntary act and deed, on behalf of the municipal corporation.

  
Notary Public



PAMELA A DeDENT  
Attorney At Law  
Notary Public, State of Ohio  
My commission has no expiration date  
Sec. 147.03 R.C.

**EXHIBIT A**

**DESCRIPTION OF TIF SITE**

The TIF Site includes the real property described below:

SITUATE IN THE STATE OF OHIO, COUNTY OF FRANKLIN, CITY OF HILLIARD, LYING IN VIRGINIA MILITARY SURVEY NOS. 3000 AND 4854, BEING PART OF THE 40.924 AND ALL OF THE 0.742 ACRE TRACTS CONVEYED TO COLUMBUS CAMPUS LLC BY DEED OF RECORD IN INSTRUMENT NUMBER 200801170008512, AND PART OF THE 45.957 ACRE TRACT CONVEYED TO COLUMBUS CAMPUS LLC BY DEED OF RECORD IN INSTRUMENT NUMBER 200801170008509, (ALL REFERENCES REFER TO THE RECORDS OF THE RECORDER'S OFFICE, FRANKLIN COUNTY, OHIO) BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING, FOR REFERENCE, AT FRANKLIN COUNTY GEODETIC SURVEY MONUMENT NUMBER 0005 RESET FOUND AT THE CENTERLINE INTERSECTION OF DAVIDSON ROAD (VARIABLE WIDTH) AND LEAP ROAD (VARIABLE WIDTH);

THENCE SOUTH 23° 37' 07" EAST, A DISTANCE OF 1243.56 FEET, WITH THE CENTERLINE OF SAID LEAP ROAD, TO A POINT;

THENCE NORTH 66° 22' 53" EAST, A DISTANCE OF 50.00 FEET, ACROSS THE RIGHT-OF-WAY OF SAID LEAP ROAD AND ENTERING SAID 45.957 ACRE TRACT, TO AN IRON PIN SET, THE TRUE POINT OF BEGINNING;

THENCE ACROSS SAID 45.957 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 68° 44' 53" EAST, A DISTANCE OF 556.74 FEET, TO AN IRON PIN SET AT A POINT OF CURVATURE;

WITH SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 09° 08' 20", A RADIUS OF 1099.00 FEET, AN ARC LENGTH OF 175.29 FEET, AND A CHORD WHICH BEARS NORTH 60° 37' 51" EAST, A CHORD DISTANCE OF 175.11 FEET, TO AN IRON PIN SET;

NORTH 23° 37' 07" WEST, A DISTANCE OF 384.33 FEET, TO AN IRON PIN SET IN THE LINE COMMON TO SAID 45.957 ACRE TRACT AND THE REMAINDER OF THE ORIGINAL TRACT THREE CONVEYED TO WOLPERT ENTERPRISES, LIMITED BY DEED OF RECORD IN INSTRUMENT NUMBER 200204080088414;

THENCE NORTH 84° 08' 15" EAST, A DISTANCE OF 1139.80 FEET, WITH THE NORTHERLY LINE OF SAID 45.957 AND 0.742 ACRE TRACTS AND WITH THE SOUTHERLY LINES OF THE REMAINDER OF SAID TRACT THREE, THE SOUTHERLY LINE OF THE REMAINDER OF THE ORIGINAL TRACT TWO CONVEYED TO

WOLPERT ENTERPRISES, LIMITED BY DEED OF RECORD IN INSTRUMENT NUMBER 200204080088414 AND A SOUTHERLY LINE OF THE REMAINDER OF THE ORIGINAL TRACT 1 CONVEYED TO ANSMIL LIMITED PARTNERSHIP BY DEED OF RECORD IN OFFICIAL RECORD 32225 G17, TO AN IRON PIN SET;

THENCE SOUTH 05° 55' 17" EAST, A DISTANCE OF 353.64 FEET, WITH THE LINE COMMON TO SAID 0.742 ACRE TRACT AND THE REMAINDER OF SAID ORIGINAL TRACT 1, TO AN IRON PIN SET AT A POINT OF CURVATURE;

THENCE WITH SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 17° 44' 53", A RADIUS OF 1332.49 FEET, AN ARC LENGTH OF 412.75 FEET, AND A CHORD WHICH BEARS SOUTH 14° 47' 43" EAST, A CHORD DISTANCE OF 411.10 FEET, WITH AN EASTERLY LINE OF SAID 0.742 AND 45.957 ACRE TRACTS AND A WESTERLY LINE OF THE REMAINDERS OF SAID ORIGINAL TRACT 1 AND ORIGINAL TRACT TWO, TO AN IRON PIN SET AT A POINT OF TANGENCY;

THENCE SOUTH 23° 40' 10" EAST, A DISTANCE OF 353.83 FEET, WITH AN EASTERLY LINE OF SAID 45.957 AND 40.924 ACRE TRACTS, AND WITH A WESTERLY LINE OF THE REMAINDERS OF SAID ORIGINAL TRACT TWO AND ORIGINAL PARCEL TWO, TRACT TWO CONVEYED TO ANSMIL LIMITED PARTNERSHIP BY DEED OF RECORD IN OFFICIAL RECORDS 32225 G17 AND 32225 105, TO AN IRON PIN SET;

THENCE CONTINUING WITH THE LINE COMMON TO SAID 40.924 ACRE TRACT, THE REMAINDER OF SAID ORIGINAL PARCEL TWO, TRACT TWO AND THE REMAINDER OF THE ORIGINAL PARCEL TWO, TRACT THREE CONVEYED TO ANSMIL LIMITED PARTNERSHIP BY DEED OF RECORD IN OFFICIAL RECORDS 32225 G17 AND 32225 105, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 01° 52' 05" EAST, A DISTANCE OF 53.85 FEET, TO AN IRON PIN SET;

SOUTH 23° 40' 10" EAST, A DISTANCE OF 105.00 FEET, TO AN IRON PIN SET;

SOUTH 45° 28' 15" EAST, A DISTANCE OF 53.85 FEET, TO AN IRON PIN SET;

SOUTH 23° 40' 10" EAST, A DISTANCE OF 514.24 FEET, TO AN IRON PIN SET AT A POINT OF CURVATURE;

WITH SAID CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 08° 02' 24", A RADIUS OF 1390.00 FEET, AN ARC LENGTH OF 195.05 FEET, AND A CHORD WHICH BEARS SOUTH 19° 38' 58" EAST, A CHORD DISTANCE OF 194.89 FEET, TO AN IRON PIN SET;

SOUTH 74° 22' 14" WEST, A DISTANCE OF 20.00 FEET, TO AN IRON PIN SET;

WITH A CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 01° 02' 00", A RADIUS OF 1370.00 FEET, AN ARC LENGTH OF 24.71 FEET, AND A CHORD WHICH

BEARS SOUTH 15° 06' 46" EAST, A CHORD DISTANCE OF 24.71 FEET, TO AN IRON PIN SET;

SOUTH 76° 07' 35" WEST, A DISTANCE OF 82.51 FEET, TO AN IRON PIN SET;

SOUTH 70° 47' 24" WEST, A DISTANCE OF 286.15 FEET, TO AN IRON PIN SET;

SOUTH 68° 02' 13" WEST, A DISTANCE OF 159.38 FEET, TO AN IRON PIN SET;

SOUTH 82° 20' 53" WEST, A DISTANCE OF 300.01 FEET, TO AN IRON PIN SET;

SOUTH 76° 34' 35" WEST, A DISTANCE OF 307.14 FEET, TO AN IRON PIN SET;

SOUTH 82° 47' 36" WEST, A DISTANCE OF 138.56 FEET, TO AN IRON PIN SET;

NORTH 79° 56' 50" WEST, A DISTANCE OF 85.56 FEET, TO AN IRON PIN SET;

NORTH 71° 18' 50" WEST, A DISTANCE OF 150.01 FEET, TO AN IRON PIN SET;

NORTH 65° 38' 53" WEST, A DISTANCE OF 208.41 FEET, TO AN IRON PIN SET;

NORTH 57° 48' 25" WEST, A DISTANCE OF 129.32 FEET, TO AN IRON PIN SET;

NORTH 59° 01' 48" WEST, A DISTANCE OF 170.38 FEET, TO AN IRON PIN SET;

NORTH 67° 18' 16" WEST, A DISTANCE OF 57.59 FEET, TO AN IRON PIN SET;

NORTH 80° 44' 53" WEST, A DISTANCE OF 8.85 FEET, TO AN IRON PIN SET;

THENCE ACROSS SAID 40.924 AND 45.957 ACRE TRACTS, THE FOLLOWING COURSES AND DISTANCES:

NORTH 02° 32' 02" EAST, A DISTANCE OF 270.04 FEET, TO AN IRON PIN SET AT A POINT OF CURVATURE;

WITH SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 26° 09' 10", A RADIUS OF 600.00 FEET, AN ARC LENGTH OF 273.87 FEET, AND A CHORD WHICH BEARS NORTH 10° 32' 33" WEST, A CHORD DISTANCE OF 271.50 FEET, TO AN IRON PIN SET;

NORTH 23° 37' 07" WEST, A DISTANCE OF 682.05 FEET, TO THE TRUE POINT OF BEGINNING, CONTAINING 77.019 ACRES, MORE OR LESS.

**ORDINANCE**  
*of the*  
**CITY of HILLIARD, OHIO**

EXHIBIT "B"

Ordinance No.: 07-23(Amended)  
Page 1 of 8 pages  
Passed: 03/26/2007  
Effective: 04/26/2007

**DECLARING IMPROVEMENTS TO CERTAIN REAL PROPERTY TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESCRIBING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS TO BE MADE THAT WILL DIRECTLY BENEFIT THE REAL PROPERTY; REQUIRING THE OWNER THEREOF TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES; AUTHORIZING THE EXECUTION OF A SERVICE PAYMENT AGREEMENT WITH THE PROPERTY OWNER; AUTHORIZING THE EXECUTION OF A COMPENSATION AGREEMENT WITH THE HILLIARD CITY SCHOOL DISTRICT; AND ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SUCH SERVICE PAYMENTS (Columbus Campus LLC).**

**WHEREAS**, the development of commercial properties in the City of Hilliard (the "City") will benefit the City and its residents by creating economic opportunities, enlarging the property tax base, enhancing income tax revenues, and stimulating collateral development in the City; and

**WHEREAS**, by providing Public Infrastructure Improvements (as that term is defined in Section 5709.40(A)(7) of the Ohio Revised Code), including road construction and related improvements, the City may facilitate the development of commercial properties; and

**WHEREAS**, Ohio Revised Code Sections 5709.40, 5709.42, and 5709.43 provide for the use of municipal tax increment financing to finance the construction of Public Infrastructure Improvements which will benefit new commercial development in the City; and

**WHEREAS**, an entity known as Columbus Campus, LLC (the "Developer"), a foreign limited liability company incorporated in the State of Maryland, is exploring the development of an approximately 83 acre site (the "Development Site"), located in the City, as a continuing care retirement community (the "Development Project"); and

**WHEREAS**, Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 provide that this Council may declare improvements to real property located in the City to be a public purpose, thereby exempting those improvements from real property taxation for a period of time, specify public infrastructure improvements to be made to benefit those parcels, provide for the making of service payments in lieu of taxes by the owner or owners thereof, provide for compensation to the Hilliard City School District, and establish a municipal public improvement tax increment equivalent fund into which such service payments shall be deposited; and



**WHEREAS**, the City desires to implement Tax Increment Financing ("TIF") with respect to approximately 78.386 acres of the Development Site ("Columbus Campus TIF Site") (as depicted and described in Exhibit A, attached hereto and incorporated herein), pursuant to which the City grants an exemption from real property taxation for the improvements to the Columbus Campus TIF Site; and

**WHEREAS**, the City has determined that it is necessary and appropriate and in the best interests of the City to require the Developer and future owners of real property in the Columbus Campus TIF Site (collectively, the "Property Owner") to make service payments in lieu of taxes with respect to the Improvements (as defined herein) pursuant to Section 5709.42 of the Ohio Revised Code, and to enter into a Service Payment Agreement with the Developer to secure the provision of service payments to the City; and

**WHEREAS**, the City expects to cause to be made the public infrastructure improvements described on Exhibit B hereto ("Infrastructure Improvements"), that once made will directly benefit the Columbus Campus TIF Site; and

**WHEREAS**, this Council determines that the City shall enter into a compensation agreement with the Hilliard City School District to provide the district with a portion of the service payments received by the City to compensate the district for a portion of the real property taxes exempted hereunder; and

**WHEREAS**, this Council finds and determines that notice of this proposed Ordinance has been delivered to all affected school districts in accordance with Sections 5709.40 and 5709.83 of the Ohio Revised Code and hereby ratifies the giving of that notice.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Hilliard, Ohio that:

**SECTION 1. Authorization of Tax Exemption.** Pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.40(B), this Council hereby finds and determines that 100% of the increase in assessed value of the real property comprising the Columbus Campus TIF Site (the "Exempted Property") subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "Improvement", as defined in Ohio Revised Code Section 5709.40(A)(4)), is hereby declared to be a public purpose, and shall be exempt from taxation ("TIF Exemption") for a period commencing with the first tax year that begins after the effective date of this Ordinance and in which an Improvement to the real property comprising the Columbus Campus TIF Site first appears on the tax list and duplicate of real and public utility property and ending on the earlier of (a) thirty (30) years after such exemption commenced or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of Sections 5709.40 and 5709.42 of the Ohio Revised Code (the "Exemption Period"). This Council further finds and determines that, as permitted by Ohio Revised Code Section 5709.40(B), the Improvement of the Columbus Campus TIF Site is to be used for commercial purposes. The TIF Exemption and the requirement to make Service Payments (as defined herein) shall become effective on the date that the Developer closes on the purchase of the Columbus Campus TIF Site.

**SECTION 2. Payment of Service Payments and Property Tax Rollback Payments.** As provided in Ohio Revised Code Section 5709.42, but only after the TIF Exemption is effective, the Property Owners of the real property comprising the Columbus Campus TIF Site shall be required to, and shall make, service payments in lieu of taxes with respect to the Improvements allocable thereto to the Treasurer of Franklin County, Ohio (the "County Treasurer") on or before the final due dates for payment of real property taxes. Each service payment in lieu of taxes shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against real property comprising the Columbus Campus TIF Site as if it were not exempt from taxation pursuant to Section 1 hereof. Any late payments shall be subject to penalty and bear interest at the then current rate established under Ohio Revised Code Sections 323.121(B)(1) and 5703.47, as the same may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time (the payment of penalties and interest are collectively referred to herein with the service payments in lieu of taxes as the "Service Payments"). The Service Payments, and any other payments in respect of real property comprising the Columbus Campus TIF Site which are received by the County Treasurer in connection with any reduction required by Ohio Revised Section 319.302, as the same may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time (the "Property Tax Rollback Payments"), shall be allocated and distributed in accordance with this Ordinance.

**SECTION 3. Creation of TIF Fund.** This Council hereby establishes pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, the Columbus Campus Municipal Public Improvement Tax Increment Equivalent Fund (the "Fund"). The Fund shall be maintained in the custody of the City and shall receive all distributions of Service Payments and Property Tax Rollback Payments required to be made to the City. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvements on the real property in the Columbus Campus TIF Site from the Property Owners, so deposited and distributed pursuant to law as provided in Ohio Revised Code Section 5709.42, shall be used solely for the purposes authorized in Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43, including, but not limited to, paying any costs of the Infrastructure Improvements, in a manner which is consistent with this Ordinance. For purposes of this Ordinance, "costs" of the Infrastructure Improvements payable from the Fund shall also include the items of "costs of permanent improvements" set forth in Section 133.15(B) of the Ohio Revised Code, and incurred with respect to the Infrastructure Improvements. The Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time said Fund shall be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with Ohio Revised Code Section 5709.43. The City's Finance Director shall create such subaccounts within the Fund as are necessary for payment of the costs of the Infrastructure Improvements, including debt service charges on, and other expenses relating to the issuance of, any bonds, notes, or other obligations issued to finance the Infrastructure Improvements.

**SECTION 4. Infrastructure Improvements.** This Council hereby designates the Infrastructure Improvements described in Exhibit B, attached hereto and incorporated herein, as "public infrastructure improvements" (as such term is defined in Section 5709.40(A)(7) of the Ohio Revised Code) made, to be made, or in the process of being made, and that, once made, will directly benefit the Columbus Campus TIF Site.

**SECTION 5. Compensation Agreement.** The Mayor, on behalf of the City, and pursuant to Ohio Revised Code Section 5709.40, 5709.42, and 5709.43, is hereby authorized and directed to enter into a Compensation Agreement ("Compensation Agreement") with the Hilliard City School District (the "School District"), which shall provide that during the Exemption Period, the City shall pay to the School District, from a portion of the Service Payments that it receives, an amount equal to the real property taxes that would have been payable to the School District less an amount equal to the reduction in state aid to the School District that would have occurred with respect to the Improvements as if the TIF Exemption had not been granted pursuant to this Ordinance (the "Compensation Payments"). Such Compensation Payments shall be payable to the School District at the times and as provided for in the Compensation Agreement, which agreement shall be in a form acceptable to the Mayor, approved as to form by the Director of Law, and not substantially inconsistent with the terms of this Ordinance.

**SECTION 6. Service Payment Agreement.** The Mayor, on behalf of the City, is hereby authorized and directed to enter into a Service Payment Agreement ("Service Payment Agreement") with the Developer to provide for the payment and collection of Service Payments, which Service Payment Agreement shall be in substantially the same form, with such changes not adverse to the City, as the one attached hereto as Exhibit C and incorporated herein. The Service Payment Agreement shall require that the Developer, or its successors and assigns, consent in writing, on the required DTE 24P form (or any other applicable or required forms), to the City's application for exemption pursuant to Section 5709.911(B)(1) of the Ohio Revised Code, and shall provide that the executed Service Payment Agreement be recorded in the Franklin County Recorder's Office as a Declaration running with the land. The Mayor is authorized and directed to enter into the Service Payment Agreement with such changes approved by the Mayor and not inconsistent with this Ordinance and not materially adverse to the City, which shall be established conclusively by his signature thereof; provided however, such Service Payment Agreement shall become effective on the date as provided for therein.

**SECTION 7. Application for Real Property Tax Exemption and Remission.** This Council further hereby authorizes and directs the City Finance Director and the City Law Director, or other appropriate officers of the City, to sign and execute all documents and make such arrangements as are necessary and proper for collection of said Service Payments from the Property Owner(s) of real property located in the Columbus Campus TIF Site, which are to be deposited into the Fund.

**SECTION 8. Non-Discriminatory Hiring Policy.** In accordance with Section 5709.832 of the Ohio Revised Code, this Council hereby determines that no employer located in the Columbus Campus TIF Site shall deny any individual employment solely on the basis of race, religion, sex, disability, color, national origin or ancestry.

**SECTION 9. Further Authorizations.** This Council further hereby authorizes and directs the Directors of Finance and Law, or other appropriate officers of the City, to prepare and sign all agreements, and any amendments thereto such that the character of those changes is not substantially adverse to the City, and to prepare and sign all instruments and to take all other actions as may be necessary and appropriate to implement this Ordinance.

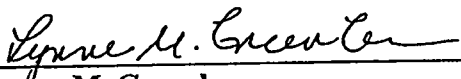
**SECTION 10. Notification of Passage.** Pursuant to Ohio Revised Code Section 5709.40, the Clerk of Council is hereby directed to deliver a copy of this Ordinance to the Director of the Department of Development of the State of Ohio within fifteen days after its adoption. On or before March 31 of each year that the exemption set forth in Section 1 hereof remains in effect, the Finance Director or other authorized officer of this City shall prepare and submit to the Director of the Department of Development of the State of Ohio the status report required under Section 5709.40(G) of the Ohio Revised Code.

