

ORDINANCE NO. 16-2018 (PD)

By Council Member Yasinow

An Ordinance declaring certain improvements to real property located in the City of Cleveland Heights, Ohio to be a public purpose; declaring such improvements to be exempt from real property taxation; making provision for the collection of service payments in lieu of taxes; establishing an urban redevelopment tax increment equivalent fund for the deposit of such service payments; authorizing a compensation agreement with the Cleveland Heights-University Heights City School District; providing related authorizations pursuant to Ohio Revised Code Sections 5709.41, 5709.42 and 5709.43, and declaring an emergency.

WHEREAS, the City of Cleveland Heights (the "City") owns certain parcels of real property located at the intersection of Cedar Road and Euclid Heights Boulevard and referred to as the "Top of the Hill Property," which parcels are described in Exhibit A hereto (collectively referred to herein as the "TIF Area," with the parcels comprising the real property within the TIF Area, as improved, referred to herein as the "Parcels"); and

WHEREAS, Ohio Revised Code ("R.C.") Section 5709.41 provides that this Council may, under certain circumstances, declare Improvements (as defined in R.C. Section 5709.41) to the Parcels be a public purpose, thereby exempting those Improvements from real property taxation; and

WHEREAS, pursuant to R.C. Section 5709.41, said exemption may not exceed 75% of such Improvements for up to ten (10) years without the approval of the board of education of the city, local or exempted village school district within the territory in which the Parcels are located; and

WHEREAS, the City intends to enter into a Development Agreement with F & C Development, Inc. pursuant to which a development entity established by F & C Development, Inc. (such entity, "the Developer") will lease the Parcels from the City and improve the Parcels by building thereon a mixed-use development which will include construction of (a) 200 luxury market-rate apartments, (b) 15,000 square feet of first floor restaurant, retail and commercial space, (c) a public parking garage containing 525 parking spaces, (d) public gathering and green spaces, (e) 20 for-sale townhomes, (f) a nationally-branded hotel or boutique hotel, (g) all sidewalks, driveways, access ways and utility connections, and which will potentially include (h) "Class A" office space (all of the foregoing being referred to herein collectively as the "Development"); and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interests of the City to provide that the owner of the Development (initially, the Developer) be required to make service payments in lieu of real property taxes ("Service Payments," as further defined below) with respect to the Improvements located on the Parcels pursuant to R.C. Section 5709.42; and

WHEREAS, this Council has determined that it is in the City's best interests for the City to enter into a compensation agreement (the "Compensation Agreement") with the Board of

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Education of the Cleveland Heights-University Heights City School District (the "School District"), which Compensation Agreement provides for the payment of compensation by the City to the School District; and

WHEREAS, in connection with the negotiation of the Compensation Agreement, the Board of Education of the School District has waived any notice periods prescribed in R.C. Section 5709.41 and 5709.83 and has approved a 100% exemption for the Improvements to the Parcels under R.C. Section 5709.41 for thirty (30) years; and

WHEREAS, R.C. Section 5709.85(A) requires the legislative authority of any municipal corporation granting an exemption from taxation under R.C. Section 5709.41 to create a tax incentive review council ("TIRC"), which TIRC is required to perform an annual review of exemptions from taxation granted pursuant to R.C. Section 5709.41, and the City has previously created a TIRC; and

WHEREAS, an emergency exists in the usual daily operations of the City in that it is immediately necessary to approve tax exemptions for the Improvements for the preservation of the public health, peace, property and safety, that preservation being related to the need to proceed with detailed design of the Development for City review and related due diligence of the Parcels;

BE IT ORDAINED by the Council of the City of Cleveland Heights, that:

SECTION 1. The Improvements (other than those Improvements, if any, to be used for residential purposes as such term is used in R.C. Section 5709.41(B)) to the Parcels on which the Developer will construct the Development are hereby declared to be a public purpose for purposes of R.C. Section 5709.41. One hundred percent (100%) of the increase in the assessed value of the Parcels (which increase in assessed value is an "Improvement" as defined in R.C. Section 5709.41) shall be exempt from real property taxation for a period of thirty (30) years.

