

RESOLUTION NO. 42-99

BE IT RESOLVED by the Township Trustees of Union Township, Butler County, Ohio that:

WHEREAS, on December 29, 1998, the Board of Trustees adopted Resolution 98-55, declaring to be a public purpose certain public improvements which are necessary for the further development of certain parcels within the Township, as described in Exhibit A, and establishing a tax increment equivalent fund (TIF District); and

WHEREAS, on February 2, 1999, the Board of Trustees notified the Lakota Local School District (LLSD), pursuant to Ohio revised Code, Section 5709.73, of the Board's intent to amend Resolution 98-55 by extending the exemption from property taxes granted by that resolution from 10 years at 75% to 30 years at 100%; and

WHEREAS, on March 8, 1999, the LLSD passed a resolution approving the TIF Exemption on the condition that the LLSD and Union Township hereto enter into a compensation agreement effective the TIF Exemption period; and

WHEREAS, on March 9, 1999, the Board of Trustees adopted Resolution 6-99, extending the exemption from property taxes granted by Resolution 98-55 from 10 years at 75% to 30 years at 100% and directing the Township Administrator to negotiate a compensation agreement between LLSD and Union Township effective the TIF Exemption period.

NOW, THEREFORE, BE IT RESOLVED, that in consideration of the premises and the mutual covenants outlined in the compensation agreement, the Lakota Local School District and Union Township covenant, agree, and bind themselves to the agreement as attached to this Resolution as Exhibit B.

Adopted the 26th day of OCTOBER, 1999

Jose Alvarez, Yes
Jose Alvarez

Thomas I. Hayden (abstain)
Thomas I. Hayden, Abstain

Catherine Stoker
Township Trustees
Catherine Stoker, Yes

Attest: Patricia Williams
Township Clerk

EXHIBIT A

LEGAL DESCRIPTION PROPOSED UNION TOWNSHIP T.I.F. DISTRICT

Situated in Sections 3,4,9 and 10, Town 2, Range 2 and Sections 28 and 34, Town 3, Range 2, Union Township, Butler County, Ohio and being more particularly described as follows:

Beginning at the southwest corner of said section 10,

Thence along the west line of said section NORTH $1^{\circ}15'46''$ EAST, 5355.97 feet to the northwest corner of said section 10;

Thence leaving said west line, along the north line of said section 10 NORTH $78^{\circ}00'31''$ EAST, 2700.02 feet;

Thence continuing along said north line NORTH $78^{\circ}40'52''$ EAST, 2833.24 feet to the northeast corner of said section 10 and the northwest corner of said section 4;

Thence leaving said north line, along the north line of said section 4 SOUTH $83^{\circ}52'05''$ EAST, 2021.45 feet;

Thence continuing along said north line SOUTH $83^{\circ}35'27''$ EAST, 469.25 feet;

Thence continuing along said north line SOUTH $83^{\circ}36'38''$ EAST, 2011.55 feet;

Thence continuing along said north line SOUTH $83^{\circ}32'12''$ EAST, 752.18 feet to the northeast corner of said section 4;

Thence leaving said north line, along the east line of said section 4 SOUTH $1^{\circ}48'44''$ WEST, 2684.35 feet to the intersection of Beckett Road and Union Centre Boulevard;

Thence leaving said east line, along the center of said Union Centre Boulevard SOUTH $80^{\circ}47'17''$ EAST, leaving said centerline at 1933.47 feet, for a total distance of 2074.12 feet to a point in the north line of tax parcel M5610 033.000 067;

Thence along said north line on a curve to the left 63.21 feet, said curve having a radius of 985.00 feet and a chord bearing SOUTH $79^{\circ}10'13''$ EAST, 63.20 feet;

Thence continuing along said north line SOUTH $81^{\circ}00'32''$ EAST, 159.81 feet;

Thence continuing along said north line on a curve to the right 252.88 feet, said curve having a radius of 245.00 feet and a chord bearing SOUTH $51^{\circ}26'21''$ EAST, 241.80 feet, to the east line of said tax parcel;

