

RESOLUTION NO.: 126 -2021

INTRODUCED BY: Henry, Alexander, Lewis, Lentine and Mayor Roche

A RESOLUTION AUTHORIZING THE EXECUTION AND PERFORMANCE OF AN INTERGOVERNMENTAL COOPERATION AGREEMENT WITH THE BELLE OAKS NEW COMMUNITY AUTHORITY AND THE TRUSTEE FOR THE AUTHORITY'S REVENUE BONDS; AND DECLARING AN EMERGENCY.

WHEREAS, Belle Oaks Marketplace LLC, ("Developer") and the City of Richmond Heights, Ohio ("City"), upon the formal petition and request of the Developer, have collaborated to create a new community authority organized under Ohio Revised Code ("O.R.C.") Chapter 349 called the Belle Oaks New Community Authority (the "Authority"), and the Authority is authorized to carry out its new community development program in its new community district and issue revenue bonds to support such program;

WHEREAS, the City desires to encourage commercial growth and development within the City by implementing a program of tax increment financing with respect to the redevelopment of certain parcels of real property formerly comprising the Richmond Town Square Mall within the boundaries of the City;

WHEREAS, the City has determined that redevelopment of a mixed-use project within the Belle Oaks site, which will include residential, commercial, and retail properties, 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;

WHEREAS, the Developer has outlined a development and redevelopment plan and financial model that is acceptable to the City for the redevelopment and productive use of the former Richmond Heights Town Square Mall properties and the Developer plans to rehabilitate or construct, or cause rehabilitation or construction of, certain private improvements comprising a mixed-use residential, commercial, and retail development to be constructed in multiple phases;

WHEREAS, the City may facilitate the development of commercial and residential properties by utilizing funding mechanisms to pay the costs of an "urban renewal project" as defined by O.R.C. Section 725.01(I), "public infrastructure improvements" as defined in O.R.C. Section 5709.40(A)(8), and the costs of "urban redevelopment" identified in O.R.C. Section 5709.41(A)(2), including, without limitation, construction of roads, walkways, parking facilities, parks, streetscape improvements, utility infrastructure, and related publicly- and privately-owned improvements;

WHEREAS, O.R.C. Sections 725.01, *et seq.* provide for the use of a municipal urban renewal tax exemption and a corresponding urban renewal service payment in lieu of taxes to finance the construction of an urban renewal project which will benefit new commercial and residential development in the City and will eliminate blight;

WHEREAS, O.R.C. Sections 5709.40, 5709.41, 5709.42, and 5709.43 provide for the use of municipal tax increment financing (“TIF”) to finance the construction of public infrastructure and certain private improvements that will benefit new commercial and residential development in the City;

WHEREAS, pursuant to the above-referenced TIF, purchasers of the redeveloped property will be exempt from the payment of taxes, and will pay service payments to the City in lieu of taxes (“Service Payments”), which will be pledged to pay the bonds issued to finance the development;

WHEREAS, the City is authorized under Ohio Constitution Article VIII, Section 13; Ohio Constitution Article XVIII, Section 3; O.R.C. Chapter 725; and O.R.C. Chapter 349; to issue “urban renewal bonds” as defined in O.R.C. Section 725.01(F), and desires to authorize the Authority to issue on its behalf one or more series of special obligation revenue bonds, notes, or other obligations (the “Bonds”) to finance the costs of the urban renewal project, the costs of urban redevelopment, and the costs of public infrastructure improvements;

WHEREAS, the City will pledge and assign all Service Payments to the Trustee for the Bonds, which shall initially be the Huntington National Bank;

WHEREAS, Council has determined that it is necessary for the City to enter into a cooperative agreement with the Authority and the Trustee for the Bonds (the “Intergovernmental Cooperation Agreement”), the form of which Intergovernmental Cooperation Agreement is attached hereto as Exhibit A and which constitutes an agreement under O.R.C. Sections 349.06(I), 349.06(S), and 349.13 in order to, among other things: (i) authorize the Authority to issue the Bonds as “urban renewal bonds” as defined in O.R.C. Section 725.01(F) on behalf of the City, and (ii) cause the assignment by the City to the Authority, for further assignment to the Trustee for the Bonds, and to cause the transfer by the City, of Service Payments to pay the Costs of the Authorized Improvements, as defined in the Agreement.

NOW, THEREFORE, Be It Resolved by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: Council hereby authorizes and directs the Mayor to execute and deliver the Intergovernmental Cooperative Agreement by and among the Belle Oaks New Community Authority and the City of Richmond Heights, Ohio, and the Huntington National Bank, as Trustee, in substantially the form attached hereto as Exhibit A, 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 the Mayor’s signature thereon.

Section 2: The City hereby authorizes the Authority, pursuant to the authority granted to the City by Ohio Constitution Article VIII, Section 13; Ohio Constitution Article XVIII, Section 3; O.R.C. Chapter 725; and O.R.C. Chapter 349; to issue the Bonds on behalf of the City as “urban renewal bonds” as defined in O.R.C. Section 725.01(F). The Bonds shall be unvoted obligations of the Authority, and shall not constitute in any way a pledge or obligation of the full faith and credit of the City. The Intergovernmental Cooperative Agreement shall be

executed and delivered by the City, the Authority, and the Trustee for the Bonds on or prior to the date of the issuance of the Bonds.

Section 3: It is found and determined that all formal actions of this Council and any of its committees concerning and relating to the passage of this Resolution 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 O.R.C. Section 121.22.

Section 3: This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the City, due to the benefits resulting from implementation of the mixed-use redevelopment project on the Development Site and the Belle Oaks Site, as well as the numerous benefits to the City's overall economic health and competitiveness, the benefits to the quality of life of its residents, and the critical timing and seasonality considerations associated with the financing and construction of the mixed-use redevelopment project on the Development Site and the Belle Oaks Site; wherefore, this Resolution shall be in full force and effect immediately upon its passage and approval by the Mayor.