SECTION 2. As provided in R.C. Section 5709.42, the owner of the Development (initially, the Developer) is hereby required to make annual service payments for a period of thirty (30) years in lieu of taxes to the County Fiscal Officer on or before the final dates for payment of real property taxes. Each such payment (including interest and penalties) 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 if the Improvements were not exempt from taxation (with the payments in lieu of taxes, including any penalties, interest and rollback payments, collectively referred to as "PILOTS"). The County Fiscal Officer shall remit all PILOTS to the City. In addition to the payment of PILOTS described herein, in accordance with the Compensation Agreement, in connection with any TIF Debt (as defined in the Compensation Agreement), the owner(s) of the Development may also be required to make minimum service payments (the "Minimum Service Payments") as described in the Compensation Agreement.

This Council hereby authorizes the City Manager or designee (the "City Manager") or other appropriate officers of the City to provide such information and certifications and execute and deliver, or accept delivery of such instruments as are necessary and incidental to collect those PILOTS from the County Fiscal Officer or collect the Minimum Service Payments from the Developer and to make such arrangements as are necessary and proper for payment of the portion of PILOTS and/or Minimum Service Payments dedicated to TIF Debt to be paid, if appropriate, to the trustee for any TIF Debt. Any late payments of PILOTS shall be subject to penalty and bear

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interest at the then current rate established under R.C. Sections 323.121 and 5703.47, as may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time.

No Owner of any portion of the Development shall, under any circumstances, be required in any tax year to both pay PILOTS with respect to an Improvement or reimburse local taxing authorities for the amount of real property taxes that would have been payable to local taxing authorities had the Improvements not been exempted from taxation to the extent set forth in this Ordinance.

SECTION 3. The City Manager shall make payments to the School District as described in the Compensation Agreement.

SECTION 4. This Council hereby establishes pursuant to and in accordance with the provisions of R.C. Section 5709.43, the Top of the Hill Urban Redevelopment Tax Increment Equivalent Fund (the "Fund"), into which shall be deposited the PILOTS distributed to the City with respect to the Improvements on the Parcels by or on behalf of the County Fiscal Officer as provided in Section 5709.42 of the Revised Code. One hundred percent (100%) of the moneys collected shall be deposited in the Fund and shall be retained by the City and used for any or all of the following purposes:

(i) Payment of all costs associated with the construction of the Development, including costs incurred by the Cleveland-Cuyahoga County Port Authority (the "Port Authority") or other governmental entity, and including debt service and related costs or obligations or loans issued by the City, the Port Authority, the State of Ohio or other governmental entity;

(ii) Construction, operation and maintenance of public improvements and publicly-owned facilities on the Parcels, including, but not limited to, streets, storm and sanitary sewers, water treatment facilities and water transmission lines, sidewalks, curbs, street trees and furniture, transitway improvements, off-street parking facilities, street lighting and signalization, pedestrian walkways, and public parks and plazas, whether owned by the City or other governmental entity by agreement with the City, and associated land acquisition and demolition, planning and engineering costs;

(iii) Land and building acquisition, demolition, site preparation, and relocation expenses related to the Development;

(iv) Compensating the School District pursuant to the Compensation Agreement; and

(v) Any other expenditures made with respect to the Parcels in accordance with the Development Agreement or other agreements entered into in connection with development of the Parcels provided such expenditures are otherwise permitted by law.

The Fund shall remain in existence so long as such PILOTS are collected, after which said Fund may be dissolved in accordance with said Section 5709.43 and transferred to the General Fund or any other fund as permitted by applicable law.

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SECTION 5. The Compensation Agreement between the City and the School District, substantially in the form attached to this Ordinance as Exhibit B, is hereby approved and authorized, with changes or amendments thereto not inconsistent with this Ordinance and not substantially adverse to the City as determined by the Director of Law and which are approved by the City Manager. The City Manager, for and in the name of the City, is hereby authorized to execute that Compensation Agreement and any amendments thereto. The approval of changes or amendments by the City Manager, and the character of the changes or amendments as not being inconsistent with this Ordinance and not being materially adverse to the City, shall be evidenced conclusively by the execution thereof by the City Manager with the concurrence of the Director of Law. This Council further hereby authorizes and directs the City Manager to make such arrangements as are necessary and proper for payments to be made to the School District pursuant to the Compensation Agreement.

SECTION 6. The City Manager is authorized and directed to sign any other documents, instruments or certificates as are necessary or appropriate to consummate or implement the actions described herein, or contemplated by this Ordinance, including an agreement or agreements with the Developer to provide for the payment of PILOTS and Minimum Service Payments described in this Ordinance and in the Compensation Agreement.