**SECTION 11. Tax Incentive Review Council.** The City has created the Hilliard Tax Incentive Review Council with the membership of that Council constituted in accordance with Section 5709.85 of the Ohio Revised Code. That Council shall, in accordance with Section 5709.85 of the Ohio Revised Code, review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other such matters as may properly come before that Council, all in accordance with Ohio Revised Code Section 5709.85.

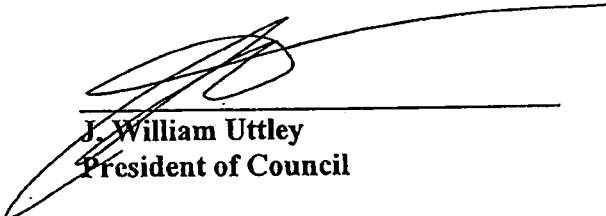
**SECTION 12. Open Meetings.** This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

**SECTION 13. Effective Date.** This Ordinance shall be effective from and after the earliest period provided by law.

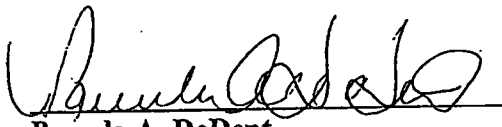
**ATTEST:**

  
Lynne M. Greenler  
Clerk of Council

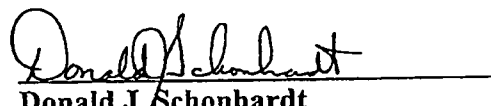
**SIGNED:**

  
J. William Uttley  
President of Council

**APPROVED AS TO FORM:**

  
Pamela A. DeDent  
Director of Law

**APPROVED:**

  
Donald J. Schonhardt  
Mayor

07-23(Amended)  
Vote:

	Yea	Nay	Abstain
President Uttley	<input checked="" type="checkbox"/>		
Vice President Sciotto	<input checked="" type="checkbox"/>		
Allison	<input checked="" type="checkbox"/>		
Brown	<input checked="" type="checkbox"/>		
Cope	Excused		
Peacock	<input checked="" type="checkbox"/>		
Roberts	<input checked="" type="checkbox"/>		
Results:	6	0	0

**EXHIBIT A**

**DESCRIPTION OF TIF SITE**

The TIF Site includes the real property described below:

SITUATE IN THE STATE OF OHIO, COUNTY OF FRANKLIN, CITY OF HILLIARD, LYING IN VIRGINIA MILITARY SURVEY NOS. 3000 AND 4854, BEING PART OF THE 40.924 AND ALL OF THE 0.742 ACRE TRACTS CONVEYED TO COLUMBUS CAMPUS LLC BY DEED OF RECORD IN INSTRUMENT NUMBER 200801170008512, AND PART OF THE 45.957 ACRE TRACT CONVEYED TO COLUMBUS CAMPUS LLC BY DEED OF RECORD IN INSTRUMENT NUMBER 200801170008509, (ALL REFERENCES REFER TO THE RECORDS OF THE RECORDER'S OFFICE, FRANKLIN COUNTY, OHIO) BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING, FOR REFERENCE, AT FRANKLIN COUNTY GEODETIC SURVEY MONUMENT NUMBER 0005 RESET FOUND AT THE CENTERLINE INTERSECTION OF DAVIDSON ROAD (VARIABLE WIDTH) AND LEAP ROAD (VARIABLE WIDTH);

THENCE SOUTH 23° 37' 07" EAST, A DISTANCE OF 1243.56 FEET, WITH THE CENTERLINE OF SAID LEAP ROAD, TO A POINT;

THENCE NORTH 66° 22' 53" EAST, A DISTANCE OF 50.00 FEET, ACROSS THE RIGHT-OF-WAY OF SAID LEAP ROAD AND ENTERING SAID 45.957 ACRE TRACT, TO AN IRON PIN SET, THE TRUE POINT OF BEGINNING;

THENCE ACROSS SAID 45.957 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 68° 44' 53" EAST, A DISTANCE OF 556.74 FEET, TO AN IRON PIN SET AT A POINT OF CURVATURE;

WITH SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 09° 08' 20", A RADIUS OF 1099.00 FEET, AN ARC LENGTH OF 175.29 FEET, AND A CHORD WHICH BEARS NORTH 60° 37' 51" EAST, A CHORD DISTANCE OF 175.11 FEET, TO AN IRON PIN SET;

NORTH 23° 37' 07" WEST, A DISTANCE OF 384.33 FEET, TO AN IRON PIN SET IN THE LINE COMMON TO SAID 45.957 ACRE TRACT AND THE REMAINDER OF THE ORIGINAL TRACT THREE CONVEYED TO WOLPERT ENTERPRISES, LIMITED BY DEED OF RECORD IN INSTRUMENT NUMBER 200204080088414;

THENCE NORTH 84° 08' 15" EAST, A DISTANCE OF 1139.80 FEET, WITH THE NORTHERLY LINE OF SAID 45.957 AND 0.742 ACRE TRACTS AND WITH THE SOUTHERLY LINES OF THE REMAINDER OF SAID TRACT THREE, THE SOUTHERLY LINE OF THE REMAINDER OF THE ORIGINAL TRACT TWO CONVEYED TO

WOLPERT ENTERPRISES, LIMITED BY DEED OF RECORD IN INSTRUMENT NUMBER 200204080088414 AND A SOUTHERLY LINE OF THE REMAINDER OF THE ORIGINAL TRACT 1 CONVEYED TO ANSMIL LIMITED PARTNERSHIP BY DEED OF RECORD IN OFFICIAL RECORD 32225 G17, TO AN IRON PIN SET;

THENCE SOUTH 05° 55' 17" EAST, A DISTANCE OF 353.64 FEET, WITH THE LINE COMMON TO SAID 0.742 ACRE TRACT AND THE REMAINDER OF SAID ORIGINAL TRACT 1, TO AN IRON PIN SET AT A POINT OF CURVATURE;

THENCE WITH SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 17° 44' 53", A RADIUS OF 1332.49 FEET, AN ARC LENGTH OF 412.75 FEET, AND A CHORD WHICH BEARS SOUTH 14° 47' 43" EAST, A CHORD DISTANCE OF 411.10 FEET, WITH AN EASTERLY LINE OF SAID 0.742 AND 45.957 ACRE TRACTS AND A WESTERLY LINE OF THE REMAINDERS OF SAID ORIGINAL TRACT 1 AND ORIGINAL TRACT TWO, TO AN IRON PIN SET AT A POINT OF TANGENCY;

THENCE SOUTH 23° 40' 10" EAST, A DISTANCE OF 353.83 FEET, WITH AN EASTERLY LINE OF SAID 45.957 AND 40.924 ACRE TRACTS, AND WITH A WESTERLY LINE OF THE REMAINDERS OF SAID ORIGINAL TRACT TWO AND ORIGINAL PARCEL TWO, TRACT TWO CONVEYED TO ANSMIL LIMITED PARTNERSHIP BY DEED OF RECORD IN OFFICIAL RECORDS 32225 G17 AND 32225 105, TO AN IRON PIN SET;

THENCE CONTINUING WITH THE LINE COMMON TO SAID 40.924 ACRE TRACT, THE REMAINDER OF SAID ORIGINAL PARCEL TWO, TRACT TWO AND THE REMAINDER OF THE ORIGINAL PARCEL TWO, TRACT THREE CONVEYED TO ANSMIL LIMITED PARTNERSHIP BY DEED OF RECORD IN OFFICIAL RECORDS 32225 G17 AND 32225 105, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 01° 52' 05" EAST, A DISTANCE OF 53.85 FEET, TO AN IRON PIN SET;

SOUTH 23° 40' 10" EAST, A DISTANCE OF 105.00 FEET, TO AN IRON PIN SET;

SOUTH 45° 28' 15" EAST, A DISTANCE OF 53.85 FEET, TO AN IRON PIN SET;

SOUTH 23° 40' 10" EAST, A DISTANCE OF 514.24 FEET, TO AN IRON PIN SET AT A POINT OF CURVATURE;

WITH SAID CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 08° 02' 24", A RADIUS OF 1390.00 FEET, AN ARC LENGTH OF 195.05 FEET, AND A CHORD WHICH BEARS SOUTH 19° 38' 58" EAST, A CHORD DISTANCE OF 194.89 FEET, TO AN IRON PIN SET;

SOUTH 74° 22' 14" WEST, A DISTANCE OF 20.00 FEET, TO AN IRON PIN SET;

WITH A CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 01° 02' 00", A RADIUS OF 1370.00 FEET, AN ARC LENGTH OF 24.71 FEET, AND A CHORD WHICH

BEARS SOUTH 15° 06' 46" EAST, A CHORD DISTANCE OF 24.71 FEET, TO AN IRON PIN SET;

SOUTH 76° 07' 35" WEST, A DISTANCE OF 82.51 FEET, TO AN IRON PIN SET;

SOUTH 70° 47' 24" WEST, A DISTANCE OF 286.15 FEET, TO AN IRON PIN SET;

SOUTH 68° 02' 13" WEST, A DISTANCE OF 159.38 FEET, TO AN IRON PIN SET;

SOUTH 82° 20' 53" WEST, A DISTANCE OF 300.01 FEET, TO AN IRON PIN SET;

SOUTH 76° 34' 35" WEST, A DISTANCE OF 307.14 FEET, TO AN IRON PIN SET;

SOUTH 82° 47' 36" WEST, A DISTANCE OF 138.56 FEET, TO AN IRON PIN SET;

NORTH 79° 56' 50" WEST, A DISTANCE OF 85.56 FEET, TO AN IRON PIN SET;

NORTH 71° 18' 50" WEST, A DISTANCE OF 150.01 FEET, TO AN IRON PIN SET;

NORTH 65° 38' 53" WEST, A DISTANCE OF 208.41 FEET, TO AN IRON PIN SET;

NORTH 57° 48' 25" WEST, A DISTANCE OF 129.32 FEET, TO AN IRON PIN SET;

NORTH 59° 01' 48" WEST, A DISTANCE OF 170.38 FEET, TO AN IRON PIN SET;

NORTH 67° 18' 16" WEST, A DISTANCE OF 57.59 FEET, TO AN IRON PIN SET;

NORTH 80° 44' 53" WEST, A DISTANCE OF 8.85 FEET, TO AN IRON PIN SET;

THENCE ACROSS SAID 40.924 AND 45.957 ACRE TRACTS, THE FOLLOWING COURSES AND DISTANCES:

NORTH 02° 32' 02" EAST, A DISTANCE OF 270.04 FEET, TO AN IRON PIN SET AT A POINT OF CURVATURE;

WITH SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 26° 09' 10", A RADIUS OF 600.00 FEET, AN ARC LENGTH OF 273.87 FEET, AND A CHORD WHICH BEARS NORTH 10° 32' 33" WEST, A CHORD DISTANCE OF 271.50 FEET, TO AN IRON PIN SET;

NORTH 23° 37' 07" WEST, A DISTANCE OF 682.05 FEET, TO THE TRUE POINT OF BEGINNING, CONTAINING 77.019 ACRES, MORE OR LESS.

## EXHIBIT B

The Infrastructure Improvements consist generally of:

1. Construction of Britton Parkway between Reynolds Drive and Davidson Road including the Britton Parkway and Davidson Road intersection,
2. Construction of Anson Drive between Lyman Drive and Leap Road including construction of intersections with Britton Parkway and with Leap Road,
3. Construction of improvements to Leap Road between Reynolds Drive and Davidson Road,
4. Construction of improvements and widening of Britton (Road) Parkway between Davidson Road and Hayden Run Road including the relocation of the Britton Parkway and Hayden Run Road intersection,
5. Construction of improvements to the intersections of Britton Parkway and Cemetery Road and Cemetery Road and Lyman Drive including improvements and widening of Cemetery Road between Britton Parkway and the I-270 Cemetery Road Interchange,
6. Construction of improvements and realignment of Lyman Drive between Davidson Road and the proposed Mildred Drive.

"Construction" as used above, includes construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, bridges, sidewalks, leisure paths, medians and viaducts accessible to and serving the public, providing lighting systems, signalization, and traffic controls, and all other appurtenances thereto.

Construction of the above improvements may also include:

- a. Construction or reconstruction of one or more public parks, including grading, trees and other park plantings, park accessories and related improvements, together with all appurtenances thereto, and
- b. Construction, reconstruction or installation of public utility improvements, water distribution lines (including necessary site grading therefor), storm and sanitary sewers (including necessary site grading therefor), water and fire protection systems, and all appurtenances thereto; and
- c. Construction, reconstruction or installation of gas, electric and communication service facilities and all appurtenances thereto; and
- d. Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, street and sidewalk lighting, trash receptacles, benches, burial of overhead utility lines and related improvements, together with all appurtenances thereto; and
- e. Acquisition of real estate or interests in real estate, including easements, necessary to accomplish the foregoing improvements;
- f. Professional fees, including architectural, engineering, contract administration, and legal costs; and
- g. All inspection fees and other governmental fees related to the foregoing; and
- h. Any other costs for the aforesaid Infrastructure Improvements as permitted by law.

All of the Infrastructure Improvements described above are hereby determined to be "public infrastructure improvements" (as defined in Section 5709.40(A)(7) of the Ohio Revised Code) and will directly benefit the real property described in Exhibit A.



# DRAFT

## SERVICE PAYMENT AGREEMENT

THIS SERVICE PAYMENT AGREEMENT (the "Agreement" or the "Service Payment Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2007, between the CITY OF HILLIARD, OHIO (the "City"), a municipal corporation, having an address for purposes hereof at 3800 Municipal Way, Hilliard, Ohio 43026, and COLUMBUS CAMPUS, LLC (the "Developer"), a Maryland limited liability company, having an address for purposes hereof at 701 Maiden Choice Lane, Baltimore, Maryland 21228.

### WITNESSETH:

WHEREAS, the Developer is exploring the development of an approximately 83-acre site (the "Development Site") located within the municipal corporate boundaries of the City as a continuing care retirement community (the "Development"); and

WHEREAS, upon completion the Development would significantly increase the assessed valuation of the Development Site; and

WHEREAS, an approximately 78.386-acre portion of the Development Site would be developed as an independent living facility as part of the Developer's continuum of care (the "TIF Site"), which TIF Site is identified and described in Exhibit A hereto incorporated by reference herein and is located within the municipal corporate boundaries of the City, and the territorial boundaries of the County of Franklin, Ohio (the "County") and the Hilliard City School District (the "School District"); and

The Developer (collectively, with its successors and assigns, as owners of the parcels included in the TIF Site, the "Owners") has contracted to purchase a fee simple interest in the TIF Site identified in Exhibit A; and

WHEREAS, pursuant to Ohio Revised Code ("O.R.C.") Sections 5709.40, 5709.42 and 5709.43 (together with related provisions of the Ohio Revised Code, the "TIF Act"), and Ordinance No. \_\_\_\_\_ - passed by the Council of the City ("City Council") on \_\_\_\_\_, 2007, a copy of which is attached as Exhibit B hereto and incorporated herein by reference (the "TIF Ordinance"), the City has, among other actions: (1) declared the improvements to the real property (the "Improvements") included in the TIF Site to be a public purpose and exempt from real property taxation for a period of up to thirty (30) years; (2) provided for service payments in lieu of taxes (the "Service Payments"), as an obligation running with the land for the Exemption Period, as defined herein, payable with respect to the real property comprising the TIF Site; (3) described and authorized certain Infrastructure Improvements (as identified in Exhibit B to the TIF Ordinance) to be paid from the Service Payments; and (4) determined to enter into this Service Payment Agreement with the Developer, to provide for the payment of the Service Payments by the Developer with respect to certain real property owned by the Developer, its successors and assigns, and to provide for the use of the Service Payments to pay costs of or relating to the Infrastructure Improvements, among other uses provided by Ohio law, for the Exemption Period, as defined herein; and

WHEREAS, pursuant to the TIF Act, the TIF Ordinance and this Service Payment Agreement, the Developer wishes to agree, for itself and for each of its successors and assigns as Owners of all or any portion of or interest in any of the real property comprising the TIF Site, effective at such time as the Developer becomes an Owner of the TIF Site, and to pay Service Payments in an amount equal to the amount of real property taxes that would have been paid with respect to the real property comprising the TIF Site had the TIF Exemption not been granted by the City under the TIF Act and the TIF Ordinance and applied for and allowed thereunder; and

**"O.R.C."** means Ohio Revised Code.

**"Obligee"** means the City, the Treasurer of the County, any governmental issuer of bonds to finance the Public Improvements, and the holders of such bonds.

**"Owners"** means the owners from time to time, including the Developer, of the real property comprising the TIF Site.

**"Public Improvements"** means the specific Infrastructure Improvements identified in Exhibit C hereof.

**"School Compensation Agreement"** means the Compensation Agreement between the City and the School District, dated \_\_\_\_\_, 2007.

**"School Compensation Amount"** means the amount to be paid to the School District in accordance with the terms of the School Compensation Agreement from monies deposited into the School District Account of the TIF Fund pursuant to Section 5 hereof.

**"School District"** means the Hilliard City School District.

**"School District Account"** means the Account in the TIF Fund into which the School Compensation Amount shall be deposited and from which the School Compensation Amount is paid in accordance with the terms of the School Compensation Agreement.

**"Service Payment Agreement"** means this Agreement.

**"Service Payments"** means the payments to be made in lieu of taxes by the Owners of the real property comprising the TIF Site pursuant to the terms of this Agreement.

**"Service Payment Dates"** means the final date (after the effective date hereof) for payment of the first semiannual installment of real property taxes that would have been payable with respect to any of the Improvements but for the TIF Exemption, and shall thereafter be the semiannual dates for the payment of installments of real property taxes (or such other installments as may then be required or allowed with respect to real property taxes in the state of Ohio) on or before the final date for payment (without delinquency) of each installment of real property taxes in such year and each year thereafter.

**"Special Account"** means the Account in the TIF Fund into which Assigned Service Payments are deposited.

**"TIF Act"** means Sections 5709.40 through 5709.43 of the Ohio Revised Code, together with related provisions of the Ohio Revised Code.

**"TIF Exemption"** has the meaning given to that term in Section 1 of the TIF Ordinance.

**"TIF Fund"** means the City's Municipal Public Improvement Tax Increment Equivalent Fund.

**"TIF Ordinance"** means Ordinance No. \_\_\_\_\_ - 2007, passed by the City Council on \_\_\_\_\_, 2007, as the same may be amended from time to time.

**"TIF Site"** means the approximately 78.386-acre site upon which the independent living facilities and associated common community facilities will be constructed, and described in Exhibit A.

Payment Date until termination or expiration of this Service Payment Agreement.

In the event that any Service Payment or any installment thereof, is not paid when due by any Owner on any Service Payment Date, to the extent that the County does not impose a late fee or delinquency charge, the City may impose and collect a late payment charge, payable to the City, in the amount of the charges for late payment of real property taxes, including penalty and interest, which would have been paid pursuant to O.R.C. Section 323.121 on the delinquent amount.

Except with respect to the Minimum Value guarantee described in Section 2 hereof, no Owner shall, under any circumstances, be required to pay both real property taxes with respect to an Improvement and Service Payments for any tax year with respect to that Improvement, whether pursuant to O.R.C. Section 4709.42, the TIF Ordinance, this Agreement or any other applicable law.