Thence along the east line of said tax parcel and tax parcel M5610-033.000-058 SOUTH $21^{\circ}52'10''$ EAST, 462.74 feet to a point in the east line of said tax parcel M5610-033.000-058;

Thence continuing along said east line on a curve to the left 219.44 feet, said curve having a radius of 635.00 feet and a chord bearing SOUTH 31°46'11" EAST, 218.35 feet;

Thence continuing along said tax parcel SOUTH 41°40'12" EAST, 56.60 feet to a point in the north Right-Of-Way of Lakota Drive West;

Thence leaving said tax parcel and said north Right-Of-Way SOUTH 37°49'55" EAST, 222.93 feet to a point in the centerline of Lakota Drive West;

Thence along said centerline SOUTH 41°40'26" EAST, 433.36 feet;

Thence continuing along said centerline on a curve to the left 289.03 feet, said curve having a radius of 800.00 feet and a chord bearing SOUTH 52°01'27" EAST, 287.46 feet;

Thence continuing along said centerline SOUTH 62°22'28" EAST, 1581.87 feet;

Thence continuing along said centerline SOUTH 62°26'55" EAST, 473.24 feet;

Thence continuing along said centerline SOUTH 59°02'50" EAST, 325.71 feet;

Thence leaving said centerline SOUTH 30°57'10" WEST, 50.00 feet to a point in the north line of tax parcel M5610-028.000-042;

Thence along said north line SOUTH 59°02'50" EAST, 271.04 feet;

Thence continuing along said north line on a curve to the right 241.90 feet, said curve having a radius of 420.00 feet and a chord bearing SOUTH 42°32'50" EAST, 238.57 feet, to a point in the east line of said tax parcel;

Thence along said east line on a curve to the right 128.72 feet, said curve having a radius of 290.00 feet and a chord bearing SOUTH 13°19'51" EAST, 127.67 feet;

Thence continuing along said east line SOUTH 0°37'01" EAST, 61.11 feet to a point in the centerline of West Chester Road and the south line of said section 28;

Thence along said centerline and said south section line SOUTH 89°22'59" WEST, 620.28 feet to the southwest corner of said section 28 and the southeast corner of said section 34 in the centerline of said West Chester Road;

Thence along the south line of said section 34 and continuing along said centerline NORTH 81°29'23" WEST, 2719.24 feet;

Thence continuing along said south section line and said centerline NORTH 81°27'25" WEST, 2732.10 feet to the southwest corner of said section 34 and the northeast corner of said section 3, said point also being the intersection of said West Chester Road and Beckett Road;

Thence along the east line of said section 3 and the centerline of said Beckett Road SOUTH $1^{\circ}41'12''$ WEST, 801.90 feet;

Thence leaving said centerline and continuing along said east section line SOUTH $1^{\circ}22'31''$ WEST, 3492.97 feet to a point in the east line of Norfolk and Western Railroad;

Thence leaving said east section line and along said east line of Norfolk and Western Railroad NORTH $30^{\circ}27'34''$ WEST, 638.05 feet;

Thence leaving said east line, along the south line of tax parcels M5610-002.000-068, 069, 070 and 086 NORTH $89^{\circ}03'43''$ WEST, 2055.43 feet to the southwest corner of tax parcel M5610-002.000-086;

Thence leaving said tax parcels, along the west line of said tax parcel M5610-002.000-086 NORTH $0^{\circ}56'15''$ EAST, 200.00 feet to the northwest corner of said tax parcel M5610-002.000-086;

Thence leaving said tax parcel, along the south line of tax parcel M5610-002.000-016 NORTH $89^{\circ}03'45''$ WEST, 429.57 feet to the southwest corner of said tax parcel M5610-002.000-016;

Thence leaving said south line, along the west line of tax parcels M5610-002.000-016, 081 and 018 NORTH $1^{\circ}03'33''$ EAST, 737.70 feet to a point in the centerline of Rialto Road;