SECTION 7. Pursuant to R.C. Section 5709.41, the City Manager is hereby directed to deliver a copy of this Ordinance to the Director of Development Services of the State within fifteen days after its passage. On or before March 31 of each year that the exemption set forth in Section 3 hereof remains in effect, the City Manager or designee shall prepare and submit to the Director of Development Services of the State the status report required under R.C. Section 5709.41(E).

SECTION 8. It is hereby found and determined that all formal actions of this Council 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 decision making bodies of the City that resulted in such formal actions were in meetings open to the public and in compliance with all legal requirements.

SECTION 9. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 10. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to proceed with due diligence of the site and detailed design for City review. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

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Carol A. Roe

CAROL ANN ROE, Mayor
President of the Council

Laurie Sabin

LAURIE SABIN
Clerk of Council

PASSED: March 19, 2018

EXHIBIT A

DESCRIPTION OF PARCELS INCLUDED IN TIF AREA

(Identified by Parcel Number)

685-18-008

685-18-009

685-18-010

685-18-012

685-18-013

685-18- 016

685-18-018

685-18-019

EXHIBIT B

FORM OF COMPENSATION AGREEMENT

(See Attached)

FORM OF
COMPENSATION AGREEMENT

This Compensation Agreement (this "Agreement"), is made and entered into on this day of _____, 2018, by and between the CITY OF CLEVELAND HEIGHTS, OHIO (the "City"), a municipal corporation organized and existing under the laws of the State of Ohio, and the CLEVELAND HEIGHTS-UNIVERSITY HEIGHTS CITY SCHOOL DISTRICT (the "School District"), a city school district organized and existing under the laws of the State of Ohio.

WITNESSETH:

WHEREAS, the City owns (or may acquire) certain real property located at the intersection of Cedar Road and Euclid Heights Boulevard and sometimes referred to herein as the "Top of the Hill Property" more particularly depicted in Exhibit A attached hereto; and

WHEREAS, by Ordinance to be introduced in Cleveland Heights City Council (including any amendments thereto, the "TIF Ordinance"), the City proposes to establish a tax increment financing area with respect to the Top of the Hill Property, to exempt from real property taxation improvements to be made to the Top of the Hill Property pursuant to Section 5709.41 of the Ohio Revised Code (the "TIF Statute") and to require the development entity to be established by F & C Development, Inc. to lease from the City and improve the parcels included in the Top of the Hill Property (such entity, the "Developer"), to make Service Payments In Lieu of Taxes in an amount equal to the amount of real property taxes that would have been payable if the Improvements described below had not been exempted from taxation under the TIF Ordinance (those payments in lieu of taxes, together with any related penalties, interest and rollback payments, are collectively referred to herein as "PILOTS"), and to use such PILOTS to pay a portion of the principal of, interest on and premium, if any, with respect to bonds expected to be issued by the Cleveland-Cuyahoga County Port Authority (or any other such governmental authority as may be designated by the City) or other financing and any renewals or refunding thereof (collectively, the "TIF Debt") which may be issued or entered into to pay the cost of acquisition and construction of improvements as part of the proposed Top of the Hill Property development; and

WHEREAS, by the TIF Ordinance, the City intends to designate the parcels depicted in Exhibit A hereto (collectively referred to herein as the "TIF Area"), with the parcels comprising the real property within the TIF Area, as improved, referred to hereinafter as the "Parcels"; and

WHEREAS, the City has provided information to the School District with respect to a proposed mixed-use development of the Parcels which will include construction of (a) 200 luxury market-rate apartments, (b) 15,000 square feet of first floor restaurant, retail and commercial space, (c) a public parking garage containing 525 parking spaces, (d) public gathering and green spaces, (e) 20 for-sale townhomes, (f) a nationally-branded hotel or boutique hotel, (g) all sidewalks, driveways, access ways and utility connections, and which will potentially include (h) "Class A" office space (all of the foregoing being referred to herein collectively as the "Improvements"); and

WHEREAS, the City and the School District will derive substantial and significant benefits from the Improvements; and

WHEREAS, the City, in the TIF Ordinance, intends to declare the Improvements (other than those Improvements, if any, to be used for residential purposes as such term is used in Section 5709.41(B) of the Ohio Revised Code) to be for a “public purpose” and exempted 100% of the assessed valuation of the Improvements from real property taxation for a period not to exceed thirty (30) years in accordance with Section 5709.41 of the Ohio Revised Code; and