**SECTION 5. DEPOSITS OF SERVICE PAYMENTS.** Upon receipt by the City from the County, the Service Payments shall be deposited into the TIF Fund and credited to the following Accounts in the priority set forth below:

**FIRST:** The portion of the Service Payment, representing the School Compensation Amount, as calculated in accordance with the terms of the School Compensation Agreement, shall be credited to the School District Account; and

**SECOND:** A portion of the Service Payment representing that amount required to pay the principal, interest, and related costs, fees and expenses of the bonds or other obligations issued to finance the Public Improvements, including the funding of any reserves for such bonds, due in that year, shall be credited to the Special Account; and

**THIRD:** That portion of the Service Payment remaining after the deposits required in FIRST and SECOND above shall constitute Excess Service Payments and be credited to the Excess Account.

Amounts credited to the Special Account shall constitute Assigned Service Payments that may be assigned to the trustee for any obligations issued to finance Public Improvements.

Excess Service Payments shall be used first to be deposited to the Special Account to pay debt service or other charges on the bonds issued to finance the Public Improvements to the extent required and, after December 15 of each year, any unused Excess Service Payments may then be used by the City for such purposes authorized by the TIF Act and the TIF Ordinance.

Any supplemental payments required to be made pursuant to the Minimum Value guarantee portions of this Agreement shall be credited to the Accounts in the same relative proportion as the Service Payments are required to be deposited under this Section 5.

**SECTION 6. APPLICATION OF IMPACT FEES.** In accordance with Chapter 1187 of the City Code, the Developer is required to pay development impact fees in the amount of \$1,500 per independent living unit developed on the TIF Site (the "Impact Fees"). The City agrees, for the first ten years that this Agreement is in effect, to deposit the Impact Fees received with respect to the TIF Site into the Special Account or such other fund provided in the trust agreement or indenture executed in connection with the issuance of the bonds (or other obligations) issued by the Authority to finance the Public Improvements and that such amounts will be available during such ten-year period to pay the debt service charges on (including the funding of reserves for) such bonds (or other obligations). At the end of such ten-year period, any Impact Fees that have not been used to pay debt service charges on (including the funding of reserves for) the bonds (or other obligations) issued to finance the Public Improvements shall be released from the lien of the trust agreement or indenture and shall be transferred to the City and used for any lawful purpose. Notwithstanding anything herein to the contrary, if in any year the amount of Service Payments on deposit in the Special Account is at least one and one-half times the average annual debt service charges on the

construed to release any Owner from the performance of any of the agreements or obligations on its part contained in this Service Payment Agreement.

**SECTION 9. PAYMENT OF TAXES; CONTESTS.** Each Owner shall pay, cause, or require to be paid, as the same become due, all taxes, assessments, whether general or special, and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the TIF Site (except as otherwise provided herein) or any personal property or fixtures installed or brought therein or thereon (including, without limiting the generality of the foregoing, and by way of example, any taxes levied against an Owner with respect to the receipts, income or profits from leasing or subleasing space within the Improvements, which, if not paid, may become or be made a lien on all or any portion of the TIF Site) and all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the TIF Site. Notwithstanding the foregoing, nothing herein is intended to prevent any Owner (or a successor, assign or transferee), at its expense and in good faith from contesting the amount or validity of any taxes, assessments or other charges (including but not limited to seeking a reduction in the valuation of the TIF Site), and the only recourse of the City to enforce the payment of those items will be to the TIF Site, and the interest or interests of the respective Owner therein; provided, however, that in the event that any such contest or a tax exemption for all or a portion of the Improvements results in a reduction in the True Value of the TIF Site to an amount less than \$140,000,000, then, in addition to paying the Service Payment to the Franklin County Treasurer, the Owner shall make a supplemental payment to the City in an amount equal to the real property taxes that would have been assessed on the difference between the True Value of the TIF Site and \$140,000,000 of True Value, but only if the Public Improvements are constructed as provided herein. Nothing in this Service Payment Agreement shall require an Owner or any other person to pay or reimburse for payment of any Federal, State or local tax of any kind or character (whether based on gross or net income, gross receipts or otherwise) which is imposed or levied on the City, or any other entity, on funds held by the trustee for bonds issued to finance the Public Improvements or by a depository of the City, or on the holders of such bonds or any other Obligations.

**SECTION 10. NOTICES.** All notices, designations, certificates, requests or other communications under this Service Payment Agreement shall be sufficiently given and shall be deemed given on receipt when personally delivered, or 48 hours after being mailed by registered or certified mail, postage prepaid: if to the City at 3800 Municipal Way, Hilliard, Ohio 43026, Attention: Mayor, with copies to the Finance Director and the Director of Law at the same address; and, if to the Developer, at its registered address for tax bills. The City and the Developer may, by notice given under this Service Payment Agreement, designate any further or different addresses to which subsequent notices, designations, certificates, requests or other communications shall be sent, and shall provide copies of all such communications to any of the others to all of the others.

**SECTION 11. EXEMPTION APPLICATIONS.** Promptly upon the effective date of this Service Payment Agreement, the Developer shall consent in writing on the required DTE 24P form (or any other applicable or required forms) to the City's application for exemption from real property taxation with respect to the TIF Site pursuant to O.R.C. Section 5709.911(B)(1). The City and the Developer shall cooperate with each other, and execute such further documents and provide such further information as are reasonably required in connection with the filing and processing of such applications. The parties hereto intend that such exemption from real property taxation will apply initially to the 2008 tax year and shall use due diligence and commercially reasonable efforts to that end. The Developer shall continuously use due diligence and employ commercially reasonable efforts to keep such exemptions in force, not permitting the same to lapse or be suspended or revoked for any reason within the Developer's control.

**SECTION 12. EFFECTIVE DATE; DURATION OF AGREEMENT.** This Service Payment Agreement shall become effective on the date that the Developer (a) has acquired fee simple title to the TIF Site and (b) has delivered written notice to the City that the Developer intends to proceed with the Development. If the conditions set forth in (a) and (b) above are not satisfied by January 31, 2008, then this Agreement shall be null and void. Unless sooner terminated, this Agreement shall expire at the end of the Exemption Period; provided, however, that the covenant of the Developer that the True Value of the TIF

and requirements of Ohio law relating to either mortgage liens or delinquent real estate taxes; provided that nothing contained in this Agreement shall be deemed to authorize any acceleration of Service Payments due in future years. The provisions of this Section shall encumber and run with the real property comprising the TIF Site.

Notwithstanding anything in this Agreement to the contrary, the School District's rights as third party beneficiary hereunder shall be effective only during the term of the Exemption Period.

SECTION 16. COUNTERPARTS; CAPTIONS. This Service Payment Agreement may be executed in counterpart, and in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same Agreement. Captions have been provided herein for convenience only and shall not affect the construction or interpretation of this Service Payment Agreement.

SECTION 17. GOVERNING LAW AND CHOICE OF FORUM. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Developer, its employees, contractors, subcontractors and agents arising out of or relating to this Agreement or its breach will be decided in a state court of competent jurisdiction within the State of Ohio.

SECTION 18. ENTIRE AGREEMENT. This document (with its exhibits) contains the entire agreement between the parties and supersedes any prior discussions, representations, warranties, or agreements between them respecting the subject matter. No changes or amendments shall be made or be binding unless made in writing and signed by each of the parties.

SECTION 19. NO CITY EXPENDITURES. Nothing contained in this Agreement shall be construed to require the City to expend funds in connection with the performance of this Agreement in the 2007 fiscal year.

SECTION 20. ADDITIONAL DOCUMENTS; AMENDMENT. The parties hereto agree for themselves and their respective successors, assigns and transferees, to execute any further agreements, documents or instruments as may be reasonably necessary to fully effectuate the purpose and intent of this Service Payment Agreement in compliance with all laws and ordinances controlling this Service Payment Agreement. Any amendment to this Service Payment Agreement must be in writing and signed by or on behalf of all parties or their respective permitted successors, assigns, and transferees.

SECTION 21. INDEMNIFICATION. In addition to the obligations of the Owner as set forth in Section 7 hereof, the Developer shall indemnify, defend and hold harmless the City and its agents, employees and public officials from and against any and all suits, claims, damages, losses and expenses (including reasonable attorney fees) arising or allegedly arising out of, or resulting from the construction of the Improvements.

### EXHIBIT C

The Public Improvements consist generally of:

1. Construction of Britton Parkway between Reynolds Drive and Davidson Road including the Britton Parkway and Davidson Road intersection,
2. Construction of Anson Drive between Lyman Drive and Leap Road including construction of intersections with Britton Parkway and with Leap Road,
3. Construction of improvements to Leap Road between Reynolds Drive and Davidson Road,

## AMENDMENT TO SERVICE PAYMENT AGREEMENT

THIS AMENDMENT TO SERVICE PAYMENT AGREEMENT (the "Amendment") is made and entered into as of January 29, 2008, between the CITY OF HILLIARD, OHIO (the "City"), a municipal corporation, having an address for purposes hereof at 3800 Municipal Way, Hilliard, Ohio 43026, and COLUMBUS CAMPUS, LLC (the "Developer"), a Maryland limited liability company, having an address for purposes hereof at 701 Maiden Choice Lane, Baltimore, Maryland 21228 (Terms used herein without definition shall have the meanings for such terms as set forth in the Service Payment Agreement, as defined below).

### WITNESSETH:

WHEREAS, the City and the Developer have previously entered into a Service Payment Agreement (the "Service Payment Agreement"), entered into as of June 12, 2007 and authorized by City Council for the City pursuant to Ordinance No. 07-23 (Amended), passed on March 26, 2007 and effective on April 26, 2007, which Service Payment Agreement provides, among other things, for the payment by the Developer (or other owner of the TIF Site) of Service Payments and use of such Service Payments to fund the costs of certain Public Improvements; and

WHEREAS, the parties have determined that it is necessary to amend the Service Payment Agreement as provided in this Amendment so that the Developer will continue to work on the preliminary work on the Development and not abandon the Development prior to January 31, 2008, which is the current date upon which the Service Payment Agreement becomes null and void unless certain conditions described in the Service Payment Agreement are satisfied; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the City and the Developer, covenant, agree, and bind themselves as follows:

Section 1. Amendment of Definitions of "Obligee" and "School Compensation Agreement." The definitions of "Obligee" and "School Compensation Agreement" in Section 1 of the Service Payment Agreement is hereby amended in its entirety to read as follows:

"Obligee" means the City, the Treasurer of the County, any governmental issuer of bonds to finance the Public Improvements, and the trustee acting for the benefit of the holders from time to time of such bonds.

"School Compensation Agreement" means the Compensation Agreement between the City and the School District, dated June 15, 2007, as the same may be amended from time to time.

Section 2. Amendment of Section 2 of the Service Payment Agreement Section 2 of the Service Payment Agreement is hereby amended in its entirety to read as follows:

SECTION 2. DEVELOPMENT. The parties intend that, in the event (a) that this Agreement becomes effective in the manner provided in Section 12 hereof and (b) Britton Parkway is constructed such that the Developer has received its first occupancy permit as required under the Ansmil PUD Development Text dated March 28, 2007, approved by the Hilliard City Council (a

copy of which is in the office of the Clerk of Council), upon full build-out of the TIF Site (which the Developer intends will be completed by the end of 2017) and based upon an appraisal by the County Auditor, the true value (presently identified as "Market Total Value" on the records of the County Auditor) of the TIF Site (as determined by the County Auditor and referred to herein as the "True Value") will be at least One Hundred Forty Million Dollars (\$140,000,000) (the "Minimum Value"). The Developer hereby agrees (and by the recording of this instrument, each Owner also agrees) not to contest the amount or validity of any taxes, assessments or other charges (including but not limited to seeking a reduction in the valuation of the TIF Site) in a manner that will cause the True Value of the TIF Site to be less than the Minimum Value.

Section 3. Amendment to Section 4 of the Service Payment Agreement. Section 4 of the Service Payment Agreement is hereby amended in its entirety to read as follows:

**SECTION 4. TAX EXEMPTION; OBLIGATION TO MAKE SERVICE PAYMENTS.**

Pursuant to the TIF Act and the TIF Ordinance, the City has declared that 100% of the Improvements to the TIF Site are a public purpose entitled to exemption from real property taxation for the Exemption Period. During the term of this Service Payment Agreement, the Service Payments to be made by the Owners will equal the real property taxes that would have been payable with respect to 100% of the Improvements to the TIF Site had such exemption not been granted, which Service Payments will vary from time to time, including as the assessed value of the real property comprising the TIF Site (and of the Improvements) and the applicable tax rates vary. Each of the Owners shall pay the Service Payments, when due, on each applicable Service Payment Date until termination or expiration of this Service Payment Agreement.

In the event that any Service Payment or any installment thereof, is not paid when due by any Owner on any Service Payment Date, to the extent that the County does not impose a late fee or delinquency charge, the City may impose and collect a late payment charge, payable to the City, in the amount of the charges for late payment of real property taxes, including penalty and interest, which would have been paid pursuant to O.R.C. Section 323.121 on the delinquent amount.

No Owner shall, under any circumstances, be required to pay both real property taxes with respect to an Improvement and Service Payments for any tax year with respect to that Improvement, whether pursuant to O.R.C. Section 5709.42, the TIF Ordinance, this Agreement or any other applicable law.

Section 4. Amendment of Section 5 of the Service Payment Agreement Section 5 of the Service Payment Agreement is hereby amended in its entirety to read as follows:

**SECTION 5. DEPOSITS OF SERVICE PAYMENTS.** Upon receipt by the City from the County, the Service Payments shall be deposited into the TIF Fund and credited to the following Accounts in the priority set forth below:

FIRST: The portion of the Service Payment, representing the Initial School Payment, as defined, calculated and provided in accordance with the terms of the School Compensation Agreement, shall be credited to the School District Account; and

SECOND: A portion of the Service Payment representing that amount required to pay the principal, interest, and related costs, fees and expenses of the bonds or other obligations



issued to finance the Public Improvements, including the funding of any reserves for such bonds, due in that year, shall be credited to the Special Account; and

THIRD: That portion of the Service Payment remaining after the deposits required in FIRST and SECOND above shall constitute Excess Service Payments and be credited to the Excess Account.

Amounts credited to the Special Account shall constitute Assigned Service Payments that shall be assigned to the Authority or the trustee for any obligations issued by the Authority to finance the Public Improvements or for any obligations issued to refund such obligations to provide for and to secure the repayment of such obligations or refunding obligations. The Mayor and the Director of Law, alone or together may, without further authorization of Council, execute such agreements or instruments as may be reasonably necessary or appropriate to effect or evidence such assignment and to assure, to the extent the City is legally able to assure, the exemption of the Improvements from real property taxation during the Exemption Period.

Excess Service Payments shall be used first to be deposited to the Special Account to pay debt service or other charges on the obligations issued to finance the Public Improvements or to refund such obligations to the extent required, (b) to make any Supplemental School Payments (as defined in the School Compensation Agreement) required to be made under the School Compensation Agreement, and (c) after December 15 of each year, any unused Excess Service Payments may then be used by the City for such purposes authorized by the TIF Act and the TIF Ordinance.

The trustee for any obligations issued by the Authority to finance the Public Improvements or any obligations issued to refund such obligations, on behalf of the holders of such obligations, and the Authority, shall be deemed to be third party beneficiaries of this Agreement, so long as such obligations are outstanding.

Section 5. Amendment of Section 6 of the Service Payment Agreement Section 6 of the Service Payment Agreement is hereby amended in its entirety to read as follows:

SECTION 6. APPLICATION OF IMPACT FEES. In accordance with Chapter 1187 of the City Code, the Developer is required to pay development impact fees in the amount of \$1,500 per independent living unit developed on the TIF Site (the "Impact Fees"). The City agrees, for the first ten years that this Agreement is in effect, to deposit the Impact Fees received with respect to the TIF Site into the Special Account or such other fund provided in the trust agreement or indenture executed in connection with the issuance of the bonds (or other obligations) issued by the Authority to finance the Public Improvements and that such amounts will be available during such ten-year period to pay the debt service charges on (including the funding of reserves for) such bonds (or other obligations). At the end of such ten-year period, any Impact Fees that have not been used to pay debt service charges on (including the funding of reserves for) the bonds (or other obligations) issued to finance the Public Improvements shall be released from the lien of the trust agreement or indenture and shall be transferred to the City and used for any lawful purpose.

Section 6. Amendment of Section 8 of the Service Payment Agreement Section 8 of the Service Payment Agreement is hereby amended in its entirety to read as follows:

**SECTION 8. BINDING NATURE OF OBLIGATIONS: SECURITY FOR PAYMENT.**

Anything herein to the contrary notwithstanding, upon the effective date of this Agreement, the Owners' obligation hereunder to pay Service Payments and to perform and observe any other agreements on their part contained herein (but expressly subject to Section 2 hereof), shall be absolute and unconditional and shall be covenants running with the land and shall be binding and enforceable by the City, the School District to the extent provided in this Agreement, the trustee acting for the benefit of the holders from time to time of any bonds issued to finance the Public Improvements, and, subject to the terms of the trust agreement entered into with respect to such bonds, the holders of such bonds, against the Owners, as applicable, but only to the extent of the respective Owners' obligations and only with respect to its or their interest in the TIF Site and the Improvements, or any part thereof or any interest therein. Each Owner's obligation to pay the Service Payments shall be secured by a lien on its interest in the TIF Site and the Improvements, as provided by law and described in Section 15.

Subject to the provisions of Section 2 hereof, the obligations of the Owners will not be terminated for any cause including, without limiting the generality of the foregoing, but by way of example, delay in completion of or failure to complete the Improvements or any other improvements included in the Development, the Infrastructure Improvements or any other obligation of the City or the Developer hereunder; any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Development or the Infrastructure Improvements; commercial frustration of purpose; any change in the constitution, tax or other laws or judicial decisions or administrative rulings of or administrative actions by or under authority of the United States of America or of the State or any political subdivision thereof. Except as may be expressly provided herein, nothing contained in this Service Payment Agreement shall be construed to release any Owner from the performance of any of the agreements or obligations on its part contained in this Service Payment Agreement.

**Section 7. Amendment of Section 9 of the Service Payment Agreement** Section 9 of the Service Payment Agreement is hereby amended in its entirety to read as follows:

**SECTION 9. PAYMENT OF TAXES; CONTESTS.** Each Owner shall pay, cause, or require to be paid, as the same become due, all taxes, assessments, whether general or special, and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the TIF Site (except as otherwise provided herein) or any personal property or fixtures installed or brought therein or thereon (including, without limiting the generality of the foregoing, and by way of example, any taxes levied against a Owner with respect to the receipts, income or profits from leasing or subleasing space within the Improvements, which, if not paid, may become or be made a lien on all or any portion of the TIF Site) and all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the TIF Site. Notwithstanding the foregoing, nothing herein is intended to prevent any Owner (or a successor, assign or transferee), at its expense and in good faith from contesting the amount or validity of any taxes, assessments or other charges (including but not limited to seeking a reduction in the valuation of the TIF Site), and the only recourse of the City to enforce the payment of those items will be to the TIF Site, and the interest or interests of the respective Owner therein; provided, however, that while this Agreement remains in effect, no Owner shall contest the amount or validity of any taxes, assessments or other charges (including but not limited to seeking a reduction in the valuation of the TIF Site) in such a way as would cause the True Value of the TIF Site to be less than the Minimum Value, but only if the Public Improvements are constructed as provided herein. Nothing in this Service Payment Agreement

shall require an Owner or any other person to pay or reimburse for payment of any Federal, State or local tax of any kind or character (whether based on gross or net income, gross receipts or otherwise) which is imposed or levied on the City, or any other entity, on funds held by the trustee for bonds issued to finance the Public Improvements or by a depository of the City, or on the holders of such bonds or any other Obligations.

