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**LEASE-PURCHASE AGREEMENT**

**between**

**COUNTY OF SUMMIT, OHIO,  
as Lessor**

**and**

**CITY OF AKRON, OHIO  
as Lessee**

**Dated as of \_\_\_\_\_, 201\_\_**

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## LEASE-PURCHASE AGREEMENT

This Lease-Purchase Agreement (the "Lease") is made and entered into as of \_\_\_\_\_, 2015, by and between the **COUNTY OF SUMMIT, OHIO**, a county and political subdivision organized and existing under the laws of the State of Ohio (the "State") and its Charter (the "Lessor"), and the **CITY OF AKRON, OHIO**, a municipal corporation organized and existing under the laws of the State and its Charter (the "Lessee"), pursuant to the laws of the State of Ohio and the Authorizing Legislation. The words and terms in the following recitals used as defined words and terms but not otherwise defined therein shall have the meanings given them in Section 1 of this Lease.

### RECITALS:

A. For the purposes set forth in the Authorizing Legislation and the Cooperative Agreement, the Lessor desires to lease the City Equipment and the right to jointly use the Joint Equipment to the Lessee, and the Lessee desires to lease and eventually acquire the City Equipment from the Lessor, and lease and eventually acquire co-ownership of the Joint Equipment, subject to the terms and conditions set forth in this Lease.

NOW, THEREFORE, in consideration of the foregoing and the Rental Payments to be paid under and the covenants and agreements in this Lease, the parties agree as follows:

#### Section 1. Certain Defined Terms and References.

(a) In this Lease the following terms have the meanings given below unless the context clearly requires otherwise:

"Additional Rent" means any amounts expressly denominated hereunder as Additional Rent.

"Appropriation" means the designating out of the general resources of Lessee of a certain amount for a particular purpose in an ordinance enacted by the Legislative Authority of the Lessee pursuant to Section 5705.38 of the Ohio Revised Code, as amended from time to time.

"Authorizing Legislation" means, with respect to (i) the Lessor, Resolution No. \_\_\_\_-2015 adopted by the Legislative Authority of the Lessor on \_\_\_\_\_, 2015 and (ii) the Lessee, Ordinance No. \_\_\_\_-2015 enacted by the Legislative Authority of the Lessee on \_\_\_\_\_, 2015.

"Bond Payment Dates" means the date on which Bond Service Charges are due on the County Bonds, which the County anticipates will be on June 1 and December 1 of each year while the County Bonds are outstanding.

"Bond Service Charges" means the payment of principal, interest and any premium due on the County Bonds.

"Certified/Certification" means the certification by the Finance Director that the money required for the payment of a particular contract, agreement or other obligation is in the treasury of the Lessee or in the process of collection to the credit of the fund from which it is to be drawn and not appropriated for any other purpose.

“City” means the City of Akron, Ohio, a municipal corporation duly organized under the laws of the State and its Charter.

“City Equipment” means the portion of the New System more particularly described on Exhibit A-3 attached hereto.

“Closing Date” means \_\_\_\_\_, 2015.

“Code” means the Internal Revenue Code of 1986, as amended from time to time; references to the Code and sections thereof include relevant applicable regulations and temporary regulations thereunder and any successor provisions to those sections, regulations or temporary regulations.

“Communications System Agreement” means the Communications System Agreement dated as of \_\_\_\_\_, 2015 between the County and Motorola Solutions, Inc. relating to the County’s purchase and acquisition of the New System, as amended and supplemented from time to time.

“Cooperative Agreement” means the Cooperative Agreement dated as of \_\_\_\_\_, 2015 between the County and the City, as amended or supplemented from time to time.

“Counsel” means an attorney or a firm of attorneys admitted to practice law before the highest court of the State.

“County” means the County of Summit, Ohio, a county and political subdivision duly organized under the laws of the State and its Charter.

“County Bonds” means the County’s general obligation bonds that the County intends to issue to finance the costs of the Provision of the New System, which shall be issued in the principal amount necessary to finance the costs identified in Section 3.3 of the Cooperative Agreement.

“Event of Default” means an Event of Default described in Section 23.

“Event of Non-Appropriation” means the failure of the Lessee to appropriate funds for Rental Payments in any Fiscal Year in the manner and by the time set forth in Section 5.

“Executive” means the Executive of the County.

“Finance Director” means the Director of Finance of the City.

“First-Half Tax Settlement Date” means the date of settlement of real property taxes and assessments pursuant to Section 321.24(A) of the Ohio Revised Code, as amended from time to time.

“First-Half Tax Distribution” means the distribution of funds to the City on the First-Half Tax Distribution Date pursuant to Section 321.24(F) of the Ohio Revised Code, as amended from time to time.

“First-Half Tax Distribution Date” means date of the distribution of funds to the various taxing districts in the County with respect to the First-Half Tax Settlement Date pursuant to Section 321.24(F) of the Ohio Revised Code, as amended from time to time, provided such funds shall not include any amounts attributable to general or special assessments or payments in lieu of taxes.

“Fiscal Officer” means the Fiscal Officer of the County.

“Fiscal Year” means a period of time from and including January 1 to and including December 31, being the Fiscal Year of Lessee for budgeting and appropriation purposes.

“Force Majeure” means, without limitation, the following: Acts of God; strikes, lockouts or other labor disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornados; storms; droughts; floods; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; shortages of labor, materials, supplies or transportation; or other similar events.

“Interest Rate for Advances” means the interest rate equal to 3.0% per annum.

“Joint Equipment” means the portion of the New System more particularly described on Exhibit A-4 attached hereto.

“Lease” means this Lease-Purchase Agreement, as amended or supplemented from time to time in accordance with its terms.

“Legal Requirements” means all applicable laws, codes, acts, ordinances, resolutions, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all governmental entities, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the City Equipment, or to any use, anticipated use or condition of the City Equipment.

“Legislative Authority” means, (i) with respect to the Lessor, the Legislative Authority of the Lessor and (ii) with respect to the Lessee, the Legislative Authority of the Lessee.

“Lessee” means the City.

“Lessor” means the County.

“Mayor” means the Mayor of the City.

“Net Proceeds” means any insurance proceeds or condemnation awards paid with respect to any City Equipment or the Joint Equipment remaining after payment therefrom of all expenses incurred in the collection thereof.

“New Interlocal Agreement” means the Interlocal Agreement dated as of \_\_\_\_\_, 201\_\_ between the County and City, as amended and supplemented from time to time, pursuant to which the County and the City will undertake the joint operation of the New System.

“New System” means the ASTRO 25 radio communication equipment, components and radios comprising the APCO P25-compliant radio system acquired by the County pursuant to the Communications System Agreement, as more particularly described on Exhibit A-2 attached hereto.

“Operative Documents” means, collectively, this Lease, the Cooperative Agreement and the New Interlocal Agreement.

“Permanent Appropriation” means an Appropriation that appropriates by line item sufficient funds to enable the Lessee to pay all Rental Payments due during a Fiscal Year.

