

**FIRST AMENDMENT TO
JOINT VENTURE AGREEMENT
BETWEEN THE LICKING HEIGHTS LOCAL SCHOOL DISTRICT
AND THE BOARD OF TRUSTEES OF JEFFERSON TOWNSHIP**

This First Amendment to Joint Venture Agreement dated as of August 3, 2012 ("the First Amendment"), hereby amends and modifies a "Joint Venture Agreement" dated on or as of August 27, 2004, by and between the Board of Education of the Licking Heights Local School District, Licking and Franklin Counties ("the School District"), and the Board of Trustees of Jefferson Township, Franklin County, Ohio ("the Township"), or the successors thereto. (The School District and the Township are collectively referred to in the Joint Venture Agreement and this First Amendment as "the Parties.")

WHEREAS, the Parties entered into the Joint Venture Agreement ("the Agreement") to establish a working relationship between the Parties with respect to the providing of educational and recreation facilities at a common site including, but not limited to, a public elementary school building, a shelter house, a public park and recreation facilities, athletic fields, playgrounds, and passive use areas, all of which is or is to be located on approximately 37 acres of land on the northeast corner of Jefferson Run and Climbing Fig Drive, in Jefferson Township, Franklin County, Ohio ("the Project").

WHEREAS, the Parties find it desirable to amend the Agreement in order to accommodate the School District's request to construct a building addition to an existing school building on the School District Parcel, as the School District Parcel is defined in this First Amendment, and to amend the contributions and responsibilities of the Parties under the Agreement.

WHEREAS, the Licking Heights Board of Education, by Resolution No. 08-12-119a, adopted August 2, 2012, and the Jefferson Township Board of Trustees, by Resolution No. 2012-078, adopted August 3, 2012, have determined that it is in the best interest of their respective residents to amend the Agreement and authorized Philip Wagner, Superintendent, and Tom Spring, Jefferson Township Administrator, respectively, to enter into and execute this First Amendment on behalf of the Township.

NOW, THEREFORE, in consideration of the promises and mutual covenants and agreements set forth in the Agreement and as hereinafter set forth, the Parties agree to amend the Agreement as follows:

1. *The Agreement, a copy of which is attached to this First Amendment as Exhibit A for reference, continues to be in full force except where specifically amended or modified by this First Amendment.*

2. *The Term of the Agreement as set forth in Paragraph 12 of the Agreement shall remain unaffected by the provisions of this First Amendment.*

3. Paragraph 1 "Location of the Project" is hereby amended to provide that the Project is located upon approximately 37 acres of land on the northeast corner of Jefferson Run and Climbing Fig Drive, and being the approximately 16 acres conveyed to the School District and consisting of Franklin County Auditor's Parcel No. 171-001406 (the "School District Parcel"), the approximately 13.249 acres owned by the Township and located east of and adjacent to the School District Parcel and consisting of Franklin County Auditor's Parcel No. 171-000968 (the "Township East Parcel") and the approximately 8.173 acres owned by the Township and located north of and adjacent to the School District Parcel and consisting of Franklin County Auditor's Parcel No. 171-001651 (the "Township North Parcel"). The real property descriptions associated with the identified parcels are made a part hereof by this reference and hereby supersede the legal descriptions attached to the Agreement as Exhibit C. All references contained in the Agreement to the "Township Parcel" are hereby amended to include both the Township North Parcel and the Township East Parcel.

4. Paragraph 5 "Control and Use of Facilities" of the Agreement is deleted in its entirety and replaced with the following:

"5. Control, Use and Scheduling; Maintenance, Repair, and Cleaning; Utilities.

A. Control, Use and Scheduling.

(i) School Building. The School District shall at all times control access to and use of the school building located on the School District Parcel.

(ii) Facilities Located Outside of the School Building on the School District Parcel.

(a) During School Hours. During normal school hours, as mutually agreed upon by the Parties (currently from approximately 8:00 a.m. until 4:30 p.m., Monday through Friday, when school is in session), the School District shall control access to and use of the parking lots and other facilities located on the School District Parcel including, but not limited to, the shelter house, the multipurpose field and those play areas and other facilities built on the School District Parcel suitable and specifically built for the use of children attending school at the school building. Except as provided below, neither the Township nor the general public shall have access to such facilities or a right of entry onto or into the School District Parcel during normal school hours except by permission of the School District or its Authorized Representative. The

foregoing notwithstanding, the Township shall have the right during normal school hours, and at all other times, to enter into or upon the School District Parcel for purposes of accessing the Township North Parcel and/or the Township East Parcel.