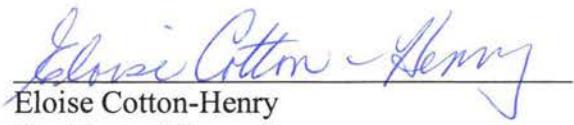
PASSED: December 14, 2021



David H. Roche, Mayor

APPROVED: December 14, 2021

ATTEST: Betsy Traben
Betsy Traben
Clerk of Council



Eloise Cotton-Henry
President of Council

Exhibit A

INTERGOVERNMENTAL COOPERATION AGREEMENT

by and among

BELLE OAKS NEW COMMUNITY AUTHORITY

and

CITY OF RICHMOND HEIGHTS, OHIO

and

THE HUNTINGTON NATIONAL BANK, as Trustee

\$[]
Belle Oaks New Community Authority
Community Facilities Revenue Bonds, Series 2022
(Belle Oaks Project)

Dated
as of
[], 2022

Bricker & Eckler LLP
Bond Counsel

TABLE OF CONTENTS

	<u>Page</u>
<u>ARTICLE I DEFINITIONS</u>	3
<u>Section 1.1. Definitions; Use of Defined Terms.</u>	3
<u>Section 1.2. Interpretation.</u>	7
<u>Section 1.3. Captions and Headings.</u>	7
<u>ARTICLE II ASSIGNMENTS AND TRANSFERS</u>	8
<u>Section 2.1. Intergovernmental Cooperation.</u>	8
<u>Section 2.2. Semiannual Settlements with the County.</u>	8
<u>Section 2.3. Creation of Urban Renewal Fund, TIF Fund, and NCA Fund.</u>	9
<u>Section 2.4. Accounting of Service Payments; Assignment.</u>	9
<u>Section 2.5. Accounting of Community Development Charges; Assignment.</u>	10
<u>Section 2.6. Transfers; Deposits by the Trustee; Disbursements.</u>	10
<u>Section 2.7. Place of Payments.</u>	13
<u>Section 2.8. The Trust Agreement and this Agreement.</u>	14
<u>Section 2.9. Disbursements; Inspection of City-Owned Authorized Improvements.</u>	14
<u>Section 2.10. No Amendments to City Legislation.</u>	14
<u>ARTICLE III EVENTS OF DEFAULT AND REMEDIES</u>	15
<u>Section 3.1. Events of Default.</u>	15
<u>Section 3.2. Remedies on Default.</u>	16
<u>Section 3.3. No Remedy Exclusive.</u>	17
<u>Section 3.4. No Waiver.</u>	17
<u>Section 3.5. Notice of Default.</u>	17
<u>ARTICLE IV MISCELLANEOUS</u>	18
<u>Section 4.1. Term of Agreement.</u>	18
<u>Section 4.2. Notices.</u>	18
<u>Section 4.3. Extent of Covenants; No Personal Liability.</u>	19
<u>Section 4.4. Binding Effect; Limitation of Rights.</u>	19
<u>Section 4.5. Amendments and Supplements.</u>	20
<u>Section 4.6. Execution Counterparts.</u>	20
<u>Section 4.7. Severability.</u>	20
<u>Section 4.8. Governing Law.</u>	20
<u>Section 4.9. Obligations Unconditional.</u>	20
<u>Section 4.10. Limitation of Obligations.</u>	20

INTERGOVERNMENTAL COOPERATION AGREEMENT

THIS INTERGOVERNMENTAL COOPERATION AGREEMENT (the "Agreement") is made and entered into as of [__], 2022, between **BELLE OAKS NEW COMMUNITY AUTHORITY**, a new community authority and political subdivision and body corporate and politic duly organized and validly existing under the laws of the State of Ohio (the "Authority"), the **CITY OF RICHMOND HEIGHTS, OHIO**, a municipal corporation duly organized and validly existing under the laws of the State of Ohio and its Charter (the "City"), and **THE HUNTINGTON NATIONAL BANK**, 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 of Ohio, with its corporate trust offices located in Cleveland, Ohio, solely in its capacity as Trustee under the Trust Agreement defined herein (the "Trustee"), under the circumstances summarized in the following recitals (the capitalized terms not defined in the recitals being used therein as defined in the Development Agreement (as defined herein)):

WHEREAS, the Authority is concurrently herewith issuing its [\$-----] Community Facilities Revenue Bonds, Series 2022 (Belle Oaks Project) (the "Series 2022 Bonds") for the purpose of providing moneys to pay costs of "land acquisition" as defined in O.R.C. Section 349.01(G), "land development" as defined in O.R.C. Section 349.01(H), and acquiring, constructing, and improving "community facilities" as defined in O.R.C. Section 349.01(I) (collectively, "Community Facilities"), which the Authority is issuing, selling and delivering to the original purchasers thereof in accordance with the Series 2022 Bond proceedings; and

WHEREAS, the Series 2022 Bonds are issued pursuant to and in accordance with the Trust Agreement in the aggregate principal amount of [\$-----], bear interest, mature and are subject to redemption as set forth therein, and Additional Bonds may be issued by the Authority pursuant to and in accordance with the Trust Agreement, the proceeds of which shall be used solely in accordance with the Development Agreement dated [__] executed by and among the Authority, the City and Belle Oaks Marketplace LLC (the "Development Agreement"); and

WHEREAS, subject to the terms and conditions set forth in the Development Agreement, in order to provide moneys to pay Debt Service on the Bonds, the City will cause Service Payments received by the City to be deposited into its Service Payment Fund, and pursuant to this Agreement the City will cause amounts on deposit in its Service Payment Fund to be deposited with the Trustee; and

WHEREAS, pursuant to this Agreement, in order to provide moneys to pay Debt Service on the Bonds, the Authority will cause Community Development Charges to be levied and funds received by the Authority as Community Development Charges to be deposited with the Trustee; and

WHEREAS, in order to provide for the orderly deposit, payment, transfer, assignment and accounting of such Service Payments received by the City from time to time and such

Community Development Charges received by the Authority from time to time, and in order to implement certain other provisions of the Development Agreement and the Trust Agreement, the Authority, the City and the Trustee desire to enter into this Agreement.

NOW THEREFORE, in consideration of the premises and the mutual representations and agreements hereinafter contained, the Authority, the City and the Trustee agree as follows (provided that any obligation of the Authority or the City created by or arising out of this Agreement shall never constitute a general debt of either of the Authority or the City or give rise to any pecuniary liability of either of the Authority or the City but shall be payable solely out of Pledged Receipts).