“Permitted Encumbrances” means, as of any particular time, (i) this Lease; (ii) any liens and encumbrances that will not (A) materially interfere with or impair the operations being conducted on the City Equipment or the Joint Equipment and (B) materially adversely affect the Lessor’s rights under this Lease; and (iii) such minor liens and encumbrances that, in the opinion of independent counsel, normally exist with respect to equipment similar in character to the City Equipment or the Joint Equipment for the purpose for which it was acquired or is held by the Lessor and do not (A) materially interfere with or impair the operations being conducted on the City Equipment or the Joint Equipment or (B) materially adversely affect the security granted to the Lessor by this Lease.

“Person” means any individual, partnership, corporation, trust, organization, unincorporated organization, federal, state or local government or department or agency thereof and any other entity.

“Provision” means, as applicable, the acquisition, construction, installation, improvement and equipping of the New System.

“Purchase Date” means any date during the term on which the Lessee may purchase the City Equipment by payment of the applicable Purchase Price to the Lessor.

“Purchase Price” means, as of any Purchase Date, an amount equal to the sum of the then aggregate unpaid and due Rental Payments plus the full aggregate amount of any future Rental Payments that are not yet due but are scheduled to be due between the Purchase Date and the Termination Date, which the Lessee may pay to the Lessor to purchase the City Equipment.

“Rental Payment Date” means each May 15 and November 15 during the Term, commencing on the first Rental Payment Date following the issuance of the County Bonds.

“Rental Payments” means the payments specified in Exhibit B, and subsequently in any Amended Exhibit B.

“Required Property Insurance Coverage” means (i) as to the City Equipment, insurance insuring the City Equipment against loss or damage by fire, lightning, vandalism and malicious

mischief and all other perils covered by standard "extended coverage" or "all risks" policies, and (ii) as to the Joint Equipment, insurance insuring the Joint Equipment against loss or damage by fire, lightning, vandalism and malicious mischief and all other perils covered by standard "extended coverage" or "all risks" policies.

"Required Public Liability Insurance Coverage" means comprehensive general accident and public liability insurance.

"Second-Half Tax Distribution" means the distribution of funds to the City on the Second-Half Tax Distribution Date pursuant to Section 321.24(F) of the Ohio Revised Code, as amended from time to time.

"Second-Half Tax Distribution Date" means date of the distribution of funds to the various taxing districts in the County with respect to the Second-Half Tax Settlement Date pursuant to Section 321.24(F) of the Ohio Revised Code, as amended from time to time.

"Second-Half Tax Settlement Date" means the date of settlement of real property taxes and assessments pursuant to Section 321.24(C) of the Ohio Revised Code, as amended from time to time, provided such funds shall not include any amounts attributable to general or special assessments or payments in lieu of taxes.

"State" means the State of Ohio.

"Temporary Appropriation" means an Appropriation that appropriates by line item sufficient funds to enable the Lessee to pay all Rental Payments due during the first quarter of a Fiscal Year.

"Term" means the period from the Closing Date to the Termination Date.

"Termination Date" means the day following the date that all Rental Payments and any Additional Rent and all other amounts authorized or required to be paid by the Lessee hereunder are paid by the City to the County.

(b) References to a Section, subsection or an exhibit, unless otherwise indicated, are to a Section, subsection or exhibit to this Lease.

(c) Any reference in this Lease to a section or provision of the Code, to the Ohio Revised Code, or to a section, provision or chapter thereof, shall include such section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time. No amendment, modification or revision, or supplemental 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 Lessor or the Lessee under this Lease.

(d) Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa. The terms "hereof", "hereby", "herein", "hereto", "hereunder", "hereinafter" and similar terms refer to this Lease; and the term "hereafter" means after, and the term "heretofore" means before, the date of this Lease. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.



Section 2. Title to City Equipment and Joint Equipment. The fee title to the City Equipment shall vest in the Lessor, subject to future conveyance and transfer to the Lessee as provided in this Lease. The fee title to the Joint Equipment shall vest in the Lessor, subject to future conveyance and transfer of 50% ownership interest to the Lessee as provided in this Lease.

Section 3. Lease of City Equipment and Joint Equipment.

(a) The Lessor hereby demises, leases and lets the City Equipment to the Lessee and the Lessee hereby rents, leases and hires the City Equipment from the Lessor, in accordance with the provisions of this Lease, to have and to hold for the Lease Term. Upon and during the Provision of the City Equipment, all leasehold rights granted to the Lessee by the Lessor under this Lease shall vest in the Lessee, without any further action on the part of the Lessor.

(b) The Lessor hereby demises, leases and lets the joint use of the Joint Equipment to the Lessee and the Lessee hereby rents, leases and hires the joint use of the Joint Equipment from the Lessor in accordance with the provisions of this Lease, to have and to hold for the Term. The joint use and operation of the Joint Equipment shall be further governed between the parties by the New Interlocal Agreement. Upon and during the Provision of the Joint Equipment, all leasehold rights granted to the Lessee by the Lessor under this Lease shall vest in the Lessee without any further action on the part of the Lessor.

(c) The Lessor covenants to the Lessee that, upon the Lessee's payment of Rental Payments and performance and observance of the other covenants and agreements on its part to be performed and observed under this Lease, the Lessee shall and may peaceably and quietly have, hold, use and enjoy the City Equipment and Joint Equipment without interruption, suit, trouble or hindrance from any person whomsoever. The Lessor acknowledges that the periodic payments hereunder of Rental Payments represent the fair rental value of the City Equipment and Lessee's right to use the Joint Equipment.

(d) The Lessee shall pay or cause to be paid all costs of operating, repairing and maintaining the City Equipment. The New Interlocal Agreement shall govern the distribution of costs amongst the Parties of operating, repairing and maintaining the Joint Equipment.

(e) THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE LESSEE OF, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO, THE CITY EQUIPMENT OR THE JOINT EQUIPMENT OR ANY PORTION OF THE CITY EQUIPMENT OR THE JOINT EQUIPMENT. IN NO EVENT SHALL THE LESSOR BE LIABLE FOR INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, IN CONNECTION WITH THIS LEASE OR THE EXISTENCE, FURNISHING, FUNCTIONING OR ENVIRONMENTAL CONDITION OF THE CITY EQUIPMENT OR THE JOINT EQUIPMENT OR THE LESSEE'S USE OF THE CITY EQUIPMENT OR JOINT EQUIPMENT, EXCEPT SUCH DAMAGES AS MAY ARISE BY REASON OF THE LESSOR'S BREACH OF THE LEASE.

Section 4. Acceptance of City Equipment and Joint Equipment. The Lessee shall accept the City Equipment in accordance with and as contemplated by the provisions of the Operative Documents and that acceptance shall not be unreasonably withheld or delayed. The Lessee shall further accept the joint use of the Joint Equipment in accordance with and as contemplated by the provisions of the Operative Documents and that acceptance shall not be unreasonably withheld or delayed.

Section 5. Term; Appropriation of Funds.

