



EXPEDITED LOCAL PARTNERSHIP PROGRAM

FIRST AMENDED AND RESTATED PROJECT AGREEMENT

This **First Amended Project Agreement** (Agreement) is made by the **Ohio Facilities Construction Commission (Commission)** and the Board of Education of the **Worthington City School District, Franklin County, Ohio** (School District Board), pursuant to Ohio Revised Code (ORC) Section 3318.36.

WHEREAS, the School Building Assistance Expedited Local Partnership Program (ELPP) was created to permit a School District Board to expend local resources to proceed with the new construction of, or additions, or major repairs of a part of the school district's classroom facility needs, as determined through ORC Sections 3318.01 to 3318.20, ORC, prior to the School District Board's eligibility for State assistance under ORC Sections 3318.01 to 3318.20; and

WHEREAS, the School District Board adopted a resolution certifying to the Commission its intention to participate in the ELPP; and

WHEREAS, the School District Board requested, as a condition of participation in ELPP, that the Commission assess the existing condition of each of the school district's classroom facilities; and

WHEREAS, the School District Board has acknowledged the Commission's recommendation to have a licensed Ohio design professional assist the school district with the review of the conclusions drawn in the Facilities Assessment Report dated **December, 2017 with revisions October 2019 (Phoenix Middle School & Worthington Academy and Worthingway Middle School)**; and

WHEREAS, the School District Board has acknowledged the limitations inherent with establishing a budget for renovation work from the data collected through the Commission's standard non-invasive assessment procedures, and understands and accepts the risks that unforeseen conditions may cause the construction costs to be higher than the original budget; and

WHEREAS, the School District Board hereby concurs with and approves the use of the Enrollment Report dated **May 17, 2018**. The School District Board and the Commission acknowledges that actual enrollment status will be reviewed annually; and

WHEREAS, the Commission has conditionally approved a building program for the school district, identifying the classroom facilities needs of the school district, and a basic project cost of those classroom facilities (amended master facility plan); and

WHEREAS, the Controlling Board has approved the amended master facility plan, including the basic project cost, and the School District Board's portion of the basic project cost as required by ORC Section 3318.36(D)(1); and

WHEREAS, the School District Board understands and acknowledges that the Controlling Board will not encumber state funds under ORC Section 3318.36; and

WHEREAS, the School District Board has adopted a resolution certifying the School District Board's decision and method for addressing the maintenance funding requirements of the classroom facilities included in the amended master facility plan pursuant to ORC Section 3318.36(D)(2) or Section 3318.36(D)(3); and

WHEREAS, the School District Board has identified a discrete part of the amended master facility plan, consisting of new construction of, or additions, or major repairs to a particular building (Local Project Phase), to undertake with local resources prior to the school district's eligibility for State assistance under ORC Sections 3318.01 to 3318.20; and

WHEREAS, the School District Board and the Commission acknowledge that time is of the essence to the First Amended and Restated Project Agreement and all obligations hereunder;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the School District Board and the Commission agree as follows.

I. SCOPE OF THE PROJECT

- A. The parties agree the approved amended master facility plan is summarily described in Exhibit One, which is attached hereto, made a part hereof, and incorporated by reference as if fully written herein.
- B. The basic project cost for the building program described in the amended Master Facility Plan is **Two Hundred Fifty Seven Million One Hundred Thirty Seven Thousand Five Hundred Forty Four Dollars (\$257,137,544)**. The State's share (15%) of the amended basic project cost is **Thirty Eight Million Five Hundred Seventy Thousand Six Hundred Thirty Two Dollars (\$38,570,632)**. The School District Board's local share (85%) of the amended basic project cost is **Two Hundred Eighteen Million Five Hundred Sixty Six Thousand Nine Hundred Twelve Dollars (\$218,566,912)**.