WHEREAS, on March [], 2018, the Board of the School District adopted a resolution (the “School District Resolution”) approving this Agreement and the exemption of the Improvements as will be provided in the TIF Ordinance (the “TIF Exemption”); and

WHEREAS, to facilitate the construction of the Improvements and to compensate the School District for a portion of the revenue that the School District would have received had the Improvements been made and not been exempted from taxation, the City and the School District have determined to enter into this Agreement, on the terms as hereinafter provided;

NOW, THEREFORE, in consideration of the premises and covenants contained herein, and to induce the Developer to proceed with the construction of the Improvements, the parties hereto agree as follows:

Section 1. Definitions. As used in this Agreement, the following terms shall have the meanings set forth below:

“Base Value” means the assessed value (35% of market value under current law) of the Parcels within the TIF Area for tax year 2017.

“Exempted Value” means the assessed value (35% of market value under current law) of the Parcels within the TIF Area over the Base Value that is to be exempted from real estate taxation under the TIF Ordinance and the TIF Statute.

“Exemption Year” means, for any Parcel, any calendar year in which Improvements would be taxable but for the exemption from taxation pursuant to the TIF Ordinance.

“\$44 Million Fair Market Value Threshold” means, for purposes of determining School Payments under Section 2(A) hereof, that portion of the market value of the Parcels within the TIF Area (excluding any Townhome Parcels) that is equal to or less than \$44,000,000.

“\$50 Million Fair Market Value Threshold” means, for purposes of determining School Payments under Section 2(A) hereof, that portion of the market value of the Parcels within the TIF Area (excluding any Townhome Parcels) that is equal to or greater than \$50,000,000.

“New School District Levies” means any School District levies first effective on or after the date of this Agreement. New School District Levies shall not include any replacement tax levies, to the extent of the effective rate of the levy that is being replaced, or any renewal levies. For example, if an existing levy has an effective tax rate of 10 mills as of the date of the replacement levy and 5 effective new mills are approved with the replacement of the existing levy,

New School District Levies shall exclude the prior existing effective millage (10 effective mills) and include the new 5 mills. The existing levies included in the School District's Effective Millage as of the 2017 tax year are set forth in Schedule I hereto.

“PILOTS to be received at the “\$44 Million Fair Market Threshold” means the PILOTS to be received by the City in any Exemption Year determined at the \$44 Million Fair Market Value Threshold.

“PILOTS to be received at the “\$50 Million Fair Market Threshold” means the PILOTS to be received by the City determined at the \$50 Million Fair Market Value Threshold.

“School District’s Effective Millage” means the rate of real property tax millage applicable to the Parcels determined for the School District pursuant to Section 319.301 of the Ohio Revised Code in effect for any particular Exemption Year; provided, however, that the School District’s Effective Millage shall not include any millage related to New School District Levies.

“Townhome Parcel” means any Parcel or portion thereof upon which is constructed a townhome or other Improvements to be used for residential purposes as such term is used in Section 5709.41(B) of the Ohio Revised Code.

Section 2. City Payments to School District. Unless otherwise agreed to in writing by the City and the School District, with respect to Improvements located within the TIF Area, for each Exemption Year for such Improvements, the City agrees to pay the School District the payments determined under subsection (A) of this Section 2 (referred to herein as the “School Payments”):

(A) School District Portion. The amounts calculated under the following clauses for each Exemption Year:

- (1) In any Exemption Year in which the market value of the Parcels in the TIF Area (excluding any Townhome Parcels) have a market value of equal to or less than the \$44 Million Fair Market Value Threshold, semi-annual payments equal to 25% of the tax revenue that the School District would have received with respect to that Exemption Year on the Exempted Value but for the TIF Exemption, based on the School District’s Effective Millage.
- (2) In addition to the School Payments required by subsection (A)(1) hereof (i.e., the 25% payment calculated on the market value less than or equal to the \$44 Million Fair Market Value Threshold), in any Exemption Year in which the market value of the Parcels in the TIF Area (excluding any Townhome Parcels) have a market value of greater than the \$44 Million Fair Market Value Threshold but less than the \$50 Million Fair Market Value Threshold, semi-annual payments equal to 33.33% of the tax revenue that the School District would have received with respect to that Exemption Year on that portion of the Exempted Value attributable to that portion of the market value of the Parcels in the TIF Area (other than any Townhome Parcels) in excess of the \$44 Million Fair Market Value Threshold but for the TIF Exemption, based on the School District’s Effective Millage.

