

PBS LEASE

5/29/97

(Image 2412-2500)

**PBS LEASE**

**5/29/97**

(Image 2412-2500)

On motion of Mr. Neyer, the following resolution was adopted...

**RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A LEASE AGREEMENT BETWEEN HAMILTON COUNTY AND THE CINCINNATI BENGALS, INC.**

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VOL. 266  
MAY 29 1997  
IMAGE 2412

BY THE BOARD:

*Twi*

WHEREAS, on March 19, 1996, the voters approved a one-half cent sales tax increase to fund the construction of two sports facilities and a property tax rollback; and

WHEREAS, a Memorandum of Understanding between Hamilton County ( County) and the Cincinnati Bengals, Inc. (Bengals) outlining the construction, development, use and operation of a new football stadium was signed on September 11, 1996; and

WHEREAS, the Memorandum of Understanding was being used as the basis for negotiating a Lease Agreement with the Cincinnati Bengals; and

WHEREAS, the County and the Cincinnati Bengals have mutually agreed to a lease agreement through ongoing negotiations.

NOW, THEREFORE, BE IT RESOLVED, that the County Administrator is hereby authorized and directed to execute the Lease Agreement with the Bengals on behalf of the Board of County Commissioners, Hamilton County, Ohio. The agreement is attached hereto and made a part hereof.

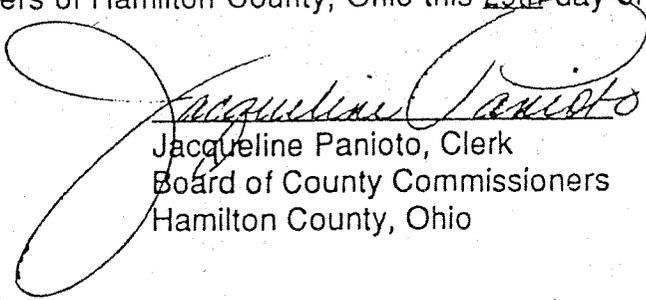
ADOPTED at a regularly adjourned meeting of the Board of County Commissioners of Hamilton County, Ohio, this 29th day of May, 1997.

Mr. Bedinghaus AYE      Mr. Dowlin AYE      Mr. Neyer AYE

**CERTIFICATE OF CLERK**

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a Resolution adopted by this Board of County Commissioners in session the 29th day of May, 1997.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Office of County Commissioners of Hamilton County, Ohio this 29th day of May, 1997.

  
Jacqueline Panioto, Clerk  
Board of County Commissioners  
Hamilton County, Ohio

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**LEASE AGREEMENT**

**By and Between**

**THE BOARD OF COMMISSIONERS OF HAMILTON COUNTY, OHIO**

**and**

**CINCINNATI BENGALS, INC.**

**Dated as of May 29, 1997**



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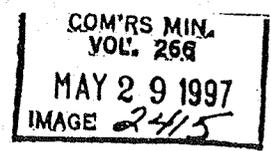
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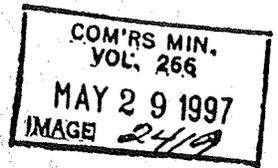
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**List of Exhibits**

- Exhibit A - Location Map of Stadium Site
- Exhibit A-1 - Location Map of Practice Area
- Exhibit B - Architectural Program
- Exhibit C - Stadium Amount
- Exhibit D - Legal Description
- Exhibit E - Phase-In of Stadium Parking Facility



## LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is made as of this 29th day of May, 1997, by and between **THE BOARD OF COMMISSIONERS OF HAMILTON COUNTY, OHIO**, a political subdivision of the State of Ohio (hereinafter referred to as "County"), and **CINCINNATI BENGALS, INC.**, an Ohio corporation (hereinafter referred to as "Team").

### Recitals

- A. By public vote on March 19, 1996, the citizens of Hamilton County passed a one-half percent increase in the Hamilton County general sales tax to keep competitive and viable major league football and baseball teams in Cincinnati, Ohio by, among other things, the construction of a new football stadium in Hamilton County.
- B. Team is the holder of the franchise for Cincinnati, Ohio issued by the NFL (as hereinafter defined) and is the owner of the "Cincinnati Bengals" professional football team. Team currently leases (on a non-exclusive basis) the stadium facility known as "Cinergy Field" (formerly Riverfront Stadium) in Cincinnati, Ohio where the "Cincinnati Bengals" play their regular season home games.
- C. County has agreed to construct a football stadium and related facilities designed in all aspects specifically for the playing and public exhibition of professional NFL games at the stadium and otherwise to develop the stadium in accordance with the terms of the Memorandum of Understanding for the Hamilton County Football Stadium, dated September 11, 1996 ("Memorandum") and this Lease. When built, the football stadium and related facilities shall constitute a "Sports Facility" as defined in Section 307.697 of the Ohio Revised Code ("ORC").
- D. Team and County have selected a site (which is or will be owned by County) on which the football stadium, related plaza area and Team practice fields will be constructed, which site is located substantially as shown on Exhibit A attached hereto and incorporated herein.
- E. County has also agreed to design, construct and develop parking facilities readily accessible to the football stadium and other infrastructure improvements necessary or appropriate for the use of the football stadium and the parking facilities.
- F. Team, County and the State of Ohio have agreed to be responsible for the contribution of certain funds to pay the costs required to design, construct and develop the football stadium and related facilities, parking facilities and infrastructure improvements on the terms set forth herein.
- G. County desires to lease to Team, and Team desires to lease from County, the Stadium Complex, as hereinafter defined, upon the terms and conditions set forth in this Lease. In addition, County desires to grant Team certain rights

relating to the Parking Facilities and the Infrastructure Improvements, as such terms are hereinafter defined.

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein, the parties agree as follows:

**ARTICLE 1**

**DEFINITIONS**

1.1 **Definitions.** Certain terms are defined in the text of this Lease. As used in this Lease and unless otherwise expressly indicated, the words defined immediately below shall have the below-stated meanings, unless the context clearly requires otherwise. Words imparting the singular number include the plural and vice versa and the male gender shall include the female gender and vice versa, unless the context clearly requires otherwise.

"**ADA**" shall have the meaning set forth in Section 32.13 of this Lease.

"**Administrative Offices**" shall mean the area of the Stadium in which Team's administrative offices are located.

"**Architectural Program**" shall mean that certain program of detailed descriptions and requirements desired by the parties to be incorporated into the design of the Project, which program is incorporated herein as **Exhibit B** to this Lease, together with such modifications thereto as may be later approved by both County and Team.

"**Authorized Construction Representative**" shall have the meaning set forth in Section 4.4 of this Lease.

"**Base Rent**" shall have the meaning set forth in Section 6.1 of this Lease.

"**Bid Target**" shall have the meaning set forth in Section 4.6.1 of this Lease.

"**Broadcast Rights**" shall have the meaning set forth in Section 9.6 of this Lease.

"**Capital Repairs**" or "**Capital Repair**" shall have the meaning set forth in Section 13.3 of this Lease.

"**Changes**" shall have the meaning set forth in Section 4.9 of this Lease.

"**Cinergy Field**" shall mean the sports stadium facility currently known as Cinergy Field (and formerly known as Riverfront Stadium) located in Cincinnati, Ohio.

"**Cinergy Field Parking Facilities**" shall mean the parking structure currently located at the site of Cinergy Field and any and all surface parking lots located

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between Broadway on the east, the Roebling Suspension Bridge (as extended to the north) on the west, Mehring Way on the south and Pete Rose Way to the north, together with any and all future parking structures and parking lots and related parking facilities that may be constructed to replace the foregoing (including, without limitation, any such facilities which may be located in the vacated Fort Washington right of way).

"City" shall mean the City of Cincinnati, Ohio.

"Claims" shall have the meaning set forth in Section 32.14 of this Lease.

"Club Level" shall mean the level of the Stadium indicated as level four (4) on the Schematic Design Documents.

"Club Lounge" shall mean the private dining, conference and/or lounge areas to be located on the Club Level, as described in the Architectural Program.

"Club Seats" shall mean those seats located on the Club Level which shall entitle the ticketholder thereof (who has purchased a club seat license) to certain privileges not available to general admission ticketholders, such as having access to the Club Lounge.

"COA" shall mean a charter ownership agreement entitling the holder thereof to purchase season tickets for NFL Team games played at the Stadium.

"Commencement Date" shall have the meaning set forth in Section 5.1 of this Lease.

"Completion Date" shall mean the date of Substantial Completion of the Project.

"Completion Target Date" shall have the meaning set forth in Section 4.1 of this Lease, as such Completion Target Date may be extended pursuant to the provisions of Section 4.8 of this Lease.

"Component" shall mean any item that is incorporated into the Stadium Complex, including, without limitation, all structural members, seats, fasteners (such as nails, nuts, bolts and screens), parts, pieces, concrete, electronic parts, steel bars, plumbing pipes and equipment, heating, cooling and ventilating systems, scoreboards, and other equipment and any other item, no matter how small or inconsequential.

"Construction Design Committee" shall have the meaning set forth in Section 4.4 of this Lease.

"Construction Documents" shall have the meaning set forth in Section 4.3.3 of this Lease.

"Construction Force Majeure" shall have the meaning set forth in Section 5.4 of this Lease.

"Construction Manager" shall have the meaning set forth in Section 4.2 of this Lease.

"County" shall have the meaning set forth in the initial paragraph of this Lease.

"County Default" shall have the meaning set forth in Section 23.1 of this Lease.

"County Entity" shall have the meaning set forth in Section 32.16 of this Lease.

"County Private Suite" shall have the meaning set forth in Section 8.10 of this Lease.

"County Use Days" shall have the meaning set forth in Section 8.3 of this Lease.

"Default" shall mean any Team Default or any County Default.

"Design Development Documents" shall have the meaning set forth in Section 4.3.2 of this Lease.

"Enhancements" shall have the meaning set forth in Section 12.2 of this Lease.

"Exclusive Leased Premises" shall mean the following areas within the Stadium Complex: the Administrative Offices; the Practice Area; Team's Private Suite; Team's novelty store; the merchandise commissary located on the service level of the Stadium as set forth in the Architectural Program; the areas of the Stadium Complex used by Team for storage; Team's equipment room, laundry room, x-ray room, cafeteria, interview room, meeting rooms, auditoria, coaching rooms, video rooms, staff locker rooms, players' lounge, locker room, training room, weight room, aerobics room and players' relatives waiting room; and such other areas within the Stadium Complex as County and Team shall designate, from time to time, as "Exclusive Leased Premises".

"Existing Lease Agreements" shall have the meaning set forth in Section 4.6.2 of this Lease.

"Expiration Date" shall have the meaning set forth in Section 5.1 of this Lease.

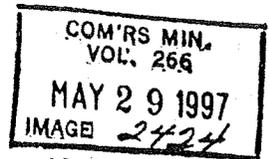
"Extension Term" shall have the meaning set forth in Section 5.5 of this Lease.

"Field Maintenance" shall have the meaning set forth in Section 11.3(c) of this Lease.

"Final Budget" shall mean that portion of the price for the GMP Contract accepted by County for the items included in the Preliminary Budget, together with such changes to such budget as may be approved by both County and Team.

"Final Plans" shall have the meaning set forth in Section 4.6.1 of this Lease.

"Football Season" shall have the meaning set forth in Section 5.2 of this Lease.



**"Future Enhancement"** shall have the meaning set forth in Section 12.4 of this Lease.

**"GAAP"** shall mean generally accepted accounting principles in the United States of America in effect from time to time, consistently applied.

**"General Contractor"** shall have the meaning set forth in Section 4.2 of this Lease.

**"GMP Contract"** shall have the meaning set forth in Section 4.6.1 of this Lease.

**"GMP Plans"** shall have the meaning set forth in Section 4.6.1 of this Lease.

**"Hazardous Materials"** shall have the meaning set forth in Section 32.14 of this Lease.

**"Improvements"** shall mean all Enhancements, Level I Enhancements, Future Enhancements and Capital Repairs, as well as all capital improvements to the Project.

**"Infrastructure Improvements"** shall mean those streets, roads, traffic signals, directional and other signage, bridges and other access routes, utility lines, pipes, wires and other services and other public improvements that are necessary or appropriate in order to permit prompt and efficient access to and egress from (both vehicular and pedestrian), and to permit safe and convenient use of, the Stadium Complex and the Parking Facilities by Team, its officers, directors, agents, employees, contractors, licensees and invitees, and the general public, in a manner consistent with the description in the Architectural Program.

**"Initial Term"** shall mean the period commencing on the Commencement Date and ending on June 30, 2026.

**"Lease Year"** shall mean each period of twelve (12) consecutive calendar months during the Term, except that the first Lease Year shall commence on the Commencement Date and end on the following June 30, and each successive Lease Year shall commence on the July 1 following the conclusion of the prior Lease Year and end on the following June 30; provided however, if the Commencement Date occurs between January 1 and June 29, then the first Lease Year shall end on the second following June 30. "Lease Years" means more than one (1) Lease Year. Unless otherwise expressly provided for herein, all terms and conditions herein shall apply the same to the first Lease Year (even if it is a partial Lease Year) as to any full Lease Year.

**"Legal Requirements"** shall mean any governmental or quasi-governmental law, ordinance, rule or regulation applicable to this Lease, the Stadium Development Project, the Project, Team or County promulgated by any Federal, State or local governmental authority, agency or instrumentality.



**"Level I Enhancement"** shall have the meaning set forth in Section 12.3 of this Lease.

**"Licensee"** means a licensee (other than a ticketholder, Club Seat patron or a Private Suite patron) under a specific grant from County or Team to perform a service (for the licensor, Licensee or others) or to provide materials, supplies or equipment to, or by the specific consent of, the licensor.

**"Management Agreement"** shall have the meaning set forth in Section 11.1 of this Lease.

**"Manager"** shall mean the manager, from time to time, of the Stadium Complex, including, without limitation, the manager from time to time under the Management Agreement.

**"Mediator"** shall have the meaning set forth in Section 4.4 of this Lease.

**"Net Loss"** shall have the meaning set forth in Section 10.3 of this Lease.

**"Net Revenue"** shall have the meaning set forth in Section 10.3 of this Lease.

**"NFL"** shall mean the National Football League as now constituted under its existing constitution, or as it may subsequently be constituted or organized, or its successors.

**"NFL Franchise"** shall mean the franchise granted, from time to time, by the NFL which permits Team to play NFL sanctioned football games.

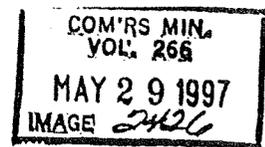
**"NFL Rules"** shall mean any rule, regulation, order, or decision now or hereafter adopted or approved by the NFL or the commissioner of the NFL or any authorized agent, commission, or committee of the NFL, including any labor-management committee constituted pursuant to any NFL collective bargaining agreement, for the conduct of professional football or the operation of NFL franchises which as of the date hereof include the "Constitution and By-Laws" of the NFL and "National Football League Playing Rules", together with any rules and regulations hereafter adopted in substitution for or in amendment to the existing Constitution and By-Laws or NFL Rules.

**"Other Events"** shall have the meaning set forth in Section 8.4 of this Lease.

**"Other Taxes"** shall have the meaning set forth in Section 7.2 of this Lease.

**"Parking Facilities"** shall mean the Cinergy Field Parking Facilities and the Stadium Parking Facility.

**"Person"** shall mean an individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trust, estate, unincorporated



association, joint venture or any other entity, the United States, or a federal, state or political subdivision thereof or any agency or court of such state or subdivision.

**"PF Amount"** shall mean the sum of \$10,533,756.

**"Playing Field"** shall mean that area of the Stadium comprising a regulation football field appropriate for the playing of NFL games, which field complies with all NFL Rules.

**"Plaza"** shall mean that area located on the Stadium Site adjacent to the Stadium which is (a) the primary area for pedestrian access to and around the Stadium, and (b) the paved surface area adjacent to the Stadium on which pedestrians can congregate, walk, sit or otherwise engage in activities or on which vehicles can park (if appropriately authorized), and which area may be at different heights on different portions of the Stadium Site.

**"Practice Area"** shall mean the practice area located as shown on Exhibit A-1, together with the improvements thereon consisting of two NFL regulation size natural grass football fields and one NFL regulation size artificial turf football field and such other facilities as described in the Architectural Program.

**"Preliminary Budget"** shall have the meaning set forth in Section 4.6.3 of this Lease, together with such changes thereto as may be later approved by both County and Team.

**"Prime Rate"** shall mean, with respect to any specific date, the rate designated as such in the Wall Street Journal on said date or, in the event such rate is no longer available or the Wall Street Journal is no longer published on any date, that rate published in another publication of national scope and selected by County, which rate County reasonably determines is most comparable to the Prime Rate as defined in the Wall Street Journal on the date of this Lease.

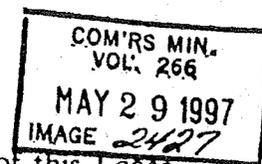
**"Private Person"** shall mean any Person, except any municipal corporation, public agency, public authority, or other public body or any entity controlled by any of the foregoing.

**"Private Suite"** shall mean any box, suite, private box or suite, box or suite area, and any other area reserved for sale, rent, or license, as an exclusive area or room, to patrons of the Stadium for the viewing of events held at the Stadium.

**"Private Team Use Days"** shall have the meaning set forth in Section 8.2 of this Lease.

**"Project"** shall mean, collectively, the Stadium Complex, the Parking Facilities and the Infrastructure Improvements.

**"Project Architect"** shall have the meaning set forth in Section 4.2 of this Lease.



**"Project Manager"** shall have the meaning set forth in Section 4.2 of this Lease.

**"Refusal Notice"** shall have the meaning set forth in Section 8.6.1 of this Lease.

**"Rent"** shall have the meaning set forth in Section 6.2 of this Lease.

**"Reserve Account"** shall have the meaning set forth in Section 13.6 of this Lease.

**"Restaurant"** shall mean the restaurant, if any, located at the Stadium as described in the Architectural Program, which is intended to be open to the general public.

**"Routine Maintenance"** shall have the meaning set forth in Section 13.2 of this Lease.

**"Schedule"** shall have the meaning set forth in Section 4.1 of this Lease.

**"Schematic Design Documents"** shall have the meaning set forth in Section 4.3.1 of this Lease.

**"Spinney Field"** shall mean the real property and related improvements located in Cincinnati, Ohio (and having a street address of One Bengals Drive) commonly known as "Spinney Field" and bounded by Barrier Dam Alley on the east, Evans Street on the west and Gest Street on the north.

**"Stadium"** shall mean the football stadium to be constructed by County on the Stadium Site (exclusive of the Plaza, the Stadium Parking Facility and the Infrastructure Improvements) as required by the Architectural Program, including, without limitation, the Playing Field, with matrix boards and video imaging display screens at both ends of the stadium, and containing such number of seats, including Club Seats and seating in the Private Suites, as set forth in the Architectural Program. The term Stadium includes, without limitation, all "building systems" (such as utilities, heating, ventilating, and cooling systems), scoreboards, video imaging system, and monitors throughout, a public address system, and all other systems constructed (or to be constructed pursuant to the Architectural Program) as part of the Stadium.

**"Stadium Amount"** shall mean that amount set forth in Exhibit C attached hereto and incorporated herein.

**"Stadium Complex"** shall mean the Stadium Site, the Plaza, the Stadium and the Practice Area; provided however, only if and to the extent (and only for so long as) any portion of the Stadium Parking Facility is located on or within the Stadium Site, then for the purposes of this Lease, such portion of the Stadium Parking Facility shall be deemed excluded from the term "Stadium Complex".

**"Stadium Development Project"** shall mean, collectively, the acquisition of the Stadium Site, the design, development and construction of the Stadium Complex and

the Stadium Parking Facility, and the work and services necessary in order to provide the Project as described in this Lease.

**"Stadium Misuse"** shall mean any event that causes material damage to the Stadium Complex or any Component thereof arising out of or in connection with:

- (a) uses not permitted under this Lease; or
- (b) negligent or willful acts or omissions of the party using the Stadium Complex, including acts or omissions by such party's employees, agents, independent contractors, sublessees, concessionaires, Licensees, representatives and assigns, but excluding a party's licensees (other than Licensees), invitees and guests not included in the foregoing.

**"Stadium Parking Facility"** shall mean the parking structure(s) and/or related surface parking at any time located on the Stadium Site (or such replacement locations and/or additional parking as may be agreed upon by both parties).

**"Stadium Site"** shall mean the area located substantially as shown on **Exhibit A** to this Lease. At the request of either party, the parties shall attach a legal description as **Exhibit D** to this Lease, which shall provide a metes and bounds description of the Stadium Site.

**"State"** shall mean the State of Ohio.

**"Substantial Completion"** or **"Substantially Complete"** or **"Substantially Completed"** shall mean the completion of the Project, including without limitation, the Parking Facilities (subject to the "phase-in" of the Stadium Parking Facility as described on **Exhibit E** attached to this Lease) and the Infrastructure Improvements, and all Components thereof, to the extent that (a) Team is legally entitled to occupy and use the Stadium Complex and to use the Stadium Parking Facility and the Infrastructure Improvements, and all Components thereof, in accordance with this Lease, (b) the Project Architect has delivered a statement to County and Team stating that the Project, and all Components thereof, has been substantially completed in accordance with the Architectural Program and the Final Plans, subject only to "punch list" type items that do not materially interfere with the use and occupancy of the Project by Team and the general public for the intended purposes and that can be completed within thirty (30) days, (c) permanent, unconditional Certificates of Occupancy, and any other permits and approvals required for Team and the general public to use the Stadium Complex and the Stadium Parking Facility and all Components thereof (including, without limitation, all areas of the Stadium Complex intended for the presentation and viewing of NFL football games (including, without limitation, all Club Seats, Private Suites, and other seating), as well as all restrooms, concession and dining areas, entrances, passageways and parking lots), have been issued to the extent that such certificates, permits and approvals are issued by the applicable authority, and (d) any required approvals of the NFL have been obtained.

"Surplus Parking Area" shall have the meaning set forth in Section 33.9 of this Lease.

"Team" shall have the meaning set forth in the initial paragraph of this Lease.

"Team Contingency" shall have the meaning set forth in Section 4.9 of this Lease.

"Team Default" shall have the meaning set forth in Section 22.1 of this Lease.

"Team Delay" shall have the meaning set forth in Section 4.8 of this Lease.

"Team Designee" shall have the meaning set forth in Section 11.1 of this Lease.

"Team Use Days" shall have the meaning set forth in Section 8.2 of this Lease.

"Term" shall have the meaning set forth in Section 5.1 of this Lease.

"Ticket Surtax" shall have the meaning set forth in Section 7.2 of this Lease.

"Untenantability Period" shall have the meaning set forth in Section 20.1 of this Lease.

1.2 Accounting Terms. Unless otherwise specifically provided, any accounting term used in this Lease shall have the meaning customarily given in accordance with GAAP. Unless otherwise specifically provided, all financial computations shall be computed in accordance with GAAP, as consistently applied.

## ARTICLE 2

### LEASED PREMISES

2.1 Lease of Stadium Complex. In consideration of the mutual covenants and agreements contained in this Lease, as of the Commencement Date, County hereby leases, rents and demises to Team, and Team hereby leases from County, the Stadium Complex.

## ARTICLE 3

### OWNERSHIP OF INTERESTS

3.1 County's Ownership Interest. It is acknowledged by the parties hereto that, at all times, County shall own one hundred percent (100%) of the fee interest in the Project.

3.2 **Team's Ownership Interest.** It is acknowledged by the parties that, during the term of this Lease and subject to the provisions set forth in this Lease, Team shall own a leasehold interest in the Stadium Complex. Team agrees that all Base Rent and other payments required to be made by Team hereunder shall be made solely to County and shall constitute property of County. On the last day of the Term, as said term may be extended as provided in Section 5.4, or upon any earlier termination of the Lease, Team's leasehold interest shall revert to County without the necessity of any further action by either party hereunder, provided, however, that upon County's request, Team shall execute and deliver to County (in recordable form) all documents necessary to evidence such reversion.

## **ARTICLE 4**

### **CONSTRUCTION OF THE PROJECT**

4.1 **General Design and Construction.** County shall cause the Project to be designed, constructed, developed and completed in accordance with the Architectural Program, this Lease and the Final Plans to be prepared in accordance with the provisions of this Article 4, all in a good and workmanlike manner and in compliance with all Legal Requirements and NFL Rules. The Stadium Complex shall be located on the Stadium Site. The costs of such design, construction, development and completion shall be borne by County, except to the extent that the State has obligations to pay for or share in certain costs of construction of the Project. County shall be responsible for coordinating all arrangements with the City, the State, applicable federal agencies, and/or their respective contractors, concerning the construction and/or development of all Infrastructure Improvements. From time to time after the date hereof, but no less frequently than once per calendar month, County shall prepare for Team an update of its most recent project development schedule (the "Schedule") reflecting current information regarding the time lines for the design and construction of the Project; provided that (and notwithstanding anything else set forth in this Lease) under no circumstances shall any receipt or approval by Team of the Schedule or modification or update of the Schedule be, or be deemed to be, a waiver or release by Team of its rights or remedies for the failure by County to Substantially Complete the Project by August 1, 2000 (the "Completion Target Date"). In addition to the foregoing, on January 6, 2000 and again on June 1, 2000 the Project Architect, Project Manager, Construction Manager, Team and County shall together conduct a thorough physical inspection of the Project to confirm progress. Promptly following each such inspection, the Project Architect, Project Manager and Construction Manager shall provide written certification to Team that the Project is on schedule to meet the Completion Target Date (or if not, the date on which Substantial Completion of the Project is reasonably expected to occur). The design and construction process for the Project, and the entire Stadium Development Project, shall, be a cooperative mutual endeavor in which County and Team shall work together, and County shall ensure that Team is actively and materially involved in the design, development and construction phases of the Project and the entire Stadium Development Project (excluding acquisition of the Stadium Site).

4.2 Selection of Contractors and Consultants. County has selected (a) NBBJ East Limited Partnership as the architect for the Stadium Complex and the Parking Facilities (the "Project Architect"), (b) Getz Ventures as the manager for the Project (the "Project Manager"), and (c) Turner Construction Company, Barton Mallow and D.A.G. Construction Company, Inc. as the construction manager for the Project (the "Construction Manager"). County may also enter into a general construction contract for the Stadium Complex and the Stadium Parking Facility with a contractor (if applicable, the "General Contractor") selected through a public bidding process. Team shall have the right to participate in the selection process for the General Contractor, provided that the final decisions regarding the selection and retention of the General Contractor shall be made solely by County. County will not terminate (other than by a reason of a default by such entity under its applicable contract with County), or appoint a new entity as, the Project Architect, Project Manager, Construction Manager or General Contractor without the prior consent of Team, which consent shall not be unreasonably withheld or delayed.

4.3 Design and Construction Documents.

4.3.1 County has caused the Project Architect to prepare the 100% complete schematic design set for the Stadium (the "Schematic Design Documents").

4.3.2 County shall cause the Project Architect to prepare 100% complete design development documents for the Stadium Complex and the Stadium Parking Facility including, but not limited to, site plans, floor plans, elevations and enlarged floor plans (the "Design Development Documents"). Six (6) sets of the Design Development Documents shall be submitted to each of County and Team for their approval. The Design Development Documents shall be based upon and consistent with the Architectural Program. At the time of submission of the Design Development Documents, the Project Architect shall certify in writing to Team that such Design Development Documents are consistent with the Architectural Program (or, if not, identifying with specificity any items that are not consistent with the Architectural Program). To the extent that Team approves Design Development Documents that are inconsistent with the Architectural Program, then, for the purposes of this Lease (including, without limitation, any required approvals of Construction Documents and County's construction obligations hereunder), the Architectural Program shall thereafter be deemed modified by such approved Design Development Documents but only to the extent that (a) the Project Architect previously certified in writing to Team as to such inconsistencies and (b) Team expressly and specifically consented in writing to such inconsistencies.

4.3.3 County shall cause the Project Architect to prepare, after approval of the Design Development Documents, 100% complete construction documents including, but not limited to, all architectural, mechanical and electrical drawings, and all final site plans and landscaping, setting forth in detail all construction requirements for the construction of the Stadium Complex and the Stadium Parking Facility (the "Construction Documents"). Six (6) sets of the

Construction Documents shall be submitted to each of County and Team on or before the date set forth in the Schedule for such submission. The Construction Documents shall be based upon and consistent with the Architectural Program and the approved Design Development Documents (but only to the extent, unless expressly and specifically agreed to by Team, the approved Design Development Documents are consistent with the Architectural Program). At the time of submission of the Construction Documents, the Project Architect shall certify in writing to Team that the Construction Documents are consistent with the Architectural Program and the approved Design Development Documents (or, if not, such certificate shall identify with specificity any items that are not consistent with the Architectural Program and the approved Design Development Documents). Team's approval of Construction Documents shall be required only to the extent any such Construction Documents (a) are inconsistent with the Architectural Program or the approved Design Development Documents or (b) relate to selection of furniture, fixtures, finishes or equipment. To the extent that Team approves Construction Documents that are inconsistent with the Architectural Program or the approved Design Development Documents, then, for the purposes of this Lease (including without limitation, County's construction obligations hereunder), the Architectural Program and the approved Design Development Documents shall thereafter be deemed modified by such approved Construction Document but only to the extent that (x) the Project Architect previously certified in writing to Team as to such inconsistencies and (y) Team expressly and specifically consented in writing to such inconsistencies.

4.3.4 County shall consult with Team and keep Team actively and materially involved in all phases of the preparation of plans and specifications for the Project. The Project Architect shall be instructed that in the preparation of the Design Development Documents and the Construction Documents, the Project Architect is to consult with Team's Authorized Construction Representative (as defined in Section 4.4 below) in order to ascertain Team's needs and desires in connection with the Project, and Team's reasonable requirements shall, to the extent not inconsistent with the Architectural Program or the approved Design Development Documents (after approval of the Design Development Documents), be incorporated into the plans and specifications then in process. At the time that the Project Architect submits any proposed plans or other material to County for its approval (including, without limitation, any revised GMP Plans pursuant to Section 4.6.2 below), the Project Architect shall also submit such documents to Team for its review (and approval in the case of the Design Development Documents and Construction Documents for which Team's approval is specifically required pursuant to Section 4.3.4 above), accompanied by a certification from the Project Architect to Team that such items are consistent with the Architectural Program and the approved Design Development Documents (or, if not, identifying with specificity any items that are not consistent with the Architectural Program and the approved Design Development Documents). No change from a previously approved Design Development Document or Construction Document (unless required by the Architectural Program) shall be

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permitted unless County and Team agree to the change or unless otherwise provided for herein. Any change from a previously approved Design Development Document or Construction Document (unless required by the Architectural Program) shall be pursuant to a written agreement with County and Team authorizing such change and specifying the method of resolving any cost or time impacts associated with such change.

4.3.5 The approval of Design Development Documents (or the Construction Documents, to the extent Team's approval thereof is required pursuant to Section 4.3.3) by Team shall not (a) be deemed to create any liability on the part of Team, or any rights on behalf of any third party, with respect to the designs, plans or specifications set forth therein or be deemed an acknowledgment or representation that such designs, plans and specifications are in compliance with applicable Legal Requirements or good engineering, architectural or construction practices or be deemed a waiver of any obligation to provide a Project which meets the specified standards of design, construction and finish, or (b) unless expressly and specifically authorized by Team, relieve County of its obligation to cause the Project to be completed in accordance with the Architectural Program, the approved Design Development Documents, and the requirements of this Lease. In addition, notwithstanding any provisions in this Article 4 to the contrary, County and its Project Architect (and not Team) shall at all times be responsible for ensuring that all specifications for the Project comply with, and are consistent with, the Architectural Program.

4.4 **Objections to Design Documents.** Within twenty (20) days after receipt of the Design Development Documents (or any applicable Construction Documents for which Team's approval is required pursuant to Section 4.3.3), County or Team, as the case may be, shall promptly notify the other party in writing of the specific objections that such party has thereto with reference to the standards set forth in Section 4.5 below. Failure to so notify the other party within such twenty (20) day period shall be deemed to constitute approval by such party of the Design Development Documents (or the applicable Construction Documents for which Team's approval is required). County, at its cost and expense, shall cause the Project Architect to provide such assistance to Team as Team may reasonably request in connection with Team's review for approval of the Design Development Documents (and any applicable Construction Documents for which Team's approval is required). County and Team shall each designate one individual (the "Authorized Construction Representative" for such party) to make or receive notice of objections and to resolve such objections as provided in this Section 4.4. If the Authorized Construction Representative for County and Team agree that an objection is warranted, County shall direct the Project Architect to make appropriate modifications to the Design Development Documents (or the Construction Documents, to the extent applicable), and to resubmit such documents for approval. Such resubmitted documents shall be subject to the same procedures for making objections as are set forth in this Section 4.4. If the Authorized Construction Representative for County and Team do not agree within five (5) calendar days after notice of an objection is made that such objection is warranted, the Authorized Construction Representatives shall meet within five (5) calendar days thereafter with a third individual mutually agreeable to Team and County (the "Mediator"). The

Mediator, the Authorized Construction Representative for County and the Authorized Construction Representative for the Team shall comprise the "Construction Design Committee." The Construction Design Committee, shall promptly (and in no event later than five (5) calendar days after their initial meeting) determine whether the objection is warranted. The determination of the Construction Design Committee, by a two-thirds (2/3) vote, shall be in writing and shall be final and binding upon County and Team. If the Construction Design Committee determines that an objection is warranted, County shall direct the Project Architect to make appropriate modifications to the Design Development Documents (or the Construction Documents, to the extent applicable) and to resubmit such documents for approval. Such resubmitted documents shall be subject to the same procedures for making objections as are set forth in this Section 4.4.

4.5 **Guidelines for the Construction Design Committee.** In resolving objections to the Design Development Documents or the Construction Documents, as the case may be, made in accordance with the provisions of Section 4.4 above, the Construction Design Committee shall be controlled by the Architectural Program and previously approved architectural drawings (but only to the extent, unless expressly and specifically agreed to by Team, such architectural drawings are consistent with the Architectural Program) and County's obligation to meet the Completion Target Date. Subject to the controlling provisions of the foregoing sentence, in resolving such objections, the Construction Design Committee shall be required to use the following guidelines:

- (a) The Stadium Complex shall have maximum functionality for football operation and football revenue, subject to the constraints of the Preliminary Budget;
- (b) The design for the Stadium Complex shall be flexible to accommodate future enhancements and revenue opportunities, subject to the constraints of the Preliminary Budget;
- (c) The Stadium Complex is to be architecturally significant and "landmark," subject to the constraints of the Preliminary Budget;
- (d) All work shall be done in a good and workmanlike manner and in accordance with all Legal Requirements and NFL Rules; and
- (e) Reasonable accommodations shall be made with respect to the relationship between capital expenditures and future operating costs for the Stadium Complex, subject to the constraints of the Preliminary Budget.

4.6 **GMP Process; Revisions.**

4.6.1 At approximately such time as the 100% Design Development Documents have been submitted to and approved by Team, or such other appropriate time as may be approved by Team, a package of architectural

documents (to be designated in writing by County on the documents as the "Proposed GMP Plans") shall be submitted by County to Team for its approval and, upon approval by Team, such documents and the Architectural Program (collectively, the "GMP Plans") shall be submitted to the Construction Manager in order to obtain the Construction Manager's price for a guaranteed maximum price contract (the "GMP Contract") for the items included in the Preliminary Budget based on such GMP Plans. If the price set forth in the GMP Contract for the items included in the Preliminary Budget is less than or equal to the cost set forth in the Preliminary Budget for such items (such amount, being the Stadium Amount plus the PF Amount, hereinafter referred to as the "Bid Target"), the GMP Plans shall be deemed the "Final Plans".

4.6.2 In the event that the price set forth in the submitted GMP Contract for the items included within the Preliminary Budget exceeds the Bid Target and precludes County from accepting the GMP Contract, then County shall within twenty (20) days thereafter either (a) increase the Preliminary Budget to an amount equal to the applicable price set forth in the GMP Contract for the items included in the Preliminary Budget, or (b) submit revised GMP Plans (which may reduce the scope of the work and/or substitute materials or work) to Team for its approval, which approval may be withheld by Team in its sole discretion and, in no event shall Team's objections to the revised GMP Plans be subject to the resolution process set forth in Section 4.4 above. Otherwise the revised GMP Plans shall be subject to the same procedures set forth in Section 4.3 above. If County elects to submit revised GMP Plans, Team, by written notice to County, within fifteen (15) days after receipt of such revised GMP Plans, may either accept or disapprove such revised GMP Plans. If Team makes no election it will be deemed to have disapproved the revised GMP Plans. If Team accepts such revised GMP Plans, County shall re-submit such revised GMP Plans to the Construction Manager in order to obtain the Construction Manager's new price in a GMP Contract for the items included in the Preliminary Budget. Upon submission of the revised GMP Plans to the Construction Manager, the provisions of this Section 4.6 shall again apply. The GMP Plans, as the same may have been revised and approved pursuant to the provisions of this Section 4.6.2, shall, if the new price set forth in the GMP Contract for the items included within the Preliminary Budget does not exceed the then applicable Bid Target, be deemed the Final Plans. If the price set forth in the GMP Contract for the items included in the Preliminary Budget continues to exceed the then applicable Bid Target, County may continue to propose revisions to the GMP Plans in the manner hereinabove provided, and the procedures set forth herein shall be applicable to such revisions; provided, however, in the event that on or prior to December 31, 1997 (i) Team has not approved the revised GMP Plans or (ii) a GMP Contract for GMP Plans approved by Team has not been received and accepted by County, Team, without in any way incurring any liability to County, shall have the right, exercisable by written notice given to County on or prior to January 31, 1998, to terminate this Lease and any other agreements entered into by Team in connection herewith. Upon any such termination of this Lease by Team, (x) neither County nor Team may claim any legal rights against the

other by reason of this Lease or the taking or omission of any action or reliance thereon and (y) neither County nor Team shall be deemed to have given up any rights which it had prior to entering into this Lease, including, without limitation, any rights under Team's existing leases for Cinergy Field and Spinney Field, together with such other agreements (other than this Lease) previously or hereafter entered into relating to Team's use of Cinergy Field and/or Spinney Field (Team's existing leases for Cinergy Field and Spinney Field, together with such agreements (other than this Lease) relating to Team's use of Cinergy Field and/or Spinney Field, are hereinafter collectively referred to as the "Existing Lease Agreements").

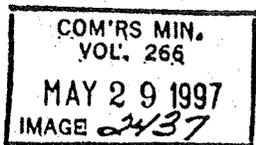
4.6.3 The parties anticipate that the budget for the Stadium is as shown on Exhibit C. For purposes of this Lease, the term Preliminary Budget shall mean the aggregate sum of the Stadium Amount plus the PF Amount, which aggregate sum includes costs for the following items (being categories in the Parties' Computations (Final) dated May 28, 1997):

Stadium - Direct construction costs, furniture, fixtures and equipment, permits and assessments, construction management fee, construction contingency, design contingency, owner contingency, escalation and allocable portion of design fees and other owner direct costs (including project management fees)

Practice Area - Direct construction costs, furniture, fixtures and equipment, permits and assessments, construction management fee, construction contingency, design contingency, owner contingency, escalation and allocable portion of design fees and other owner direct costs (including project management fees)

County and Team agree that nothing contained in this section or otherwise in this Lease shall create any separate limit on the costs of the Stadium alone or any separate limit on the costs of the Practice Area alone. Team and County agree that prior to the execution of the GMP Contract, the budget for the Project as contemplated by the Parties' Computations (Final) dated May 28, 1997 shall be reduced by the sum of \$4,000,000.

4.7 Completion. County shall cause Substantial Completion of the Project in accordance with the requirements of the Final Plans, the Architectural Program and this Lease to occur by the Completion Target Date. In the event County fails to meet the Completion Target Date, Team shall be entitled to exercise the remedies set forth in Section 5.3 below. Notwithstanding the foregoing, County shall use all commercially reasonable efforts to cause (a) the Administrative Offices to be Substantially Completed on or prior to April 10, 2000 so as to permit Team's occupancy thereof for their intended purposes by such date, (b) the Practice Area and Team's locker room, equipment room, training room, weight room, aerobics room, coaching rooms, cafeteria, interview room and related facilities to be Substantially Completed on or prior to May 1, 2000 so as to permit Team's occupancy thereof for their intended purposes by such date, and (c) the remainder of the Project to be Substantially



Completed by June 1, 2000 so as to allow, among other things, appropriate time to move into the Stadium (i) all of Team's staff, (ii) Team's concessionaire's staff, (iii) the Stadium's operations staff, and (iv) appropriate County personnel; provided, however, that failure by County to cause any such areas to be Substantially Completed and delivered to Team within the dates mentioned in this sentence shall not be deemed a County Default or otherwise give rise to a claim by Team for any damages, as the parties acknowledge that Team's damages arising from any delays in Substantial Completion of the Project or any parts thereof shall be controlled by Section 5.3 of this Lease and shall arise only in the event the Substantial Completion of the Project does not occur by the Completion Target Date. To the extent the aforementioned areas are Substantially Completed prior to the Substantial Completion of the Project, County shall permit Team to occupy, and commence its business operations in and from, such areas, subject to such reasonable requirements as County and/or the Construction Manager may have with respect to such phased and partial occupancy.

4.8 **Team Delay.** If (a) the Substantial Completion of the Project is delayed as a direct result of (i) any Change by Team under Section 4.9 of this Lease, (ii) Team's failure to approve, or provide notice of objection to, any documents or items required to be submitted for its approval under Article 4 of this Lease within the time period(s) expressly provided for in Article 4, or (iii) any interference caused by Team (or any of Team's contractors, licensees, concessionaires or agents entering the Stadium prior to the date of Substantial Completion) with construction activities relating to the Project performed on County's or its contractor's behalf (each of the events described in the foregoing clauses (i) through (iii) a "Team Delay"), and (b) with respect to above clauses (ii) and (iii) only, County shall have also provided Team with notice of the occurrence of such Team Delay and Team, within thirty-six (36) hours after Team's receipt of the applicable notice from County, shall have failed to cure such failure or interference, then, for all purposes of this Lease (including, without limitation, the provisions of Section 5.3 of this Lease), then the Completion Target Date shall be postponed for that number of days as is equal to the number of days that Substantial Completion of the Project is delayed beyond August 1, 2000 as a direct result of such Team Delay; provided further, however, that (x) with respect to Team Delays described in clause (ii) above only that occur prior to the date the GMP Contract is signed by County, such Team Delays shall postpone the Completion Target Date only in the event and only to the extent that the total number of such Team Delays occurring during such period exceeds seven (7) days, and (y) with respect to a Team Delay described in clause (i) above only, in no event shall such Team Delay be deemed greater than the number of days agreed to in writing by Team at the time of its approval of the applicable Change.