Section 8. Amendment of Section 12 of the Service Payment Agreement Section 12 of the Service Payment Agreement is hereby amended in its entirety to read as follows:

SECTION 12. EFFECTIVE DATE; DURATION OF AGREEMENT. This Service Payment Agreement shall become effective on the date that the Developer (a) has acquired fee simple title to the TIF Site and (b) has delivered written notice to the City that the Developer intends to proceed with the Development. If the conditions set forth in (a) and (b) above are not satisfied by July 31, 2008, then this Agreement shall be null and void. Unless sooner terminated, this Agreement shall expire at the end of the Exemption Period; provided, however, that the covenant of the Developer (which is binding on any Owner) not to contest the amount or validity of any taxes, assessments or other charges (including but not limited to seeking a reduction in the valuation of the TIF Site) in such a way as would cause the True Value of the TIF Site to be less than the Minimum Value (subject to the conditions set forth in Section 2 and Section 9 hereof) shall survive the termination or expiration of this Agreement and remain in effect for 30 years from the effective date of this Agreement. Upon expiration or termination of this Agreement, the City will cause this Service Payment Agreement to be cancelled of record.

Section 9. Amendment of Section 15 of the Service Payment Agreement Section 15 of the Service Payment Agreement is hereby amended in its entirety to read as follows:

SECTION 15. ENFORCEMENT; FORECLOSURE OF LIEN. The provisions of this Service Payment Agreement may be enforced to the fullest extent permitted by law, by the City and the Treasurer of the County of Franklin (Ohio) and, with respect to the obligations of the Developer and the other Owners, to the fullest extent permitted by law, by the School District to the extent provided in this Agreement, and to the extent applicable, any of the Obligees. It is the intention and agreement of the Developer, as an Owner, that this Service Payment Agreement and the covenants herein made shall be specifically enforceable by the City, by the School District to the extent provided in this Agreement, and by each of the Obligees against the Owners, by mandatory injunction or any other remedy at law or in equity, subject to Sections 8 and 12 hereof. It is the further intention and agreement of the Developer, as an Owner, that this Service Payment Agreement shall constitute and be deemed to be a lien encumbering and running with the real property comprising the TIF Site to secure the obligations of the Owners to make Service Payments (and, if applicable, pay interest and penalties), intended to have the same lien rights as real estate taxes and the same priority in accordance with O.R.C. §§323.11 and 5709.91. In furtherance of the foregoing, it is the intention of the Developer, as an Owner, that the City or the Obligees may, upon the occurrence of an event of default set forth in Section 14 hereof, and without limiting any other right or remedy otherwise available to the City, the School District or any such Obligee, take all such steps as may be legally available to it to foreclose upon such lien pursuant to the procedures and requirements of Ohio law relating to either mortgage liens or delinquent real estate taxes; provided that nothing contained in this Agreement shall be deemed to authorize any acceleration of Service Payments due in future years. The provisions of this Section shall encumber and run with the real property comprising the TIF Site.

Notwithstanding anything in this Agreement to the contrary, the School District's rights as third party beneficiary hereunder shall be effective only during the term of the Exemption Period.

Section 10. Continued Effectiveness of Service Payment Agreement. The Service Payment Agreement, as amended by this Amendment, shall remain in full force and effect in accordance with its terms.

Section 11. Counterparts; Captions. This Amendment may be executed in counterpart, and in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same agreement. Captions have been provided herein for convenience only and shall not affect the construction or interpretation of this Amendment.

Section 12. No City Expenditures. Nothing contained in this Amendment shall be construed to require the City to expend funds in connection with the performance of this Amendment in the 2007 fiscal year.

The parties have caused this Amendment to be executed by their duly authorized officers, effective as of the date and under the conditions provided herein.

DEVELOPER:

COLUMBUS CAMPUS, LLC

By: Erickson Retirement Communities, LLC,  
Member

By: \_\_\_\_\_

Gerald F. Doherty  
Executive Vice President,  
General Counsel and Secretary

THE CITY OF HILLIARD, OHIO

By: \_\_\_\_\_

Its: \_\_\_\_\_

Print Name: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Pamela A. DeDent, Director of Law  
City of Hilliard

Notwithstanding anything in this Agreement to the contrary, the School District's rights as third party beneficiary hereunder shall be effective only during the term of the Exemption Period.

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The parties have caused this Amendment to be executed by their duly authorized officers, effective as of the date and under the conditions provided herein.

DEVELOPER:

COLUMBUS CAMPUS, LLC

By: Erickson Retirement Communities, LLC,  
Member

By: \_\_\_\_\_

Gerald F. Doherty  
Executive Vice President,  
General Counsel and Secretary

THE CITY OF HILLIARD, OHIO

By: \_\_\_\_\_

Its: \_\_\_\_\_

Print Name: \_\_\_\_\_

*Donald J. Schonhardt*  
*Mayor*  
*Donald J. Schonhardt*

Approved as to form:

*Pamela A. DeDent*  
Pamela A. DeDent, Director of Law  
City of Hilliard

STATE OF OHIO  
COUNTY OF FRANKLIN

The foregoing Amendment to Service Payment Agreement was signed before me on February 13, 2008 by Donald J. Schonhardt, as Mayor of the City of Hilliard, an Ohio municipal corporation, who acknowledged the signing thereof to be his voluntary act and deed, on behalf of the municipal corporation.

  
Notary Public



PAMELA A DeDENT  
Attorney At Law  
Notary Public, State of Ohio  
My commission has no expiration date  
Sec. 147.03 R.C.

CHICAGO TITLE BOX 50W  
28160177

200804290065262  
Pg: 47 \$389.00 T20080029225  
04/29/2008 12:27PM BKCHICAGO TIT  
Robert G. Montgomery  
Franklin County Recorder

DECLARATION  
OF  
COVENANTS AND RESTRICTIONS

FOR

HICKORY CHASE COMMUNITY AUTHORITY

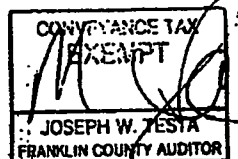
CITY OF HILLIARD

FRANKLIN COUNTY, OHIO

TRANSFER  
NOT NECESSARY

APR 29 2008

JOSEPH W. TESTA  
AUDITOR  
FRANKLIN COUNTY, OHIO



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EXHIBIT

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DECLARATION  
OF  
COVENANTS AND RESTRICTIONS

FOR

HICKORY CHASE COMMUNITY AUTHORITY

CITY OF HILLIARD

FRANKLIN COUNTY, OHIO



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DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR THE HICKORY CHASE COMMUNITY AUTHORITY

This DECLARATION OF COVENANTS AND RESTRICTIONS FOR THE HICKORY CHASE COMMUNITY AUTHORITY (the "Declaration") is made on this \_\_\_\_ day of April, 2008 by Columbus Campus, LLC, a Maryland limited liability company (the "Developer") (with all terms used herein with initial capitalization when the rules of grammar would not so require and not otherwise defined herein having the meanings given them in the Master Definitions List attached hereto as Exhibit A and incorporated herein by this reference).

Developer is the Owner or is in control of certain real estate located in the City of Hilliard, Franklin County, Ohio particularly described and depicted in Exhibit B attached hereto and incorporated herein by this reference (the "Property"). Developer makes this Declaration for the purposes hereinafter set forth.

Developer hereby declares that the Property shall be improved, held, sold, conveyed, encumbered, leased, occupied or otherwise transferred subject to the Restrictions which shall constitute covenants running with the Property and shall be binding upon all parties now or hereafter having any right, title or interest in the Property or any part thereof and all such persons, including their respective heirs, personal and legal representatives and successors and assigns in acquiring any right, title or interest therein, and as a part of the consideration therefor, agree that their right, title and interest in the Property or any part therein shall be improved, held, sold, conveyed, encumbered, leased, occupied or otherwise transferred subject to the Restrictions.

## ARTICLE I

### PURPOSE AND INTENT

The Property comprises a new community district (the "District") that has been formed in accordance with Chapter 349 of the Revised Code (the "Act"). The District and the Authority have been established for the purpose of encouraging the orderly development of a well-planned, diversified and economically sound new community, wholly within the City of Hilliard, Franklin County, Ohio through the implementation of a New Community Development Program. Developer anticipates that the costs of carrying out the New Community Development Program, including Debt Service Charges and any other cost incurred by the Authority in the exercise of its powers under the Act, will be covered first, from Available Service Payments, and second, from Available Impact Fees, and third, to the extent necessary, from the payment of the Charge by each Owner of a Chargeable Parcel.

In order to provide for the District, for the implementation of the Authority's New Community Development Program, and for the establishment and payment of the Charge, if necessary, this Declaration is made for the purpose of creating covenants running with the land pursuant to which all persons now or hereafter having any right, title or interest in the Property or any part thereof, including their respective heirs, personal and legal representatives and their respective successors and assigns, shall acquire and hold such right, title or interest subject to the Restrictions, including, but not limited to, the obligation of the Owner of each Chargeable Parcel to pay the Charge applicable thereto. All Owners of any of the Property, and all of their successors and assigns, shall take such Property subject to the Restrictions for so long as such Restrictions are in effect. The Restrictions and this Declaration are imposed for the benefit of the District and the Authority.

## ARTICLE II

### DEFINITIONS

2.01. Definitions. In addition to the words and terms defined elsewhere in this Declaration, unless the context or use clearly indicates another meaning or intent, the words or terms capitalized or otherwise used as defined terms herein are used with the meanings set forth in the Master Definitions List attached hereto as Exhibit A and incorporated herein by this reference. Such definitions shall be equally applicable to both the singular and plural forms of the words and terms defined therein.

## ARTICLE III

### COVENANT FOR CHARGE

3.01. Charge Covenant. Each Owner hereby covenants, and each subsequent Owner of any Chargeable Parcel, by acceptance of a deed or other instrument or conveyance therefor, shall covenant and be deemed to covenant, to pay or secure the payment of the Charge applicable to such Owner's Chargeable Parcel to the Authority as provided in Articles IV and V hereof. Each Owner agrees that every purchase agreement for a Chargeable Parcel entered into after this Declaration is Recorded shall, in compliance with Section 349.07 of the Revised Code, specifically refer to the Charge and identify the volume and number of the deed records in which this Declaration is Recorded.

3.02. Purpose of Charge. The Charge is established for the benefit and use of the Authority solely to cover the Annual Required Installment. Notwithstanding any other provision of this Declaration to the contrary, unless the contract of purchase and sale expressly states otherwise, the Charge shall not constitute an "assessment" for purposes of use of that term in the contract of purchase and sale of all or any part of the Property. Prepayment of the Charge and discharge of the lien of the Charge shall not occur except as provided in Section 4.04 hereof.

3.03. Creation of Lien and Personal Obligation of Charge. The Charge shall be a charge and lien on each Chargeable Parcel and, subject to and only to the extent provided in Section 4.07 hereof, shall also be the personal obligation of the Owner of each Chargeable Parcel.

3.04. Collection of Charge and Enforcement of Lien. A Charge due pursuant to Section 4.03 hereof shall be certified to the County Auditor not later than the second Monday in September each year (or by such other date as may be specified in the Revised Code for the certification of assessments in connection with the preparation of the general tax list), to be collected in semiannual installments in the same manner and paid by the Owner at the same time as real property taxes, in accordance with Chapter 323 of the Revised Code, including any delinquency procedures, penalties, and interest provided for therein. The Authority shall cause the collection of any Charge by certifying that Charge to the County Auditor for collection on the tax duplicate or by some other manner as agreed to by the County Auditor and the Authority.

Any costs of the County Auditor charged in connection with the collection of a Delinquent Charge shall be in addition to the amount of the Charge and shall not reduce the amount of the Charge otherwise paid to the Authority. In addition to any enforcement of a Delinquent Charge pursued by the County, any Charge or lien established under this Declaration may be enforced by the Authority, or by a third party appointed by the Authority to act for and on behalf of the Authority, in the same manner and to the same extent (including appointment of a receiver, foreclosure sale and, where appropriate, deficiency judgment) and subject to the same procedures as in the case of foreclosure of a real property mortgage under the laws of Ohio. In any such enforcement proceeding, the amount that may be recovered by the Authority shall include all costs of such proceeding, including reasonable attorney's fees. In any such foreclosure sale, the Authority may become the purchaser.

The Owner shall not delay the payment in full of any and all taxes, Service Payments and Charges, including delinquent taxes, delinquent Service Payments, or Delinquent Charges, or take any action which would preclude the commencement, continuation, or resolution of foreclosure proceedings. The Owner will provide for facilitated service of process with respect to any collection action with respect to delinquent Service Payments or Charges levied on properties owned by it in the District, and will waive affirmative defenses to any such collection action pertaining to the formation of the District and its

financing structure, including the methodology for determining the Charges as set forth in this Declaration, the validity of the Series 2008 Bonds and the priority of the liens to collect Delinquent Charges; provided, however, that the Owner may in a separate legal action (and not as an affirmative defense in any foreclosure action) challenge any levy not made in accordance with the terms of this Declaration or challenge the assessed value of any tax parcel in the District pursuant to the State's applicable tax assessment appeals procedure.

The Authority may appoint an Administrator as designee of the Authority for purposes of calculating the Charge to be imposed on and collected from each Chargeable Parcel and providing other services as designated in the Trust Agreement or by the Authority.

No remedy conferred upon or reserved to the Authority by this Declaration is intended to be exclusive of any other remedy. Each remedy shall be cumulative and shall be in addition to every other remedy given hereunder or otherwise to the Authority or now or hereafter existing.

## ARTICLE IV

### COMMUNITY DEVELOPMENT CHARGE

4.01. Establishment of Charge; Effective Date. There is hereby established for the benefit of the Authority, as a charge on each Chargeable Parcel, an annual Charge calculated, determined, and imposed as set forth in Section 4.02 herein. Such Charge shall be paid to the Authority by the Owner of each such Chargeable Parcel in the manner provided in this Article.

The Charge shall become effective upon the recording of this Declaration and shall be due and payable as provided in Section 4.03 below.

4.02. Uniformity; Amount of Charge. The parties acknowledge that the Charge must be uniform and, to that end, acknowledge that the Charge shall be imposed, except as otherwise provided herein, on the basis of Net Acreage. Subject to imposition, assessment or termination of the Charge as provided in Sections 5.03 and 5.04 herein, the Charge shall be calculated and imposed in accordance with the provisions of this Section 4.02.

(a) Maximum Charge.

The Maximum Charge for a Chargeable Parcel in any year shall be equal to the following:

$$A = (B \div C) \times D$$

Where the terms have the following meaning:

- |   |   |   |
|---|---|---|
| A | = | The Maximum Charge for a Chargeable Parcel in a year  |
| B | = | The Aggregate Maximum Charge  |
| C | = | The number of Net Acres within the District   |
| D | = | The number of Net Acres for the Chargeable Parcel for which the Maximum Charge is being calculated. |

(b) Imposition of the Charge Proportionately. The Authority shall collect a Charge each year Proportionately from each Chargeable Parcel up to the then applicable Maximum Charge for that Chargeable Parcel to the extent necessary to fund the Annual Required Installment for that year, but in no event shall the Authority collect an amount greater than the Aggregate Maximum Charge in any year.

4.03. Payment. The Charge for each Chargeable Parcel shall be deemed to be due for purposes of Section 349.07 of the Revised Code in semiannual installments no later than the date specified by the County Treasurer for payment of each semiannual installment of real property taxes, commencing January 20, 2009, or on such other date specified by the County Treasurer for the payment of the first semiannual installment of real property taxes due in 2009, and shall be certified to and collected by the County Auditor and paid by the Owner as provided in Section 3.04 hereof; provided, that, if permitted by law, the Board may provide for or require such payment to be made on other dates so as to permit the certification of a Charge not paid when due to the County Auditor in accordance with Section 3.04 hereof and provided, further, that the Authority shall not be entitled to pursue the enforcement of payment of the Charge until such time as the Charge becomes a Delinquent Charge. No Owner shall be

required to prepay any installment to the Authority, but the Charge may be prepaid in accordance with Section 4.04 hereof.

Notwithstanding the foregoing, (a) the Authority may enter into an agreement with any mortgage lender for the escrowing of Charge installments with such lender with respect to any Chargeable Parcel and for the periodic payment of the escrowed installments to the Authority, and (b) so long as such agreement continues, the Owner of any Chargeable Parcel on which such lender holds a mortgage shall, if such Owner so consents, pay the Charge installments with respect thereto directly to the lender; provided, however, that the obligation to pay the Charge shall remain that of the Owner and is not satisfied until and unless full payment of the Charge is received by the Authority, and provided further that no such agreement with a mortgage lender shall adversely affect the Authority's ability to enforce the payment of the Charge.

4.04. Prepayment of the Charge. An Owner may, at any time, give written notice to the Authority of its intent to prepay the portion of the Charge for such Owner's Chargeable Parcel that is applicable to Debt Service Charges, in whole or in part, and within thirty (30) days following the receipt of such notice, the Administrator shall calculate the prepayment amount as provided herein. Upon receipt by the Authority of a prepayment amount, the obligation to pay the portion of the Charge for that Chargeable Parcel that has been prepaid shall be deemed permanently satisfied as provided for herein.

The prepayment of the Charge shall be equal to the following: (a) the sum of the following: (i) Prepayment Principal, (ii) Prepayment Premium, (iii) Defeasance, (iv) Prepayment Fees, and (v) any Delinquent Charge on such Parcel, including any applicable penalties, interest, and related costs.

Charges may be prepaid in part, as provided for herein and to the extent permitted by the Trust Agreement, provided that proceeds for any such prepayment are determined by the Administrator, in its reasonable discretion, to be in an amount sufficient to permit the redemption of the Bonds in Authorized Denominations. The Administrator shall compute the amount of the partial prepayment by multiplying the prepayment of the Charge calculated above by the percent of the Charge to be prepaid. The amount of the prepayment shall be allocated against all remaining Charges for that Parcel in a manner that will facilitate the redemption of the Bonds in the manner provided in the Trust Agreement for the Bonds.

The sum of the amounts calculated herein shall be paid to the Authority and shall be used to pay and redeem the Bonds in accordance with the Trust Agreement and to pay the Administrative Expenses associated with the prepayment. Upon the payment of such prepayment amount, the obligation to pay the portion of the Charge that is prepaid for such Chargeable Parcel with respect to Debt Service Charges shall be deemed to be permanently satisfied, and such portion of the Charge shall not be imposed on or collected from such Parcel thereafter.

4.05. Penalty and Interest. For each Chargeable Parcel as to which any installment of the Charge becomes a Delinquent Charge, there shall be added to such delinquent installment (A) a penalty of ten percent (10%) thereof (imposed at the same time that penalties for delinquent real property taxes are imposed pursuant to Chapter 323 of the Revised Code), (B) interest at the greater of (i) the Late Payment Rate or (ii) eighteen percent (18%) per year (or the maximum rate permitted under Ohio's usury laws, whichever is lower), on the sum of the amount of such delinquent installment plus the interest that has accrued thereon for more than six (6) months plus the penalty until paid (imposed at the same time that interest on delinquent real property taxes is imposed pursuant to Chapter 323 of the Revised Code), and (C) any costs of the Authority incurred in connection with the enforcement of the Charge, including reasonable attorney fees. To the extent any of such penalties, interest and costs are not collected by the County Auditor, the Administrator shall add such amounts to the amount of the Charge imposed with respect to such Chargeable Parcel in the following year. Any payments of less than the full amount shall



be credited first, against the penalty, second, against the interest accrued to the date of payment, and third, against costs. The applicable penalties, interest, and costs are part of the Charge, but the ability of the Authority to impose and recover such penalties, interest, and costs shall not be limited by the provisions of Section 4.02, which establish the Maximum Charge and the Aggregate Maximum Charge. Notwithstanding anything contained herein to the contrary, no Owner shall be permitted to enter into an agreement pursuant to Section 323.31 of the Revised Code with respect to a Delinquent Charge without the prior written consent of the Authority.