ARTICLE I

DEFINITIONS

Section 1.1. Definitions; Use of Defined Terms.

In addition to the words and terms defined elsewhere in this Agreement or in the Development 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 below:

“Additional Bonds” means any issue or series of community facilities revenue bonds, notes, or other obligations other than the Series 2022 Bonds that are issued by the Authority and secured with Pledged Receipts.

“Administrative Expenses” means the fees and reasonable expenses or charges of the Trustee pursuant to the Trust Agreement; any entity providing administrative services with respect to the Service Payments, Community Development Charges and the Bonds; any issuer of a letter of credit or other surety or financial guaranty for the Bonds; fees and expenses of any registrar, paying agent, authenticating agent, remarketing agent, continuing disclosure agent, consultant or other agent retained by the Authority or the Trustee to perform any duty required of it by the Trust Agreement; and any other amounts required to be paid in connection with the servicing of the Bonds (excluding Bond Service Charges), the collection and transfer of the Service Payments (excluding School Compensation) and the Community Development Charges; and any other reasonable expenses, including legal fees, incurred by the Authority or the City to comply with its obligations under the Financing Documents and/or the Development Agreement.

“Authorized Improvement Expenses” shall have the meaning ascribed to such term in the Development Agreement.

“Authorized Improvements” shall have the meaning ascribed to such term in the Development Agreement.

“Belle Oaks Site” shall have the meaning ascribed to such term in the Development Agreement.

“Bondholder”, “Holder”, “bondholder”, “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.

“Bond Reserve Fund” refers to the fund of that name established and held by the Trustee on behalf of the Authority pursuant to the Trust Agreement.

“Bond Resolution” means Resolution No. [] approved by the Board of Trustees of the Authority on [], 202_u authorizing the issuance of the Series 2022 Bonds and the execution, delivery, and performance of the Trust Agreement.

“Bonds” means the Series 2022 Bonds and any Additional Bonds issued pursuant to the Trust Agreement.

“Bond Service Charges” means, for any period or payable at any time, the principal of, premium, if any, and interest on the Bonds for that period or payable at that time whether due at maturity or on an interest payment date, a principal payment date, a mandatory redemption date, any other date of redemption of Bonds or any other date on which Bond Service Charges are due and payable.

“Community Development Charge Account of the Revenue Fund” means the fund of that name established and maintained by the Trustee on behalf of the Authority into which Community Development Charges are deposited, all in accordance with this Agreement, the Development Agreement, and the Trust Agreement.

“Community Development Charges” means the community development charges imposed by the Authority on the real property within the Belle Oaks Site to pay the Authorized Improvement Expenses, including such amounts as are necessary to pay Debt Service on the Bonds and to provide funds for the operation and maintenance of Community Facilities incurred by the Authority.

“Community Facilities” means, without implied limitation, real property, buildings, structures, or other facilities, including related fixtures, equipment, and furnishings, to be owned, operated, financed, constructed, or maintained under O.R.C. Chapter 349, the costs of which may include any costs of “land acquisition” as defined in O.R.C. Section 349.01(G), “land development” as defined in O.R.C. Section 349.01(H), and “community facilities” as defined in O.R.C. Section 349.01(I).

“Debt Service on the Bonds” shall have the meaning ascribed to such term in the Development Agreement.

“Declaration” means the Declaration of Covenants and Restrictions for the Belle Oaks New Community Authority, dated, filed and recorded on [], 202_u in the real property records of Cuyahoga County, Ohio, as the same may from time to time be amended or supplemented in accordance with its terms.

“Financing Documents” means the Trust Agreement, this Agreement, any offering document, any continuing disclosure agreement, any federal income tax compliance agreement,

and any other instruments or documents executed in connection with the issuance of, or otherwise required in connection with, the Bonds.

“Force Majeure” means acts of God; fires; epidemics; pandemics and health related emergencies; governmental health orders; failure of performance by a common carrier; 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 Authority or the City, as the case may be.

“Maximum Authorized Principal” means, with respect to any Bonds issued, the payment of which are secured by Service Payments, an aggregate principal amount, when added to the original principal amount of all other issued and Outstanding Bonds, not to exceed Fifty-Eight Million Dollars (\$58,000,000).

“Net Service Payments” refers to Service Payments less (i) School Compensation, (ii) and other amounts paid by the County Treasurer directly to other taxing authorities in accordance with the TIF Act, and (iii) Bond Administrator fees as provided in Section 5.2 of the Development Agreement.

“NCA Act” means O.R.C. Chapter 349, and other related provisions of the O.R.C.

“NCA Fund” means the Belle Oaks New Community Authority Community Development Charge Fund established by the Authority pursuant to O.R.C. Chapter 349.

“Outstanding Bonds” means as applied to Bonds or principal thereof mean, as of the applicable date, all Bonds which have been authenticated and delivered, or which are being delivered by the Trustee under the Trust Agreement, except:

- (a) Bonds cancelled upon surrender, exchange or transfer, or cancelled because of payment or redemption on or prior to that date;
- (b) Bonds, or the portion thereof, for the payment, redemption or purchase for cancellation of which sufficient money has been deposited and credited with the Trustee or any paying agent on or prior to that date for that purpose (whether upon or prior to the maturity or redemption date of those Bonds); provided, that if any of those Bonds are to be redeemed prior to their maturity, notice of that redemption shall have been given or arrangements satisfactory to the Trustee shall have been made for giving notice of that redemption, or waiver by the affected Bondholders of that notice satisfactory in form to the Trustee shall have been filed with the Trustee;
- (c) Bonds, or the portion thereof, which are deemed to have been paid and discharged or caused to have been paid and discharged pursuant to the provisions of the Trust Agreement; and
- (d) Bonds in lieu of which others have been authenticated under Section 2.08 of the Trust Agreement.

“O.R.C.” means the Ohio Revised Code, as enacted, amended, or supplemented from time to time, including any successor provisions of law thereto.