- (b) During Non-School Hours. The School District grants a perpetual and irrevocable license to the Township and the general public for use of the parking lot(s) and other facilities located on the School District Parcel including, but not limited to, the shelter house, the multipurpose field and those play areas and recreational spaces built on the School District Parcel suitable and specifically built for the use of children attending school at the school building outside of the normal school hours; subject to the School District's right to limit, restrict or prohibit such use of the shelter house outside of normal school hours when needed for school purposes and school events, plus one-half hour before and after such events. Notwithstanding the above, the Township shall have the right to schedule the shelter house for public uses or private groups during non-school hours. Whenever the School District intends to use the shelter house during non-school hours, the School District shall notify the Township of its intent at least forty-eight (48) hours in advance and shall have first right to schedule available times, which the Township shall not unreasonably refuse.
- (iii) Facilities on the Township North Parcel. Subject to rules and regulations adopted by the Township, facilities constructed on the Township North Parcel including, but not limited to, tennis courts, ball fields, and other recreational facilities located on the Township North Parcel shall be available to the public during such times as the Township determines to be appropriate including during normal school hours. The Township may enter into contracts with nonparties, including but not limited to youth athletic leagues or organized sports entities, to use the facilities and/or perform certain services at the Project.
- (iv) Facilities on the Township East Parcel. Subject to rules and regulations adopted by the Township, facilities constructed on the Township East Parcel shall be available to the public during such times as the Township determines to be

appropriate including during normal school hours. The Township may enter into contracts with nonparties, including but not limited to youth athletic leagues or organized sports entities, to use the facilities and/or perform certain services at the Project.

B. Maintenance, Repair and Cleaning.

- (i) School Building. The School District shall, at all times, be solely responsible for the repair, maintenance and cleaning of the school building existing or constructed on the School District Parcel.

- (ii) Facilities on the School District Parcel Other than the School Building. The School District shall be solely responsible for all repairs, maintenance and cleaning of facilities existing as of the date of this First Amendment on or constructed on the School District Parcel pursuant to the terms of the Agreement as amended, with the exception that the Township shall be responsible for cleaning of the shelter house resulting from group reservations coordinated by the Township; provided that the Township shall have no obligation for cleaning as a result of use of the shelter house for school purposes even if coordinated by or through the Township. Repair, maintenance and cleaning shall include, but not be limited to, repairs from or removal of vandalism, normal wear and tear from use, snow and ice removal and mowing of grass areas to the same standard exercised by the School District for the mowing of other school sites during the school year. In the event that the Township is made aware that a repair or maintenance is needed, the Township shall notify the School District via phone call, electronic mail, and/or written notice to the Office of the Superintendent of the School District. The School District shall initiate the process of the repair, maintenance or cleaning within seven (7) calendar days from the date of its receipt of the notice unless the School District requests, in good faith, an extension which the Township shall not unreasonably deny. If the School District fails to initiate the repair, maintenance or cleaning within seven (7) calendar days, or within the time period specified in an approved extension in writing by the Parties or their Authorized Representatives, or if the School District fails to complete the repair, maintenance or cleaning within a reasonable time thereafter, the Township may cause the repair, maintenance or cleaning to be performed and charge the reasonable and

necessary cost and expenses of the repairs, maintenance or cleaning to the School District. The School District shall render payment to the Township for such services within thirty (30) days of receipt of an invoice for the same. Any temporary maintenance matters not covered by the Agreement, as amended, may be negotiated between the Parties, their Authorized Representatives, or their designees responsible for oversight of the parcels and facilities.

- (iii) Facilities on the Township North Parcel. The School District shall be solely responsible for mowing the grass and maintaining the backstop on the existing baseball field, and for repairing and maintaining the existing tennis courts, and any basketball court to be built on the Township North Parcel. All other improvements on the Township North Parcel, including any additional improvements that may be built on the Township North Parcel, shall be repaired, maintained and cleaned by the Township.
- (iv) Facilities on the Township East Parcel. The Township shall be solely responsible for the repair, maintenance and cleaning of improvements constructed or installed on the Township East Parcel and for otherwise maintaining the Township East Parcel.

C. Utilities.

- (i) General. Except as specifically provided below, each Party shall be responsible for the provision of and payment for utility services provided to that Party's parcel(s).
- (ii) Shelter House. In the event the local utility provider requires or the Township requests, a separate water meter shall be installed by or at the direction of the School District and at its cost and expense to register water usage at the existing shelter house on the School District Parcel. The School District shall be responsible for paying the cost of all water, sewer and electric charges for the shelter house.
- (iii) Future Utilities. The School District shall grant the Township (at the Township's cost) permission to connect to utilities located at the northeast corner of the School District Parcel should the Township desire, in its discretion, to construct another shelter house or other facility in the future. In the event that another shelter house or facility is installed, the Township shall be responsible for installing separate utility

meters and shall be responsible for paying any applicable utility costs associated with the additional shelter house or facility."