4.9 **Changes and Team Contingency.** Team shall have the right to cause the Project Architect to make changes ("Changes") in the Final Plans, which Changes shall be reflected in amendments to and shall be for all purposes incorporated in the Final Plans, provided that all of the following conditions are satisfied:

4.9.1 Project Architect and the Construction Manager confirm that such Change will not result in a delay in Substantial Completion of the Project such that, unless the parties agree otherwise, County would be unable to Substantially

Complete the Project by the Completion Target Date; provided that Team, at its election, may waive the requirement of completion by the Completion Target Date if it also agrees to the delay of the date by which Substantial Completion must be achieved by the specified number of days of delay that the Construction Manager determines would result from such Change;

4.9.2 County, in its reasonable judgment, has not determined that such Change will materially and adversely affect the aesthetics or structural integrity of the Project; and

4.9.3 The aggregate increased cost of such Change (including for such purposes the design fees of the Project Architect for making the Change and other related costs and expenses) shall not exceed the aggregate of any reductions in costs (which reductions shall be deemed to include a 6% increase for contingencies) resulting from such Change or any other cost reductions experienced as a result of any other Changes in the Final Plans, plus any remaining portion of the Team Contingency (as defined below); provided, however, if such aggregate increased cost exceeds the aggregate of any such reductions (together with any remaining portion of the Team Contingency), this condition will be deemed satisfied if Team deposits funds with County sufficient to pay such excess).

With respect to Changes that may be requested by Team, County, at its sole cost and expense, and in excess of any amounts provided for in the Final Budget, shall make available to Team an allowance of \$5,000,000 (the "Team Contingency") for the purpose of paying for the cost of any such Change, consisting of the following:

- (a) \$1,000,000; plus
- (b) sixty percent (60%) of the first \$6.67 million of reductions, if any, in the total cost of the items of soft costs specified in the Parties' Computations (Final) dated May 28, 1997 relating to (i) design, construction, or owner contingencies and/or (ii) architectural/engineering, project management, and construction management fees as measured against (x) at the time the GMP Contract is signed by County, the cost of these items specified in the GMP Contract and (y) thereafter, final amounts for such items of soft costs when ascertained; provided, however, in no event shall the total amount added to the Team Contingency pursuant to this clause (b) exceed \$4,000,000.

Upon Substantial Completion of the Project any remaining portion of the Team Contingency shall be deposited in a reserve account to be held in Team's name, which account may be used by Team to pay for the cost of Improvements to the Stadium made during the Term by Team in its sole and absolute discretion.

#### 4.10 Construction Insurance.

4.10.1 County shall carry, or cause its Construction Manager or General Contractor to carry, Comprehensive General Liability Insurance in the minimum

limit of not less than Twenty-Five Million Dollars (\$25,000,000.00) combined single limit during construction of, or during any Capital Repairs to, the Stadium Complex.

4.10.2 County shall cause its architects and engineers to carry, relative to the design of and work on the Project, including any Capital Repairs to the Stadium Complex, Architects' and Engineers' Professional Liability Insurance with a minimum limit of not less than Ten Million Dollars (\$10,000,000.00) per claim.

4.10.3 County shall maintain or cause to be maintained All Risk Builder's Risk Insurance with Flood and Earthquake for the full replacement cost of the Stadium Complex and the Stadium Parking Facility during all periods that the Project is under construction, reconstruction or expansion, and during any period that Capital Repairs are being made to the Stadium Complex or the Stadium Parking Facility. Team shall be named an additional insured and loss payee with respect to all such policies provided that all insurance proceeds (other than any proceeds paid with respect to any property of Team) are to be paid over to County for any restoration work to be performed.

4.10.4 County shall (a) maintain worker's compensation insurance in the statutory amount and cause contractors to do likewise during all periods of construction on or with respect to the Project, and (b) carry and cause contractors to carry employer's liability (Ohio Stop Gap) insurance in an amount not less than \$500,000.00 per accident, \$500,000.00 per disease and \$500,000.00 policy limit on diseases.

4.10.5 County shall carry and shall cause the General Contractor and the Construction Manager and subcontractors working on or at the Project to carry automobile liability insurance, including owned, non-owned, leased and hired motor vehicle insurance coverage, with limits of not less than \$1,000,000.00 combined single limit for bodily injury or death and property damage.

4.10.6 All insurance required pursuant to this Section 4.10 shall be in form and content reasonably satisfactory to Team and carried with insurance companies rated A minus VII or better by the current Best's Key Rating Guide or the equivalent in subsequent editions, and authorized to do business in the State of Ohio, or otherwise reasonably acceptable to Team. All policies shall (a) name Team as an additional insured; (b) stipulate that such insurance is primary and is not additional to any insurance carried by Team; (c) waive any and all rights of subrogation against Team with respect to the insurance required by Section 4.10.3 above; (d) contain within the policy or by endorsement a cross liability or severability of interest clause; and (e) provide that the insurance may not be canceled without at least thirty (30) days prior notice being given by the insurer to Team. Prior to County's entry onto the Stadium Site or the start of construction, County shall furnish to Team certified copies of each insurance policy to evidence required coverages.

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4.11 Application of COA Revenues; COA's Generally.

4.11.1 County shall receive and retain all revenues (net of commissions, fees, taxes and other customary and reasonable expenses relating to the sale of the COA's) generated from the sale of COA's prior to August 1, 2000 and hereby covenants and warrants that all such revenues shall be applied to the payment of hard construction costs of the Stadium. Upon request by Team, County shall promptly provide Team with written evidence reasonably documenting County's compliance with the foregoing.

4.11.2 Without prejudice to County's right to sell COA's through July 31, 2000 for Football Seasons after the year 2000 Football Season, County hereby agrees and acknowledges that from and after November 1, 1999 Team shall have the full and unfettered right to sell and market single game, partial season and season tickets for Team's NFL games scheduled to be played at the Stadium for the year 2000 Football Season.

4.11.3 County and Team hereby agree that, effective as of August 1, 2000, County shall assign to Team and Team shall assume from County, all rights and obligations of County to provide seating under COA's sold prior to August 1, 2000 and Team shall have the further right to sell (and retain all revenues arising from) additional COA's from and after August 1, 2000. County's assignment and Team's assumption of the COA's shall be pursuant to such assignment and assumption agreement(s) as shall be mutually satisfactory to County and Team.

ARTICLE 5

TERM

5.1 Term. The term of this Lease (hereinafter referred to, as the same may be extended under Section 5.5 hereof, as the "Term") shall commence on the date (the "Commencement Date") on which Team occupies the entire Stadium Complex in accordance with Section 5.2 hereof (but in no event shall the Commencement Date be deemed to occur prior to the Completion Date) and end on June 30, 2026 (hereinafter, as the same may be extended as hereinafter provided, referred to as the "Expiration Date"), or on such earlier date on which this Lease has been terminated pursuant to the provisions of this Lease. Upon determination of the Commencement Date, the parties shall execute a supplement to this Lease setting forth the Commencement Date.

5.2 Initial Occupancy. Subject to the provisions of the immediately following sentence, Team shall occupy the Stadium Complex no later than the first day of the first Football Season after the Project is Substantially Complete. If the Project is Substantially Completed after Team's first six (6) scheduled NFL home games (including preseason games) of a Football Season, Team may, at its option (and

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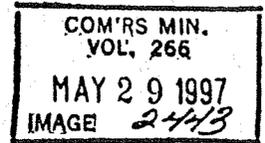
without limiting any remedies available to Team at law or in equity, including, without limitation, those under Section 5.3), elect to occupy the Stadium Complex at any time during such Football Season, or at any time prior to the first day of the next Football Season. As used in this Lease, a "Football Season" shall mean the period from seven (7) days prior to the first NFL pre-season game through the last Team game during the ensuing NFL football season (or the last post-season game in which Team is a participant, if applicable). Team agrees to use good faith efforts to request the NFL to schedule its two home preseason games for the year 2000 Football Season during the last two weeks of such NFL preseason; it being acknowledged however, that Team's ability to arrange for such scheduling may require cooperation from the current other co-tenant of Cinergy Field and may be subject to other circumstances beyond Team's control.

**5.3 Delay in Occupancy.** If the Project is not Substantially Completed by the Completion Target Date, the parties agree that Team would suffer damages in the form of, among other things, lost Private Suite revenues, Club Seat revenues, advertising revenues, ticket revenues, concessions revenues, and parking revenues, that are substantial costs to Team but that are difficult to estimate precisely in amount at this time and will likely be difficult to measure at the time of such failure. Consequently, County agrees that in the event the Project is not Substantially Completed by the Completion Target Date, and as a result thereof, Team is unable to play any of its home NFL games (including preseason games) at the Stadium scheduled on or after the Completion Target Date occurring during the year 2000 Football Season or for any subsequent Football Season, County or its contractor shall pay Team a per game sum equal to (a) \$4,000,000 (or \$2,000,000 if such delay is the direct result of a Construction Force Majeure, subject to the provisions of Section 5.4 below) for each of the first six (6) of Team's home NFL games (including preseason games) not played at the Stadium on or after the Completion Target Date during the year 2000 Football Season and (b) \$6,000,000 (or \$3,000,000 if such delay is the direct result of a Construction Force Majeure, subject to the provisions of Section 5.4 below) for each of the first six (6) of Team's games not played at the Stadium during the year 2001 Football Season and any subsequent Football Season. Each such amount shall be paid by County to Team within fifteen (15) days after the date of the applicable scheduled game not played at the Stadium. In addition to the foregoing, in the event that (i) the Project is not Substantially Completed by August 1, 2001 (or, to the extent applicable, any subsequently occurring August 1) or (ii) in the good faith opinion as of March 1, 2001 (or, to the extent applicable, any subsequently occurring March 1) of the Project Architect the Project will not be Substantially Completed by August 1, 2001, then Team, without in any way incurring any liability to County, shall have the right at its option, in lieu of accepting the damages for such Football Season as set forth above, to terminate this Lease and any other agreements entered into by Team in connection herewith. Such termination right may be executed by Team by delivery of written notice to County within thirty (30) days after the applicable March 1 (with respect to termination based on clause (i) above) or the applicable August 1 (with respect to termination based on Clause (ii) above), as the case may be. Upon any such termination of this Lease by Team, (x) neither County nor Team may claim any legal rights (other than Team's rights with respect to any payments required by County under this Section 5.3) against the other by reason of this Lease or the taking

or omission of any action or reliance thereon and (y) neither County nor Team shall be deemed to have given up any rights which it had prior to entering into this Lease, including, without limitation, any rights under the Existing Lease Agreements. In addition, in the event the Project is not Substantially Completed by the Completion Target Date and Team has not (to the extent applicable) elected to terminate this Lease, then (1) until such time as the Stadium Complex is occupied by Team, Team shall have the right to continue to occupy Cinergy Field for the purpose of playing Team's home games therein on a "rent free" basis and otherwise upon the terms and conditions in effect with respect to Team's leasing of Cinergy Field for the 1999-2000 lease year and (2) County shall maintain Cinergy Field in good condition and repair so as to permit Team's continued use thereof until Team abandons the same. Team may terminate any such arrangement for the use of Cinergy Field upon giving ninety (90) days prior written notice to County.

5.4 **Construction Force Majeure.** For the purposes of Section 5.3 above, a Construction Force Majeure shall mean any one or more of the following which results directly in the failure of the Project to be Substantially Completed on or before the Completion Target Date: strike; lockout; labor trouble; act of God; war; civil disorder; riot; lightning; earthquake; fire; hurricane; tornado or flood, provided, however, that a Construction Force Majeure shall permit County to pay the reduced amount of per game liquidated damages set forth in Section 5.3 above if and only to the extent that (a) construction delays attributable to Construction Force Majeure exceed (i) fifteen (15) days for the calendar year 1998, (ii) seven (7) days for the calendar year 1999, and (iii) three (3) days for the calendar year 2000 and (b) such days of Construction Force Majeure in excess of the aforementioned yearly thresholds are solely responsible for the failure of the Project to be Substantially Completed on or before the Completion Target Date.

5.5 **Extension of the Initial Term.** County hereby grants to Team options to extend the Initial Term on the same terms, conditions and provisions as contained in this Lease, except as otherwise provided herein, for five (5) consecutive periods of two (2) years each after the expiration of the Initial Term (each, an "Extension Term"), each of which Extension Terms shall commence on the day immediately following the last day of the Initial Term (as it may be so extended) and end on the second (2nd) anniversary of the most recent Expiration Date. Each such option to extend the Term shall be exercisable by written notice from Team to County given no later than twelve (12) months prior to the then forthcoming Expiration Date, time being of the essence. Team may only exercise any of its options to extend the Term, and an exercise thereof shall only be effective, if at the time of Team's exercise of the option and on the commencement date of the applicable Extension Term this Lease is in full force and no Team Default then exists. If Team does not properly exercise its option to extend the Term for a particular Extension Term, that option and all subsequent options to extend shall thereupon expire. Upon the valid exercise by Team of an option to extend the Term, at the request of either party hereto and within forty-five (45) days after such request, County and Team shall enter into a written supplement to this Lease confirming the terms, conditions and provisions applicable to the Extension Term as determined in accordance with the provisions of this Section 5.5.



**ARTICLE 6**

**RENT**

6.1 **Base Rent.** Team shall pay an annual base rent ("Base Rent") to County for the Stadium Complex during the first nine (9) Lease Years in accordance with the following schedule:

<u>Lease Year</u>	<u>Base Rent</u>
1	\$1,700,000.00
2	1,600,000.00
3	1,500,000.00
4	1,400,000.00
5	1,300,000.00
6	1,200,000.00
7	1,100,000.00
8	1,000,000.00
9	900,000.00

Base Rent payable for the first Lease Year, which may be a partial year, shall not be prorated based on the actual number of days of such partial year falling within the Term.

6.2 **Manner and Time of Payment.** Base Rent (which, together with all other amounts becoming due from or payable by Team hereunder is hereinafter collectively referred to as "Rent") shall be paid on or before January 10 of each Lease Year in lawful money of the United States to County at the offices of County, or at such other location designated from time to time by written notice from County to Team. From and after the Commencement Date, the payment of Rent hereunder is independent of each and every covenant or other agreement contained in this Lease, and Rent shall be paid without any setoff, abatement, counterclaim or deduction whatsoever, except as may be expressly provided herein.

**ARTICLE 7**

**TAXES**

7.1 **Payment of Real Estate Taxes.** If at any time during the Term the Project is not exempt from the imposition of real estate taxes and personal property taxes, the parties agree that such impositions shall be paid by County. The term "real estate taxes" shall mean all real estate taxes and assessments or substitutes therefor or supplements thereto upon all or any portion of the Project, for any whole or partial tax year or period occurring during the Term hereof. If and to the extent that due to a change in the method of taxation or assessments, any franchise, capital stock, capital,

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rent, income, profit, use or other tax or charge shall be a substitute for or supplement to any of the foregoing, then all such items shall be included within the term "real estate taxes" for the purposes of this Lease. All expenses, including attorneys' fees and disbursements, experts' and other witnesses' fees, incurred in contesting the validity or amount of any "real estate taxes" or in obtaining a refund of "real estate taxes" shall be considered as part of the "real estate taxes" for the year in which they are paid.

7.2 Taxes by County. Team recognizes the imposition by County of a \$0.25 per ticket surtax (the "Ticket Surtax") payable as of the date of this Lease for tickets sold by Team and Team shall not object to the continuance by County of the Ticket Surtax; provided however, that if such Ticket Surtax is not charged for tickets sold for professional baseball games at Cinergy Field or at the anticipated new professional baseball stadium to be constructed in Hamilton County or for Other Events or for other for-profit events held at the Stadium, Cinergy Field or the new baseball stadium for which an admission charge is collected, County covenants that the Ticket Surtax shall not thereafter be charged in connection with ticket sales by Team. In addition to the foregoing, except for the Ticket Surtax in an amount not to exceed \$0.25 per ticket (and subject to the foregoing provision of this Section 7.2), neither County nor any County Entity shall directly or indirectly impose on Team (a) any sales, service, admission, gross revenue or other tax, assessment, charge, or levy in addition to or in lieu of the Ticket Surtax with respect to attendance at games, gate admissions, ticket sales, or revenues from public attendance at games, (b) any tax on the Private Suite rental or license fee or upon the Club Seat license fee or premium, (c) any real property, ad valorem, intangible property, leasehold, or similar tax or assessment with respect to the use of the Stadium, or (d) any amusement or similar tax, assessment, charge or levy with respect to the public performance of football games (all of the foregoing, collectively referred to as "Other Taxes"). If and to the extent that in any year during the Term Other Taxes are directly or indirectly imposed by County or any County Entity on Team, such imposition shall not constitute a County Default hereunder; however, in such event, County, on or before February 28 of the following year, shall pay to Team the amount of such Other Taxes paid directly or indirectly by Team. In the event County fails to make such payment, Team, in addition to any other rights or remedies available to it under this Lease, shall have the right to off-set any amounts County owes Team against any amounts Team owes County under this Lease.

ARTICLE 8

USE OF STADIUM COMPLEX

8.1 Team's Use. During the Term, Team and its officers, directors, agents, employees, contractors, licensees, invitees and guests shall be entitled to possession and use of the Stadium Complex for the following purposes and no other purposes:

8.1.1 To play NFL pre-season, regular season and post-season football games, to stage activities related to such football games, and for scrimmages, practices and preparation on the two days immediately prior to the day of any football game which will be held at the Stadium.

8.1.2 To present events related to the NFL college player draft on the days on which such draft is held or reasonably before or after such days.

8.1.3 To conduct, for a reasonable number of days, bona fide football-related activities, such as (without limitation) private practice sessions, special team scrimmages, mini-camps, training camps, fan appreciation events and media or promotional events; provided, however, that such football-related activities shall be scheduled in a manner that will minimize interference with previously scheduled Other Events or previously scheduled County Use Days.

8.1.4 To use and occupy, on a 365-day year round exclusive basis, the Exclusive Leased Premises, for the purpose of conducting Team's business therein, including, without limitation, football training and practice related activities at the Practice Area, the operation of Team's novelty store, sales of tickets from Team's ticket office(s) in the Exclusive Leased Premises, and other purposes appropriate for the designated purpose of the Exclusive Leased Premises.

8.1.5 To use and occupy, on a 365-day year round basis, the Private Suites (other than the County Private Suite), the Club Lounge and the Restaurant, if any, for private and public entertainment purposes, business and other meeting purposes and purposes ancillary thereto.

8.1.6 To use the Stadium Complex, on a year-round basis, for marketing purposes, including without limitation, exercising Teams' advertising rights set forth in Article 9 of this Lease.

8.1.7 To use all concession areas and related food preparation and food storage areas (including central commissary and concession personnel lockers on the service area) for their intended purposes for any and all events held at the Stadium Complex.

8.1.8 To engage in any and all other activities (including, without limitation, the selling of tickets for Team games) which, from time to time during the Term, are necessary or appropriate in connection with, are associated with or are performed in connection with, the operation of an NFL football team.

8.1.9 If Team has the right to present professional soccer events at the Stadium pursuant to Section 8.6 of this Lease, or otherwise:

8.1.9.1 To play pre-season, regular season and post-season soccer games and to stage activities related to soccer games, and for scrimmages,

practices and preparation on each day immediately prior to the day of any soccer game which will be held at the Stadium.

8.1.9.2 To present events related to any soccer player draft on the days on which such draft is held.

8.1.9.3 To conduct bona fide soccer-related activities, such as (without limitation) private practice sessions, special team scrimmages, training camps, fan appreciation events and a reasonable number of media or promotional events; provided, however, that such soccer-related activities shall be scheduled in a manner which will minimize interference with previously scheduled Other Events or previously scheduled County Use Days.

8.1.9.4 To engage in any and all other activities which, from time to time during the Term, are necessary or appropriate in connection with, are associated with or are performed in connection with, the operation of a soccer team.

8.1.10 To use the Stadium Complex for any other purposes expressly permitted elsewhere in this Lease.

8.2 **Team Use Days; Exclusive Possession.** The days on which Team is entitled to and uses the Stadium Complex (except to the extent such use is limited to the Practice Field, other portions of the Exclusive Leased Premises, the Private Suites, the Club Lounge, or the Restaurant) for the purposes described in Section 8.1 hereof for Team-sponsored events that are open to the general public (in connection with which the public may or may not be required to purchase tickets) are herein referred to as "Team Use Days." The days on which Team is entitled to and uses the Stadium Complex for private scrimmages, private practices, private training activities, or media events (except if such use is limited to the Practice Area or other portions of the Exclusive Leased Premises) are herein referred to as "Private Team Use Days". Team shall have the exclusive right to possess and use the Stadium Complex on Team Use Days and Private Team Use Days.

8.3 **County Use.** During the Term, County and its guests and invitees shall be entitled to the possession and use of the Stadium Complex (except for the Exclusive Leased Premises, the Private Suites other than the County Private Suite, the Club Lounge, the Restaurant, and the concession related areas) for a reasonable number of days (herein referred to as "County Use Days") for bona fide events (which are not intended to result in an operating profit to County) sponsored by County, related to operations of County and not in the nature of a for-profit public entertainment event; provided that County Use Days (a) shall be subject to the scheduling requirements set forth in Section 8.8 below, (b) shall be scheduled in a manner which will minimize interference with Team Use Days, Private Team Use Days and Other Events, (c) shall not unreasonably interfere with Team's marketing activities at the Stadium Complex or interfere with Team's year-round use of the Stadium Complex for the purposes described in Sections 8.1.4 and 8.1.5 hereof, and (d) shall



not include events that would materially interfere with the maintenance of the Playing Field in a first-class condition. Notwithstanding the foregoing, to the extent Team's concessionaire for the Stadium Complex agrees, and subject to such requirements that the concessionaire may have with respect thereto, concession services at the Stadium Complex will be made available to County and its patrons as reasonably required for County Use Days at County's cost and expense (and subject to Team's right to receive any revenues arising from the sale of concession products).

8.4 **Other Events.** Throughout the Term, County and Team (or a designee of Team) shall jointly engage a firm experienced on a national basis with the promotion and sponsorship of large public entertainment events to book other suitable events at the Stadium Complex (herein referred to as the "Other Events"), which bookings shall be subject to the reasonable approval of both County and Team. Team shall not be deemed to have unreasonably withheld approval of an Other Event if Team believes such Other Event would materially interfere with the maintenance of the Playing Field in a first-class condition. Other Events shall be scheduled so as not to conflict or coincide with any Team Use Days or Private Team Use Days and shall not interfere with Team's year-round use of the Stadium Complex for the purposes described in Sections 8.1.4 and 8.1.5 hereof.

8.5 **Limitations Upon Use.** Anything herein to the contrary notwithstanding, the right to use of the Stadium set forth in this Article 8 shall be subject to the following limitations:

8.5.1 Without the prior written consent of the other party hereto, no party shall make, perform, cause or authorize to be made or performed any Routine Maintenance or Improvements that in its reasonable judgment would:

- (a) Interfere with the safe and normal use, operation and maintenance of the Stadium Complex for the intended purposes;
- (b) Create safety hazards;
- (c) Materially and adversely affect the value of the Stadium Complex; or
- (d) Violate any Legal Requirements or NFL Rules.

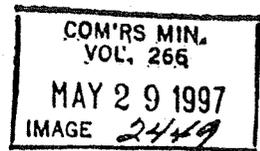
8.5.2 To extent within such party's control, each of Team and County shall use reasonable efforts to cause the Stadium Complex to be used and operated in compliance with all Legal Requirements and NFL Rules; provided that County, at its sole cost and expense, shall be responsible for any capital expenditures which are required to be made in order for the Project, and the use thereof for the purposes permitted herein, to comply with Legal Requirements and NFL Rules.

8.6 **Soccer.** During the initial ten (10) Lease Years Team shall have the sole and exclusive right to present professional soccer events at the Stadium. In the event

Team elects to present soccer during such period, Team shall negotiate with County the terms and provisions of such use, including rent to be paid therefor, suitable security for the protection of the Stadium Complex, insurance, maintenance and other matters similar to those set forth in this Lease. A fair market rent shall be paid for the use of the Stadium Complex by Team to present soccer, it being the intention that County's liability, cost and expenses of owning and operating the Stadium Complex shall not be increased by the presentation of professional soccer therein. Following the expiration of the tenth (10th) Lease Year and provided that Team or its designee is not then (or at any other time during the Term after the tenth Lease Year) presenting soccer to the public under the foregoing terms, County shall have the right for the remainder of the Term to negotiate the terms and conditions under which a professional soccer franchise or organization shall be entitled to use the Stadium Complex (excepting the Exclusive Leased Premises, the Restaurant, the Private Suites and the Club Lounge) for soccer purposes, provided that (a) in no event shall the use of all or any portion of the Stadium Complex for such purposes interfere with or materially adversely affect Team's rights under this Lease (and County covenants that no such use shall so interfere with or materially adversely affect Team's rights under this Lease); (b) subject to the terms set forth below, Team shall be granted a right of first refusal to meet the terms of County's proposal to such third party soccer franchise or organization; and (c) the parties recognize that County's ability to permit the presentation of soccer shall not abrogate or diminish Team's exclusive right to revenues described in Section 10.2 below. Net Revenue (as defined in Section 10.3 below) derived from soccer events at the Project presented by Persons other than Team or its designee shall be divided equally between Team and County in the same manner as described for Other Events in Section 10.3 below, subject to Team's exclusive right to revenues described in clause (c) of this Section 8.6 and provided, however, that in no event will Team be responsible for, or in any way be obligated to reimburse County for, any portion of a Net Loss (determined on an annual basis) resulting from any presentation of such soccer events at the Stadium.

8.6.1 If, following the expiration of the tenth (10th) Lease Year, County negotiates satisfactory terms and conditions pursuant to which any Person would use the Stadium Complex for the presentation of professional soccer, then, prior to entering into such a binding agreement with such party, County shall notify Team in writing of its intent to enter into such an agreement (a "Refusal Notice"). The Refusal Notice shall include the identity of the proposed lessee and the material terms and provisions of the proposed transaction, accompanied by copies of the letter of intent (if any) which memorializes such terms and provisions. County shall also certify to Team that County and the other party intend to enter into a final agreement on the terms set forth in the Refusal Notice and that such terms are bona fide and were negotiated on an arms length basis. Upon written request of County, Team agrees to keep confidential the identity of the proposed third party lessee and the terms and conditions set forth in the Refusal Notice and related documents.

8.6.2 In the event the Refusal Notice relates to soccer presentation by a newly established soccer franchise, then, within sixty (60) days following Team's receipt of the Refusal Notice and accompanying documents, Team may elect, at



its option and subject to the conditions hereinafter provided, to present soccer at the Stadium Complex on the same terms and conditions as those offered to the other party. Such option shall be exercised, if at all, by Team giving written notice to County prior to the expiration of said sixty (60) day period of Team's exercise of the option. If Team does not give such notice within such time period Team shall be deemed to have waived its refusal right under this Section 8.6.2 with respect to soccer presented by such third party upon the terms set forth in the Refusal Notice, and County shall thereafter be permitted to enter into the final agreement with the other party set forth in the Refusal Notice upon the same terms as set forth in the Refusal Notice. If Team properly exercises its refusal rights, Team and County shall negotiate in good faith binding agreements for the presentation of soccer on the same terms and conditions as those set forth in the Refusal Notice.

8.6.3 In the event the Refusal Notice relates to soccer presentation by an existing franchise desiring to relocate in Cincinnati, then, within sixty (60) days following Team's receipt of the Refusal Notice and accompanying documents, Team shall provide written notice to County of whether Team desires to explore obtaining a soccer franchise and to thereafter present soccer at the Stadium Complex on the same terms and conditions as those offered to the other party. If Team does not give written notice to County of its desire to explore obtaining a soccer franchise within said sixty (60) day period, Team shall be deemed to have waived its refusal right under this Section 8.6.3 with respect to soccer presented by such third party upon the terms set forth in the Refusal Notice, and County shall thereafter be permitted to enter into the final agreement with the other party set forth in the Refusal Notice upon the same terms as set forth in the Refusal Notice. If Team, within such sixty (60) day period, provides notice to County that Team desires to obtain a soccer franchise, then Team shall have a period of twelve (12) months from the date of the Refusal Notice to obtain such a franchise and to negotiate in good faith binding agreements with County for the presentation of soccer on the same terms and conditions as those set forth in the Refusal Notice. If Team is unable to obtain a soccer franchise within such twelve (12) month period, County shall thereafter be permitted to enter into binding agreements with the original other party to present soccer on the same terms as are set forth in the Refusal Notice.

8.6.4 County acknowledges and agrees that Team may elect to have any and/or all of its rights under this Section 8.6 (and its rights under Section 8.1.9) vested in or assigned to an entity to be formed and County shall not unreasonably withhold its consent to the same.

8.7 Rights of First Refusal for Ticketholders. In connection with Other Events at the Stadium (including, without limitation, soccer, unless soccer is presented on a regular basis, in which case, the provisions below relating to the season tickets shall control), County acknowledges that Team may require that the sponsors of such Other Events agree with Team that patrons then holding licenses for the Private Suites and the Club Seats shall be given a right of first refusal to purchase tickets (without

any discount) for the same seating locations (or, in Team's discretion, reasonably comparable seating locations) for such Other Events. If such right of first refusal is not exercised prior to a specific date to be agreed upon by Team and the sponsor of the Other Event, the Club Seats will be available for sale to the general public; Private Suite seating will not be available for public sale. The date by which such right of first refusal must be exercised shall be determined by the promoter of the applicable event and approved by Team, based upon a reasonable schedule for the sale of tickets for the relevant event and leaving a sufficient period for sale of tickets to the public after completion of the right of first refusal process. In addition to the foregoing, County acknowledges that Team may require that holders of COA's (as well as licensees of Private Suites) be given a right of first refusal to purchase season tickets (without any discount) for the same seating locations (or, in Team's discretion, reasonably comparable seating locations) for soccer games in the event a Person intends to present soccer games at the Stadium on a regular basis. In such event, holders of COA's (as well as licensees of Private Suites) shall have a period of no less than forty-five (45) days to exercise such right of first refusal. In the event a Person intends to present soccer games at the Stadium on a regular basis, County covenants that it will not sell, nor permit the sale of, seat licenses, personal seat licenses, charter ownership agreements, or similar types of products entitling the holder thereof to purchase tickets for such games.

8.8 **Scheduling.** In its use of the Stadium Complex pursuant to this Article 8, Team shall have the following priority scheduling rights:

(a) As to professional football games (including pre-season, regular season, and playoff or conference championship games), practices, scrimmages and other preparatory activities on the two days prior to such games, Team shall have absolute control and priority of the scheduling of the Stadium Complex for such games and activities;

(b) As to practices (including practices open to the public) or other football-related public events during the Football Season, Team shall have absolute control of the scheduling of the Stadium Complex for such events, provided that Team has given County two months' prior notice of the practice or other public event; and

(c) As to practices (including practices open to the public), mini-camps, training camps or other football-related public events during the period from the close of a Football Season to the beginning of the next succeeding Football Season, Team shall have the absolute control of the scheduling of the Stadium Complex for such events, provided Team has given County three (3) months' prior notice of the practice, training camp or other public event.

County shall have no right to interfere with the scheduling of Team's home games and other football-related events; in the event County schedules an event at the Stadium Complex that conflicts with Team's control of scheduling described above, County will reschedule such other event so as to eliminate such conflict. In addition, the foregoing provisions of this Section 8.8 shall not be deemed in any way to prohibit Team from

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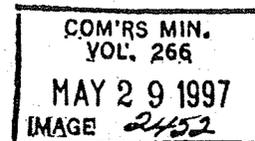
using the Stadium Complex for the uses set forth in clauses (b) and (c) above on dates not actually scheduled and used for County Use Days or Other Events. In its use and operation of the Project, County shall not take any action that will interfere with Team's ability to operate and control the Stadium Complex on Team Use Days.

8.9 Scheduling Events on the Riverfront. Without in any way limiting Team's rights under Section 8.8 of this Lease, Team and County hereby agree that each shall use good faith efforts to cooperate with each other and that each shall work with third parties in the scheduling of events at the Stadium Complex and at other locations within the general vicinity of the banks of the Ohio River that are within one mile of the Stadium Complex so as to minimize scheduling conflicts and to provide for the efficient use of the Parking Facilities.

8.10 County Private Suite. In addition to its rights under Section 8.3 of this Lease, County shall throughout the Term be entitled to the exclusive use of a Private Suite (the "County Private Suite") in a location mutually agreed upon by Team and County. County shall not be required to pay Team any rental fee for the use of the County Private Suite, however, County shall be required to purchase tickets (at the applicable price charged to license holders of the Private Suites or otherwise allocated to tickets issued to license holders of the Private Suites) (a) for all Team NFL games played at the Stadium for all seats located within the County Private Suite and (b) for each Person using the County Private Suite for Other Events for which general Stadium patrons are required to purchase tickets. Subject to the foregoing, County's use of the County Private Suite shall be subject to such terms and conditions and regulations applicable to other holders of licenses for Private Suites.

8.11 Practice Area Development Rights. From and after the date of this Lease and continuing throughout the Term, Team shall have, and be permitted to exercise, any and all development rights (including, without limitation, the right to construct Improvements within such area) relating to the area comprising the Practice Area and accompanying grounds as shown on Exhibit A, provided that such development rights are exercised in a manner related to the operations of a professional football team or the Stadium Complex.

8.12 Mehring Way Area. County shall use all commercially reasonable efforts to work with Team to gain for Team (at no additional cost to Team) the right to use during the Term the area south of Mehring Way and south of the Stadium Complex for activities on Team Use Days (including, without limitation, the sale of concessions and novelties and other activities related to Team events (including, to the extent not prohibited by Legal Requirements, the sale of alcoholic beverages and the holding of private parties)), even if such area is developed for park purposes in the future.



## ARTICLE 9

### ADVERTISING, SIGNS AND BROADCAST RIGHTS

9.1 **Advertising Rights.** Team shall have and control exclusively, and receive all revenues from, all advertising and promotional rights in and to the Stadium Complex and the Stadium Parking Facility including, without limitation, permanent and transitory advertising and including, without limitation, scoreboard advertising, canopy advertising, video board advertising, public address advertising and exterior message board advertising. Team shall have the exclusive right to sell and maintain such advertising and maintain signs and other advertising on and within the Stadium Complex and the Stadium Parking Facility (including, without limitation, on the walls, canopies, roofs, fences and facades of said areas, on the Plaza, and in the air above the Stadium Complex and on the Stadium scoreboard, video board and message board) and, in addition, Team may, at its expense and subject to compliance with all applicable zoning codes and regulations, erect additional signs on and within the Stadium for such advertising which do not materially and adversely affect the Stadium structure. Team may determine the size, form and content of such advertising. County shall have no right to sell, maintain, erect or construct advertising in the Stadium Complex or the Stadium Parking Facility. Additional informational and directional signs of a non-advertising nature may be erected from time to time by either party at its expense, provided that any such sign shall be subject to the reasonable approval of the other party. As an example, but not in limitation of the foregoing, County may wish to erect ownership or historical signage on the Plaza identifying County as the owner and developer of the Stadium Complex.

9.2 **Other Advertising.** Team may conduct, or permit to be conducted, in the Stadium Complex and the Stadium Parking Facility, any and all other forms of advertising that Team in its sole discretion may deem appropriate, including, but not limited to, any advertising or promotional events in stadium concourses, on the Plaza, or in the Parking Facilities; any advertising to be worn or carried by Team's or any concessionaire's personnel; promotional events sponsored by advertisers; logos or other forms of advertising to be affixed to or included with cups, hats, t-shirts and other concession items or giveaways; and any and all other forms of such advertising or promotion.

9.3 **Exterior Signs.** Team shall control all advertising on or outside of the structure of the Stadium Complex and the Stadium Parking Facility, including, without limitation, on any external messageboards.

9.4 **Review Rights.** County shall have a right of approval of all advertising and signs placed on the outside of the Stadium; provided, however, that County may withhold such approval only if such advertising or exterior signs violate a Legal Requirement imposed by an entity other than County or are offensive to general community standards. Prior to installing any such advertising or signs after the Commencement Date, Team shall submit plans therefor to County for its approval. Failure of County to promptly object to any proposed advertising or exterior signs

within ten (10) business days after receipt of a request therefor shall be deemed, and may be conclusively relied on by Team as constituting, County's approval thereof. Notwithstanding the foregoing, Team may at its own risk utilize any advertising which does not violate any Legal Requirement without County's approval, provided that if it is ultimately determined that County would have been entitled to withhold consent thereto, Team shall be required to remove such advertising.

9.5 Use and Control of Scoreboards and Other Systems. Team (in its capacity as tenant under this Lease and not, to the extent applicable, in its capacity as the Manager under the Management Agreement) and persons under its direct control shall, during the Term, have exclusive control of the public address system, scoreboards, video boards and message boards, and other Stadium electronic signage and similar systems at the Stadium Complex. Notwithstanding the foregoing, but without in any way limiting Team's exclusive right to receive any revenues that may arise therefrom, County shall have the right to use the Stadium public address system, scoreboard, video board and message boards, and all other stadium electronic signage normally used for game-day operations on County Use Days. In connection with any such use, County shall engage those personnel designated by Team for operation of the public address system and such signage and will pay the standard rates payable to such personnel for such work. Team shall also make such systems available to appropriate Persons on a similar basis as reasonably required in connection with Other Events.

9.6 Radio, Television, and Other Rights. Subject to the following provisions relating to Other Events, during the Term (and for such prior period from the date of this Lease to the Commencement Date) Team shall have the exclusive right to film, record, broadcast, transmit, or otherwise publish, and to authorize others to film, record, broadcast, transmit, or otherwise publish all or any portion of any event at the Stadium Complex, any and all descriptions and accounts of such events and any and all activities related to such events by any medium (whether now known or hereafter invented), including but not limited to print, film, photograph, video recording, satellite, radio, television, pay-tv, coaxial cable, or other transmission medium (such exclusive rights and mediums are hereinafter collectively referred to as the "Broadcast Rights"). Further, subject to the following provisions related to Other Events, Team shall have the exclusive right to sell or license all or any portion of the Broadcast Rights to one or more third parties, and (except as expressly provided otherwise in this Lease) to retain all revenues, royalties, and fees derived from the Broadcast Rights and the sale or licensing thereof. County hereby grants to Team a non-exclusive royalty free license in perpetuity to include in any Broadcast Rights any likeness, image, sound, or other such item not owned by Team and visible or available in, on, or about the Stadium Complex from time to time. County also agrees that Team shall be entitled to permit any licensee or purchaser of the Broadcast Rights to enter the Project and to remain therein in connection with the Broadcast Rights and transmissions and the creation or transmission thereof, all without further charge, fee, or approval. Notwithstanding the foregoing, Team acknowledges that County may, pursuant to agreements made by County's and Team's booking agent with respect to Other Events, grant Broadcast Rights (along with the right to sell, relicense and retain revenues, royalties and fees

with respect to the same) relating to an applicable Other Event to a sponsor and/or promoter of such Other Event.

## ARTICLE 10

### REVENUE RIGHTS AND OTHER PAYMENTS

10.1 **Team Use Day Revenue.** During the Term, Team shall have the right to receive all revenues accruing from operation of the Project on Team Use Days including, without limitation, ticket revenue, Private Suite revenue, advertising revenue, Club Seat revenue, Broadcast Rights revenue, concessions and novelty revenue, revenue from the Parking Facilities relating to parking for Team events (net of direct reasonable labor operating costs and parking taxes not imposed by County) and any other revenues earned from operation of the Project on Team Use Days.

10.2 **Other Team Revenue.** Team shall also have the exclusive right, on a 365-day year round basis (and regardless of whether relating to a Team Use Day, a County Use Day or an Other Event), to receive all revenues from the following sources:

- (a) any advertising in accordance with Article 9 of this Lease;
- (b) all Broadcast Rights (other than Broadcast Rights granted with respect to Other Events as described in Section 9.6 above);
- (c) the operation of the Club Lounge, the Restaurant and the Exclusive Leased Premises;
- (d) food and beverage concessions (including alcoholic beverages) sold at the Stadium Complex or the Parking Facilities; provided, however, with respect to the Cinergy Field Parking Facilities only, Team's right to such revenues shall be subject to any existing rights that the current concessionaire for Cinergy Field may have with respect thereto (but only so long as such rights exist under existing agreements); provided further that (i) County agrees to use all commercially reasonable efforts to terminate any such rights held by the current Cinergy Field concessionaire and (ii) County shall promptly pay to Team any revenues received by County arising from any such rights of the current Cinergy Field concessionaire relating to the Cinergy Field Parking Facilities;
- (e) all novelties, publications and other products sold at the Stadium Complex or the Parking Facilities, including the year-round revenues from any gift shops or novelty stores that are part of the Stadium Complex; provided, however, with respect to the Parking Facilities only, Team's revenue rights shall relate to Team Use Days only and provided further, such rights shall be subject to any existing rights

that the current concessionaire for Cinergy Field may have with respect to the Cinergy Field Parking Facilities (but only so long as such rights exist under existing agreements); provided further that (i) County agrees to use all commercially reasonable efforts to terminate any such rights held by the current Cinergy Field concessionaire and (ii) County shall promptly pay to Team any revenues received by County arising from any such rights of the current Cinergy Field concessionaire relating to the Cinergy Field Parking Facilities;

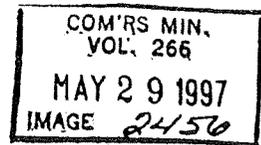
(f) revenues from COA's sold on or after August 1, 2000; it being understood that County has reserved to itself all revenues from COA's sold prior to August 1, 2000;

(g) naming rights of the Stadium Complex, subject to the provisions of Section 10.5 below; and

(h) any other revenues generated by or at or with respect to the Stadium Complex, including Private Suite and Club Seat licensing, rental and other revenues, which is not otherwise specifically allocated to County or any third party under this Lease.

**10.3 Other Events Revenue.** The "Net Revenue" received from, or any "Net Loss" resulting from, Other Events shall be divided equally between County and Team. As used in this Section 10.3, "Net Revenue" and "Net Loss" shall mean the gross revenues received from the sales of tickets, rental fees, parking revenues, Broadcast Rights revenues and any and all other revenues relating to such Other Events, less all costs and expenses incurred by County or Team in connection with such Other Events including, without limitation, the following: (a) management, promotional or other fees and commissions paid; (b) security costs; (c) additional insurance costs; (d) cleaning and maintenance expenses; and (e) the costs of protecting the Playing Field and of restoring the Playing Field to a condition reasonably satisfactory to Team, to the extent that such costs are necessitated by damage occurring during such Other Events. For the purposes of the foregoing, Team and County expressly acknowledge that the presentation of soccer (whether on an individual game basis or on a seasonal basis) shall be deemed an Other Event if soccer is presented at the Stadium by any Person other than Team or a designee of Team; provided, however, that in no event shall Team be responsible for, or in any way be obligated to reimburse County for, any portion of a Net Loss (determined on an annual basis) resulting from any presentation of such soccer events at the Stadium.

**10.4 County Use Days Revenue.** Except as otherwise specifically set forth in Section 10.2 above, and subject to the restrictions set forth in Section 8.3, County shall have the right to receive all revenues earned from the Project from the holding of events by County on County Use Days. In addition, County shall be responsible for all costs and expenses incurred by Team or County in connection with the holding of events by County on County Use Days including, without limitation, (a) management, promotional or other fees and commissions paid; (b) security costs; (c) additional insurance costs; (d) cleaning and maintenance expenses; and (e) the costs of protecting



the Playing Field and of restoring the Playing Field to a condition reasonably satisfactory to Team, to the extent that such costs are necessitated by damage occurring during such events.