“Petition” means the formal petition and request of the Developer to create a new community authority organized under O.R.C. Chapter 349 called the Belle Oaks New Community Authority, filed with the City on February 18, 2020, including such real property added to the NCA District (as defined in the Development Agreement) by the “APPLICATION TO ADD PROPERTY TO THE BELLE OAKS NEW COMMUNITY AUTHORITY PURSUANT TO CHAPTER 349 OF THE OHIO REVISED CODE” approved by City Council by passage of Resolution No. [] on December 14, 2021.

“Pledged Receipts” means, collectively (i) all Net Service Payments on deposit in the City’s Service Payment Fund (including the Urban Renewal Fund, the .40(B) TIF Fund and the .41 TIF Fund therein), which are assigned by the City to the Authority for further assignment to the Trustee, (ii) all Community Development Charges actually received by the Authority, which are assigned by the Authority to the Trustee, and (iii) other revenues pledged and assigned to the Trustee and available for payment of the Debt Service on the Bonds.

“Revenue Fund” means the fund of that name established and held by the Trustee on behalf of the Authority pursuant to the Trust Agreement into which Service Payments, Community Development Charges, and any other revenues that may be pledged and assigned to the Trustee are deposited, all in accordance with this Agreement, the Development Agreement, and the Trust Agreement..

“School Compensation” shall have the meaning ascribed thereto in the Development Agreement.

“School District” shall have the meaning ascribed thereto in the Development Agreement.

“Series 2022 Bonds” means \$[] in principal amount of Community Facilities Revenue Bonds, Series 2022 (Belle Oaks Project) issued by the Authority for the purpose of providing moneys to pay a portion of the costs of Community Facilities, and any refunding bonds, notes, or other obligations issued to refund such Series 2022 Bonds, but which shall not (together with any Additional Bonds issued by the Authority) exceed the amount of the Maximum Authorized Principal.

“Service Payment Account of the Revenue Fund” means the fund of that name established and maintained by the Trustee in accordance with the Trust Agreement on behalf of the Authority into which Service Payments are deposited, all in accordance with this Agreement, the Development Agreement, and the Trust Agreement.

“Service Payments” shall have the meaning ascribed to such term in the Development Agreement.

“Supplemental Reserve Fund” refers to the fund of that name established and held by the Trustee on behalf of the Authority pursuant to the Trust Agreement.

“State” means the State of Ohio.

“TIF Act” means collectively O.R.C. Sections 5709.40 through 5709.43, O.R.C. Section 5709.83, and other related provisions of the O.R.C.

“Trust Agreement” means the Trust Agreement dated as of [__], 2022, between the Authority and the Trustee, authorized by the Bond Resolution, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof, and including any supplement or additional trust agreement executed in connection with the issuance of Additional Bonds.

“Urban Renewal Act” means O.R.C. Sections 725.01 through 725.11, O.R.C. Section 5709.83, and other related provisions of the O.R.C.

Section 1.2. Interpretation.

Any reference herein to the Authority, to the City, or to any member or officer thereof includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a Section or provision of the Constitution of the State, or to a section, provision or chapter of the O.R.C. or any other legislation 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 provision, if it constitutes in any way an impairment of the rights or obligations of the Authority, the City, the Bondholders or the Trustee under this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number and vice versa; the terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder” and similar terms refer to this Agreement; and the term “hereafter” means after, and the term “heretofore” means before, the date of delivery of the Series 2022 Bonds. Words of any gender include the correlative words of the other genders or identifications, unless the sense indicates otherwise.

Section 1.3. Captions and Headings.

The captions and headings in this 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 of this Agreement.

(End of Article I)

ARTICLE II

ASSIGNMENTS AND TRANSFERS

Section 2.1. Intergovernmental Cooperation.

The Developer has heretofore requested the assistance of the City to create the Authority and the assistance of the Authority in the financing of the Authorized Improvements. For the reasons set forth in the Recitals hereto, which Recitals are incorporated herein by reference as a statement of the public purposes of this Agreement, the City and the Authority have determined to cooperate with each other in the undertaking and financing of the Authorized Improvements, all in accordance with the Development Agreement and this Agreement. This Agreement is intended to and shall be an agreement among the City and the Authority to cooperate in the financing of the Authorized Improvements pursuant to the Urban Renewal Act, the TIF Act, and NCA Act, and the agreements contained herein are intended to and shall be construed as agreements to further effect cooperative action and safeguard the respective interests of the City and the Authority.

To the extent, if any, necessary, desirable, or appropriate to implement the intent of this Agreement for the issuance of the Bonds, and in accordance with O.R.C. Sections 9.482, 349.06(I), 349.06(S) and 349.13, the Authority undertakes, and is authorized by the City, to the extent necessary to the implementation of this Agreement and the financing of the Authorized Improvements in the manner set forth herein, to exercise any power, perform any function, and render any service, on behalf of the City, together with all powers necessary or incidental thereto, to the fullest extent that the City is authorized to exercise, perform, or render such power, function, or service. Each power exercised, function performed, or service rendered by the Authority hereunder, to the extent necessary to the implementation of this Agreement and the financing of the Authorized Improvements in the manner set forth herein, is undertaken by the Authority pursuant to the Urban Renewal Act, the TIF Act, and the NCA Act.

Section 2.2. Semiannual Settlements with the County.

The City agrees that it shall request a semiannual settlement with the Cuyahoga County Treasurer in accordance with O.R.C. Chapters 321 and 323 on or before the first Monday of each February and on or before the first Monday of each August, or by such other dates for semiannual tax settlement as may be specified by the Cuyahoga County Fiscal Officer, the Cuyahoga County Treasurer, or the O.R.C., for the settlement of accounts between the fiscal officer of the City and the Cuyahoga County Treasurer for semiannual tax settlement, of all Service Payments payable to the City as a result of the Urban Renewal Exemption, the TIF Exemption, and the Exemption Ordinance.

The City agrees that it shall use its reasonable efforts to obtain from the State of Ohio and Cuyahoga County any "rollback payments" pursuant to O.R.C. Sections 319.302, 321.24, 323.152, and 323.156, or any successor provisions thereto, as the same may be amended from time to time, that would otherwise be payable to taxing districts in Cuyahoga County with respect to the Private Improvements had the Urban Renewal Exemption and the TIF Exemption not been granted. To the extent that such amounts are available, the City hereby agrees to

include such amounts as Service Payments deposited in the Service Payment Fund in accordance with Section 2.4 of this Agreement and to be transferred to the Trustee in accordance with Section 2.6 of this Agreement.

