

SCHOOLS PROJECT CONTRIBUTION
AND
RESTRICTED FUND AGREEMENT

(JCM/Madison Academic Schools Project)

This SCHOOLS PROJECT CONTRIBUTION AND RESTRICTED FUND AGREEMENT (the “Agreement”) is made as of the ____ day of _____, 2020, by and among, **JACKSON COMMUNITY REDEVELOPMENT AGENCY**, a public instrumentality created by the City of Jackson pursuant to the Community Redevelopment Act of 1998 (“CRA”); **THE COUNTY OF MADISON**, a political subdivision of the State of Tennessee (“County”); **THE CITY OF JACKSON**, a municipal corporation organized under the laws of the State of Tennessee (“City” and together with the CRA and County, collectively the “Parties” and each, a “Party”), with reference to the following:

WITNESSETH:

WHEREAS, the Parties have entered into that certain “CRA TIF Fund Contribution Agreement” of even date herewith (the “TIF Agreement”) a copy of which is attached hereto as **Exhibit A** and incorporated herein by reference;

WHEREAS, the Jackson-Madison County General Hospital District (the “District”) has committed to make certain annual contributions to the City and County toward the Project (as defined in the TIF Agreement) pursuant to that certain “Letter of Commitment to Support Construction of Jackson Central Merry School and Madison Academic School” dated January 28, 2020 and attached hereto as **Exhibit B** and incorporated herein by reference (the “District Commitment Letter”);

WHEREAS, pursuant to the District Commitment Letter, the District has made a seven (7) year commitment to the City for an annual contribution of One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) less any credits allowed to the District as described in the District Commitment Letter (the “District/City Contribution”);

WHEREAS, pursuant to the District Commitment Letter, the District has made a seven (7) year commitment to the County for an annual contribution of One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) less any credits allowed to the District as described in the District Commitment Letter (the “District/County Contribution”);

WHEREAS, the City and County desire to contribute any funds received by them pursuant to the District Commitment Letter to the CRA to be used and applied toward the Project in accordance with this Agreement;

WHEREAS, the Parties desire to enter into this Agreement for the purposes of setting forth terms and conditions for the contribution, holding, release, and use of any funds received by the City and/or County arising out of or in connection with the District Commitment Letter;

WHEREAS, the governing board of the CRA approved this Agreement and the CRA's execution and delivery thereof pursuant to the action taken at such board's meeting held on _____, 2020;

WHEREAS, the governing body of the County approved this Agreement and the County's execution and delivery thereof pursuant to the action taken at such body's meeting held on _____, 2020; and

WHEREAS, the governing body of the City approved this Agreement and the City's execution and delivery thereof pursuant to the action taken at such body's City Council meeting held _____, 2020.

NOW, THEREFORE, in consideration of the mutual covenants, agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. District/City Contributions. Within ten (10) business days after receipt of a District/City Contribution from the District, if any, City shall pay the District/City Contribution to the CRA. The CRA will deposit the District/City Contributions into a separate account (the "City Project Account"; this being a separate and distinct account than as created under the TIF Agreement), insured by the FDIC, with the sums held therein to bear interest at the highest rate of interest available for accounts subject to immediate availability of funds. The interest earned on the City Project Account shall accrue to the benefit of the City to be used pursuant to the terms and conditions of this Agreement. CRA may change the type of investment in which the District/City Contributions are placed only with the written permission of the City. The City may add additional funds to the City Project Account from time to time to be held subject to the terms and restrictions of this Agreement

2. District/County Contributions. Within ten (10) business days after receipt of a District/County Contribution from the District, if any, County shall pay the District/County Contribution to the CRA. The CRA will deposit the District/County Contributions into a separate account (the "County Project Account"; this being a separate and distinct account than as created under the TIF Agreement), insured by the FDIC, with the sums held therein to bear interest at the highest rate of interest available for accounts subject to immediate availability of funds. The interest earned on the County Project Account shall accrue to the benefit of the County to be used pursuant to the terms and conditions of this Agreement. CRA may change the type of investment in which the District/County Contributions are placed only with the written permission of the County. The County may add additional funds to the County Project Account from time to time to be held subject to the terms and restrictions of this Agreement

3. Release of Project Account Funds.

A. Subject to Paragraph 4 of this Agreement, the CRA will release to County, or a third party designated by the County in writing, all or any portion of the funds in the County Project Account upon receipt of written instructions from the County's Designated Representative.

B. Subject to Paragraph 4 of this Agreement, the CRA will release to City, or a third party designated by the City in writing, all or any portion of the funds in the City Project Account upon receipt of written instructions from the City's Designated Representative.

4. Restrictions on Use of Project Account Funds. City and County acknowledge and agree that the funds held in the respective Project Accounts pursuant to this Agreement shall only be used or applied to directly offset the respective financial obligations of the City and County pursuant to the Subleases (as defined in the TIF Agreement), including, but not limited to, payment of basic rent and/or funding any purchase option; *provided, however*, that Project Account funds shall not be used or applied to directly or indirectly offset any obligations of the City or County related to or in connection with property maintenance and repair, additional improvements and/or modifications after construction of the Project is complete, insurance, or any other use or application not directly related to the financing or refinancing of the Project.