Thence along the centerline of said Rialto Road NORTH $89^{\circ}05'35''$ WEST, 2407.54 feet to the intersection of said Rialto Road and Princeton-Glendale Road;

Thence along the centerline of said Princeton-Glendale Road SOUTH $1^{\circ}43'25''$ WEST, 2319.40 feet to the intersection of said Princeton-Glendale Road and Muhlhauser Road, said point also being the southeast corner of section 9, town 2, range 2;

Thence along the centerline of said Muhlhauser Road and the south line of said section 9 SOUTH $81^{\circ}39'25''$ WEST, 2587.81 feet;

Thence continuing along said centerline and south line of said section SOUTH $81^{\circ}40'56''$ WEST, 1121.43 feet;

Thence leaving said centerline and south line of said section, along the west line of tax parcels M5610-007.000-055 and 021 NORTH $1^{\circ}19'08''$ EAST, 1983.72 feet to a point in the south line of Neyer Properties Subdivision;

Thence along said south line SOUTH $81^{\circ}06'25''$ WEST, 989.94 feet;

Thence continuing along said south line SOUTH $81^{\circ}29'25''$ WEST, 710.79 feet to a point in the west line of section 9;

Thence along said west line NORTH $1^{\circ}27'55''$ EAST, 3362.86 feet to the point of beginning, containing 2585 acres of land more or less.

Description prepared by JMA Consultants, Inc. and is based on a best fit of deeds of record and no field survey was performed.

EXHIBIT B

TAX INCENTIVE AGREEMENT

This Tax Incentive Agreement (the "Agreement") made and entered into as of the 25th day of October 1999, among the Lakota Local School District, Butler County Ohio, a local school district and political subdivision of the State of Ohio (the "School District") and Union Township, Butler County, Ohio, a political subdivision of the State of Ohio, (the "Township").

WITNESSETH THAT:

WHEREAS, Sections 5709.73 et seq. of the Ohio Revised Code authorize townships to grant tax increment financing real property tax exemptions for improvements declared to be for a public purpose, which exemptions exempt from taxation the increase in the true value of the parcel of property after the effective date of the resolution granting such exemption; and

WHEREAS, Section 5709.74 of the Ohio Revised Code further authorizes a township to require owners of improvements subject to a tax increment financing tax exemption to make an annual payment to the township in lieu of taxes ("Service Payments in Lieu of Taxes"), which payment is approximately equivalent to the amount of real property tax which would be payable on the increase in the true value of the parcel of property but for the exemption from taxation; and

WHEREAS, Section 5709.75 of the Ohio Revised Code further requires a township receiving payments in lieu of taxes to create a public improvement tax increment equivalent fund for deposit of the entire amount of such payments, to be used to pay the costs of public infrastructure improvements benefiting the parcels subject to the tax increment financing tax exemption and, if provided, to make payments to school districts impacted by exemption from taxation; and

WHEREAS, on February 2, 1999, the Township notified the School District of its intent to grant an exemption (the "TIF Exemption"), as authorized by Section 5709.73, Ohio Revised code, for improvements to certain real property located within the boundaries of the Township and the School District, which real property is described in Exhibit A attached hereto and made a part hereof (the "Exempted Property"), by using the property taxes exempted to pay for or finance the construction of public improvements that are necessary for the development of the Exempted Property (the "Public Improvements") in order to induce the Property Owners to develop the exempted Property; and

WHEREAS, the Board of Education of the School District passed a resolution on March 8, 1999 (the "School District Resolution") approving the TIF Exemption on the condition that the parties hereto enter into this Agreement; and

WHEREAS, the Township has, pursuant to Resolution No. 98-55 of the Board of Trustees of the Township adopted on December 29, 1998 as amended by resolution No. 6-99 adopted on March 9, 1999 (together the "Township Resolution") granted the TIF Exemption and authorized the execution of this Agreement; and

