

JOINT ECONOMIC DEVELOPMENT ZONE AGREEMENT

Between

THE CITY OF CLEVELAND

And

THE CITY OF NORTH ROYALTON

THIS JOINT ECONOMIC DEVELOPMENT ZONE AGREEMENT ("Agreement"), entered into pursuant to Section 715.69 of the Ohio Revised Code ("R.C.") and Article XVIII, Sections 3, 4 and 6 of the Ohio Constitution as of the ___ day of _____, 2014 ("Effective Date"), by and between the City of Cleveland ("Cleveland"), pursuant to the authority of Ordinance No. 1683-06, passed by Cleveland City Council on October 30, 2006, and the City of North Royalton ("City"), pursuant to the authority of Ordinance No. _____, passed by City's Council on _____, 20___; Cleveland and City (collectively the "JEDZ Parties") are municipal corporations in, and political subdivisions of, the State of Ohio (the "State"), and duly organized and validly existing under the laws of the State.

RECITALS:

1. Cleveland provides a long-term, reliable supply of high quality water service to political subdivisions in the region including City that facilitates new and expanded commercial and industrial growth and strengthens the tax base for the benefit of City residents.
2. The provision of Cleveland water facilitates economic development, creates and preserves jobs, improves property values, and advances the economic welfare of the inhabitants and businesses located within Cuyahoga County.
3. The provision of Cleveland water outside its borders may have negative economic impacts for Cleveland through the loss of economic development that may otherwise have occurred within Cleveland.
4. The JEDZ Parties desire to work toward a regional economy focused on growth, innovation, and cooperative efforts, rather than competition amongst municipal neighbors within Cuyahoga County.
5. As part of this regional approach, Cleveland is willing to extend the terms of existing water service agreements with the JEDZ Parties and assume ownership of the water distribution systems owned by the JEDZ Parties, thus relieving them of the financially burdensome responsibilities to perform capital repairs and replacements of the distribution systems.
6. To facilitate the transfer of ownership of such distribution systems, as well as cleaning, relining, maintenance, repair, and replacement responsibilities, the JEDZ Parties have entered into a Restatement of the Water Service Agreement, dated _____, 2014.

7. The JEDZ Parties intend to enter into this Agreement to create and provide for the operation of a joint economic development zone in accordance with R.C. §715.69 for the purpose of facilitating new or expanded growth for commercial or economic development for the benefit of their residents and of the State.

8. Cleveland is an impacted city as defined in R.C. §1728.01(C).

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, the JEDZ Parties hereto agree and bind themselves, their agents, employees and successors, as follows:

Section 1. Creation of the Joint Economic Development Zone: Name.

The JEDZ Parties, by their combined action evidenced by the signing of this Agreement, hereby create a joint economic development zone in accordance with the terms and provisions of this Agreement. The joint economic development zone created pursuant to this Agreement shall be known as the "Cleveland – North Royalton Joint Economic Development Zone" (the "Zone").

Section 2. Purpose. In accordance with R.C. §715.69, the JEDZ Parties intend that the creation and operation of the Zone shall, and it is the purpose of the Zone to, facilitate new or expanded growth for commercial or economic development for the benefit of their residents and of the State.

Section 3. Territory of the Zone. The territorial boundary of the Zone shall be the combined total area of the municipal boundaries of the JEDZ Parties

Section 4. Term. Unless earlier terminated in accordance with its terms, or amended by mutual written agreement of the parties, this Agreement shall be for a term of twenty (20) years commencing on the first day after execution of this Agreement by Cleveland, and shall automatically continue in effect from year to year thereafter. This Agreement may be cancelled by either JEDZ Party by giving written notice to the other at least five (5) years prior to the effective date of termination, provided that no such notice may be given until fifteen (15) years after the date upon which this Agreement is executed by Cleveland.

Section 5. Contribution to the Zone.

(a) Cleveland's Contribution. Cleveland's contribution to the Zone is its agreement to extend the term of water service agreement in accordance with the Restatement of the Water Service Agreement, executed by Cleveland and City; the assumption of ownership of the distribution systems; the cleaning, relining, maintenance, repair, and replacement responsibilities related to all infrastructure; and performance of all other covenants of Cleveland stated in this Agreement.

(b) City's Contribution. City's contribution to the Zone is its agreement to encourage commercial and industrial development necessary or appropriate to promote economic development within the Zone; provide appropriate municipal services and public

improvements to promote economic development; and perform all other covenants of City stated in this Agreement.

