

SUBJECT: An Emergency Ordinance authorizing the City Manager to enter into a Lease Agreement and Sublease Agreement with the Board of County Commissioners of Hamilton County, Ohio for property on Woodrow Street, which property is not needed for any municipal purpose during the term of the sublease.

BACKGROUND

The Metropolitan Sewer District of Greater Cincinnati (MSD) is in the planning stages for the implementation of the Wet Weather Improvement Program (WWIP) mandated by the Federal Consent Decree entered into by the City of Cincinnati (City) and Hamilton County (County). As part of this planning, the MSD identified a need for additional office space to house 157 of its staff as well as 41 external consultants. The number and quality of workspaces available on the main MSD campus in Lower Price Hill is insufficient and the buildings are functionally obsolete, with deficient mechanical, electrical and plumbing systems. The MSD has determined that a new three-story office building represents the most cost-efficient solution and has identified property owned by the Department of Community Development (DCD) at 1028-1030 Summer Street as the best site for it. The property was formerly part of Queen City Barrel and is located north of Gest Street and the future MetroWest Commerce Park (MetroWest).

On November 16, 2007, the City Planning Commission reviewed an informational report regarding the proposed office building. Since that time, the County and the City have reached an agreement regarding the construction and funding of this building.

The County will receive 1028-1030 Summer Street as part of a larger exchange of property between it and the City. The County will then consolidate 1028-1030 Summer Street with property at 1042 Summer Street and 1035 Woodrow Street to create the site for the new office building. The County and the City determined that the City could construct the building in the most time- and cost-effective manner through its design-build RFP process. The City will issue bonds for the construction costs. In order to do this, the City must lease the property from the County while the bonds are being repaid. In turn, the City must sublease the property back to the County to allow the MSD to occupy the new office building. The lease and sublease terms specify that the County shall lease the property until the lesser of twenty (20) years or the date of the bonds are paid off. As rent, the County shall pay the debt service of the bonds (see attached).

The building shall be designed as a “green” project and will meet at least Leadership in Energy and Environmental Design (LEED) Silver standards. If the vegetative roofing system currently under consideration is included in the design specifications, the project will achieve LEED Gold standards. The total construction costs for this building are currently estimated to be over \$10,574, 957. A not-to-exceed figure of \$12.5 million has been established for the construction costs.

DISCUSSION

The construction and funding of the proposed office building represents a collaborative effort between the County, the MSD, the DCD, City Facility Management and the Department of Finance. These efforts will benefit the County, the City, the Lower Price Hill community and MetroWest. The development of 1028-1030 Summer Street with a new LEED Silver standard office building will help to ensure the success of the \$34 million MetroWest project. Since its inception, MetroWest has been envisioned as a “green” project with LEED certified buildings. LEED certification is the

nationally-recognized standard for measuring building sustainability. It demonstrates that a building is environmentally responsible, profitable and a healthy place to live and work. Construction of the new office building also furthers the goals of the *Lower Price Hill Industrial Urban Renewal Plan* by redeveloping an existing, vacant industrial site for an office use.