(a) The Term of this Lease will commence as of the Closing Date, and will terminate on the Termination Date, unless terminated earlier upon the first occurrence of one of the following events: (i) the Lessor's election to terminate this Lease pursuant to Section 24 upon the occurrence of an Event of Default, or (ii) the purchase by the Lessee of the Lessor's interest in the City Equipment and the Joint Equipment pursuant to Section 21. In the event of a termination resulting from Lessor's election to terminate this Lease pursuant to Section 24 upon the occurrence of an Event of Default, Lessee's obligation to make all Rental Payments and pay any Additional Rent shall survive the termination of this Lease, as will Lessor's right to withhold funds from Lessee's First-Half Tax Distribution or Second-Half Tax Distribution, as set forth in Section 6.

(b) The Legislative Authority of the Lessee shall, on or prior to January 1 of each Fiscal Year during the Term, enact either (i) a Temporary Appropriation or (ii) a Permanent Appropriation. If the Legislative Authority of the Lessee has adopted a Temporary Appropriation for a Fiscal Year, it shall adopt a Permanent Appropriation on or before March 31 of that Fiscal Year.

(c) As evidence of the Lessee's compliance with the above subsection (b), the Lessee shall, within 15 days of enactment, deliver to the Lessor (i) a certified copy of each Appropriation ordinance for such Fiscal Year, (ii) an excerpt of the annual operating budget supporting that Appropriation and Certification for such Fiscal Year and (iii) a statement of the Finance Director certifying that the Lessee has appropriated sufficient funds to enable the Lessee to pay all Rental Payments due during that Fiscal Year.

(d) The Lessee shall endeavor to give the Lessor 120 days' prior written notice of an Event of Non-Appropriation, but failure to provide such written notice shall not constitute an Event of Default hereunder and shall not impair its right of renewal hereunder.

(e) The Lessee intends and reasonably believes that legally available funds of an amount sufficient to make all Rental Payments during the Term can be appropriated and obtained. In that regard, the Lessee represents that the City Equipment and Joint Equipment and the Lessee's use of the City Equipment and Joint Equipment is essential to the efficient operation of and the well-being of the City. Further, the Lessee, through its Finance Director, intends to do all things lawfully within that officer's power to obtain and maintain funds from which Rental Payments may be made, including requesting provision for such payments to the extent necessary in each annual budget and in the appropriation resolution for presentation to the Legislative Authority.

(f) The obligations of the Lessee under this Lease, including its obligation to pay Rental Payments and any Additional Rent in any Lease Term for which this Lease is in effect, shall not constitute a general obligation or an indebtedness of the Lessee within the meaning of the Constitution and laws of the State.

Section 6. Rental Payments; Offset.

(a) The Lessee agrees to pay to the Lessor on or before each Rental Payment Date an amount equal to the Rental Payments payable on that Rental Payment Date, as provided in this Section and Exhibit B. Provided the Lessor is not in default of the payment of Bond Service Charges on the County Bonds, the Rental Payments due will be absolute and unconditional in all events and will not be subject to any abatement, set-off, defense, counterclaim or recoupment for any reason whatsoever. Notwithstanding any dispute between the Lessee and the Lessor or the Lessee and any contractor or any other person, the Lessee shall pay all Rental Payments required hereunder when due and shall not withhold any Rental Payments pending final resolution of such dispute, nor shall the Lessee assert any right of setoff or counterclaim against its obligation to pay Rental Payments. The Lessee's obligation to pay Rental Payments during a Lease Term shall not be abated through accident, unforeseen circumstances, damage or destruction to the City Equipment or the Joint Equipment or loss of possession of the City Equipment or the Joint Equipment.

(b) The Lessee agrees to pay to the Lessor on each Rental Payment Date the amount of Rental Payments payable on such Rental Payment Date as specified in Exhibit B. The Rental Payments shall be paid by the Lessee on each Rental Payment Date in immediately available funds to the Fiscal Officer.

(c) The Lessee agrees to pay the Lessor within 30 days after receipt of an invoice therefore, the following as Additional Rent:

(i) The Lessee shall pay amounts payable as provided in Section 13 hereof.

(ii) The Lessee shall pay taxes and other governmental charges if applicable, as provided in Section 19 hereof.

(iii) The Lessee shall pay any premium due for insurance required in Section 20 hereof.

(d) If Lessee fails to pay all or any part of any Additional Rent, the Lessor shall have the right, but not the obligation, to pay or advance the amount of such Additional Rent 30 days after notice to the Lessee of its intent to make such advance. Any such advance shall bear interest at the Interest Rate for Advances and shall be payable within 60 days after the Lessor gives notice to Lessee of payment of the advance. For all Fiscal Years subsequent to any payment or advance by the Lessor of an amount that would constitute Additional Rent of the Lessee, the Finance Director shall budget for and will seek Appropriation of funds for payment of such Additional Rent.

Section 7. Representations, Warranties and Covenants.

(a) The Lessee represents, covenants and warrants that: (i) the Lessee is a municipal corporation and political subdivision duly organized and validly existing under and by virtue of the laws of the State and its Charter; (ii) the signing, delivery and performance by the Lessee of this Lease have been duly authorized by all necessary action on the part of the Lessee; (iii) this Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms except as limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights and except to the extent that the enforceability thereof may be limited by the application of the general principles of equity; and (iv) signing of this Lease and the transactions contemplated by this Lease are and shall be in compliance with the Constitution and the applicable laws of the State and the Authorizing Legislation.

(b) The Lessee agrees and warrants that: (i) it will do or cause to be done all things necessary to preserve and keep this Lease in full force and effect during the Term; (ii) it has complied with all requirements applicable to it, and has taken all steps for approval and adoption of this Lease as a valid obligation on its part; (iii) sufficient funds are appropriated or will be appropriated to pay all amounts due under this Lease; and (iv) to the extent required by the Operative Documents, it has obtained or will obtain any and all approvals, easements, rights-of-way and use agreements necessary for its use of the City Equipment and joint use of the Joint Equipment.

(c) The Lessor represents, covenants and warrants that: (i) the Lessor is a county and political subdivision duly organized and validly existing under and by virtue of the laws of the State and its Charter; (ii) the signing, delivery and performance by the Lessor of this Lease have been duly authorized by all necessary action on the part of the Lessor; (iii) this Lease constitutes a legal, valid and binding obligation of the Lessor enforceable in accordance with its terms except as limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights and except to the extent that the enforceability thereof may be limited by the application of the general principles of equity; and (iv) signing of this Lease and the transactions contemplated by this Lease are and shall be in compliance with the Constitution and the applicable laws of the State and the Authorizing Legislation.

(d) The Lessor agrees and warrants that: (i) it will do or cause to be done all things necessary to preserve and keep this Lease in full force and effect during the Term; (ii) it has complied with all requirements applicable to it, and has taken all steps for approval and adoption of this Lease as a valid obligation on its part; and (iii) to the extent required by the Operative Documents, it has obtained or will obtain any and all approvals, easements, rights-of-way and use agreements necessary for joint use of the Joint Equipment.