Section 6. Limitation on the use of Tax Abatements; Allowable Incentives; Uniform training incentives.

(a) Real Estate Tax Abatements. The JEDZ Parties agree that for any business relocating between Cleveland and City, there shall be a limit on any new industrial or commercial real estate tax abatement to a term not to exceed 10 years. The abatement shall not exceed 75 percent.

(b) Income Tax Abatements. The JEDZ Parties agree that they shall not provide any income tax abatement to any businesses relocating between Cleveland and City.

(c) Allowable Incentives. Notwithstanding the provisions of subsections (a) and (b) of this Section 6, the JEDZ Parties may continue to offer incentives including, but not limited to, the discounted sale of property, low-interest loans, and tax increment financing as provided for in R.C. §§5709.40 and 5709.41. The limitations provided in subsections (a) and (b) of this Section 6 shall not apply to business relocation from outside of the territorial boundaries of the Zone as defined in Section 3 above.

Section 7. Income Tax Sharing for Moves Within the Zone.

(a) The JEDZ Parties agree that if any business with an annual gross payroll of more than \$500,000 relocates from one JEDZ Party (the "Losing JEDZ Party") to another JEDZ Party (the "Gaining JEDZ Party"), the Losing JEDZ Party shall be entitled to receive from the Gaining JEDZ Party, for a period of 5 years, 50 percent of future income tax revenue based upon payroll in existence immediately prior to the relocation. The Gaining JEDZ Party's 50 percent share shall be calculated based upon the Gaining JEDZ Party's employment-based tax rate as may be amended from time to time, minus the percentage that may be earmarked for a city's school district pursuant to city ordinance. The Gaining JEDZ Party's 5 year income tax sharing obligation for any business that relocates during the term of this Agreement is a continuing obligation that shall survive the termination of this Agreement.

(b) The 5 year tax sharing obligation may be earlier terminated or reduced if the Losing JEDZ Party "backfills" space at the same payroll value with a similar business, as follows: (i) the business that moved jobs adds equivalent new payroll anywhere in the Losing JEDZ Party's jurisdiction, this new payroll shall qualify as "backfill" for purposes of this Section 7; and (ii) if the moving business replaces part of the vacated space with new jobs and payroll, the aggregate employment-based income tax paid to the Losing JEDZ Party will be deducted from this tax sharing obligation. Upon becoming aware that "backfilling" has occurred, the Losing JEDZ Party shall provide the Gaining JEDZ Party with written notice within 30 days as provided for in Section 20.

For example, if new employees are hired anywhere in Cleveland by the relocated employer, the employment-based income tax from those employees that is paid to Cleveland shall reduce the amount to be paid by City to Cleveland in an amount equal to the employment-based income tax paid by or on behalf of those employees. For purposes of the above

example, "new" Cleveland employees are permanent employees who are hired due to the creation of new positions within Cleveland versus new or existing employees that are hired to fill existing vacant positions created by employee turnover, retirement, or other reason.

Section 8. Administration of Agreement.

(a) After execution of this Agreement, JEDZ Parties may provide that the income tax sharing provisions in this Agreement be administered jointly by City and Cleveland, or by either the Central Collection Agency, Regional Income Tax Authority, or both. The administrator will be responsible for collecting annual employment and income tax data from a relocating business, calculating the aggregate employment and payroll, determining the annual income tax to be shared and determining if the agreement should be terminated due to occurrence of any of the triggering events.

(b) If for any reason a relocating business is unable or unwilling to provide the payroll information necessary to make the tax sharing calculations specified in Section 7, the JEDZ Parties agree to confer in good faith to determine an appropriate alternative calculation.

Section 9. Access to Records; Audit. During the tax sharing period provided in Section 7, City and Cleveland shall provide access to the other party's tax withholding and estimated tax records related to the relocating business during normal business hours. Either party, through its representatives or employees, shall be permitted to make and keep photocopies of portions of the other party's records that pertain to such tax withholdings and estimates. Once a year, both Parties shall have the right to have an independent auditor inspect and audit the books and records of the other JEDZ Party.

Section 10. Informal Dispute Resolution. Prior to invoking the provisions of Section 11, if City or Cleveland disagrees with the implementation or interpretation of this Agreement, the parties will use their best efforts to settle such dispute between themselves. If, despite good faith efforts the disagreement cannot be resolved, City or Cleveland may request informal dispute resolution by providing written notice to the other. The disagreement shall be submitted to the President of the Cuyahoga County Mayors and Managers Association for mediation. Unless otherwise agreed to by the JEDZ Parties, mediation shall be concluded no later than 30 days after receipt of the notice provided for in this Section.