#### 10.5 Naming Rights.

10.5.1 County and Team hereby agree that the name of the Stadium Complex shall be "Paul Brown Stadium." Notwithstanding the foregoing, County further cedes and grants to Team the exclusive right to grant the privilege to, and to sell to, (and to enter into a binding contract or contracts authorizing) any Private Person the right to rename the Stadium Complex, but such naming rights and any such contract(s) relating thereto shall not extend beyond the expiration of the Term (including any exercised extension options relating thereto). Notwithstanding the foregoing, Team shall not rename, assign or contract to assign, or grant or contract to grant any right to rename the Stadium Complex without obtaining County's prior consent in writing to the proposed name, such consent not to be withheld or delayed unless the proposed name would be in violation of Legal Requirements or would not be suitable for a public building (for example, a name that (a) contains slang, barbarisms, or profanity, (b) is related to any business or enterprise which might reasonably be deemed to be immoral or unpatriotic, or (c) contains any publicly offensive political reference). County shall be deemed to have given its approval to any name requested by Team unless, within thirty (30) days following Team's request for such approval, County notifies Team of its disapproval and furnishes a written explanation, in reasonable detail, of the reasons why such name violates Legal Requirements or would not be suitable for a public building.

10.5.2 In the event Team elects to sell naming rights to the Stadium Complex, County shall cooperate with Team's effort to promote and market the same. Without limiting the foregoing, County shall execute and deliver such further assurance documents as may be required by Team or the party that acquires or is given the right to name the Stadium Complex, including, without limitation, (a) a subordination, non-disturbance and attornment agreement to the effect that, in the event this Lease is terminated due to a Team Default or County Default, then, so long as the naming party is not in default with respect to its obligations under the contract or agreement relating to the naming rights, its rights under such contract or agreement shall not be affected, (b) at the request of Team or the party which has acquired the naming rights to the Stadium Complex, an estoppel certificate (to be delivered not more than twice during any applicable calendar year) certifying to such matters as may be reasonably required by Team or the naming party, and (c) such consents, approvals and acknowledgements as may be required by Team or the naming party affirming County's approval of the naming rights contract and the naming party's rights thereunder and the name given or to be given to the Stadium Complex. County acknowledges that Team shall have the sole right to determine the form and substance of any eventual naming rights contract.

10.5.3 In the event Team sells to a third party naming rights to the Stadium Complex, Team shall be entitled to retain the first \$16.67 million of net revenues arising therefrom. Any net revenues in excess of \$16.67 from such sale of naming rights shall be shared by County and Team, with County receiving thirty percent (30%) thereof and Team receiving the remaining seventy percent (70%) thereof. For purposes of this Section, net revenues shall be all naming rights revenues received less the costs of all "fulfillment" obligations to the naming party, provided that the cost of such fulfillment obligations shall be valued at the lowest rate charged by Team to other third parties for comparable products or services. (County acknowledges that "fulfillment" obligations may include, without limitation, the provision of items such as other advertising, Private Suite(s), Club Seats, tickets and other products to the naming party.) Net revenues, for purposes of this Section, shall be determined as the present value of the stream of revenue from such sale of naming rights as of January 1, 2000, using a six percent (6%) discount rate.

## ARTICLE 11

### MANAGEMENT OF STADIUM COMPLEX

11.1 Management. On or prior to the Commencement Date, Team and County shall enter into a management agreement (the "Management Agreement") in a form mutually agreeable to Team and County which shall provide that Team, for so long as it is Manager thereunder, shall, except as otherwise provided in this Lease (including, without limitation, Section 11.2 below), have complete responsibility for the general management and operation of the Stadium Complex on a 365-day year round basis. The Management Agreement shall provide for, among other things, a three (3) year term with automatic renewal for successive three (3) year terms, subject to termination by Team at its option following reasonable written notice to County. The Management Agreement shall be subject to termination by County only for cause related to (a) a Team Default under this Lease entitling County to exercise the remedies set forth in Section 22.2 below or (b) an on-going failure of the Manager to the properly operate the Stadium Complex which is not cured within 180 days after notice from County. County agrees that Team may elect to have its management rights to the Stadium Complex vested in or assigned to an entity (the "Team Designee") to be formed and County shall not unreasonably withhold its consent to the same. If, notwithstanding the foregoing provisions of this Section 11.1, Team or the Team Designee and County fail to enter into a management agreement on or prior to the Commencement Date, then, for such period during the Term as Team may desire, Team shall have the right under this Lease to manage and operate the Stadium Complex and County shall have the obligation to pay for all of the costs and expenses incurred by Team in connection with such management and operation, which payments shall be due from County within thirty (30) days after submission by Team to County of any invoice therefor.

11.2 **Team Use Day Operations; Team Responsibility.** Except as otherwise provided in this Lease, Team, in its capacity as tenant hereunder rather than as Manager under the Management Agreement, shall have full and complete responsibility and control, at Team's sole cost and expense, for the operation of the Stadium Complex (including all "building systems" and other systems) on Team Use Days including, without limitation, the employment of all security and crowd control personnel within the Stadium and all maintenance, cleaning and other personnel (including independent contractors) required for such operation of the Stadium on such days.

11.3 **Team Use Day Operations; County Responsibility.** Notwithstanding the provisions of Section 11.2 above, County shall be responsible for the following costs associated with the use of the Stadium Complex (including, without limitation, the use of the Stadium Complex for events and activities on Team Use Days and Private Team Use Days):

(a) the costs of acquiring and maintaining the appropriate public liability, property and casualty insurance for such activities;

(b) subject to Section 11.4 below, all charges for utilities used in the operation of the Project, including, without limitation, charges for heat, light, water, air conditioning, sewer, gas, steam, electricity, cable or satellite television, and telephone and other telecommunications or data communications (other than long distance charges);

(c) the cost of all maintenance or repair of the Playing Field within the Stadium ("Field Maintenance"); provided that (i) the cost of any Field Maintenance performed on the day that the Playing Field is used by Team for any of the purposes permitted herein shall be paid for by Team and (ii) Team shall be responsible for any material increase in the costs of Field Maintenance arising as a direct result of Team's use of the Playing Field for private Team practices (other than those held pursuant to Team's rights under Section 8.1.1 of this Lease); and

(d) the cost of providing security and crowd and traffic control on and within the Plaza, the Parking Facilities and, as may be appropriate, surrounding and nearby walkways, streets and other public areas.

11.4 **Utilities and Services.** County shall provide for, and shall purchase and pay for, all utility services, including, but not limited to, heat, light, water, air conditioning, sewer, gas, steam, electricity, cable or satellite television, and telephone, telecommunications or data communications, and other utilities provided for in the Architectural Program, from the utility or municipality providing such service, and shall pay for such services when such payments are due. Notwithstanding the foregoing, Team shall be responsible for payment of all costs of the foregoing utilities used at or in the Administrative Offices, the Practice Area and, on non-Team Use Days only and

only to the extent such facilities are separately metered, Team's novelty store and the Restaurant.

11.5 **Regulations Regarding Utilities and Services.** Team agrees to cooperate fully, at all times, with County in abiding by all reasonable regulations and requirements which County may prescribe, or which may be imposed by the utility or municipality providing the relevant utility or service, for the proper functioning and protection of utilities and services used in or reasonably necessary for the operation of the Stadium; provided, however, that Team shall not be required to comply with any of such regulations or requirements of County which materially or adversely affect the exercise by Team of its rights under this Lease or the use of the Stadium Complex or which result in any additional cost or expense to Team, and Team shall not be obligated to participate in any voluntary program implemented by the utility or municipality providing the relevant utility service.

## ARTICLE 12

### CONDITION OF STADIUM COMPLEX; ENHANCEMENTS

12.1 **Condition of Stadium Complex.** Prior to the Commencement Date, again within thirty days after, and again within three (3) months after the Commencement Date, Team shall assist the Project Architect in the latter's preparation and submission to County of punch lists containing items which must be completed or repaired in order for the Project to be completed in accordance with the Final Plans and the terms and conditions of this Lease. Such punch lists shall include, without limitation, all items specified by Team. County shall cause any items described in such punch lists to be repaired, replaced or reconstructed, as necessary or appropriate, within thirty (30) days after County's receipt of any such punch list, so that each of the punch list items specified are fully and finally completed in the manner specified in, or in a manner which is consistent with, the Final Plans and so that each of such punch list items is in a first class condition and repair. Team's taking possession of the Stadium Complex or any portion thereof shall be conclusive evidence against Team that the Stadium Complex (or the portion thereof taken possession of) was then in good order and satisfactory condition, subject to the following:

- (a) final completion of punch list items;
- (b) latent defects in the design and/or the construction of the Stadium Complex and other defects existing as a result of the construction of the Stadium Complex not being in accordance with the Final Plans, which defects County shall cause to be corrected within a reasonable period of time after receipt of written notice describing such defects; and

(c) Components of the Stadium Complex constructed pursuant to the Final Plans which are not constructed, performing or operating in the manner warranted by the contractor which performed the relevant construction work, or by the supplier which furnished such Component, with respect to which County shall enforce the applicable warranty and cause such contractor or supplier, as the case may be, to take the appropriate corrective action.

County shall require the Project Architect and the Construction Manager to deliver and address to Team certificates of Final Completion representing and warranting that the construction of the Stadium Complex was completed in accordance with the Final Plans. In addition, County shall require the Project Architect and the Construction Manager, at no cost to Team, to provide administration advice and service to Team and the Manager with respect to the initial use of the Stadium Complex and its Components, including, without limitation, the initial start-up of the HVAC system and all other building systems. Upon completion of the Project, County shall deliver to Team a complete set of "as-built drawings" for the Stadium Complex and a complete set of such drawings in machine readable form using Auto-Cad 13 or higher format. In addition, County shall provide Team with all building and building systems manuals, specifications and technical data provided or available with respect to the Components of the Stadium Complex.

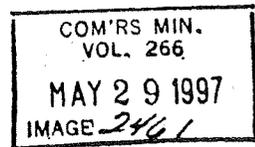
12.2 **Enhancements Generally.** Team shall have the right to make Improvements to the Stadium Complex, at Team's sole cost and expense so long as neither such Improvements, nor the construction thereof:

- (a) Interfere with the safe and normal use, operation and maintenance of the Stadium Complex for the intended purposes;
- (b) Create safety hazards;
- (c) Materially and adversely affect the value of the Stadium Complex; or
- (d) Violate any Legal Requirements or NFL Rules.

Such Improvements are herein referred to as "Enhancements."

12.3 **Level I Enhancements.** As used herein, a "Level I Enhancement" includes a new stadium-related Improvement which is not available in stadia as of January 1, 1997 or, if then available in some form, is not currently prevalent in existing NFL stadia as of such date, which is capable of being added within the structural confines of the Stadium Complex. The following are examples of Level I Enhancements:

- ticketless entry system
- stadium self-cleaning machines
- holographic replay system



- smart seats
- new forms of playing field surface
- next generation video screen
- next generation sound system
- premium seating products different from private suites or club seats

If a Level I Enhancement is in place in either (a) any 14 NFL stadia or (b) 7 NFL stadia where such Level I Enhancements were paid for primarily (more than 50%) through expenditure of funds from public rather than team or private funding sources, then County, at the written request of Team, will install any such Level I Enhancement in the Stadium Complex at County's expense. If Team has installed an Enhancement at its expense and the Enhancement subsequently (i.e., after installation by Team) meets the test for a Level I Enhancement to be funded by County, County shall reimburse Team for its costs expended in installing the Enhancement (without interest or any value for the time value of money during the period from the date of installation through the required date of reimbursement) within thirty (30) days after County's receipt of a certificate from Team that the Enhancement meets the test for a Level I Enhancement or, if applicable, within such other reasonable time period (not to exceed a total of ninety (90) days after County's receipt of the aforementioned certificate) as may be necessary as a result of County's bond financing requirements relating thereto. County may elect to use funds held in the Reserve Account to pay the cost of any Level I Enhancement for which County is responsible under this Section 12.3. County shall have no liability to pay for any Level I Enhancement which is or may be constructed during any Extension Term or to reimburse Team for the cost of any Enhancement installed during the Initial Term which satisfies the Level I Enhancement criteria after the expiration of the Initial Term. Further, County shall have no liability to install or pay the cost of any Enhancement, or to reimburse Team for the cost thereof, at any time that a Team Default exists until such Team Default is cured.

12.4 **Future Enhancements.** One time between January 1, 2006 and December 31, 2008, one time between January 1, 2013 and December 31, 2015 and one time between January 1, 2020 and December 31, 2021, Team may elect to initiate a process by which Team and County will meet and negotiate in good faith regarding a program of appropriate Improvements to the Stadium Complex not provided for in the Lease ("Future Enhancements"). In any such negotiation, the determination as to whether Future Enhancements to the Stadium Complex shall be made will be resolved based upon four factors: (1) the then existing economics of the NFL and where those economics place Team's revenues compared to revenues of other NFL teams; (2) other facilities in the NFL and how the Stadium Complex compares with them in terms of functionality and revenue; (3) the extent to which Net Revenues from the proposed Future Enhancement will be shared with County; and (4) the resources available to County from that portion (35% of total tax revenues) of the sales tax increase voted in March of 1996 available for use in connection with the Stadium Complex. If County and Team reach an impasse in their negotiations, the parties shall submit the matter for resolution by three arbitrators, none of whom shall reside in Greater Cincinnati area, in accordance with the rules of the American Arbitration

Association and shall submit to those arbitrators their respective proposals for addressing, according to these four criteria, a program for Future Enhancements. County and Team shall each have the rights to select one of the three arbitrators, and the third arbitrator shall be selected by the two arbitrators so selected by County and Team, all in accordance with the rules of the American Arbitration Association. The arbitrators, whose authority in such dispute shall be limited strictly to the issue of Future Enhancements, shall choose one party's proposal or the other's (without modification), and the parties shall promptly comply with the arbitrators' decision. Revenue sharing (criterion (3) above) may not be awarded to County if, at the time Team invokes the procedure contemplated above, Team is in the bottom 50% of all NFL teams in gross stadium revenues. In addition, in no event shall there be any sharing of seating or other revenue sources if at the time the procedure is invoked such seating revenues or any other revenue sources controlled by Team are required by NFL Rules to be shared by Team with visiting teams.

### ARTICLE 13

#### MAINTENANCE AND REPAIR

13.1 General Allocation of Responsibilities. It is the purpose of this Article to allocate the responsibilities between County and Team for making repairs, restorations and replacements of and to the Stadium Complex which are necessary during the Term and for paying the cost of such repairs, restorations and replacements. The terms of this Article 13 are subject to any specific provisions of this Lease to the contrary, including the provisions of Articles 11 and 12 above. The general overriding principles underlying such allocations (but subject in all events to the specific provisions of this Article and other more specific provisions of this Lease) are that: (a) County is responsible for performing, or, in the event County has retained a Manager, causing the Manager to perform, Routine Maintenance (as defined in Section 13.2 below) and County, in any event, is responsible for paying the cost of Routine Maintenance; provided, however, that the parties acknowledge that, to the extent Team or the Team Designee is the then Manager of the Stadium Complex pursuant to the Management Agreement or the terms of this Lease, Team or the Team Designee, in its capacity of Manager and in accordance with the terms of the Management Agreement, will, at the cost and expense of County, be responsible for causing the performance of Routine Maintenance, and (b) County is responsible for causing the performance of Capital Repairs (as defined in Section 13.3 below) and for paying the cost of Capital Repairs. Notwithstanding the foregoing, County shall have no obligation whatsoever with respect to Capital Repairs after the expiration of the Initial Term, except to pay the cost of Capital Repairs performed during the Initial Term. Nor shall the County have any obligation to perform, or cause the performance of, any Capital Repairs at any time that a Team Default exists in the nature of a failure to make a payment required under this Lease or because Team has ceased its operations at the Project.

13.2 Routine Maintenance. As used herein, the term "Routine Maintenance" shall mean the provision of all labor and materials which are required to (a) keep the Stadium Complex and its Components in good order, working condition and repair, which is of a routine, regular and predictable nature, (b) keep the Stadium Complex clean and free of debris, and (c) repair, maintain or replace Components of the Stadium Complex, excluding those Components and Improvements installed by Team after the Commencement Date the cost for which is not paid for (or not required to be reimbursed) by County. Examples of Routine Maintenance include, but are not limited to, the following:

- (i) Performing all preventive or routine maintenance which is stipulated in operating manuals for Stadium Complex Components as regular, periodic maintenance procedures;
- (ii) Regular maintenance procedures for the HVAC system, including periodic cleaning, lubricating and changing of air filters;
- (iii) Groundskeeping, including mowing, seeding, fertilizing and resodding;
- (iv) Changing light bulbs, fuses and circuit breakers as they burn out;
- (v) Touch-up painting; and
- (vi) Readyng the Playing Field each year for use pursuant to this Lease.

The following are non-exclusive examples of items which are not Routine Maintenance but rather are Capital Repairs:

- (I) Repair or replacement of an HVAC compressor;
- (II) Replacement of floor coverings which wear out as a result of ordinary wear and tear with floor coverings of similar quality;
- (III) Repair or replacement of cracked or disintegrated concrete, broken pipes or leaking roof or sections thereof;
- (IV) Replacement of a Stadium seat which wears out or replacement of a seat standard or the concrete into which the seat is affixed (as opposed to replacements necessitated by Stadium Misuse); and
- (V) Re-application of protective materials, such as paint or weather-proofing, after original application wears out.

13.3 **Capital Repairs.** As used herein, the term "Capital Repairs" shall mean any work which is reasonably required to be performed in and about the Stadium Complex to restore or replace Components of the Stadium Complex necessitated by any damage, destruction, ordinary wear and tear, defects in construction or design, or any other cause, including without limitation any work or services required to maintain the Stadium Complex and its Components in the condition specified in Section 13.2 hereof which do not constitute Routine Maintenance; provided that "Capital Repairs" shall not include any of the foregoing resulting from Stadium Misuse by Team, nor shall "Capital Repairs" include any replacement or restoration work related to Improvements to the Stadium Complex that are made by Team after the Commencement Date, except for Improvements the cost of which is paid for (or required to be reimbursed) by County. In addition to the foregoing, "Capital Repairs" shall also include work and materials required to effectuate any of the following:

- (a) changes or Improvements required by the NFL of all NFL open-air stadia;
- (b) changes or Improvements required by any insurance carrier to enable County or Team to obtain insurance coverage at commercially reasonable rates provided that in lieu of effectuating such change or Improvement, County may agree to pay the increased insurance premiums; or
- (c) changes or Improvements required by any Legal Requirements.

13.4 **Team Obligations.** Team (or, with respect to clause (a), the Team Designee) shall perform, or caused to be performed (a) all Routine Maintenance to the extent Team or the Team Designee is then the Manager under the Management Agreement and County is in compliance with its obligations thereunder, (b) all work necessitated by Stadium Misuse by Team, and (c) repairs or replacements of any Component or Improvement installed by Team after the Commencement Date the cost for which is not paid for (or not required to be reimbursed) by County. The cost of performing the work described in (b) and (c) above shall be paid by Team, and Team shall hold County harmless from and against all cost and expense arising out of Team's failure to perform or pay for such matters.

13.5 **County Obligations.** County shall cause to be performed and be responsible for payment of the cost of all Capital Repairs and Routine Maintenance to the extent provided for in this Article 13 and County shall hold Team harmless from and against all cost and expense arising out of County's failure to perform or pay the cost of all Capital Repairs and Routine Maintenance.

13.6 **Capital Repairs Reserve Account.** Prior to the Commencement Date, County shall establish and maintain an account (the "Reserve Account"), the purpose of which shall be to accumulate funds for the payment of the cost of Capital Repairs for which County is financially responsible hereunder. On or before the first (1st) day of each Lease Year throughout the Initial Term, County shall deposit One Million Dollars (\$1,000,000.00) into the Reserve Account; provided, however, that County shall have no obligation to make any deposit into the Reserve Account at any time that a

Team Default exists with respect to the payment of Rent or Team's having ceased its operations at the Project; provided further, in event Team cures any such Team Default, County shall, within ten (10) days after such cure, deposit into the Reserve Account such amounts that were withheld as a result of such Team Default. Upon expiration of the Initial Term, funds remaining in the Reserve Account shall be refunded to County. All funds in the Reserve Account shall be the property of County and all interest earned on funds held in the Reserve Account shall be retained in the Reserve Account. Funds in the Reserve Account may be drawn only upon the signature of the designated signatory or signatories of County and funds so drawn may be used only to pay for Capital Repairs for which County is responsible, other than those arising out of damage which is caused by a risk then covered by property insurance policies (except that such funds may be used for covered losses pending receipt of insurance proceeds, but such proceeds shall thereafter be deposited into the Reserve Account) and provided further that County may elect to use funds held in the Reserve Account to pay the cost of Enhancements, Level I Enhancements or Future Enhancements. Notwithstanding the provisions of this Section, County's obligation to perform and pay the cost of Capital Repairs shall not be limited by the amount of funds held in the Reserve Account at any time.

13.7 **Special Field Maintenance Provisions.** Team, in its capacity as tenant under this Lease and not in its capacity, to the extent applicable, as Manager under the Management Agreement, shall be responsible for performing or causing the performance of Field Maintenance. Subject to Section 11.3(c) hereof, County shall be responsible for paying for Field Maintenance expenses, which for any Lease Year (except for the first Lease Year) shall be limited to the amounts therefor set forth in an annual budget for Field Maintenance costs prepared by Team and approved by County prior to August 1 of each Lease Year. (The amount budgeted for such work shall take into consideration, without limitation, the amounts expended for such Field Maintenance for the Lease Year or Years immediately preceding the Lease Year for which the budget is being prepared.) Notwithstanding the foregoing, Field Maintenance expenses shall not be limited to the budgeted amount in the event the excess expenses relate to force majeure or other events, conditions or circumstances which are not reasonably foreseeable (such as unusual weather conditions, blight and similar occurrences). In the event Team and County cannot agree on an annual budget for Field Maintenance costs for any Lease Year, such dispute shall be resolved by the same arbitration process described in Section 12.4 hereof, and until such resolution Team shall continue to perform and County shall continue to fund the costs of Field Maintenance based on the prior Lease Year's annual budget, with an appropriate inflation factor. Notwithstanding the foregoing, County shall be responsible for paying for Field Maintenance expenses for the first Lease Year to the full extent of the actual expenses incurred during such Lease Year.

13.8 **Practice Area and Administrative Offices.** Notwithstanding the provisions of Sections 13.1 and 13.5 above, Team, in its capacity as tenant under this Lease, and not, in its capacity, to the extent applicable, as Manager under the Management Agreement, shall perform and be responsible for the payment of the cost of all Routine Maintenance (including day-to-day janitorial service and trash removal to the Stadium's central trash dumpster area) relating to the Practice Area, including any and

all field maintenance relating thereto, and to the Administrative Offices. County shall, among other things, be responsible for Capital Repairs to the Administrative Offices and the Practice Area and, including, without limitation, the cost of replacing the artificial turf at the Practice Area as reasonably necessary (with due regard to NFL Rules and standards prevailing at other NFL practice facilities) and, in any event, not less than once every eight (8) Lease Years. Without in any way limiting the foregoing, County, at its sole cost, shall promptly repair any damage to the Practice Area (and the fields located therein) resulting from flood or other casualty.

13.9 **Reimbursement of Team Expenses.** Notwithstanding any provision in this Lease to the contrary, during each of the last nine (9) Lease Years of the Initial Term, County shall reimburse Team for any and all expenses of any nature whatsoever incurred by Team relating to the Stadium Complex for the immediately preceding Lease Year (including, without limitation, any expenses incurred by Team (and not otherwise required to be paid or reimbursed by County) under Section 11.2 of this Lease for the operation of the Stadium Complex on Team Use Days and any expenses incurred by Team under Sections 11.4, 13.7, 13.8 and 25.2 of this Lease). Such reimbursement shall be made by County to Team within ten (10) days after Team's delivery to County of a certification prepared by Team's outside accountant as to Team's expenses relating to the Stadium Complex for the applicable Lease Year; provided, however, that in no event shall County's expense reimbursement obligations hereunder exceed (a) Two Million Six Hundred Seventy Thousand Dollars (\$2,670,000.00) for the first applicable Lease Year for which County's reimbursement is payable hereunder and (b) for each of the subsequent eight (8) Lease Years, an amount equal to one hundred five percent (105%) of the prior Lease Year's maximum reimbursement payment. For example, for the second Lease Year in which County's reimbursement is required, County's reimbursement obligation would not exceed \$2,803,500 (105% of \$2,670,000), and for the following Lease Year, County's reimbursement obligation would not exceed \$2,943,675 (105% of \$2,803,500). No such reimbursement payments from County shall be due during any Extension Term.

## ARTICLE 14

### RETURN OF PREMISES

14.1 **Surrender of Possession.** At the termination of this Lease by lapse of time or otherwise, Team shall surrender possession of the Stadium Complex to County and deliver all keys to any enclosed or secured areas of the Stadium Complex to County and make known to County the combination of all locks of vaults then remaining therein. To the extent Team is directly responsible under this Lease to maintain any portion or Component of the Stadium Complex, Team shall return such portion or Component of the Stadium Complex in the condition required in Section 13.2 above, subject to normal wear and tear and loss or damage by fire or casualty; but in no event shall Team be responsible for Capital Repairs and other work required to be performed or paid by County in accordance with this Lease.

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14.2 Installations and Additions. All installations, additions, partitions, hardware, light fixtures, nontrade fixtures and improvements, temporary or permanent, including all Improvements to the Project (except furniture, trade fixtures, equipment and other items of moveable personal property belonging to Team, in or upon the Project), whether placed there by Team or County, shall be County's property upon termination or expiration of this Lease and shall remain at the Stadium Complex, all without compensation, allowance or credit to Team.

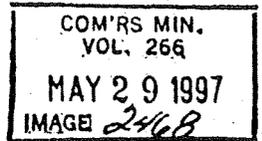
14.3 Trade Fixtures and Personal Property. Team shall remove Team's furniture, trade fixtures, equipment and other items of movable personal property of every kind and description from the Stadium Complex and restore any damage caused thereby, such removal and restoration to be performed no later than thirty (30) days following termination of this Lease. If Team fails to remove such property from the Stadium Complex within such time period, the same may be handled, removed or stored by County at the cost and expense of Team, and County shall in no event be responsible for the value, preservation or safekeeping thereof. Team shall pay County for all reasonable expenses incurred by County in such removal and storage charges against such property so long as the same shall be in County's possession or under County's control. All such property not removed from the Project or retaken from storage by Team within thirty (30) days after the end of the Term, shall, at County's option, be conclusively deemed to have been conveyed by Team to County as by bill of sale without further payment or credit by County to Team.

14.4 Survival. All obligations of Team under this Article 14 shall survive the expiration of the Term or sooner termination of this Lease.

## ARTICLE 15

### HOLDING OVER

If Team retains possession of the Stadium Complex or any part thereof after termination of this Lease, by lapse of time or otherwise, Team shall be liable for all damages, consequential as well as direct, sustained by County by reason of such retention, provided however, as a condition of Team's being liable for such damages, (a) County shall have first provided Team with written notice of the date that Team shall be required to quit its possession of the Stadium Complex due to a scheduled occupancy of the Stadium Complex by a third party pursuant to such third party's written lease for the same and (b) Team's holding over shall have extended beyond the date specified in such notice.



## ARTICLE 16

### TRANSFER OF TEAM'S FRANCHISE

16.1 **General.** Team hereby acknowledges that County will be irreparably harmed by the transfer, during the Term, of Team's NFL Franchise to a location other than the Project. Accordingly, Team hereby acknowledges and agrees as follows:

16.1.1 County does not have an adequate remedy at law for breach of this Article 16;

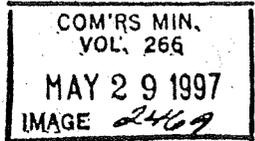
16.1.2 Team shall not enter into any contract or agreement of any kind to transfer, during the Term, its NFL Franchise outside the County of Hamilton, Ohio or to a location other than the Project without the prior written consent of County;

16.1.3 Team shall not make formal application to the NFL for approval to transfer, during the Term, its NFL Franchise to a location other than the Project without the prior written consent of County;

16.1.4 Subject to the provisions of Section 20.1 of this Lease, Team shall, from and after the Commencement Date and until the expiration of the Term, play all of its regular season NFL home games and post-season home games (other than a Super Bowl game) at the Stadium; and

16.1.5 Team agrees that, in the event of a violation of this Article 16, County shall be entitled to seek and obtain, and Team hereby consents to the entry of, a temporary restraining order, together with preliminary and permanent injunctive relief, from any court of competent jurisdiction to enjoin any violation of this Article 16. Team hereby waives any requirement that County post a bond in connection with such injunctive relief.

The foregoing provisions of this Section 16.1 shall not be deemed a waiver of any legal or equitable rights to which Team may then be entitled except to the extent expressly provided above. Notwithstanding the foregoing, County agrees that upon termination or expiration of the Lease, Team shall be permitted to play most or all of its games at a location other than the Project notwithstanding Ohio Revised Code §9.67 or other relevant law or regulation and that this authorization satisfies the requirements of Ohio Revised Code § 9.67.



ARTICLE 17

RIGHTS RESERVED TO COUNTY

17.1 Rights Reserved to County. County reserves the following right, exercisable with reasonable prior notice under the circumstances (except that no notice is required in the event of an emergency) and, subject to County's compliance with the provisions of Section 8.5 and this Article 17, without liability to Team for damage or injury to property, person or business (except if caused by the negligence or intentional misconduct of County or its agents) and without effecting an eviction or disturbance of Team's use of possession or giving rise to any claim for setoff or abatement of Rent:

to enter upon and remain in the Stadium Complex at reasonable hours for reasonable purposes, including, without limitation, inspection or performance of Improvements; provided, however, that in exercising its rights under this Section 17.1, County shall (a) make all reasonable and good faith efforts to minimize any interference with Team's exercise of its rights under this Lease, (b) reschedule its activities if such activities would interfere with Team's exercise of its rights on any Team Use Day or Private Team Use Day (except in the event of an emergency), and (c) coordinate with Team with respect to the scheduling of any activities in the Exclusive Leased Premises.

Subject to the foregoing requirements and the provisions of Section 8.5 and Section 17.2 below, throughout the Term, County and its contractors shall have free access to any and all areas of the Stadium Complex to the extent necessary or desirable in connection with Improvements, and Team agrees that there shall be no construction of partitions or other obstructions (except in accordance with plans and specifications approved by County) which might materially and adversely interfere with access to or the moving of servicing equipment to or from the enclosures containing said areas.

17.2 Improvements by County. Following the Commencement Date, except to the extent Improvements are required to be made by County under this Lease, County shall make no Improvements to the Stadium Complex without obtaining the prior written consent of Team, which may be withheld by Team in its reasonable discretion. County shall coordinate with Team and shall obtain Team's prior approval with respect to the scheduling and timing of all Improvements to be performed by County.

ARTICLE 18

ASSIGNMENT AND SUBLETTING

18.1 General Restrictions on Assignment and Subletting. Except as specifically set forth in Section 18.2 hereof, Team, without prior written consent of County in each instance, shall not:

18.1.1 assign, transfer, mortgage, pledge, hypothecate or encumber or subject to or permit to exist upon or be subjected to any lien or charge, Team's leasehold interest under or pursuant to this Lease, or any portion of such leasehold interest (provided that the foregoing shall not be deemed to restrict Team's assignment of any revenues of Team arising under this Lease and/or Team's leasehold interest, which revenues shall be freely assignable by Team);

18.1.2 sublet the Stadium Complex or any part hereof, subject, in all cases, however, to the provisions of Sections 18.2.2 and 18.2.3 below; or

18.1.3 permit the use or occupancy of the Stadium Complex or any part thereof for any purpose not provided for under Article 8 of this Lease.

County has the absolute right to withhold its consent to the actions described in this Section 18.1 without giving any reason whatsoever, except as herein expressly provided to the contrary. In no event shall this Lease be assigned or assignable by voluntary or involuntary bankruptcy proceedings or otherwise, and in no event shall this Lease or any rights or privileges hereunder be an asset of Team under any bankruptcy, insolvency or reorganization proceedings.

18.2 Permitted Assignments or Subletting. Notwithstanding the provisions of Section 18.1 above, or any other provision of this Lease:

18.2.1 Team may, without the prior consent of County, assign this Lease and its rights under this Lease to any Person which acquires Team's NFL Franchise with the approval of the NFL or otherwise in accordance with applicable NFL Rules; provided the following conditions are satisfied:

(a) Such assignee assumes all of the obligations of Team under this Lease and agrees to be bound by all of the terms and provisions of this Lease pursuant to an instrument in form and substance reasonably acceptable to County;

(b) Such assignee assumes, pursuant to an instrument reasonably acceptable to County, all of Team's obligations under any other agreements or contracts entered into between Team and County with respect to or in connection with the Project;

(c) No Team Default shall then be in existence or, alternatively, such assignee provides assurances which are reasonably satisfactory to County that it will cure such Team Default as a condition of the effectiveness of such assignment; and

(d) Team shall have provided County with evidence, reasonably acceptable to County, that the transfer of Team's NFL Franchise has been approved by the NFL.

18.2.2 Team may, without the consent of County, sell or grant licenses, easements, subleases or similar interests in the ordinary course of the operation of the Stadium Complex to concessionaires, restaurant operators, vendors, advertisers, users and others for the uses of the Stadium Complex contemplated by Article 8 of this Lease; and

18.2.3 Team may, without the consent of County, sell leases, licenses (including, without limitation, COA's from and after August 1, 2000) and similar interests in reserved seats, Club Seats and Private Suites, and may sell tickets for admission to the Stadium.

18.3 **Team to Remain Obligated.** Consent by County to any assignment, subletting, use, occupancy or transfer shall not operate to relieve Team from any covenant or obligation hereunder except to the extent, if any, expressly provided for in such consent, or be deemed to be a consent to or relieve Team from obtaining County's consent to any subsequent assignment, subletting, use, occupancy or transfer. Notwithstanding the foregoing, the assignment or transfer of the rights of Team in, to and under this Lease shall release Team of its covenants and obligations under this Lease arising from and after the effective date of the assignment or transfer if such assignee or transferee (a) is an approved franchisee of the NFL and (b) assumes in writing all of the obligations of Team under this Lease.

## ARTICLE 19

### WAIVER OF CERTAIN CLAIMS; INDEMNIFICATION

19.1 **Waiver of Certain Claims by Team.** To the extent not expressly prohibited by law, Team releases County, and its agents, servants and employees, from and waives all claims for loss, costs, expenses or damages to person or property sustained by Team, or by any other Person, resulting directly or indirectly from fire or other casualty, cause or any existing or future condition, defect, matter or thing in or about the Stadium Complex and Parking Facilities, or from any equipment or appurtenance therein, or from any accident in or about the Stadium Complex or Parking Facilities, or from any act or neglect of any other Person, including County's agents and servants, excepting only matters arising out of the gross negligence or intentional or willful misconduct of County or its agents or servants; provided that such waiver applies only to the extent any such loss, costs, expenses or damages are covered by and to the extent of proceeds received from insurance maintained by Team or County. This Section 19.1 shall apply especially, but not exclusively, to damage caused by fire, casualty or any other causes, and shall apply without distinction as to the Person whose act or neglect was responsible for the damage.

19.2 **Waiver of Certain Claims by County.** To the extent not expressly prohibited by law, County releases Team, and its agents, servants and employees, from and waives all claims for loss, costs, expenses or damages to person or property sustained by County, or by any other Person, resulting directly or indirectly from fire

or other casualty, cause or any existing or future condition, defect, matter or thing in or about the Stadium Complex and Parking Facilities, or from any equipment or appurtenance therein, or from any accident in or about the Stadium Complex or Parking Facilities, or from any act or neglect of any other Person, including Team's agents and servants, excepting only matters arising out of the gross negligence or intentional misconduct of Team or its agents or servants; provided that such waiver applies only to the extent any such loss, costs, expenses or damages are covered by and to the extent of proceeds received from insurance maintained by County or Team. This Section 19.2 shall apply especially, but not exclusively, to damage caused by fire, casualty or any other causes, and shall apply without distinction as to the Person whose act or neglect was responsible for the damage.

19.3 **Damage Caused by Stadium Misuse.** Subject to the provisions of Sections 19.1 and 19.2 above, if any damage to the Stadium Complex, or any Component thereof, results from any Stadium Misuse of either Team or County, the party directly or indirectly responsible for such Stadium Misuse shall be liable therefor, and the other party may at its option repair such damage, and the party directly or indirectly responsible for the Stadium Misuse shall upon demand by such other party reimburse such other party for all costs of repairing such damage in excess of amounts, if any, paid to such other party under insurance covering such damage.

19.4 **Personal Property.** All personal property belonging to Team at the Stadium Complex shall be there at the risk of Team, and County shall not be liable for damage thereto or theft or misappropriation thereof. All personal property belonging to County at the Project shall be there at the risk of County, and Team shall not be liable for damage thereto or theft or misappropriation thereof.

19.5 **Indemnification by Team.** To the extent not expressly prohibited by law, Team agrees to hold County and its officers, directors and trustees, and their agents, servants and employees, harmless and to indemnify each of them against claims and liabilities, including reasonable attorneys' fees, for injuries to all persons and damage to or theft or misappropriation or loss of property occurring in or about the Stadium Complex arising from Team's occupancy of the Stadium Complex or the conduct of its business or from any activity, work or thing done, permitted or suffered by Team in or about the Stadium Complex or from any breach or default on the part of Team in the performance of any covenant or agreement on the part of Team to be performed pursuant to the terms of this Lease, or due to any other act or omission of Team, its agents, contractors, Licensees or employees, but only to the extent of County's liability, if any, in excess of amounts, if any, paid under insurance covering such claims or liabilities (or insurance which would have been paid if County had complied in full with its obligations to carry insurance of the type and nature specified in this Lease). Team's obligation to indemnify County hereunder shall include the duty to defend against any claims asserted by reason of any such claims or liabilities and to pay any judgments, settlements, costs, fees and expenses, including attorneys' fees, incurred in connection therewith.

19.6 **Indemnification by County.** To the extent not expressly prohibited by law, County agrees to hold Team and its officers, directors and trustees, and their

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agents, servants and employees, harmless and to indemnify each of them against claims and liabilities, including reasonable attorneys' fees, for injuries to all persons and damage to or theft or misappropriation or loss of property occurring in or about the Project arising from County's occupancy of the Project or the conduct of its business or from any activity, work or thing done, permitted or suffered by County in or about the Project or from any breach or default on the part of County in the performance of any covenant or agreement on the part of County to be performed pursuant to the terms of this Lease, or due to any other act or omission of County, its agents, contractors, Licensees or employees, but only to the extent of Team's liability, if any, in excess of amounts, if any, paid under insurance covering such claims or liabilities (or insurance which would have been paid if Team had complied in full with its obligations to carry insurance of the type and nature specified in this Lease). County's obligation to indemnify Team hereunder shall include the duty to defend against any claims asserted by reason of any such claims or liabilities and to pay any judgments, settlements, costs, fees and expenses, including attorneys' fees, incurred in connection therewith.

## ARTICLE 20

### DAMAGE OR DESTRUCTION BY CASUALTY

20.1 Damage or Destruction by Casualty. If any portion of the Stadium Complex is damaged by fire or other casualty, then County shall proceed promptly to repair and restore the same, subject to reasonable delays for insurance adjustments and the provisions of Section 32.9 of this Lease. During the period (the "Untenantability Period"), if any, commencing on the date that the Stadium Complex cannot be reasonably or profitably used for the uses described in Section 8.1 of this Lease and ending on the date that the Stadium Complex can reasonably be used for such purposes (or such later date that Team may be contractually committed to in connection with its use of an alternate facility for the temporary playing of its NFL games, which later date, if any, shall in no event be later than the commencement of the Football Season next following the Football Season in which restoration of the Stadium Complex is completed), Team shall, notwithstanding the provisions of Article 16 or any other provisions of this Lease, be permitted to use locations other than the Stadium Complex to conduct its business operation; to play its football games and otherwise to undertake the activities which it may undertake at the Stadium Complex. In the event that the Stadium Complex cannot be, or is not, fully repaired or restored to the condition in effect immediately prior to such fire or other casualty within a period of eighteen (18) months following the commencement of the repair or restoration work, Team at its option, in addition to all of its other rights or remedies under this Lease, may elect to terminate this Lease by written notice to County, in which event the Lease shall terminate on the date set forth in the notice from Team. For the purposes of the foregoing sentence, the eighteen (18) month period for repair or restoration work shall be deemed to commence from the earlier of (a) the actual commencement of such work or (b) three (3) months after the fire or other casualty and in no event shall such eighteen (18) month period (or the commencement of such

period) be extended by delays for insurance adjustments or the provisions of Section 32.9 of this Lease.

20.2 Abatement of Base Rent. During the Untenantability Period, or during any other period in which fire or any casualty results in any scheduled preseason or regular season Team game during a Football Season not being played at the Stadium, then Team's obligations, if any, to make Base Rent shall abate in an amount equal to the Base Rent payable with respect to the applicable Lease Year multiplied by a fraction, the numerator of which is the number of preseason and regular season Team games that were unable to be played at the Stadium during such Lease Year and the denominator of which is the number of scheduled preseason and regular season Team home games during the applicable Lease Year (including the number of scheduled games which were canceled).

## ARTICLE 21

### EMINENT DOMAIN

21.1 Total Condemnation. If the Project or a substantial part thereof shall be taken or condemned by any competent authority, the Term shall end upon and not before the earlier of (a) the date when the possession of the part so taken shall be required for such use or purpose or (b) the effective date of the taking. In the event of the foregoing, Base Rent at the then-current rate shall be prorated between the parties as of the date of the termination and paid within thirty (30) days of such termination. Such proration shall be determined by multiplying the Base Rent, if any, payable with respect to the Lease Year in which such termination occurs by a fraction, the numerator of which is the number of pre-season and regular season Team games played at the Stadium during such Lease Year and the denominator of which is the number of originally scheduled pre-season and regular season Team home games for such Lease Year.

21.2 Partial Condemnation. If less than all or a substantial part of the Project shall be taken or condemned by any competent authority, then this Lease shall not so terminate and County shall, to the extent practicable, restore the Project to complete architectural units suitable for the uses described in Section 8.1 of this Lease; provided that if such taking or condemnation materially or adversely affects the ability of Team to utilize the Project for the purposes described in Section 8.1 of this Lease or the profit of Team resulting from the use of the Project, Team shall have the rights of termination set forth in Section 21.1 above. Notwithstanding the foregoing, in the event of a partial taking or condemnation of the Practice Area which does not result in a termination of this Lease, but which, in the Team's judgment, materially and adversely affects the Practice Area for its intended purpose, County shall, at its cost and expense, provide Team with a new practice facility (together with related offices, training and weight rooms, locker rooms and other appropriate facilities) in a location approved by Team and of a quality consistent with NFL practice facilities opened within ten (10) years of the time of such taking.