RECOMMENDATION

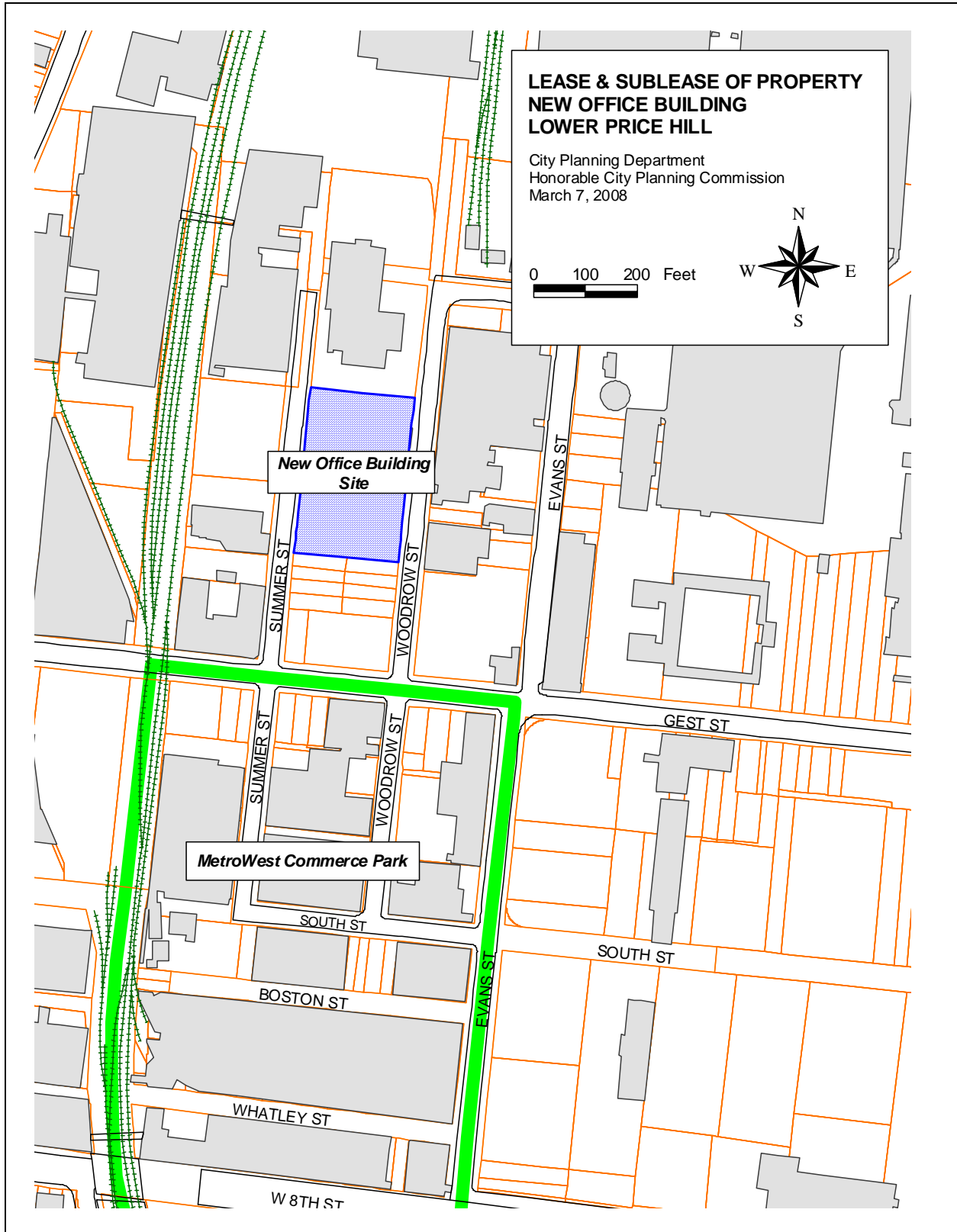
City Planning Department staff recommends that the City Planning Commission approve an Emergency Ordinance authorizing the City Manager to enter into a Lease Agreement and Sublease Agreement with the Board of County Commissioners of Hamilton County, Ohio for property on Woodrow Street, which property is not needed for any municipal purpose during the term of the sublease.

Respectfully Submitted,

APPROVED:

Adrienne Cowden
Senior City Planner

Charles C. Graves, III, Director
City Planning Department



LEASE AGREEMENT

The City of Cincinnati, (the "City"), and the Board of County Commissioners of Hamilton County, Ohio, (the "Board"), hereby enter into the following Lease Agreement (the "Lease") this _____ day of _____, 2008 (the "Effective Date").

WHEREAS, in order to properly implement the Wet Weather Improvement Program as required in the Federal Consent Decree entered into in case 1-02-107, the Metropolitan Sewer District of Greater Cincinnati ("MSD") needs additional office space; and

WHEREAS, the County owns property (as outlined in Exhibit B) abutting the new MSD administration building on Woodrow Street that the parties have determined would be appropriate for a new office building and attendant improvements (collectively the "Office Building") for use by MSD to be constructed by the City and subleased by the Board;

NOW THEREFORE, the parties agree as follows:

SECTION 1. DEFINITIONS

As used in this Lease, the following terms shall have the following meanings:

"Bonds" means the tax-exempt or taxable bonds as the case may be, to be issued by the City to finance the construction of the Office Building or to refund the Notes.

"Business Day" means Monday through Friday, except the day of celebration of the holidays on which either the City is not open for business in City Hall or the Board is not open for business in the County Administration Building.

"Commencement Date" means _____.

"Excusable Delay" means a delay which is beyond the reasonable control of the City, including, but not limited to, a delay caused by the Board and a delay caused by, or resulting from, acts of God, accidents, breakdowns, war, civil commotion, fire or other casualty, labor difficulties, shortages of labor, material or equipment, governmental regulations or orders, unforeseen subsurface conditions, Existing Environmental Conditions or unusual weather conditions.

"Existing Environmental Condition" means the existence of Hazardous Substances in, on or under the Property as of the Effective Date (a) in violation of Environmental Laws or (b) such that the construction of the Office Building on the Property would violate Environmental Laws.

"Hazardous Substances" mean (a) any "hazardous substance" as defined in §101(14) of CERCLA (42 U.S.C. §9601(14)) or regulations promulgated thereunder; (b) any "solid waste", "hazardous waste", or "infectious waste", as such terms are defined in any Environmental Laws; (c) asbestos, urea-formaldehyde, polychlorinated biphenyls, nuclear fuel or material, chemical waste, radioactive material, explosives, known carcinogens, petroleum products and by-products and other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or

substances listed or identified in, or regulated by, any Environmental Laws; and (d) any additional substances or materials which are classified or considered to be hazardous or toxic under any Environmental Laws.