Section 8. Title.

(a) The Lessor will retain title to the City Equipment and Joint Equipment during the term of this Lease; provided that for federal income tax purposes and Ohio ad valorem tax purposes and for purposes of the Ohio Uniform Commercial Code, this Lease shall be treated by

the Lessor and the Lessee as a conditional sales agreement. The Lessor and the Lessee agree that Lease or any other appropriate documents may be filed or recorded to evidence the parties' respective interests in the City Equipment and Joint Equipment and the Lease.

This Lease constitutes a security agreement as to all or any part of the City Equipment and Joint Equipment that is of a nature that a security interest therein can be granted, which grant is hereby made, and perfected under the Uniform Commercial Code as enacted in Ohio, as from time to time duly amended or supplemented. This Lease also constitutes a financing statement with respect to any and all property included in the City Equipment and Joint Equipment that is or may become fixtures.

(b) The City Equipment shall become the property of the Lessee and title to the City Equipment shall pass to the Lessee, and Lessee shall further assume 50% ownership interest of the Joint Equipment, with the Lessor owning the other 50% interest in the Joint Equipment, and this Lease shall terminate in accordance with its terms without further cost, upon the Lessee's exercise of the applicable purchase option granted in Section 21 hereof; provided that the Lessee shall be deemed to have exercised such option and title shall pass to the Lessee without any further act or notice on its part upon the payment in full of all Rental Payments by the Lessee, as they shall have come due in accordance with Exhibit B, so long as there shall be no Event of Default in existence at such time. In such case, the Lessor agrees to sign such instruments and do such things as the Lessee reasonably requests in order to effectuate transfer of any and all of the Lessor's right, title and interest in the City Equipment, as is, to the Lessee, without warranty, express or implied, by the Lessor except that the Lessor will warrant to the Lessee that the City Equipment is free and clear of any liens created by or for the benefit of the Lessor. Additionally, Lessor agrees to sign such instruments and do such things as the Lessee reasonably requests in order to effectuate transfer of any and all of the Lessor's right, title and interest in the 50% ownership interest in the Joint Equipment, as is, to the Lessee, without warranty, express or implied, by the Lessor except that the Lessor will warrant to the Lessee that the Joint Equipment is free and clear of any liens created by or for the benefit of the Lessor.

Section 9. Joint Use of Lessor's and Lessee's Real Property and Radio Tower Infrastructure. Both the Lessor and Lessee each individually own or lease certain real property and radio tower infrastructure that will be location for all or part of the Joint Equipment. The Lessor and Lessee each grant to the other the right to install, access and maintain the Joint Equipment on the real property individually owned or leased by each entity and further agree that to further the purpose of this Lease, the New Interlocal Agreement and the Cooperative Agreement that neither shall charge the other any fee, rent, or other charge for the use of the same.

Section 10. Use, Maintenance, Repair, Taxes and Other Governmental Charges.

(a) The Lessee, at its expense, shall, to the extent required in the Operative Documents: (i) comply with all laws, insurance policies and regulations applicable to and obtain all permits and licenses necessary for the use, maintenance, repair and operation of the City Equipment; and (ii) pay all costs, claims, damages, fees, and all utilities and other charges arising out of the possession, operation, maintenance and use of the City Equipment.

(b) The Lessee, at its expense, shall, to the extent required in the Operative Documents, keep or cause to be kept the City Equipment in good order and condition (ordinary wear and tear excepted), and make all necessary, proper or appropriate repairs, replacements and renewals thereof, interior, exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen.

(c) The Lessor agrees that during the Term and for a period of 45 days after any Termination Date and 30 days after any other termination of the Lease and subject to the terms and conditions of the Operative Documents, it will not impair the Lessee's abilities to operate or maintain the City Equipment in sound operating condition so that the Lessee may use the City Equipment to carry out its intended functions.

(d) The Lessee shall promptly comply with all rights of way or use, privileges, franchises, servitudes, licenses, easements, tenements, hereditaments and appurtenances forming a part of the City Equipment and all instruments creating or evidencing the same, in each case, to the extent compliance therewith is required of the Lessee under the terms of this Lease. The Lessee shall not do, or permit to be done, any act or thing that might materially impair the value of the City Equipment, shall not commit or permit any material waste of the City Equipment, and shall not permit any unlawful or unauthorized occupation, business or trade to be conducted on the City Equipment.

(e) The New Interlocal Agreement shall govern the use, maintenance, repair and costs for the same associated with the Joint Equipment.

Section 11. Additions, Modifications and Improvements.

The Lessee, at its expense, may make from time to time any additions, modifications or improvements to the City Equipment with the prior written consent of the Lessor, which consent shall not be unreasonably withheld, delayed or conditioned, and as permitted in the Operative Documents. Neither the Lessee nor the Lessor may make any additions, modifications or improvements to the Joint Equipment, except in the manner and as set forth in the New Interlocal Agreement.

Section 12. Substitutions and Removals.

(a) The Lessee may not substitute or remove any portion of the City Equipment without the Lessor's prior written consent. The Lessee's substitution or removal of City Equipment as permitted in this Section 12 shall be subject at all times to the other terms and conditions set forth in the Operative Documents. The Lessee agrees that any substituted property shall not impair the use of the New System and shall be free from all liens and encumbrances and shall become part of the City Equipment. The Joint Equipment may only be removed or substituted jointly by the Lessor and the Lessee in the manner and as set forth in the New Interlocal Agreement.

(b) No removal under this Section shall adversely affect the Lessee's obligation to make Rental Payments.

Section 13. Risk of Loss; Liability.

(a) As between the Lessor and the Lessee, to the extent permitted by law, the Lessee shall bear the risk of loss for, shall pay directly, and shall defend against any and all claims, liabilities, proceedings, actions, expenses, damages or losses arising under or related to the City Equipment or the City's use of the Joint Equipment, including, but not limited to, the possession, ownership, lease, use or operation thereof, except that the Lessee shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses, damages or losses that arise directly from events occurring after the Lessee has surrendered possession of the City Equipment to the Lessor in accordance with the terms of this Lease or that arise directly from the gross negligence or willful misconduct of the Lessor.

(b) The provisions of this Section 13 shall survive any termination of this Lease.

Section 14. Intentionally Deleted.

Section 15. Liens and Encumbrances.

(a) The Lessee shall keep the City Equipment and the Joint Equipment free and clear of all liens and encumbrances except Permitted Encumbrances. The Lessor will not create any liens or encumbrances on the City Equipment or the Joint Equipment or any portion thereof except as permitted by this Lease. The Lessor shall provide timely notice to the Lessee of any liens or encumbrances with regard to the City Equipment or the Joint Equipment or any portion thereof of which the Lessor has notice. The Lessor shall cooperate with the Lessee with regard to removal of any lien or encumbrance with regard to the City Equipment or the Joint Equipment or any portion thereof.