21.3 **Award.** No money or other consideration shall be payable by County to Team with respect to the termination of this Lease under Sections 21.1 or 21.2. However, Team shall have the right to submit a claim against the taking authority for the losses, costs, damages and expenses (including without limitation, the loss of its leasehold interest) it suffers as a result of such taking or condemnation, whether for a total or partial taking of the Project.

## ARTICLE 22

### DEFAULT BY TEAM

22.1 **Team Defaults.** The occurrence of any one or more of the following matters constitutes a default (each, a "Team Default") by Team under this Lease:

22.1.1 Team's failure to pay any Rent or other charges due and payable to County within thirty (30) days after written notice thereof from County to Team;

22.1.2 Team's failure to observe or perform in any material respect any other covenant, agreement, condition or provision of this Lease if such failure shall continue for thirty (30) days after notice thereof from County to Team; provided, however, that Team shall not be in default with respect to matters which cannot reasonably be cured within thirty (30) days so long as within thirty (30) days after such notice, Team commences such cure and diligently proceeds to complete the same at all times thereafter;

22.1.3 Team admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors, or applies for or consents to the appointment of a trustee or receiver for Team or for the major part of its property;

22.1.4 A trustee or receiver is appointed for Team or for the major part of its property and is not discharged within thirty (30) days after such appointment; or

22.1.5 Bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, or other proceedings for relief under any bankruptcy law, or similar law for the relief of debtors, are instituted by or against Team, and, if instituted against Team, are allowed against it or are consented to by it, are not dismissed within sixty (60) days after such institution.

22.2 **Rights and Remedies of County.** If a Team Default occurs that is not cured within thirty (30) days after an additional written notice from County, County shall have the following rights and remedies hereinafter set forth, which shall be distinct, separate and cumulative, provided however, County may exercise the remedy provided for in Section 22.2.1 below only if (a) the Team Default concerns Team's

failure to pay Rent or Team's having ceased its operations at the Stadium Complex or  
(b) the existence of the Team Default has been determined by court order:

22.2.1 County may terminate this Lease by giving to Team notice of County's election to do so, in which event the Term shall end, and all right, title and interest of Team hereunder shall expire on the date stated in such notice;  
or

22.2.2 County may enforce the provisions of this Lease at law or in equity and may enforce and protect the rights of County hereunder by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy (excluding termination of this Lease), including recovery of all actual damages and moneys due or to become due from Team under any of the provisions of this Lease.

22.3 **Right to Re-Enter.** If County exercises the remedy provided for in the foregoing Section 22.2.1, Team shall surrender possession and vacate the Stadium Complex and immediately deliver possession thereof to County, and County may re-enter and take complete and peaceful possession of the Stadium Complex, and County may remove all occupants and property therefrom, without relinquishing County's right to recover the amounts described in Section 22.4 below.

22.4 **Final Damages.** If this Lease is terminated by County as provided for by Section 22.2.1, County shall be entitled to recover from Team all Rent accrued and unpaid for the period up to and including such termination date, as well as all other additional sums payable by Team or for which Team is liable or in respect of which Team has agreed to indemnify County under any of the provisions of this Lease, which may be then owing and unpaid, and all costs and expenses, including court costs and attorneys' fees, incurred by County in the enforcement of its rights and remedies hereunder, and, in addition, County shall be entitled to recover as damages for loss of the bargain and not as a penalty, any and all actual damages (including loss of the leasehold interest) sustained by County. For the purposes of this Section 22.4, County's actual damages shall be deemed to include, without limitation, the aggregate sum which at the time of such termination represents the present value of the Base Rent which would have been payable after the termination date had this Lease not been terminated, such present value to be computed on the basis of a six percent (6%) per annum discount from the respective dates upon which such Base Rent would have been payable hereunder had this Lease not been terminated.

22.5 **Assumption or Rejection in Bankruptcy.** If Team shall be adjudged bankrupt or if a trustee-in-bankruptcy shall be appointed for Team, County and Team agree, to the extent permitted by law, to request that the trustee in bankruptcy shall determine within sixty (60) days' thereafter whether to assume or reject this Lease.

22.6 **No Right to Terminate Lease.** Except pursuant to a right expressly set forth in this Lease, County shall not have the right to terminate this Lease.



ARTICLE 23

DEFAULT BY COUNTY

23.1 County Defaults. The occurrence of any one or more of the following matters constitutes a default (each, a "County Default") by County under this Lease:

23.1.1 County's failure to (a) pay any amounts due to Team hereunder, including without limitation, the amounts required under Section 13.9 of this Lease or (b) make the deposits into the Reserve Account as provided in Section 13.6 hereof, in either case, within thirty (30) days after written notice thereof from Team to County;

23.1.2 County's failure to observe or perform in any material respect any other covenant, agreement, condition or provision of this Lease if such failure shall continue for thirty (30) days after notice thereof from Team to County; provided, however, that County shall not be in default with respect to matters which cannot reasonably be cured within thirty (30) days so long as within thirty (30) days after such notice, County commences such cure and diligently proceeds to complete the same at all times thereafter;

23.1.3 County admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors, or applies for or consents to the appointment of a trustee or receiver for County or for the major part of its property;

23.1.4 A trustee or receiver is appointed for County or for the major part of its property and is not discharged within thirty (30) days after such appointment; or

23.1.5 Bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, or other proceedings for relief under any bankruptcy law, or similar law for the relief of debtors, are instituted by or against County and, if instituted against County, are allowed against it or are consented to by it, are not dismissed within sixty (60) days after such institution.

23.2 Rights and Remedies of Team. If a County Default occurs that is not cured within thirty (30) days after an additional written notice from Team, Team shall have the following rights and remedies hereinafter set forth, which shall be distinct, separate and cumulative, provided however, Team may exercise the remedy provided for in Section 23.2.1 below only if (a) the County Default is a monetary default or (b) the existence of the County Default has been determined by court order:

23.2.1 Team may terminate this Lease by giving to County notice of Team's election to do so, in which event the Term shall end, and the obligations of Team hereunder shall expire on the date stated in such notice;

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23.2.2 Team may enforce the provisions of this Lease at law or in equity and may enforce and protect the rights of Team hereunder by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy (excluding termination of this Lease), including recovery of all actual damages and moneys due or to become due from County under any of the provisions of this Lease; or

23.2.3 Team may perform the obligations of County at the cost and expense of County, which costs and expenses shall be due and payable by County to Team within five (5) days after County's receipt of a written invoice for same from Team. In the event County fails to timely reimburse Team for such costs and expenses, Team, in addition to any other rights or remedies available to it hereunder, may deduct such costs and expenses from any amounts then or thereafter due to County from Team hereunder or from any other amounts then or thereafter due from Team to County.

23.3 **Final Damages.** If this Lease is terminated by Team as provided for by Section 23.2.1, Team shall be entitled to recover from County all amounts due from County which are accrued and unpaid for the period up to and including such termination date, as well as all other additional sums payable by County or for which County is liable or in respect of which County has agreed to indemnify Team under any of the provisions of this Lease, which may be then owing and unpaid, and all costs and expenses, including court costs and attorneys' fees, incurred by Team in the enforcement of its rights and remedies hereunder, and, in addition, Team shall be entitled to recover as damages for loss of the bargain and not as a penalty, any and all actual damages (including loss of the leasehold interest) sustained by Team.

23.4 **No Right to Terminate Lease.** Except pursuant to a right expressly set forth in this Lease, Team shall not have the right to terminate this Lease.

## ARTICLE 24

### FUTURE DEVELOPMENT OF RIVERFRONT

County covenants that, from and after the occurrence of both (a) the date of this Lease and throughout the Term, and (b) the date County acquires ownership and/or control, in each such instance, directly or indirectly, of property located within the following area: west of the current Race Street as extended south to the Ohio River, north of Mehring Way, east of the Stadium and south of Third Street (the "Restricted Area"), County shall not, and County shall not permit any other Person to, construct any building or any other structure on the Restricted Area owned or controlled (in each instance, directly or indirectly) by County which:

- (i) exceeds two stories or which exceeds a total of 40 feet in height (including all roof top mechanical equipment) above the Stadium plaza elevation of 515 feet above sea level;
- (ii) includes roof top mechanical equipment which is not screened from view;
- (iii) is constructed so as to be visible to a television camera located in the center of the Club Level (elevation of approximately 553 feet) at the 50 yard line along the western side of the Stadium when such camera is pointed toward the view of the Ohio River at the southern most point of the eastern upper deck of the Stadium (the "Viewing Area");
- (iv) has off-street loading facilities within the Viewing Area which are not screened from public view or which has off-street loading facilities which are visible from the Stadium or the Plaza; or
- (v) for property in the Restricted Area which is north of Pete Rose Way, does not include a set back from Pete Rose Way (on its southerly edge) for pedestrian access from the Race Street corridor to the Stadium or which blocks views to the downtown Cincinnati skyline from the Club Level on the easterly side of the Stadium.

A breach of any of the covenants of this Article 24 shall constitute a County Default under this Lease entitling Team to exercise any and all remedies provided for in Section 23.2 of this Lease, including, without limitation, the remedy set forth in Section 23.2.1.

## ARTICLE 25

### SUBROGATION AND INSURANCE

25.1 **Waiver of Subrogation.** County and Team agree to have all fire and extended coverage and other property damage insurance which may be carried by either of them endorsed with a clause providing that any release from liability of, or waiver of claim for, recovery from the other party entered into in writing by the insured thereunder prior to any loss or damage shall not affect the validity of said policy or the right of the insured to recover thereunder and providing further that the insurer waives all rights of subrogation which such insurer might have against the other party. Without limiting any release or waiver of liability or recovery set forth elsewhere in this Lease, and notwithstanding anything in this Lease which may appear to be to the contrary, each of the parties hereto waives all claims for recovery from the other party for any loss or damage to any of its property insured under valid and collectible insurance policies to the extent of any recovery collected under such insurance policies.

Notwithstanding the foregoing or anything contained in this Lease to the contrary, any release or any waiver of claims shall not be operative, nor shall the foregoing endorsements be required, in any case where the effect of such release or waiver is to invalidate insurance coverage or invalidate the right of the insured to recover thereunder.

25.2 **Team's Insurance.** Team shall procure and maintain policies of insurance, at its sole cost and expense, during the entire Term hereof as follows:

25.2.1 Commercial General Liability insurance insuring against claims, demands or actions made by, or on behalf of, any Person and arising from, related to or connected with the exercise by Team of its rights under this Lease with respect to the Administrative Offices and the Practice Area, providing for a single combined minimum limit coverage of not less than \$10,000,000 for each occurrence;

25.2.2 Insurance against all worker's compensation claims;

25.2.3 Standard fire and extended coverage insurance, including, without limitation, vandalism and malicious mischief and sprinkler leakage endorsements, insuring all Team's contents and Team's trade fixtures, machinery, equipment, furniture and furnishings in the Project to the extent of one hundred percent (100%) of their replacement cost; and

25.2.4 Liquor Liability Insurance insuring Team and County, provided that if Team's concessionaire carries such insurance and includes County as an additional insured on such policy, Team's obligation to carry such insurance shall be deemed satisfied.

25.3 **County's Insurance.** County shall procure and maintain policies of insurance, at its sole cost and expense, during the entire Term hereof as follows:

25.3.1 Commercial General Liability insurance insuring against claims, demands or actions made by, or on behalf of, any Person and arising from, related to or connected with the Project (excluding the Administrative Offices and the Practice Area), providing for a single combined minimum limit coverage of not less than \$100,000,000 for each occurrence;

25.3.2 Fire and Casualty insurance insuring all improvements at any time constituting a part of the Project against loss or damage by perils normally included under a form of coverage commonly referred to as fire and special causes of loss (including theft), plus the perils of flood, sewer back-up and earthquake. The insurance coverage shall be for not less than one hundred percent (100%) of the full replacement cost of such improvements with agreed amount endorsement and shall have deductible limits not in excess of \$250,000. Such insurance shall have an agreed amount endorsement and a full replacement cost endorsement. County shall be named as the insured and all proceeds of insurance shall be payable to County. The full replacement cost of

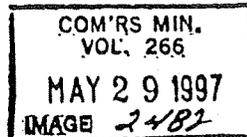
improvements shall be designated annually by County in the good faith exercise of County's judgment; and

25.3.3 Standard fire and extended coverage insurance, including, without limitation, vandalism and malicious mischief and sprinkler leakage endorsements, insuring all County's contents and County's trade fixtures, machinery, equipment (not including concession equipment owned by the Stadium Complex concessionaire or third parties), furniture and furnishings in the Project to the extent of one hundred percent (100%) of their replacement cost.

25.4 **Certificates of Insurance.** Prior to the commencement of the Term and upon written request, each party shall furnish to the other party policies or certificates evidencing the insurance coverage required under this Lease, which policies or certificates shall state that such insurance coverage may not be reduced, canceled or not renewed without at least thirty (30) days' prior written notice to County or Team, as the case may be (unless such cancellation is due to nonpayment of premium, and, in that case, only ten (10) days' prior written notice shall be sufficient). Each insurance policy procured by Team or County, as the case may be, shall name the other party, and any Person designated by the other party, as an additional insured party thereunder. Except with respect to Team's obligations under Section 25.2.2, in no event shall a party be permitted to "self-insure" with respect to its obligations under this Article 25 without obtaining the prior written consent of the other party, which consent may be withheld by such party in its sole and absolute discretion.

25.5 **Amount of Liability Insurance.** The liability insurance provided by Team and County shall be in at least those amounts reasonably agreed to from time to time by Team and County, provided that Team and County shall consider amounts commonly provided with respect to stadia used by other NFL teams; and further provided that such amounts shall never be less than the amounts specified above or later agreed to by Team and County.

25.6 **Hazardous Activities.** Neither party shall intentionally make use of the Project in a manner that would be deemed extremely hazardous or dangerous (provided that the foregoing shall not be deemed to in any way restrict Team's or its designee's use of the Stadium Complex for purposes customarily associated with the conduct and operation of an NFL football team or a professional soccer team) or which may jeopardize insurance coverage, increase the cost of such insurance or require additional insurance, unless, prior to engaging in such activity, such party, at its cost and expense, obtains additional insurance coverage for such activity that is reasonably acceptable to the other party.



ARTICLE 26

NONWAIVER

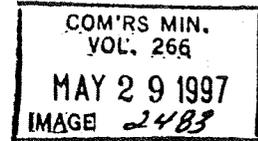
No waiver of any condition, right or obligation expressed in this Lease shall be implied by any failure of any party to enforce, or any election of any party not to enforce, any remedy on account of the violation of such condition, right or obligation whether or not such violation be continued or repeated subsequently, and no express waiver shall affect any condition, right or obligation other than the one specified in such waiver and that one only for the time and in the manner specifically stated. Without limiting any party's rights under any other provision in this Lease, it is agreed that no receipt of moneys by one party from the other party after the termination in any way of the Term or after the giving of any notice shall reinstate, continue or extend the Term or affect any notice given prior to the receipt of such moneys. It is also agreed that after the service of notice or the commencement of a suit or after final judgment for possession of the Stadium Complex, any party may receive and collect any moneys due, and the payment of said moneys shall not waive or affect said notice, suit or judgment.

ARTICLE 27

NOTICES

All notices and demands required or desired to be given by either party to the other with respect to this Lease or the Project shall be in writing and shall be delivered personally, sent by overnight courier service, prepaid, or sent by United States registered or certified mail, return receipt requested, postage prepaid, and addressed as herein provided. Notices to or demands upon Team shall be addressed to Team at One Bengals Drive, Cincinnati, Ohio 45204, Attn: Mike Brown prior to Team's occupancy of the Stadium Complex and at the Stadium Complex following Team's occupancy of the Stadium Complex. Notices to or demands upon County shall be addressed to County c/o County Administrator, County Administration Office, 138 East Court Street, 6th Floor, Cincinnati, Ohio 45202, Attn: County Administrator. Notices and demands shall be deemed given and delivered (a) upon receipt or refusal, if delivered personally, (b) one (1) business day after deposit with an overnight courier service, or (c) two (2) business days after deposit in the United States mails, if mailed. Either party may change its address for receipt of notices by giving notice of such change to the other party in accordance herewith. Copies of all notices sent to Team shall also be sent by County to Taft, Stettinius & Hollister, 1800 Star Bank Center, 425 Walnut Street, Cincinnati, Ohio 45202, Attn: W. Stuart Dornette.

ARTICLE 28  
COVENANT OF QUIET ENJOYMENT



County covenants that if, and so long as, Team keeps and performs each and every covenant, agreement, term, provision and condition of this Lease on the part and on behalf of Team to be kept and performed, Team shall quietly enjoy its rights under this Lease without hindrance or molestation by County or by any other person lawfully claiming by, through or under County, subject to the covenants, agreements, terms, provisions and conditions of this Lease.

ARTICLE 29  
TITLE AND COVENANT AGAINST LIENS

County's title in and to the Stadium Site and the Project is and always shall be paramount to the title of Team, and nothing in this Lease contained shall empower Team to do any act which can, shall or may encumber the title of County in and to the Stadium Site and the Project. Team covenants and agrees not to suffer or permit any lien of mechanics or materialmen to be placed upon or against the Project or against Team's leasehold interest in the Stadium Complex as a result of the acts or omissions of Team, its contractors or agents and, in case of any such lien attaching, to immediately pay and remove same (or bond over same). Team has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by any act or omission of Team, its agents or contractors, operation of law or otherwise, to attach to or be placed upon the Project and any and all liens and encumbrances created by Team, its agents or contractors shall attach only to Team's leasehold interest in the Stadium Complex. If any such liens so attach and Team fails to pay and remove same (or bond over same) within thirty (30) days, County, at its election, may pay and satisfy the same, and in such event the sums so paid by County shall accrue with interest from the date of payment at the rate set forth in Section 32.6 hereof for amounts owed County by Team. Such sums shall be deemed to be additional rent due and payable by Team at once without notice or demand.

ARTICLE 30  
REPRESENTATIONS AND WARRANTIES BY TEAM AND BY COUNTY

30.1 Team Representations and Warranties. Team represents and warrants to County as follows, as of the date hereof and again as of the Commencement Date:

30.1.1 Valid Existence. Team is a corporation duly organized and validly existing under the laws of the State of Ohio (or of the state of its organization

as of the date the Term commences). Team has full corporate power to own its property and conduct its business as presently conducted.

**30.1.2 Power; No Limitation on Ability to Perform.** Team has full corporate power and authority to execute and deliver this Lease and to carry out and perform all of the terms and provisions of this Lease, and all transactions contemplated hereby, to the extent required to be carried out or performed by Team. Neither Team's articles of incorporation and code of regulations nor any NFL Rules, nor any Legal Requirement in any way prohibits, limits or otherwise affects the right or power of Team to enter into and perform all of the terms and provisions of this Lease, and each document, agreement and instrument executed and to be executed by Team in connection with this Lease, and all transactions contemplated hereby and thereby. Neither Team nor any of its officers, directors or stockholders or any of their personal or legal representatives are party to or bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument or Legal Requirement which would prohibit, limit or otherwise affect this Lease except to the extent unconditionally and validly waived. No consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other Person is required for the due execution, delivery and performance by Team of this Lease, or any other agreement, document or instrument executed and delivered by Team or any of the transactions contemplated hereby or, if any such consent is required, it has been unconditionally and validly given by the party entitled to give same.

**30.1.3 Valid Execution.** The execution and delivery of this Lease by Team has been duly and validly authorized by all necessary action. This Lease and all other agreements, documents and instruments executed and delivered by Team in connection herewith are, and each other agreement, document or instrument to be executed and delivered by Team in connection herewith, when executed and delivered will be, legal, valid and binding obligations of Team, enforceable against Team in accordance with their respective terms.

**30.1.4 Defaults.** The execution, delivery and performance of this Lease and each agreement, document and instrument executed and to be executed and delivered by Team in connection herewith (a) do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default under (i) any agreement, document or instrument to which Team is a party or by which Team assets may be bound or affected, (ii) any Legal Requirement applicable to Team, (iii) Team's articles of incorporation or code of regulations, or (iv) NFL Rules, and (b) do not and will not result in the creation or imposition of any lien or other encumbrance upon the assets of Team.

**30.2 County Representations and Warranties.** County represents and warrants to Team as follows, as of the date hereof and again as of the Commencement Date:

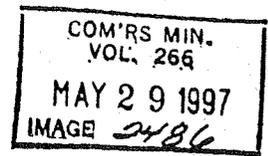
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30.2.1 **Valid Existence.** County is a valid political subdivision of the State of Ohio. County has full power to own its property and conduct its business as presently conducted.

30.2.2 **Power; No Limitation on Ability to Perform.** County has full power and authority to execute and deliver this Lease and to carry out and perform all of the terms and provisions of this Lease, and all transactions contemplated hereby, to the extent required to be carried out or performed by County. No Legal Requirement in any way prohibits, limits or otherwise affects the right or power of County to enter into and perform all of the terms and provisions of this Lease and each document, agreement and instrument executed and to be executed by County in connection with this Lease, and all transactions contemplated hereby. Neither County nor any of its commissioners, officers, directors or officials or any of their personal or legal representatives are party to or bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument or Legal Requirement which would prohibit, limit or otherwise affect this Lease except to the extent unconditionally and validly waived. No consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other Person is required for the due execution, delivery and performance by County of this Lease, or any other agreement, document or instrument executed and delivered by County or any of the transactions contemplated hereby or, if such consent is required, it has been unconditionally and validly given by the party entitled to give the same.

30.2.3 **Valid Execution.** The execution and delivery of this Lease by County has been duly and validly authorized by all necessary action. This Lease and all other agreements, documents and instruments executed and delivered by County in connection herewith are, and each other agreement, document or instrument to be executed and delivered by County in connection herewith, when executed and delivered will be, legal, valid and binding obligations of County, enforceable against County in accordance with their respective terms.

30.2.4 **Defaults.** The execution, delivery and performance of this Lease and each agreement, document and instrument executed and to be executed and delivered by County in connection herewith (a) do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default under (i) any agreement, document or instrument to which County is a party or by which County assets may be bound or affected, or (ii) any Legal Requirement applicable to County, and (b) do not and will not result in the creation or imposition of any lien or other encumbrance upon the assets of County.



ARTICLE 31

GUARANTY BY COUNTY OF SALE OF TEAM TICKETS

As a material inducement for Team to enter into this Lease, County hereby guarantees the sale by Team of at least 50,000 tickets for general admission seats for each of Team's first twenty (20) NFL home games (including preseason games, but excluding post season games) played at the Stadium. For the purposes of this Article 31, "general admission seats" shall not be deemed to include Club Seats or seats in the Private Suites. If Team does not sell at least 50,000 general admission tickets for any Team NFL home game for which County's guaranty is applicable, Team shall deliver written notice to County within ten (10) business days after the holding of such game specifying the number of general admission tickets under 50,000 not sold by Team and the amount due by County to Team as a result thereof (calculated as follows: subtract from 50,000 the actual number of general admission tickets sold by Team for such game and multiply the difference by the weighted average ticket price for such unsold tickets). For purposes of such calculation, the weighted average ticket price of unsold general admission seat tickets shall be determined by dividing the aggregate amount that would have been charged to the public for all of the unsold general admission tickets by the total number of unsold general admission tickets. For example, if 7,000 total general admission tickets were not sold for a given game and the aggregate amount that would have been charged to the public for all of such unsold tickets is \$245,000, then the weighted average ticket price for such unsold tickets would be \$35.00. County shall pay the amounts due Team hereunder within five (5) business days after its receipt from Team of each applicable notice letter.

ARTICLE 32

MISCELLANEOUS

32.1 Successors and Assigns. Each provision of this Lease shall extend to and shall bind and inure to the benefit not only of County and Team, but also their respective heirs, legal representatives, successors and assigns; provided, however, that this provision shall not operate to permit any transfer, assignment, mortgage, encumbrance, lien, charge or subletting contrary to the provisions of this Lease.

32.2 Modifications in Writing. No modification, waiver or amendment of this Lease or of any of its conditions or provisions shall be binding upon County or Team unless in writing signed by County or Team, as the case may be.

32.3 Recordation of Lease. Neither party shall record this Lease, whether in the public records of County or elsewhere. At the request of either party however, a short form memorandum containing none of the financial terms of this Lease and otherwise in form and substance reasonably satisfactory to both parties may be recorded.

32.4 **Headings.** The headings of Articles and Sections in this Lease are for convenience only and do not limit, expand or construe the contents of such Articles and Sections.

32.5 **Time of Essence.** Time is of the essence of this Lease and of all provisions hereof.

32.6 **Default Rate of Interest.** All amounts (including, without limitation, Base Rent) owed by either party to the other pursuant to any provision of this Lease shall bear interest from the date due until paid at the annual rate of four percent (4%) in excess of the Prime Rate.

32.7 **Severability.** The invalidity of any provision of this Lease shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Lease.

32.8 **Entire Lease.** Except for County's representations regarding the location of the Stadium and other sports facilities, all understandings and agreements, oral or written, heretofore made between the parties hereto (including, without limitation, the Memorandum) are merged in, and superseded by, this Lease, which fully and completely expresses the agreement between the parties hereto with respect to the subject matter hereof.

32.9 **Force Majeure.** If either party fails to timely perform any of the terms, covenants and conditions of this Lease on such party's part to be performed and such failure is due in whole or in part to any strike, lockout, labor trouble, civil disorder, inability to procure materials, failure of power, restrictive governmental laws and regulations, riots, insurrections, war, fuel shortages, accidents, casualties, acts of God, acts caused directly or indirectly by the other party or its agents, employees, contractors, licensees or invitees, or any other cause beyond the reasonable control of the performing party, then the performing party shall not be deemed in default under this Lease as a result of such failure and any time for performance provided for herein shall be extended by the period of delay resulting from such cause; provided that nothing contained herein shall extend, or be deemed to extend, the date for Substantial Completion of the Project beyond the Completion Target Date and further provided that nothing contained in this Section 32.9 shall result in a delay in the specified date for the payment of money.

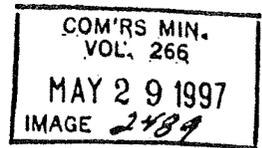
32.10 **Antidiscrimination Clause.** Neither Team nor County shall discriminate on the basis of race, color, political or religious opinion or affiliation, creed, age, physical or mental handicap, sex, marital status, ancestry or national origin. The Lease shall comply with all applicable state, local and federal laws, rules, regulations, executive orders and agreements pertaining to discrimination in employment, unlawful employment practices and affirmative action. Team and County shall use reasonable efforts to encourage and promote opportunities for minorities and women in the construction of the Project.

32.11 **No Third Party Beneficiary.** Except as otherwise expressly provided for in this Lease, this Lease is for the exclusive benefit of the parties hereto and not for the benefit of any third person, and this Lease shall not be deemed to have conferred any rights, express or implied, upon any third person unless otherwise expressly provided for herein.

32.12 **Attorneys' Fees.** In the event of any action or proceeding brought under this Agreement (including, without limitation, any arbitration proceeding), the prevailing party shall be entitled to recover court costs and the fees and disbursements of its attorneys in such action or proceeding (whether at the administrative, trial or appellate levels).

32.13 **Compliance with Law.** In the construction of the Project and at all times during the Term (including, without limitation, with respect to Improvements or alterations to the Project, but excluding Improvements to the Stadium Complex that are made by Team after the Commencement Date the cost of which is not paid for (or required to be reimbursed) by County) County, at its sole cost and expense, shall comply with all applicable present and future Legal Requirements affecting the structural soundness and design of the Project. Without in any way limiting that obligation, County, to the extent applicable, shall comply with the Americans with Disabilities Act of 1990, as the same has been amended or as the same may be amended from time to time hereafter, and the regulations and guidelines thereof (collectively, "ADA"), as the same relate to the Project or its use, and any alterations or Improvements to the Project. County shall bear all the costs and expenses in connection with such compliance. Any monetary damages and civil penalties imposed and attorney's fees recovered because of County's failure to comply with ADA as required under this Lease shall be paid for by, and shall be the sole responsibility of, County. County shall indemnify, defend, and hold Team harmless from and against any and all claims, costs, expenses (including attorney's fees and litigation expenses), and causes of action arising out of violations or claims for violation of the foregoing.

32.14 **Hazardous Materials.** County shall indemnify, defend, and hold Team harmless from and against any and all claims, judgments, losses, demands, causes of action, costs of remediation, proceedings, or hearings (hereinafter collectively referred to as "Claims") relating to the storage, placement, presence, release, or use of Hazardous Materials (hereinafter defined) or other substances now or hereafter regulated by the federal, state or local government authorities on or about the Project, including, without limitation, Claims resulting from the contamination of subterranean water beneath, adjoining, or in the vicinity of the Project, except to the extent such Claims relate to Hazardous Materials that were stored, placed or released at the Project by Team. "Hazardous Materials" means any petroleum, petroleum products, asbestos, and any hazardous, toxic, or dangerous waste, substance, or material defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Superlien" law, or federal, state, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, or material, as now or at any time hereafter in effect.



32.15 Agreements with Other Professional Sports Teams. County covenants that County has not entered into, and County and any County Entity shall not hereafter (directly or indirectly) enter into, any lease or other agreement with a professional sports team or franchise that occupies or will occupy any new or renovated facility located within Hamilton County which lease or other agreement contains (a) a provision which specifies that County or any County Entity does not and will not have an agreement with a professional sports team or with any lessee of a stadium in Hamilton County on terms more favorable than those contained in such lease or agreement or (b) any other form of a "Most Favored Nations" clause.

32.16 Public Ownership. This Lease is expressly predicated upon the continued public ownership of the Project by County or a County Entity. Notwithstanding any provision in any agreement to the contrary, County shall not sell, assign, convey, ground lease (or otherwise lease) or otherwise transfer all or part of the Project to any Person other than a County Entity without obtaining the prior written consent of Team, which consent may be withheld by Team in its sole and absolute discretion. After any permitted transfer (or other transfer) by County of its interest in the Project, County and such transferee shall be jointly and severally liable to Team for the performance of each of the covenants, obligations and liabilities of County contained in this Lease and all other agreements now or hereafter relating to the Stadium Complex (including, without limitation, the Management Agreement). In the event of any sale, assignment, conveyance or other transfer of County's interests in the Project without Team's consent to any Person other than a County Entity, in addition to any other remedies provided for herein in the event of a County Default, Team may, at its sole option and discretion, (a) terminate this Lease or (b) convert this Lease to a one-year term, subject to yearly renewal rights of Team exercisable at the sole option of Team, except that in no event shall any renewal term extend past June 30, 2036. Team may exercise its right to terminate this Lease or to modify the terms of the Lease (as set forth above) by delivery of written notice to County of Team's intent to terminate or convert to a yearly term at any time after such sale, assignment, conveyance, or other transfer.

In addition to the foregoing rights of Team, each and every sale, assignment, conveyance or other transfer of the Project, or any part or portion thereof by County to any Person other than a County Entity shall be subject to the prior right of Team to purchase the subject property upon the same terms and conditions upon which County has agreed to sell such property to such Person. Following receipt by Team of a written notice of the terms and conditions upon which County has agreed to sell the subject property, Team shall have a period of six months to notify County whether or not Team desires to purchase such property upon such terms and conditions.

As used herein, the term "County Entity" means any political successor in interest to County (in the event of a dissolution, merger or other organizational restructuring of County as it is currently constituted as a political subdivision of the State), and any public agency, public authority or other public body or entity that is controlled, and continues to be controlled, by County.

32.17 **No Partnership.** Nothing contained in this Lease shall, or shall be deemed or construed so as to, create the relationship of principal-agent, joint venturers, co-adventurers, partners or co-tenants between County and Team; it being the express intention of the parties that they are and shall remain independent contractors as to each other.

32.18 **Exhibits.** All exhibits attached hereto shall be deemed to be and are incorporated herein by reference and made a part of this Lease. Each exhibit referred to in this Lease forms an essential part of the document.

32.19 **Broker's Commission.** Each of the parties represents and warrants that there are no claims for brokerage commissions or finder's fees in connection with the execution of this Lease, and agrees to defend and indemnify the other against, and hold it harmless from, all liability arising from any such claim including, without limitation, the cost of counsel fees in connection therewith.

32.20 **Governing Law.** This Lease shall be governed by the laws of the State of Ohio.

32.21 **Counterparts.** This Lease may be signed in counterparts, each of which shall constitute an original.

### **ARTICLE 33**

#### **PARKING**

33.1 County shall operate the Parking Facilities in a first-class manner for each event held at the Stadium Complex. County shall guarantee for each event held on a Team Use Day such minimum number of regulation size parking spaces (in accordance with applicable Legal Requirements and which spaces shall not be bumper to bumper) for use by Stadium patrons to be available in the Stadium Parking Facility as specified on **Exhibit E** attached hereto to be available on or before the substantial completion dates set forth on **Exhibit E**. Spaces at the Parking Facilities shall be made available for use by Stadium patrons at least six (6) hours before any professional football game held at the Stadium Complex on a weekend or a holiday and at least four (4) hours before any professional football game held at the Stadium Complex on a weekday which is not a holiday. County shall have the right to use the Parking Facilities for year-round public parking and for other uses in accordance with this Lease during periods other than those referenced in this Article 33, and subject to Team's and its patrons right to the free parking spaces provided for below.

33.2 County, within three (3) business days after the holding of each such event, shall remit to Team all parking revenues generated at the Parking Facilities in connection with events held on Team Use Days at the Stadium Complex after deducting therefrom for County's operating expenses (including, without limitation, the printing and mailing of parking tickets and passes) and taxes an amount

equal to (a) 11% of such gross revenues (including gross revenues generated from and "prepaid" parking passes sold for such events) and (b) 11% of the gross revenues that would have been received by County (based on the parking fees charged to the public) from complimentary parking passes provided by Team to patrons of the Stadium (such as holders of the Private Suites), provided, however, for the purposes of this clause (b), in no event shall any revenue be attributed to the parking spaces provided pursuant to Section 33.4 below. Parking revenues generated in connection with Other Events shall be divided equally between County and Team as provided for in Section 10.3. If the available number of spaces at the Stadium Parking Facility falls below the specified number required on Exhibit E (by the dates set forth on Exhibit E) for any event held on a Team Use Day at the Stadium Complex, without limiting any other rights or remedies available to Team under this Lease, County shall pay Team the revenue lost as a result thereof (calculated as follows: [subtract from the number then required by Exhibit E the actual number of available spaces and multiply the difference by the applicable event parking fee then in effect for single event parking]). Team shall have the right to set the price to be charged for parking at the Parking Facilities for all events (other than events on County Use Days) at the Stadium Complex. County shall have the right to set the prices to be charged for parking at all other times.

33.3 County shall maintain the Parking Facilities in good repair, including, without limitation, the provision of adequate lighting and security at all times and the prompt repair of any casualty damage or other damages. County shall provide all personnel, equipment and supplies necessary to operate and to maintain and repair the Parking Facilities. Team and County recognize the importance of efficient and courteous operation of the Parking Facilities to the success of the Stadium Complex, and County shall consider, if requested by Team, giving Team supervisory power over the management of the Parking Facilities to accomplish such efficient and courteous operation, but County shall be under no obligation to grant Team such supervisory power. At a minimum, however, Team shall have approval rights (not to be exercised unreasonably) with respect to the Parking Facilities personnel and the manner and method of operation of the Parking Facilities for events at the Stadium Complex.

33.4 Of the parking spaces to be provided at the Stadium Parking Facility, Team shall be provided throughout the Term, at no cost (on a 365-day 24-hour, exclusive basis), such number of dedicated spaces provided for in the Architectural Program for use by Team, its officers, directors, agents, employees, the media, and other guests/invitees, as specified, from time to time, by Team in writing. Further, on Team Use Days and Private Team Use Days, Team shall be provided, at no cost (on a 24-hour exclusive basis), such additional number of parking spaces provided for in the Architectural Program for use by Team, its employees, the media and other guests/invitees. Team shall have the right to designate the location within the Stadium Parking Facility of the parking spaces allocated to Team pursuant to this Section 33.4.

33.5 County shall permit Team to sell or otherwise provide parking passes for the Parking Facilities to patrons of events at the Stadium Complex individually or as part of a ticket package.

33.6 In addition to any other parking provided under this Article 33, County shall make available at all times on a non-reserved basis such number of parking spaces provided for in the Architectural Program at the Stadium Parking Facility to facilitate ticket purchases and distribution of ticket information relative to Team and purchases of merchandise from Team's novelty store located at the Stadium Complex. Such spaces shall be provided at no charge to Team, and no charge to any patron who parks for less than one hour and provides evidence (in a form reasonably designated by the garage operator or County) of having visited Team's ticket office or the Team store.

33.7 County shall not engage in, or permit others (except Team and its concessionaire) to engage in, the sale of food or beverages, novelties (on Team Use Days only) or other products on or within the Parking Facilities, subject however, to any existing rights that the current concessionaire at Cinergy Field may have with respect to the sale of such items on or within the Cinergy Field Parking Facilities (but only so long as such rights exist under existing agreements); provided, however, that (a) County agrees to use all commercially reasonable efforts to terminate any such rights held by the current Cinergy Field concessionaire and (b) County shall promptly pay to Team any revenues received by County arising from any such rights of the current Cinergy Field concessionaire relating to the Cinergy Field Parking Facilities. The parties shall use reasonable efforts to accommodate "tailgating" in appropriate areas of the Parking Facilities and the Plaza.

33.8 County, at its sole cost and expense, shall keep and maintain (throughout the Term and for a period of not less than five (5) years after the Term) at its offices separate, uniform, complete and accurate accounting records and systems for the operation of the Parking Facilities. The form and substance of such financial accounting systems and records shall be subject to the reasonable approval of Team. All such accounting records shall be available for audit, inspection and copying by Team or its designees throughout the Term and for the three (3) years following the end of the Term. County, at its sole cost and expense, shall cause an audit report (the "Annual Parking Audit Report") of the operation of the Parking Facilities to be prepared and submitted to Team in a form reasonably approved by Team for each fiscal year (or part thereof) of County occurring during the Term. If the Annual Parking Audit Report shows any deficiency in payments due Team, County shall pay such amounts immediately to Team.

33.9 To the extent the number of parking spaces included within the Stadium Parking Facility from time to time exceeds 5,750 (such excess spaces referred to as the "Surplus Spaces") and County desires to make available for use by third parties Surplus Spaces which are located either (a) to the east of Stadium Drive as extended north and south or (b) to the north of Pete Rose Way and east of Race Street as extended (any such applicable parking area or part thereof, hereinafter referred to as a "Surplus Parking Area"), then County, following notice to Team may

provide such third party users (such as a museum, but specifically excluding uses relating to sporting events not held at the Stadium Complex) with priority use of all or a portion of the Surplus Spaces on Team Use Days. In no event (even if replacement parking is provided), shall a sports facility user or other sports franchise (other than Team) be afforded rights of use hereunder to any Surplus Parking Area or Surplus Spaces on Team Use Days inconsistent with the rights of Team, and Team shall retain all revenues rights (including parking, concession and advertising revenues relating to game-day advertising by Team) and priority scheduling rights with respect to any such Surplus Parking Area and Surplus Spaces on Team Use Days. Except as provided in the foregoing sentence, Team shall retain no other concession, advertising or signage rights relating to Surplus Spaces designated for use by a third party non-sports facility user, but such release by Team shall last only for so long as such Surplus Spaces remain designated for use by such third party non-sports facility user.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the date first written above.

Signed, delivered and acknowledged  
in the presence of:

Deloris Charles  
Printed Name: Deloris Charles

Teresa L. Nau  
Printed Name: Teresa L. Nau

County:

THE BOARD OF COMMISSIONERS  
OF HAMILTON COUNTY, OHIO

By: David J. Krings  
David J. Krings  
County Administrator

Signed, delivered and acknowledged  
in the presence of:

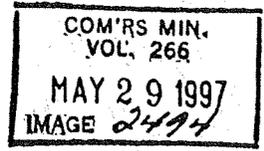
Katherine B. Blackburn  
Katherine B. Blackburn

W. Stuart Dornette  
W. Stuart Dornette

Team:

CINCINNATI BENGALS, INC.

By: Michael Brown  
Michael Brown  
President and General Manager



STATE OF OHIO :  
: SS:  
COUNTY OF HAMILTON :

The foregoing was signed before me this 29th day of May, 1997 by David J. Krings, County Administrator of the Board of Commissioners of Hamilton County, Ohio, a political subdivision of the State of Ohio, on behalf of such political subdivision.

**William F. Stautberg**  
**Notary Public, State of Ohio**  
**My Commission Expires September 5, 1999**

*William F. Stautberg*  
\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF OHIO :  
: SS:  
COUNTY OF HAMILTON :

The foregoing was signed before me this 29th day of May, 1997 by Michael Brown, the President and General Manager of Cincinnati Bengals, Inc., an Ohio corporation, on behalf of such corporation.