The School District Board's amended Project Agreement Locally Funded Initiative (LFI) is **Eleven Million Four Hundred Eighty Seven Thousand Five Hundred Fifty Six Dollars (\$11,487,556)** for a total local share in the amount of **Two Hundred Sixty Eight Million Six Hundred Twenty Five Thousand One Hundred Dollars (\$268,625,100)**.
- C. While the respective parties' percentages of contribution shall remain unchanged as set above, pursuant to ORC Section 3318.36(E)(1), the actual amounts of each party's contribution is subject to change over time. The final amount of the basic project cost to be contributed by the respective parties shall be determined pursuant to ORC Section 3318.36(E)(1), and Section X of this Agreement at that time when the School District Board becomes eligible for State assistance under ORC Sections 3318.01 to 3318.20.

II. LOCAL PROJECT PHASE

- A. The discrete part of the amended master facility plan identified by the School District Board to be undertaken using local resources (Local Project Phase) shall be as described in Exhibit Two, which is attached hereto, made a part hereof, and incorporated by reference as if fully written herein. The School District Board agrees that the Local Project Phase shall, where applicable, comply with the Ohio School Design Manual (Design Manual), in effect at the time of approval of the amended master facility plan by the Ohio Controlling Board, with the exception of any change in the Design Manual cost calculation formulas approved by the Commission.
- B. The parties agree that the amended total budget for the Local Project Phase is as described in Exhibit Two. The total budget for the Local Project Phase is categorized as follows:
 1. **New Construction:** New classroom facilities or new additions to existing classroom facilities; budget calculated pursuant to Administrative Rule 3318:1-03.
 2. **Renovation:** Improvements to an existing classroom facility; budget calculated pursuant to applicable provisions of Administrative Rule 3318:1-03.
 3. **Allowances:**
 - a) **Optional Demolition Allowance:** Demolition of abandoned existing classroom facilities, which are not required to be demolished in order to complete the Local Project Phase; budget calculated as defined in Administrative Rule 3318:1-03. A condition precedent to the Commission establishing credit for the demolition of a facility shall be the School District Board's verification of compliance with ORC Section 3313.41.
 - b) **Swing Space Allowance:** An allowance is provided in the budget for swing space. The amount of this allowance is **Four Million Eight Hundred Eleven Thousand Eight Hundred Dollars (\$4,811,800)**.
 - c) **Site Access Safety Improvements Allowance:** No additional allowance has been provided for site access safety improvements.
 - d) **Storm Shelter Allowance:** An allowance is provided in the budget for a storm shelter. The amount of this allowance is **Five Million One Hundred Twenty Six Thousand Nine Hundred Eighty One Dollars (\$5,126,981)** which incorporates **54,777 sf** for hardening.
 - e) **Emergency Responder Radio Coverage Systems Allowance:** No additional allowance has been provided for ERRCS.
 - f) **LEED Allowance:** The School District Board acknowledges the incorporation of the LEED for schools Silver Certification Standard into the relevant school construction. The budget for new construction includes funds for LEED. A supplemental allowance for renovation is included to incorporate the LEED for schools Silver Certification Standard in the energy and atmosphere category in the amount of **Three Million Seven Hundred Fifteen Thousand Three Hundred Sixty Eight Dollars (\$3,715,368)** which incorporates **Bluffsview Elementary (\$218,971)**, **Granby Elementary (\$215,017)**, **Liberty Elementary (\$199,384)**, **Slate Hill Elementary (\$218,971)**, **Sutter Park Elementary (\$228,157)**, **Wilson Hill Elementary (\$221,853)**, **Worthington Hills Elementary (\$191,337)**, **Worthington Park Elementary (\$215,017)**, **Kilbourne Middle (\$306,243)**, **McCord Middle (\$266,795)**, **Phoenix Middle School & Worthington Academy (\$261,900)**, **Worthingway Middle (\$176,671)**, **Thomas Worthington High (\$205,378)** and **Worthington Kilbourne High (\$789,675)**. Unless granted prior approval of the Commission, the use of this allowance is restricted to energy savings measures.