4.06. Refund of Charges Paid. Each Owner shall be entitled to a refund of any Charges released from the Trust Agreement and paid to the Authority by the Trustee pursuant to Section 4.03(f) of the Trust Agreement. The Authority shall Proportionately refund to each Owner any Charges refunded to the Authority up to the Maximum Charge applicable on each Chargeable Parcel in the year of the refund; provided, that in no event shall the Authority refund a Charge or portion of a Charge to an Owner unless that Owner (i) has paid all Charges due during the year of the refund on its Chargeable Parcel or Chargeable Parcels, and (ii) does not have any Delinquent Charges outstanding.

4.07. Personal Obligation. Each Owner shall be and remain personally obligated for the payment with respect to his Chargeable Parcel of the Charge that becomes due during the period of that Owner's ownership thereof, including any penalties, interest thereon, and costs associated therewith.

4.08. Charge Lien. The Charge with respect to each Chargeable Parcel, including any penalty, and interest thereon, and costs thereof, shall constitute a continuing lien in favor of the Authority on such Chargeable Parcel. If an installment or any part of an installment of the Charge on any Chargeable Parcel is not paid when due, as provided in Section 4.03 herein, the lien with respect to such delinquent installment or part thereof shall be enforceable in any manner provided in Section 3.04 herein. Such lien shall be prior to all other liens and encumbrances thereon whatsoever, excepting real estate taxes and assessments and liens of the United States of America, the State, and all other political subdivisions or governmental instrumentalities of the State to the extent such liens, taxes, or assessments are made equal or superior to the Charge lien by Ohio law.

4.09. Evidence of Payment. Upon the request of the Owner or any mortgagee or lessee of any Chargeable Parcel or any prospective purchaser, mortgagee or lessee thereof, the Authority shall furnish written evidence of the amount of the Charge with respect thereto for the current year and the amount of any unpaid Charge including any penalty and interest for the current or any previous year. Such evidence may be conclusively relied upon by any such party and by anyone furnishing any title evidence or opinion with respect to such Chargeable Parcel.

## ARTICLE V

### PROCEDURE FOR WAIVER, REDUCTION, INCREASE OR TERMINATION OF THE CHARGE

5.01. Fiscal Meeting. Annually, the Board shall hold a Fiscal Meeting to determine whether any of the Charge should be imposed, assessed or terminated in accordance with Section 5.03 of this Declaration. Any Fiscal Meeting shall be held on such date as the Board shall determine; provided, that the Fiscal Meeting shall be held on or before the second Monday in September. Each Fiscal Meeting shall be open to the public, and the Board shall take no action to impose, assess or terminate the Charge except at a Fiscal Meeting.

5.02. Notice of Fiscal Meeting. Notice of the Fiscal Meeting shall be given by the Board in compliance with Section 121.22 of the Revised Code. Such notice shall specify the place, date and hour of the Fiscal Meeting and state that it is the Fiscal Meeting required by this Article V.

5.03. Imposition, Assessment or Termination. At any Fiscal Meeting the Board may impose, assess or terminate all or a portion of the Charge for one or more years or to a stated date; provided, that in no event shall the Authority impose or assess a Charge on any Chargeable Parcel in an amount greater than the Maximum Charge. Notwithstanding any other provision of this Declaration, no imposition, assessment or termination of the Charge shall be effective if it is inconsistent with the express obligations of the Authority under the terms of any Outstanding Bonds or would otherwise adversely affect the ability of the Authority to pay Debt Service Charges, Administrative Expenses, and other expenses required to be paid under the Trust Agreement.

Except as otherwise provided in this Declaration: (a) every action taken by the Board pursuant to this Article shall be governed by, and taken with reference to, the fiscal requirements of the Authority for the year for which the Charge is to be collected as reflected in the budget for that year adopted by the Board; and (b) any action by the Board relating to the waiver, reduction or termination of any of the Charge shall be taken only after the Board has determined that the Charge to be waived, reduced or terminated is not needed for any of the purposes for which the Charge has been established as set forth in Section 3.02 herein.

5.04. Discretion of the Board. Subject to the provisions of this Declaration and all applicable provisions of valid agreements of the Authority, the decision to waive, reduce, increase (but only as provided in Section 5.03 above) or terminate the Charge as provided herein shall be solely within the discretion of the Board.

## ARTICLE VI

### DURATION, AMENDMENT, AND TERMINATION

6.01. Effective Date. The Restrictions shall be effective and shall be and be deemed covenants running with the land when this Declaration is Recorded; provided, however, that no Charge shall be collected and the Authority shall have no rights or obligations hereunder until the Authority executes and there is Recorded an instrument by which the Authority joins in this Declaration for the purposes of accepting the duties, responsibilities and benefits imposed and conferred on it by the Restrictions. Resolution No. 2008-03 of the Authority, by which the Authority joins in this Declaration for the purposes of accepting the duties, responsibilities and benefits imposed and conferred on it by the Restrictions, is attached hereto as Exhibit C and is incorporated herein by this reference.

6.02. Duration and Effect. The Restrictions (a) shall be, and shall be construed as, covenants running with the land; (b) shall be binding upon the Developer, the Authority and each Owner; and (c) shall inure to the benefit of and be enforceable by (i) the Authority, (ii) the Developer (regardless of whether or not any such beneficiary owns an interest in any Parcel), and (iii) each Owner. Unless amended or terminated as provided in this Article, the Restrictions shall continue in full force and effect, until the date when the Bonds, plus any interest thereon and any expenses related thereto, are paid in full.

6.03. Termination of Charges. Except for any Delinquent Charges and related penalties and interest, Charges shall terminate in the year in which Debt Service Charges are paid in full or upon the defeasance of the Bonds as determined by the Trust Agreement and any applicable Supplemental Trust Agreement. After such termination date and the collection of any Delinquent Charges, penalties and interest, the Authority shall provide to each Owner a recordable document (or provide for such document to be Recorded) evidencing the termination of the imposition and collection of the Charges.

6.04. Termination of Restrictions. The Restrictions shall terminate and shall be null and void automatically if and on the date when there occurs a dissolution of the Authority pursuant to the Act. Notwithstanding any other provision of this Declaration, no termination of the Restrictions shall be effective to the extent it is inconsistent with the express obligations of the Authority under the terms of any outstanding Bonds.

If a final judicial adjudication is rendered or lawful executive or legislative action is taken by the government of the State which effectively enjoins or prevents the Authority from (i) implementing or collecting the Charge or (ii) carrying out any other substantial or important duty or responsibility imposed on it under this Declaration or receiving or accepting any other substantial or important benefit granted to it by this Declaration, the Authority and the Developer shall, within thirty (30) days after the rendition of such adjudication or the taking of such action (or such longer period that they may agree upon) attempt to agree upon a course of action that will remedy any defect identified in such adjudication or created by such action, and if within such thirty (30) day (or extended) period no course of action is agreed upon by the Authority and the Developer, subject to any applicable restrictions pertaining to outstanding Bonds, the Restrictions may be terminated on such date as shall be designated in a written declaration of termination by the Developer if within the Development Period or by the Authority if after the Development Period.

If the Restrictions are required or permitted to be terminated pursuant to this Section 6.04, such termination shall become effective when a certificate or other document stating the authority for such termination and signed by the person or entity or entities empowered to effect such termination is Recorded. If the Restrictions terminate automatically, the Developer shall promptly cause a certificate or

other document to be Recorded which shall state the authority for such termination and the effective date thereof.

All rights and obligations which had accrued under the Restrictions prior to the date of termination shall survive such termination, including without limitation, all personal obligations and liens under the Declaration.

## ARTICLE VII

### AMENDMENTS AND SUPPLEMENTS

7.01. Amendments or Supplements Not Requiring Consent of Owners. Without the consent of or notice to any of the Owners, the Authority may amend or supplement this Declaration (i) to cure any ambiguity, inconsistency or formal defect or omission or eliminate any typographical or other inadvertent error; (ii) to make or accommodate adjustments in the manner or method for billing and collecting the Charge; (iii) to conform this Declaration to any amendment permitted by Section 349.03 of the Revised Code to the Petition; (iv) to provide for the issuance of Refunding Bonds if the issuance of such Refunding Bonds will cause a reduction in the annual amount of the Charge; or (v) to make any other amendment which, in the judgment of the Authority, is not to the prejudice of the Owners; provided, however, that no such amendment or supplement shall result in an increase in the amount of the Aggregate Maximum Charge or the duration of the Charge.

7.02. Amendments or Supplements Requiring Consent of Owners. Except as provided in and subject to Sections 5.03, 6.03, 6.04 or 7.01 of this Declaration, no provision of this Declaration may be amended or supplemented in whole or in part or terminated without the written consent of the Owners of not less than sixty-six percent (66%) of the total acreage of all of the Parcels.

The Secretary shall determine (a) whether the Owners have consented to any amendment or supplement of this Declaration, if necessary, and (b) whether, if their consent is necessary, the Developer or the holders of any outstanding Bonds or provider of a "Credit facility" as defined in Section 9.93(G) of the Revised Code have consented to any such amendment or supplement of this Declaration. Such determinations of the Secretary shall be conclusive against all Owners.

7.03. Consent of Developer Required During Development Period. Notwithstanding any other provision of this Declaration, no amendments or supplements to this Declaration made during the Development Period shall be permitted without the written consent of the Developer.

7.04. Recording of Amendments. Promptly after any amendment or supplement of this Declaration, the Secretary shall cause to be Recorded a written instrument certified by the Secretary setting forth such amendment or supplement and stating that any required written consents were obtained.

## ARTICLE VIII

### MISCELLANEOUS

8.01. Priority. The Restrictions contained in this Declaration shall take priority over all other covenants, conditions, restrictions or easements applicable to any Parcel whatsoever, to the extent permitted by law and except as otherwise provided herein.

8.02. No Reverter. No covenant, condition, restriction or reservation contained in this Declaration is intended to create, or shall be construed as creating a possibility of reverter or, except as provided in Sections 4.01 and 7.01, a condition subsequent.

8.03. Severability. In case any section or provision of this Declaration, or any Restriction, agreement, obligation, act or action, or part thereof, made, assumed, entered into, done or taken under this Declaration or a Restriction, or any application thereof, is held to be illegal or invalid for any reason, or is inoperable at any time, that illegality, invalidity or inoperability shall not affect the remainder of this Declaration or any other section or provision of this Declaration or any other Restriction, agreement, obligation, act or action, or part thereof, made, assumed, entered into, done or taken under this Declaration, all of which shall be construed and enforced at the time as if the illegal, invalid or inoperable portion were not contained therein. Any illegality, invalidity or inoperability shall not affect any legal, valid and operable section, provision, Restriction, agreement, obligation, act, action, part, or application, all of which shall be deemed to be effective, operative, made, assumed, entered into, done or taken in the manner and to the full extent permitted by law from time to time.

8.04. Governing Law. This Declaration shall be governed by, construed under and enforced in accordance with the laws of the State. The venue for any disputes arising under the Declaration will be the Franklin County Court of Common Pleas.

8.05. Headings. The headings of the Articles and Sections are for convenience only and shall not affect the meaning or construction of the contents of this Declaration.

8.06. Interpretation and References. Any reference in this Declaration to a section or provision of the Revised Code or to the laws of the State shall include that section or provision and those laws as from time to time amended, modified, revised, supplemented or superseded. However, no such amendment, modification, revision, supplementation or supersession, or further action by the General Assembly, shall alter the obligation to pay the Charge in the amount and manner, and at the times provided in this Declaration, or otherwise impair the application of the Restrictions, except to the extent that the Restrictions cannot be sustained by reason of such amendment, modification, revision, supplementation or supersession.

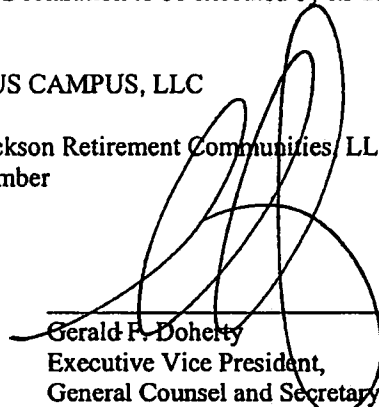
Unless the context otherwise indicates, the masculine gender shall be deemed to include the feminine and neuter, and the singular shall be deemed to include the plural, and vice versa.

References in this Declaration to sections and articles, unless otherwise stated, are to sections and articles of this Declaration. The terms "hereof," "herein," "hereby," "hereto," and "hereunder," and similar terms, mean and refer to this Declaration.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be executed by its duly authorized officer as of the day and year first above written.


COLUMBUS CAMPUS, LLC

By: Erickson Retirement Communities LLC,  
Member

By:   
Gerald F. Doherty  
Executive Vice President,  
General Counsel and Secretary

STATE OF Maryland :  
COUNTY OF Baltimore : SS

The foregoing instrument was acknowledged before me on this 24th day of April, 2008 by Gerald F. Doherty, Executive Vice President, General Counsel, and Secretary of Erickson Retirement Communities, LLC, the sole member of Columbus Campus, LLC, a Maryland limited liability company, on behalf of the limited liability company.

  
NOTARY PUBLIC

Commission expiration date: \_\_\_\_\_



CATHY M. THOMPSON  
Notary Public, State of Maryland  
Queen Anne's County  
My Commission Expires December 25, 2011

This Instrument Prepared By: Price D. Finley, Esq., Bricker & Eckler LLP,  
100 South Third Street, Columbus, Ohio 43215

## **EXHIBIT A**

### **MASTER DEFINITIONS LIST**

**"Accreted Amount"** means, as of any date, the amount or portion of the amount payable on Bonds at maturity that is accrued to or payable on the particular date in accordance with the Bond Proceedings and that is in excess of the Aggregate Outstanding Principal Amount described in clauses (i), (ii) and (iii) of the below definition of Aggregate Outstanding Principal Amount. Accreted Amount does not include interest payable on the outstanding principal amount of a Bond, except for interest on a Bond that is payable only at that Bond's principal maturity.

**"Act"** means Chapter 349 of the Revised Code and any other applicable law pertaining to the Bonds, as the same may be amended, modified, revised, supplemented or superseded from time to time.

**"Additional Bonds"** means bonds, notes or other evidences of indebtedness issued by the Authority in addition to the Series 2008 Bonds and pursuant to and in accordance with the terms of the Trust Agreement for the purpose of: (i) funding costs of completing the Infrastructure Improvements; or (ii) refunding any Outstanding Bonds.

**"Administration Agreement"** means the Administration Agreement dated as of March 1, 2008, between the Authority and the Administrator and relating to the Series 2008 Bonds.

**"Administrative Expense Fund"** means the Hickory Chase Community Authority Administrative Expense Fund established pursuant to Section 4.02 of the Trust Agreement.

**"Administrative Expenses"** means, as of any Calculation Date, the Administrative Expenses, whether actual or estimated, determined by the Administrator to be payable during the succeeding year, including but not necessarily limited to: (i) the fees and expenses of the Authority, Trustee and the Administrator, including the fees of their legal counsel; and (ii) costs directly related to the administration of the District, whether incurred by the Authority or by a designee of the Authority on its behalf, including but not limited to the actual costs of computing the Charges; the costs of collecting the Charges (whether by the County or otherwise); the costs of remitting the Charges to the Trustee; the actual costs of the Authority, Trustee and Administrator in the discharge of their duties related to the District; the costs of providing disclosure information to investors and the public; costs related to a prepayment of the Charges; costs associated with efforts to collect Delinquent Charges; and amounts advanced, incurred, or estimated by the Authority for any other administrative purposes of the District, including, but not limited to, bonds for Board Members, insurance, costs of audits, legal expenses, and compensation of Board Members.

**"Administrator"** means the Person appointed by the Authority and carrying out the duties of the Administrator under the Trust Agreement, the Administration Agreement and the Declaration in accordance with Article IX of the Trust Agreement, being initially MuniCap, Inc., a Maryland corporation.



"Advanced Project Costs" means the Project Costs advanced by the Developer on behalf of the Authority prior to the issuance of the Series 2008 Bonds, which Advanced Project Costs are to be reimbursed to the Developer by the Authority pursuant to the Developer Services Agreement.

"Aggregate Maximum Charge" means an amount equal to (A) the maximum amount of Debt Service Charges required to be paid in any calendar year during which Bonds are outstanding, plus (B) an additional amount equal to ten percent (10%) of the value established by clause (A) hereof.

"Aggregate Outstanding Principal Amount" means, as of any date:

(i) With respect to any Outstanding Bonds on which no interest is payable, the aggregate discounted offering price at which such Bonds are initially sold to the public, disregarding any purchase price discount to the Original Purchaser if provided for pursuant to Section 349.08 of the Revised Code or otherwise;

(ii) With respect to any Outstanding Bonds on which no interest is payable prior to principal maturity, their aggregate face amount; and

(iii) With respect to any other Outstanding Bonds, their aggregate face amount.

"Annual Required Installment" means, for any calendar year, an amount estimated by the Administrator (which estimate shall be based, in part, on the historic experience of the Administrator with similar projects), equal to (A) Period Debt Service and Administrative Expenses, less (B) Net Available Assets.

"Assigned Service Payments" means the portion of the Service Payments credited to the Special Account of the TIF Fund from time to time pursuant to Section 5 of the Service Payment Agreement.

"Authenticating Agent" means the Trustee and any other bank, trust company or other person designated as an Authenticating Agent for Bonds by or in accordance with Section 6.08(a) of the Trust Agreement, each of which shall be a transfer agent registered in accordance with Section 17A(c) of the Securities Exchange Act of 1934, as amended.

"Authority" means Hickory Chase Community Authority, a political subdivision and body corporate and politic of the State created as a new community authority pursuant to the Act by Resolution No. 663-07 adopted on July 31, 2007 by the Board of County Commissioners of the County.

"Authorized Denomination" means, in the case of the Bonds, \$100,000 and integral multiples of \$1,000 in excess thereof.

"Authorized Officers" means any two or more officers, members or employees of the Authority authorized by or pursuant to an Authority resolution to perform a particular act or sign a particular document, and if there is no such authorization, means the Chair and the Treasurer.

"Available Impact Fees" means the Impact Fees available to be applied to Period Debt Service and Administrative Expenses, including any Impact Fees the Developer has paid to the City but that the City has not yet transferred to the Trustee in accordance with the Service Payment Agreement and the Intergovernmental Cooperation Agreement.

"Available Service Payments" means the Service Payments available to be applied to Period Debt Service and Administrative Expenses, consisting of (A) the Service Payments, less (B) the Initial School Payment.

"Beneficial Owner" means, while the Bonds are held in book entry form, each actual purchaser of the beneficial ownership interests in each Bond.

"Board" means the Board of Trustees of the Authority.

"Board Member" means a member of the Board of Trustees of the Authority.

"Bond" or "Bonds" means the Series 2008 Bonds and any Additional Bonds issued pursuant to the Bond Proceedings and in accordance with the Trust Agreement.

"Bond Counsel" means an attorney-at-law satisfactory to the Authority and the Developer, nationally recognized as experienced in matters relating to the exclusion from gross income for federal income tax purposes of interest on bonds of states and political subdivisions.

"Bond Proceedings" means the Trust Agreement, any applicable Supplemental Trust Agreement, any applicable Series Resolution and any supplements thereto, the Certificate of Award, and other resolutions, Credit Support Instruments, and agreements, and amendments of and supplements to or any combination of them, authorizing or providing for the terms and conditions applicable to, or providing for the security for, liquidity or sale of, or the terms contained in, the Bonds.

"Bond Purchase Agreement" means the Bond Purchase Agreement dated April 23, 2008 and relating to the Series 2008 Bonds, by and among the Authority, the Developer, Erickson and the Original Purchaser.

"Bond Reserve Fund" means the Hickory Chase Community Authority Bond Reserve Fund established pursuant to Section 4.02 of the Trust Agreement.