*Troy A. Blackburn*  
\_\_\_\_\_  
Notary Public  
**TROY A. BLACKBURN, Attorney at Law**  
Notary Public, State of Ohio  
My Commission Has No Expiration Date  
Section 147.03

My Commission Expires: \_\_\_\_\_

COM'RS MIN.  
VOL. 266  
MAY 29 1997  
IMAGE 2495

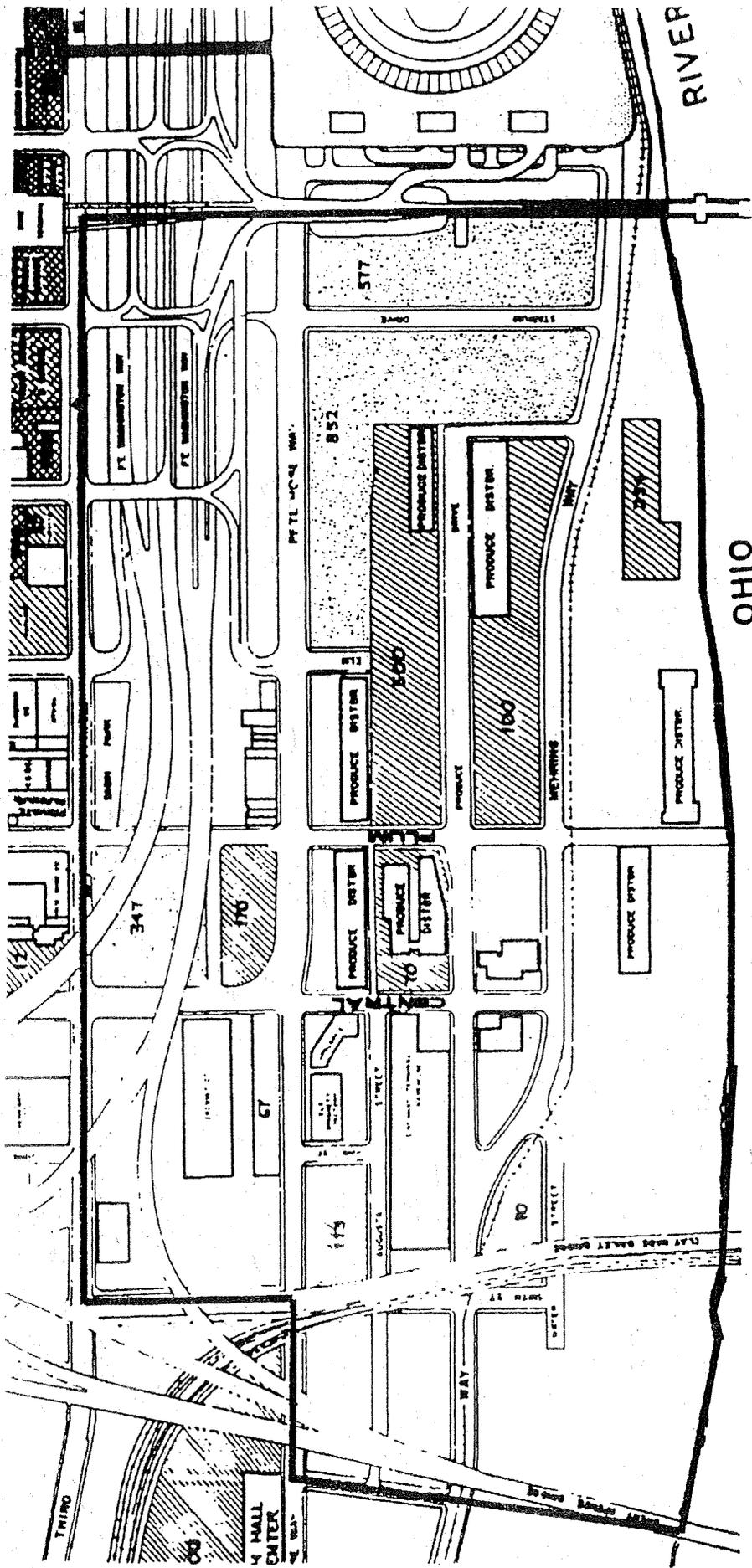


Exhibit A  
Stadium Site  
Excludes Fl. Washington Way, as it exists from time to time, and other public roadways

PLANNING  
DEPARTMENT  
1000 EAST AVENUE  
CINCINNATI, OHIO 45202  
TELEPHONE 524-2200  
FAX 524-2201

County of Hamilton  
STATE OF OHIO  
NEW STADIUM  
JOB  
CINCINNATI BEYBALLS

COM'RS MIN.  
VOL. 266  
MAY 29 1997  
IMAGE 2496

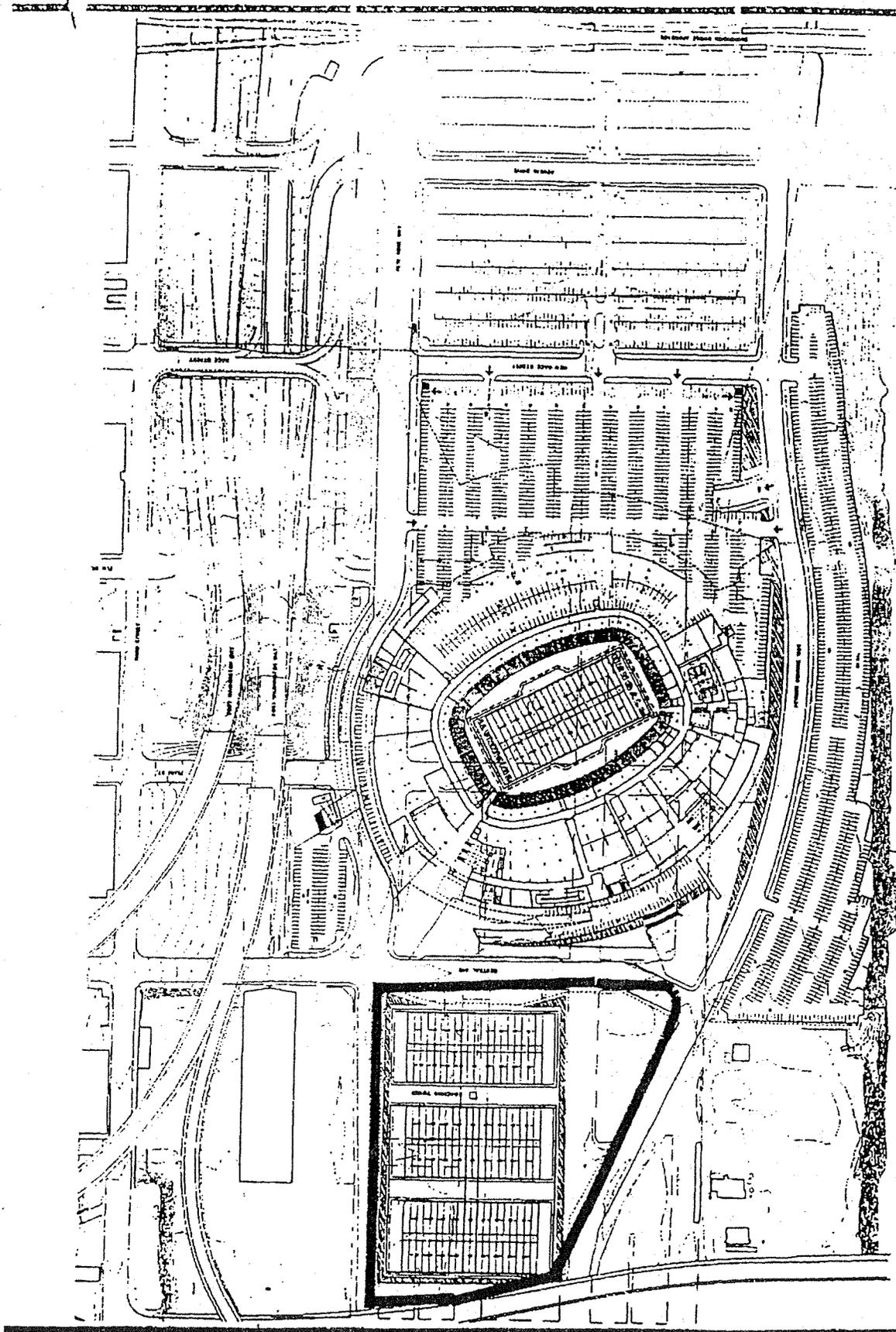


Exhibit A-1  
Location of Practice Area

COM'RS MIN.  
VOL. 266  
MAY 29 1997  
IMAGE 2497

EXHIBIT B

ARCHITECTURAL PROGRAM

See copy of the Architectural Program attached hereto and made a part hereof.

COM'RS MIN.  
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MAY 29 1997  
IMAGE 2498

EXHIBIT C

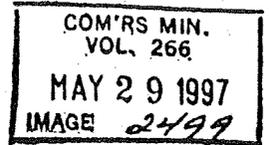
STADIUM AMOUNT

For the Base Stadium:

- direct construction costs
- furniture, fixtures and equipment
- permits and assessments
- construction management fee
- construction contingency
- design contingency
- owner contingency
- escalation
- allocable portion of design fees and other owner direct costs (including project management fees)

\$269,913,934

EXHIBIT D  
Legal Description



The parties may attach a legal description at a later date.

COM'RS MIN.  
VOL. 266  
MAY 29 1997  
IMAGE 2500

EXHIBIT E

Phase-In of Stadium Parking Facility

<u>Total Minimum Number of Parking Spaces</u>	<u>Substantial Completion On or Before</u>
3,260	August 1, 2000
4,110	August 1, 2002
5,000	August 1, 2004

LEASE  
AMENDMENT

1/31/98

(Image 2034-2080)

AMENDMENT

of

LEASE AGREEMENT

FOR PAUL BROWN STADIUM

This Amendment of Lease Agreement (this "Amendment") is made effective as of the 31st day of January, 1998, by and between THE BOARD OF COMMISSIONERS OF HAMILTON COUNTY, OHIO, a political subdivision of the State of Ohio (hereinafter called "County") and CINCINNATI BENGALS, INC., an Ohio corporation (hereinafter called "Team").

RECITALS

A. County and Team have heretofore entered into a certain Lease Agreement (the "Original Lease") dated as of May 29, 1997.

B. County and Team entered into an Amendment to that Lease Agreement dated November 21, 1997, which both parties recognize to be and hereby declare to be null and void and of no force and effect according to its terms because of the failure of a condition subsequent.

C. County and Team desire to amend the Original Lease as more particularly set forth herein.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

1. Defined Terms. All terms with initial capital letters used herein which are not otherwise defined herein shall have the respective meanings ascribed to them in the Original Lease. As used in the Original Lease and in this Amendment:

(a) The term "Central Riverfront Development Site" shall mean those areas included within the Stadium Site that are east of the Plaza, west of Vine Street (extended to the South), south of Pete Rose Way and north of Mehring Way. The term "Trench Area" shall mean those areas included within the

Stadium Site that are east of Plum Street, north of Pete Rose Way and south of new Second Street, excluding that property north of Pete Rose Way and east of Vine Street if and to the extent that such property is the site of the Underground Railroad Freedom Center.

(b) The term "Exhibit A-2" shall mean the Exhibit A-2 attached to this Amendment.

(c) The term "Lease" shall mean the Original Lease as modified by this Amendment and as hereafter modified, amended, supplemented or restated in writing by mutual agreement of County and Team.

(d) The term "Stadium Complex" shall mean the Plaza, the Stadium, the Practice Area and that portion of the Stadium Site upon which the Plaza, the Stadium and the Practice Area are located (but excluding any rights of way now or hereafter dedicated by County for City rights of way). The definition of the "Stadium Complex" as stated in the Original Lease is deleted.

2. Exhibit A-2. The Stadium Complex shall be located substantially as shown Exhibit A-2, attached hereto and incorporated herein.

Gambling Restrictions. A Section 8.13 is hereby added to the Lease as follows.

"8.13. Gambling. While this Lease is in effect, County shall not permit, and shall, by deed restriction or other binding agreement, prohibit any owners, successors, assigns, agents, lessees or licensees of County's property from conducting or having, any gambling or any other type of gaming operation (or support facilities for any gambling or other type of gaming operation) within the area east of the Clay Wade Bailey Bridge (extended to the North), west of the Roebling Suspension Bridge (extended to the North), south of Third Street and north of the Ohio state line; provided that the foregoing shall not be deemed to restrict the sale of lottery tickets or similar products by or on behalf of the Ohio Lottery Commission. Any violation of this provision shall (in each such instance), constitute a County Default under this Lease (subject to applicable cure periods) entitling Team to exercise any and all remedies provided for in Section 23.2 of this Lease, including without limitation the remedy set forth in Section 23.2.1 "

4. Team Approval of Improvements. Section 17.2 of the Original Lease is hereby amended and restated in its entirety as follows:

*Stadium Complex*

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VOL. 269  
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IMAGE 2036

"17.2 Improvements Over, On, To or Within the Stadium Site. County shall coordinate with Team and shall obtain Team's prior approval (not to be unreasonably withheld or delayed) with respect to the scheduling and timing of all improvements to be performed by County or anyone on its behalf on, over, to or within the Stadium Site. Following the Commencement Date, except to the extent improvements are required to be made by County under this Lease, no improvements shall be made on, over, to or within the Stadium Site without obtaining the prior written consent of Team, which may be withheld in Team's reasonable discretion. Notwithstanding the foregoing, Team's approval or consent shall not be required for improvements (a) made by City or any successors, assigns, agents, lessees or licensees of City or any Person lawfully claiming by, through or under City (excluding, however, County or any County Entity) on, to or within property owned by or leased to City located within the Stadium Site (but outside of the Stadium Complex) or (b) on, to or within that property located north of Pete Rose Way and east of Vine Street if and to the extent that such property is the site of the Underground Railroad Freedom Center. The provisions of this Section 17.2 shall in no way limit or restrict the remedies available to Team arising from a violation of the provisions of Section 8.13 or Article 24 of this Lease."

5. City-Owned Property. For and only for so long as any portion of the Stadium Site (outside the Stadium Complex) is owned by or leased to the City and is actually occupied or is being developed by the City (any such property being hereinafter referred to as "City Property"), or any Person lawfully claiming by, through or under the City (excluding however, County or any County Entity), such City Property shall not be subject to the provisions of the Lease, except that:

(a) The obligations of County under Section 8.13 of the Lease shall continue to apply to such City Property and any portion of such City Property located within the Restricted Area shall continue to be subject to the provisions of Article 24 of the Lease. Team acknowledges that an intention of the Article 24 provisions is to allow for a development pad of approximately, but not less than, 30,000 square feet on the northerly portion of the southern-most parcel within the Restricted Area.

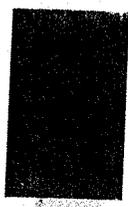
(b) Except as provided in Subsection (c) and (d) below, any Stadium Parking Facility located on any such City Property shall be made available for the use of Stadium patrons for Team home professional football games (preseason, regular season or post-season), other events held on Team Use Days and Other Events together totalling, in aggregate, no more than fifteen (15) dates each year (as designated by Team in its sole and absolute discretion) (any such event, a "Designated Event"); provided, however, Designated Events other than Team home

15 TUD  
DAYS

JAN 31 1998  
IMAGE 2037

professional football games shall not coincide with any of the City of Cincinnati public festivals known as Tall Stacks, Oktoberfest, Black Family Reunion, Taste of Cincinnati and Riverfest (provided further that such festivals are scheduled at least two years in advance). For the purposes of the foregoing, a year shall be measured by the approximately 365-day period commencing on the day immediately following the last regular season Team home football game played at the Stadium during any given Football Season and ending on the day of the last regular season Team home football game played at the Stadium during the next such Football Season, provided that the first such year shall be deemed to commence on the date of the first public event held at the Stadium and designated by Team to be subject to the provisions of this Section 5(b) and shall end on the day of the last regular season Team home football game played at the Stadium during the first Football Season in which Team plays professional football games at the Stadium. With respect to any such Stadium Parking Facility, for each such Designated Event:

*2 year  
notice of  
events*



(i) all of the parking spaces at such Stadium Parking Facility shall be made available (by clearing the lot, if necessary) for use by Stadium patrons at least six (6) hours before the scheduled starting time of any such Designated Event held on a weekend or a holiday and by no later than 5:30 p.m. with respect to any such Designated Event held on a weekday that is not a holiday;

*6 hours  
prior to  
event*



(ii) Team shall have the right to set the price to be charged for parking, to receive the revenues from parking (subject to Team's obligation to share with County revenues relating to Other Events) generated from such Designated Event and to sell season and pre-sold passes for the parking facility for such Designated Event. County shall cause the City to remit to Team the parking revenues generated in connection with such Designated Events within seven business (7) days after the holding of each such event, provided that the City shall be entitled to deduct from such revenues for the City's operating expenses and taxes the appropriate percentage amount specified in the first sentence of paragraph 33.2 of the Lease (provided that Team acknowledges that the City shall have no obligation to provide parking to Team pursuant to Section 33.4 of the Lease). Notwithstanding the foregoing, (x) if season and/or pre-sold parking passes for such Designated Events are sold in a manner that payments for such items are received directly by the City, then County shall cause the City to remit all such payments to Team on or before the tenth (10th) day of the month following the month in which such payments are received by the City, but deducting therefrom for the City's anticipated operating expenses the appropriate percentage amount specified in the first sentence of paragraph 33.2 of the

Lease, and (y) if season and/or pre-sold parking passes for such Designated Events are sold in a manner that payments for such items are received directly by Team, then Team shall be entitled to retain all such payments, except that Team shall remit to the City on or before the tenth (10th) day of the month following the month in which such payments are received by Team, the appropriate percentage amount allocable to operating expenses as specified in the first sentence of paragraph 33.2 of the Lease. Parking revenues (other than revenues applicable to season and/or pre-sold parking passes) subject to this subsection (ii) shall be limited to those revenues collected by the City on days of Designated Events from vehicles entering such parking facilities during the period from (A) six (6) hours before the scheduled starting time of a Designated Event held on a weekend or holiday until the conclusion of such event and (B) from four (4) hours before the scheduled starting time of a Designated Event held on a weekday that is not a holiday until the conclusion of such event;

(iii) Team shall have and control exclusively, and receive all revenues from, all non-permanent and transitory advertising and promotional rights within such parking facility during the period from six (6) hours before the applicable Designated Event (plus such additional time reasonably required by Team for set-up and preparation and removal) until two (2) hours after the end of the applicable Designated Event (the "Event Period");

(iv) Team shall have the exclusive right to sell, provide, control and receive all revenues from, food and beverage concessions (excluding vending machine revenues), novelties, publications and other products during the Event Period within such parking facility; and

(v) Team shall have the right to audit, inspect and copy the City's accounting records regarding such facility as reasonably required by Team from time to time.

County warrants and covenants that, while the Lease is in effect, Team and its agents shall have the continuing right to enter upon and act within any Stadium Parking Facility located on any portion of such City Property so as to exercise fully and without interference the rights granted to Team under this paragraph (b).

(c) With respect to any structured parking facility located within City Property and within the Trench Area, the provisions of paragraph 5(b) above shall apply only with respect to Team home professional football games held at the Stadium and, further, the provisions of Subparagraphs 5(b)(iii) and 5(b)(iv) shall not

be applicable. With respect to any surface parking facility located within City Property and within the Trench Area, the provisions of paragraph 5(b) above shall apply with respect to Designated Events, but 5(b)(iii) and 5(b)(iv) shall not be applicable.

(d) Any portion of such City Property that is conveyed in fee simple title or leased to County or any County Entity shall then be subject to all of the provisions of the Lease; provided that if any such City Property or any part thereof is reconveyed to the City or leased to the City by County or any County Entity, such reconveyed or leased property shall then not be subject to the provisions of the Lease, but shall be subject to the provisions of subparagraphs 5(a) through (e) of this Amendment.

The provisions of this paragraph 5 continue to apply to any portion of City Property hereafter owned or leased by the City even if conveyed or leased by the City to other parties (other than County or any County Entity). County and Team acknowledge that a City parking facility operated in accordance with paragraph 5(b) or 5(c) above shall be deemed to qualify as a Stadium Parking Facility for purposes of the minimum number of parking spaces required pursuant to Section 33.7 and Exhibit E of the Lease, irrespective of whether Team is, or is not, entitled to receive parking revenues generated from such City parking facility for an event held on any given Team Use Day. Team and County further acknowledge that the provisions of subparagraphs 5(b)(iii) and 5(b)(iv) are not applicable to any non-parking development constructed above a City parking facility.

Any breach of the provisions of this Section 5 caused by County or the City shall (in each such instance) constitute a County Default under this Lease entitling Team to exercise any and all remedies provided for in Section 23.2 of the Lease, provided that to the extent such breach is caused by the City (or any of the successors, assigns, agents, lessees or licensees of the City (excluding, however, County or any County Entity)), County shall not be in default if County has obtained the written agreement of City to comply (and to cause its successors, assigns, agents, lessees and licensees and any other Person lawfully claiming by or through the City to comply) with the same and County uses reasonable efforts to enforce such agreement.

6. Phase-In of Stadium Parking Facility. For any Team Use Day outside the Football Season and scheduled at any time that the City has a garage under construction in the Central Riverfront Development Site, the Minimum Number of Parking Spaces required pursuant to Section 33.1 and Exhibit E of the Lease will be reduced by the number of spaces rendered unavailable in the Central Riverfront Development Site by construction.

If and only if Team and City enter into an agreement, in a form satisfactory to Team, providing to Team enforcement rights against the City for failure to obtain a certain number of substitute parking spaces within the Stadium Site after completion of the garage proposed for the Central Riverfront Site has been developed by an event of force majeure, then Exhibit E of the Lease shall be amended and restated in its entirety as follows:

"EXHIBIT E"

Phase-In of Stadium Parking Facility

*Total Minimum Number of Parking Spaces	Substantial Completion On or Before
3,260	August 1, 2000
4,110	August 1, 2002
5,000	August 1, 2004

\* In the event, and only in the event that (1) the City exercises its option to construct a parking garage on the Central Riverfront Development Site, (2) the City undertakes such construction with a construction schedule that will assure completion so that the new parking garage would be available for use by Stadium patrons at the beginning of a specified Football Season commencing prior to the year 2005 Football Season (any such Football Season, a "Target Football Season"), (3) the City provides, in connection with such construction, a Performance and Completion Bond, and (4) because of force majeure, the City cannot complete construction of the garage so that it is not available for use by Stadium patrons for Team's first scheduled home game for the applicable Target Football Season, and (5) as a result of the force majeure, the garage is not available for use by Stadium patrons for one or more Team home football games during the applicable Target Football Season, then the Minimum Number of Parking Spaces for each such game of the applicable Target Football Season shall be reduced by a number, no greater than 500, that is the difference between 1500 spaces and the number of available parking spaces in the Central Riverfront Development Site plus the number of substitute parking spaces in the Stadium Site made available by the City for use by Stadium patrons for such game to address the parking space shortfall caused by such force majeure."

7. Broker's Commission. Each of the parties represents and warrants that there are no claims for brokerage commissions or finders fees in connection with the execution of this Amendment and agrees to defend and indemnify the other against and hold it harmless from, all liability arising from any such claim including, without limitation, the cost of counsel fees in connection therewith.

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VOL. 269  
JAN 31 1998  
IMAGE 2041

8. No Third Party Beneficiary. This Amendment is for the exclusive benefit of the parties hereto and not for the benefit of any third person, and, except with respect to the last sentence of Section 10 of this Amendment, shall not be deemed to have conferred any rights, express or implied, upon any third person.
9. Successors and Assigns. Except as otherwise provided in the Original Lease, the covenants, agreements, terms and conditions contained in this Amendment shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.
10. Modification. This Amendment may not be changed orally, but only by an agreement in writing executed by County and Team. No amendment to paragraphs 1 (other than subparagraph 1(c)), 3, 5 or 6 of this Amendment shall be made without obtaining the City's prior written consent thereto, which may be withheld by City in its reasonable discretion.
11. Severability. The invalidity of any provision of this Amendment shall not impair or affect in any way the validity, enforceability or effect of the rest of this Amendment.
12. Governing Law. This Amendment shall be governed by the laws of the State of Ohio.
13. Counterparts. This Amendment may be signed in counterparts, each of which shall constitute an original.
14. Full Force and Effect. Except as otherwise specifically set forth herein, the Original Lease remains in full force and effect.
15. Amendment to Development Guidelines. As a material inducement for Team to enter into this Amendment, County agrees that County and City will enter into a written agreement subjecting the Central Riverfront Development Site and the Trench Area to the development guidelines set forth on **Exhibit B** attached hereto and made a part hereof (the "Development Guidelines"). County further agrees that without obtaining Team's prior written consent thereto, which may be withheld by Team in its reasonable discretion, County shall not amend, supplement, terminate or otherwise modify the Development Guidelines insofar as they relate to areas south of Pete Rose Way and shall not amend, supplement, terminate or otherwise modify the Development Guidelines C, E, and K insofar as they relate to areas north of Pete Rose Way.

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VOL. 269  
JAN 31 1998  
IMAGE 2042

IN WITNESS WHEREOF, the authorized representatives of the parties hereto have executed this Amendment of Lease Agreement effective as of the day and year first above written.

Signed and acknowledged  
in the presence of:

    *Jaqueline Parieto*      
    *R. E. Twilman*    

THE BOARD OF COMMISSIONERS  
OF HAMILTON COUNTY, OHIO

By:     *David J. Krings*      
David J. Krings  
County Administrator

Signed and acknowledged  
in the presence of:

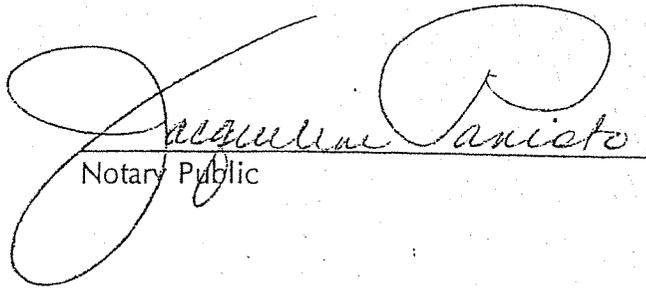
    *Arnold S. Sage*      
    *William Stuart Smith*    

CINCINNATI BENGALS, INC.

By:     *Mike Brown*      
Michael Brown  
President and General Manager

STATE OF OHIO )  
 ) SS:  
COUNTY OF HAMILTON )

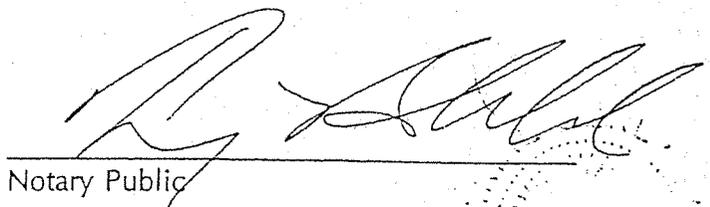
The foregoing instrument was acknowledged before me the 31st day of January, 1998, by David J. Krings, the County Administrator of THE BOARD OF COMMISSIONERS OF HAMILTON COUNTY, OHIO, a political subdivision of the State of Ohio, on behalf of such political subdivision.

  
Notary Public

My Commission Expires: May 8, 2001

STATE OF OHIO )  
 ) SS:  
COUNTY OF HAMILTON )

The foregoing instrument was acknowledged before me the 31st day of January, 1998, by Michael Brown, the President and General Manager of CINCINNATI BENGALS, INC., an Ohio corporation, on behalf of the corporation.

  
Notary Public

My Commission Expires: \_\_\_\_\_

**TROY A. BLACKBURN, Attorney at Law**  
Notary Public, State of Ohio  
My Commission Has No Expiration Date  
Section 147.03





## Exhibit B

### Guidelines for Development

The development in the Central Riverfront Development Site on the Trench Area is subject to the following limitations and restrictions:

- A. The development must be consistent with the joint City County economic development plan being developed by Urban Design Associates to the extent that the plan is approved by both the City and the County.
- B. The development may not include a single auditorium with a seating capacity of more than 3,000 persons, or a stadium or an arena.
- C. The development may not include any structure (including any rooftop mechanical equipment) west of Race Street extended which exceeds an elevation of 555 feet above sea level. The development may not include any structure (including any rooftop mechanical equipment) south of Theodore M. Berry Way which exceeds an elevation of 541 feet above sea level.
- D. The development may not include any structure (including any roof top mechanical equipment) east of Race Street and north of Pete Rose Way which exceeds an elevation of 615 feet above sea level.
- E. The development may not include rooftop mechanical equipment or any off-street loading facility that is not screened from view from the Stadium or the Stadium Plaza.
- F. Any structures south of Theodore M. Berry Way must not be visible to a television camera located in the center of the Stadium club suite level at the 50 yard line along the western side of the Stadium at an elevation of 553.5 feet above sea level when the camera is pointed toward the view of the Ohio River, at the southern-most point of the eastern upper deck of the Stadium.
- G. To the extent that streets are constructed within the area, the streets must be lined with parkland; or, with a variety of activities such as, but not limited to, shopping, restaurants, galleries, theaters, and residential uses, with open show windows and varied fenestration; or, with a combination of parkland and such activities.

- H. To the extent that buildings are constructed within the area, the buildings must architecturally and aesthetically relate well to the Paul Brown Stadium and with buildings in downtown Cincinnati.
- I. To the extent that parkland is included within the area, the park areas must have a quality park environment, extending along the Ohio River to the Roebling Suspension Bridge with bike and jogging trails, areas improved for special events, and no permanent surface parking, other than is necessary and appropriate for park maintenance and visitor access to those park areas.
- J. Where streets are constructed, they will have high-quality streetscapes, characterized by street trees, sidewalk treatments, pedestrian-scaled light fixtures, and decorative street furniture. The landscape and streetscape elements must relate well and be compatible with the landscaping and streetscape elements of Paul Brown Stadium and the Stadium Plaza.
- K. Any building structure north of Pete Rose Way and west of Race Street extended must be setback from upper Pete Rose Way on its southern boundary to provide additional pedestrian access from the Race Street corridor to the Stadium and to allow views to the downtown Cincinnati skyline from the Club level of the Stadium's easterly side with the intention being to provide a pad of approximately, but not less than, 30,000 square feet north of Pete Rose Way, east of Elm Street, south of new Second Street, and west of Race Street.
- L. The development may not include any off-premise advertising signs not permitted under the then current zoning regulations applicable to that area of the City of Cincinnati which is now (as of the date of this Agreement) subject to the Downtown Development District zoning regulations.

QUIT-CLAIM DEED

COM'RS MIN.  
VOL. 259  
JAN 31 1998  
IMAGE 2047

The Trustees of the Cincinnati Southern Railway (the "Grantor"), for valuable consideration paid, grant to the City of Cincinnati (the "Grantee"), whose tax-mailing address is 801 Plum Street, Cincinnati, Ohio 45202, the following real property:

AREA "A"

Situate in Section 17, Town 4, F.R. 1, Cincinnati Township, Hamilton County, Ohio, more particularly described as follows;

Beginning at the intersection of the North line of Produce Drive, 66' R/W, and the West line of Plum Street, 66' R/W, measure with said West line North 00° 29' 56" West, 191.40 feet to a point in the South line of Corrigan Alley, 12" R/W; thence with said South line South 89° 43' 14" West, 247.08 feet to a point; thence leaving said South line South 00° 06' 20" East, 90.45 feet to a point; thence South 89° 51' 00" West, 11.68 feet to a point; thence South 00° 16' 00" East, 100.39 feet to a point in the North line of said Produce Drive; thence with said North line North 89° 51' 00" East, 259.79 feet to the Place of Beginning.

Containing 48,504 square feet of land more or less. Subject to all legal highways, easements, and restrictions of record. Based on line survey 30-16 of the City Engineer's office.

Auditor's parcel numbers: Book 82, Page 2, Parcels 40, 41, 42, 43, 44, 45, 47, 49, 50, 51 & 52, 53, 54, 55.

Prior Deed References: Official Record Book 5408, Page 823; Official Record Book 5408, Page 828; Deed Book 1153, Page 437.

AREA "B"

Situate in Section 17, Town 4, F.R. 1, Cincinnati Township, Hamilton County, Ohio, more particularly described as follows;

Beginning at the intersection of the North line of Produce Drive, 66' R/W, and the East line of Plum Street, 66' R/W, measure with said North line North 89° 51' 00" East, 1032.33 feet to a point; then North 00° 20' 25" West, 201.13 feet to a point in the centerline of Commerce Street as vacated by Ordinance Number 311-1969; thence with said vacation line the following three courses: South 89° 54' 10" West, 103.83 feet to a point; thence North 78° 35' 13" West, 67.36 feet to a point; thence South 89° 54' 10" West, 455.12 feet to a point in the West line of Elm Street, 55' R/W, as improved; thence with said West line North 00° 17' 00" West, 141.88 feet to a point; thence on a curve to the left, said curve having a radius of 18.00 feet and a chord bearing North 45° 11' 04" West, 25.41 feet, a total distance as measured along the arc of 28.21 feet to a point in the south line of Pete Rose Way as improved; thence with said South line South 89° 54' 51" West, 372.55 feet to a point; thence on a curve to the left, said curve having a radius

EXHIBIT  
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of 18.00 feet and a chord bearing South 44° 42' 28" West, 25.55 feet a total distance as measured along the arc of 28.40 feet to a point in the East line of said Plum Street; thence with said East line South 00° 29' 56" East, 357.30 feet to the Place of Beginning.

Containing 285,360 square feet of land more or less. Subject to all legal highways, easements, and restrictions of record. Based on a line survey 30-16 of the City Engineer's office.

Auditor's parcel numbers: Book 82, Page 2, Parcels 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 254, 299; Book 82, Page 3, Parcels 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 176, 177, 178, 179, 180, 181, 182, 183.

A portion of the above-described Area B is registered land as described in Certificate of Title No. 69016, such registered land portion being described as follows:

Parcel I

Beginning at a point in the east line of Plum Street 74.28 feet south of the southeast corner of Second and Plum Streets; thence in the east line of Plum Street South 16° East 27.21 feet; thence North 74° 34' East 89.78 feet; thence North 15° 40' West 27.80 feet; and thence South 74° 11' West 89.94 feet to the place of beginning.

Parcel II

Beginning at a point in the new southerly line of Second Street which is 65.00 feet eastwardly from the easterly line of Plum Street, and 30.00 feet southwardly from the former southerly line of Second Street; thence eastwardly along the new southerly line of Second Street, 25.00 feet; thence southwardly and parallel with the easterly line of Plum Street, 44.25 feet; thence westwardly and parallel with the new southerly line of Second Street, 25.00 feet; thence northwardly and parallel with the easterly line of Plum Street, 44.25 feet to the point of beginning.

Prior Deed References: Deed Book 915, Page 81; Deed Book 915, Page 80, Deed Book 915, Page 79; Deed Book 915, Page 129; Deed Book 915, Page 84; Deed Book 915, Page 85; Deed Book 915, Page 86; Deed Book 915, Page 82; Deed Book 915, Page 77; Deed Book 915, Page 752; Deed Book 915, Page 74; Deed Book 915, Page 71; Deed Book 915, Page 128; Deed Book 915, Page 68; Deed Book 915, Page 70; Deed Book 915, Page 66; Deed Book 915, Page 70; Deed Book 915, Page 64; Deed Book 915, Page 63; Deed Book 915, Pages 140 and 141; Deed Book 3619, Page 530 [the narrowing of Elm Street, Ordinance No. 240-1968, was recorded in Deed Book 3635, Page 885]; Ordinance No. 311-1969 in Deed Book 3716, Page 41; Deed Book 915, Page 54; Deed Book 915, Page 53; Deed Book 915, Page 56; Deed Book 915, Page 57; Deed Book 915, Page 58; Deed Book 915, Page 59; Deed Book 915, Page 60; Deed Book 915, Page 62; Deed Book 915, Page 52; Deed Book 917, Page 56; Deed Book 915, Page 51; Deed Book 915, Page 45; Deed Book 915, Page 47; Deed Book 914, Page 579; Deed Book 916, Page 83; Deed Book 918, Page 21; Deed Book 914, Page 577; Deed Book 915, Page 387; Deed Book

917, Page 53; Deed Book 915, Page 386; Deed Book 915, Page 44; Deed Book 915, Page 48; Deed Book 915, Page 49; Deed Book 915, Page 40; Deed Book 915, Page 42; Deed Book 916, Page 81; Deed Book 918, Page 19; Deed Book 915, Page 15; Deed Book 915, Page 39; Deed Book 915, Page 37; Deed Book 915, Page 35; Deed Book 915, Page 33; Deed Book 915, Page 32; Deed Book 915, Page 28; Deed Book 915, Page 30; Deed Book 915, Page 27; Deed Book 915, Page 17; Deed Book 915, Page 18; Deed Book 915, Page 20; Deed Book 915, Page 114; Deed Book 915, Page 22; Deed Book 915, Page 23; Deed Book 915, Page 25.

AREA "C"

Situate in Section 17, Town 4, F. R.1, Cincinnati Township, Hamilton County, Ohio, more particularly described as follows;

Beginning at the intersection of the South line of Produce Drive, 66' R/W, and the West line of Plum Street, 66' R/W, measure with said South line South 89° 51' 00" West, 297.44 feet to a point; thence leaving said South line South 00° 22' 58" East, 87.45 feet to a point; thence North 89° 51' 00" East, 198.50 feet to a point; thence South 00° 22' 58" East, 8.49 feet to a point; thence North 89° 42' 40" East, 98.94 feet to a point in the West line of said Plum Street; thence with said West line North 00° 23' 10" West, 95.70 feet to the Place of Beginning.

Containing 26,840 square feet of land more or less. Subject to all legal highways, easements, and restrictions of record. Based on line survey 30-16 of the City Engineer's office.

Auditor's parcel numbers: Book 82, Page 2, Parcels 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 & 32.

Prior Deed Reference: Deed Book 1153, Page 416; Deed Book 1158, Page 183; Deed Book 1151, Page 545; Deed Book 1160, Page 123; Deed Book 1151, Page 558; Deed Book 1161, Page 48; Deed Book 1151, Page 537; Deed Book 1154, Page 282; Deed Book 1159, Page 184; Official Record Book 4826, Page 465; Official Record Book 5408, Page 826.

AREA "D"

Situate in Section 17, Town 4, F.R. 1, Cincinnati Township, Hamilton County, Ohio, more particularly described as follows;

Beginning at the intersection of the South line of Produce Drive, 66' R/W, and the East line of Plum Street, 66' R/W, measure with said East line South 00° 23' 10" East, 152.32 feet to a point; thence on a curve to the left said curve having a radius of 22.00 feet, and a chord bearing South 45° 19' 55" East, 31.08 feet, a total distance as measured along the arc of 34.52 feet to a point in the North line of Mehring Way 66' R/W; thence with said North line North 89° 43' 21" East, 1010.73 feet to a point; thence leaving said North line North 00° 16' 10" West, 171.97 feet to a point in the South line of said Produce Drive; thence with said South line South 89° 51' 00" West, 1033.04 feet to the Place of Beginning.

Containing 178,710 square feet of land more or less. Subject to all legal highways, easements, and restrictions of record. Based on line survey 30-16 of the City Engineer's office.

Auditor's parcels numbers: Book 82, Page 2, Parcels 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158; Book 82, Page 3, Parcels 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 162, 163, 164, 165, 166, 295, 297.

Prior Deed References: Deed Book 936, Page 236; Deed Book 915, Page 98; Deed Book 935, Page 438; Deed Book 915, Page 136; Deed Book 915, Page 99; Deed Book 915, Page 100; Deed Book 915, Page 102; Deed Book 915, Page 106; Deed Book 918, Page 22; Deed Book 915, Page 88; Deed Book 915, Page 138; Deed Book 915, Page 89; Deed Book 915, Page 90; Deed Book 915, Page 92; Deed Book 915, Page 94; Deed Book 915, Page 95; Deed Book 915, Page 96; Deed Book 915, Page 111; Deed Book 915, Page 116; Deed Book 936, Page 238; Deed Book 933, Page 494; Deed Book 915, Page 118; Deed Book 915, Page 109; Deed Book 915, Page 108; Deed Book 915, Page 110; Deed Book 932, Page 423; Deed Book 915, Page 134; Deed Book 915, Page 113; Deed Book 915, Page 114; Deed Book 934, Page 473; Deed Book 931, Page 573; Deed Book 935, Page 440; Deed Book 915, Page 130; Deed book 915, Page 132.

The above-described real property is the same as that described in Exhibit A hereto.

This Deed is made on the express conditions subsequent which are binding upon the Grantee, its successors and assigns, that:

- (1) Construction of a new professional sports stadium and related facilities that requires use of all or a part of the above described property is begun by December 31, 2000;
- (2) After the completion of construction of such stadium, the use of such stadium for stadium-related purposes is not abandoned, it being understood that abandonment will not be considered to have occurred unless such stadium is not used for stadium-related purposes for a period of time in excess of thirty-six (36) consecutive months.

If the Grantee, its successors or assigns, fails to comply with either of the above stated express conditions subsequent, then the Grantor has the right to re-enter and take possession of the property and to terminate (and revert in the Grantor) all rights and interest in the property conveyed by this Deed. Further, if the Grantor exercises its right to re-enter, the Grantee, its successors and assigns, shall execute a Quit Claim Deed reconveying the property to the Grantor. Provided, however, the condition subsequent and the right of reentry do not apply to any portion of the property east of the eastern right-of-way line of Elm Street (as Elm Street may have been dedicated to and accepted by the Grantee in the construction of the new professional sports stadium) then in use as a public park, public recreation facility, public right-of-way, or publicly-owned parking garage.

SUBJECT TO all easements and restrictions of record.

IN WITNESS WHEREOF, the Trustees of the Cincinnati Southern Railway have executed this Deed as of the dates indicated.

Signed and acknowledged  
in the presence of:

*[Handwritten Signature]*

Print Name: Ely M. Ryder

*Theodore M. Berry*

Theodore M. Berry, President

*Lisa Arnett*

Print Name: Lisa Arnett

*Lisa Arnett*

Print Name: Lisa Arnett

*Margaret A. Hilvert*

Margaret A. Hilvert, Trustee

*[Handwritten Signature]*

Print Name: LISA ARNETT

Print Name: \_\_\_\_\_

Paul Sylvester, Trustee

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

O'dell M. Owens, Trustee

Print Name: \_\_\_\_\_



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IMAGE 2053

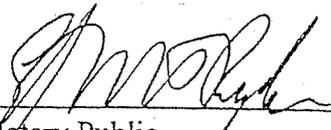
State of Ohio )  
 ) SS:  
County of Hamilton )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of January, 1998, by O'Dell Owens, Trustee of the Cincinnati Southern Railway, on behalf of the Trustees of the Cincinnati Southern Railway.

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

State of Ohio )  
 ) SS:  
County of Hamilton )

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of January, 1998, by Mark A. VanderLaan, Trustee of the Cincinnati Southern Railway, on behalf of the Trustees of the Cincinnati Southern Railway.

  
\_\_\_\_\_  
Notary Public  
*Ely M.T. Ryder*  
*My Comm. - unexpired*

This instrument was prepared by Ely M.T. Ryder, Assistant City Solicitor, City of Cincinnati, Department of Law.

# EXHIBIT A

PLS #699  
JAN 31 1998  
IMAGE 2054

LAND DESCRIPTION  
CINCINNATI SOUTHERN RAILWAY  
Northwest Tract  
1.1135 Acres

Located in Section 17, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

Beginning at a found cross notch at the northwest corner of Theodore M. Berry Way and Plum Street;

thence along the south line of Theodore M. Berry Way, South  $80^{\circ}16'20''$  West, 259.79 feet to a found spike at the southeast corner of the land conveyed to the Congress Co. by deed recorded in Official Record Book 4404, Page 107;

thence along the east lines of said Congress Co., North  $9^{\circ}50'39''$  West, 100.39 feet to a found PK nail;

thence North  $80^{\circ}16'21''$  East, 11.68 feet;

thence North  $9^{\circ}40'59''$  West, 90.45 feet to a found cross notch in the south line of Corrigan Alley at the northeast corner of said Congress Co.;

thence along the south line of Corrigan Alley, North  $80^{\circ}08'35''$  East, 247.08 feet to the southwest corner of Corrigan Alley and Plum Street;

thence along the west line of Plum Street, South  $10^{\circ}04'35''$  East, 191.40 feet to place of beginning;

Containing 1.1135 acres.

The above description is based on Ohio State Plane Grid, South Zone, NAD 1983, and prepared from a field survey performed by JMA Consultants, Inc., under the direction of Daniel J. Rensing, Ohio PLS #6796, in April, 1997, and updated in January, 1998.

Prior deed references: Deed Book 1153, Page 437; Official Record Book 5408, Pages 823 & 828.