- C. The School District Board understands and agrees that payment of all expenses associated with the Local Project Phase is the responsibility of the School District Board, and that the Commission and the Ohio Controlling Board shall not authorize the expenditure of any State funds associated with the School District's participation in ELPP.

III. LOCALLY FUNDED INITIATIVES

- A. The School District Board may elect to add to the scope of any ELPP project, and separately fund, a scope of work (Local Initiative), which involves improvements to all or part of the Local Project Phase. The School District Board may request the Commission to approve the incorporation of the design and construction of the Local Initiative into the overall Project.
- B. Whenever a Local Initiative is interconnected with the Local Project Phase, a Memorandum of Understanding (LFI MOU) will be executed by the School District and the Commission to specify the additional cost of the Local Initiative and the terms and conditions for accounting for the cost.
- C. If the School District Board elects to utilize the Architect/Engineer and/or the Construction Manager selected for the Local Project Phase, the LFI MOU will reflect the portion of the Architect/Engineer and/or Construction Manager fee that will be associated with the Local Initiative, which will not be considered for ELPP credit.
- D. The School District Board agrees to assume all of the financial responsibility for the Local Initiative and to establish a Local Initiative Account to account for the local resources supporting the Local Initiative.

IV. THE PROJECT CONSTRUCTION ACCOUNT

- A. The school district treasurer shall establish separate accounts for:
 - 1. The Local Project Phase (Account),
 - 2. Locally Funded Initiatives, and
 - 3. Maintenance.
- B. The school district shall be responsible for determining proper fund accounting procedures in accordance with requirements of the Auditor of State.
- C. The School District Board acknowledges that proper management of the Account for the Local Project Phase is an essential requirement of the Local Project Phase. The School District Board shall provide a full accounting of the Account upon request of the Commission. The Commission reserves the right to audit the Account, and all related accounts, or any expenditure made related to the Local Project Phase. The School District Board shall follow all applicable laws for management and payment of contractors and professional services firms providing services for the Local Project Phase.
- D. All local resources utilized to fund the Local Project Phase shall be first deposited in the School District Board's project construction Account required under ORC Section 3318.08. The School District Board agrees that an amount equal to the budget for the Local Project Phase shall be deposited into the Account prior to award of any contracts, except that the School District Board may elect, upon approval of the Commission, to accomplish the Local Project Phase in multiple phases as described in Exhibit 2, in which case only the amount equal to the budget for the phase being executed is required to be deposited into the Account.
- E. All local resources utilized to fund any Local Initiative(s), as identified in the LFI MOU, shall be first deposited in the School District Board's local initiative account. The School District Board agrees that an amount equal to the budget for the Local Initiative(s) shall be deposited into the local initiative account prior to the award of any contracts.
- F. The School District Board shall provide the Commission a copy of any audit report received from the Auditor of State within three (3) business days of receipt. The report may be provided in hard copy or by electronic medium.

V. MAINTENANCE OF COMPLETED FACILITIES

A. Maintenance Fund

- 1. The School District Board shall levy an additional tax of a minimum of one-half mill for each dollar of valuation for the maintenance of the Project, pursuant to, and in accordance with the requirements of ORC Sections 3318.05 (B), 3318.06 (A)(2)(a) and (A)(3), and 3318.17.
- 2. In the alternative, the School District Board may elect, pursuant to ORC Sections 3318.05 (C), and 3318.06 (A)(2)(b) to satisfy its local maintenance requirement by earmarking from the proceeds of an existing permanent improvement tax levied under ORC Section 5705.21 an amount equivalent to the amount of the additional tax described in Section IV (A)(1) above. The tax must be of at least two mills for each dollar of valuation and eligible to be used for maintenance.
- 3. In the alternative, the School District Board may elect to satisfy its local maintenance requirement by applying the proceeds of a property tax or the proceeds of an income tax, or a combination thereof, pursuant to ORC Section 3318.052.