5. Paragraph 6 "Storm Water Management Program" of the Agreement is deleted in its entirety and replaced with the following:

"6. Storm Water Management. The Township may, in its sole discretion, cause to be designed, developed, constructed, operated and maintained an environmentally friendly storm water management system, including water features such as ponds, streams and wetlands, that will collect and disperse water runoff from the School District Parcel, the Township North Parcel and the Township East Parcel as well as a portion of a proposed subdivision to the north of the Project site. The Township shall be solely responsible for the design, construction, operation and maintenance of this storm water management system; provided, however, that the School District shall cooperate with the Township in connection with the control of storm water runoff from the School District Parcel."

6. Paragraph 8 "Employees" of the Agreement is hereby amended and modified by deleting all references to the word "employers" in that paragraph and replacing the references with the word "Parties" and by inserting the phrase "except by mutual written agreement" at the end of the paragraph before the period.

7. Paragraph 10 "Insurance" (first paragraph only) of the Agreement is amended and modified by deleting the word "\$1,000,000.00" and replacing it with the word "\$5,000,000.00."

8. Paragraph 11 "Township Responsibility and Control" of the Agreement is deleted in its entirety and its provisions have been included in Paragraph 5 of this First Amendment.

9. Paragraph 13 "Periodic Review of Agreement" is deleted in its entirety and replaced with the following:

"13. Periodic Review. Every five years, unless earlier requested by either Party, the Authorized Representatives from each Party shall meet and review the Agreement and, if and as appropriate, recommend changes to the Agreement for consideration by the Parties. Notwithstanding the foregoing, the Parties may make other, mutually satisfactory arrangements for review of the Agreement. The Parties, their Authorized Representatives, and Employees of the Parties responsible for maintenance and scheduling shall cooperate and communicate as necessary in implementing the terms of the Agreement.

Notwithstanding the terms of Paragraph 5 of the Agreement, the Parties shall cooperate at the request of either Party concerning safety matters involving public uses of the recreational facilities and school grounds.”

10. *Paragraph 17 "Notices" of the Agreement is hereby deleted in its entirety and replaced with the following:*

“17. Notices. Any notice required under this Agreement shall be deemed to have been given to each party if sent via regular mail to the following addresses:

If to the School District:

Office of the Superintendent
Licking Heights Local School District
6539 Summit Road, S.W.
Pataskala, Ohio 43062-9806

If to the Township:

Jefferson Township Board of Trustees
Attn: Office of the Township Administrator
6545 Havens Road
Blacklick, Ohio 43004-9747

By formal action of the Board of either Party, followed promptly by written notice to the other Party, the address for written notice to a Party may be changed.”

11. *The following is hereby added to and made part of the Agreement as Paragraph 23 "Additional Recreation Facilities”:*

“23. Additional Recreation Facilities. At a time determined by the Township, the Township may design, develop, construct, operate and maintain recreational facilities on the Township East Parcel or additional recreation facilities on the Township North Parcel. Subject to the rules and regulations established by the Township, the School District may use these facilities for recreational and educational purposes. The Township shall be solely responsible for the design, construction, operation and maintenance of these additional recreational facilities if so constructed or installed.”

12. *The following is hereby added to and made part of the Agreement as Paragraph 24 "Signs”:*

“24. Signs. The School District shall allow the Township (at the Township's cost) to install signs and post rules around the facilities on the School District Parcel. The School District shall have the right to review and approve the appearance and

location of the signs before installation; provided that such approval shall not be unreasonably withheld.”

13. *The following is hereby added to and made part of the Agreement as Paragraph 25 "Additional Improvements; Modifications to Existing Improvements":*

“25. Additional Improvements; Modifications to Existing Improvements.

A. Tennis Courts. For the purpose of minimizing glare from the sun on tennis players, the School District shall erect screening of black polypropylene closed mesh type materials upon the west, center and east fences of the tennis courts running north to south. The north and south fencing running east and west shall not have the screening installed. The screening shall be erected on or before May 1, 2013. The School District shall have the right to use the tennis courts for instruction, practice, and interscholastic competition, subject to the provisions of Paragraph B (below) and Paragraph 5.