LAND DESCRIPTION  
CINCINNATI SOUTHERN RAILWAY  
Northeast Tract  
6.6994 Acres

Located in Section 17, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

Beginning at a found cross notch at the northeast corner of Theodore M. Berry Way and Plum Street;

thence along the east line of Plum Street, North  $10^{\circ}04'35''$  West, 357.28 feet to a found cross notch;

thence along the arc of a curve to the right for 28.40 feet, said curve having a radius of 18.00 feet, and a long chord bearing North  $35^{\circ}07'49''$  East, for 25.55 feet to a found cross notch on the south line of Pete Rose Way;

thence along the south line of Pete Rose Way, North  $80^{\circ}20'12''$  East, 372.57 feet to a found PK nail;

thence along the arc of a curve to the right for 28.21 feet, said curve having a radius of 18.00 feet, and a long chord bearing South  $54^{\circ}45'43''$  East, for 25.41 feet to the west line of Elm Street;

thence along the west line of Elm Street, South  $9^{\circ}51'39''$  East, 141.88 feet to a found spike at the southwest corner of Elm Street;

thence along the south line of Elm Street, North  $80^{\circ}19'31''$  East, 55.00 feet to the southeast corner of Elm Street;

thence along the east line of Elm Street, North  $9^{\circ}51'39''$  West, 11.00 feet to the southwest corner of the land conveyed to the Hamilton County Commissioners by deed recorded in Official Record Book 7165, Page 320;

thence along the south and west lines of said Hamilton County Commissioners land, North  $80^{\circ}19'31''$  East, 400.16 feet;

thence South  $89^{\circ}25'12''$  East, 67.08 feet;

thence North  $80^{\circ}19'31''$  East, 103.78 feet;

thence South  $9^{\circ}54'54''$  East, passing a found iron pin at 12.50 feet, 213.63 feet to the north line of Theodore M. Berry Way;

thence along the north line of Theodore M. Berry Way, South  $80^{\circ}16'26''$  West, 1032.33 feet to the place of beginning.

Containing 6.6994 acres.

The above description is based on Ohio State Plane Grid, South Zone, NAD 1983, and prepared from a field survey performed by JMA Consultants, Inc., under the direction of Daniel J. Rensing, Ohio PLS #6796, in April, 1997, and updated in January, 1998.

Prior deed references: Deed Book 914, Pages 577 & 579; Deed Book 915, Pages 15, 17, 18, 20, 21, 22, 23, 25, 27, 28, 32, 33, 35, 37, 39, 40, 42, 44, 45, 47, 48, 49, 51, 52, 53, 54, 56, 57, 58, 59, 60, 62, 63, 64, 66, 68, 71, 72, 74, 75, 77, 79, 80, 82, 84, 85, 86, 90, 92, 94, 95, 96, 99, 100, 102, 128, 129, 136, & 140; Deed Book 916, Pages 81 & 83; Deed Book 917, Pages 53 & 56; Deed Book 918, Pages 21 & 91; Deed Book 3619, Page 530; Deed Book 3635, Page 885; and Deed Book 3716, Page 41.

LAND DESCRIPTION  
CINCINNATI SOUTHERN RAILWAY  
Southwest Tract  
0.6161 Acres

Located in Section 17, Town 4, Fractional Range 1. City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

Beginning at the southwest corner of Theodore M. Berry Way and Plum Street;

thence along the west line of Plum Street, South  $9^{\circ}57'38''$  East, 95.70 feet to a found PK nail at the northeast corner of the land conveyed to Congress Co. by deed recorded in Official Record Book 5177, Page 2828;

thence along the north and east lines of said Congress Co., South  $80^{\circ}08'01''$  West, 98.94 feet to a found spike;

thence North  $9^{\circ}57'37''$  West, 8.49 feet;

thence South  $80^{\circ}16'21''$  West, 198.50 feet;

thence North  $9^{\circ}57'37''$  West, 87.45 feet to the south line of Theodore M. Berry Way;

thence along the south line of Theodore M. Berry Way, North  $80^{\circ}16'21''$  East, 297.44 feet to the place of beginning.

Containing 0.6161 acres.

The above description is based on Ohio State Plane Grid, South Zone, NAD 1983, and prepared from a field survey performed by JMA Consultants, Inc., under the direction of Daniel J. Rensing, Ohio PLS #6796, in April, 1997, and updated in January, 1998.

Prior deed references: Deed Book 955, Page 36; Deed Book 1151, Pages 141, 282, 537, & 558; Deed Book 1153, Page 416; Deed Book 1158, Page 183; and Deed Book 1159, Page 184.

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VOL. 259  
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IMAGE 2058

LAND DESCRIPTION  
CINCINNATI SOUTHERN RAILWAY  
Southeast Tract  
4.1025 Acres

Located in Section 17, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

Beginning at the southeast corner of Theodore M. Berry Way and Plum Street;

thence along the south line of Theodore M. Berry Way, North  $80^{\circ}16'21''$  East, 1033.04 feet to the south west corner of Theodore M. Berry Way and Produce Court;

thence along the west line of Produce Court, South  $9^{\circ}50'49''$  East, 171.97 feet to a found stake in the north line of Mehring Way;

thence along the north line of Mehring Way, South  $80^{\circ}08'42''$  West, 1010.72 feet to a found cross notch;

thence along the arc of a curve to the right for 34.52 feet, said curve having a radius of 22.00 feet, and a long chord bearing North  $54^{\circ}54'33''$  West, for 31.08 feet to a found cross notch in the east line of Plum Street;

thence along the east line of Plum Street, North  $9^{\circ}57'49''$  West, 152.31 feet to the place of beginning.

Containing 4.1025 acres.

The above description is based on Ohio State Plane Grid, South Zone, NAD 1983, and prepared from a field survey performed by JMA Consultants, Inc., under the direction of Daniel J. Rensing, Ohio PLS #6796, in April, 1997, and updated in January, 1998.

Prior deed references: Deed Book 915, Pages 88, 89, 98, 108, 109, 110, 111, 113, 114, 115, 116, 118, 122, 123, 125, 130, 132, 134, & 138; Deed Book 918, Page 22; Deed Book 931, Page 573; Deed Book 932, Page 423; Deed Book 933, Page 494; Deed Book 934, Page 473; Deed Book 935, Pages 438 & 440; and Deed Book 936, Pages 236 & 238.

QUIT-CLAIM DEED

The City of Cincinnati (the "Grantor"), for valuable consideration paid, grant to the Board of County Commissioners of Hamilton County, Ohio (the "Grantee"), whose tax-mailing address is Room 603, County Administration Building, Cincinnati, Ohio 45202, the following real property:

AREA "A"

Situate in Section 17, Town 4, F.R. 1, Cincinnati Township, Hamilton County, Ohio, more particularly described as follows;

Beginning at the intersection of the North line of Produce Drive, 66' R/W, and the West line of Plum Street, 66' R/W, measure with said West line North 00° 29' 56" West, 191.40 feet to a point in the South line of Corrigan Alley, 12" R/W; thence with said South line South 89° 43' 14" West, 247.08 feet to a point; thence leaving said South line South 00° 06' 20" East, 90.45 feet to a point; thence South 89° 51' 00" West, 11.68 feet to a point; thence South 00° 16' 00" East, 100.39 feet to a point in the North line of said Produce Drive; thence with said North line North 89° 51' 00" East, 259.79 feet to the Place of Beginning.

Containing 48,504 square feet of land more or less. Subject to all legal highways, easements, and restrictions of record. Based on line survey 30-16 of the City Engineer's office.

Auditor's parcel numbers: Book 82, Page 2, Parcels 40, 41, 42, 43, 44, 45, 47, 49, 50, 51 & 52, 53, 54, 55.

Prior Deed References: Official Record Book 5408, Page 823; Official Record Book 5408, Page 828; Deed Book 1153, Page 437.

AREA "B"

Situate in Section 17, Town 4, F.R. 1, Cincinnati Township, Hamilton County, Ohio, more particularly described as follows;

Beginning at the intersection of the North line of Produce Drive, 66' R/W, and the East line of Plum Street, 66' R/W, measure with said North line North 89° 51' 00" East, 1032.33 feet to a point; then North 00° 20' 25" West, 201.13 feet to a point in the centerline of Commerce Street as vacated by Ordinance Number 311-1969; thence with said vacation line the following three courses: South 89° 54' 10" West, 103.83 feet to a point; thence North 78° 35' 13" West, 67.36 feet to a point; thence South 89° 54' 10" West, 455.12 feet to a point in the West line of Elm Street, 55' R/W, as improved; thence with said West line North 00° 17' 00" West, 141.88 feet to a point; thence on a curve to the left, said curve having a radius of 18.00 feet and a chord bearing North 45° 11' 04" West, 25.41 feet, a total distance as measured along the arc of 28.21 feet to a point in the south line of Pete Rose Way as improved; thence with said South line South

EXHIBIT  
B-2

89° 54' 51" West, 372.55 feet to a point; thence on a curve to the left, said curve having a radius of 18.00 feet and a chord bearing South 44° 42' 28" West, 25.55 feet a total distance as measured along the arc of 28.40 feet to a point in the East line of said Plum Street; thence with said East line South 00° 29' 56" East, 357.30 feet to the Place of Beginning.

Containing 285,360 square feet of land more or less. Subject to all legal highways, easements, and restrictions of record. Based on a line survey 30-16 of the City Engineer's office.

Auditor's parcel numbers: Book 82, Page 2, Parcels 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 254, 299; Book 82, Page 3, Parcels 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 176, 177, 178, 179, 180, 181, 182, 183.

A portion of the above-described Area B is registered land as described in Certificate of Title No. 69016, such registered land portion being described as follows:

Parcel I

Beginning at a point in the east line of Plum Street 74.28 feet south of the southeast corner of Second and Plum Streets; thence in the east line of Plum Street South 16° East 27.21 feet; thence North 74° 34' East 89.78 feet; thence North 15° 40' West 27.80 feet; and thence South 74° 11' West 89.94 feet to the place of beginning.

Parcel II

Beginning at a point in the new southerly line of Second Street which is 65.00 feet eastwardly from the easterly line of Plum Street, and 30.00 feet southwardly from the former southerly line of Second Street; thence eastwardly along the new southerly line of Second Street, 25.00 feet; thence southwardly and parallel with the easterly line of Plum Street, 44.25 feet; thence westwardly and parallel with the new southerly line of Second Street, 25.00 feet; thence northwardly and parallel with the easterly line of Plum Street, 44.25 feet to the point of beginning.

Prior Deed References: Deed Book 915, Page 81; Deed Book 915, Page 80, Deed Book 915, Page 79; Deed Book 915, Page 129; Deed Book 915, Page 84; Deed Book 915, Page 85; Deed Book 915, Page 86; Deed Book 915, Page 82; Deed Book 915, Page 77; Deed Book 915, Page 752; Deed Book 915, Page 74; Deed Book 915, Page 71; Deed Book 915, Page 128; Deed Book 915, Page 68; Deed Book 915, Page 70; Deed Book 915, Page 66; Deed Book 915, Page 70; Deed Book 915, Page 64; Deed Book 915, Page 63; Deed Book 915, Pages 140 and 141; Deed Book 3619, Page 530 [the narrowing of Elm Street, Ordinance No. 240-1968, was recorded in Deed Book 3635, Page 885]; Ordinance No. 311-1969 in Deed Book 3716, Page 41; Deed Book 915, Page 54; Deed Book 915, Page 53; Deed Book 915, Page 56; Deed Book 915, Page 57; Deed Book 915, Page 58; Deed Book 915, Page 59; Deed Book 915, Page 60; Deed Book 915, Page 62; Deed Book 915, Page 52; Deed Book 917, Page 56; Deed Book 915, Page 51; Deed Book 915, Page 45; Deed Book 915, Page 47; Deed Book 914, Page 579; Deed Book 916, Page

83; Deed Book 918, Page 21; Deed Book 914, Page 577; Deed Book 915, Page 387; Deed Book 917, Page 53; Deed Book 915, Page 386; Deed Book 915, Page 44; Deed Book 915, Page 48; Deed Book 915, Page 49; Deed Book 915, Page 40; Deed Book 915, Page 42; Deed Book 916, Page 81; Deed Book 918, Page 19; Deed Book 915, Page 15; Deed Book 915, Page 39; Deed Book 915, Page 37; Deed Book 915, Page 35; Deed Book 915, Page 33; Deed Book 915, Page 32; Deed Book 915, Page 28; Deed Book 915, Page 30; Deed Book 915, Page 27; Deed Book 915, Page 17; Deed Book 915, Page 18; Deed Book 915, Page 20; Deed Book 915, Page 114; Deed Book 915, Page 22; Deed Book 915, Page 23; Deed Book 915, Page 25.

AREA "C"

Situate in Section 17, Town 4, F. R.1, Cincinnati Township, Hamilton County, Ohio, more particularly described as follows;

Beginning at the intersection of the South line of Produce Drive, 66' R/W, and the West line of Plum Street, 66' R/W, measure with said South line South 89° 51' 00" West, 297.44 feet to a point; thence leaving said South line South 00° 22' 58" East, 87.45 feet to a point; thence North 89° 51' 00" East, 198.50 feet to a point; thence South 00° 22' 58" East, 8.49 feet to a point; thence North 89° 42' 40" East, 98.94 feet to a point in the West line of said Plum Street; thence with said West line North 00° 23' 10" West, 95.70 feet to the Place of Beginning.

Containing 26,840 square feet of land more or less. Subject to all legal highways, easements, and restrictions of record. Based on line survey 30-16 of the City Engineer's office.

Auditor's parcel numbers: Book 82, Page 2, Parcels 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 & 32.

Prior Deed Reference: Deed Book 1153, Page 416; Deed Book 1158, Page 183; Deed Book 1151, Page 545; Deed Book 1160, Page 123; Deed Book 1151, Page 558; Deed Book 1161, Page 48; Deed Book 1151, Page 537; Deed Book 1154, Page 282; Deed Book 1159, Page 184; Official Record Book 4826, Page 465; Official Record Book 5408, Page 826.

AREA "D"

Situate in Section 17, Town 4, F.R. 1, Cincinnati Township, Hamilton County, Ohio, more particularly described as follows;

Beginning at the intersection of the South line of Produce Drive, 66' R/W, and the East line of Plum Street, 66' R/W, measure with said East line South 00° 23' 10" East, 152.32 feet to a point; thence on a curve to the left said curve having a radius of 22.00 feet, and a chord bearing South 45° 19' 55" East, 31.08 feet, a total distance as measured along the arc of 34.52 feet to a point in the North line of Mehring Way 66' R/W; thence with said North line North 89° 43' 21" East, 1010.73 feet to a point; thence leaving said North line North 00° 16' 10" West, 171.97 feet to a point in the South line of said Produce Drive; thence with said South line South 89° 51' 00" West, 1033.04 feet to the Place of Beginning.

Containing 178,710 square feet of land more or less. Subject to all legal highways, easements, and restrictions of record. Based on line survey 30-16 of the City Engineer's office.

Auditor's parcels numbers: Book 82, Page 2, Parcels 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158; Book 82, Page 3, Parcels 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 162, 163, 164, 165, 166, 295, 297.

Prior Deed References: Deed Book 936, Page 236; Deed Book 915, Page 98; Deed Book 935, Page 438; Deed Book 915, Page 136; Deed Book 915, Page 99; Deed Book 915, Page 100; Deed Book 915, Page 102; Deed Book 915, Page 106; Deed Book 918, Page 22; Deed Book 915, Page 88; Deed Book 915, Page 138; Deed Book 915, Page 89; Deed Book 915, Page 90; Deed Book 915, Page 92; Deed Book 915, Page 94; Deed Book 915, Page 95; Deed Book 915, Page 96; Deed Book 915, Page 111; Deed Book 915, Page 116; Deed Book 936, Page 238; Deed Book 933, Page 494; Deed Book 915, Page 118; Deed Book 915, Page 109; Deed Book 915, Page 108; Deed Book 915, Page 110; Deed Book 932, Page 423; Deed Book 915, Page 134; Deed Book 915, Page 113; Deed Book 915, Page 114; Deed Book 934, Page 473; Deed Book 931, Page 573; Deed Book 935, Page 440; Deed Book 915, Page 130; Deed book 915, Page 132.

The above-described real property is the same as that described in Exhibit A hereto.

This Deed is made on the express conditions subsequent which are binding upon the Grantee, its successors and assigns, that:

- (1) Construction of a new professional sports stadium and related facilities that requires use of all or a part of the above described property is begun by December 31, 2000;
- (2) After the completion of construction of such stadium, the use of such stadium for stadium-related purposes is not abandoned, it being understood that abandonment will not be considered to have occurred unless such stadium is not used for stadium-related purposes for a period of time in excess of thirty-six (36) consecutive months.

If the Grantee, its successors or assigns, fails to comply with either of the above stated express conditions subsequent, then the Grantor has the right to re-enter and take possession of the property and to terminate (and revert in the Grantor) all rights and interest in the property conveyed by this Deed. Further, if the Grantor exercises its right to re-enter, the Grantee, its successors and assigns, shall execute a Quit Claim Deed reconveying the property to the Grantor. Provided, however, the condition subsequent and the right of reentry do not apply to any portion of the property east of the eastern right-of-way line of Elm Street (as Elm Street may have been dedicated to and accepted by the Grantee in the construction of the new professional sports stadium) then in use as a public park, public recreation facility, public right-of-way, or publicly-owned parking garage.

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IMAGE 8063

SUBJECT TO all easements and restrictions of record.

IN WITNESS WHEREOF, the City of Cincinnati has executed this Deed as of the date indicated.

Signed and acknowledged  
in the presence of:

CITY OF CINCINNATI

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
John F. Shirey, City Manager

\_\_\_\_\_  
Print Name: \_\_\_\_\_

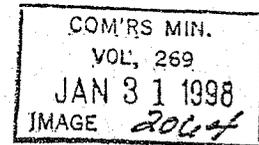
State of Ohio        )  
                          ) SS:  
County of Hamilton )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of January, 1998,  
by John F. Shirey, City Manager of the City of Cincinnati, an Ohio municipal corporation, on  
behalf of such municipal corporation.

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

This instrument was prepared by Ely M.T. Ryder, Assistant City Solicitor, City of Cincinnati,  
Department of Law.

# EXHIBIT A



LAND DESCRIPTION  
CINCINNATI SOUTHERN RAILWAY  
Northwest Tract  
1.1135 Acres

Located in Section 17, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

Beginning at a found cross notch at the northwest corner of Theodore M. Berry Way and Plum Street;

thence along the south line of Theodore M. Berry Way, South  $80^{\circ}16'20''$  West, 259.79 feet to a found spike at the southeast corner of the land conveyed to the Congress Co. by deed recorded in Official Record Book 4404, Page 107;

thence along the east lines of said Congress Co., North  $9^{\circ}50'39''$  West, 100.39 feet to a found PK nail;

thence North  $80^{\circ}16'21''$  East, 11.68 feet;

thence North  $9^{\circ}40'59''$  West, 90.45 feet to a found cross notch in the south line of Corrigan Alley at the northeast corner of said Congress Co.;

thence along the south line of Corrigan Alley, North  $80^{\circ}08'35''$  East, 247.08 feet to the southwest corner of Corrigan Alley and Plum Street;

thence along the west line of Plum Street, South  $10^{\circ}04'35''$  East, 191.40 feet to place of beginning;

Containing 1.1135 acres.

The above description is based on Ohio State Plane Grid, South Zone, NAD 1983, and prepared from a field survey performed by JMA Consultants, Inc., under the direction of Daniel J. Rensing, Ohio PLS #6796, in April, 1997, and updated in January, 1998.

Prior deed references: Deed Book 1153, Page 437; Official Record Book 5408, Pages 823 & 828.

COM'RS MIN.  
VOL. 269  
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IMAGE 2065

LAND DESCRIPTION  
CINCINNATI SOUTHERN RAILWAY  
Northeast Tract  
6.6994 Acres

Located in Section 17, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

Beginning at a found cross notch at the northeast corner of Theodore M. Berry Way and Plum Street;

thence along the east line of Plum Street, North  $10^{\circ}04'35''$  West, 357.28 feet to a found cross notch;

thence along the arc of a curve to the right for 28.40 feet, said curve having a radius of 18.00 feet, and a long chord bearing North  $35^{\circ}07'49''$  East, for 25.55 feet to a found cross notch on the south line of Pete Rose Way;

thence along the south line of Pete Rose Way, North  $80^{\circ}20'12''$  East, 372.57 feet to a found PK nail;

thence along the arc of a curve to the right for 28.21 feet, said curve having a radius of 18.00 feet, and a long chord bearing South  $54^{\circ}45'43''$  East, for 25.41 feet to the west line of Elm Street;

thence along the west line of Elm Street, South  $9^{\circ}51'39''$  East, 141.88 feet to a found spike at the southwest corner of Elm Street;

thence along the south line of Elm Street, North  $80^{\circ}19'31''$  East, 55.00 feet to the southeast corner of Elm Street;

thence along the east line of Elm Street, North  $9^{\circ}51'39''$  West, 11.00 feet to the southwest corner of the land conveyed to the Hamilton County Commissioners by deed recorded in Official Record Book 7165, Page 320;

thence along the south and west lines of said Hamilton County Commissioners land, North  $80^{\circ}19'31''$  East, 400.16 feet;

thence South  $89^{\circ}25'12''$  East, 67.08 feet;

thence North  $80^{\circ}19'31''$  East, 103.78 feet;

thence South  $9^{\circ}54'54''$  East, passing a found iron pin at 12.50 feet, 213.63 feet to the north line of Theodore M. Berry Way;

thence along the north line of Theodore M. Berry Way, South  $80^{\circ}16'26''$  West, 1032.33 feet to the place of beginning.

Containing 6.6994 acres.

The above description is based on Ohio State Plane Grid, South Zone, NAD 1983, and prepared from a field survey performed by JMA Consultants, Inc., under the direction of Daniel J. Rensing, Ohio PLS #6796, in April, 1997, and updated in January, 1998.

Prior deed references: Deed Book 914, Pages 577 & 579; Deed Book 915, Pages 15, 17, 18, 20, 21, 22, 23, 25, 27, 28, 32, 33, 35, 37, 39, 40, 42, 44, 45, 47, 48, 49, 51, 52, 53, 54, 56, 57, 58, 59, 60, 62, 63, 64, 66, 68, 71, 72, 74, 75, 77, 79, 80, 82, 84, 85, 86, 90, 92, 94, 95, 96, 99, 100, 102, 128, 129, 136, & 140; Deed Book 916, Pages 81 & 83; Deed Book 917, Pages 53 & 56; Deed Book 918, Pages 21 & 91; Deed Book 3619, Page 530; Deed Book 3635, Page 885; and Deed Book 3716, Page 41.

COMPL. MIN.  
VOL. 269  
JAN 31 1998  
IMAGE 2007

LAND DESCRIPTION  
CINCINNATI SOUTHERN RAILWAY  
Southwest Tract  
0.6161 Acres

Located in Section 17, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

Beginning at the southwest corner of Theodore M. Berry Way and Plum Street;

thence along the west line of Plum Street, South  $9^{\circ}57'38''$  East, 95.70 feet to a found PK nail at the northeast corner of the land conveyed to Congress Co. by deed recorded in Official Record Book 5177, Page 2828;

thence along the north and east lines of said Congress Co., South  $80^{\circ}08'01''$  West, 98.94 feet to a found spike;

thence North  $9^{\circ}57'37''$  West, 8.49 feet;

thence South  $80^{\circ}16'21''$  West, 198.50 feet;

thence North  $9^{\circ}57'37''$  West, 87.45 feet to the south line of Theodore M. Berry Way;

thence along the south line of Theodore M. Berry Way, North  $80^{\circ}16'21''$  East, 297.44 feet to the place of beginning.

Containing 0.6161 acres.

The above description is based on Ohio State Plane Grid, South Zone, NAD 1983, and prepared from a field survey performed by JMA Consultants, Inc., under the direction of Daniel J. Rensing, Ohio PLS #6796, in April, 1997, and updated in January, 1998.

Prior deed references: Deed Book 955, Page 36; Deed Book 1151, Pages 141, 282, 537, & 558; Deed Book 1153, Page 416; Deed Book 1158, Page 183; and Deed Book 1159, Page 184.

LAND DESCRIPTION  
CINCINNATI SOUTHERN RAILWAY  
Southeast Tract  
4.1025 Acres

Located in Section 17, Town 4, Fractional Range 1, City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

Beginning at the southeast corner of Theodore M. Berry Way and Plum Street;

thence along the south line of Theodore M. Berry Way, North  $80^{\circ}16'21''$  East, 1033.04 feet to the south west corner of Theodore M. Berry Way and Produce Court;

thence along the west line of Produce Court, South  $9^{\circ}50'49''$  East, 171.97 feet to a found stake in the north line of Mehring Way;

thence along the north line of Mehring Way, South  $80^{\circ}08'42''$  West, 1010.72 feet to a found cross notch;

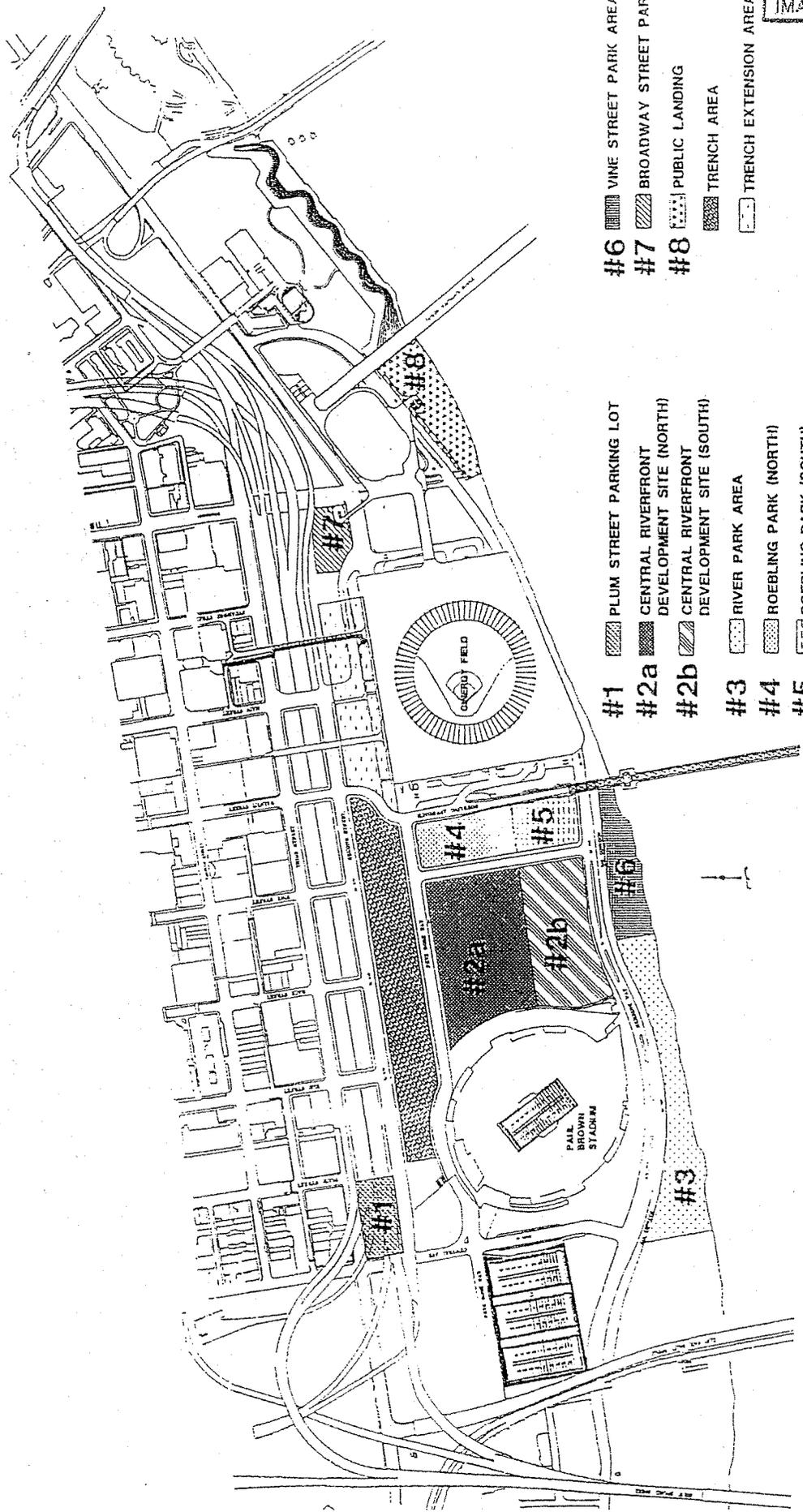
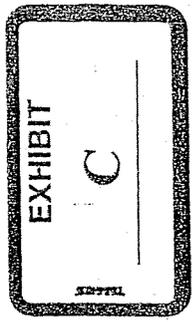
thence along the arc of a curve to the right for 34.52 feet, said curve having a radius of 22.00 feet, and a long chord bearing North  $54^{\circ}54'33''$  West, for 31.08 feet to a found cross notch in the east line of Plum Street;

thence along the east line of Plum Street, North  $9^{\circ}57'49''$  West, 152.31 feet to the place of beginning.

Containing 4.1025 acres.

The above description is based on Ohio State Plane Grid, South Zone, NAD 1983, and prepared from a field survey performed by JMA Consultants, Inc., under the direction of Daniel J. Rensing, Ohio PLS #6796, in April, 1997, and updated in January, 1998.

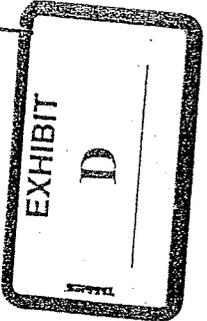
Prior deed references: Deed Book 915, Pages 88, 89, 98, 108, 109, 110, 111, 113, 114, 115, 116, 118, 122, 123, 125, 130, 132, 134, & 138; Deed Book 918, Page 22; Deed Book 931, Page 573; Deed Book 932, Page 423; Deed Book 933, Page 494; Deed Book 934, Page 473; Deed Book 935, Pages 438 & 440; and Deed Book 936, Pages 236 & 238.



- #1 PLUM STREET PARKING LOT
- #2a CENTRAL RIVERFRONT DEVELOPMENT SITE (NORTH)
- #2b CENTRAL RIVERFRONT DEVELOPMENT SITE (SOUTH)
- #3 RIVER PARK AREA
- #4 ROEBLING PARK (NORTH)
- #5 ROEBLING PARK (SOUTH)

- #6 VINE STREET PARK AREA
- #7 BROADWAY STREET PARKING
- #8 PUBLIC LANDING
- TRENCH AREA
- TRENCH EXTENSION AREA

IMAGE 0070



# EXHIBIT I

18

VACATED STREETS

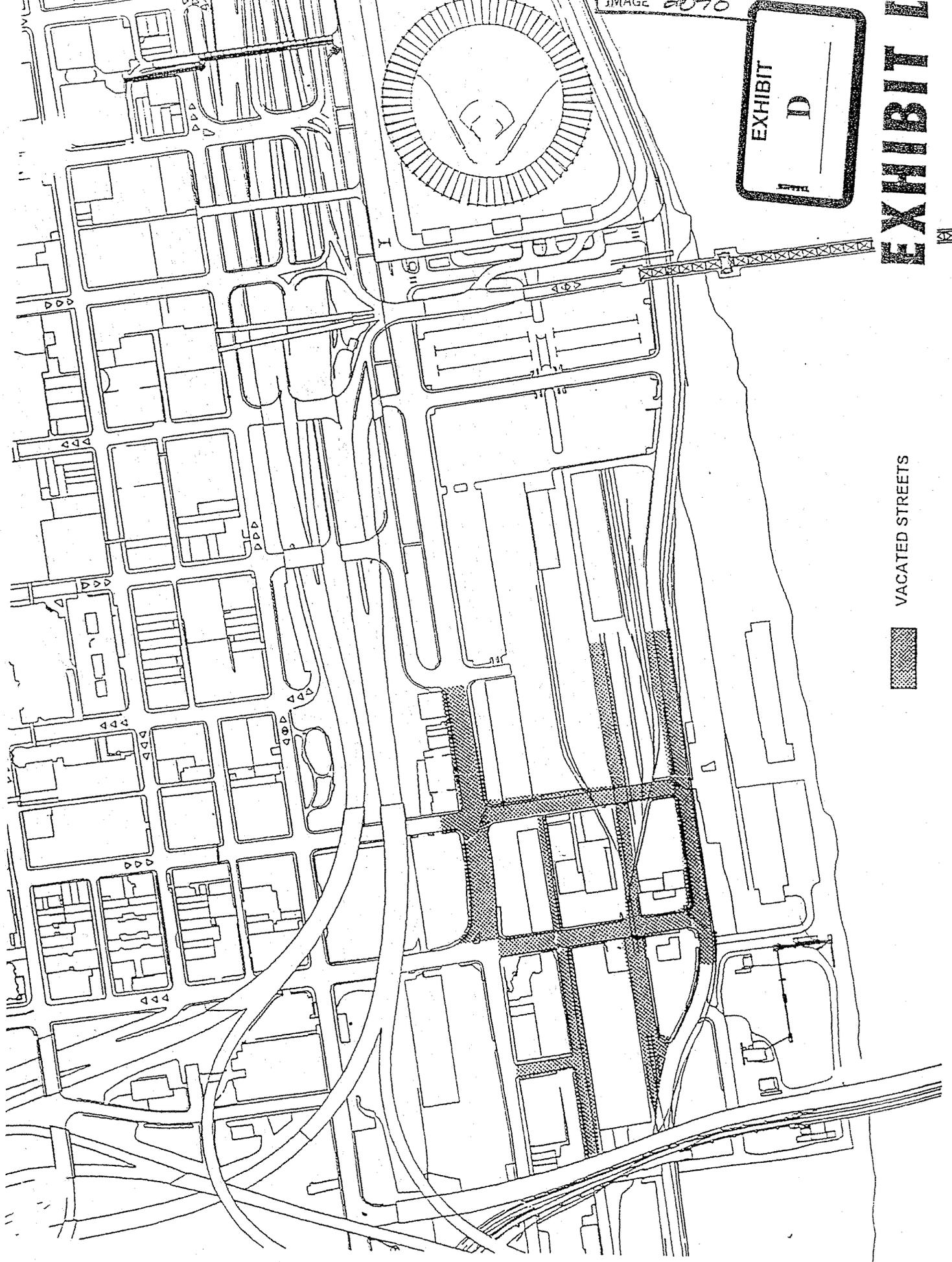
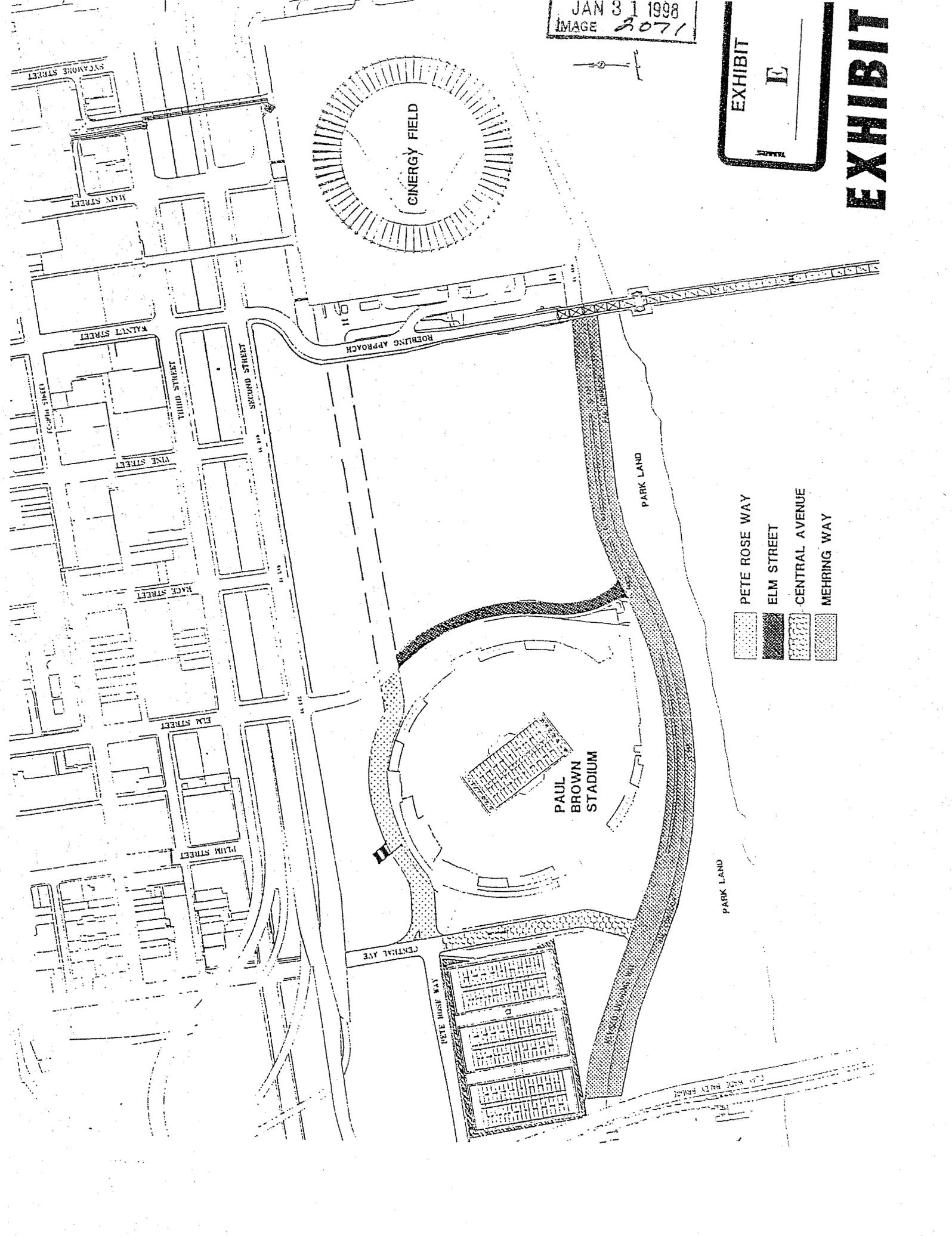


EXHIBIT  
E

EXHIBIT



-  PETE ROSE WAY
-  ELM STREET
-  CENTRAL AVENUE
-  MEHRING WAY

PARK LAND

PARK LAND

CENTRAL AVE

PETE ROSE WAY

PAUL BROWN STADIUM

CINERGY FIELD

ROEBLING APPROACH

SYCAMORE STREET

MAIN STREET

WALNUT STREET

VINE STREET

RACE STREET

ELM STREET

PLUM STREET

FOURTH STREET

FIFTH STREET

SIXTH STREET

CLAY MASON BLDG FRONT

QUIT-CLAIM DEED AND ASSIGNMENT

JAN 01 1998  
IMAGE 8072

Robert H. Castellini, a married individual, for valuable consideration paid, grants and/or as applicable, assigns, a 60% undivided interest to The City of Cincinnati, an Ohio municipal corporation, whose tax-mailing address is 201 Flamingo Ave. Cincinnati, Ohio 45225 in the following Real Property, and/or as applicable, his interest in the following Real Property:

See Exhibit A attached hereto and made a part hereof.

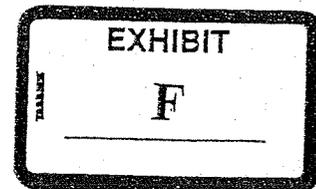
Subject to ground rents, leases, easements, restrictions, reservations, covenants and ordinances of record and legal streets and highways.

Prior Deed Reference: Official Record Book \_\_\_\_\_, Page \_\_\_\_\_ of the Hamilton County, Ohio, records.

The Real Property conveyed in this Deed is restricted as follows:

- (1) The Real Property shall be used only as public parks, open green space or for recreational purposes, provided, however, that initially ( until August 31, 2004), the Real Property may be used for public parking purposes while owned by The City of Cincinnati, so long as any revenue derived from such public parking purposes while owned by The City of Cincinnati is paid as follows:
  - (i) Net parking revenues generated by the City of Cincinnati from parking on said Real Property during days when the Cincinnati Bengals are playing a home football game may be paid to Hamilton County.
  - (ii) Subject to the provisions of (i) above, revenue from public parking shall be paid:
    - (a) First to a fund to be created by The City of Cincinnati to be used for the permanent plaque or statue (and permanent maintenance thereof) described below, such partial revenue amount to be agreed upon between the City of Cincinnati and Robert Castellini; and
    - (b) Thereafter, all remaining revenues from such public parking shall be paid to The City of Cincinnati for the benefit of the National Underground Railroad Freedom Center or any successor thereto; and

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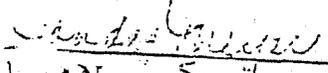
- (2) A substantial, permanent plaque or statue will be placed on the Real Property, or near the Real Property, so long as it is located on the approximately seventeen acres of real estate currently owned by The Castellini Family Trust (of which the Real Property is a part), at The City of Cincinnati's expense, recognizing the contribution of the produce industry to The City of Cincinnati, its history and economic development, which plaque or statue and inscription thereon will be chosen by The City of Cincinnati and be reasonably acceptable to Robert H. Castellini; and
- (3) The City of Cincinnati shall chose the name given to the park (or other use as provided herein) and Robert H. Castellini shall have the right to approve any name given to any park (or other use as provided herein) created on the Real Property.

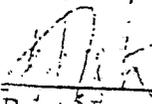
Susan F. Castellini, wife of grantor herein, hereby releases all right and expectancy of dower in said Real Property.

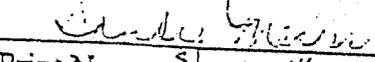
Witness their hands effective the 13 day of December, 1997.

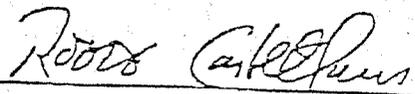
Signed and acknowledged in presence of us:

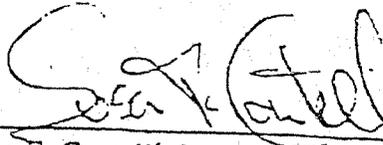
  
 Print Name: Christina L. Fisher

  
 Print Name: Sandy Meyer

  
 Print Name: Christina L. Fisher

  
 Print Name: Sandy Meyer

  
 Robert H. Castellini

  
 Susan F. Castellini

Situate in the City of Cincinnati, Hamilton County, Ohio, being part of Inlots 457 and 458 as designated upon the original plan of the City of Cincinnati, and beginning at the intersection of the south right of way line of Mehring Way and the east right of way line of Vine Street and the TRUE POINT OF BEGINNING for this description: thence, along the south right of way line of Mehring Way South  $85^{\circ} 34' 25''$  East 150.48 feet; thence South  $00^{\circ} 10' 10''$  East, 93.21 feet; thence South  $82^{\circ} 52' 46''$  West, 151.11 feet to the east right of way line of Vine Street; thence along the east right of way line, North  $00^{\circ} 10' 10''$  West, 123.56 feet to the POINT OF BEGINNING.

ALSO: Situate in the City of Cincinnati, Hamilton County, Ohio, being part of Inlot 458 as designated upon the original plan of the City of Cincinnati, and beginning at the intersection of the south right of way line of Mehring Way and the east right of way line of Vine Street; thence, along the south right of way line of Mehring Way, South  $85^{\circ} 34' 25''$  East 150.48 feet to the TRUE POINT OF BEGINNING for this description: thence, continuing along said south right of way line, South  $85^{\circ} 34' 25''$  East, 50.16 feet to the west right of way line of the suspension bridge; thence, along said west right of way line, South  $00^{\circ} 10' 10''$  East, 83.10 feet; thence South  $82^{\circ} 52' 46''$  West, 50.57 feet; thence North  $00^{\circ} 10' 10''$  West 93.21 feet to the POINT OF BEGINNING.