“Legal Requirements” means all applicable laws, statutes, rules, regulations and requirements of governmental authorities, including, but not limited to, zoning and land use laws and building, fire, safety and health codes.

“Notes” means, if applicable, the short-term taxable notes issued by the City to finance the construction of the Office Building (it being intended that any such Notes shall be refunded by the issuance of the Bonds).

“Office Building” has the meaning set forth in the recitals.

“Property” means the property described on Exhibit A.

“Sublease” means the Sublease Agreement of even date (a copy of which is attached hereto as Exhibit C and incorporated herein by reference), in which the City is the Sublessor and the Board is the Sublessee.

SECTION 2. GENERAL LEASE PROVISIONS

2.1 Lease. The County leases the Property to the City, and the City leases the Property from the County, on and subject to the terms and conditions of this Lease. Prior to the construction of the Office Building and other attendant improvements, the Property shall consist only of the unimproved site. From and after the construction of the Office Building and any attendant improvements, the Property shall consist of the land, the Office Building and any attendant improvements.

2.2 Term. The term of this Lease (the "Lease Term") shall begin on the Commencement Date and shall expire on the earlier of (a) the scheduled maturity date of the Bonds, which shall be no later than twenty (20) years after the Commencement Date, or (b) the payoff and satisfaction of the Bonds, other than a refunding of the Bonds which has a scheduled maturity date not later than the scheduled maturity date of the Bonds.

2.3 Rent. Annual rent during the Lease Term shall be One Dollar (\$1.00) per year payable annually.

2.4 Use. The City shall use the Property only for the construction of the Office Building on the Property in accordance with the Sublease between the parties. The City as agent for the Board shall manage, operate and use the Property in its operation of MSD in accordance with the provisions of the Sublease. The City shall not allow the use of the Property other than for office space for MSD purposes. The City agrees that it: a) shall not use the Property other than for office space for MSD purposes; b) shall use the Property in a careful, safe and proper manner; c) shall not commit or suffer waste on or about the Property; d) shall not make or

permit any use of the Property which is prohibited by or contrary to any Legal Requirements, or which would cause a public or private nuisance; and e) shall comply with and obey Legal Requirements which in any way affect the use of the Property.

2.5 Condition of Property. The Board is leasing the Property to the City in its present condition. The Board makes no representations or warranties to the City regarding the condition of the Property, and the Property is being leased by the Board to the City "as is." The construction of the Office Building and any other improvements to be made to the Property shall be the responsibility of the City and shall be made at the cost and expense of the City, subject to the Sublease Agreement. The foregoing provisions of this Section are subject to Subsections 2.6.1 and 2.6.2. The Board shall furnish to the City copies of any environmental or other reports in its possession regarding the condition of the Property. The Board shall not be deemed to have made any representations or warranties regarding the completeness, accuracy or quality of such reports or the competence of the preparer of such reports. The Board shall have no obligations to the City with respect to such reports, and the City shall have no right to rely on such reports.

2.6 Environmental Provisions.

2.6.1 The Board's Representation. The Board represents to the City that, except as disclosed in (a) the Phase I Environmental Site Assessment of the Property, (b) Limited Phase II Site Assessment Report for the Property, and (c) Additional Limited Phase II Site Assessment Report of the Property, copies of which have been furnished by the Board to the City, the Board has no actual knowledge that there are, as of the date this Lease is executed by the Board, any Hazardous Substances in or on the Property which would constitute an Existing Environmental Condition. The Board shall be responsible for any and all losses, liabilities, damages, claims, costs and expenses arising in connection with or as a result of any Existing Environmental Condition which violates the representation set forth above in this Subsection.

2.6.2 Existing Environmental Conditions. The Board shall give the City prompt written notice at any time that the Board becomes aware of an Existing Environmental Condition, and the Board shall take no action after becoming aware of an Existing Environmental Condition that could increase the City's obligations or liabilities under Environmental Laws or the provisions of Subsection 2.6.1 or this Subsection without obtaining the City's prior written consent to such action. In the event that (a) an Existing Environmental Condition is determined to exist, and (b) such Existing Environmental Condition does not violate the Board's representation set forth in Subsection 2.6.1, then the City shall be responsible for the costs of remediation of the Existing Environmental Condition; provided, however, that if such Existing Environmental Condition is ascertained prior to commencement of construction of the Office Building and the total costs of remediation of such Existing Environmental Condition are reasonably determined to be greater than \$100,000, then either party may terminate this Lease by written notice to the other unless, within thirty (30) days after such notice, the other party undertakes in writing to be responsible for the costs of remediation of the Existing Environmental Condition in excess of \$100,000.