The Authority agrees that it shall use its best efforts to cause a semiannual settlement with the Cuyahoga County Treasurer in accordance with O.R.C. Chapters 321 and 323 on or before the first Monday of each February and on or before the first Monday of each August, or by such other dates for semiannual tax settlement as may be specified by the Cuyahoga County Fiscal Officer, the Cuyahoga County Treasurer, or the O.R.C., for the settlement of accounts between the fiscal officer of the Authority and the Cuyahoga County Treasurer for semiannual tax settlement, of all Community Development Charges payable to the Authority as a result of the imposition of the Community Development Charges within the Authority's new community district in accordance with the Petition, the Declaration, and the Development Agreement.

Section 2.3. Creation of Urban Renewal Fund, TIF Fund, and NCA Fund.

The City acknowledges that, pursuant to the provisions of O.R.C. Section 725.03 of the Revised Code, the Exemption Ordinance, and the Development Agreement, it will establish the Urban Renewal Fund within the Service Payment Fund as a fund held in the custody of the City.

The City acknowledges that, pursuant to the provisions of Section 5709.42 of the Revised Code, the Exemption Ordinance, and the Development Agreement, it will establish the TIF Fund within the Service Payment Fund as a fund held in the custody of the City.

The NCA agrees that, pursuant to the provisions of O.R.C. Chapter 349 and the Development Agreement, it will establish the NCA Fund as a fund held in the custody of the Authority.

Section 2.4. Accounting of Service Payments; Assignment.

Pursuant and subject to and in accordance with the provisions of the Development Agreement, the City shall deposit the Service Payments received by the City as a result of the semiannual tax settlement process into the Urban Renewal Fund and the TIF Fund, as applicable. The City agrees that it will not transfer, encumber, spend, use, commit or pledge Net Service Payments or money on deposit in the Service Payment Fund in any way other than pursuant to this Agreement or as provided in the Development Agreement. Upon the City's execution and delivery of this Agreement, all Net Service Payments shall be deemed to have been appropriated by the City for the purposes set forth in the Exemption Ordinance, the Development Agreement, and this Agreement. During the period that this Agreement is in effect, the City shall take such further actions as may be necessary or appropriate to deposit, appropriate, and transfer the Net Service Payments to enable the City to satisfy its obligations under this Agreement.

Subject to Section 2.6 of this Agreement, so long as the Bonds shall be Outstanding and Debt Service on the Bonds shall be due and owing under the Trust Agreement, the City hereby assigns to the Authority all of its right, title and interest in and to, and grants the Authority a security interest in, the Service Payment Fund, and the Urban Renewal Fund, the .40(B) TIF

Fund and the .41 TIF Fund held therein, to the extent of all Net Service Payments on deposit therein, and acknowledges and consents to the assignment by the Authority to the Trustee of all right, title and interest of the Authority in and to the Service Payment Fund, and the Urban Renewal Fund, the .40(B) TIF Fund and the .41 TIF Fund held therein, to the extent of all Net Service Payments on deposit therein pursuant to this Agreement and the Trust Agreement. The City grants to the Authority and the Trustee a security interest in the Net Service Payments and in the Service Payment Fund to the extent of Net Service Payments on deposit therein, to secure the payment of Debt Service on the Bonds, and authorizes the Authority and the Trustee to file appropriate uniform commercial code financing statements to evidence that security interest.

Section 2.5. Accounting of Community Development Charges; Assignment.

Pursuant to and in accordance with the provisions of the Development Agreement, the Authority shall deposit the Community Development Charges actually received by the Authority into the NCA Fund. The Authority agrees that it will not transfer, encumber, spend, use, commit or pledge Community Development Charges or money on deposit in the NCA Fund in any way other than pursuant to this Agreement and as provided in the Development Agreement. Upon the Authority's execution and delivery of this Agreement, all Community Development Charges shall be deemed to have been appropriated by the Authority for the purposes set forth in the proceedings related to the issuance of the Bonds, the Development Agreement, and this Agreement. During the period that this Agreement is in effect, the Authority shall take such further actions as may be necessary or appropriate to deposit, appropriate, and transfer the Community Development Charges to enable the Authority to satisfy its obligations under this Agreement, the Development Agreement and the proceedings related to the issuance of the Bonds.

To secure its obligations under the Development Agreement and subject to Section 2.6 of this Agreement, so long as the Bonds shall be outstanding and amounts shall be due and owing under the Trust Agreement, the Authority hereby assigns to the Trustee all right, title and interest of the Authority in and to the NCA Fund and all Community Developments Charges on deposit therein pursuant to this Agreement and the Trust Agreement. The Authority grants to the Trustee a security interest in the Community Development Charges and the NCA Fund, and authorizes the Trustee to file appropriate uniform commercial code financing statements to evidence that security interest.

Section 2.6. Transfers; Deposits by the Trustee; Disbursements.

(a) Transfers to the Service Payment Account of the Revenue Fund.

The City agrees that, in accordance with Section 2.3 of the Development Agreement, Net Service Payments on deposit in each of the Urban Renewal Fund, the .40(B) TIF Fund and the .41 TIF Fund held in the Service Payment Fund shall be transferred by the City to the Trustee within thirty (30) days of receipt for deposit into the appropriate subaccount in the Service Payment Account of the Revenue Fund established under the Trust Agreement. The City shall, when transmitting amounts to the Trustee, identify the source of the amount with reference to the

particular fund in the Service Payment Fund from which the payment is derived (so that the Trustee may properly credit such amounts to the correct subaccount of the Service Payment Account of the Revenue Fund established under the Trust Agreement). The Trustee agrees to deposit to the Service Payment Account of the Revenue Fund established under the Trust Agreement any amounts received from the City representing Net Service Payments immediately upon their receipt by the Trustee. The Authority, as assignee of the City's interest in the Net Service Payments pursuant to Section 2.4 of this Agreement, approves and consents to such transfers and deposits.