ALSO: Situate in the City of Cincinnati, Hamilton County, Ohio, being part of Inlots Nos. 435, 436, 437, 438, 439, and 440 as designated upon the Original Plan of the City of Cincinnati and being more particularly described as follows: Beginning at the intersection of the southerly line of Mehring Way and the westerly line of Vine Street, said point being in the easterly line of said Inlot 440; thence along the westerly line of Vine Street South  $00^{\circ} 10' 10''$  East, 137.47 feet to the southeast corner of said Inlot 440; thence with the southerly line of Inlots 440, 439, 438, 437, 436 and 435 South  $83^{\circ} 07' 48''$  West 397.33 feet; thence continuing along said southerly line south  $83^{\circ} 06' 15''$  West 236.39 feet; thence leaving said southerly line North  $00^{\circ} 10' 10''$  West, 366.36 feet to a point in the southerly line of Mehring Way; thence along said southerly line South  $75^{\circ} 19' 25''$  East, 455.44 feet; thence continuing along said southerly line along a curve to the left having a radius of 1191.92 feet, an arc distance of 191.88 feet, chord bearing South  $79^{\circ} 56' 07''$  East, a distance of 191.67 feet to the place of beginning.

ACCEPTED by the City of Cincinnati by Ordinance no. 456-1997 passed by City Council on December 17, 1997.

*Marilyn Kaiser*  
Clerk of Council

An Ordinance No. 456 -1997

ACCEPTING and confirming deeds from Congress Company and Robert H. Castellini conveying to the City of Cincinnati four acres of real property located south of Mehring Way and east of vacated Elm Street for park purposes.

WHEREAS, Congress Company and Robert H. Castellini have duly executed and tendered to the City of Cincinnati quit claim deeds conveying four acres of real property located south of Mehring Way and east of vacated Elm Street for park purposes; and

WHEREAS, the gift of said property is subject to certain conditions which are more fully enumerated in the attached Quit Claim Deed; and

WHEREAS, the property is presently encumbered by leasehold interests and Castellini and Congress have pledged best efforts to remove said leasehold interests as a part of the gift of the property; and

WHEREAS, at its meeting on November 21, 1997, the Planning Commission approved the acceptance of the donation; now therefore

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

SECTION 1. That the deeds from Congress Company and Robert H. Castellini conveying the title to four acres of real property located south of Mehring Way and east of vacated Elm Street for park purposes to the City of Cincinnati, and more particularly described as follows, are hereby accepted and confirmed:

Situate in the City of Cincinnati, Hamilton County, Ohio, being part of Inlots 457 and 458 as designated upon the original plan of the City of Cincinnati, and beginning at the intersection of the south right of way line of Mehring Way and the east right of way line of Vine Street and the TRUE POINT OF BEGINNING for this description: thence, along the south right of way line of Mehring Way South 85° 34' 25" East 150.48 feet; thence South 00° 10' 10" East, 93.21 feet; thence South 82° 52' 48" West, 151.11 feet to the east right of way line of Vine Street; thence along the east right of way line, North 00° 10' 10" West, 123.56 feet to the POINT OF BEGINNING.

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JAN 31 1998  
IMAGE 8076

beginning at the intersection of the south right of way line of Mehring Way and the east right of way line of Vine Street; thence, along the south right of way line of Mehring Way; South 85° 34' 25" East 150.48 feet to the TRUE POINT OF BEGINNING for this description: thence, continuing along said south right of way line, South 85° 34' 25" East, 50.16 feet to the west right of way line of the suspension bridge; thence, along said west right of way line, South 00° 10' 10" East, 83.10 feet; thence South 82° 52' 46" West, 50.37 feet; thence North 00° 10' 10" West 93.21 feet to the POINT OF BEGINNING.

ALSO: Situate in the City of Cincinnati, Hamilton County, Ohio, being part of Inlots Nos. 435, 436, 437, 438, 439, and 440 as designated upon the Original Plan of the City of Cincinnati and being more particularly described as follows: Beginning at the intersection of the southerly line of Mehring Way and the westerly line of Vine Street, said point being in the easterly line of said Inlot 440; thence along the westerly line of Vine Street South 00° 10' 10" East, 137.47 feet to the southeast corner of said Inlot 440; thence with the southerly line of Inlots 440, 439, 438, 437, 436 and 435 South 83° 07' 48" West 397.33 feet; thence continuing along said southerly line south 82° 06' 15" West 236.39 feet; thence leaving said southerly line North 00° 10' 10" West, 366.36 feet to a point in the southerly line of Mehring Way; thence along said southerly line South 75° 19' 25" East, 455.44 feet; thence continuing along said southerly line along a curve to the left having a radius of 1191.92 feet, an arc distance of 191.88 feet, chord bearing South 79° 56' 07" East, a distance of 191.67 feet to the place of beginning.

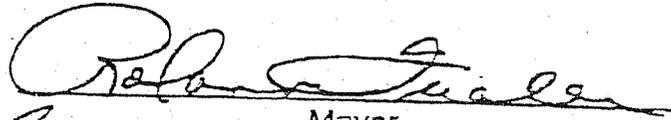
The property is accepted subject to the restrictions set forth in the attached copy of the deed from Robert H. Castellini to the City of Cincinnati. Additionally, the acceptance of the property is premised upon the commitment by Robert H. Castellini and/or Congress Company or their predecessor in interest to exercise their best efforts to obtain the outstanding 3/36 interest in the fee simple interest in the first described parcel, and subsequently convey that 3/36 interest to the City of Cincinnati.

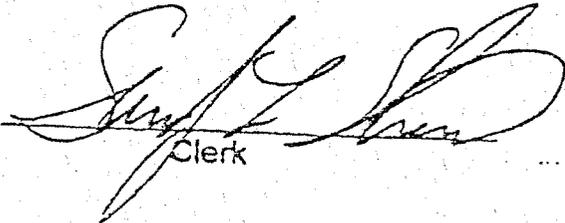
SECTION 2. That the Clerk of Council is directed, after this ordinance becomes effective, to note such acceptance on said deed so that same may be placed of record in the land records of Hamilton County, Ohio.

...to hereby declared to be an emergency measure,  
necessary for the preservation of the public peace, health, and safety and shall go into  
effect forthwith. The reason for said emergency is the necessity of the City of Cincinnati's  
immediately accepting the four acres of real property in order to allow Congress Company  
and Robert H. Castellini to sell the balance of their property surrounding the donated four  
acres without further delay.

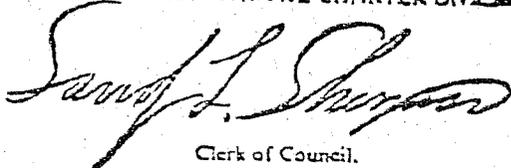
COM'RS MIN.  
VOL. 269  
JAN 31 1998  
IMAGE 2077

Passed: December 17, 1997

  
Mayor

Attest:   
Clerk

HEREBY CERTIFY THAT ORDINANCE NO. 456  
WAS PUBLISHED IN THE CITY BULLETIN  
IN ACCORDANCE WITH THE CHARTER ON 12-30-97.

  
Clerk of Council.



F. Shirey  
Manager

Room 152, City Hall  
801 Plum Street  
Cincinnati, Ohio 45202  
Phone (513) 352-3232  
Fax (513) 352-6284

November 26, 1997

Mr. David Krings  
Hamilton County Administrator  
Room 603 County Administration Building  
138 East Court Street  
Cincinnati, Ohio 45202

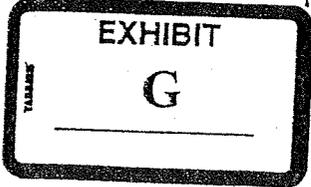
Dear David:

As you know, the construction of Paul Brown Stadium, being located in an Environmental Quality Public Investment zone district, would ordinarily be subject to review by a City Hearing Examiner. We have both expected that the stadium's review by the City's Urban Design Review Board would supplant the Hearing Examiner's review. Section 1459-401(k) of the Cincinnati Zoning Code exempts developments that are the subject of a City urban redevelopment land disposition contract and have the recommended approval of the City's Urban Design Review Board.

We have been endeavoring to reach agreement on the Memorandum of Further Understanding in part because it would operate as that urban redevelopment land disposition contract and thus work to exempt the stadium design from the Hearing Examiner's review and the delays attendant to that review. As you know, we have not concluded our agreement to the Memorandum of Further Understanding. At this moment, it is inappropriate to invoke Section 1459-401 to exempt the stadium from the Hearing Examiner's review. I can assure you, however, that a conditional approval will be forthcoming as soon as we finalize the Memorandum.

At that time I intend to approve the 100 percent Design Development GMP set as prepared by NBBJ Sport and Entertainment dated September 26, 1997, conditioned on resolution of the following design issues as recommended by the City's Urban Design Review Board in its meeting minutes dated October 23, 1997, attached hereto:

- 1) the scoreboard enclosures should be asymmetrical elements that complement the stadium's architecture; the off-center location of the north scoreboard is much preferred to the former on-center location; the various metal materials proposed are appropriate; the form of the roof and the spire on the south scoreboard should be reconsidered; exterior advertising should be prohibited on the scoreboards;



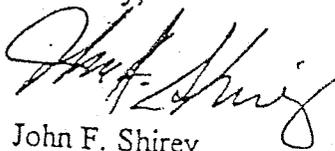
- 2) the press box alternative with more glazing on either side of the metal-clad elevator tower is much preferred to the partially metal clad press box option;
- 3) the pre-cast rustifications should be more subtle in scale and texture in contrasting with the smooth pre-cast elements;
- 4) the colors of the exterior materials should be resolved when the downtown skyline photo montage study is completed and presented for the Board's review;
- 5) the hardscape and landscape elements should be more closely coordinated with the City's proposed treatments of Mehring Way and Central Avenue, as well as UDA's Riverfront Master Plan, so that the stadium is integrated into the riverfront district, rather than being a separate element within the riverfront; the architects should work closely with the City Architect in coordinating these site development elements; and
- 6) that any future design changes should be presented for the Board's review.

The City's design approval is further conditioned upon a resolution of the Elm Street connector from Pete Rose Way to Mehring Way. In the event that the City and the County reach agreement for the provision for structured parking in lieu of surface parking, the design of such structures will require review by the Urban Design Review Board. Any design changes to the approved stadium plans to accommodate value engineering or other reasons require the review and approval of the City.

This approval does not relieve the County from securing any separate permits or approvals from the City, including, but not limited to, street barricade permits, cut and fill permits, and building permits associated with the County's construction of the stadium facilities.

We have been impressed by the work of the your design team and look forward to resolving the outstanding design issues in a timely manner.

Sincerely,



John F. Shirey  
City Manager

Attachment

c: Andi Udris, Economic Development  
Lee Meyer, City Planning  
Bob Richardson, Public Works  
Ely Ryder, Law

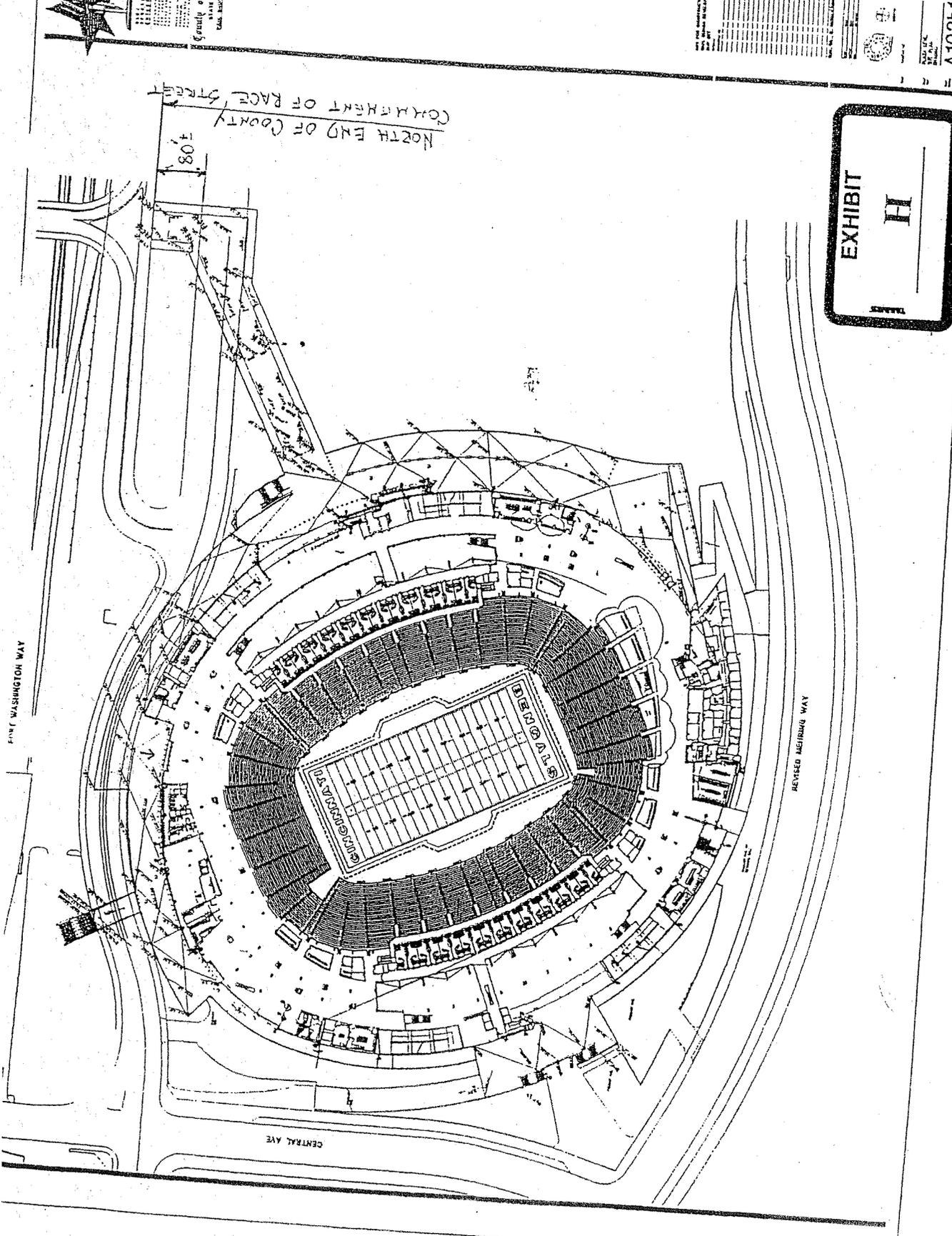


EXHIBIT  
H

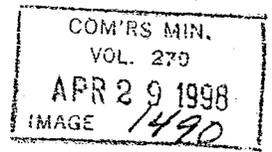
A102b1

S:\STADIUM\3-10-97\A102 Fri Jan 30 09:08:28 1998

LEASE  
AMENDMENT  
4/27/98  
(GMP)

(Short version Image 1490-1492, Long version 1490-1728)

RESOLUTION AUTHORIZING AMENDMENT TO THE AGREEMENT OF  
AUGUST 13, 1997  
FOR THE CONSTRUCTION OF THE  
PAUL BROWN STADIUM



BY THE BOARD:

WHEREAS, the Board of County Commissioners of Hamilton County, Ohio did enter into an Agreement with the joint venture of Turner/Barton Malow/D.A.G. for the construction of the Paul Brown Stadium; and

WHEREAS, the Agreement did per Article 6, Paragraph 6.1 provide for the parties to enter into an Amendment to the Agreement at the conclusion of the Design Development Phase of the Project; and

WHEREAS, the Construction Manager has submitted for Board approval the completed documents and the final Guaranteed Maximum Price for the Project; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Hamilton County, Ohio that the Design Development Phase Documents and the corresponding Guaranteed Maximum Price for the completion of the Project attached hereto and made a part hereof, be and the same hereby are approved; and

BE IT FURTHER RESOLVED, that the Guaranteed Maximum Price is a not to exceed cost of Two Hundred Eighty Seven Million, Eleven Thousand, Six Hundred Ninety Nine Dollars (\$287,011,699.00); and

BE IT FURTHER RESOLVED, that the funding for the Paul Brown Stadium is available in Fund 60-008, Project 100; and

BE IT FURTHER RESOLVED, that the Construction Management Team Turner/Barton Malow/D.A.G. are authorized to proceed with the construction of the Paul Brown Stadium in accordance with the Construction Management Agreement of August 13, 1997 and the Amendment hereto; and

BE IT FURTHER RESOLVED, that the Clerk of the Board be and she hereby is authorized to certify copies of the Amendment to Mr. Ken Butler, Mr. Bob Wyatt and Mr. Dale White of Turner/Barton Malow/D.A.G.; Mr. Dusty Rhodes, Hamilton County Auditor and Mr. Gary Van Hart, Hamilton County Public Works.

ADOPTED at a regularly adjourned meeting of the Board of County Commissioners of Hamilton County, Ohio, this 27TH DAY OF APRIL, 1998.

Mr. Bedinghaus, AYE

Mr. Dowlin, AYE

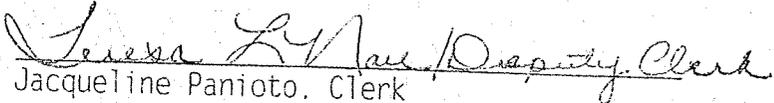
Mr. Neyer, AYE

WJW

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED, that the foregoing is a true and correct transcript of a resolution adopted by the Board of County Commissioners in session this 27TH DAY OF APRIL, 1998.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the office of County Commissioners of Hamilton County, Ohio, this 27TH DAY OF APRIL, 1998.

  
Jacqueline Panioto, Clerk  
Board of County Commissioners  
Hamilton County, Ohio

GUARANTEED MAXIMUM PRICE EXECUTION DOCUMENT  
AMENDMENT NO. 1  
DATED APRIL 22, 1998

COM'RS MIN.  
VOL. 270  
APR 29 1998  
IMAGE 1492

Pursuant to Article 6, Paragraph 6.1 of the Construction Management Agreement between the Board of County Commissioners, Hamilton County, Ohio (Owner) and a Joint Venture composed of Turner Construction Company, Barton Malow Company and D.A.G. Construction Company, Inc. (Construction Manager) for the construction of a Sports Facility (the Project); the Owner and Construction Manager agrees as set forth hereafter:

The Guaranteed Maximum Price (GMP) is established as \$287,011,699.00 based upon the proposed GMP Document, Revision 3 dated April 22, 1998, attached by reference and the other Contract Documents.

In establishing the GMP amount, the Owner Contingency Allowance, paragraph 6.1.1., is reduced from 5% to the amount shown in the GMP and the Construction Contingency Allowance, paragraph 6.1.3, is reduced from 4% to the amount shown in the GMP.

In the event, at substantially the end of the bidding period for the Trade Contracts, the cumulative bids of the Trade Contracts plus reasonable reserves is less than the cumulative budgets for the Trade Contracts, this cumulative gain shall be identified as potential savings, and allocated 50% to the Owners Contingency Allowance and 50% to the Construction Contingency Allowance, as they may be modified at that time.

Entered into as of the date first written above.

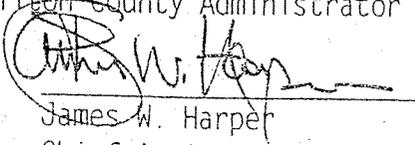
OWNER:

The Board of County Commissioners,  
Hamilton County, Ohio

By

  
David J. Krings  
Hamilton County Administrator

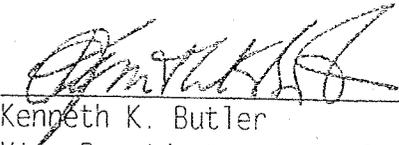
Approved

  
James W. Harper  
Chief Assistant  
Prosecuting Attorney

CONSTRUCTION MANAGER:

Turner Construction Company

By

  
Kenneth K. Butler  
Vice President - General Mgr.

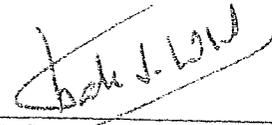
Barton Malow Company

By

  
Robert D. Wyatt  
Vice President

D.A.G. Construction, Inc.

By

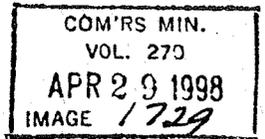
  
Dale S. White, Sr.  
President/CEO

LEASE  
AMENDMENT

4/29/98

(Image 1729-1753)

On motion of Mr. Neyer, the following resolution was adopted...



RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A LEASE AMENDMENT TO THE PAUL BROWN STADIUM LEASE AGREEMENT BY AND BETWEEN THE BOARD OF COMMISSIONERS OF HAMILTON COUNTY, OHIO AND THE CINCINNATI BENGALS, INC.

WHEREAS, on March 19, 1996 the Hamilton County electorate passed a one-half percent sales tax levy to be used in part for the construction of two new stadiums; and,

WHEREAS, on May 29, 1997 the Board of Hamilton County Commissioners executed a lease agreement with the Cincinnati Bengals to construct Paul Brown Stadium; and

WHEREAS, the County and Team entered into an Amendment to the Lease Agreement dated November 21, 1997 which both parties declared to be null and void and of no force and effect according to its terms because of the failure of a Condition Subsequent; and

WHEREAS, on January 31, 1998 the Board of Hamilton County Commissioners did authorize an amendment to its lease agreement with the Cincinnati Bengals; and

WHEREAS, it has been determined that an additional amendment is necessary.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Hamilton County Commissioners does hereby authorize and direct the County Administrator to do all things necessary to execute the terms of the lease amendment for the Paul Brown Stadium between the Board of Hamilton County Commissioners and the Cincinnati Bengals, Inc.; and

BE IT FURTHER RESOLVED, that the Clerk of the Board, be and is hereby authorized and directed to certify a copy of this resolution to David Krings, County Administrator and Mike Brown, Cincinnati Bengals.

ADOPTED at a regularly adjourned meeting of the Board of Hamilton County Commissioners of HAMILTON County, Ohio this 27th of April, 1998.

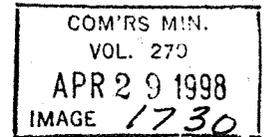
Mr. Bedinghaus AYE Mr. Dowlin AYE Mr. Neyer AYE

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution adopted by the Board of Hamilton County Commissioners in session this 27th day of April, 1998.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the Office of County Commissioners of Hamilton County, Ohio this 27th day of April, 1998.

*Jacqueline Panioto*  
Jacqueline Panioto, Clerk  
Board of County Commissioners  
Hamilton County, Ohio



**SECOND  
AMENDMENT  
OF  
LEASE AGREEMENT  
FOR PAUL BROWN STADIUM**

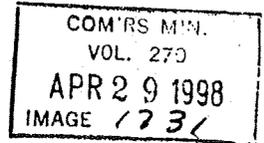
**By and Between**

**THE BOARD OF COMMISSIONERS OF HAMILTON COUNTY, OHIO**

**and**

**CINCINNATI BENGALS, INC**

**April 10, 1998**



SECOND AMENDMENT  
of  
LEASE AGREEMENT  
FOR PAUL BROWN STADIUM

This Second Amendment of Lease Agreement (this "Amendment") is made effective as of the 10th day of April, 1998, by and between THE BOARD OF COMMISSIONERS OF HAMILTON COUNTY, OHIO, a political subdivision of the State of Ohio (hereinafter called "County") and CINCINNATI BENGALS, INC., an Ohio corporation (hereinafter called "Team").

RECITALS

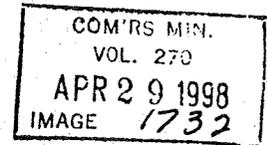
A. County and Team have heretofore entered into a certain Lease Agreement dated as of May 29, 1997 as amended by a certain Amendment of Lease Agreement for Paul Brown Stadium Lease dated as of January 31, 1998 (such Lease Agreement, as so amended, the "Original Lease").

B. County and Team desire to amend the Original Lease as more particularly set forth herein.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

1. Defined Terms. All terms with initial capital letters used herein which are not otherwise defined herein shall have the respective meanings ascribed to them in the Original Lease. As used in the Original Lease and in this Amendment the term "Lease" shall mean the Original Lease as modified by this Amendment and as hereafter modified, amended, supplemented or restated in writing by mutual agreement of County and Team.

2. Approval of Proposed GMP Plans. Pursuant to Section 4.6.1 of the Original Lease, Team and County hereby approve the Proposed GMP Plans, which shall be deemed to consist of (a) the drawings entitled "GMP SET 2/16/98 ADDENDUM #6" as modified by the inclusions and recommendations requested and suggested in (i) Troy Blackburn's letter dated March 30, 1998 (a copy of which is attached hereto as Exhibit A), (ii) the 2-page list prepared by Team dated March 26, 1998 (a copy of which is attached hereto as Exhibit B) and (iii) Mark Horton's letter dated April 3, 1998 (a copy of which is attached hereto as Exhibit C) and (b) items designated by Team from the list attached hereto as Exhibit D, provided that County shall be obligated to include items described in this clause (b) (as prioritized by Team) within the Proposed GMP Plans only to the extent that the aggregate cost of such items (as previously established for the items listed in Exhibit D) does not exceed \$450,000.



3. Additional Scope. On or before March 15, 1999, County and Team shall meet and review any bid savings achieved to date and remaining contingencies to determine whether the projected cost to complete construction of the Stadium and Practice Area permits completion of such improvements for less than the Stadium Amount plus the PF Amount. Following such discussions, County shall use all commercially reasonable and expedient efforts to add to the Proposed GMP Plans and include in the Project improvements identified and prioritized by Team if, in County's reasonable determination, (a) such improvements (including any contingencies appropriate therefor) would not cause the cost of the Stadium and Practice Area to exceed the Stadium Amount plus the PF Amount and (b) such improvements would not delay the date of Substantial Completion of the Project.

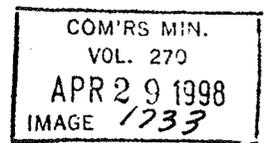
4. Team Contingency. The language appearing in Section 4.9 of the Original Lease after the end of subsection 4.9.3 is hereby deleted in its entirety. Subsection 4.9.3 of the Original Lease is hereby amended by deleting therefrom the words ", plus any remaining portion of the Team Contingency (as defined below)" and "(together with any remaining portion of the Team Contingency)." The title of Section 4.9 shall be amended to read "4.9 Changes."

5. Delay in Substantial Completion. Notwithstanding anything set forth in Section 5.3 of the Original Lease, in the event that the Project is not Substantially Completed prior to any of Team's scheduled home pre-season NFL games for the year 2000 Football Season:

[x] solely as a result of a Construction Force Majeure (as defined in Section 5.4 of the Original Lease, but subject to the limitations set forth in clauses (a) or (b) thereof), County shall not be liable or responsible for any payments for delay with respect to such pre-season games under or pursuant to Section 5.3 of the Lease; and

[y] as a result of any reason other than a reason described in [x] above, County shall pay Team the sum of \$2,000,000 for each such scheduled home pre-season game prior to the Project being Substantially Completed rather than any amount set forth in Section 5.3 of the Lease.

In addition, for the year 2000 Football Season only, County shall pay Team a per game sum equal to (a), in the event clause [y] becomes operable, \$4,000,000 for each of the first five (5) of Team's home NFL regular season games not played at the Stadium on or after the Completion Target Date, and (b), in the event clause [x] becomes operable, \$2,000,000 for each of the first six (6) of Team's home NFL regular season games not played at the Stadium on or after the Completion Target Date if such delay is the direct result of a Construction Force Majeure subject to the provisions of Section 5.4 of the Original Lease. Nothing set forth in this Section 5 shall reduce, modify or in any way alter or diminish any payments required to be made, or any obligations of the County, except with respect to the Project's being Substantially Completed prior to Team home pre-season games for the year 2000 Football Season. Section 32.9 of the Original Lease shall not apply, or be deemed applicable, to the obligations of County under Section 5.3 of the Original Lease or this Section 5.



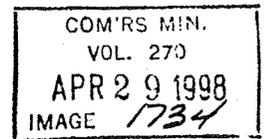
6. Parking Relating to Team Use Days. With respect to Sections 33.1, 33.2 and 33.9 of the Original Lease, Team Use Days (and County's corresponding obligations to provide minimum number of parking spaces and to remit parking revenues generated at the Parking Facilities in connection with events held on such Team Use Days) shall be limited to a total of fifteen (15) Team Use Days per year (as described below) as designated by Team in its sole and absolute discretion. For the purposes of the foregoing, a year shall be measured by the approximate 365-day period commencing on the day immediately following the last regular season Team professional football game during any Football Season and ending on the day of the last regular season Team professional football game during the next Football Season, provided that the first such year shall be deemed to commence on the day of the first public event held at the Stadium and designated by Team to be a Team Use Day subject to the provisions hereof and shall end on the day of the last regular season Team professional football game during the first Football Season in which Team plays professional football games at the Stadium.

7. Parking Facilities East of Stadium. Notwithstanding the provisions of Article 33 of the Original Lease, with respect to regulation size parking spaces that County must provide pursuant to Section 33.1, and Exhibit E of the Original Lease, for those parking spaces that County is required to make available in the Stadium Parking Facility above 3,900 spaces, County may provide up to 1,100 of such spaces located within the area bounded by the Roebling Suspension Bridge (as extended to the north) to the west, Third Street to the north, Sycamore Street (as extended to the south) to the east and the Ohio River to the south, but excluding any parking spaces within the existing parking structure currently located at the site of Cinergy Field. Notwithstanding that such parking spaces shall be located outside the Stadium Site, any such spaces shall otherwise be deemed part of the Stadium Parking Facility for all purposes of the Lease.

8. Parking Conflicts with Reds. Notwithstanding the provisions of Article 33 of the Original Lease, Team acknowledges that, so long as the Cincinnati Reds ("Reds") are playing at Cinergy Field (whether existing or renovated), if (a) a home professional baseball game scheduled by the Reds at Cinergy Field conflicts with the scheduling of a Team Use Day designated by Team pursuant to Section 6 above and (b) it is reasonably anticipated that any portion of such Reds game would be held within two (2) hours of the scheduled starting time of Team's event or within one (1) hour of the anticipated ending time of Team's event, then, to the extent Team's parking rights under Article 33 of the Lease would be in conflict with such rights held by the Reds, on any such Team Use Day Team shall not have priority parking scheduling rights or parking revenue rights under Article 33 of the Lease solely with respect to the Cinergy Field Parking Facilities (as defined below). For the purpose of this Section 8, Cinergy Field Parking Facilities shall mean the parking structure currently located at the site of Cinergy Field and any and all surface parking lots located between Broadway on the east, the Roebling Suspension Bridge (as extended to the north) on the west, Mehring Way on the south and Pete Rose Way to the north.

9. No Third Party Beneficiary. This Amendment is for the exclusive benefit of the parties hereto and not for the benefit of any third person and shall not be deemed to have conferred any rights, express or implied, upon any third person.

10. Successors and Assigns. Except as otherwise provided in the Original Lease, the covenants, agreements, terms and conditions contained in this Amendment shall bind and inure to the benefit of



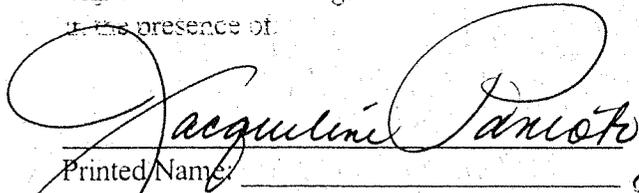
the parties hereto and their respective successors and assigns.

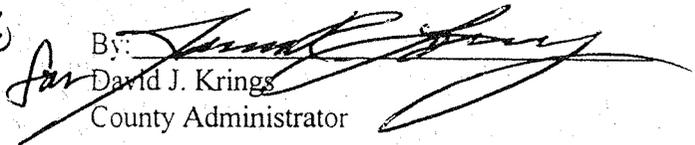
11. Modification. This Amendment may not be changed orally, but only by an agreement in writing executed by County and Team.
12. Severability. The invalidity of any provision of this Amendment shall not impair or affect in any way the validity, enforceability or effect of the rest of this Amendment
13. Governing Law. This Amendment shall be governed by the laws of the State of Ohio.
14. Counterparts. This Amendment may be signed in counterparts, each of which shall constitute an original.
15. Full Force and Effect. Except as otherwise specifically set forth herein, the Original Lease remains in full force and effect.

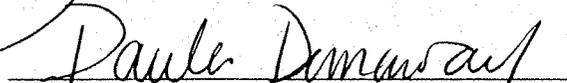
IN WITNESS WHEREOF, the authorized representatives of the parties hereto have executed this Second Amendment of Lease Agreement effective as of the day and year first above written.

Signed and acknowledged  
in the presence of:

THE BOARD OF COMMISSIONERS  
OF HAMILTON COUNTY, OHIO

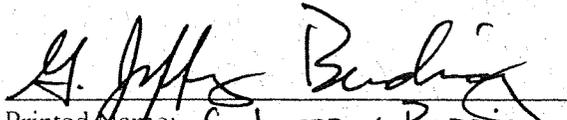
  
Printed Name: \_\_\_\_\_

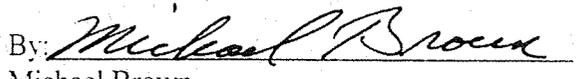
By:   
David J. Krings  
County Administrator

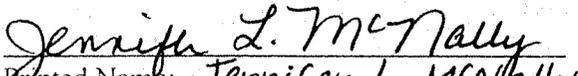
  
Printed Name: Paula Dunaway

Signed and acknowledged  
in the presence of:

CINCINNATI BENGALS, INC.

  
Printed Name: G. JEFFREY BERDING

By:   
Michael Brown  
President and General Manager

  
Printed Name: Jennifer L. McNally

STATE OF OHIO )  
 ) SS:  
COUNTY OF HAMILTON )

The foregoing instrument was acknowledged before me the 29th day of April, 1998, by James  
Loury Krings  
J. Krings, the County Administrator of THE BOARD OF COMMISSIONERS OF HAMILTON  
COUNTY, OHIO, a political subdivision of the State of Ohio, on behalf of such political subdivision.

Jacqueline Panioto  
Notary Public  
JACQUELINE PANIOTO  
Notary Public, State of Ohio  
My Commission Expires May 8, 2001

My Commission Expires: \_\_\_\_\_

STATE OF OHIO )  
 ) SS:  
COUNTY OF HAMILTON )

The foregoing instrument was acknowledged before me the 10th day of April, 1998, by  
Michael Brown, the President and General Manager of CINCINNATI BENGALS, INC., an Ohio  
corporation, on behalf of the corporation.

Troy A. Blackburn  
Notary Public

My Commission Expires: \_\_\_\_\_

TROY A. BLACKBURN, Attorney at Law  
Notary Public, State of Ohio  
My Commission Has No Expiration Date  
Section 147.03

BENGALS, INC. AND S

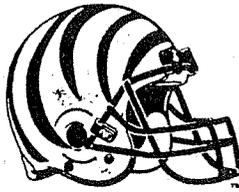


Exhibit A  
COM'RS MIN.  
VOL. 270  
APR 29 1998  
IMAGE 1737

## CINCINNATI BENGALS

ONE BENGALS DRIVE • CINCINNATI, OHIO 45204 • 513 / 621-3550

Via Telecopy & Regular Mail

March 30, 1998

Mr. Daniel G. Streyle  
Project Manager  
Getz Ventures LLC  
215 East Ninth Street, Suite 350  
Cincinnati, Ohio 45202

-Re: GMP Comments

Dear Dan:

At last Thursday's project team meeting to review the latest GMP proposal submitted by Turner-Barton Malow-D.A.G. ("TBMD"), you requested that all project team members submit whatever GMP comments they had so that the final GMP will include all pertinent and necessary items. At that meeting, I submitted a written list of items that were excluded from the GMP proposal but which need to be reincorporated into the final GMP so that it is acceptable to the entire project team. I will not restate those items here, nor will I endeavor to restate the items raised and discussed at the meeting. Instead, I will focus first on the items proposed as "Alternates" and second upon specific items in the GMP proposal that warrant comment.

### Alternates

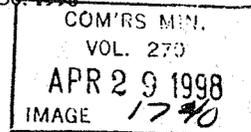
- 901 If recommended by TBMD as not involving any construction quality compromises and by Ove Arup as not presenting any adverse structural impacts, the Bengals would accept this item not being added back into the project.
- 902 If recommended by TBMD as not involving any construction quality compromises and by Ove Arup as not presenting any adverse structural impacts, the Bengals would accept this item not being added back into the project.
- 903 If recommended by TBMD as not involving any construction quality compromises and by Ove Arup as not presenting any adverse structural impacts, the Bengals would accept this item not being added back into the project.
- 904 If recommended by TBMD as not involving any construction quality compromises and by Ove Arup as not presenting any adverse structural impacts, the Bengals would accept this item not being added back into the project.

- 905 If recommended by TBMD as not involving any construction quality compromises and by Ove Arup as not presenting any adverse structural impacts, the Bengals would accept this item not being added back into the project.
- 906 If recommended by TBMD as not involving any construction quality compromises and by Ove Arup as not presenting any adverse structural impacts, the Bengals would accept this item not being added back into the project.
- 907 If recommended by TBMD as not involving any construction quality compromises and by Ove Arup as not presenting any adverse structural impacts, the Bengals would accept this item not being added back into the project.
- 908 The Bengals believe that this item needs to be included in the project.
- 909 The Bengals believe that it is in the project's best interest to include this item. While the impact of not having a three-coat system clearly falls on Hamilton County due to increased maintenance and capital repair costs, the Bengals believe it wiser long-term to include this item. Direct experience that we have on this subject is that the Jacobs Field project utilized a three-coat system on the building's structural steel but did not do so on the miscellaneous exposed steel. Over the first four years of operations, the Gateway Corporation reimbursed costs of over \$400,000 associated with repainting the miscellaneous steel only. In light of weighing capital costs versus maintenance/repair costs, a reduced coating system appears to create an unattractive trade-off for the project.
- 910 The Bengals believe that this item should be included in the project due to its visual prominence from the downtown.
- 911 The Bengals believe that this item can be foregone conditioned upon the election of Alternate 913.
- 912 The Bengals believe that this item can be foregone conditioned upon the election of Alternate 913.
- 913 Consistent with our comments on this subject for some time, the Bengals believe that this item needs to be included in the project as it is the most prominent architectural component of the building.
- 914 The Bengals believe that this item should be included in the project.
- 915 The Bengals believe that this item should be included in the project.

### GMP Comments

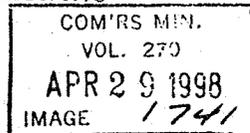
\*Please note that, for ease of reference, the page number for the specified line item is put in parentheses at the end of the comment.