WHEREAS, the parties hereto recognize that it may be appropriate, during the thirty year period for which the Exempted Property may be subject to the TIF Exemption, to consider the use of additional tax abatements on real and/or personal property for the Exempted Property, as authorized under Chapters 725, 1728 or 3735, or under Sections 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78 or 5709.84 of the Ohio Revised Code, or any other similar provision of the Ohio Revised Code (these additional tax abatements, together with the TIF Exemption, are hereinafter referred to as the "Tax Incentives"), in order to encourage the development of the Exempted Property and have determined to establish a framework for addressing future Tax Incentives in this Agreement; and

WHEREAS, Ohio Revised Code Section 5709.73 permits the Board of Trustees of the Township and the Board of Education of the School District to enter into this Agreement in order to compensate the School District for property taxes lost as a result of the Tax Incentives; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter described, the School District and the Township covenant, agree and bind themselves as follows:

Section 1. Approval of the TIF Exemption; Compensation to School district while TIF Exemption in Effect.

(a) As provided in the School District Resolution, the School District approves the TIF Exemption for up to one hundred percent (100%) of the further improvements to the exempted Property for a period of up to thirty years, commencing on December 29, 1998 and ending no later than December 31, 2027.

(b) During any year or any portion thereof, in which the School District would have received property tax payments derived from the exempted Property, but for the Township's authorization of the TIF Exemption, the Township agrees to pay to the School District an amount equal to the additional amount of property tax payments derived from the Exempted Property that the School District would have received from the Exempted Property but for the TIF Exemption, less an amount equal to the amount which the School District's State Foundation Payments would have been reduced had the Exempted Property not been granted the TIF Exemption (the "TIF Compensation"), as determined by the Treasurer of the School District (the "Treasurer") and certified to the Township. In the event that the State Foundation Payment formula or procedure is modified, replaced or eliminated the TIF Compensation due from the Township to the School District shall at no time exceed twenty-seven and seventy-two hundredths percent (27.72%) of the Payments in Lieu of Taxes received by the Township. Payment of the TIF Compensation may, but is not required to be made

from the Tax Increment Equivalent Fund (the "Fund"). If the balance of the Fund is inadequate to pay the Annual TIF Compensation any deficiency not satisfied prior to the end of a calendar year shall carryover as an amount owing into the next year. The Parties acknowledge, to the extent that the Township may seek to satisfy its compensation obligations hereunder by making distributions from the Fund, that any claims on Fund assets for satisfaction of the compensation obligation are subordinate to claims on Fund assets to pay bond debt service on any bonds issued by the Township secured by the Fund.

(c) In the event that any one or more property owners fail to remit a Service Payment in Lieu of Taxes on or before its due date as determined by applicable statutes, the Township is not required to make a compensation payment to the School District for the amount not remitted provided, however, that the Township shall proceed to collect the amount not remitted and shall include that amount after collection in calculation of the next future TIF Compensation amount due to the School District. Any collected amounts so included may be offset by a prorated amount of the costs incurred in the collection of said sum, as agreed by the parties, prior to its addition to the calculation.

(d) In determining the amount of the Service Payments in Lieu of Taxes required by the Township pursuant to Section 5709.74 of the Ohio Revised Code, it is expressly agreed and relied upon that the value of the parcels included in the Exempted Property prior to the effective date of the TIF Exemption shall be the value of the parcels on the date that an exemption from real property taxation is certified to the Butler County Auditor by the Tax Commissioner of the State of Ohio.

Section 2. Certification of TIF Compensation Amount. By January 20 and July 20 of each year during which the TIF Exemption will result in the School District's receipt of less than one hundred percent (100%) of the amount of real property taxes due with respect to the Exempted Property, the Treasurer shall certify the amount of the TIF Compensation to the Township.

Section 3. Payment of TIF Compensation. Within 30 days after the Township receives Service Payments in Lieu of Taxes with respect to the exempted Property, the Township shall pay to the School District, by bank or cashier's check the amount of the TIF Compensation.