4. In the alternative, the School District Board may, pursuant to ORC Section 3318.061, extend a previously approved tax of one-half mill for each dollar of valuation levied as a condition of participating in a previous state school building assistance program by a number of years so that one-half mill will be collected for at least twenty-three years from the completion of this Agreement.
5. Pursuant to ORC Section 3318.084, the School District Board may apply any local donated contribution as an offset of all or part of a school district's obligation to levy the tax described in Section IV (A)(1) above. The School District Board shall deposit in the maintenance fund any local donated contribution to serve as an offset of all or a portion of the amount that the Commission, in consultation with the Department of Taxation, determines is likely to be generated by a tax of one-half mill for each dollar of valuation over a period of twenty-three years. Pursuant to ORC Sections 3318.08(E) and 3318.084(D)(2), the Commission may approve a stipulation by the School District Board that the Treasurer will have deposited the full amount of the maintenance fund requirement from local donated contributions by the anticipated completion date of the Project according to a schedule for deposit of such money approved by the Commission.
6. In the alternative, the School District Board may, pursuant to ORC Section 3318.36 (D) (3), elect to delay levying the maintenance fund tax, or alternatively, earmarking proceeds from a permanent improvement tax, until such time as the school district becomes eligible for state assistance under ORC Sections 3318.01 to 3318.20.
7. The option (or options) elected by the School District Board is (are) _____ (enter #1, #2, #3, #4, #5, or #6 as more fully described above). If option #2, #3, #4 and/or #5 is elected, the School District Board shall list the exact dollar amounts and year of deposit, which shall be attached to this Agreement as an Appendix.
8. In the event that the School District Board elects to satisfy the maintenance fund requirement through Option #2, #3, #4 or #5, the Commission will require, as a condition precedent to execution of this Agreement, certification from the School District Treasurer of the amounts deposited in the maintenance fund, or the earmarked annual revenue collection that will be deposited in the maintenance fund.
9. In the event that the School District Board deposits less than the entire amount estimated by the Commission in consultation with the Department of Taxation, the Commission, in consultation with the Department of Taxation, will determine the taxation rate over the entire twenty-three year period necessary to generate the amount it is estimated the one-half mill tax for each dollar of valuation would have generated.
10. In the event the School District Board elects option #6 above, the School District Board shall certify to the Commission a resolution indicating the Board's intent to delay maintenance funding, prior to entering into this agreement, in the form as established by the Commission, a copy of which shall be attached to this agreement.
11. Pursuant to ORC Section 3318.05, the maintenance fund shall not be used to upgrade classroom facilities, unless the School District Board submits to the Commission a proposal regarding the use of those proceeds for upgrades, and the Commission approves the proposal.

B. Maintenance Plan

1. The School District Board shall submit to the Commission for approval a plan for the preventative maintenance of each facility where a scope of work is completed under ELPP according to the Commission's Maintenance Plan Guidelines. The School District Board acknowledges that: 1) allowable uses for the maintenance fund shall be for the maintenance and repair of the completed facilities, including preventative maintenance, periodic repairs, and the replacement of facility components; 2) routine janitorial and utility costs, equipment supplies and personnel associated with the day-to-day housekeeping and site upkeep per normal and customary standards are not allowable expenditures under the parameters of the maintenance fund; and 3) the actual use of the maintenance fund, according to the terms of the approved Maintenance Plan, is subject to audit
2. The expenditure of local resources for the employment of a Maintenance Plan Advisor, pre-qualified by the Commission, for the development of the Maintenance Plan is an eligible project expense.

C. Use of Half Mill Maintenance Levy Proceeds for Improvements

1. ORC Section 3318.053 permits a School District Board to use proceeds from the one-half mill maintenance tax described in ORC Sections 3318.05 (B) and (C) for infrastructure improvements on and leading to the project sites that are not included in the total project budget. The School District Board may only use these proceeds during the three-year period following the execution of this Agreement. If the School District Board intends to use the proceeds of one-half mill tax in this manner, it shall include that fact as part of the purpose of the levy in the ballot language proposing it.