"book entry form" or "book entry system" means a form or system under which physical Bond certificates in fully registered form are issued only to a Depository or its nominee as registered owner, with the certificated Bonds held by and "immobilized" in the custody of the Depository, and the book entry system, maintained by and the responsibility of the Depository or

others, is the record that identifies and records the transfer of the interests of the owners of book entry interests in those Bonds.

"book entry interests" means the interests of the ultimate purchasers of book entry interests in the Bonds issued in book entry form.

"Business Day" means a day of the year, other than (a) a Saturday; (b) a Sunday; (c) a day on which commercial banks located in any city in which the corporate trust office of the Trustee is located are required or authorized by law to remain closed; or (d) a day on which the New York Stock Exchange is closed.

"Calculation Date" means August 1 or such other date as may be specified in a written certification by the Authorized Officers, being a date that provides sufficient time within which to make the determinations required in the Trust Agreement, the Declaration, and the Administration Agreement for the succeeding calendar year, provided that, if, in any year, the Calculation Date would not fall on a Business Day, the Calculation Date shall be the first Business Day following such date.

"Capitalized Interest Account" means the Capitalized Interest Account established in the Project Fund pursuant to Section 4.02 of the Trust Agreement.

"Certificate of Award" means the certificate, dated April 23, 2008, executed by the Chair and the Treasurer awarding the Series 2008 Bonds to the Original Purchaser.

"Chair" means the Chairperson of the Board of Trustees of the Authority.

"Chapter 349" means Chapter 349 of the Revised Code, as the same may be amended from time to time.

"Charge" or "Community Development Charge" means the community development charge established in accordance with Sections 349.06(Q) and 349.07 of the Revised Code and Articles III, IV and V of the Declaration, collected by the County Auditor on behalf of the Authority each year Proportionately from each Chargeable Parcel to the extent necessary to fund the Annual Required Installment for that year, including all applicable penalties, interest and costs pertaining to any unpaid amount, but in no event in an amount greater than the Aggregate Maximum Charge for that year.

"Chargeable Parcel" means a Parcel any portion of which constitutes Chargeable Property.

"Chargeable Property" means all or any portion of the District, together with all buildings, structures and improvements thereon, with the exception of the following:

- (i) All lands, buildings, structures and improvements presently, or based on the plan for the Infrastructure Improvements expected to be, owned by, or irrevocably offered for dedication (in a plat map approved by the City or

otherwise) to, and easements for the exclusive use of, the United States of America, the State, the Authority, all other political subdivisions or governmental instrumentalities of the State, or a public utility provider; provided, however, that exclusive use utility easements and real property that have been irrevocably dedicated include only those Parcels for which a copy of the easement or offer has been provided to the Administrator on or before the date the Charge with respect to such utility easements and real property is certified to the County Auditor for collection; and

(ii) All lands, buildings, structures and improvements exempt from real property taxation under State law.

“City” means the City of Hilliard, Ohio.

“City Council” means the Council of the City of Hilliard, Ohio.

“City Engineer” means the City Engineer for the City, or any employee of the City designated to inspect the Infrastructure Improvements or authorized to execute a requisition on behalf of the City Engineer.

“Closing Date” means April 29, 2008.

“Code” means the Internal Revenue Code of 1986, as amended, the Treasury Regulations (whether proposed, temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable to the Bonds. Unless otherwise indicated, reference to a Section means that Section of the Code, including such applicable Treasury Regulations, announcements, notices, procedures, rulings and determinations pertinent to that Section.

“Community Development Charge Account” means the Community Development Charge Account established in the Revenue Fund pursuant to Section 4.02 of the Trust Agreement.

“Community Facilities” means the Infrastructure Improvements to be constructed, which are generally comprised of community streets and design amenities; improvements in connection with water supply or sewage disposal installations or gas or electric lines or installation; and other related improvements.

“Community Land Development” means the process of clearing and grading land, and making, installing or constructing the Community Facilities.

“Construction Account” means the Construction Account established in the Project Fund pursuant to Section 4.02 of the Trust Agreement.

"Construction Documents" means the detailed construction documents for the Project including, without limitation, working drawings, plans and specifications prepared or caused to be prepared by the Authority, as the same may be revised or supplemented from time to time by the Authority, and all other related contracts and subcontracts.

"County" means the County of Franklin, State of Ohio.

"County Auditor" means the Auditor of the County.

"County Treasurer" means the Treasurer of the County.

"Credit Support Instrument" means an insurance policy or surety, letter of credit or other credit enhancement, support, interest rate swap or cap or other hedge or liquidity device provided pursuant to an agreement to which the Authority is a party and which is used to enhance the security or liquidity of any Bonds, or to provide, in whole or in part, a Required Reserve.

"Debt Service Charges" means the principal, Accreted Amount, interest and any redemption premium required to be paid by the Authority on the Bonds, and includes any Mandatory Sinking Fund Requirements. In the case of payment of Debt Service Charges by a person other than the Authority pursuant to a Credit Support Instrument, "Debt Service Charges" means any required reimbursement by the Authority to the provider of that Instrument of the amount so paid. In determining Debt Service Charges for a Fiscal Year or any other period, Mandatory Sinking Fund Requirements for that Fiscal Year or period shall be taken into account, and principal maturities or interest or Accreted Amount payments for which Mandatory Sinking Fund Requirements are imposed and complied with in a prior Fiscal Year or period, to that extent, shall be excluded.

"Debt Service Fund" means the Hickory Chase Community Authority Debt Service Fund established pursuant to Section 4.02 of the Trust Agreement.

"Declaration" means the Declaration of Covenants and Restrictions for Hickory Chase Community Authority, dated, filed and Recorded on or prior to the Closing Date in the office of the Recorder of the County, as the same may from time to time be amended or supplemented in accordance with Article VII of the Declaration.

"Defeasance" means, for purposes of the Declaration, the amount needed to pay interest on the Prepayment Principal until the earliest call date for the Bonds, less (a) the amount that will be received by the Trustee from the reinvestment of the prepayment of the Charge until the Bonds are redeemed from the prepayment, and (b) the Charge paid prior to the prepayment that will be applied to the interest or principal on the Bonds that is included in the calculation of the Prepayment Principal or Defeasance.

"Defeasance Obligations" means (i) Government Obligations, (ii) Prerefunded Tax-Exempt Obligations, and (iii) obligations issued by or on behalf of states or political subdivisions and described in Section 103(a) of the Code that are rated at the time of acquisition in the highest rating category by Fitch, Standard & Poor's or Moody's. Notwithstanding the foregoing, with

respect to a particular Additional Bond or Series of Additional Bonds, "Defeasance Obligations" shall mean such securities or obligations as provided in the Supplemental Trust Agreement authorizing the issuance of such Additional Bond or Series of Additional Bonds.

"Delinquent Charge" means a Charge that has been certified to the County Auditor for collection in accordance with Section 3.04 and Section 4.03 of the Declaration and, subsequently, has not been paid on or before the dates for payment of real property taxes prescribed by Chapter 323 of the Revised Code.

"Depository" or "Securities Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a book entry system to record ownership and effect transfers of book entry interests in the Bonds.

"Design Professional" means, initially, Evans, Mechwart, Hambleton & Tilton of Columbus, Ohio, or any other professional design services firm authorized to provide to the Authority professional design services with extended construction administration services.

"Developer" means Columbus Campus, LLC, a Maryland limited liability company, and its successors in interest. A person or entity shall be deemed a successor in interest of the Developer only if specifically so designated in a duly recorded written instrument as a successor or assign of such Developer and only as to the particular rights or interests of such Developer which are specifically designated in the recorded written instrument.

"Developer's Agreement" means the Developer's Agreement dated as of March 1, 2008, between the Authority and the City, as the same may be amended from time to time.

"Developer Services Agreement" means the Developer Services Agreement dated as of March 1, 2008, between the Authority and the Developer, as the same may be amended from time to time.

"Development" means certain private improvements constituting a continuing care retirement community to be constructed by Erickson and the Developer, a portion of which will be constructed within the District.

"Development Plan" means the plan of the Developer for the Development, originally a part of the Petition filed by the Developer to cause the creation of the Authority, as the same may be amended by the Developer from time to time.

"Development Period" means the period commencing on the date on which the Declaration is Recorded and ending on the date all Board Members are scheduled to be elected citizen members pursuant to Section 349.04 of the Revised Code as it exists on the date on which the Declaration is Recorded.

"District" means the Hickory Chase Community District, a new community district created pursuant to the Act. The boundaries of the District are coterminous with the boundaries of the TIF Site.

"DTC" means The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and its successors and assigns.

"DTC Participant" means banks, brokers or dealers who are participants of DTC.

"Eligible Investments" means any of the following:

- (i) Direct obligations of the United States of America;
- (ii) Obligations, whether representing principal and interest or either principal or interest, guaranteed as to payment by the United States of America or to the payment of which the faith of the United States of America is pledged;
- (iii) Direct obligations issued by any agency or instrumentality of the United States of America which are accepted by the Rating Services for refunding purposes generally to result in the particular refunded obligations being assigned the highest rating of the particular Rating Service;
- (iv) Certificates of deposit issued by a national bank located in the State or a bank (as defined in Section 1101.01 of the Revised Code) subject to inspection by the State Superintendent of Banks, which bank has a combined capital and surplus of at least \$100,000,000 in dollars of the United States of America and is rated at least "A" (or its equivalent) by the Rating Services, provided that such certificates of deposit (a) do not exceed in the aggregate ten percent (10%) of the combined capital, surplus and undivided profits of the issuing bank and (b) shall be in the possession of the Trustee and shall be (A) continuously and fully insured by the Federal Deposit Insurance Corporation or its successors and (B) to the extent not so insured, continuously and fully secured by securities described in clauses (i) through (iii) above which have a market value (exclusive of any accrued interest) at all times at least equal to the principal amount of the certificates of deposit. The bank issuing a certificate of deposit required to be secured as provided in clause (B) above shall furnish the Treasurer of the Authority with an undertaking that the aggregate market value of all such pledged securities securing each certificate of deposit will at all times be an amount at least equal to the principal amount of that certificate of deposit, and the Treasurer shall be entitled to rely on each such undertaking;
- (v) Any no front end load money market fund that is rated at least "A" (or its equivalent) by the Rating Services, consisting of obligations described in clauses (i) through (iii) above; and
- (vi) Any repurchase agreements, including any issued by the Trustee, secured by obligations described in clauses (i) through (iii), above.
- (vii) Any investment agreement with a provider whose rating or whose guarantor's rating is at least AA- by S&P or Aa3 by Moody's.

The pledged securities described in (iv) above are to be in the possession of the Trustee, and are to be free and clear of all liens or rights of any third party and in which securities the Trustee is to have a first and sole perfected security interest. For purposes of this definition, "Rating Services" shall mean Moody's Investors Service or Standard & Poor's Ratings Group and their respective successors.

"Erickson" means Erickson Retirement Communities, LLC, a Maryland limited liability company.

"Event of Default" means (i) with respect to the Trust Agreement, an Event of Default as described in Section 7.01 of the Trust Agreement; and (ii) with respect to the Intergovernmental Cooperation Agreement, an Event of Default as described in Section 3.1 of the Intergovernmental Cooperation Agreement.

"Excess Account" means the account in the TIF Fund into which Excess Service Payments are deposited pursuant to Section 5 of the Service Payment Agreement.

"Excess Service Payments" means amounts remaining in the TIF Fund and credited to the Excess Account following the required deposits to the School District Account and the Special Account pursuant to Section 5 of the Service Payment Agreement.

"Federal Securities" means: (i) direct obligations of, or obligations representing principal and interest, or principal or interest, the full and timely payment of which is guaranteed by, or to the full and timely payment of which is pledged the faith of, the United States of America; (ii) any certificates or other evidences of direct ownership interest in obligations of the character described in clause (i) or in specified portions of those obligations, including, without limitation, portions consisting solely of the principal of or solely of the interest on those obligations; or (iii) obligations of any state of the United States or any political subdivision thereof, the full payment of principal of and interest and any premium on which are provided for by an irrevocable deposit in trust of the Federal Securities described in clause (i) or (ii), to the extent such investments are permitted by applicable law, and which obligations carry the highest rating category of the Rating Services. With respect to Federal Securities described in clause (ii), the underlying obligations must be, as evidenced by a receipt held by the owner, held in safekeeping on behalf of the owner. For purposes of this definition, "Rating Services" shall mean either Moody's Investors Service or Standard & Poor's Ratings Group and their respective successors.

"Fiscal Meeting" means the annual meeting of the Board described in Article V of the Declaration.

"Fiscal Year" means a period of twelve (12) consecutive months commencing on the first day of January of any year and ending on the last day of December of that year.

"Force Majeure" means acts of God; fires; epidemics; landslides; floods; strikes; lockouts or other industrial disturbances; acts of public enemies; acts or orders of any kind of any governmental authority; insurrections; riots; civil disturbances; arrests; explosions; breakage or



malfunctions of or accidents to machinery, transmission pipes or canals; partial or entire failures of utilities; shortages of labor, materials, supplies or transportation; lightning, earthquakes, hurricanes, tornadoes, storms or droughts; periods of unusually inclement weather or excessive precipitation; or any cause or event not reasonably within the control of the applicable party.

"Funds and Accounts" means those funds and accounts established pursuant to the Trust Agreement.

"Government Obligations" means:

- (i) direct obligations of, or obligations the payment of principal and interest on which is unconditionally guaranteed by, the United States of America;
- (ii) certificates, trust receipts, or similar instruments evidencing ownership of principal payments or interest payments due on bonds of the United States of America if held in the custody of a commercial bank or lead bank of a parent holding company whose obligations are rated in one of the two highest rating categories of Standard & Poor's and Moody's;
- (iii) direct, general obligations of any state or territory of the United States of America, or of any political subdivision of any such state, to the payment of principal of and interest on which the full faith and credit of the issuer thereof is pledged; provided that such obligations are rated within one of the two highest rating categories of Standard & Poor's and Moody's and with respect to obligations of a political subdivision, are payable from taxes levied on all the taxable property therein without limitation as to rate or amount;
- (iv) any other obligations of any such state, territory or political subdivision, provided that the payment of principal of and interest on such obligations has been insured through the issuance of any irrevocable municipal bond insurance policy and that such obligations are rated in one of the two highest rating categories of Standard & Poor's and Moody's;
- (v) any obligations of any such state, territory or political subdivision the payment of principal of and interest on which is secured by an escrow fund constituted of obligations described in clauses (i), (ii), (iii), or (iv) of this definition; and
- (vi) obligations of any agency, department, or instrumentality of the United States, or obligations guaranteed directly or indirectly by any such agency, department, or instrumentality, provided that such obligations are rated in one of the two highest rating categories by Standard & Poor's and Moody's.

"Holder" or "holder" or "registered owner", or any similar term means the person in whose name a Bond is registered, or the Holder or owner of Bonds as may otherwise be prescribed by the resolution authorizing such Bonds.

"Impact Fee Fund" means the Hickory Chase Community Authority Impact Fee Fund established pursuant to Section 4.02 of the Trust Agreement.

"Impact Fees" means those impact fees the Developer is required to pay to the City in the amount of \$1,500 per independent living unit developed on the TIF Site.

"Improvement" and "Improvements" means with respect to the Service Payment Agreement, the improvements made by the Owners to the TIF Site, and, in all other cases, means the increase in the assessed value of any real property comprising the TIF Site that would first appear on the tax list and duplicate of real and public utility property after the effective date set forth in the TIF Ordinance passed under the TIF Act were it not for the exemption granted by the TIF Ordinance, in accordance with the definition in Revised Code Section 5709.40(A)(4).

"Infrastructure Improvements" means those infrastructure improvements identified in Exhibits A through E of the Developer's Agreement on file with the Authority at the time that the Series 2008 Bonds are issued, which Infrastructure Improvements constitute Community Facilities and Community Land Development.

"Initial School Payment" means the portion of the Service Payments consisting of the annual payment from the City to the School District, defined as the "Initial School Payment" in Section 2(b) of the School Compensation Agreement, which shall be paid in two semiannual installments pursuant to Section 2(a) of the School Compensation Agreement.

"Interest Payment Account" means the Interest Payment Account established in the Debt Service Fund pursuant to Section 4.02 of the Trust Agreement.

"Interest Payment Date" means each June 1 and December 1, beginning December 1, 2008.

"Intergovernmental Cooperation Agreement" means the Intergovernmental Cooperation Agreement dated as of March 1, 2008, by and among the Authority, the City and the Trustee, as may be amended from time to time.

"Late Payment Rate" means the sum of (i) "federal short term rate" determined pursuant to Section 5703.47(A) of the Revised Code, rounded to the nearest whole number percent, and (ii) three percent (3%).

"Letter of Representations" means the Letter of Representations dated on or before the date of initial delivery of the Bonds, from the Authority and the Trustee to DTC with respect to the Bonds, which shall be a binding obligation of the Authority and the Trustee.

"mail" or "mailed" or "mailing" means sending by first-class mail, postage prepaid.

"Mandatory Sinking Fund Requirements" means (i) with respect to the Series 2008 Bonds to be redeemed by mandatory sinking fund redemption, the amounts set forth in Section

3.01(b) of the Trust Agreement, and (ii) with respect to any Additional Bonds to be redeemed by mandatory sinking fund redemption, the amounts set forth in the applicable Supplemental Trust Agreement as the principal amount of the Additional Bonds authorized thereby to be redeemed by mandatory sinking fund redemption.

"Maximum Charge" shall be the amount imposed upon each Chargeable Parcel determined in accordance with Section 4.02(a)(2) of the Declaration.

"Net Acre" or "Net Acreage" means an estimated number of acres of a Chargeable Parcel less any areas excluded from the definition of Chargeable Property.

"Net Available Assets" means, for any calendar year, the sum of:

(i) the amount of Available Service Payments estimated by the Administrator, assuming existing levies will expire as scheduled (unless a renewal or replacement levy has been approved by the electorate of the applicable taxing jurisdiction prior to the applicable Calculation Date) and assuming further that the TIF Site will be valued at its assessed value as most recently estimated or determined (if no more recent estimates exist) by the County Auditor as of the applicable Calculation Date, to be received by the City during such year and to be deposited with the Trustee pursuant to the Intergovernmental Cooperation Agreement, plus

(ii) the value of amounts held in the Impact Fee Fund as of the applicable Calculation Date, together with those Available Impact Fees that have been received by the City but have not yet been deposited with the Trustee, to the extent that the Administrator estimates that such amounts will not be needed to pay Period Debt Service and Administrative Expenses prior to such year, plus

(iii) the amount of Available Impact Fees estimated by the Administrator to be received by the City during such year and to be deposited with the Trustee pursuant to the Intergovernmental Cooperation Agreement, to the extent that such amounts are not included in subparagraph (ii) above, plus

(iv) the value of amounts held in the Community Development Charge Account as of the applicable Calculation Date to the extent that the Administrator estimates that such amounts will not be needed to pay Period Debt Service and Administrative Expenses prior to that year and will not be refunded to the Owners prior to that year in accordance with Section 4.06 of the Declaration, plus

(v) amounts estimated by the Administrator as investment earnings on amounts in the Bond Reserve Fund during such year, to the extent that (A) the amounts on deposit in the Bond Reserve Fund are equal to or greater than the Series 2008 Required Reserve and any other applicable Required Reserve as established in the Trust Agreement and (B) such investment earnings are expected to be transferred to the Service Payment Account in accordance with Section 4.07 of the Trust Agreement, plus

(vi) the value of amounts held in the Supplemental Reserve Fund as of the applicable Calculation Date to the extent that the Administrator estimates that such amounts will not be needed to pay Period Debt Service and Administrative Expenses prior to that year, plus

(vii) the amount of any other revenues other than those mentioned in (i) through (vi) above to the extent that the Authority notifies the Administrator that the Authority reasonably expects that such revenues are expected to be available during such year for disposition in the discretion of the Authority.