Section 4. Resolution of Disputes. In the event the Township disputes the amount of the TIF Compensation as certified by the Treasurer, the Township shall certify, by February 1 and August 1, with respect to the first and second-half property tax settlements, the basis for the dispute and the amount that the Township claims is the correct amount of TIF Compensation to be paid to the School District. Within 10 days thereafter, the Treasurer and the Township Clerk or Administrator shall meet with the Butler County Auditor (the "County Auditor") to discuss and resolve the dispute. In the event the Treasurer and the Township Clerk or Administrator are unable to mutually agree on the amount of TIF Compensation, the County Auditor shall determine and certify the amount of the TIF Compensation. The Township shall then pay such amount within 15 days thereafter; provided that nothing

contained in this Section 4 shall limit either the School District's or the Township's ability, after payment and receipt of such TIF Compensation amount, to seek recovery of amounts deemed overpaid or underpaid.

Section 5. Late Payments. Except for the case where a TIF Compensation payment is delayed pursuant to a dispute, as provided in Section 4 hereof, and the dispute results in a determination by the County Auditor that the amount of the TIF Compensation amount is an amount different than the amount initially certified by the Clerk, any late TIF Compensation payments shall bear interest at the then current rate established under Sections 323.121 (B)(1) and 5703.47 of the Ohio Revised Code, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time.

Section 6. Compensation for Future Tax Incentives. The Township hereby agrees not to grant, or consent to the granting of, any additional Tax Incentives ("Future Tax Incentives"), with respect to the Exempted Property unless the resolution, agreement (or other appropriate document) provides for compensation to the School District in an amount equal to the additional amount of real or personal property tax payments which would have been derived from the Exempted Property and paid to the School District but for Future Tax Incentives. The Township also agrees, at the time of the granting of such Future Tax Incentives, to enter into a compensation agreement with the School District, the mechanism and procedure for which shall be substantially similar to the mechanism and procedure for compensating the School District provided for in this Agreement and pursuant to the calculation set forth in Section 1(b) hereof. Provided that the provisions of this Section 6 are satisfied, the School District hereby agrees to consent to the granting of such Future Tax Incentives.

Section 7. Notices. All notices, designations, certificates, requests or other communications under this Agreement shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid addressed to the following addresses:

Lakota Local School District
5030 Tylersville Road
West Chester, Ohio 45069
Attn: Treasurer

Union Township
9113 Cincinnati-Dayton Road
West Chester, Ohio 45069
Attn: Administrator

Section 8. Duration of Agreement; Amendment. This Agreement shall become effective on the date that it is executed and delivered and shall remain in effect for such period as any Tax Incentives are in effect. This agreement may be amended only by mutual

agreement of the School District and the Township. No amendment to this agreement shall be effective unless it is contained in a written document approved through legal process and signed on behalf of all parties hereto by duly authorized representatives.

Section 9. Waiver. No waiver by the School District of the performance of any terms or provision hereof shall constitute, or be construed as, a continuing waiver of performance of the same or any other term or provision hereof.

Section 10. Merger; Entire Agreement. This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter contained herein and merges and supersedes all prior discussion, agreements, and undertakings of every kind of nature between the parties with respect to the subject matter of this Agreement.

Section 11. Binding Nature. This agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective permitted successors and assigns.

Section 12. Severability. Should any portion of this agreement be declared by the courts to be unconstitutional, invalid or otherwise unlawful, such decision shall not effect the entire agreement but only that part declared to be unconstitutional, invalid or illegal and this Agreement shall be construed in all respects as if any invalid portions were omitted.

Section 13. Counterparts; Captions. This agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same Agreement. Captions have been provided herein for the convenience of the reader and shall not affect the construction of this Agreement.

IN WITNESS WHEREOF, the School District and the Township have caused this Agreement to be executed in their respective names by their duly authorized officers all as of the date hereinbefore written.

LAKOTA LOCAL SCHOOL DISTRICT

By: 


Title: Board President

 Treasurer

**UNION TOWNSHIP, BUTLER
COUNTY, OHIO**

By: 

Title: President Twp. Board

 Township Administrator