2.6.3 Covenants of the City. The City shall comply with all Environmental Laws. The City shall not permit or cause any Hazardous Substances to be brought upon, placed, held, located, stored or disposed of in, on, under or at the Property, other than in compliance with

all Environmental Laws. The City shall (i) provide the Board with copies of all material communications between the City and any governmental agencies, other authorities or other persons related to Hazardous Substances brought upon, placed, held, located, stored or disposed of in, on, under or at the Property or related to the violation or alleged violation of any Environmental Laws with respect to the use or occupancy of the Property, (ii) permit the Board, at the Board's discretion, to participate in any proceeding brought by a government agency or authority, or a third party, with respect to Hazardous Substances brought upon, placed, held, located, stored or disposed of in, on, under or at the Property with respect to the use or occupancy of the Property or the violation or alleged violation of any Environmental Laws with respect to the use or occupancy of the Property, and (iii) permit the Board, from time to time at the Board's discretion, to conduct tests, analyses and investigations of the environmental conditions relative to the use or occupancy of the Property, provided, however, that, at the City's option, the City may contract directly for such tests, analyses and investigations. The reasonable expense of tests, analyses and investigations conducted pursuant the foregoing clause (iii) shall be borne by the City if such tests, analyses or investigations disclose the existence of any Hazardous Substances in, on or under the Property in violation of Environmental Laws for which the City would be responsible under the terms of this Lease; otherwise, the expense of such tests, analyses and investigations shall be borne by the Board. The City shall be solely responsible for any and all losses, liabilities, damages, claims, costs and expenses arising in connection with or as a result of a breach by the City of the covenants set forth above in this Subsection.

2.7 Utilities. All utility service lines necessary or appropriate to serve the Property, to the extent the same do not already exist, will be brought to the Property as part of the construction of the Office Building and will be paid for by the City. The City, as agent for the Board in the management of MSD, will contract and pay for all utility services to the Property and for all stormwater management utility charges.

2.8 Maintenance and Repair. The City shall keep the Property clear of all filth, trash and refuse. Terms for the maintenance and repair of the Office Building shall be set forth in the Sublease.

2.10 Insurance, Waiver of Subrogation, Casualty. Insurance, waiver of subrogation, and casualty provisions shall be set forth in the Sublease.

2.11 Eminent Domain. If the entire Property is taken by any governmental or quasi-governmental authority under the power of eminent domain or condemnation or by any purchase or other acquisition in lieu thereof, then this Lease shall terminate as of the date possession is required by the taking authority. If any part of the Property is taken by any governmental or quasi-governmental authority under the power of eminent domain or condemnation or by any purchase or other acquisition in lieu thereof, and such partial taking renders the portion of the Property not taken unsuitable for the use contemplated by this Lease, then this Lease shall terminate as of the date possession is required by the taking authority. If a partial taking of the Property does not render the portion of the Property not taken unsuitable for the use contemplated by this Lease, then this Lease shall continue in full force and effect. Any compensation awarded or paid upon a total or partial taking of the Property shall be allocated and paid (a) first to the City up to the amount necessary to pay off and satisfy, or defease, the Bonds

in full; and (b) second, to the Board. Upon receipt by the City of the compensation allocable to the City pursuant to the immediately preceding sentence, the City shall apply said compensation towards paying off and satisfying, or defeasing, the Bonds in full.

2.12 Assignment and Subletting. The City not may assign or transfer this Lease but may sublease the Property to the Board.

2.13 Liens and Claims. The City shall keep the Property, the Board's interest in the Property and the City's interest in the Property free and clear from all claims, liens and encumbrances caused by or through the City or by or through the occupancy of the Property by the City or occurring as the result of construction work, repairs, alterations, additions and restoration work required or permitted to be done by the City, and, subject to appropriation by the City, the City shall be solely responsible for all legitimate and reasonable loss, costs, expense and attorneys' fees incurred or expended by the City in connection with any such claim, lien or encumbrance, or the prosecution or defense of any suit, action or proceeding relating thereto.

2.14 Quiet Enjoyment. The Board covenants that the City shall at all times during the Lease Term peaceably and quietly have, hold, occupy and enjoy the Property without hindrance or molestation by the Board, its successors or assigns, or anyone claiming through the Board.

SECTION 3. GENERAL PROVISIONS

3.1 Default and Remedies. There shall exist an "Event of Default" if any default by the City under this Lease continues after written notice for more than thirty (30) days and such additional time, if any, as is reasonably necessary to cure the default if the default is of such a nature that it cannot reasonably be cured in thirty (30) days and the City commences such cure within said thirty (30) day period and thereafter diligently pursues such cure to completion. The Board's remedies with respect to an Event of Default will be limited to such of the following as are available under the circumstances under applicable law: (a) recovery of a judgment for any amounts owing by the City to the Board under this Lease; (b) recovery of a judgment for actual damages, if any, suffered by the Board by reason of the Event of Default; (c) a judgment for specific performance; (d) injunctive relief; or (e) the right to cure the Event of Default following thirty (30) days prior written notice to the City. Any default by the City as agent for the Board in the management of MSD shall not be considered an Event of Default by the Board.