- (3) In addition to the School Payments required by subsections (A)(1) and (A)(2) hereof (i.e., the 25% payment calculated on the market value less than or equal to the \$44 Million Fair Market Value Threshold and the 33.33% payment calculated on the market value greater than the \$44 Million Fair Market Value Threshold and less than or equal to the \$50 Million Fair Market Value Threshold), in any Exemption Year in which the market value of the Parcels in the TIF Area (excluding any Townhome Parcels) have a market value equal to or greater than the \$50 Million Fair Market Value Threshold, semi-annual payments equal to 50% of the tax revenue that the School District would have received with respect to that Exemption Year on that portion of the Exempted Value attributable to that portion of the market value of the Parcels in the TIF Area (other than any Townhome Parcels) in excess of the \$50 Million Fair Market Value Threshold but for the TIF Exemption, based on the School District's Effective Millage..
- (4) In addition to the School Payments required by subsections (A)(1), (A)(2) and (A)(3) hereof, semi-annual payments equal to 100% of the tax revenue that the School District would have received with respect to that Exemption Year from the New School District Levies, if any.

(B) Timing of Payments. The City shall cause the School Payments to be made semiannually within thirty (30) days after PILOT payments are received by the City from the Treasurer of Cuyahoga County, Ohio (the "Treasurer"). Such payments due to the School District shall be made by the City solely from the PILOTs it receives from the Treasurer. The City may provide that such amounts shall be paid directly by the Treasurer to the School District and shall not be paid to the City.

(C) Bond Issuance Test. Unless the School District consents as hereinafter described, no TIF Debt shall be issued by the City, the Cleveland-Cuyahoga County Port Authority or any such other governmental authority as may be designated by the City unless at the time of authorization of the TIF Debt the projected PILOTs based on the projected market value of the Exempted Property, according to pro forma projections presented to both the City and the School District, which projections shall assume no growth in value, will result in a debt service coverage ratio of not less than 1.25:1 for all of the TIF Debt, including principal and interest then due or coming due in the next succeeding 12-month period and administrative expenses of the City and the Cleveland-Cuyahoga County Port Authority (or any such other governmental authority as may be designated by the City) with respect to the TIF Debt, including but not limited to the fees of any trustee for the TIF Debt (the "Minimum Debt Service Coverage Ratio Requirement"). If the School District consents in writing, TIF Debt may be issued by the City, the Cleveland-Cuyahoga County Port Authority or any other such governmental authority as may be designated by the City even if the Minimum Debt Service Coverage Ratio Requirement is not satisfied. Such consent by the School District is in the sole and absolute discretion of the School District. It is the intention of the parties hereto that there will always be sufficient PILOTs during any given calendar year to pay both the debt service described in Section 2(D)(1)(a) below and all School Payments as required by this Agreement.

(D) Subordination of School Payments.

(1) The School District acknowledges and agrees that the right of the School District to receive School Payments is subordinate to the payment of the TIF Debt and that the PILOTs will be applied in the following order:

- (a) First, to pay debt service charges on the TIF Debt, including principal, interest then due or coming due in the next succeeding 12-month period, early redemption premiums and the replenishment of any required reserve funds for the TIF Debt, and administrative expenses of the City and the Cleveland-Cuyahoga County Port Authority (or any other such governmental authority as may be designated by the City) with respect to the TIF Debt and the PILOTs (including but not limited to the fees of any trustee for the TIF Debt).
- (b) Second, to pay to the School District the School Payments currently due under Section 2(A) hereof.
- (c) Third, for all other uses as authorized by law and as may be agreed upon by the City and the Developer.

In consideration of the foregoing, the City agrees that, in connection with any TIF Debt, the owners of the Improvements on the Parcels within the TIF Area (excluding any Townhome Parcels) (initially, the Developer) will be required to pay so-called minimum service payments in an amount not less than the amount of PILOTS that would be payable had the market value of the Parcels in the TIF Area been equal to the \$44 Million Fair Market Threshold even though the market value of those Parcels may be less than the \$44 Million Fair Market Threshold (the “Minimum Service Payments”), provided that the payment of Minimum Service Payments by the owners of the Improvements on the Parcels within the TIF Area (excluding any Townhome Parcels) will not entitle the School District to School Payments in amounts greater than the amounts calculated as set forth in Section 2(A) hereof.