Section 11. Defaults and Remedies. A failure to comply with the terms of this Agreement shall constitute a default. The JEDZ Party in default shall have 60 days after receiving written notice from the other JEDZ Party of the event of default to cure that default. If the default is not cured within that time period, the non-defaulting JEDZ Party may sue the defaulting JEDZ Party for specific performance under this Agreement or for damages or both. This Agreement may not be terminated because of a default unless the JEDZ Parties agree to such cancellation or termination.

Section 12. Amendments. This Agreement may be amended by the JEDZ Parties only in a writing approved by the legislative authorities of both JEDZ Parties by appropriate legislation authorizing that amendment. In order for such amendment to be effective, the

legislative actions of the JEDZ Parties that amend this Agreement must occur and be effective within a period of 90 days of each other.

Section 13. Binding Effect. This Agreement shall be binding upon the JEDZ Parties and their respective permitted successors, subject, however, to the specific provisions hereof. This Agreement shall not inure to the benefit of anyone other than as provided in the immediately preceding sentence.

Section 14. Signing Other Documents. The JEDZ Parties agree to cooperate with one another and to use their best efforts in the implementation of this Agreement and to sign or cause to be signed, in a timely fashion, all other necessary instruments and documents, and to take such other actions, in order to effectuate the purposes of this Agreement.

Section 15. Severability. In the event that any section, paragraph or provision of this Agreement, or any covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, or any application thereof, is held to be illegal or invalid for any reason: (1) that illegality or invalidity shall not affect the remainder hereof or thereof, any other section or provision hereof, or any other covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein or therein; (2) the illegality or invalidity or any applications hereof or thereof shall not affect any legal and valid application hereof or thereof; and (3) each section, paragraph, provision, covenant, agreement, obligation or action, or part thereof, shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law.

Section 16. Governing Law. This Agreement shall be governed exclusively by and construed in accordance with the laws of Ohio, and in particular R.C. §715.69.

Section 17. Captions and Heading. The captions and headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections hereof.

Section 18. No Third-Party Beneficiaries. Nothing contained herein, and nothing that may be implied hereby, is intended to or shall be construed to confer upon any person or entity, other than the parties hereto, any right or remedy under or by reason of this Agreement.

Section 19. Consideration, Utility Agreement. The amendment, renewal or termination of a separate contract for utility services does not constitute any part of the consideration for this Agreement. Further, other substantial consideration exists to support this Agreement, and this Agreement has been entered into between the JEDZ Parties without duress or coercion related to the amendment, renewal or termination of a separate contract for utility services.

Section 20. Forms of Notice. Any notice or demand required or permitted to be given by or to the Parties and every alleged breach of a warranty, representation, or agreement contained in this Agreement shall be made in writing and shall be deemed to

have been given or delivered, as the case may be, when personally delivered to the Mayor of the respective Party, or two (2) days after deposit in the U.S. Post Office, registered or certified mail, postage prepaid, return receipt requested and addressed as follows (or as to each party, to such other address as the party may designate by a notice give in accordance with the provisions of this Section):

Notice to Cleveland shall be addressed to:

Director of Economic Development
City of Cleveland
Cleveland City Hall
601 Lakeside Avenue, Room 210
Cleveland, Ohio 44114

With a copy to:

Director of Law
City of Cleveland
601 Lakeside Avenue, Room 106
Cleveland, Ohio 44114

Notice to City shall be addressed to:

[Chief Elected Official]
City of North Royalton
13834 Ridge Road
North Royalton, Ohio 44133

With a copy to:

Director of Law
City of North Royalton
13834 Ridge Road
North Royalton, Ohio 44133

Section 21. Counterparts. This Agreement may be executed in any number of counterparts, all of which, when so executed and delivered, shall constitute but one and the same instrument. The following documents attached hereto are hereby incorporated with and made a part of this Agreement:

The Parties have executed this instrument as of the day and year first written.

CITY OF CLEVELAND

CITY OF NORTH ROYALTON

Sharon Dumas, Director
Department of Finance

Robert A. Stefanik, Mayor

The legal form and correctness of this instrument are approved:

The legal form and correctness of this instrument are approved:

Barbara A. Langhenry
Director of Law

Thomas A. Kelly, Law Director

Kate E. Ryan
Assistant Director of Law

Date: _____