3.2 Resolution of Disputes. Any dispute between the parties under this Lease shall, as a condition precedent to litigation, first be subject to the Dispute Resolution Procedures provided for in this Section. The parties shall attempt in good faith to resolve disputes amicably and in a timely manner consistent with a cooperative approach to problem-solving and, if not achieved, by using the Dispute Resolution Procedures prior to either party commencing litigation with respect to a dispute. The Dispute Resolution Procedures shall be as set forth below in this Section.

3.2.1 Negotiated Settlement. The first step in the Dispute Resolution Procedures shall be a good faith attempt to negotiate a settlement of the dispute, as follows:

(a) A party desiring to initiate good faith settlement negotiations (the "Initiating Party") may do so by giving written notice to the other party (the "Responding Party") of the basis for the dispute within ten (10) Business Days after the Initiating Party first recognizes the condition giving rise to the dispute, provided that the Initiating Party shall use its best efforts to furnish the Responding Party, as expeditiously as possible, with notice of any dispute once such dispute is recognized, and shall cooperate with the Responding Party in an effort to mitigate the alleged or potential damages, delay or other adverse consequences arising out of the condition which is the cause of such dispute.

(b) The Initiating Party shall, within five (5) Business Days after giving written notice to the Responding Party of the basis for the dispute, prepare and provide to the Responding Party a written, detailed summary of the basis for the dispute, together with all facts, documents, backup data and other information reasonably available to the Initiating Party that support the Initiating Party's position in the dispute.

(c) The Initiating Party shall designate and make any of its employees or agents having knowledge of the dispute available to the Responding Party to respond to questions of the Responding Party.

(d) Within fourteen (14) days after the Initiating Party gives notice of a dispute, employees or agents of the parties who have authority to settle the dispute and are senior to those persons who have direct responsibility for the subject matter of the dispute, along with other parties having knowledge of or an interest in the dispute, shall meet at a mutually acceptable time and place in Cincinnati, Ohio, in a good faith effort to compromise and settle the dispute.

3.2.2 Mediation. Unless delay in initiating or prosecuting a claim in litigation would irrevocably prejudice a party, any dispute which is not resolved by direct discussions and negotiations as provided in Subsection 3.2.1 shall be submitted to mediation under the Commercial Mediation Rules of the American Arbitration Association or such other rules as the parties may agree to use. If the parties cannot agree on the selection of a mediator within ten (10) days of the request for mediation, either party may immediately request the appointment of a mediator in accordance with the governing mediation rules. Mediation shall occur at any location in Cincinnati, Ohio that the mediator may designate. Each party shall be responsible for an equal share of the mediation expenses. The parties shall conclude mediation proceedings under this Section within sixty (60) days after the designation of the mediator. In the event that mediation proceedings do not resolve the dispute within such period, either party may commence litigation with respect to the dispute.

3.2.3 No Prejudice to Rights or Remedies. Provided the Initiating Party has complied with the requirements for giving notice of the existence of a dispute, no delay in disposing of such dispute while the parties pursue the Dispute Resolution Procedures shall prejudice the rights of either party.

3.3 Limitation Upon Liability. The City agrees to look solely to the Board's interest in the Property as Lessor for satisfaction of any claims by the City against the Board under this

Lease, it being agreed that the Board shall not be personally liable for any such claims. The provision contained in the foregoing sentence is not intended to, and shall not, limit any right that the City might otherwise have to obtain injunctive relief against the Board or to maintain any other action not involving the personal liability of the Board, or to maintain any suit or action in connection with enforcement or collection of amounts which may become owing or payable under or on account of insurance maintained by the Board.

3.4 Transfer by the Board. The Board may sell or transfer its interest in the Property and this Lease at any time.

3.5 Notices. Any notice required or intended to be given or delivered to a party under or with respect to this Lease shall be in writing, shall be deemed to have been given, delivered or served upon the earliest of (a) three (3) business days following deposit in the U.S. Mail, with proper postage prepaid, certified or registered, return receipt requested, (b) the next business day after delivery to a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement, satisfactory with such carrier, made for the payment of such fees, or (c) receipt of notice given by telecopy or personal delivery, addressed to the party to be notified at the following address or addresses or at such other address or addresses as such party shall have designated for itself from time to time by notice hereunder:

If to the City:

City of Cincinnati
801 Plum Street
Cincinnati, Ohio 45202
Attn: City Manager

With a copy to:

Executive Director
Metropolitan Sewer District of Greater Cincinnati
1600 Gest Street
Cincinnati, Ohio 45204

If to the Board:

County Administrator
138 East Court Street, 6th floor
Cincinnati, Ohio 45202

With a copy to:

Hamilton County Prosecuting Attorney
230 E. Ninth Street, Suite 4000
Cincinnati, Ohio 45202

3.6 Non-waiver. The failure of the City or the Board to enforce any of the rights given to it under this Lease by reason of the violation of any of the covenants in this Lease to be performed by the City or the Board shall not be construed as a waiver of the rights of the City or the Board to exercise any such rights as to any subsequent violations of such covenants, or as a waiver of any of the rights given to the City or the Board by reason of the violation of any of the other covenants of this Lease.