VI. CONTRACT ADMINISTRATION

- A. The Commission and the School District Board shall each designate a representative authorized to act on their behalf with respect to decisions required by this Agreement and required during the course of the Local Project Phase. Pursuant to Section 3318-2-04 of the Ohio Administrative Code, the Commission may authorize the Executive Director or the Executive Director's designee to take action necessary for the performance of this agreement.

- B. The School District Board shall select the project delivery model for the school district and shall use the contract forms developed by the Ohio Facilities Construction Commission that are consistent with the selected method of construction delivery.
- C. The School District Board shall use the contract forms developed by the Ohio Facilities Construction Commission for design professional contracts, construction manager contracts, construction contracts, construction manager at risk contracts, design-build contracts or other consultant contracts. The expenditure of local resources for these services is an eligible construction cost expenditure. All projects associated with the co-fundable portion of the school district's ELPP project are required to have the design bid documents prepared by a design professional licensed to practice in Ohio. The contract between the School District Board and design professionals shall reflect the requirement to comply with the specifications set forth in the Design Manual, and to certify such compliance as set forth in Section VIII (C) of this Agreement. The School District Board shall comply with all applicable laws for bidding and awarding construction contracts and use the contract forms developed by the Ohio Facilities Construction Commission to contract for the construction of the Local Project Phase. The Local Project Phase shall be exempt from the requirements of ORC Section 4115.03 to 4115.16.
- D. The School District Board shall not require a contractor, as part of the prequalification process or for the construction of a specific public improvement or the provisions of professional design services for that public improvement, to employ as laborers a certain number or percentage of individuals who reside within the defined geographic area or service areas of the School District Board nor shall the School District Board place a bid award bonus or preference to a contractor as an incentive to employ as laborers a certain number or percentage of individuals who reside within a defined geographic area or service area of the School District Board. Inclusion of such provision(s) will preclude the funds associated with those agreements qualifying as allowable expenditures qualifying for credit.
- E. The School District Board shall encourage the formation of a partnering arrangement with the contractors working on the Local Project Phase to develop problem solving processes and a dispute resolution strategy.
- F. The School District Board shall require all parties providing services for the Local Project Phase to comply with all applicable federal, state and local laws in the conduct of the work.
- G. The Commission has pre-qualified firms to provide building Commissioning/Maintenance services. The expenditure of local resources for the purchase of building Commissioning/Maintenance services through one of the pre-qualified Commissioning firms is an eligible project expense.

VII. REPORTING REQUIREMENTS

- A. The School District Board agrees to submit the conceptual plans, design development drawings, and any statement of probable cost or cost estimates for each project within the Local Project Phase to the Commission for review for compliance with the Design Manual, Program Rules, Program Guidelines, and Commission policies. The Commission reserves the right to reject all plans or drawings not in compliance with the Design Manual, Program Rules, Program Guidelines, and Commission policies, with the exception of any variance approved by the Commission. The Commission shall not approve expenditures that exceed Design Manual, Program Rules, Program Guidelines and Commission policies, with the exception of any variance approved by the Commission.
- B. The School District Board shall submit to the Commission, for Program compliance review, design documentation submittals reflecting the level of detail described in the "Minimum Phase Submission Requirements", attached hereto, for the following design phases:
 - 1. Program of Requirements (POR)
 - 2. Schematic Design (SD)
 - 3. Design Development (DD)
 - 4. Construction Documentation (CD)
- C. The School District Board shall require a licensed professional design firm to certify to the Commission that the program of requirements, schematic design documents, design development documents and final plans and specifications are, where applicable, in compliance with the Design Manual, Program Rules, Program Guidelines, and Commission policies, with the exception of any variance approved by the Commission.
- D. The School District Board shall submit to the Commission, each quarter during construction, evidence of project expenditures in the form of purchase orders, contract change orders, pay applications, and copies of cancelled checks.
- E. The School District Board shall submit to the Commission, upon request, a copy of the Treasurer's fund report in a form that recapitulates only expenditures associated with the School District's ELPP program.

