

CRA TIF FUND CONTRIBUTION AGREEMENT

(JCM/Madison Academic Schools Project)

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

WITNESSETH:

WHEREAS, the CRA has as its purpose to identify and address issues of slum and blight through executing contracts, acquiring and disposing of real property, establishing tax incremental financing districts, and other programs and financial instruments to help stabilize, revitalize, and redevelop certain areas of Jackson, Madison County, Tennessee;

WHEREAS, the CRA has identified a project initiative within the CRA’s District 1 Redevelopment Area whereby the CRA will assist the Jackson-Madison County School System (“School System”) with and facilitate the redevelopment and construction of two (2) new public educational institutions and related facilities in Jackson, Madison County, Tennessee, including a redeveloped middle/high school serving approximately 800 students (the “JCM Project”) and a new magnet high school serving approximately 600 students (the “MA Project”) and, together with JCM Project, collectively the “Project”);

WHEREAS, the JCM Project will be located on a portion of the campus of the former Jackson Central-Merry High School (the “JCM Campus”) and the MA Project will be located on the former location of Epworth Hall on the campus of the University of Memphis Lambuth (“MA Campus”) and together with JCM Campus, collectively the “Project Locations”);

WHEREAS, CRA owns or will own the real property at the Project Locations and will lease the Project Locations to Healthy Community Education Partners, Inc., a Tennessee nonprofit corporation (“HCEP”);

WHEREAS, HCEP will proceed to cause the renovation, construction, redevelopment and equipping of the improvements at the Project Locations in order to facilitate the accomplishment of the redevelopment and construction of the Project;

WHEREAS, HCEP will sublease the JCM Project to County and School System pursuant to that certain JCM Sublease Agreement of evendate herewith (the “JCM Sublease”);

WHEREAS, HCEP will sublease the MA Project to City and School System pursuant to that certain Madison Academic Sublease Agreement of evendate (the “MA Sublease” and together with the JCM Sublease, collectively the “Subleases”);

WHEREAS, pursuant to the Community Redevelopment Act of 1998 as amended (the “Act”), City previously established a District 1 Redevelopment Trust Fund (“City TIF Fund”), for the benefit of the CRA, pursuant to that certain Ordinance #2009-025 passed by the Council of the City of Jackson on December 1, 2009 (“City TIF Ordinance”);

WHEREAS, in support of the JCM Project, and pursuant to the Act and the Uniformity in Tax Increment Financing Act of 2012 as amended (“UTIF”), County has established a District 1 Redevelopment Trust Fund (“County TIF Fund”), for the benefit of the CRA, pursuant that certain Resolution #6.2F.121718 passed by the Commissioners of Madison County, Tennessee on December 17, 2018 (“County TIF Resolution”);

WHEREAS, pursuant to the City TIF Ordinance, the City TIF Fund is funded annually with certain Increment (as defined in the City TIF Ordinance) revenues (the “City Increment Revenues”) to be used by the CRA for the financing or refinancing of any community development undertaken within the CRA’s District 1 and pursuant to the Act;

WHEREAS, pursuant to the County TIF Resolution, the County TIF Fund is funded annually with certain Increment Revenues (as defined in the County TIF Resolution) (the “County Increment Revenues”) to be used by the CRA for the financing or refinancing of any community development undertaken within the CRA’s District 1 and pursuant to the Act;

WHEREAS, in support of the MA Project, the CRA has agreed to contribute seventy-five percent (75%) of the annual City Increment Revenues allocated to and deposited into the City TIF Fund as calculated by using the base year of 2017 (“MA Project Contribution”), to City for the purpose of offsetting City’s financial obligations under the Madison Academic Sublease;

WHEREAS, in support of the JCM Project, the CRA has agreed to contribute seventy-five percent (75%) of the annual County Increment Revenues allocated to and deposited into the County TIF Fund (“JCM Project Contribution”), to County for the purpose of offsetting County’s financial obligations under the JCM Sublease;

WHEREAS, the Parties desire to enter into this Agreement for the purposes of setting forth terms and conditions for the holding, release, and use of both the MA Project Contribution and the JCM Project Contribution (collectively, the “Project Contributions”);

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

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

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

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

1. Deposit of Project Contributions

A. JCM Project TIF Account. Beginning in the year 2021, on an annual basis after the County Increment Revenues, if any, are allocated to and deposited into the County TIF Fund (which are deposited annually in arrears based on the previous year's taxes), the CRA will deposit the JCM Project Contribution into a separate account (the "JCM Project TIF Account"), insured by the FDIC, with the sums held therein to bear interest at the highest rate of interest available for accounts subject to immediate availability of funds. The interest earned on the JCM Project TIF Account shall accrue to the benefit of the County to be used pursuant to the terms and conditions of this Agreement. CRA may change the type of investment in which the County TIF Funds are placed only with the written permission of the County.