3.7 Estoppel Statement. Each party shall, upon the request of the other, execute and deliver a written statement (a) ratifying this Lease, (b) certifying that this Lease is in full force and effect and has not been modified, supplemented or amended (except by such writings as shall be stated), (c) certifying that all conditions under this Lease to be performed by the other party have been satisfied (or setting forth any exceptions to that statement), (d) certifying that there are no defenses or offsets against the enforcement of this Lease (or stating those claimed, if any), (e) certifying the date to which rental has been paid, and (f) containing such other certifications or information concerning the status of the Lease and the parties' performance hereunder as may from time to time be reasonably requested.

3.8 Recording. This Lease shall not be recorded. However, either party shall have the right to record a memorandum of this Lease in accordance with Section 5301.251, Ohio Revised Code, and each party shall, at the request of the other, reasonably cooperate in the preparation, execution and recording of such a memorandum.

SECTION 4. MISCELLANEOUS

4.1 Entire Lease. This Lease sets forth the entire Lease between the parties regarding the subject matter hereof. Any prior conversations or writings are merged herein and extinguished. No subsequent amendment to this Lease shall be binding upon the City or the Board unless reduced to writing and signed by the party sought to be charged.

4.2 Captions. The captions appearing herein are inserted only as a matter of convenience and are not intended to define, limit, construe or describe the scope or intent of any provision of this Lease nor in any way affect the interpretation of this Lease.

4.3 Governing Law. This Lease shall be governed by and construed in accordance the laws of the State of Ohio.

4.4 Multiple Counterparts. This Lease may be executed in multiple counterparts, each of which shall constitute an original document.

4.5 Invalidity of Provisions. If any provision of this Lease or the application thereof to any party or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to parties whose circumstances are other than those to which it is held invalid or unenforceable, shall not be affected thereby.

4.6 Successors and Assigns. This Lease shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

The parties hereto have hereunto set their hands as of the day and year first above written

LESSEE:
CITY OF CINCINNATI

LESSOR:
BOARD OF COUNTY
COMMISSIONERS
OF HAMILTON COUNTY, OHIO

By: _____
Milton Dohoney, Jr., City Manager

By: _____
Patrick Thompson, Administrator

STATE OF OHIO, COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this _____ day of _____, 2008, by Milton Dohoney, Jr., City Manager of the City of Cincinnati, an Ohio municipal corporation, on behalf of the corporation.

Notary Public, State of Ohio

STATE OF OHIO, COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this _____ day of _____, 2008, by Patrick Thompson, Hamilton County Administrator, on behalf of the Board of County Commissioners of Hamilton County, Ohio.

Notary Public, State of Ohio

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Assistant City Solicitor

Assistant Hamilton County Prosecutor

EXHIBIT A
to Lease between the City and the Board
LEGAL DESCRIPTION OF THE PROPERTY

Situated in Section 30, Town 4, Fractional Range 1, in Storrs Township, Hamilton County, Ohio and more particularly described as follows:

Commencing at the north east corner of lot 10 of Stephen Wilder's subdivision, as recorded in Plat Book 1, Page 282, in the Hamilton County Recorders office; thence with the north lines of lots 10 and 11 of said Subdivision, N 84°00' 56" W, 200.00' to a point in the east line of Summer St, said point being the north west corner of lot 11 of said Subdivision, thence with the east line of Summer St. along the west lines of Stephen Wilder's Subdivision and C.R. Wilder's Subdivision as recorded in Plat Book 5, Page 207, in the Hamilton County Recorders office, S 5°58' 16" W, 325.00' to a point in the south west corner of lot 5 of said C.R. Wilder's Subdivision, thence leaving Summer St., with the south lines of lots 5 and 10 of said C.R. Wilder's Subdivision, S 84°00'56" E, 200.00' to a point in the east line of Woodrow St., said point being the south east corner of lot 10 of said C.R. Wilder's Subdivision; thence with the west line of Woodrow St. along the east lines of said C.R. Wilder's Subdivision and said Stephen Wilder's Subdivision N 5°58' 16" E, 325.00' to the place of beginning. Containing 65,000 square feet more or less.

SUBLEASE AGREEMENT

The City of Cincinnati, (the "City"), and the Board of County Commissioners of Hamilton County, Ohio, (the "Board"), hereby enter into the following Sublease Agreement (the "Sublease") this _____ day of _____, 2008 (the "Effective Date").

WHEREAS, in order to properly implement the Wet Weather Improvement Program as required in the Federal Consent Decree entered into in case C-1-02-107, the Metropolitan Sewer District of Greater Cincinnati ("MSD") needs additional office space; and

WHEREAS, the City leases property (as outlined in Exhibit D hereto) abutting the new MSD administration building on Woodrow Street from the Board that the parties have determined would be appropriate for a new office building and attendant improvements (collectively the "Office Building") for use by MSD to be constructed by the City and subleased by the Board;

NOW THEREFORE, the parties agree as follows:

SECTION 1. DEFINITIONS

As used in this Sublease, the following terms shall have the following meanings:

"Bonds" means the tax-exempt or taxable bonds as the case may be, to be issued by the City to finance the construction of the Office Building or to refund the Notes.