B. Basketball Court. In the event that the School District does not field an interscholastic tennis team on or before August 1, 2015, the School District shall, at its sole cost and expense, convert the easternmost two tennis courts to basketball courts, oriented in a manner that facilitates the meeting of regulations for court size, if possible. The work shall be completed on or before May 1, 2016.

C. Picnic Tables. The School District shall also provide, repair, and maintain twelve (12) galvanized steel frame, recycled plastic tops/seats picnic tables of eight (8) feet in length, similar to the picnic tables located in the shelter house at the Jefferson Township Community Park (Kay Park Recreation part number 8J2GRRP or equivalent) in the shelter house, as the Township directs. Said tables shall be installed within thirty (30) days of the effective date of this First Amendment.

D. Gravel Drive. The School District and Township shall collaborate on installing a gravel drive beginning at or adjacent to the northeast corner of the existing school parking lot and proceeding northward into the easement described in Paragraph 14(B) of this First Amendment and continuing in the easement eastward to the property line separating the School District Parcel from the landlocked Township owned parcel to the east of the School District Parcel. The gravel drive shall be a minimum of twelve (12) feet in width. The gravel drive shall be installed between September 30, 2012, and May 31, 2013. Cost and expense of the gravel drive shall be negotiated between the parties.

E. Other. Any alterations or modifications to the facilities existing on the School District Parcel or the Township Parcel(s) on September 30,

2012 or contemplated by the Parties within this First Amendment shall be subject to written approval of the Parties.

F. Compliance with Laws. The School District shall comply or cause compliance with all laws, ordinance, regulations, orders and requirements of all federal, state and local governments and agencies which may be applicable to or govern the installation or construction of additional improvements or the modification of existing improvements on the Township Parcel(s) that are to be performed by or at the direction of the School District under the provisions of the Agreement or this First Amendment."

14. *The following is hereby added to and made part of the Agreement as Paragraph 26 "Easements":*

"26. Easements.

A. Shelter House. At a future time, upon the written request of the Township Trustees, the School District shall grant to the Township a perpetual easement satisfactory to the Township in form and content to allow a small parking and loading area and reasonable public vehicular and pedestrian access to the shelter house from the Township Parcel east of the School District Parcel. Unless the Parties agree otherwise, the Township shall pay all costs associated with preparing and recording the easement, and the design, construction, maintenance and repair of such parking, loading, and vehicular access areas.

B. Access Road. Within sixty (60) days of the date of this First Amendment, the School District shall grant a perpetual easement to the Township and the general public, in a form and substance satisfactory to the Township, providing for Township and public vehicular and pedestrian access to and from Climbing Fig Drive and the Township East Parcel and the Township North Parcel. The easement shall be across the north side of the School District Parcel a minimum of fifteen (15) feet in width. Unless the Parties agree otherwise, the Township shall pay all costs associated with preparing and recording the final easement, and the design, construction, maintenance, and repair of any lane or road (other than the gravel drive referenced in Paragraph 13(D) of this First Amendment) that may be constructed within the easement. When prepared, the easement shall be attached hereto as Exhibit B."

15. *For purposes hereof, the following terms shall have these meanings unless the context requires otherwise:*

A. "Authorized Representative(s)" means the person or persons designated by either or both Parties to the Agreement as amended

and communicated in writing to the other Party, as determined by the context in which the term is used.

16. Except for the provisions specifically included in Paragraph 15 of the Agreement and the first paragraph of Exhibit A of the Agreement with respect to the disposal of the School District Parcel and the reversion of the ownership of the School District Parcel to the Township in the case of certain events and except to the extent specifically incorporated into the Agreement or in this First Amendment, the provisions of Exhibits A and B of the Agreement are deemed to have been complied with or are no longer applicable. The foregoing notwithstanding, any warranties created or established with respect to the installation of improvements on any parcel or in the fulfillment of any obligation required pursuant to the provisions of Exhibits A and/or B of the Agreement and the obligations of the parties contained in the first paragraph of Exhibit A with respect to the reversion of the ownership of the School District Parcel to the Township in the case of the happening of certain events shall continue and remain in full force and effect.

IN TESTIMONY WHEREOF, the Parties have caused this First Amendment to the Joint Venture Agreement to be executed by their duly authorized officers as of the date first written above.

**LICKING HEIGHTS LOCAL
SCHOOL DISTRICT, LICKING
AND FRANKLIN COUNTIES, OHIO**

[Handwritten Signature]
BY: _____ 08/15/12

Superintendent of Schools
Title: _____

**TOWNSHIP OF JEFFERSON
FRANKLIN COUNTY, OHIO**

Tom E. Spring
By: _____

Township Administrator
Title: _____