VIII. CLOSE-OUT REQUIREMENTS

- A. Within six (6) months of occupancy of each separate ELPP project the School District Board shall certify to the Commission a report of the total project expenditures to be considered for ELPP credit for that project.
- B. Upon completion of each separate ELPP project, the Commission shall make a determination as to the eligible expenses to be considered for ELPP credit. Such conditional approval shall be subject to the Commission's final approval for ELPP credit, at such time as the School District Board may become eligible to receive state assistance under ORC Section 3318.01 to 3318.20.
- C. The Commission reserves the right to decline to approve the amount of any expenditure, or any part thereof, made by the School District Board toward the School District Board's portion of the basic project cost when the School District Board is eligible for State assistance under ORC Sections 3318.01 to 3318.20, if the Local Project Phase is not in compliance with the Design Manual and Commission policies, with the exception of any variance approved by the Commission, or if the expenditure is not eligible for reimbursement, or if the School District Board fails to comply with the reporting requirements specified by the Commission.
- D. If the school district becomes eligible for state assistance under ORC Section 3318.01 to 3318.20, the Commission shall make a final determination as to the allowable expenses to be calculated pursuant to Section X of this agreement.

IX. OWNERSHIP OF THE PROJECT

- A. At no time during the course of this Agreement shall the Commission assume any ownership rights, obligations, or interests in the Local Project Phase or in any locally funded initiatives associated with the School District Board's ELPP program.

X. ELIGIBILITY FOR STATE ASSISTANCE

- A. If the School District Board becomes eligible for State assistance under ORC Sections 3318.01 to 3318.20, the Commission shall conduct a new assessment of the School District's classroom facilities needs and shall recalculate the basic project cost based on this new assessment. The recalculated basic project cost shall include the amount of allowable expenditures made by the School District Board and approved by the Commission for the Local Project Phase. The Commission reserves the right to exclude any expenditure for work associated with the Local Project Phase that is not required as a part of the amended master facility plan pursuant to the recalculation of the basic project cost.
- B. The Commission shall then recalculate the School District Board's portion of the new project cost by utilizing the percentage of the original project cost assigned to the School District Board as its proportion. The Commission shall deduct the approved expenditures of the School District Board's moneys committed for the Local Project Phase from the School District's portion of the recalculated project cost.
- C. If the amount of School District Board local resources applied to the School District Board's portion of the project cost is less than the total amount of such recalculated portion, the School District Board shall, if it desires to seek State assistance, adopt a resolution as specified in ORC Section 3318.06, in order to pay any additional amount of the School District Board's portion required for State assistance.
- D. If the amount of School District Board local resources applied to the School District Board's portion of the project cost is more than the total amount of such recalculated portion, the Commission may, within one (1) year from the Commission's approval of the recalculated project cost, reimburse to the School District the difference between the two (2) calculated portions, but at no time shall the Commission expend any State funds on a project in an amount greater than the State's portion of the recalculated project cost.
- E. Any reimbursement by the Commission shall be only for local resources that the School District Board has applied toward allowable construction cost expenditures approved by the Commission, which shall not include any financing costs associated with the construction. The School District Board shall use any moneys reimbursed by the Commission to pay off any debt service consistent with Division E of 3318.36 of the Ohio Revised Code. The district board may deposit moneys reimbursed under this division into the district's general fund or a permanent improvement fund to replace local resources the district withdrew from those funds, as long as, and to the extent that, those local resources were used by the district for constructing classroom facilities included in the school district's basic project cost.
- F. If the School District's ELPP program is not complete at the time the School District becomes eligible for state assistance under ORC Sections 3318.01 to 3318.20, the Commission will estimate the value of the School District Board's allowable expenditures for the Local Project Phase to be included pursuant to Section X (A) and X (B) of this Agreement.
 - 1. When the School District Board's ELPP program is complete, the Commission will determine the final amount of allowable expenditures to be credited against the School District Board's required local share under Section X (B) of this agreement.
 - 2. If the actual amount of allowable expenditures is **higher** than the estimated amount, the School District Board will transfer the difference **out of** the CFAP project construction fund.