(b) Supplementing and not limiting subsection (a) above, the Lessee shall not permit any mechanics', environmental or other liens to be filed or exist against the City Equipment or the Joint Equipment by reason of work, labor, services or materials supplied or claimed to have been supplied to, for or in connection with the City Equipment or the Joint Equipment or to the Lessee. If any such lien shall at any time be filed, the Lessee shall, within 60 days after notice of its filing but subject to the right to contest set forth below, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. Notwithstanding the foregoing, the Lessee shall have the right, at its own expense, and after prior notice to the Lessor, by appropriate proceedings duly instituted and diligently prosecuted, to contest in good faith the validity or the amount of any such lien. In the event of such contest of a lien, within 60 days of the commencement of any such contest, the Lessee shall deliver to the Lessor an opinion of Counsel to the effect that, by nonpayment of any such items, the interest created by the Lease will not be materially affected and the City Equipment or the Joint Equipment or any part thereof will not be subject to imminent loss or forfeiture. In the event no opinion is delivered to the Lessor within 60 days of the commencement of any such contest of lien, the Lessee shall promptly cause such lien to be discharged of record.

Section 16. Risk of Loss; Damage; Destruction.

(a) As between the Lessor on the one hand, and the Lessee on the other hand, and without waiver of any of the Lessee's rights against contractors or vendors, after the delivery of any portion of the City Equipment or the Joint Equipment to the Lessee's physical custody, the Lessee assumes all risk of loss of or damage to the City Equipment or the Joint Equipment. No loss of or damage to, or appropriation by governmental authorities of, or defect in or unfitness or obsolescence of, the City Equipment or the Joint Equipment will relieve the Lessee of the obligation to make Rental Payments during the Term or to perform any other obligation under this Lease.

(b) In case of any damage to or destruction of the City Equipment or the Joint Equipment that might exceed \$100,000, the Lessee will promptly give or cause to be given written notice thereof to the Lessor generally describing the nature and extent of such damage or destruction. There shall be no abatement or diminution of Rental Payments and the Lessee shall apply the Net Proceeds of insurance or self-insurance, if any, received on account of such damage or destruction and any other money available and appropriated for the purpose, to the repair or restoration of the City Equipment or the Joint Equipment as nearly as practicable to the value, condition and character thereof existing immediately prior to such damage or destruction, with such changes or alterations, however, as the Lessee may deem necessary for proper operation of the City Equipment or the Joint Equipment.

(c) In the event of total destruction of the City Equipment or the Joint Equipment, unless the Lessee shall exercise its purchase option under Section 21, the Lessee shall apply the Net Proceeds of insurance or self-insurance and any other money available and appropriated for the purpose, to the acquisition and installation of replacement facilities to constitute the City Equipment or the Joint Equipment.

Section 17. Eminent Domain.

If title to or the temporary use of the City Equipment or the Joint Equipment shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under any governmental authority, the Lessee will promptly give written notice thereof to the Lessor describing the nature and extent of such taking. Any Net Proceeds from any eminent domain award received (i) for the City Equipment shall be used to acquire replacement property constituting part of the City Equipment, (ii) for the Joint Equipment shall be used to acquire replacement property constituting part of the Joint Equipment.

Section 18. Compliance with Legal Requirements.

(a) The Lessee, at its expense, shall promptly comply or cause compliance with all Legal Requirements, and shall procure, maintain and comply with all permits, licenses and other authorizations required for any use being made of the City Equipment then being made or anticipated to be made, and for the proper construction, installation, operations and maintenance



of the City Equipment and will comply with any instruments of record at the time in force burdening the City Equipment.

(b) The Lessor and the Lessee, at their joint expense, shall promptly comply or cause compliance with all Legal Requirements, and shall procure, maintain and comply with all permits, licenses and other authorizations required for any use being made of the Joint Equipment then being made or anticipated to be made, and for the proper construction, installation, operations and maintenance of the Joint Equipment, and will comply with any instruments of record at the time in force burdening the Joint Equipment.

(c) The Lessee may, at its expense and after prior notice to the Lessor, by any appropriate proceedings diligently pursued, contest in good faith any Legal Requirement and postpone compliance therewith pending the resolution or settlement of such contest, provided that such postponement does not, in the opinion of Counsel satisfactory to the Lessor, materially affect the interest created by the Lease or subject the City Equipment or the Joint Equipment to imminent loss or forfeiture.

(d) The Lessor may, at its expense and after prior notice to the Lessee, by any appropriate proceedings diligently pursued, contest in good faith any Legal Requirement and postpone compliance therewith pending the resolution or settlement of such contest, provided that such postponement does not, in the opinion of Counsel satisfactory to the Lessee, materially affect the interest created by the Lease or subject the Joint Equipment to imminent loss or forfeiture.

Section 19. Payment of Taxes and Other Governmental Charges.

(a) The Lessee shall pay, or shall cause to be paid, promptly when due and before penalty or interest accrues thereon, all taxes and assessments, whether general or special, and other governmental charges of any kind whatsoever, foreseen or unforeseen, ordinary or extraordinary, that now or hereafter at any time during the Term may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the City Equipment or any part thereof or interest therein (including the leasehold estate of the Lessee therein) by the Lessee, or the income therefrom or Rental Payments and other amounts payable under the Lease, including any new taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against personal property, and further including all utility charges, (including gas, water, steam, electricity, heat, power, telephone and the charges incurred in the operation, maintenance, use, occupancy and upkeep thereof) assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair the security of this Lease or encumber the Lessor's title to or leasehold interest in the City Equipment; provided that, with respect to any special assessments or other governmental charges that are lawfully levied and assessed but that may be paid in installments, the Lessee shall be obligated to pay only such installments thereof as become due and payable during the Term. Nothing in this subsection shall be construed to be an agreement on the part of the Lessee to pay any tax, assessment or other governmental charge that the Lessee is not otherwise required by law to pay. In addition, the Lessee shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit,

capital stock, corporate, or other similar tax payable by the Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any tax, assessment or charge that is the obligation of the Lessee under this Section.

(b) The Lessee and the Lessor shall jointly pay, or shall cause to be paid, promptly when due and before penalty or interest accrues thereon, all taxes and assessments, whether general or special, and other governmental charges of any kind whatsoever, foreseen or unforeseen, ordinary or extraordinary, that now or hereafter at any time during the Term may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Joint Equipment or any part thereof or interest therein, including any new taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against personal property, and further including all utility charges, (including gas, water, steam, electricity, heat, power, telephone and the charges incurred in the operation, maintenance, use, occupancy and upkeep thereof) assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair or encumber the Joint Equipment; provided that, with respect to any special assessments or other governmental charges that are lawfully levied and assessed but that may be paid in installments, the Lessee and the Lessor shall be obligated to pay only such installments thereof as become due and payable during the Term. Nothing in this subsection shall be construed to be an agreement on the part of the Lessee or the Lessor to pay any tax, assessment or other governmental charge that the Lessee and the Lessor is not otherwise required by law to pay. In addition, neither the Lessee nor the Lessor shall be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate, or other similar tax payable by the other party, its successors or assigns, unless such tax is made in lieu of or as a substitute for any tax, assessment or charge that is the obligation of such other party under this Section.