(2) In the event that the PILOTs are not sufficient to pay the School Payments due to the School District in full, any School Payments not paid in any Tax Year shall be a deficiency (each, a “Deficiency”). Notwithstanding anything to the contrary in this Agreement, in the event that one or more Deficiencies shall exist, in any Exemption Year in which the market value of the Parcels in the TIF Area have a market value of greater than the \$44 Million Fair Market Value Threshold, the PILOTs attributable to the Exempted Value in excess of the \$44 Million Fair Market Value Threshold will be used first to pay any Deficiencies due to the School District under this Section 2(D) (beginning with the oldest then-remaining Deficiency) and then, after payment of all such Deficiency amounts, the remainder applied according to Section 2(A) hereof.

(E) Termination of Agreement. After the Director of Finance has determined that (a) all of the payments and reimbursements described in the TIF Ordinance, including those then due and those coming due in the future, have been made or provided for, (b) the TIF Debt has been paid in full or otherwise discharged, and (c) all of the School Payments then due under this Section

2 have been made or provided for, then the exemption from taxation pursuant to the TIF Ordinance and the PILOTs shall end, and this Agreement shall terminate.

Section 3. Review of Records. The School District may from time to time, with reasonable advance notice, review the records of the City relating to its receipt of PILOTs. The City and School District shall work together and communicate as to the calculation of the payment in Section 2, including exchanging information as to the valuation of the Parcels and tax rates.

Section 4. Reconciliation. The City and School District shall annually meet to review, calculate and reconcile payments to the School District and City.

Section 5. School District Consents and Waivers. In consideration of the compensation to be provided to it under this Agreement, the School District hereby:

(A) approves all TIF exemptions that may be granted under the TIF Ordinance in the TIF Area for the number of years and the percentage specified (the "TIF Exemptions");

(B) waives any notice or other requirements set forth in Sections 5709.41, 5709.82, 5709.83 and 5715.27, Revised Code, with respect to the TIF Exemptions;

(C) waives any School District rights pursuant to Section 5715.27, Revised Code; and

(D) waives any defects or irregularities relating to the exemption from taxation of any Improvement, and agrees not to challenge, directly or indirectly, the validity of the exemption from taxation of any Improvement.

Section 6. Application of Ohio Revised Code Section 5709.82. The School District acknowledges and agrees that this Agreement provides for the only compensation to be received by the School District from the City in connection with real property tax exemptions granted pursuant to the TIF Ordinance, there will be no income tax sharing in connection with those exemptions, and the compensation provided for herein is in lieu of any other compensation that may be provided for in Section 5709.82, Revised Code.

Section 7. Amendment. This Agreement may be amended or modified by the parties only in writing, signed by both parties to the Agreement.

Section 8. Entire Agreement. This Agreement is executed pursuant to Sections 5709.41, 5709.82, 5709.83 and 5715.27(D) Revised Code, and sets forth the entire agreement and understanding between the parties as to the subject matter hereof, including without limitation all forms of compensation to be paid by the City to the School District pursuant to those sections, and merges and supersedes all prior discussions, agreements, and undertakings of every kind and nature between the parties with respect to the subject matter of this Agreement. It is understood by the parties hereto that if all or a portion of the Parcels are ever deemed to be exempt from real property taxes under any other section of the Revised Code, and if as a result, the City does not receive any PILOTs, the City's payment to the School District will terminate.

Section 9. Notices. All payments, certificates and notices which are required to or may be given pursuant to the provisions of this Agreement shall be sent by the United States ordinary

mail, postage prepaid, and shall be deemed to have been given or delivered when so mailed to the following addresses:

If to the City:

City of Cleveland Heights
40 Severance Circle
Cleveland Heights, OH 44118
Attention: City Manager

If to the School District:

Cleveland Heights-University Heights City
School District
2155 Miramar Boulevard
University Heights, OH 44118
Attention: Scott Gainer, CFO/Treasurer

With a copy to:

David Seed, Esq.
Brindza, McIntyre & Seed LLP
1111 Superior Avenue, Suite 1025
Cleveland, OH 44114

Any party may change its address for receiving notices and reports by giving written notice of such change to the other parties.

Section 10. Change in Development. The City shall notify the School District if the Development to be constructed changes substantially after the date of this Agreement, and if requested by one of the parties, the two parties agree to meet to discuss the implications of that change.