(b) Transfers to the Community Development Charge Account of the Revenue Fund.

The Authority agrees that, in accordance with Section 5.3 of the Development Agreement, Community Development Charges on deposit in the NCA Fund shall be transferred by the Authority to the Trustee within fourteen (14) days of receipt for deposit into the Community Development Charge Account of the Revenue Fund established under the Trust Agreement. The Authority shall designate amounts transferred to the Trustee pursuant to this Section 2.6(b) as "Community Development Charges" (so that the Trustee may properly credit such amounts to the Community Development Charge Account of the Revenue Fund established under the Trust Agreement). The Trustee agrees to deposit to the Community Development Charge Account of the Revenue Fund established under the Trust Agreement any amounts received from the Authority representing Community Development Charge Account immediately upon their receipt by the Trustee.

(c) Disbursements Upon Occurrence of Certain Conditions.

The Trustee agrees, if (a) the amounts on deposit in the Bond Reserve Fund and the Supplemental Reserve Fund exceed the amount required to pay and redeem the Outstanding Bonds and (b) the Outstanding Bonds are redeemed in accordance with the Trust Agreement, the Trustee will then transfer, after any required transfers to the Rebate Fund and the Administrative Expense Fund pursuant to the Trust Agreement, (i) any balance remaining in the Bond Reserve Fund to the extent such amounts are remaining on deposit in the Bond Reserve Fund (A) as a result of the deposit of Net Service Payments not otherwise used to pay Debt Service on the Bonds, or which represent proceeds of Bonds, to the City, which amounts are thereupon released from the lien of the Trust Agreement, or (B) as a result of the deposit of Community Development Charges not otherwise used to pay Debt Service on the Bonds, to the Authority, which amounts are thereupon released from the lien of the Trust Agreement; and (ii) any balance remaining in the Supplemental Reserve Fund as a result of the deposit of Net Service Payments not otherwise used to pay Debt Service on the Bonds or representing proceeds of Bonds, to the City, which amounts are thereupon released from the lien of the Trust Agreement.

(d) Trustee Application of Pledged Receipts.

The Authority agrees and covenants with the City that, and shall ensure that the Trust Agreement and any supplemental trust agreement or agreement with respect to Additional Bonds shall provide that, all Pledged Receipts shall be applied in accordance with the order of priority

set forth in this Section 2.6(d). In addition to the words and terms defined elsewhere in this Agreement or in the Development Agreement, references in this Section 2.6(d) to a particular Fund or Account, and references in this Section 2.6(d) to Mandatory Sinking Fund Requirements, Interest Payment Date, Calculation Date, Required Reserve, Administrator and Period Debt Service, shall have the meanings ascribed to such terms in the Trust Agreement.

Pledged Receipts received by the Trustee shall be deposited in the Service Payment Account, except that Community Development Charges shall be deposited in the Community Development Charge Account.

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 the Trust Agreement, 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 2.6(d):

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 the Trust Agreement;

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 2022 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.

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 the Trust Agreement in accordance with the Development Agreement and this Agreement;
- (A) 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 the 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 on the Bonds are paid in full or upon defeasance of the Bonds shall be transferred to the Authority free of the lien of the Trust Agreement and refunded to the Owners in accordance with the Declaration; and
- (B) 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 the Trust Agreement shall be transferred to the Surplus Fund, and thereafter 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 this Section 2.6(d).

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 the Trust Agreement.

The City and the Authority agree that the provisions of this Section 2.6(d) may not be modified in any Trust Agreement or Supplemental Trust Agreement except with the prior written consent of the City.

Section 2.7. Place of Payments.

The City and the Authority shall make all deposits to the Trustee referenced in Article II of this Agreement directly to the Trustee at the address of the Trustee's designated corporate

trust office set forth in Section 4.2 of this Agreement, as such address may be amended pursuant to notice to the City and the Authority.

Section 2.8. The Trust Agreement and this Agreement.

To secure the payment of Debt Service on the Bonds, the Authority has assigned to the Trustee, by the Trust Agreement, its interest in the Pledged Receipts. The Authority also assigns to the Trustee its rights under and interest in this Agreement. The City hereby acknowledges and consents to the assignment by the Authority to the Trustee of the Authority's interests in the Pledged Receipts and this Agreement.

The Authority and the City each acknowledge that, subject to the terms and conditions of the Trust Agreement (which shall expressly provide for the priority of payments in accordance with Section 2.6(d) of this Agreement), and subject to the rights of the Authority and the City to funds as provided in Section 2.6(c) and Section 2.6(d) of this Agreement, neither the Authority nor the City has any interest in the funds and accounts held by the Trustee pursuant to the Trust Agreement, and any moneys deposited in the funds and accounts held by the Trustee shall be in the custody of and held by the Trustee in trust for the benefit of the Bondholders; provided, that the Trustee shall make the transfers, deposits, and disbursements set forth in Section 2.6 of this Agreement.

Section 2.9. Disbursements; Inspection of Authorized Improvements.

Disbursements to pay the costs of Authorized Improvements shall be made subject to and in accordance with the Trust Agreement and any other Financing Documents. The roles of the Design Professional and the Authorized Authority Official with respect to approval of disbursements from the Construction Account are described in [Section 4.05] the Trust Agreement, which provisions are incorporated into this Agreement by this reference.

The Authority agrees to cooperate with the City's employees and representatives in conducting any inspection required by the City's ordinances and building codes, and to provide the City Engineer with such additional information and documentation as is reasonably necessary for the City Engineer to conclude such inspection.

Section 2.10. No Amendments to City Legislation.

The City will not, except with the consent and approval of the Authority or as required by law, amend, modify or repeal the Exemption Ordinance or the CRA Legislation or take any action that would decrease the amount of Net Service Payments or money on deposit in the Service Payment Fund which are assigned to the Authority and assigned and paid to the Trustee by the City pursuant to this Agreement.

(End of Article II)

ARTICLE III

EVENTS OF DEFAULT AND REMEDIES

Section 3.1. Events of Default.