"Business Day" means Monday through Friday, except the day of celebration of the holidays on which either the City is not open for business in City Hall or the Board is not open for business in the County Administration Building.

"Commencement Date" means _____.

"Construction Defect" means any failure of the Office Building to be constructed in a good and workmanlike manner, in accordance with Legal Requirements, and substantially in accordance with the Construction Documents.

"Construction Documents" means the final working plans and specifications for the construction of the Office Building, which set forth in detail the requirements for the Office Building, prepared on the basis of the Design Criteria and Design Development Documents, as the same may have been changed by Design Changes permitted pursuant to Subsection 3.2.2.

"Design Criteria" means the design criteria set forth in Exhibit B hereto.

"Design Development Documents" means the drawings and other documents to fix and describe the size and character of the Office Building as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate, prepared on the basis of the Design Criteria.

“Design Documents” means, collectively, the Design Development Documents and Construction Documents.

“Excusable Delay” means a delay which is beyond the reasonable control of the City, including, but not limited to, a delay caused by the Board and a delay caused by, or resulting from, acts of God, accidents, breakdowns, war, civil commotion, fire or other casualty, labor difficulties, shortages of labor, material or equipment, governmental regulations or orders, unforeseen subsurface conditions, Existing Environmental Conditions or unusual weather conditions.

“Existing Environmental Condition” means the existence of Hazardous Substances in, on or under the Entire Site as of the Effective Date (a) in violation of Environmental Laws or (b) such that the construction of the Office Building on the Property would violate Environmental Laws.

“Hazardous Substances” mean (a) any “hazardous substance” as defined in §101(14) of CERCLA (42 U.S.C. §9601(14)) or regulations promulgated thereunder; (b) any “solid waste”, “hazardous waste”, or “infectious waste”, as such terms are defined in any Environmental Laws; (c) asbestos, urea-formaldehyde, polychlorinated biphenyls, nuclear fuel or material, chemical waste, radioactive material, explosives, known carcinogens, petroleum products and by-products and other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Laws; and (d) any additional substances or materials which are classified or considered to be hazardous or toxic under any Environmental Laws.

“Legal Requirements” means all applicable laws, statutes, rules, regulations and requirements of governmental authorities, including, but not limited to, zoning and land use laws and building, fire, safety and health codes.

“Notes” means, if applicable, the bond anticipation notes issued by the City to finance the construction of the Office Building (it being intended that any such Notes shall be refunded by the issuance of the Bonds).

“Office Building” has the meaning set forth in the recitals.

“Operating Expenses” means the reasonable and customary expenses in connection with managing, operating, insuring, maintaining and repairing the Property, including real estate taxes and assessment, if any. Operating Expenses shall include, by way of illustration, all expenses paid in maintaining and repairing the Property; all expenses paid to maintain insurance in accordance with Section 2.10; all expenses paid to provide utility services to the Property; all expenses paid to provide security services to the Property; wages, salaries and benefits of operating personnel of MSD engaged in the management and operation of the Office Building; a reserve, if any, for capital repairs and/or replacements; all real estate taxes and assessments (although the parties anticipate that the Property will be exempt from real estate taxes for all or a portion of the Sublease Term).

“Outside Completion Date” means _____, subject to extension to the extent that delay beyond _____ in achieving Substantial Completion is caused by Excusable Delay.

“Property” means the City-leased property described on Exhibit A.

“Substantial Completion” means the stage in the progress of the construction of the Office Building when the Office Building is sufficiently complete in accordance with the Design Documents so it can be used for its intended purposes in accordance with Legal Requirements. As a condition precedent to Substantial Completion, the City shall have received all certificates of occupancy and any other permits, approvals, licenses and other documents from any governmental authority having jurisdiction necessary for occupancy and use of the Office Building for its intended purposes.

SECTION 2. GENERAL SUBLEASE PROVISIONS

2.1 Sublease. The City subleases the Property to the Board, and the Board subleases the Property from the City, on and subject to the terms and conditions of this Sublease. Prior to the construction of the Office Building and other attendant improvements, the Property shall consist only of the unimproved site. From and after the construction of the Office Building and any attendant improvements, the Property shall consist of the land, the Office Building and any attendant improvements.

2.2 Term. The term of this Sublease (the “Sublease Term”) shall begin on the Commencement Date and shall expire on the earlier of (a) the scheduled maturity date of the Bonds, which shall be no later than twenty years after the Commencement Date, or (b) the payoff and satisfaction of the Bonds, other than a refunding of the Bonds which has a scheduled maturity date not later than the scheduled maturity date of the Bonds.