(c) Notwithstanding subsections (a) and (b), above, either the Lessee or the Lessor may, at its expense and after prior written notice to the other, by appropriate proceedings diligently prosecuted, contest in good faith the validity or amount of any such taxes, assessments and other charges, and during the period of contest need not pay the items so contested. As a condition to and prior to pursuit of such a contest, the contesting party shall deliver to the other party an opinion of Counsel to the effect that by nonpayment of any such items, the interest created by the Lease as to the City Equipment or the Joint Equipment, as the case may be, will not be materially affected or the City Equipment or the Joint Equipment, as the case may be, will not be subjected to imminent loss or forfeiture. Otherwise, the Lessee shall promptly pay such taxes, assessments or charges due on the City Equipment, and the Lessee and the Lessor promptly shall jointly pay such taxes, assessments or charges due on the Joint Equipment. During the period when any taxes, assessments or other charges so contested remain unpaid, the contesting party shall set aside on its books adequate reserves with respect to the unpaid amounts.

#### Section 20. Insurance.

(a) The Lessee shall keep the City Equipment continuously insured during the Term with Required Property Insurance Coverage in the amount of the then outstanding principal

amount of the County Bonds allocable to the City Equipment. Required Property Insurance Coverage may be obtained with any loss deductible commonly used by the Lessee. The Lessee shall during the Term keep and maintain Required Public Liability Insurance Coverage with reference to the City Equipment with coverage of a sufficient amount to meet the obligations of the Lessee. The Lessee may establish one or more self-insurance programs satisfactory to the Lessor in order to provide for the Required Property Insurance Coverage or the Required Property Insurance Coverage required by this Section 20. The Lessor hereby agrees that the City's self-insurance program with respect to liability coverage is satisfactory for the purposes of this Section.

(b) Any insurance shall be obtained and maintained by the Lessee by means of policies with nationally recognized, responsible insurance companies or in conjunction with other companies through an insurance trust or through self-insurance or other arrangements satisfactory to the Lessor. All such companies must be qualified to do business in the State. The insurance (other than self-insurance programs established by the Lessee) to be provided may be by blanket policies. Each policy of insurance shall be written so as not to be subject to cancellation or substantial modification upon less than 45 days' advance written notice to the Lessor. The Lessee shall deposit with the Lessor certificates or other evidence satisfactory to the Lessor that the insurance required by this Lease has been obtained and is in full force and effect and that all premiums on that insurance have been paid in full. Upon the expiration of any such insurance, the Lessee shall furnish the Lessor with evidence satisfactory to the Lessor that such insurance has been renewed or replaced and that all premiums on that insurance have been paid in full.

(c) All insurance policies providing the Required Property Insurance Coverage shall contain standard mortgage clauses, shall be in amounts and with deductibles generally maintained nationally for such type of property and shall name the Lessor as additional loss payees. All settlements resulting from any claim for loss or damage shall be adjusted with the Lessee and made payable to the Lessee subject to the provisions hereof. Any proceeds of policies providing Required Public Liability Insurance Coverage shall be applied toward the extinguishment or satisfaction of the liability with respect to which such insurance proceeds have been paid and any excess shall be retained by the Lessee.

(d) The Lessor shall keep the Joint Equipment continuously insured during the Term with Required Property Insurance Coverage and Required Public Liability Insurance Coverage in the amounts and in the manner as determined by the Lessor. Notwithstanding the foregoing, nothing in this Section shall preclude the Lessor from establishing a self-insurance program or programs reasonably satisfactory to the Lessee to provide for any of the coverages required in this subsection (d).

#### Section 21. Purchase Option.

(a) If there is not then existing an Event of Default, or a default that with notice or lapse of time or both could become an Event of Default, which would not be cured or remedied by the payments provided for in this Lease, the Lessee, upon 90 days prior written notice to the Lessor, will have the right to purchase any and all of the Lessor's rights and interest in the City Equipment as well as 50% ownership interest in the Joint Equipment by paying to the Lessor the

Purchase Price. Lessee shall have no right to exercise this purchase option prior to the issuance of the County Bonds.

(b) After providing such notice, the Lessee shall pay to the Lessor the amount specified in (a) above at least 30 days prior to the Purchase Date specified in such notice.

(c) Notwithstanding the foregoing, the City shall be deemed to have exercised its purchase option with respect to the City Equipment and its interest in the Joint Equipment, without any necessity of written notice or further action on its part, upon the payment in full of all Rental Payments, by the City, as they shall have come due in accordance with Exhibit B, so long as there shall be no Event of Default in existence at such time.

#### Section 22. Assignments.

(a) The Lessee may not, without the Lessor's prior written consent: (i) assign, transfer, pledge, hypothecate or grant any security interest in or otherwise dispose of this Lease, or the City Equipment or the Joint Equipment (without replacement or substitution as provided for herein), or any interest in this Lease or the City Equipment or the Joint Equipment, (ii) sublease the City Equipment or permit it to be operated by anyone other than the Lessee, the Lessee's employees or persons authorized by the Lessee in connection with the Lessee's operation and maintenance of the City Equipment in accordance with this Lease and the other Operative Documents, or (iii) sublease its interest in the Joint Equipment or permit it to be operated by anyone other than the Lessee and Lessor, the Lessee's and Lessor's employees or persons authorized by the Lessee and Lessor in connection with the Lessee's and Lessor's joint operation and maintenance of the Joint Equipment in accordance with this Lease and the other Operative Documents.

(b) The Lessor may not, without the Lessee's prior written consent, assign its rights, title and interest in and to this Lease, the City Equipment or the Joint Equipment and any documents signed with respect to this Lease, and/or grant or assign a security interest in this Lease and its rights to the City Equipment or the Joint Equipment, in whole or in part. In the event the Lessee consents to an assignment by the Lessor, those assigned rights, title and interest of the Lessor may not be further assigned and the assignees may not grant or assign a security interest in this Lease and the City Equipment or the Joint Equipment, in whole or in part without the Lessee's prior written consent.

(c) Subject to the preceding subsections, this Lease inures to the benefit of and is binding upon the successors or assigns of the parties to this Lease.

#### Section 23. Events of Default.

(a) The occurrence of any one or more of the following events constitutes an "Event of Default" under this Lease:

(i) The Lessee's failure to pay any Rental Payment as it becomes due in accordance with the terms of this Lease, which failure continues for a period of three business days; or

(ii) The Lessee's failure to timely enact an Appropriation ordinance as set forth in Subsection 5(b) of this Lease.