"New Community" has the meaning given to such term in Section 349.01 of the Revised Code.

"New Community Development Program" means the program pursuant to which the Community Land Development is to be undertaken and Community Facilities are to be acquired, constructed, financed, and otherwise improved as described in the Declaration.

"Note" or "Notes" means any note or an issue of notes or all series of notes issued by the Authority in anticipation of the issuance of Bonds.

"Official Statement" means the Official Statement related to the Series 2008 Bonds.

"Original Purchaser" means, with respect to the Series 2008 Bonds, George K. Baum & Company, and, as to any Additional Bonds, means the person or persons named in, or in a certificate authorized by, the applicable Series Resolution authorizing such Additional Bonds as the original purchaser of those Additional Bonds from the Authority.

"Outstanding Bonds" or "Bonds outstanding" or "outstanding" as applied to any Bonds means, as of any date, the Bonds to which the reference applies and which have been authenticated and delivered, or are then being authenticated and delivered, by the Trustee under the Trust Agreement except:

(i) Bonds cancelled or retained in safekeeping upon surrender, exchange or transfer, or cancelled by reason of payment or redemption on or prior to that date;

(ii) Bonds or any portion thereof, for the payment, redemption or purchase for cancellation of which sufficient moneys have been deposited prior to that date with the Trustee or Paying Agent (whether upon or prior to the maturity or redemption date of those Bonds), or which are deemed to have been paid or caused to be paid, as provided in Article X of the Trust Agreement; provided (a) that if those Bonds are to be redeemed prior to their stated maturity, notice of that redemption has been given or arrangements satisfactory to the Trustee have been made for giving that notice, or waiver of that notice satisfactory in form to the Trustee has been filed with the Trustee, and (b) that if those Bonds are to be

purchased for cancellation, a firm offer for sale stating the price has been received and accepted; and

(iii) Lost, stolen, mutilated or destroyed Bonds in lieu of which others have been authenticated (or payment when due of which is made without replacement) under the Trust Agreement.

“Owner” means, with respect to any Chargeable Parcel within the District or any parcel of real property within the TIF Site, the owner of record from time to time, whether one or more persons or entities, of an interest in: (i) fee simple; (ii) reversion; (iii) remainder; or (iv) leasehold estate of 75 years or more, but shall not include the Authority. The Developer is the initial Owner of the real property comprising the District and the TIF Site.

“Parcel” means any single parcel or any subdivided parcel of the District that has a separate listing on the tax duplicate prepared by the County Auditor, or on the records of any other official authorized by State law to assess real estate in the County.

“Paying Agent” means the Trustee or any other bank or trust company designated as the paying agency or place of payment for Bonds by or pursuant to the Bond Proceedings, and their successors, designated pursuant to the Trust Agreement.

“Period Debt Service and Administrative Expenses” means the amount determined by the Administrator with respect to any year sufficient to pay: (i) Debt Service Charges and other periodic costs (including deposits to any sinking funds) on the Bonds in such year; (ii) the amount estimated by the Administrator for Administrative Expenses to be incurred in such year or incurred in any previous year and not paid by the Authority; (iii) any amount required to replenish the Bond Reserve Fund during such year; and (iv) the costs of remarketing, credit enhancement, bond insurance, and liquidity facility fees (including such fees for instruments that serve as the basis of a reserve fund related to any indebtedness in lieu of cash), if any, to be incurred in such year.

“Person” or words importing persons means firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, limited liability companies, public or governmental bodies, other legal entities and natural persons.

“Petition” means the Petition for the establishment of Hickory Chase Community Authority filed by the Developer with and accepted by the Board of County Commissioners of Franklin County on June 22, 2007 and approved by Resolution No. 663-07 on July 31, 2007, as that Petition may be amended or supplemented from time to time, all pursuant to Section 349.03 of the Revised Code.

“Pledged Receipts” means the following receipts of or on behalf of the Authority:

(a) All receipts derived from any Available Service Payments, Available Impact Fees, and Community Development Charges;

(b) All amounts, including receipts and moneys from investments, standing to the credit of the Special Funds, including, but not limited to, any moneys received by the Trustee under or pursuant to a Credit Support Instrument as designated by the Series 2008 Bond Resolution or a Series Resolution;

(c) Any gifts, grants, donations and pledges, and receipts therefrom, available for payment of Debt Service Charges which are hereafter pledged to the payment of Debt Service Charges by the Series 2008 Bond Resolution or a Series Resolution; and

(d) Any and all other sources of income which are hereafter pledged to the payment of Debt Service Charges by the Series 2008 Bond Resolution or a Series Resolution.

**"Predecessor Bond"** means every previous Bond evidencing all or a portion of the same obligation as that evidenced by a particular Bond.

**"Prerefunded Tax-Exempt Obligations"** means obligations, rated by Fitch, Standard & Poor's or Moody's in its highest grade rating, the interest on which is excludable from the gross income of owners thereof for federal income tax purposes, provision for the payment of the principal of (and premium, if any), and interest on which shall have been made by the irrevocable deposit at least 91 days preceding the date of determination, with a bank or trust company acting as a trustee or escrow agent for holders of such obligations, of money or Government Obligations, the maturing principal of and interest on which, when due and payable, without reinvestment will provide money sufficient to pay when due the principal of and premium, if any, and interest on such obligations, and which money or Government Obligations are not available to satisfy any other claim, including any claim of the Trustee or escrow agent or any claim of any Person claiming through the Trustee or escrow agent or any claim of any Person to whom the Person on whose behalf such irrevocable deposit was made, or to whom the Trustee or the escrow agent may be obligated, whether arising out of the insolvency of the Trustee or the escrow agent or otherwise.

**"Prepayment Fees"** means, in accordance with Section 4.04 of the Declaration, Administrative Expenses associated with an optional prepayment.

**"Prepayment Premium"** means, in accordance with Section 4.04 of the Declaration, an amount equal to the Prepayment Principal multiplied by the applicable redemption premium, if any, for the Bonds to be redeemed, pursuant to the Trust Agreement.

**"Prepayment Principal"** means, in accordance with Section 4.04 of the Declaration, a portion of the principal of the Bonds equal to (i) the Maximum Charge for each Chargeable Parcel for which the Charge is being prepaid divided by (ii) the sum of the Maximum Charges for all of the Chargeable Parcels in the District (excluding any Parcels for which the Charge has been previously prepaid) with the result multiplied by (iii) the aggregate principal amount of Bonds outstanding.

**"Principal Payment Account"** means the Principal Payment Account established in the Debt Service Fund pursuant to Section 4.02 of the Trust Agreement.

**"Project"** means that whole of, or any portion of, the Infrastructure Improvements, the costs associated therewith which have been or are to be financed by the Bonds.

**"Project Costs"** means any costs of or related to the Project, and the financing of those costs, and any other costs for the payment of which Bonds may be issued under the Act, including the following:

1. Costs incurred directly or indirectly for or in connection with the acquisition, construction, improvement, furnishing and equipping of, and the placing in use and operation of, the Project, including but not limited to those for preliminary planning and studies, architectural, consulting, financial, legal, engineering, accounting, supervisory and other services, construction management, site preparation, utilities, labor, services, materials and acquisition and installation of personal property, specifically including Advanced Project Costs;

2. Premiums attributable to all insurance required to be taken out and maintained for the Authority or required to be taken out and maintained during the period of construction of the Project, including general liability coverage for the Authority, performance bond coverage for each Authority Board Member required by Revised Code Section 349.04, builder's risk insurance, the premium on each surety bond in relation to the Project, and any other insurance premiums necessary in relation to the operation of the Authority, the construction of the Project, or the issuance of the Bonds; and

3. Taxes, assessments and other charges (except Community Development Charges) that may be or may have become payable during the period of construction and acquisition of the Project;

4. Costs incurred directly or indirectly in seeking to enforce any remedy against any contractor, subcontractor or vendor in respect to any default under a contract relating to the Project;

5. Financial, legal, accounting, and printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds related to the Project, costs pertaining to any Credit Support Instrument, any initial or acceptance fees and expenses of the Trustee, Registrar or Paying Agent, and the preparation and delivery of any contract or instrument by which the Authority obtained title to the Project and of the Trust Agreement and other related documents;

6. Any other incidental and necessary costs, including without limitation any expenses, fees and charges relating to the financing and issuance of the Bonds, and any expenses, fees and charges relating to the acquisition, leasing, construction, improvement, furnishing and equipping of the Project.

**"Project Fund"** means the Hickory Chase Community Authority Project Fund established pursuant to Section 4.02 of the Trust Agreement.

**"Property"** means the real property comprising the District and owned by the Owner.

**"Proportionately"** means: (i) with respect to imposition of the Charge, that the ratio of the Charge to be collected to the Maximum Charge per Chargeable Parcel is equal for all Chargeable Parcels; and (ii) with respect to the refund, in accordance with Section 4.06 of the Declaration, of Charges paid, that the ratio of the refund to be paid to each Owner with respect to each Chargeable Parcel it owns to the Charge refunded to the Authority by the Trustee is equal for all Chargeable Parcels owned by Owners eligible to receive such refund.

**"Rebate Fund"** means the Hickory Chase Community Authority Rebate Fund established pursuant to Section 4.02 of the Trust Agreement.

**"Record Date"** or **"Regular Record Date"** means the close of business on the fifteenth day of the calendar month immediately preceding each Interest Payment Date, which date shall be used to determine ownership for purposes of receiving interest payments payable to the Holder in whose name a Bond is registered.

**"Recorded"** means filed for record in the office of the Recorder of Franklin County, Ohio, or in such other office as may be provided by law for the recordation of instruments conveying lands in the County.

**"Refunding Bonds"** means any Additional Bonds issued pursuant to and in accordance with the Trust Agreement, a Supplemental Trust Agreement and a Series Resolution to refund Outstanding Bonds, in whole or in part.

**"Register"** means the books kept and maintained by the Registrar for the registration, exchange and transfer of Bonds pursuant to the Trust Agreement.

**"Registered Bonds"** means fully registered Bonds registered as to both principal and interest in the name of the owner or Holder, including Bonds issued under a book entry system.

**"Registered Owner"** means the person, including any nominee of a Depository, in whose name a Bond is registered on the Register.

**"Registrar"** means the person that keeps and maintains the Register for the applicable Bonds, which shall be the Trustee except as may otherwise be provided pursuant to the Trust Agreement, a Supplemental Trust Agreement or a Series Resolution.



"Required Reserve" means any reserve for payment of Debt Service Charges on any Bonds that may be provided for in the certificate of award for such Bonds, which Required Reserve may be satisfied by deposit of moneys or Eligible Investments in a Special Fund or Account or by a Credit Support Instrument or by any combination of the foregoing.

"Requisition" means a written requisition in the form of the written requisition attached to the Trust Agreement as Exhibit B, accompanied by all required invoices and documentation thereto, which Requisition may be completed and executed for the payment of Project Costs, including payment pursuant to a Change Order Requisition (as defined in the Trust Agreement), or a Completion Requisition (as defined in the Trust Agreement), all pursuant to Section 4.05 of the Trust Agreement.

"Restrictions" means all covenants, conditions, restrictions, charges, liens and other obligations provided for in the Declaration.

"Revenue Fund" means the Hickory Chase Community Authority Revenue Fund established pursuant to Section 4.02 of the Trust Agreement.

"Revised Code" means the Ohio Revised Code, as the same may be amended from time to time.

"School Compensation Agreement" means the Compensation Agreement between the City and the School District, executed on June 15, 2007, as amended by the Amendment to the Compensation Agreement, dated January 29, 2008, as the same may be further amended from time to time in accordance with the terms thereof.

"School Compensation Amount" means the amount to be paid by the City to the School District in accordance with the terms of the School Compensation Agreement from monies deposited into the School District Account of the TIF Fund pursuant to Section 5 of the Service Payment Agreement.

"School District" means the Board of Education of the Hilliard City School District, Franklin County, Ohio.

"School District Account" means the account in the TIF Fund into which the Initial School Payment is deposited and from which the Initial School Payment is paid in accordance with the terms of the School Compensation Agreement.

"Secretary" means the Secretary of the Board of Trustees of the Authority, or any other person designated by the Board to receive service of process.

"Series" means any issue or series of Bonds, as the case may be, of the Authority issued pursuant to, in the case of the Series 2008 Bonds, the Series 2008 Bond Resolution and the Trust Agreement, or, in the case of Additional Bonds, a Series Resolution and a Supplemental Trust Agreement.

"Series 2008 Bonds" means the Infrastructure Improvement Revenue Bonds, Series 2008 (Hickory Chase Project), dated as of the Closing Date, issued by the Authority pursuant to the Series 2008 Bond Resolution and the Trust Agreement.

"Series 2008 Bond Resolution" means Resolution No. 2008-02, duly adopted by the Board of Trustees of the Authority on February 19, 2008 authorizing the issuance of the Series 2008 Bonds in accordance with such resolution and the Trust Agreement, and includes any resolution or certificate providing for or evidencing the award and specific terms of the Series 2008 Bonds.

"Series 2008 Required Reserve" means, with respect to the Series 2008 Bonds, as of the date of any calculation, an amount specified in the Certificate of Award for the Series 2008 Bonds and not to exceed the least of (i) the maximum amount of Debt Service Charges required to be paid with respect to such Series 2008 Bonds during any future year; (ii) one hundred and twenty-five percent (125%) of the average annual Debt Service Charges on the Series 2008 Bonds; or (iii) ten percent (10%) of the proceeds of the Series 2008 Bonds, computed for this purpose as the "issue price" of the Series 2008 Bonds within the meaning of Section 1273 of the Code, less accrued interest. The Series 2008 Required Reserve constitutes a "Required Reserve."

"Series Resolution" means a resolution of the Authority, including the Series 2008 Bond Resolution, authorizing the issuance of a Series of Bonds in accordance with the Trust Agreement, and includes any resolution or certificate providing for or evidencing the award and specific terms of such Bonds authorized by that Series Resolution.

"Service Payment Account" means the Service Payment Account established in the Revenue Fund pursuant to Section 4.02 of the Trust Agreement.

"Service Payment Agreement" means the Service Payment Agreement dated June 12, 2007, between the City and the Developer, as amended by the Amendment to the Service Payment Agreement dated January 29, 2008, as the same may be further amended from time to time in accordance with the terms thereof.

"Service Payments" means those service payments in lieu of taxes to be made by the Owner of the real property comprising the TIF Site in accordance with Sections 5709.40, 5709.42 and 5709.43 of the Revised Code, the TIF Ordinance and the Service Payment Agreement, which service payments are equal to the real property taxes that would have been payable on the TIF Site with respect to one hundred percent (100%) of the Improvement, if it were not for the exemption contained within Ordinance No. 07-23 (Amended), passed by the City Council of the City on March 26, 2007.

"Special Account" means the account in the TIF Fund into which Assigned Service Payments and Impact Fees are deposited.

"Special Funds" or "Special Funds and Accounts" or "Special Funds or Accounts" means, without implied limitation, the Debt Service Fund, the Project Fund, the Revenue Fund,

the Impact Fee Fund, the Bond Reserve Fund, the Supplemental Reserve Fund and the Surplus Fund, and to the extent pertaining to the Bonds, any other funds or accounts permitted by, established under and identified as a Special Fund in the Bond Proceedings.

“Special Record Date” means the date established by the Trustee in connection with the payment of any overdue interest on the Bonds pursuant to the Trust Agreement.

“State” means the State of Ohio.

“Supplemental Reserve Fund” means the Hickory Chase Community Authority Supplemental Reserve Fund established pursuant to Section 4.02 of the Trust Agreement.

“Supplemental Reserve Requirement” means, with respect to the Bonds, as of the date of calculation, an amount required to be deposited and maintained in the Supplemental Reserve Fund at least equal to two hundred percent (200%) of the maximum amount of Debt Service Charges required to be paid on Bonds during any future year pursuant to Section 4.02(f) of the Trust Agreement; provided, that the year of the final principal maturity of the Series 2008 Bonds shall not be used to determine the maximum amount of Debt Service Charges for purposes of calculating the Supplemental Reserve Requirement.

“Supplemental Trust Agreement” means a Supplemental Trust Agreement approved or authorized by the Authority and entered into between the Authority and the Trustee pursuant to Article VIII of the Trust Agreement.

“Surplus Fund” means the Hickory Chase Community Authority Surplus Fund established pursuant to Section 4.02 of the Trust Agreement.

“TIF Act” means Sections 5709.40 through 5709.43 of the Revised Code, together with any related provisions of the Revised Code.

“TIF Exemption” has the meaning given to that term in Section 1 of the TIF Ordinance.

“TIF Fund” means the Columbus Campus Municipal Public Improvement Tax Increment Equivalent Fund of the City.

“TIF Ordinance” means Ordinance No. 07-23, passed by the City Council on March 26, 2007 and effective April 26, 2007, as amended by Ordinance 08-02, passed by the City Council on January 28, 2008 and effective January 29, 2008, as the same may be amended from time to time.

“TIF Site” means the approximately 78.386-acre site described in Exhibit A to the Service Payment Agreement upon which independent living facilities and associated common community facilities will be constructed. The boundaries of the TIF Site are coterminous with the boundaries of the District.

“Treasurer” means the Treasurer of the Board of Trustees of the Authority.

"Trust Agreement" means the Trust Agreement dated as of March 1, 2008, between the Authority and the Trustee, approved by the Series 2008 Bond Resolution, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof.

"Trustee" means the Trustee serving under the Trust Agreement, initially Wells Fargo Bank, National Association, and any successor Trustee as determined or designated pursuant to the Trust Agreement.

"Vice Chair" means the Vice Chairperson of the Board of Trustees of the Authority.

"Work" means the acquisition, construction, improvement, furnishing and equipping of the Project.