3. If the actual amount of allowable expenditures is **lower** than the estimated amount, the School District Board will transfer the difference **into** the CFAP project construction fund.
- G. It is understood that the Commission's funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. If the General Assembly fails at any time to continue funding for the Commission or its building assistance programs, including the payments and other obligations that will become due hereunder when the School District Board becomes eligible for State building assistance under ORC Sections 3318.01 to 3318.20, the Commission's obligations under this Agreement are terminated as of the date that the funding expires without further obligation of the Commission.

XI. GENERAL PROVISIONS

- A. **Insurance:** The School District Board shall ensure the Local Project Phase for building risk as soon as the School District Board has an insurable interest therein and shall maintain that insurance during construction. The expenditure of local resources for the purchase of such insurance is an eligible construction cost.
- B. **Capitalized Terms:** Capitalized terms in this Agreement shall have the same meaning as those defined in ORC Chapter 3318, unless otherwise defined herein or unless another meaning is indicated by the context.
- C. **Entire Agreement:** This Agreement is the entire and integrated Agreement between the Commission and the School District Board and supersedes all prior negotiations, representations or agreements, either written or oral.
- D. **Multiple Counterparts:** This Agreement may be executed 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.
- E. **Successors and Assigns:** The Commission and the School District Board, each bind themselves, their successors, assigns and legal representatives, to the other party to this Agreement and to the successors, assigns and legal representatives of the other party with respect to all terms of this Agreement.
- F. **Law of Ohio:** This Agreement shall be governed by the law of the State of Ohio to the exclusion of the law of any other jurisdiction and the State of Ohio shall have jurisdiction over any action hereunder or related to the Project to the exclusion of any other forum. Legal fees shall not be considered as eligible expenditures.
- G. **Severability:** If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable provision were not contained herein. Such 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.
- H. **Amendment:** This Agreement may be amended only by an Amendment executed by both the Commission and the School District Board.
- I. **Effective Date:** For the purpose of establishing the "percentage of contribution" (as established in I. B.) this Agreement shall become effective on the last date of signature by the President and Treasurer of the School District Board and Executive Director of the Commission. All other components of this agreement shall not have effect until such time as the School District Board shows evidence of funding for the Local Project Phase (including any Locally Funded Initiatives), in such form as required by the Commission.
- J. **Termination:** If the School District Board fails to show evidence of funding, in such form as required by the Commission, within one (1) year of the effective date, this Agreement shall terminate. Additionally, if the School District Board has not entered into a construction contract for work associated with the Local Project Phase at such time as Commission designates the School District as one of the "next ten" CFAP school districts, or the School District is notified of eligibility for state assistance under ORC Sections 3318.01 to 3318.20, this Agreement shall terminate. Also, either party, upon sixty (60) days notice, may terminate this Agreement for convenience.

SIGNATURE PAGE

In witness whereof, the parties hereto have hereunto set their hands of the day and year set forth herein.

WORTHINGTON CITY SCHOOL DISTRICT
Franklin County

By: _____
President - Board of Education

Print Name: **Nikki Hudson**

Date: _____

By: _____
Treasurer - Board of Education

Print Name: **TJ Cusick**

Date: _____

OHIO FACILITIES CONSTRUCTION COMMISSION

By: _____
Executive Director

Print Name: **Cheryl J. Lyman**

Date: _____