(iii) The Lessee's or the Lessor's failure to perform or observe any other covenant, condition or agreement to be performed or observed by it under the Operative Documents or this Lease, other than as referred to in clause (a)(i) or (ii) of this Section, if the failure is not cured or, in the case a failure other than failure to make a required payment, steps satisfactory to the non-defaulting party are not commenced to cure the failure within 30 days after written notice of the failure to the defaulting party by the non-defaulting party and those steps are diligently pursued, unless the non-defaulting party shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice is not a failure to make a required payment and cannot be corrected within the applicable period, the non-defaulting party shall be deemed to consent to an extension of such time if corrective action is instituted by the defaulting party within the applicable period and diligently pursued until the default is corrected.

(b) Notwithstanding the foregoing, if, by reason of any Force Majeure event, the Lessee is unable to perform or observe any agreement, term or condition of this Lease, other than any obligation to make payments required under this Lease, the Lessee shall not be deemed in default during the continuance of such inability. However, the Lessee shall promptly give notice to the Lessor of the existence of any event of Force Majeure and shall use its best efforts to remove the effects thereof; provided that the settlement of strikes or other labor disturbances shall be entirely within the Lessee's discretion.

#### Section 24. Remedies.

(a) Upon the occurrence of an Event of Default, and as long as the Event of Default is continuing, and provided the Lessor is not in default of the payment of Bond Service Charges on the County Bonds, the Lessor may, at its option, exercise any one or more of the following remedies:

(i) If the occurrence is an Event of Default pursuant to either Subsections 23(a)(i) or (ii) of this Lease, the Lessee hereby agrees the Lessor and the Fiscal Officer shall be authorized to take the following actions, in addition to any other remedies afforded the Lessor pursuant to Section 24:

(a) if the Lessee fails to make a Rental Payment in full on or before a Rental Payment Date, regardless of the reason, then the Lessor may direct the Fiscal Officer to withhold, from the Lessee's First-Half Tax Distribution occurring on the next succeeding First-Half Tax Distribution Date, an amount equal to the then unpaid portion of such Rental Payment plus interest accrued to the First-Half Tax Distribution Date on such unpaid portion at the Interest Rate for Advances, and to pay such amount to the County; and

(b) In the event that the funds distributed from the Lessee's First-Half Tax Distribution in any given year are insufficient to reimburse the Lessor for any unpaid Rental Payments, the Lessor may direct the Fiscal Officer to withhold from the Lessee's Second-Half Distribution occurring on the next succeeding Second-Half Tax Distribution Date an amount equal to the unpaid portion of such Rental Payments, plus accrued interest as set forth above. Thereafter, the right to withhold funds from either the Lessee's First-Half Tax Distribution or Second-Half Tax Distribution shall be ongoing in subsequent years until all Rental Payments are paid in full.

In the event the Lessee pays in full any previously unpaid Rental Payments prior to the Lessee's First-Half Tax Distribution or Second-Half Tax Distribution, such payment shall satisfy the Lessee's obligation to pay said unpaid Rental Payment and the Fiscal Officer shall not proceed to withhold funds pursuant to this Section.

Provided the Lessor is not in default of the payment of Bond Service Charges on the County Bonds, the Lessee hereby covenants and agrees that it shall not contest the validity of the right of the Lessor or the Fiscal Officer to withhold delinquent Rental Payments from the Lessee's First Half Tax Distribution and its Second Half Tax Distribution as provided above in this Section 4.2, and the Lessee hereby forever irrevocably waives any right it may have to make such contest. The Lessee further hereby irrevocably waives any right to compel the distribution of any portion of the Lessee's First-Half Tax Distribution or its Second-Half Tax Distribution that is withheld by the Lessor or the Fiscal Officer pursuant to this Section 4.2 in any manner inconsistent or contrary to such Section, whether by filing an action for a writ of mandamus, writ of procedendo, request for declaratory judgment, or any action or means whatsoever.

(ii) Additionally, the obligation of the Lessee to appropriate funds in order to make Rental Payments and the obligation to make Rental Payments under the Lease Agreement are continuing obligations pursuant to Ohio Revised Code Section 5705.44. All of the obligations of the Lessee under this Agreement and the Lease Agreement are hereby established as duties specifically enjoined by law and resulting from an office, trust, or station upon the Lessee within the meaning of Section 2731.01 of the Ohio Revised Code and shall be enforceable by mandamus. In the event of an occurrence of an Event of Default pursuant to Subsection 23(a)(ii) of this Lease, the Lessor shall have the right to constitute an appropriate mandamus action to compel appropriation and payment of Rental Payments.

(iii) For any Event of Default by the Lessee, Lessor, may, at its option, exercise any one or more of the following remedies:

- a) upon 60 days prior written notice to the Lessee, terminate this Lease and direct the Lessee to (and the Lessee agrees that it will), at the Lessee's expense, promptly return possession of the City Equipment and Joint Equipment to the Lessor, or, at the Lessor's option, take any actions necessary to take immediate possession of the City Equipment and Joint Equipment; and

b) exercise any other right, remedy or privilege that may be available to it under the applicable laws of the State or any other applicable law or proceed by appropriate court action to enforce the terms of this Lease or to recover damages for the breach of this Lease or to rescind this Lease as to the City Equipment and Joint Equipment.

(iv) For any Event of Default by the Lessor that does not include a failure to pay Bond Services Charges on the County Bonds, the Lessee may, at its option, exercise any right, remedy or privilege that may be available to it under the applicable laws of the State or any other applicable law or proceed by appropriate court action to enforce the terms of this Lease or to recover damages for the breach of this Lease. The Lessee acknowledges that if the Event of Default does not include the failure to pay Bond Service Charges on the County Bonds, the Lessee will continue to make the Rental Payments required under this Lease which it pursues any remedy.

(b) The defaulting party shall remain liable for all covenants and obligations under this Lease, and, to the extent permitted by law, for all legal fees and other costs and expenses, including court costs awarded by a court of competent jurisdiction, incurred by the non-defaulting party with respect to the enforcement of any of the remedies under this Lease, when a court of competent jurisdiction has finally adjudicated that an Event of Default has occurred.

(c) No remedy conferred or reserved to the non-defaulting party by this Lease 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 Lease 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 or be construed to be a waiver of any such right or power, 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 non-defaulting party to exercise any remedy reserved to it in this Lease, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made in this Lease.

(d) If an Event of Default occurs and the non-defaulting party incurs expenses, including attorneys' fees, in connection with the enforcement of or the collection of amounts due under this Lease, the defaulting party shall reimburse the non-defaulting party, for the expenses so incurred upon demand, after the enforcement action ends, to the extent permitted by law.

(e) No failure by the non-defaulting party to insist upon strict performance by the defaulting party of any provision of this Lease shall constitute a waiver of the non-defaulting party's 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 defaulting party to observe or comply with any provision of this Lease.

(f) The defaulting party shall notify the non-defaulting party immediately if it becomes aware of the occurrence of any Event of Default or of any fact, condition or event that, with the giving of notice or passage of time or both, would become an Event of Default.

(g) The Lessor agrees that the Lessor does not have the right upon the occurrence of an Event of Default to accelerate the Lessee's obligation to make Rental Payments under this Lease.