1. Please confirm whether all bid savings to date have been included in the GMP proposal. By our calculations, the GMP proposal includes costs for work that has already been awarded \$1.1 million higher than the actual contract or bid amount. The Bengals assume this is an additional contingency over and above the stated contingencies that total \$19.7 million. (p. 1)
2. Satisfactory back-up has never been provided to the Bengals on the subject of architectural fees. At minimum, budgetary calculations need to pare from stadium costs that portion of A/E fees that are, in fact, budget transfers for site work and reallocate these expenses to the area where they rightfully belong. (p. 2)
3. Please recognize that costs for communications consultants will not be taken out of the stadium. (p. 3)
4. The Bengals submit that the staffing provided by Getz Ventures cannot support \$3,700,000 in fees. Further, it is our understanding that increased staffing is not contemplated. Therefore, it is our belief that some reduction in this item is appropriate under the current circumstances. (p. 3)
5. The Bengals are unclear as to the background of "Insurance Program Management." It has been our understanding that such costs were netted out of the OCIP program and that was why the project was only taking \$2 million instead of higher savings. Assuming what we were told was accurate, then this line item is subsumed in the reduced offset taken for OCIP savings. (p. 4)
6. As noted during the meeting, the costs associated with riverfront running track should be deferred. (p. 4)
7. The costs associated with demolishing Cinergy Field – if it ever happens – have never been part of the Paul Brown Stadium budget and cannot now be introduced. (p. 5)
8. The Bengals are aware of electric gates at the service entrance (NW corner), the team entrance (SW corner), and the employee entrance (SE corner). Please identify the location of the fourth. (p. 7)
9. The unit cost for chain link fence has more than doubled since the last GMP pricing information. (p. 7)

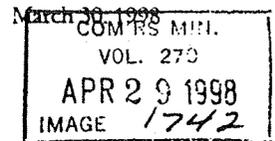


10. The detail on the playing fields indicates that there is \$310,000 of mechanical included within their estimate. It would be appropriate to confirm that this is not duplicated in the MEP estimate. (p. 7)
11. The quantity of wall pads seems high. The only areas where the club anticipates needing them are at the corners and end zones at the stadium playing field and at corner conditions in the gymnasium. (p. 8)
12. The pricing for the practice field fence has increased by roughly \$45,000 for no apparent reason. (p. 8)
13. As indicated at the meeting, the practice fields will not receive stabilization as part of the base bid, although the Bengals may want to explore this as a deferred scope initiative. (p. 8)
14. The club simply notes the pendency of future information which may impact, among other things, the premium being paid for battered piles and awaits possible good news in that regard. (p. 9)
15. With a substantial allowance being carried for probing (\$250,000), when can the project expect to have this more defined? (p. 9)
16. With a substantial allowance being carried for miscellaneous imbeds (\$250,000), when can the project expect to have this more defined? (p. 12)
17. The project team last week seemed confused on whether nosings on stairs were included. The GMP proposal has funds in the job to cover this item (\$17,880). We should confirm the status of this item. (p. 12)
18. With respect to "ADD FOR 75% STR @ 3 DAY", the club was under the impression that that premium was not being carried in the project but rather was being carried as an Alternate. (p. 12)
19. Is superplasticizer still required? (p. 12)
20. TBMD should indicate what the numerals at vomitory floors is intended to cover. (p. 13)
21. The project needs to determine the status of the admin skirt material and whether the premium being carried for a CIP wall can be eliminated. (p. 13)
22. The project needs to address the overtime premium being carried in concrete costs attributable to schedule concerns (\$1,000,000). (p. 13)
23. The project needs to address the shift premium being carried in concrete costs attributable to schedule concerns (\$400,000). (p. 14)

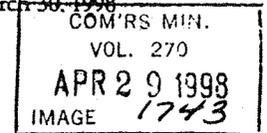
March 30, 1998



24. With a substantial allowance being carried for boomerang column connection (\$820,000), when can the project expect to have this more defined? (p. 16)
25. With a substantial allowance being carried for pipe column connections (\$460,000), when can the project expect to have this more defined? (p. 16)
26. With regard to the light/sound support, is the cost being carried (\$324,300) accurate and based on the drawings which seem to minimize any added materials needed for this purpose? (p.16)
27. TBMD is apparently carrying an allowance for 20 camera platforms. This appears high relative to what is being shown in the drawings. (p. 16)
28. With a substantial allowance being carried for steel connections (\$426,345), when can the project expect to have this more defined? (p. 16)
29. As stated above, the club again notes the pendency of future information which may impact, among other things, the premium being paid for battered piles and awaits possible good news in that regard. (p. 17)
30. Is superplasticizer and microsilicate still required? (p. 18)
31. The project needs to address the overtime premium being carried in concrete costs attributable to schedule concerns (\$250,000). (p. 19)
32. The project needs to address the shift premium being carried in concrete costs attributable to schedule concerns (\$100,000). (p. 19)
33. Is curtainwall still being assumed for the scoreboards or has not the project elected to explore a different means of achieving a luminescent effect at a lower cost? (p. 20)
34. Eight full-sized flood doors appears high relative to the drawings. Further definition on this is appropriate given the magnitude of the dollars involved. (p. 21)
35. Have not the louvers been eliminated from the admin building? (p. 23)
36. As noted during the meeting, the current quantity for spray-on insulation appears excessive. (p. 25)
37. As noted during the meeting, the rigid insulation entry (at \$.75 for a labor unit) likely duplicates the prior entry on the same subject. (p. 25)
38. With a substantial allowance being carried for miscellaneous metals in the service level (\$161,588), when can the project expect to have this more defined? (p. 26)



39. As noted above, the current pricing for chain link fence (\$34) has more than tripled since the last pricing. (p. 26)
40. TBMD should confirm that the stages for the auditoria are, in reality, camera platforms given that the club eliminated the stages. Also, the cost for these camera platforms should be confirmed. (p. 26)
41. As noted during the meeting, the deletion of concession doors is currently being shown as an add when, in fact, it likely should be shown as a deduct. (p. 31)
42. With a substantial allowance being carried for miscellaneous metals on the plaza level (\$119,010), when can the project expect to have this more defined? (p. 26)
43. As noted during the meeting, the deletion of concession doors is currently being shown as an add when, in fact, it likely should be shown as a deduct. (p. 34)
44. With respect to the metal ceiling, it was our understanding that a lower cost had been obtained than the \$25 per square foot charge being carried. (p. 35)
45. With a substantial allowance being carried for miscellaneous metals on the club level (\$229,268), when can the project expect to have this more defined? (p. 36)
46. As noted during the meeting, the deletion of concession doors is currently being shown as an add when, in fact, it likely should be shown as a deduct. (p. 38)
47. The price for ceiling 3A seems higher than has been discussed and may warrant closer review. (p. 39)
48. The EIFS being carried on this sheet for suites (\$257,900) appears to duplicate the similar entry for this same product in these same places identified on page 20 given the closeness of the two numbers. (p. 40)
49. As noted during the meeting, the deletion of concession doors is currently being shown as an add when, in fact, it likely should be shown as a deduct. (p. 44)
50. The field egress stairs should be reduced per our discussion at last week's meeting. (p. 50)
51. Based on the club's comments on the drawings, the cost for banner rods (\$20,000) can be eliminated. (p. 53)
52. TBMD is carrying 8 ticket windows in the year-round ticket office at \$1200 per window, both of which seem high. (p. 53)
53. Further definition of what "E4D STAFF PARKING" is needed. (p. 53)



54. As noted during the meeting, the unit costs for stadium seating has increased significantly and may warrant re-examination. (p. 55)
55. Further definition of the extent and type of admin building window treatments is appropriate. (p. 57)
56. Without any change in scope, furniture costs have decreased 20% from the prior GMP, which concerns the club. Some explanation as to the background of this reduction is appropriate. (p. 60)
57. The number of ticket windows appears high and has increased from the prior GMP of 26 to the current number of 31. Returning the ticket window count to 26 would save approximately \$32,000. In addition, electronic devices need not be located inside the main ticket office which should save another \$6000. Finally, electronic matrix signs could possibly be located between ticket windows, thereby reducing their count by half and saving approximately \$15,000 more. (p. 61)
58. The background to the reduction in broadcast cabling should be re-examined as it dropped from approximately \$1,200,000 to \$237,500. (p. 61)
59. As noted at the meeting, the dry waste chutes should be eliminated from the GMP as they have been eliminated from the drawings (\$25,000). (p. 61)
60. Without any change in scope, the cost for the POS system has decreased 46% from the prior GMP, which concerns the club. Some explanation as to the background of this reduction is appropriate. (p. 66)
61. With respect to the four contingency items which total \$19,685,994, the club will not comment on them individually but will simply note that, for the project to move through the current reconciliation period in the near future, those items will have to play a major role. With the addition of the \$1.1 million in unstated contingency referenced under comment number 1 above, contingencies really total almost \$22 million at present. (p. 69)

### Schedule

Although not the subject of much discussion at the meeting, the club does want to emphasize two points regarding schedule. First, the club believes strongly that the stadium field should be installed in the fall of 1999 to give it the greatest opportunity for success. Second, the admin building is currently slated for a March 30 completion. For the building to be usable in time for the draft and to facilitate an easy move-in, the Bengals would appreciate TBMD exploring advancing that date to February 28.

March 30, 1998  
COMPS MP1.  
VOL. 270  
APR 29 1998  
IMAGE 1744

Dan, the above is far from exhaustive, but I think it identifies issues we have that have not been previously identified. Due to the short time frame involved, I was not able to coordinate all of our comments into this sheet and Mark and Stuart will soon be sending you further comments – although I have made sure that their comments will not duplicate mine.

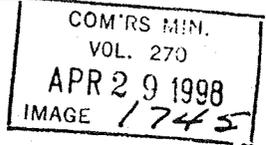
Many thanks, and please let me know if you have questions on any of the above.

Very truly yours,



Troy A. Blackburn, Esq.  
Director of Stadium Development

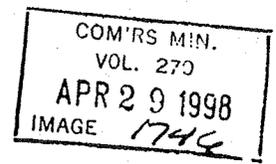
Cc: Mr. John J. Michel  
Mr. Robert D. Wyatt (via telecopy)  
Mr. Robert A. Grace (via telecopy)  
Paul Becker, AIA (via telecopy)



*Further Cost Information that is Needed  
To Understand the Current Design*

To assess accurately the cost of the current design, pricing information is needed on the following items, which are identified in TBMD's assumption and clarification materials. On many other items, more information is needed to determine whether further pricing efforts are required.

- Correct plaza bench count
- Current gate design
- Administration building balcony
- Party deck
- Overhead doors in service level at freight elevators
- Gymnasium
- Treated block in VIP entry lobby on main concourse
- Aluminum column covers
- Agreed upon soft water system
- Wood base in suites
- Concession stand 2.04.23
- Suite pantry 5.11.03
- Club seat service room 4.05.01
- Concession stand on plaza concourse at line 57
- Bars on the club lounge overlooks
- Bar 6.10.008
- Vendor commissary 6.11.05
- Ensure that on shelled suites, operable glazing and MEP is included
- Escalator enclosures as stainless steel
- Two-coat curing compound
- Leading sunscreen edge of 18" pipe tubing
- Trench drain on the east of the artificial field and a french drain on the west of the practice field
- Current fencing design
- Current decorative metal fencing
- Recessed slabs per current design
- Current design for staining and patterning concrete
- Integral starter walls in the service level
- Nosing treatment on concrete stairs
- Flood wall reinforcing for all depressed slabs and pit walls
- The current design regarding architectural finishes
- Double sided treatment for plaza precast panels
- The current precast panel design for the administration building



- Precast treatment for the administration building “skirt”
- Current design for split faced CMU block
- Current design for special shapes
- Mobile lockers for room 0.08.13
- Insulated glass for retractable glazing
- Metal fascia above the concessions counters
- End zone logos on the artificial field that are integral to the carpet
- One vinyl wall covering in the suites
- Installation costs for paper products supplied by manufacturers; confirm scope of what is assumed versus accepted VE from May
- The currently designed security system as opposed to the Intellikey system
- Insulated floors and integral ramps per the current design
- Tangent or equivalent POS system
- Hand-held devices for servicing the club patrons
- Portable buffet carts
- Current design for video walls
- Current design for scoreboards
- Furniture counts per current design
- Painted ductwork in exposed conditions on the upper concourse
- Current concessions design
- MEP to the team store
- Electronic sensors in lavatories for team spaces as previously agreed
- Sump pumps in current design
- Electric water fountains in team spaces

Exhibit C

COM'RS MIN.  
VOL. 270  
APR 29 1998  
IMAGE 1747

April 3, 1998

Mr. Daniel Streyle  
Project Manager  
Getz Ventures LLC  
215 East Ninth Street, Suite 350  
Cincinnati, Ohio 45202

Sent via Facsimile

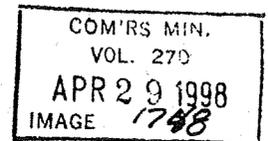
Re: GMP Comments / Assumptions & Clarifications

Dear Dan,

Please allow this letter to supplement Troy Blackburn's letter to you dated March 30, 1998 relative to providing comments on the GMP. This letter deals specifically with Section 2 - Assumptions & Clarifications. Please recall that we provided you the majority of these comments verbally last week during our review meeting. Also please observe that this table deals only with those items either not approved (Rejected), or that require additional information (Open). We also include as well our preliminary comments on schedule for your consideration:

A. Assumptions & Clarifications

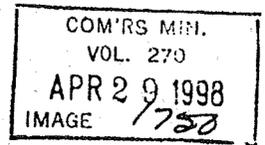
<u>ITEM</u>	<u>STATUS</u>	<u>COMMENTS</u>
I.1	Rejected	It was agreed that this would be taken out of the estimate.
I.2	Open	Avrup is reviewing this item. We await their input.
I.3	Open	Avrup directed TBMD to go back to 15%. Still under review.
I.6	Rejected	May be acceptable pending further clarification by NBBJ.
I.8	Rejected	This was a design oversight to be corrected by NBBJ.
II.3	Open	Avrup is reviewing. We await their input.
II.4	Rejected	We desire them all to be deleted.
II.5	Rejected	We only agreed to eliminate bench lighting, not count.
II.8	Rejected	NBBJ providing wire mesh detail for review & pricing.
II.9	Open	TBMD received direction to include the balcony. Design details forthcoming.
II.11	Rejected	We never agreed to delete the Party Deck. It should be put back in the GMP.
II.12	Open	We suggest TBMD bid PVC as an alternate.
II.13	Open	Health Dept. ruled to delete; City Building Dept. ruled to keep them in.
II.14	Rejected	It was agreed that these will be provided.
II.15	Rejected	It was agreed the basketball court and its requirements would be put back in GMP.
II.16	Rejected	Venetian plaster will be provided as a minimum coating application.
II.18	Rejected	GFRG covers are not acceptable; wait for Club presentation to finalize.
II.21	Open	Refer to our Volume # 4 comments.
II.24	Open	Estimate is carrying 275; food service layouts show more.
II.26	Open	Drawings should be revised to reduce count.



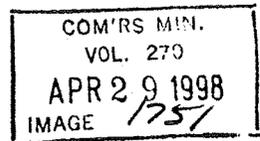
II.27	Rejected	It was agreed that wood base will be provided.
III.1	Open	Peer review commissioned to reduce scope.
III.2	Open	see III.1
III.4	Open	NBBJ to review with TBMD.
III.5	Open	see III.4
III.6	Open	see III.4
III.7	Open	see III.4
III.8	Rejected	This is in reverse to what was agreed too; check for typo.
III.9	Open	Where? Why?
IV.1	Open	NBBJ to advise on acceptability.
IV.3	Open	More information required; NBBJ has under review.
IV.4	Open	see IV.3
IV.6	Open	see IV.3
IV.8	Open	see IV.3
IV.10	Open	see IV.3
IV.11	Rejected	Deferred to Club presentation.
IV.12	Rejected	OK if overhead doors substitute, otherwise will provide.
IV.14	Open	Please alternate bid Albiclad.
IV.15a	Rejected	Stand should remain in plans & GMP.
IV.15b	Rejected	see IV.15a
IV.15c	Rejected	see IV.15a
IV.15d	Rejected	see IV.15a
IV.15f	Rejected	see IV.15a
IV.15h	Rejected	see IV.15a
IV.16	Open	As a minimum, no finishes or seating required, but all MELP stubs and 100% glazing are.
IV.18	Open	NBBJ will remove these from design.
IV.19	Rejected	No EIFS is approved for escalator enclosures.
IV.21	Rejected	NBBJ has this under review.
IV.22	Rejected	We defer to NBBJ on this inclusion.
V.A.1	General	We have no immediate comments relative to these items however, further response may follow.
Thru 7	Note	
V.A.8	Open	Additional review with Project Team required.
V.A.9	Open	See V.A.8
V.A.10	Open	See V.A.8
V.A.12	Open	No list received, please submit for review.
V.A.14	Open	See V.A.8
V.A.18	Open	Last sentence should read "Trade Contractor's will provide all necessary information via as-built drawings to the Architect to prepare record drawings".
V.A.19	Open	Hamilton County and the Bengals should meet to agree on specialty system warranty periods.
V.A.22	Open	More information is required for costs associated with administrating the OCIP Program.
V.B	General Note	More discussion is required to understand how these items will be managed; add metal louvers, fire dampers, team store, audio-visual, other ?
V.C	General Note	All accepted Alternates incorporated by the Architect must receive prior approval by the Bengals.
V.D.	Open	Please bid tooled cuts as an Alternate.
2520.1		
V.D.	Open	Additional information required.
2520.2		
V.D.	Open	We assume this is in reference to the stadium field. Trench drains should also be added at both field entrances.
2710.1		
V.D.	Open	More detail required before this could be approved.
2830.1		

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- V.D. Rejected Please include previously approved design in GMP.
- 2830.4
- V.D. Rejected Please include previously approved design in GMP.
- 2830.5
- V.D. Open This is under review by NBBJ.
- 3300.1
- V.D. Rejected Coordination with food service drawings required to provide depressed slabs throughout entire facility.
- 3300.4
- V.D. Open This is under review by NBBJ.
- 3300.5
- V.D. Open This is under review by NBBJ.
- 3300.6
- V.D. Open This is under review by NBBJ.
- 3300.7
- V.D. Rejected This provision is much too broad and requires NBBJ's specific response.
- 3300.8
- V.D. Open This is under review by NBBJ.
- 3300.9
- 3300. Open This is under review by NBBJ.
- 10
- 3300. Open This is under review by NBBJ.
- 11
- 3300. Rejected All CMU starter curbs should be installed intergal to the slab.
- 12
- 3300. Open This is under review by NBBJ.
- 13
- 3300. Open This is under review by NBBJ.
- 14 thru
- 21
- 3300. Rejected "Seal Hard" should be applied on all stairs.
- 22
- 3300. Open This is under review by NBBJ.
- 23
- 3410. Open This is under review by NBBJ.
- 1 thru
- 20
- 3410. Rejected Design should be revised to limit piece weight not to exceed 45,000 lbs. Those that do should carry the same finish as pre-cast.
- 21
- 3410. Open This is under review by NBBJ.
- 22
- 3410. Rejected NBBJ says this will not work!
- 23
- 3410. Open Please confirm that all connection plates will be galvanized.
- 24
- 3450.1 Rejected A specific response required by NBBJ to coordinate finishes.
- 3450.2 Open As a minimum "graffiti guard" should be applied.
- 3450.3 Open This is under review by NBBJ.
- 3450.4 Rejected A specific response required by NBBJ to coordinate finishes.
- 3450.6 Open Please include skirt detail as previously approved.
- 3450.7 Open Elevations control per NBBJ
- 3450.8 Rejected Exterior cladding is required for these components.
- 4230.2 Rejected Please include previously approved design in GMP.
- 4230.3 Rejected Please include previously approved design in GMP.
- 5120.2 Open Please consider our previous responses to the two vs. three coat system debate.
- 5120.6 Open This is under review by NBBJ.



5500.4	Open	This is under review by NBBJ.
5520.	Open	Mock ups are required for further consideration.
1 and 2		
5547.1	Open	Mock ups are required for further consideration.
6400.3	Open	This is under review by NBBJ.
6400.5	Rejected	Visitors A gets 20; Hometeam gets 10
7210.2	Open	We question why this is not also applicable at the Admin. Bldg and Team Store roofs
7410.1	Open	This is under review by NBBJ.
7411.1	Open	We understand Avrup has approved Birdairs structural scheme, Please advise.
7414.1	Open	We question why the documents could not be complete so that a firm estimate for our facility can be developed.
7530.1	Open	Please include the Team Store.
8453.2	Open	Flack + Kurtz must check calculations relative to non-insulated glass
8921.2	Open	Please price previously approved design.
9260.1	Open	We continue to recommend a Gypsum facia in lieu of metal panel.
9260.2	Open	This is under review by NBBJ.
9900.1	Open	Please price previously approved design.
10400.	Open	It should be noted that design for advertising and signature graphics is still incomplete.
3		
10500.	Open	This is under review by NBBJ.
1		
10800.	Open	Please confirm that these items will be installed by TBMD
2		
11020.	Rejected	This system has been rejected by Flack + Kurtz as an inferior system component.
1		
11130.	Open	No estimate was attached, please submit.
2		
11400.	Rejected	Complete coordination with food service design is required.
1		
11400.	Rejected	Please price tangent system and include in GMP.
2		
11400.	Rejected	Please include these devices in the GMP as previously approved. We suggest establishment of an allowance until design is complete.
3		
11400.	Rejected	Please include 8 carts at \$10,000 each in the GMP.
5		
11451.	Rejected	This is in conflict with previously approved design.
3		
11485.	Rejected	These are in conflict with previously approved design.
1 and 2		
11620.	Open	Additional information on systems specifics required by Prime Net.
1		
12000.	Open	This is under review by NBBJ.
1		
12000.	Open	This is under review by NBBJ.
2		
12000.	Open	This is under review by NBBJ.
4, 5 &		
6		
15000.	Open	All hander rods and pipe hangers should be unpainted galvanized.
3a		
15000.	Open	This is under review by NBBJ.
3b		
15000.	Open	This is under review by NBBJ.
4		
15000.	Open	We suggest elimination of all discrepancies occur so firm pricing can be established



- 5 & 6 for the GMP
- 15000. Open We understand that these costs must now go back into the GMP (per J. Michel)
- 7
- 15000. Open Hamilton County and the Bengals must meet to confirm extent of extended warranty requirements.
- 8
- 15000. Open Please confirm that all primary MELP service is included.
- 10
- 15300. Open We question why any heat tracing is required in the service level.
- 3
- 15400. Open All fixtures in Team spaces require these devices. (per previously approved design)
- 7
- 15400. Open Capacity of water heaters should be confirmed by TOBEN.
- 9
- 15400. Rejected Include sump pumps per previously approved design.
- 11
- 15400. Open This entry does not make sense, please explain.
- 13
- 15400. Rejected Electric water coolers are required as a minimum in the Admin. Bldg., All Team spaces, both Club lounges and Team Store.
- 21
- 15500. Open This is under review by Flack + Kurtz
- 1 thru
- 4
- 15500. Open This is under review by Flack & Kurtz
- 6 thru
- 8
- 15500. Open We question why Plaza level duct work cannot be deleted.
- 14

**B. Schedule**

While we have not received a formal presentation on the project schedule included with the GMP, our preliminary observations generate the following two comments:

1. Phased Occupancy - We have previously exchanged correspondence concerning our desire to occupy the Administration building, service level, Team spaces, practice fields, and food service areas in a phased approach to enable a more functional occupancy process for operational purposes. This is typical of these building types. Additional review of these requirements are necessary before finalization of the schedule can be achieved.
2. Installation of the playing field does not yield in our opinion an appropriate period for grow in. Please consider the addition of another crane to install the lower bowl precast in an accelerated fashion to permit the field to be placed in early Fall of 1999.

We trust the information provided is helpful in adjusting the GMP in order for it to be acceptable to all parties. Please do not hesitate to contact us with any questions that may arise. We look forward to working

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✓

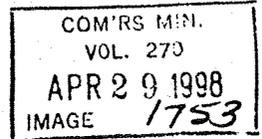
closely with the Project Team to assure all of our comments will be incorporated into a revised GMP in the very near future.

Sincerely,

*M.K. Horton*

Mark K. Horton  
Stadium Project Manager

cc: Troy Blackburn  
Stuart Dornette  
Eric Brown  
Bill Connelly  
Robert Wyatt  
John Michel  
Bob Grace  
Paul Becker



## Exhibit D

### Scope to be Re-introduced

Enhance site treatment

Provide stabilized turf at practice fields based on supplier's quote

Add granite paving to entries

Change storefront entries to glass at premium seat sections and areas

Increase quarry tile at Suite foyers & bar

Insert metal ceilings in Suite concourses

Enhance Suite Toilet Room finish

Provide Plastic Resin Toilet Partitions

Confirm wood trim in club lounges

Provide urinal screens

Provide wood lockers in Visitors' A locker room

Replace lost fixtures (17 WC, 147 Urinals, 69 Lavs)

Provide air side economizer in select locations

Provide Turnstile information system

Enhance Video walls in Club Lounge

Confirm player hot therapy tank

Enhance Club lounge overlook bars

Ensure adequate suite fit-out

Confirm requested padding for club seating

Re-add televisions to Suites

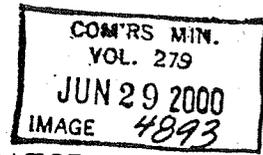
Add concession facilities

Supplement "Allowance" items

THIRD  
AMENDMENT

1/29/2000

(COA) (Image 4893-4904)



**RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR  
TO ENTER INTO THIRD AMENDMENT OF LEASE AGREEMENT  
FOR PAUL BROWN STADIUM AND ASSIGNMENT AND ASSUMPTION  
AGREEMENT**

**BY THE BOARD:**

**WHEREAS**, the Board of County Commissioners, Hamilton County, Ohio (the "County") and the Cincinnati Bengals, Inc. (the "Team") have entered into a certain Lease Agreement dated as of May 29, 1997, as amended by two amendments dated January 31, 1998 and April 17, 1998 and certain provisions of a Management Agreement dated as of May 29, 2000 by and between County, Team and Paul Brown Stadium Ltd. (such Lease Agreement, as so amended, the "Original Lease") pursuant to which the County leased to Team certain real property commonly known as Paul Brown Stadium ("Stadium"); and,

**WHEREAS**, the Original Lease granted the County the right to receive and retain all revenues from the sale of Charter Ownership Agreements ("COA's") sold prior to August 1, 2000, after which the right to sell COA's would be transferred to the Team; and,

**WHEREAS**, the County has, through means of the First Fans marketing program (the "First Fans Program") entered into COAs with third parties pursuant to which this County, in return for a fee received and retained by this County, has granted such third parties certain rights to purchase season tickets for Team home football games to be played at the Stadium; and

**WHEREAS**, the Original Lease also guaranteed the sale of at least 50,000 tickets to each of the Team's first 20 home games ("Ticket Guarantee"); and,

**WHEREAS**, this County and Team desire to amend the Original Lease, as more particularly set forth in the Third Amendment of Lease Agreement for Paul Brown Stadium ("Third Amendment"), a copy of which is attached hereto, to eliminate the Ticket Guarantee and to immediately transfer to Team the rights to administer the COA program and receive the proceeds of such COA sales made after the effective date of the Third Amendment; and

**WHEREAS**, the County's assignment and Team's assumption of the COA's and the associated First Fans Program shall be pursuant to an Assignment and Assumption Agreement, a copy of which is attached to the Third Amendment as Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of County Commissioners, Hamilton County, Ohio:

1. That the Board hereby authorizes and agrees to enter into the Third Amendment with the Team whereby (a) the Ticket Guarantee is deleted in its entirety and thereby rendered null and void and of no force and effect and (b) the County assigns to Team the COA Program.
2. That the Board hereby authorizes and agrees to enter into the Assignment and Assumption Agreement, a copy of which is attached to the Third Amendment of Exhibit A, whereby the County assigns and Team assumes the responsibility for the COAs and the associated First Fans Program.

**BE IT FURTHER RESOLVED**, that the County Administrator is hereby directed and, authorized to execute the Third Amendment and the Assignment and Assumption Agreement, on behalf of the Board of County Commissioners, Hamilton County, Ohio.

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**BE IT FURTHER RESOLVED**, that the Clerk of the Board be and she is hereby authorized and directed to certify copies of this Resolution to David J. Krings, Hamilton County Administrator, Suzanne Burke, Director of Administrative Services, Carl J. Stich, Jr., Chief Assistant Prosecuting Attorney and W. Stuart Donette, Esq.

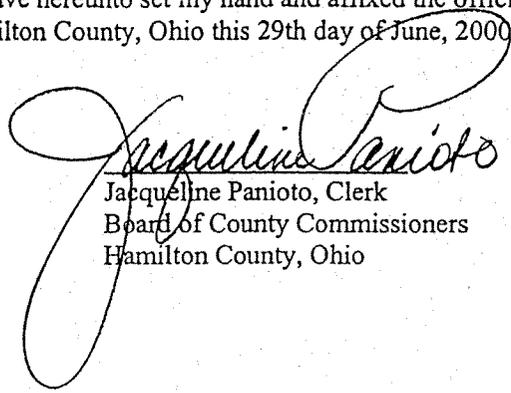
**ADOPTED**, at a regularly adjourned meeting of the Board of County Commissioners of Hamilton County, Ohio this 29th day of June, 2000.

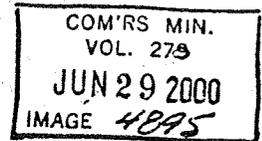
Mr. Neyer AYE      Mr. Dowlin AYE      Mr. Bedinghaus AYE

**CERTIFICATE OF CLERK**

**IT IS HEREBY CERTIFIED** that the foregoing is a true and correct transcript of a resolution adopted by this Board of County Commissioners in session the 29th day of June, 2000.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the official seal of the Office of County Commissioners of Hamilton County, Ohio this 29th day of June, 2000.

  
Jacqueline Panioto, Clerk  
Board of County Commissioners  
Hamilton County, Ohio



**THIRD  
AMENDMENT  
OF  
LEASE AGREEMENT  
FOR PAUL BROWN STADIUM**

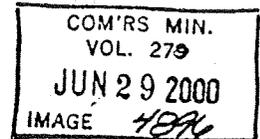
**By and Between**

**THE BOARD OF COMMISSIONERS OF HAMILTON COUNTY, OHIO**

**and**

**CINCINNATI BENGALS, INC.**

**June 24, 2000**



THIRD AMENDMENT  
of  
LEASE AGREEMENT  
FOR PAUL BROWN STADIUM

This Third Amendment of Lease Agreement (this "Amendment") is made effective as of the 24th day of June, 2000, by and between THE BOARD OF COMMISSIONERS OF HAMILTON COUNTY, OHIO, a political subdivision of the State of Ohio (hereinafter called "County") and CINCINNATI BENGALS, INC., an Ohio corporation (hereinafter called "Team").

RECITALS

A. County and Team have heretofore entered into a certain Lease Agreement dated as of May 29, 1997, as amended by a certain Amendment of Lease Agreement for Paul Brown Stadium dated as of January 31, 1998, a certain Second Amendment of Lease Agreement for Paul Brown Stadium dated as of April 10, 1998 and certain provisions of that certain Management Agreement dated as of May 29, 2000 by and between County, Team and Paul Brown Stadium Ltd. (such Lease Agreement, as so amended, the "Original Lease").

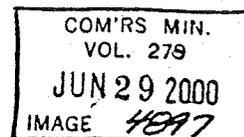
B. The Original Lease granted the County the right to receive and retain all revenues from the sale of Charter Ownership Agreements (COA's) sold prior to August 1, 2000, after which the right to sell COA's would be transferred to the Team.

C. The Original Lease guaranteed the sale of at least 50,000 tickets to each of the Team's first 20 home games.

D. County and Team desire to amend the Original Lease, as more particularly set forth herein, to eliminate the ticket sale guarantee and to immediately transfer to the Team the rights to administer the COA program and receive the proceeds of such COA sales made after the effective date of this Third Amendment.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

1. Defined Terms. All terms with initial capital letters used herein which are not otherwise defined herein shall have the respective meanings ascribed to them in the Original Lease.
2. COA's and First Fans Program. Section 4.11 of the Lease is hereby amended and restated in its entirety as follows:



"4.11 Application of COA Revenues; COA's Generally.

4.11.1 County shall receive and retain all revenues (net of commissions, fees, taxes and other customary and reasonable expenses relating to the sale of the COA's) generated from the sale of COA's prior to June 24, 2000 and hereby covenants and warrants that all such revenues shall be applied to the payment of hard construction costs of the Stadium. Upon request by Team, County shall promptly provide Team with written evidence reasonably documenting County's compliance with the foregoing.

4.11.2 Without prejudice to County's right to sell COA's through June 23, 2000 for Football Seasons after the year 2000 Football Season, County hereby agrees and acknowledges that from and after November 1, 1999 Team shall have the full and unfettered right to sell and market single game, partial season and season tickets for Team's NFL games scheduled to be played at the Stadium for the year 2000 Football Season.

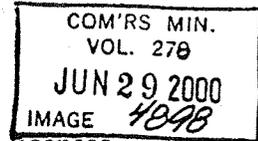
4.11.3 County and Team hereby agree that, effective as of June 24, 2000, County shall assign to Team and Team shall assume from County, all rights and obligations of County to provide seating under COA's sold prior to June 24, 2000 (as well as all rights and obligations thereafter arising in connection with the operation of the associated "First Fans" marketing program) and Team shall have the further right to sell (and retain all revenues arising from) additional COA's from and after June 24, 2000 (as well as the right to control and operate the First Fans marketing program after that date)."

County's assignment and Team's assumption of the COA's and the associated "First Fans" marketing program (as provided for in Section 4.11.3 of the Lease) shall be pursuant to an assignment and assumption agreement substantially in the form of **Exhibit A** attached to this Amendment, which shall be executed and delivered by County and Team concurrently with the execution and delivery of this Amendment.

3. Section 10.2(f). Section 10.2(f) of the Lease is hereby amended and restated in its entirety as follows:

"(f) revenues from COA's sold on or after June 24, 2000; it being understood that County has reserved to itself all revenues from COA's sold prior to June 24, 2000;"

4. Section 18.2.3. Section 18.2.3 of the Lease is hereby amended and restated in its entirety as follows:



"18.2.3 Team may, without the consent of County, sell leases, licenses (including, without limitation, COA's from and after June 24, 2000) and similar interests in reserved seats, Club Seats and Private Suites, and may sell tickets for admission to the Stadium."

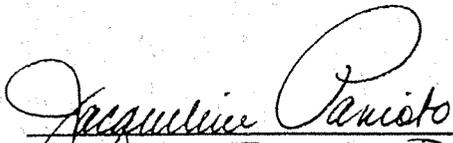
5. Termination of County's Guaranty for Sale of Team Tickets. Article 31 of the Lease guaranteeing the sale of tickets is hereby deleted in its entirety and thereby rendered null and void and of no force and effect.
6. No Third Party Beneficiary. This Amendment is for the exclusive benefit of the parties hereto and not for the benefit of any third person and shall not be deemed to have conferred any rights, express or implied, upon any third person.
7. Successors and Assigns. Except as otherwise provided in the Original Lease, the covenants, agreements, terms and conditions contained in this Amendment shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.
8. Modification. This Amendment may not be changed orally, but only by an agreement in writing executed by County and Team.
9. Governing Law. This Amendment shall be governed by the laws of the State of Ohio.
10. Counterparts. This Amendment may be signed in counterparts, each of which shall constitute an original.
11. Full Force and Effect. Except as otherwise specifically set forth herein, the Original Lease remains in full force and effect.

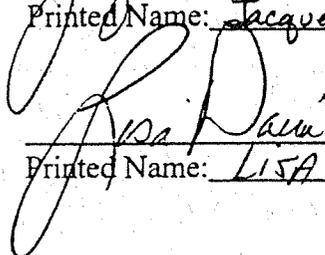
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IMAGE 4877

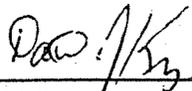
IN WITNESS WHEREOF, the authorized representatives of the parties hereto have executed the Third Amendment of Lease Agreement effective as of the day and year first above written.

Signed and acknowledged  
in the presence of:

THE BOARD OF COMMISSIONERS  
OF HAMILTON COUNTY, OHIO

  
Printed Name: Jacqueline Panioto

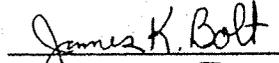
  
Printed Name: LISA MARIA

  
David J. Krings  
County Administrator

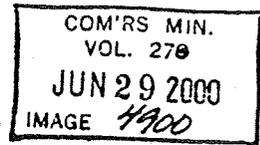
Signed and acknowledged  
in the presence of:

CINCINNATI BENGALS, INC.

  
Printed Name: JAMES A. SUTTON

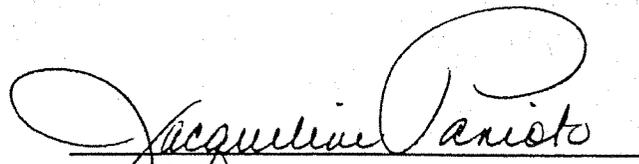
  
Printed Name: James K. Bolt

By:   
Michael Brown  
President and General Manager



STATE OF OHIO )  
 ) SS:  
COUNTY OF HAMILTON )

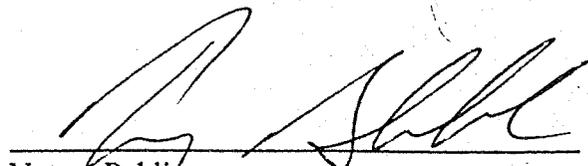
The foregoing instrument was acknowledged before me the 29th day of June, 2000, by David J. Krings, the County Administrator of THE BOARD OF COMMISSIONERS OF HAMILTON COUNTY, OHIO, a political subdivision of the State of Ohio, on behalf of such political subdivision.

  
\_\_\_\_\_  
Notary Public  
JACQUELINE PANIOTO  
Notary Public, State of Ohio  
My Commission Expires May 8, 2001

My Commission Expires: May 8, 2001

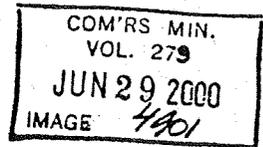
STATE OF OHIO )  
 ) SS:  
COUNTY OF HAMILTON )

The foregoing instrument was acknowledged before me the 27th day of June, 2000, by Michael Brown, the President and General Manager of CINCINNATI BENGALS, INC., an Ohio corporation, on behalf of the corporation.

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

My Commission Expires: \_\_\_\_\_

TROY A. BLACKBURN, Attorney at Law  
Notary Public, State of Ohio  
My Commission Has No Expiration  
Section 147.03



## EXHIBIT A

### ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (this "Agreement") is made effective as of the 24th day of June, 2000, by and between THE BOARD OF COMMISSIONERS OF HAMILTON COUNTY, OHIO, a political subdivision of the State of Ohio (hereinafter called "County") and CINCINNATI BENGALS, INC., an Ohio corporation (hereinafter called "Team").

#### RECITALS

A. County and Team have heretofore entered into a certain Lease Agreement dated as of May 29, 1997, as amended by (i) a certain Amendment of Lease Agreement for Paul Brown Stadium dated as of January 31, 1998, (ii) a certain Second Amendment of Lease Agreement for Paul Brown Stadium dated as of April 10, 1998, (iii) certain provisions of that certain Management Agreement dated as of May 29, 2000 by and between County, Team and Paul Brown Stadium Ltd. and (iv) that certain Third Amendment of Lease Agreement for Paul Brown Stadium dated of even date herewith (such Lease Agreement, as so amended, the "Lease").

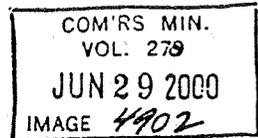
B. County has, through means of the First Fans marketing program (the "First Fans Program"), entered into Charter Ownership Agreements ("COAs") with third parties pursuant to which County, in return for a fee received and retained by County, has granted such third parties, among other things, certain rights to purchase season tickets for Team home football games to be played at Paul Brown Stadium (the "Stadium"), subject to the terms and conditions more particularly set forth in the COAs.

C. The Lease provides that County shall assign to Team, and Team shall assume from County, effective as of June 24, 2000 (the "Effective Date"), the obligation of County to provide seating under COAs sold prior to the Effective Date, as well as the right to sell (and retain all revenues arising from) additional COAs from and after the Effective Date and the right to control and operate the First Fans Program from and after the Effective Date.

D. County and Team intend that this Agreement shall effect the assignment and assumption of the COAs and First Fans Program provided for in the Lease.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

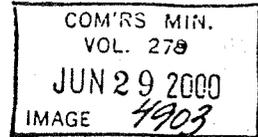
1. Defined Terms. All terms with initial capital letters used herein which are not otherwise defined herein shall have the respective meanings ascribed to them in the Lease.



2. Assignment and Transfer. Effective as of the Effective Date, County does hereby convey, assign and transfer to Team, and its assigns forever, (a) all of the County's right, title and interest in and to all existing COAs entered into (and or sold) prior to the Effective Date (the "Existing COAs"), (b) all of the County's right, title and interest in and to any and all assets (other than computer hardware and software, as specified below) and rights associated with the Existing COAs and the First Fans Program (including, without limitation, all customers lists, applications, associated files, brochures, marketing materials, and other business and financial information and agreements pertaining thereto), and (c) the continuing right to enter into and sell (and receive all revenues from) COAs from and after the Effective Date (items (a) through (c) above sometimes collectively referred to as the "Assigned Assets"). County, at not cost to Team or additional cost to County, will further make available for the continuing and exclusive use of Team the computer hardware and software acquired in 1996 for use on the First Fans Program, and consents to the transfer of the license to the ARCHTICS Ticketing System Software acquired for the COA campaign and seat assignment process. Team agrees to return the computer hardware to County when Team no longer uses such hardware for the First Fans Program or the sale of COAs. County shall incur no additional charges in connection with the transfer of the computer software license to Team. In accordance with the foregoing, County acknowledges and agrees that Team shall have the sole and unfettered right (but no obligation) to conduct the First Fans Program and sell and grant COAs from and after the Effective Date.

3. County Performance and Indemnification. County covenants and warrants that it has performed fully all of the obligations of County under the Existing COAs and First Fans Program which are (or were) to be performed before the Effective Date, and County further agrees, to the extent not prohibited by law, to defend, indemnify and hold harmless Team from any and all such obligations. Without limiting the foregoing, County agrees that, to the extent not prohibited by law it shall defend, indemnify and hold harmless Team from and against any and all expenses and liabilities (including, without limitation, costs of defense and attorneys' fees and expenses) arising from or in connection with (a) subject to the provisions of Section 5 below, any and all expenses (including, without limitation, wages and advertising expenses) incurred by County in connection with the First Fans Program prior to the Effective Date, and (b) the conduct of the First Fans Program and sale and marketing of the Existing COAs arising from or related to events occurring prior to the Effective Date (including, without limitation, any litigation or other legal proceedings that may be brought in connection therewith). County and Team acknowledge and agree that the revenues from COA sales made prior to the Effective Date were received by County and used for County purposes, and that County alone shall be responsible to pay (and defend against) any claims or assessments for taxes relating to such revenues.

4. Team Assumption and Indemnification. Team hereby accepts the sale, conveyance, assignment and transfer by County of the Assigned Assets and the obligations of County under the Existing COAs which, pursuant to the terms of the Existing COAs, are to be performed from and after the Effective Date (including, without limitation, the obligation to sell holders of the Existing COAs season tickets to Team's home games played at the Stadium, subject to the terms and conditions of the Existing COAs), and Team further agrees to defend, indemnify and hold



harmless County from any and all such obligations. Without limiting the foregoing, Team agrees that it shall defend, indemnify and hold harmless County from and against any and all expenses and liabilities (including, without limitation, costs of defense and attorneys' fees and expenses) arising from or in connection with (a) any and all taxes (including, without limitation, sales and income taxes) that may be attributable to or assessed against the sale of COAs by Team from and after the Effective Date, (b) except as provided in Section 6 below, any and all expenses (including, without limitation, wages and advertising fees) incurred in connection with Team's conduct of the First Fans Program from and after the Effective Date and (c) the conduct of the First Fans Program and sale and marketing of COAs by Team arising from or relating to events occurring from and after the Effective Date (including, without limitation, any litigation or other legal proceeding that may be brought in connection therewith).

5. Interim COA Sales by Team. In connection with Team's sale of season tickets prior to the Effective Date, Team and County acknowledge that Team has been authorized to sell, and Team has sold, Existing COAs on behalf of County, and in connection therewith, Team has incurred various related costs, including costs for items such as advertising, marketing materials, mailing and so forth (such costs incurred by Team prior to the Effective Date hereinafter referred to as "Team's Pre-Effective Date COA Costs"). Team agrees to promptly remit to County all COA revenues received by Team for Existing COAs sold by Team on behalf of County prior to the Effective Date. There shall be deducted from such COA revenues, the amount of \$37,500, which Team and County agree as fairly representing County's portion of Team's Pre-Effective Date COA Costs.
6. Program Coordinator. County, at no cost to Team, shall continue to make the services of William Sweeney ("Sweeney") available to Team for the purpose of coordinating the transition of the First Fans Program for such period as Team may require but in no event past December 31, 2000. During such time, Sweeney shall remain an employee of County under County's ultimate control.
7. No Third Party Beneficiary. This Amendment is for the exclusive benefit of the parties hereto and not for the benefit of any third person and shall not be deemed to have conferred any rights, express or implied, upon any third person.
8. Successors and Assigns. The covenants, agreements, terms and conditions contained in this Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.
9. Modification. This Agreement may not be changed orally, but only by an agreement in writing executed by County and Team.
10. Governing Law. This Agreement shall be governed by the laws of the State of Ohio.

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11. Reformation. If any provision or provisions in this Agreement is found by a court of law to be in violation of any applicable local, state, or federal ordinance, statute, law, administrative or judicial decision, or public policy, and if such court should declare such provision or provisions of this Agreement to be illegal, invalid, unlawful, void, or unenforceable as written, then (i) such provision or provisions shall be construed by such court to give such provision or provisions force and effect to the fullest possible extent that it or they would be legal, valid, and enforceable, (ii) the remainder of this Agreement shall be construed as if such illegal, invalid, unlawful, void, or unenforceable provision or provisions had been written in a manner that would make the same legal, valid, and enforceable, and (iii) the rights, obligations, and interest of County and the Team under the remainder of this Agreement shall continue in full force and effect.

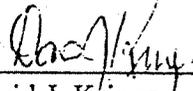
12. Independent Parties. Nothing contained in this Agreement will, or will be deemed or construed so as to, create the relationship of principal or agent, joint venturer or partner between County and Team; it being the express intention of the parties that they are and will remain independent contractors as to each other.

13. Further Assurances. From and after the date hereof, each of County and Team shall, without further consideration, execute and deliver to the other such other instruments of transfer and assumption, and take such other actions, as the other may reasonably request to carry out the intention of this Agreement and to effect the transfers and assumptions intended hereby.

14. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

IN WITNESS WHEREOF, the authorized representatives of the parties hereto have executed this Agreement effective as of the day and year first above written.

THE BOARD OF COMMISSIONERS OF  
HAMILTON COUNTY, OHIO



David J. Krings  
County Administrator

CINCINNATI BENGALS, INC.

By: 

Michael Brown  
President and General Manager