Each of the following shall be an Event of Default:

- (a) The City shall fail to deposit Service Payments in the Service Payment Fund, fail to transfer Net Service Payments on deposit in the Service Payment Fund to the Trustee, or, following receipt of the Service Payments by the City, fail to transfer Net Service Payments to the Trustee within the times specified in this Agreement, and such failure continues for thirty (30) days following written notice to the City;
- (b) The Authority shall fail to deposit Community Development Charges in the NCA Fund, fail to transfer Community Development Charges received or on deposit in the NCA Fund to the Trustee, or, following receipt of the Community Development Charges, fail to transfer such Community Development Charges to the Trustee within the times specified in this Agreement, and such failure continues for thirty (30) days following written notice to the Authority;
- (c) The City shall: (i) admit in writing its inability to pay its debts generally as they become due; (ii) file a petition in bankruptcy or a petition to take advantage of any insolvency act; (iii) make an assignment of Net Service Payments or moneys in the Service Payment Fund for the benefit of creditors except as may be required by this Agreement or the Trust Agreement; or (iv) consent to the appointment of a receiver for itself or of the whole or any substantial part of its property or has a receiver or trustee appointed for it or for the whole or any substantial part of its property;
- (d) The Authority shall: (i) admit in writing its inability to pay its debts generally as they become due; (ii) file a petition in bankruptcy or a petition to take advantage of any insolvency act; (iii) make an assignment of Community Development Charges or moneys in the NCA Fund for the benefit of creditors except as may be required by this Agreement or the Trust Agreement; or (iv) consent to the appointment of a receiver for itself or of the whole or any substantial part of its property or has a receiver or trustee appointed for it or for the whole or any substantial part of its property;
- (e) The City or the Authority shall fail to observe and perform any other agreement, term or condition contained in this Agreement, and the continuation of such failure for a period of sixty (60) days after written notice thereof shall have been given to the defaulting party by one or more of the other parties to this Agreement, or for such longer period as the

Trustee may specify in writing; provided, that if the failure is other than the payment of money and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the City or the Authority institutes curative action within the applicable period and diligently pursues that action to completion; and

- (f) Any representation or warranty made by the City or the Authority herein or any statement in any report, certificate, financial statement, or in the proceedings related to the issuance of any Bonds, any bond purchase agreement or bond placement agreement related to the sale and delivery of any Bonds, the Development Agreement, or any other instrument to which it is a party furnished in connection with this Agreement or with the purchase of any Bonds shall at any time prove to have been false or misleading in any material respect when made or given.

Notwithstanding the foregoing, if, by reason of Force Majeure, the City or the Authority is unable to perform or observe any agreement, term or condition hereof which would give rise to an Event of Default, the City or the Authority shall not be deemed in default during the continuance of such inability. However, the City or the Authority, as applicable, shall promptly give written notice to the Trustee and to the other party of the existence of an event of Force Majeure and shall use their best efforts to remove the effects thereof; provided, that the settlement of strikes or other industrial disturbances shall be entirely within their discretion.

Section 3.2. Remedies on Default.

Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

- (a) The Authority or the Trustee may have access to, inspect, examine and make copies of the books, records, accounts and financial data of the City pertaining to the Service Payments;
- (b) The City or the Trustee may have access to, inspect, examine and make copies of the books, records, accounts and financial data of the Authority pertaining to the Community Development Charges or any other Pledged Receipts;
- (c) The Authority or the Trustee may pursue all remedies now or hereafter existing at law or in equity, including an action in mandamus, to collect all amounts then due and thereafter to become due under this Agreement or to enforce the performance and observance of any other obligation or agreement of the City under those instruments; and
- (d) The City or the Trustee may pursue all remedies now or hereafter existing at law or in equity, including an action in mandamus, to collect all

Community Development Charges and any other amounts then due and thereafter to become due under this Agreement or to enforce the performance and observance of any other obligation or agreement of the Authority under those instruments.

All obligations of the City and the Authority arising under this Agreement shall be deemed to be duties specifically enjoined by law and resulting from any office, trust, or station upon the City or the Authority, as applicable, within the meaning of O.R.C. Section 2731.01.

Section 3.3. No Remedy Exclusive.

No remedy conferred upon or reserved to the Authority, the City or the Trustee by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, or now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority, the City or the Trustee to exercise any remedy reserved to it in Article III of this Agreement, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made herein.

Section 3.4. No Waiver.

No failure by the Authority, the City or the Trustee to insist upon the strict performance by the Authority or the City of any provision of this Agreement shall constitute a waiver of their right to strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Authority or the City to observe or comply with any provision of this Agreement.

Section 3.5. Notice of Default.

The Authority or the City shall notify the Trustee immediately in writing if it becomes aware of the occurrence of any Event of Default hereunder or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default.

(End of Article III)

ARTICLE IV

MISCELLANEOUS

Section 4.1. Term of Agreement.

This Agreement shall be and remain in full force and effect from the date of delivery of the Series 2022 Bonds to the original purchasers thereof until such time as all sums payable by the Authority and the City under this Agreement shall have been paid or the Bonds have been indefeasibly paid in full. Notwithstanding the foregoing, as long as the Bonds are no longer Outstanding and all other sums payable by the Authority and the City under this Agreement shall have been paid, the Authority and the City may by written instrument agree to terminate this Agreement provided; that if the Bonds have been defeased and are no longer Outstanding, then the obligations of the City hereunder, and any pledge, assignment and lien created under this Agreement in favor of the Authority and the Trustee, respectively, shall automatically terminate without further action required. Upon request of the City, the Trustee and the Authority shall provide to the City such information regarding the Bonds as may be requested by the City, and upon such defeasance and automatic termination, an acknowledgement of such termination.

Section 4.2. Notices.