Section 25. Notices.

All notices to be given under this Lease shall be made in writing and mailed in registered form by first class mail, postage prepaid, to the party at its address stated below or at such other address as the party may provide in writing from time to time, and shall be deemed given when delivered or deposited in the U.S. mail.

(a) as to the Lessee: City of Akron, Ohio  
Municipal Building, Suite 200  
166 South High Street  
Akron, Ohio 44308  
Attn: Mayor

with a copy to: Director of Law  
City of Akron, Ohio  
202 Ocasek Government building  
161 South High Street  
Akron, Ohio 44308

(b) as to the Lessor: County of Summit  
Ohio Building, 8th Floor  
175 South Main Street  
Akron, Ohio 44308  
Attn: County Executive

with a copy to: Director, Department of Law, Insurance and Risk  
Management  
Ohio Building, 8th Floor  
175 South Main Street  
Akron, Ohio 44308

Section 26. Notice of Litigation.

The Lessee and Lessor shall each give the other party prompt notice of any action, suit or proceeding by it or against it at law or in equity, or before any governmental instrumentality or agency, or of any of the same that may be substantially threatened, which, if adversely determined, would materially impair the ability of the Lessee or the Lessor to carry out its obligations under this Lease.

Section 27. Headings.

All section headings contained in this Lease are for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.



Section 28. Governing Law; Binding Effect.

This Lease shall be construed in accordance with and governed by the laws of the State of Ohio. This Lease shall inure to the benefit of and shall be binding upon the Lessor and the Lessee and their respective successors and assigns.

Section 29. Delivery of Related Documents.

The Lessee will sign or provide, as requested by the Lessor, such other documents and information as are reasonably necessary with respect to the transactions contemplated by this Lease; provided, however, that the Lessee shall not be obligated to sign any document that it deems inconsistent with the character of this Lease as a lease.

Section 30. Entire Agreement; Amendment; Severability; Further Assurances and Corrective Instruments.

(a) This Lease, together with the other Operative Documents, constitute the entire agreement between the parties with respect to the lease of the City Equipment and supersedes any prior or contemporaneous writings.

(b) This Lease may not be modified, amended, altered or changed except with the written consent of the Lessee and the Lessor.

(c) If any provision of, or any covenant, obligation or agreement contained in, this Lease 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 in this Lease. That invalidity or unenforceability shall not affect any valid or 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.

(d) The Lessor and the Lessee agree that they will, from time to time, sign, acknowledge and deliver, or cause to be signed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the City Equipment hereby leased or intended so to be, or for otherwise carrying out the expressed intention of this Lease.

Section 31. Tax Covenants. The Lessee represents and covenants that it will not use the City Equipment or the Joint Equipment, or permit the City Equipment or the Joint Equipment to be used, in such a manner as would result in the loss of the exclusion from gross income for federal income tax purposes afforded under the Code to the County Bonds.

Section 32. Counterparts.

The Lease may be signed 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.

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IN WITNESS WHEREOF, the parties have signed this Lease-Purchase Agreement by their authorized officers on the dates of the respective acknowledgements but as of the date hereof.

**COUNTY OF SUMMIT, OHIO,**  
as Lessor

By: \_\_\_\_\_  
Russell M. Pry, Executive

Approved as to form and correctness:

By: \_\_\_\_\_  
Deborah Matz  
Director, Department of Law, Insurance  
And Risk Management  
County of Summit, Ohio

**CITY OF AKRON, OHIO,**  
as Lessee

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor

Approved as to form and correctness:

By: \_\_\_\_\_  
Patricia Ambrose Rubright  
Director of Law  
City of Akron, Ohio

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF SUMMIT            )

On this \_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, before me, a Notary Public in and for said County and State, personally appeared Russell M. Pry, Executive of the County of Summit, Ohio, and acknowledged the signing of the foregoing instrument and that the signing is his voluntary act and deed on behalf of the County and the voluntary and act and deed of the County.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

\_\_\_\_\_  
Notary Public

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF SUMMIT            )

On this \_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, Mayor of the City, and acknowledged the signing of the foregoing instrument and that the signing is his voluntary act and deed on behalf of the City and the voluntary and act and deed of the City.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

\_\_\_\_\_  
Notary Public

This instrument was prepared by:  
George R. Sarkis, Esq.  
Roetzel & Andress LPA  
222 South Main Street  
Akron, Ohio 44308

**COUNTY'S FISCAL OFFICER CERTIFICATE**

The undersigned, Director of Finance of the County of Summit, Ohio, certifies that the money required to meet the obligations of the Lessor during Fiscal Year 201\_\_ under the attached contract have been lawfully appropriated by the Lessor for such purposes and are in the treasury 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 Section 5705.41 of the Revised Code.

Dated: \_\_\_\_\_, 201\_\_

\_\_\_\_\_  
Fiscal Officer  
County of Summit, Ohio

**CITY'S FISCAL OFFICER CERTIFICATE**

The undersigned, Director of Finance of the City of Akron, Ohio, certifies that the money required to meet the obligations of the Lessee during Fiscal Year 201\_\_ under the attached contract have been lawfully appropriated by the Lessee for such purposes and are in the treasury 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 Section 5705.41 of the Revised Code.

Dated: \_\_\_\_\_, 201\_\_

\_\_\_\_\_  
Director of Finance  
City of Akron, Ohio

**EXHIBIT A-1**  
**CITY EQUIPMENT SITE**

**EXHIBIT A-2**

**NEW SYSTEM**

The New System includes the following:

**EXHIBIT A-3**

**CITY EQUIPMENT**

The City Equipment consists of the following equipment located on the City Equipment Site:



**EXHIBIT A-4**

**JOINT EQUIPMENT**

The Joint Equipment consists of the following equipment:

## **EXHIBIT B**

### **RENTAL PAYMENTS SCHEDULE**

Lessor intends to issue the County Bonds to finance the Provision of the New System. For all Rental Payment Dates prior to the issuance of the County Bonds, the Rental Payment due from the Lessee to the Lessor shall be \$0.00. Upon the issuance of the County Bonds, the Rental Payment shall be equal to (i) the Bond Service Charges allocable to the principal portion of the County Bonds issued to pay the costs of the City Equipment and (ii) one-half of the Bond Service Charges allocable to the principal portion of the County Bonds issued to pay the costs of the Joint Equipment, as amended or supplemented from time to time. Within thirty (30) days of Lessor's issuance of the County Bonds, Lessor shall provide Lessee with an Amended Exhibit B, which shall set forth the schedule of Rental Payments for the period of time that the County Bonds are outstanding. In the event the Lessor were to re-issue the County Bonds, which the Lessor may do in its sole discretion, Lessor shall provide Lessee a further Amended Exhibit B within thirty (30) days of the reissuance, which shall set forth the schedule of Rental Payments for the period of time that the reissued County Bonds are outstanding. Failure of the Lessor to timely provide the notifications set forth herein shall not constitute a waiver of Lessee's obligation to pay Rental Payments.