Section 11. Severability of Provisions. The invalidity of any provision of this Agreement shall not affect the other provisions of this Agreement, and this Agreement shall be construed in all respects as if any invalid portions were omitted.

Section 12. Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any party to this Agreement may execute this Agreement by signing any such counterpart.

Section 13. Extent of Covenants; Binding Effect; No Personal Liability. All covenants, stipulations, obligations and agreements of the parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. Each provision of the Agreement is binding upon the officer(s) or other person(s) and any body or bodies 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 a given provision of this Agreement. Each duty of the City and its bodies, officers and employees, undertaken pursuant to the Agreement, is established as a duty with the City and of each such officer, employee or body having authority to perform that duty, specifically and enjoined by law resulting from an office, trust or station within the meaning of

Section 2731.01, Revised Code, providing for enforcement by writ of mandamus. No such covenant, stipulation, obligation or agreement shall be deemed a covenant, stipulation, obligation or agreement of any present or future member, officer, agent, or employee of any of the parties in their individual capacity.

CITY OF CLEVELAND HEIGHTS, OHIO

By: _____
City Manager

Approved as to Form and Correctness:

By: _____
City Law Director

4817-9955-3374

CLEVELAND HEIGHTS-UNIVERSITY
HEIGHTS CITY SCHOOL DISTRICT

By: _____
Treasurer

FISCAL OFFICER'S CERTIFICATE

The undersigned, Director of Finance of the City of Cleveland Heights under the foregoing Agreement, certifies hereby that any moneys required to meet the obligations of the City during the year _____ under the foregoing Agreement have been appropriated lawfully for that purpose, and is in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2018

Director of Finance
City of Cleveland Heights, Ohio

FISCAL OFFICER'S CERTIFICATE

The undersigned, Treasurer of the Cleveland Heights-University Heights City School District under the foregoing Agreement, certifies hereby that the moneys required to meet any obligations of the School District during the year _____ under the foregoing Agreement have been appropriated lawfully for that purpose, and is in the Treasury of the District or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2018

Treasurer
Cleveland Heights City School District, Ohio

EXHIBIT A
TIF AREA PARCELS
(Identified by Parcel Number)

685-18-008

685-18-009

685-18-010

685-18-011

685-18-012

685-18-013

685-18- 016

685-18-018

685-18-019

SCHEDULE I
SCHOOL DISTRICT'S CURRENT TAX LEVIES

See attached DTE 515 dated 12/8/17

TE050008
12/08/17 14:23:00
DTE515
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STATE OF OHIO