5. Designated Representative of Each Party; Notices. Throughout the effectiveness of this Agreement:

A. Victoria S. Lake, Chairperson of the CRA, at _____, will serve as the designated representative and point-of-contract for Project Owner;

B. _____, at _____, will serve as the designated representative and point-of-contact for the County; and

C. _____, at _____, will serve as the designated representative and point-of-contact for the City;

D. The Parties agree that a copy of every notice, request or other statement made or delivered to a Party pursuant to this Agreement shall also be sent to the Jackson-Madison County School System, ATTN: Superintendent, at _____.

Each Party may replace, or appoint additional, designated representative(s) from time-to-time upon written notice to the other Parties; provided, however, any such replacement or additional representatives shall be mutually agreeable to the other Parties. Every notice, request or other statement to be made or delivered to a Party pursuant to this Agreement shall be directed to such Party at the physical address, e-mail address or facsimile number given immediately below such Party's signature on this Agreement or to such other address or facsimile number as the Party may designate in writing from time to time. Except as provided otherwise in this Agreement, any notice, request, statement, payment or other communication (including, without limitation, via e-mail or facsimile where transmission confirmation is received) shall be deemed to have been given on the date on which it is received by the recipient.

6. Miscellaneous.

A. Controlling Law; Dispute Resolution.

(i) This Agreement is made in Tennessee and shall be governed by and construed in accordance with the laws of the State of Tennessee and be subject to sole and exclusive jurisdiction of the State Courts in the County, the jurisdiction of which the Parties hereby consent to and waive all questions of jurisdiction and venue in that Court.

(ii) The Parties agree that any dispute between the Parties arising from or in any way related to this Agreement will first attempt to be resolved through non-binding mediation with a mediator that is mutually agreeable to the Parties, and the Parties shall share the costs of the dispute resolution process equally, although the attorneys and witnesses or specialists utilized by the respective Parties shall be the direct responsibility of each Party engaging such attorneys, witnesses or specialists, and their fees and expenses shall be the responsibility of the respective Parties. The Parties agree that only in the event that the non-binding mediation is unsuccessful in resolving any such dispute can any Party then institute suit and then only consistent with the foregoing Subsection (i).

B. Entire Agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and may be amended, modified and/or supplemented only in a writing executed by each Party.

C. Due Authorization; Binding Agreement. Each Party represents and warrants (as to itself only) that the signatory signing on behalf of such Party is duly authorized by such Party to execute and deliver this Agreement on behalf of such Party, and by its signature does bind such Party to the terms of this Agreement.

D. No Partnership or Joint Venture. The Parties agree that nothing herein shall serve to create any agency, employment or other master and servant relationship or partnership or joint venture relationship or fiduciary relationship among the Parties.

E. Waiver of Consequential Damages. Notwithstanding anything to the contrary set forth in this Agreement, no Party (nor any of its officers, directors, employees or representatives, nor any affiliates thereof) shall be liable to the other party for any special, indirect or consequential losses or damages, for lost revenues or lost profits, or for any other special incidental, punitive, exemplary or similar damages, in each case arising out of, relating to or resulting from an actual or alleged default or breach of this Agreement, the transactions contemplated under this Agreement, or the relationship of the Parties, in each case even if the other Party has been advised of the possibility of such damages, and each Party hereby expressly releases the other Party (and its officers, directors, employees and representatives, and any affiliates thereof) therefrom.

F. Assignment. No Party shall assign this Agreement or any of their respective rights granted hereunder without the prior written consent of the other Parties in each instance.

G. Captions. The captions contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained herein.

H. Counterparts. This Agreement may be executed in one or more counterparts and by the different Parties hereto under separate counterparts, any one of which need not contain the signatures of more than one Party, but all of which when taken together shall constitute one and the same instrument notwithstanding that all Parties have not signed the same counterpart hereof.

I. Performance. TIME IS OF THE ESSENCE OF THIS AGREEMENT AND OF EACH PROVISION HEREOF.

J. Amendments. This Agreement is not subject to modification or amendment except by a writing of the same formality as this Agreement and executed by the signatories hereto.

K. Severability. Nothing contained herein shall be construed as to require the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present or future statute law, ordinance, or regulation contrary to which the parties have no legal right to contract, the latter shall prevail, but the provisions of this Agreement affected shall be limited only to the extent necessary to bring it within the requirements of such law.

[Counterpart Signatures on Following Page]

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IN WITNESS WHEREOF, the CRA, District, City, and County have caused this Agreement to be signed in their names by their duly authorized representatives and delivered as their act and deed, intending to be legally bound by its terms and provisions.

JACKSON COMMUNITY REDEVELOPMENT AGENCY

By: _____

Name: _____

Title: Chairperson

THE COUNTY OF MADISON, TENNESSEE

By: _____

Name: _____

Title: Mayor

THE CITY OF JACKSON, TENNESSEE

By: _____

Name: _____

Title: Mayor

EXHIBIT A

to

**SCHOOLS PROJECT CONTRIBUTION
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(JCM/Madison Academic Schools Project)

“CRA TIFF FUND CONTRIBUTION AGREEMENT”

EXHIBIT B

to

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“Letter of Commitment to Support Construction of Jackson Central Merry School and Madison Academic School” dated January 28, 2020