**EXHIBIT B**

**DESCRIPTION OF PROPERTY**

SITUATE IN THE STATE OF OHIO, COUNTY OF FRANKLIN, CITY OF HILLIARD, LYING IN VIRGINIA MILITARY SURVEY NOS. 3000 AND 4854, BEING PART OF THE 40.924 AND ALL OF THE 0.742 ACRE TRACTS CONVEYED TO COLUMBUS CAMPUS LLC BY DEED OF RECORD IN INSTRUMENT NUMBER 200801170008512, AND PART OF THE 45.957 ACRE TRACT CONVEYED TO COLUMBUS CAMPUS LLC BY DEED OF RECORD IN INSTRUMENT NUMBER 200801170008509, (ALL REFERENCES REFER TO THE RECORDS OF THE RECORDER'S OFFICE, FRANKLIN COUNTY, OHIO) BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING, FOR REFERENCE, AT FRANKLIN COUNTY GEODETIC SURVEY MONUMENT NUMBER 0005 RESET FOUND AT THE CENTERLINE INTERSECTION OF DAVIDSON ROAD (VARIABLE WIDTH) AND LEAP ROAD (VARIABLE WIDTH);

THENCE SOUTH 23° 37' 07" EAST, A DISTANCE OF 1243.56 FEET, WITH THE CENTERLINE OF SAID LEAP ROAD, TO A POINT;

THENCE NORTH 66° 22' 53" EAST, A DISTANCE OF 50.00 FEET, ACROSS THE RIGHT-WAY OF SAID LEAP ROAD AND ENTERING SAID 45.957 ACRE TRACT, TO AN IRON PIN SET, THE TRUE POINT OF BEGINNING;

THENCE ACROSS SAID 45.957 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 68° 44' 53" EAST, A DISTANCE OF 556.74 FEET, TO AN IRON PIN SET AT A POINT OF CURVATURE;

WITH SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 09° 08' 20", A RADIUS OF 1099.00 FEET, AN ARC LENGTH OF 175.29 FEET, AND A CHORD WHICH BEARS NORTH 60° 37' 51" EAST, A CHORD DISTANCE OF 175.11 FEET, TO AN IRON PIN SET;

NORTH 23° 37' 07" WEST, A DISTANCE OF 384.33 FEET, TO AN IRON PIN SET IN THE LINE COMMON TO SAID 45.957 ACRE TRACT AND THE REMAINDER OF THE ORIGINAL TRACT THREE CONVEYED TO WOLPERT ENTERPRISES, LIMITED BY DEED OF RECORD IN INSTRUMENT NUMBER 200204080088414;

THENCE NORTH 84° 08' 15" EAST, A DISTANCE OF 1139.80 FEET, WITH THE NORTHERLY LINE OF SAID 45.957 AND 0.742 ACRE TRACTS AND WITH THE SOUTHERLY LINES OF THE REMAINDER OF SAID TRACT THREE, THE SOUTHERLY LINE OF THE REMAINDER OF THE ORIGINAL TRACT TWO CONVEYED TO WOLPERT ENTERPRISES, LIMITED BY DEED OF RECORD IN INSTRUMENT NUMBER 200204080088414 AND A SOUTHERLY LINE OF THE REMAINDER OF THE ORIGINAL

TRACT 1 CONVEYED TO ANSMIL LIMITED PARTNERSHIP BY DEED OF RECORD IN OFFICIAL RECORD 32225 G17, TO AN IRON PIN SET;

THENCE SOUTH 05° 55' 17" EAST, A DISTANCE OF 353.64 FEET, WITH THE LINE COMMON TO SAID 0.742 ACRE TRACT AND THE REMAINDER OF SAID ORIGINAL TRACT 1, TO AN IRON PIN SET AT A POINT OF CURVATURE;

THENCE WITH SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 17° 44' 53", A RADIUS OF 1332.49 FEET, AN ARC LENGTH OF 412.75 FEET, AND A CHORD WHICH BEARS SOUTH 14° 47' 43" EAST, A CHORD DISTANCE OF 411.10 FEET, WITH AN EASTERLY LINE OF SAID 0.742 AND 45.957 ACRE TRACTS AND A WESTERLY LINE OF THE REMAINDERS OF SAID ORIGINAL TRACT 1 AND ORIGINAL TRACT TWO, TO AN IRON PIN SET AT A POINT OF TANGENCY;

THENCE SOUTH 23° 40' 10" EAST, A DISTANCE OF 353.83 FEET, WITH AN EASTERLY LINE OF SAID 45.957 AND 40.924 ACRE TRACTS, AND WITH A WESTERLY LINE OF THE REMAINDERS OF SAID ORIGINAL TRACT TWO AND ORIGINAL PARCEL TWO, TRACT TWO CONVEYED TO ANSMIL LIMITED PARTNERSHIP BY DEED OF RECORD IN OFFICIAL RECORDS 32225 G17 AND 32225 105, TO AN IRON PIN SET;

THENCE CONTINUING WITH THE LINE COMMON TO SAID 40.924 ACRE TRACT, THE REMAINDER OF SAID ORIGINAL PARCEL TWO, TRACT TWO AND THE REMAINDER OF THE ORIGINAL PARCEL TWO, TRACT THREE CONVEYED TO ANSMIL LIMITED PARTNERSHIP BY DEED OF RECORD IN OFFICIAL RECORDS 32225 G17 AND 32225 105, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 01° 52' 05" EAST, A DISTANCE OF 53.85 FEET, TO AN IRON PIN SET;

SOUTH 23° 40' 10" EAST, A DISTANCE OF 105.00 FEET, TO AN IRON PIN SET;

SOUTH 45° 28' 15" EAST, A DISTANCE OF 53.85 FEET, TO AN IRON PIN SET;

SOUTH 23° 40' 10" EAST, A DISTANCE OF 514.24 FEET, TO AN IRON PIN SET AT A POINT OF CURVATURE;

WITH SAID CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 08° 02' 24", A RADIUS OF 1390.00 FEET, AN ARC LENGTH OF 195.05 FEET, AND A CHORD WHICH BEARS SOUTH 19° 38' 58" EAST, A CHORD DISTANCE OF 194.89 FEET, TO AN IRON PIN SET;

SOUTH 74° 22' 14" WEST, A DISTANCE OF 20.00 FEET, TO AN IRON PIN SET;

WITH A CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 01° 02' 00", A RADIUS OF 1370.00 FEET, AN ARC LENGTH OF 24.71 FEET, AND A CHORD WHICH BEARS SOUTH 15° 06' 46" EAST, A CHORD DISTANCE OF 24.71 FEET, TO AN IRON PIN SET;

SOUTH 76° 07' 35" WEST, A DISTANCE OF 82.51 FEET, TO AN IRON PIN SET;  
SOUTH 70° 47' 24" WEST, A DISTANCE OF 286.15 FEET, TO AN IRON PIN SET;  
SOUTH 68° 02' 13" WEST, A DISTANCE OF 159.38 FEET, TO AN IRON PIN SET;  
SOUTH 82° 20' 53" WEST, A DISTANCE OF 300.01 FEET, TO AN IRON PIN SET;  
SOUTH 76° 34' 35" WEST, A DISTANCE OF 307.14 FEET, TO AN IRON PIN SET;  
SOUTH 82° 47' 36" WEST, A DISTANCE OF 138.56 FEET, TO AN IRON PIN SET;  
NORTH 79° 56' 50" WEST, A DISTANCE OF 85.56 FEET, TO AN IRON PIN SET;  
NORTH 71° 18' 50" WEST, A DISTANCE OF 150.01 FEET, TO AN IRON PIN SET;  
NORTH 65° 38' 53" WEST, A DISTANCE OF 208.41 FEET, TO AN IRON PIN SET;  
NORTH 57° 48' 25" WEST, A DISTANCE OF 129.32 FEET, TO AN IRON PIN SET;  
NORTH 59° 01' 48" WEST, A DISTANCE OF 170.38 FEET, TO AN IRON PIN SET;  
NORTH 67° 18' 16" WEST, A DISTANCE OF 57.59 FEET, TO AN IRON PIN SET;  
NORTH 80° 44' 53" WEST, A DISTANCE OF 8.85 FEET, TO AN IRON PIN SET;

THENCE ACROSS SAID 40.924 AND 45.957 ACRE TRACTS, THE FOLLOWING COURSES AND DISTANCES:

NORTH 02° 32' 02" EAST, A DISTANCE OF 270.04 FEET, TO AN IRON PIN SET AT A POINT OF CURVATURE;

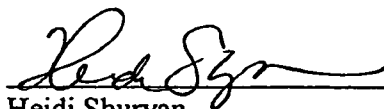
WITH SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 26° 09' 10", A RADIUS OF 600.00 FEET, AN ARC LENGTH OF 273.87 FEET, AND A CHORD WHICH BEARS NORTH 10° 32' 33" WEST, A CHORD DISTANCE OF 271.50 FEET, TO AN IRON PIN SET;

NORTH 23° 37' 07" WEST, A DISTANCE OF 682.05 FEET, TO THE TRUE POINT OF BEGINNING, CONTAINING 77.019 ACRES, MORE OR LESS.

CERTIFICATE

The undersigned Secretary of the Board of Trustees of the Hickory Chase Community Authority (the "Authority") hereby certifies that the following is a true copy of a resolution duly passed by the Board of Trustees of said Authority on February 19, 2008, whereby the Authority joins in the Declaration of Covenants and Restrictions for the Hickory Chase Community Authority, Franklin County, Ohio to be recorded with the Franklin County Recorder.

Dated: April 29, 2008



Heidi Shuryan  
Secretary  
Hickory Chase Community Authority

STATE OF OHIO :  
: SS  
COUNTY OF FRANKLIN :

Before me, a Notary Public in and for said County personally came Heidi Shuryan, a member, and Secretary, of the Board of Trustees (the "Board") of the Hickory Chase Community Authority (the "Authority"), who signed such Certificate as the Secretary of the Board of the Authority, and that such Certificate is her free act and deed as such officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal at Columbus, Ohio, this 29 th day of April, 2008.



SHADYA YAZBACK  
ATTORNEY AT LAW  
Notary Public, State of Ohio  
My Commission Has No Expiration  
Section 147.03 R.C.

  
NOTARY PUBLIC

Commission expires: \_\_\_\_\_



**BOARD OF TRUSTEES  
HICKORY CHASE COMMUNITY AUTHORITY**

The Board of Trustees (the "Board") of the Hickory Chase Community Authority (the "Authority"), held its annual organizational meeting on February 19, 2008, at 6:30 p.m. at the Hilliard Municipal Building, 3800 Municipal Way, Hilliard, Ohio 43026, with the following members present:

Mr. Fenner  
Mr. Hutras  
Ms. Kelly-Underwood  
Mr. Montgomery  
Mr. Power  
Ms. Shuryan  
Mr. Wilson

Ms. Kelly-Underwood introduced Resolution No. 2008-03 and moved its passage:

**RESOLUTION NO. 2008-03**

**PROVIDING FOR THE AUTHORITY TO JOIN IN THE DECLARATION OF COVENANTS AND RESTRICTIONS FOR THE HICKORY CHASE COMMUNITY AUTHORITY, FRANKLIN COUNTY, OHIO, TO BE RECORDED WITH THE FRANKLIN COUNTY RECORDER.**

WHEREAS, the Hickory Chase Community Authority (the "Authority") and the Board of Trustees of the Authority (the "Board") have heretofore been duly created and appointed, respectively, pursuant to the authority contained in Chapter 349, Ohio Revised Code; and

WHEREAS, it is necessary to join in the Declaration of Covenants and Restrictions for the Authority (the "Declaration") pursuant to Article VI, Section 6.01 of such Declaration and in accordance with Ohio Revised Code Chapter 349;

NOW, THEREFORE, BE IT RESOLVED by the Board that:

Section 1. The Authority hereby joins in the Declaration and accepts the duties, responsibilities and benefits imposed and conferred on it by the Declaration. This resolution shall be attached as an exhibit to the Declaration at the time that it is recorded.

Section 2. This Board hereby finds and determines that all formal actions taken relative to the adoption of this Resolution were taken in an open meeting of this Board, and that all deliberations of this Board and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements.

Mr. Hutras seconded the motion and, after discussion, a roll call vote was taken and the results were:

Voting Aye: Mr. Fenner, Mr. Hutras, Ms. Kelly-Underwood, Mr. Montgomery, Mr. Power, Ms. Shuryan, and Mr. Wilson

Voting Nay: None.

Passed: February 19, 2008

BOARD OF TRUSTEES  
HICKORY CHASE COMMUNITY  
AUTHORITY

  
Chairperson

Attest:

  
Secretary

7

**CONSENT OF LENDER TO  
DECLARATION OF COVENANTS AND RESTRICTIONS**

For valuable consideration, the receipt of which is hereby acknowledged,  
KEYBANK NATIONAL ASSOCIATION, a national banking association, as Mortgagee  
under that certain Open-End Mortgage, Assignment of Rents and Leases, Security  
Agreement and Fixture Filing, dated April 16, 2008 and filed for record on April 22,  
2008, in the office of the County Recorder, Franklin County, Ohio in Instrument Number  
200804220061335 ("Mortgage") from COLUMBUS CAMPUS, LLC, a Maryland limited liability  
company qualified to do business in Ohio, hereby consents and subordinates the lien of  
the Mortgage to the foregoing Declaration of Covenants and Restrictions.

KEYBANK NATIONAL ASSOCIATION, a  
national banking association

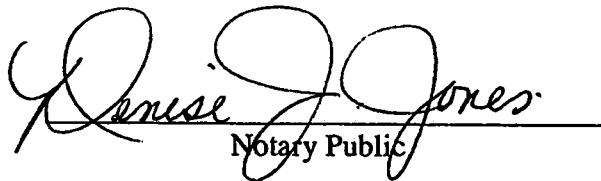


By: Charles W. Cashin III

Its: Asst. Vice President - Closing Officer

STATE OF Ohio :  
COUNTY OF Cuyahoga : SS.  
:

The foregoing instrument was acknowledged before me this 24th day of April,  
2008, by Charles W. Cashin III, Assistant Vice President and Closing Officer of  
KeyBank, National Association, a national banking association, on behalf of said  
association.

  
Notary Public

DENISE J. JONES  
Notary Public, State of Ohio  
My Commission Expires

7-5-2011

Schedule IX: Projected Debt Service Coverage - (Scenario A)

Assessed Valuation Date	Year Taxes Paid	Bond Year Ending	Net Annual Debt Service (b)	Service Payments and Impact Fees Debt Service (c)	Cumulative Surplus/Deficit (d)	Projected Coverage From Service Payments and Impact Fees (e)	Projected Coverage from Cumulative Surplus	Projected Community Development Charges	Projected Coverage from Community Development Charges	Maximum Community Development Charges	Projected Coverage from Maximum Community Development Charges
(a)	(a)				(d)	(e)					
1-Jan-07	2008	1-Dec-08	\$0	\$354,000	\$354,000	NA	NA	\$0	NA	\$0	NA
1-Jan-08	2009	1-Dec-09	\$0	\$339,000	\$693,000	NA	NA	\$0	NA	\$0	NA
1-Jan-09	2010	1-Dec-10	\$0	\$199,500	\$892,500	NA	NA	\$0	NA	\$0	NA
1-Jan-10	2011	1-Dec-11	\$491,654	\$997,420	\$1,398,266	203%	0%	\$0	0%	\$540,819	110%
1-Jan-11	2012	1-Dec-12	\$1,761,902	\$1,573,102	\$1,209,465	89%	11%	\$0	0%	\$1,938,093	110%
1-Jan-12	2013	1-Dec-13	\$1,761,902	\$2,029,234	\$1,476,787	115%	0%	\$0	0%	\$1,938,093	110%
1-Jan-13	2014	1-Dec-14	\$1,761,902	\$1,949,127	\$1,664,011	111%	0%	\$0	0%	\$1,938,093	110%
1-Jan-14	2015	1-Dec-15	\$1,761,902	\$2,426,046	\$2,328,154	138%	0%	\$0	0%	\$1,938,093	110%
1-Jan-15	2016	1-Dec-16	\$1,866,902	\$3,157,744	\$3,618,996	169%	0%	\$0	0%	\$2,053,593	110%
1-Jan-16	2017	1-Dec-17	\$1,914,815	\$3,238,369	\$4,942,550	169%	0%	\$0	0%	\$2,106,296	110%
1-Jan-17	2018	1-Dec-18	\$2,209,015	\$3,745,910	\$6,479,444	170%	0%	\$0	0%	\$2,429,916	110%
1-Jan-18	2019	1-Dec-19	\$2,337,627	\$3,976,623	\$8,118,439	170%	0%	\$0	0%	\$2,571,390	110%
1-Jan-19	2020	1-Dec-20	\$2,340,440	\$3,976,623	\$9,754,622	170%	0%	\$0	0%	\$2,574,484	110%
1-Jan-20	2021	1-Dec-21	\$2,340,215	\$3,976,623	\$11,391,030	170%	0%	\$0	0%	\$2,574,236	110%
1-Jan-21	2022	1-Dec-22	\$2,341,952	\$3,976,623	\$13,025,700	170%	0%	\$0	0%	\$2,576,148	110%
1-Jan-22	2023	1-Dec-23	\$2,340,315	\$3,976,623	\$14,662,008	170%	0%	\$0	0%	\$2,574,246	110%
1-Jan-23	2024	1-Dec-24	\$2,340,302	\$3,976,623	\$16,298,328	170%	0%	\$0	0%	\$2,574,333	110%
1-Jan-24	2025	1-Dec-25	\$2,341,577	\$3,976,623	\$17,933,373	170%	0%	\$0	0%	\$2,575,735	110%
1-Jan-25	2026	1-Dec-26	\$2,338,802	\$3,976,623	\$19,571,193	170%	0%	\$0	0%	\$2,572,683	110%
1-Jan-26	2027	1-Dec-27	\$2,336,977	\$3,976,623	\$21,210,838	170%	0%	\$0	0%	\$2,570,675	110%
1-Jan-27	2028	1-Dec-28	\$2,340,765	\$3,976,623	\$22,846,696	170%	0%	\$0	0%	\$2,574,841	110%
1-Jan-28	2029	1-Dec-29	\$2,341,665	\$3,976,623	\$24,481,654	170%	0%	\$0	0%	\$2,575,851	110%
1-Jan-29	2030	1-Dec-30	\$2,336,965	\$3,976,623	\$26,121,311	170%	0%	\$0	0%	\$2,570,661	110%
1-Jan-30	2031	1-Dec-31	\$2,336,645	\$3,976,623	\$27,761,289	170%	0%	\$0	0%	\$2,570,309	110%
1-Jan-31	2032	1-Dec-32	\$2,340,065	\$3,976,623	\$29,397,847	170%	0%	\$0	0%	\$2,574,071	110%
1-Jan-32	2033	1-Dec-33	\$2,341,465	\$3,976,623	\$31,033,004	170%	0%	\$0	0%	\$2,575,611	110%
1-Jan-33	2034	1-Dec-34	\$2,340,515	\$3,976,623	\$32,669,112	170%	0%	\$0	0%	\$2,574,566	110%
1-Jan-34	2035	1-Dec-35	\$2,336,865	\$3,976,623	\$34,308,870	170%	0%	\$0	0%	\$2,570,551	110%
1-Jan-35	2036	1-Dec-36	\$2,340,165	\$3,976,623	\$35,945,327	170%	0%	\$0	0%	\$2,574,181	110%
1-Jan-36	2037	1-Dec-37	\$2,339,365	\$3,976,623	\$37,582,585	170%	0%	\$0	0%	\$2,573,301	110%
1-Jan-37	2038	1-Dec-38	\$0	\$3,976,623	\$41,559,207	NA	NA	\$0	NA	\$0	NA
Total			\$57,982,683	\$99,541,890	\$500,729,607			\$0		\$63,780,951	

(a) Real property is valued for tax purposes on January 1 and is re-assessed each three years. Property taxes are due in January and June based on assessed value at the beginning of the previous year. Bond payments are due on June 1 and December 1.

(b) Estimated net annual debt service based on information assumed by George K. Baum & Co. No debt service is shown in years when adjusted debt service is estimated to be less than zero.

(c) See Schedule V.

(d) Cumulative surplus/deficit is calculated by subtracting total accrued net annual debt service from total accrued revenues available to pay for debt service.

(e) Debt service coverage is calculated by dividing revenues with net annual debt service. Deficit in year 2012 is expected to be covered by prior years cumulative surplus.

EXHIBIT

4



**Bricker & Eckler**  
ATTORNEYS AT LAW

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February 25, 2010

**VIA OVERNIGHT DELIVERY**

BMC Group, Inc.  
Attn: Erickson Retirement Communities, LLC  
Claims Processing  
18750 Lake Drive East  
Chanhassen, MN 55317

**Re: Columbus Campus LLC  
Case No. 09-37019**

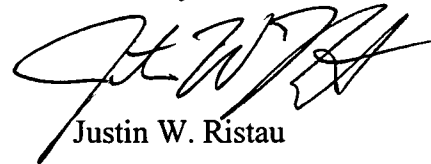
To Whom It May Concern:

Enclosed please find an original and one (1) copy of the Proof of Claim of Hickory Chase Community Authority for filing in the above-referenced bankruptcy case.

Also enclosed is a self addressed, stamped envelope. Please return a filed copy of the Proof of Claim.

Thank you for your attention to this matter.

Sincerely,



Justin W. Ristau

Enclosures

cc: Caleb Bell (w/o encl.)