All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, and addressed to the appropriate address listed below:

As to the Authority:

Belle Oaks New Community Authority
c/o Richmond Heights City Hall
26789 Highland Rd.,
Richmond Heights, OH 44143
Attention: Chairperson

With a Copy To:

J. Caleb Bell, Esq.
Bricker & Eckler LLP
100 South Third St.
Columbus, OH 43215

As to the City:

- City of Richmond Heights, Ohio
26789 Highland Road
Richmond Heights, OH 44143
Attention: Mayor

With a Copy To the Law Director:

R. Todd Hunt, Esq.
The Tower at Erieview
1301 East Ninth Street, Ste 3500
Cleveland, OH 44114-1821

As to the Trustee:

The Huntington National Bank
[]

A duplicate copy of each notice, certificate, request or other communication given hereunder to the Authority, the City or the Trustee shall also be given to the other parties concurrently with the original notice. The Authority, the City and the Trustee, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent. If, because of the suspension of delivery of certified or registered mail or for any other reason, notice, certificates or requests or other communications are unable to be given by the required class of mail, any notice required to be mailed by the provisions of this Agreement shall be given in such other manner as in the judgment of the person providing such notice, certificate or request shall most effectively approximate mailing thereof, and the giving of that notice in that manner for all purposes of this Agreement shall be deemed to be in compliance with the requirement for the mailing thereof. Except as otherwise provided herein, 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 4.3. Extent of Covenants; No Personal Liability.

All covenants, obligations and agreements of the Authority and the City contained in this Agreement, the Development Agreement, the Trust Agreement or any other Financing Document shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the Authority or the City in other than his or her official capacity, and the members of the Board, any official executing the Bonds and any official, agent or employee of the City shall not be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the covenants, obligations or agreements of the Authority or the City contained in this Agreement, the Development Agreement, the Trust Agreement or any other Financing Document.

Section 4.4. Binding Effect; Limitation of Rights.

This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Authority, the City and the Trustee and their respective permitted successors and assigns; provided, that this Agreement may not be assigned by the City and may not be assigned by the Authority except to the Trustee pursuant to the Trust Agreement or as otherwise may be necessary to enforce or secure payment of Debt Service on the Bonds.

This Agreement may be enforced only by the parties, their assignees and others who may, by law, stand in their respective places. With the exception of rights conferred expressly in this Agreement, nothing expressed or mentioned in or to be implied from this Agreement or the Bonds is intended or shall be construed to give to any Person other than the parties hereto, the Trustee, and the Bondholders any legal or equitable right, remedy, power or claim under or with respect to this Agreement or any covenants, agreements, conditions and provisions contained herein.

Section 4.5. Amendments and Supplements.

Except as otherwise expressly provided in this Agreement or the Trust Agreement, subsequent to the issuance of the Series 2022 Bonds and prior to all conditions provided for in the Trust Agreement for release of the Trust Agreement having been met, this Agreement may not be effectively amended, changed, modified, altered or terminated except with the consent of the parties hereto.

Section 4.6. Execution Counterparts.

This Agreement may be executed in counterpart and in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

Section 4.7. Severability.

If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 4.8. Governing Law.

This Agreement shall be deemed to be a contract 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.

Section 4.9. Obligations Unconditional.

Following the issuance of the Bonds, and so long as any Bonds are Outstanding, the obligations of the City to assign and pay the Net Service Payments to the Trustee as provided herein shall be absolute and unconditional, and the City shall make such payments without abatement, diminution, or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set-off, recoupment, or counterclaim which the City may have or assert against the Authority, anyone acting on behalf of the Authority, the Developer, the Trustee, or any other person or entity.

Section 4.10. Limitation of Obligations.

Nothing contained in this Agreement shall require the City to undertake the construction of the Authorized Improvements, issue its bonds to finance the Authorized Improvements, pledge any of the revenues of the City (other than the Net Service Payments as provided herein) for the payment of costs of the Authorized Improvements or for the payment of Debt Service on the Bonds.

Notwithstanding any other provision of this Agreement, the City's payment obligations under this Agreement are limited to Net Service Payments actually received by the City and monies actually on deposit in the Service Payment Fund and do not constitute a general obligation, debt or bonded indebtedness of the City within the provisions and limitations of the laws and the Constitution of the State of Ohio, and none of the Authority, the Trustee, the Bondholders, or any other person has the right to have taxes or excises levied by the City for the payment of the costs of any Authorized Improvements. Nothing herein, however, shall be deemed to prohibit the City from using any lawfully available funds or other resources of the City for the fulfillment of any of the terms, conditions or obligations of this Agreement.

Notwithstanding any other provision of this Agreement, the Authority's payment obligations under this Agreement are limited to Community Development Charges actually received by the Authority and do not constitute a general obligation, debt or bonded indebtedness of the Authority within the provisions and limitations of the laws and the Constitution of the State of Ohio, and none of the City, the Trustee, the Bondholders, or any other person has the right to have taxes or excises levied by the Authority for the payment of the costs of any Authorized Improvements. Nothing herein, however, shall be deemed to prohibit the Authority from using any lawfully available funds or other resources of the Authority for the fulfillment of any of the terms, conditions or obligations of this Agreement.

Nothing in this Agreement shall be deemed to limit or modify the terms of the Development Agreement, which is hereby incorporated by reference.

(End of Article IV)

IN WITNESS WHEREOF, the Authority, the City and the Trustee have caused this Agreement to be duly executed in their respective names, all as of the date first hereinbefore written.

Approved as to Form:

THE CITY OF RICHMOND HEIGHTS, OHIO

R. Todd Hunt, Director of Law

By: _____
Mayor

AUTHORITY

BELLE OAKS NEW COMMUNITY

By: _____

Chairperson

By: _____
Vice-Chairperson

THE HUNTINGTON NATIONAL BANK, as
Trustee

By: _____
Title:

AUTHORITY'S FISCAL OFFICER'S CERTIFICATE

The undersigned, fiscal officer of the Authority, hereby certifies that the moneys required to meet the obligations of the Authority under the Agreement have been lawfully appropriated by the Board of Trustees of the Authority for such purposes and are in the treasury of the Authority 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, Revised Code.

Treasurer of the Board of Trustees
Belle Oaks New Community Authority

Dated: [____], 2022

CITY'S FISCAL OFFICER'S CERTIFICATE

The undersigned, fiscal officer of the City, hereby certifies that the moneys required to meet the obligations of the City during the year 2022 under the Agreement have been lawfully appropriated by the City Council of the City for such purposes and are 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, Revised Code.

Director of Finance
City of Richmond Heights, Ohio

Dated: [____], 2022