B. Madison Academic Project TIF Account. Beginning in the year 2021, on an annual basis after the City Increment Revenues, if any, are allocated to and deposited into the City TIF Fund (which are deposited annually in arrears based on the previous year's taxes), the CRA will deposit the MA Project Contribution into a separate account (the "MA Project TIF Account"), insured by the FDIC, with the sums held therein to bear interest at the highest rate of interest available for accounts subject to immediate availability of funds. The interest earned on the MA Project TIF Account shall accrue to the benefit of the City to be used pursuant to the terms and conditions of this Agreement. CRA may change the type of investment in which the City TIF Funds are placed only with the written permission of the City.

C. The base tax year for the City TIF Fund is 2009, however, the MA Project Contribution is calculated using the 2017 base tax year which is the base tax year of the County TIF Fund. It is the intent of the CRA and City that the CRA will retain the entire City Increment Revenues allocated and deposited annually into the City TIF Fund less and except the amount of the MA Project Contribution.

D. The CRA, City, and County each acknowledge and agree that the Madison County Property Assessor's 2017 calendar year valuation for the CRA's District 1 plan area was \$149,890,430.00, therefore, the Project Contributions will be calculated based on the increase, if any, above that amount and in accordance with the Act or UTIF, as applicable.

E. The CRA's obligations to make Project Contributions under this Agreement shall terminate upon the CRA's receipt and deposit of the Project Contributions, if any, related to the 2027 tax year.

F. The CRA's obligations to make Project Contributions shall terminate if either the City TIF Fund or the County TIF Fund is terminated by the respective governing bodies of the City or County.

G. The City and County each acknowledge and agree that the CRA will receive and retain One Hundred Percent (100%) of the County Increment Revenues and One Hundred Percent (100%) of the City Increment Revenues from the 2019 tax year (which are to be paid to the CRA in 2020), but that the CRA's receipt and retention of these amounts will allow the CRA to make the lump sum contributions toward the Project as described in Paragraph 5 of this Agreement. The City and County each agree to cause the respective Increment Revenues for the 2019 tax year to be paid to the CRA on or before April 1, 2020.

2. Release of Project TIF Account Funds.

A. Subject to Paragraph 3 of this Agreement, the CRA will release to County, or a third party designated by the County in writing, all or any portion of the funds in the JCM Project TIF Account upon receipt of written instructions from the County's Designated Representative.

B. Subject to Paragraph 3 of this Agreement, the CRA will release to City, or a third party designated by the City in writing, all or any portion of the funds in the MA Project TIF Account upon receipt of written instructions from the City's Designated Representative.

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

4. Termination; Disbursement Upon Termination.

A. Termination.

- (i) The effectiveness of this Agreement shall terminate as to the County upon the earliest to occur of (a) termination or expiration of the JCM Sublease, or (b) termination or expiration of the County TIF Fund.
- (ii) The effectiveness of this Agreement shall terminate as to the City upon the earliest to occur of (a) termination or expiration of the MA Sublease, or (b) termination or expiration of the City TIF Fund.

B. Disbursement Upon Termination. Upon termination of this Agreement as to either the County or City, CRA shall disburse any funds held in the respective TIF Accounts pursuant to this Agreement as follows:

- (i) any remaining funds in the JCM Project TIF Account shall be deposited into the County TIF Fund to be administered in accordance with the Act, UTIF, and County TIF Resolution, and
- (ii) any remaining funds in the MA Project Account shall be deposited into the City TIF Fund to be administered in accordance with the Act and City TIF Ordinance.

5. CRA Lump Sum Contribution to Project. In addition to the Project Contributions described hereinabove, on the Document Closing Date (as defined in the respective Subleases), the CRA agrees to contribute Three Hundred Thousand and No/100 Dollars (\$300,000.00) toward the financing of the MA Project and the CRA agrees to contribute Three Hundred Thousand and No/100 Dollars (\$300,000.00) toward the financing of the JCM Project.

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

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

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

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

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

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

7. **Miscellaneous.**

A. **Controlling Law; Dispute Resolution.**

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

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

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

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

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

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

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

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

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

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

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

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

[Counterpart Signatures on Following Page]

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

JACKSON COMMUNITY REDEVELOPMENT AGENCY

By: _____

Name: _____

Title: Chairperson

THE COUNTY OF MADISON, TENNESSEE

By: _____

Name: _____

Title: Mayor

THE CITY OF JACKSON, TENNESSEE

By: _____

Name: _____

Title: Mayor