COMPOSITE REDUCTION FACTOR REPORT FOR THE TAX YEAR 2017

COUNTY 18 CUYAHOGA

TAXING DISTRICT NUMBER: 00180		TAXING DISTRICT: CLEV HT-CY C HT/UNIV HT CSD		RES/AG CLASS-----		NON-RES/AG (OTHER) CLASS-----	
LEVY YEAR / DESCRIPTION		TAX	REDUCTION	COMPOSITE	EFFECTIVE	REDUCTION	COMPOSITE
ROLL		RATE	FACTOR	FACTOR	RATE	FACTOR	FACTOR
BACK							
- UNIT # 10180	CUYAHOGA COUNTY	0.500	XXXXXXX		.500000	XXXXXXX	
- GENERAL FUND		0.950	XXXXXXX		.950000	XXXXXXX	
- DEBT SERVICE		3.900	0.010786		3.857934	0.003488	
- 2005 MENTAL HEALTH & RETARDATION		4.800	0.010786		4.748227	0.003488	
- 2008 HEALTH AND WELFARE		3.900	0.010786		3.857934	0.003488	
- 2013 HEALTH SERVICES		14.050		0.009673	13.914095		
- SUB TOTAL						0.003129	14.006049
- UNIT # 21080	CLEVELAND HTS-UNIVERSITY HTS C	4.450	XXXXXXX		4.450000	XXXXXXX	
- GENERAL FUND		52.050	0.795615		10.638239	0.591731	
- 1976 CURRENT EXPENSE		6.900	0.625750		2.582325	0.502621	
- 1980 CURRENT EXPENSE		6.000	0.570508		2.576952	0.439338	
- 1983 CURRENT EXPENSE		4.500	0.570490		1.932795	0.437408	
- 1985 CURRENT EXPENSE		6.000	0.548395		2.709630	0.384468	
- 1986 CURRENT EXPENSE		9.500	0.548363		4.290551	0.384276	
- 1988 CURRENT EXPENSE		8.900	0.343162		5.845858	0.182853	
- 1993 CURRENT EXPENSE		8.900	0.246254		6.708339	0.140657	
- 1996 CURRENT EXPENSE		9.400	0.192589		7.589663	0.081657	
- 2000 CURRENT EXPENSE		0.600	XXXXXXX		.600000	XXXXXXX	
- 2001 BOND/LIBRARY (\$9,500,000)		3.800	0.086028		3.473093	0.000000	
- 2002 PERMANENT IMPROVEMENT-ONGOING		8.500	0.000000		8.500000	0.000000	
- 2004 CURRENT EXPENSE		7.200	0.000000		7.200000	0.000000	
- 2007 CURRENT EXPENSE		6.900	0.000000		6.900000	0.000000	
- 2011 CURRENT EXPENSE		6.990	XXXXXXX		6.990000	XXXXXXX	
- 2013 BOND (\$134,800,000)		5.500	0.000000		5.500000	0.000000	
- 2016 CURRENT EXPENSE		156.090		0.433100	88.487445		
- SUB TOTAL						0.310567	107.613706
- UNIT # 51780	CLEVELAND HTS CITY	2.220	XXXXXXX		2.220000	XXXXXXX	
- GENERAL FUND		1.500	XXXXXXX		1.500000	XXXXXXX	
- SINKING FUND AND BOND		6.480	XXXXXXX		6.480000	XXXXXXX	
- 1976 CHARTER/CURRENT EXPENSE		0.300	XXXXXXX		.300000	XXXXXXX	
- 1986 CHARTER/FIREMAN'S FUND		0.300	XXXXXXX		.300000	XXXXXXX	
- 1986 CHARTER/POLICE PENSION		0.700	XXXXXXX		.700000	XXXXXXX	
- 2004 CHARTER/RECREATION IMPROVEMENT		0.920	XXXXXXX		.920000	XXXXXXX	
- 2014 CHARTER/CURRENT EXP (HB59 INCR)		12.420					
- SUB TOTAL						0.000000	12.420000

UNIT #	60110	CLEVELAND METRO PARKS	0.050	XXXXXXX	.050000	Y
CLEVELAND METRO PARK			1.800	0.011740	1.778868	1.793557
2004 CURRENT EXPENSE			0.900	0.011740	.889434	.896778
2013 CURRENT EXPENSE			2.750		0.011527	N
SUB TOTAL					2.718302	
DISCOUNT					0.003515	
GRAND TOTAL					2.740335	

STATE OF OHIO						
COMPOSITE REDUCTION FACTOR REPORT FOR THE TAX YEAR 2017						
TAXING DISTRICT NUMBER: 00180 (CONTINUED)		CITY: CLEVELAND - CUYAHOGA		COUNTY: 18 CUYAHOGA		
TAXING DISTRICT: CLEV HT-CY C HT/UNIV HT CSD			RES/AG CLASS			NON-REDUCTION
LEVY YEAR / DESCRIPTION	ROLL	TAX	REDUCTION	COMPOSITE	EFFECTIVE	REDUCTION
BACK	UNIT #	RATE	FACTOR	FACTOR	RATE	FACTOR
1992	60192	CLEVELAND HTS LIBRARY	4.000	0.343162	2.627352	0.182943
2000		CURRENT EXPENSE	1.900	0.192589	1.534080	0.081657
2008		CURRENT EXPENSE	1.900	0.000000	1.900000	0.000000
2014		CURRENT EXPENSE	2.200	0.000000	2.200000	0.000000
	SUB TOTAL	10.000		0.173857	8.261432	
2006	61156	CUYAHOGA COMMUNITY COLLEGE	1.200	0.010786	1.187056	0.003488
2010		CUYAHOGA COMMUNITY COLLEGE	1.900	0.010786	1.879506	0.003488
2014		CUYAHOGA COMMUNITY COLLEGE	0.900	0.010786	.890292	0.003488
2017		BOND (\$227,500,000)	0.500	XXXXXXX	.500000	XXXXXXX
	SUB TOTAL	4.500		0.009588	4.456854	
1998	61157	CLEVELAND-CUYAHOGA PORT AUTHORITY	0.130	0.130167	.113078	0.098914
	SUB TOTAL	0.130		0.130170	.113078	
	COMPOSITE	199.940		0.347949	130.371206	
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