2.3 Rent. Annual rent during the Sublease Term shall be in accordance with the schedule for the pay-off of the Bonds attached hereto as Exhibit C. Rent shall be payable monthly.

2.4 Use. The City shall design, develop and construct the Office Building on the Property in accordance with Section 3 and as agent for the Board shall manage, operate and use the Property in its operation of MSD in accordance with the provisions of this Sublease. The Board shall not allow the use of the Property other than for office space for MSD purposes. The City, as agent for the Board for the management of MSD, agrees that it: a) shall not use the Property other than for office space for MSD purposes; b) shall use the Property in a careful, safe and proper manner; c) shall not commit or suffer waste on or about the Property; d) shall not make or permit any use of the Property which is prohibited by or contrary to any Legal Requirements, or which would cause a public or private nuisance; and e) shall comply with and obey Legal Requirements which in any way affect the use of the Property.

2.5 Condition of Property. The City is subleasing the Property to the Board in its present condition. Except as set forth in Section 2.6, the City makes no representations or warranties to the Board regarding the condition of the Property, and the Property is being subleased by the City to the Board “as is.” The construction of the Office Building and any other improvements to be made to the Property shall be the responsibility of the City and shall be made at the cost and expense of the City, subject to the terms and conditions of Article III. The foregoing provisions of this Section are subject to Subsections 2.6.1 and 2.6.2. The City shall

furnish to the Board copies of any environmental or other reports in its possession regarding the condition of the Property. The City shall not be deemed to have made any representations or warranties regarding the completeness, accuracy or quality of such reports or the competence of the preparer of such reports.

2.6 Environmental Provisions.

2.6.1 The City's Representation. The City represents to the Board that, except as disclosed in (a) the Phase I Environmental Site Assessment of the Property, (b) Limited Phase II Site Assessment Report for the Property and (c) Additional Limited Phase II Site Assessment Report of the Property, copies of which have been furnished by the City to the Board, the City has no actual knowledge that there are, as of the date this Sublease is executed by the City, any Hazardous Substances in or on the Property which would constitute an Existing Environmental Condition. The City shall be responsible for any and all losses, liabilities, damages, claims, costs and expenses arising in connection with or as a result of any Existing Environmental Condition which violates the representation set forth above in this Subsection.

2.6.2 Existing Environmental Conditions. The City shall give the Board prompt written notice at any time that the City becomes aware of an Existing Environmental Condition, and the City shall take no action after becoming aware of an Existing Environmental Condition that could increase the Board's obligations or liabilities under Environmental Laws or the provisions of Subsection 2.6.1 or this Subsection without obtaining the Board's prior written consent to such action. In the event that (a) an Existing Environmental Condition is determined to exist, and (b) such Existing Environmental Condition does not violate the City's representation set forth in Subsection 2.6.1, then the City shall be responsible for the costs of remediation of the Existing Environmental Condition; provided, however, that if such Existing Environmental Condition is ascertained prior to commencement of construction of the Office Building and the total costs of remediation of such Existing Environmental Condition are reasonably determined to be greater than \$100,000, then either party may terminate this Sublease by written notice to the other unless, within thirty (30) days after such notice, the other party undertakes in writing to be responsible for the costs of remediation of the Existing Environmental Condition in excess of \$100,000.

2.6.3 Covenants of the City as the Board's Agent. The City, as agent for the Board in the management of MSD, shall comply with all Environmental Laws. The City shall not permit or cause any Hazardous Substances to be brought upon, placed, held, located, stored or disposed of in, on, under or at the Property, other than in compliance with all Environmental Laws. The City shall (i) provide the Board with copies of all material communications between the City and any governmental agencies, other authorities or other persons related to Hazardous Substances brought upon, placed, held, located, stored or disposed of in, on, under or at the Property or related to the violation or alleged violation of any Environmental Laws with respect to the use or occupancy of the Property, (ii) permit the Board, at the Board's discretion, to participate in any proceeding brought by a government agency or authority, or a third party, with respect to Hazardous Substances brought upon, placed, held, located, stored or disposed of in, on, under or at the Property with respect to the use or occupancy of the Property or the violation or alleged violation of any Environmental Laws with respect to the use or occupancy of the Property, and (iii) permit the Board, from time to time at the Board's discretion, to conduct tests, analyses and investigations of the environmental conditions relative to the use or occupancy of the Property, provided, however, that, at the City's option and with the Board's consent, the City

may contract directly for such tests, analyses and investigations. The reasonable expense of tests, analyses and investigations conducted pursuant the foregoing clause (iii) shall be borne by the City if such tests, analyses or investigations disclose the existence of any Hazardous Substances in, on or under the Property in violation of Environmental Laws for which the City would be responsible under the terms of this Sublease; otherwise, the expense of such tests, analyses and investigations shall be borne by the Board. The City shall be solely responsible for any and all losses, liabilities, damages, claims, costs and expenses arising in connection with or as a result of a breach by the City of the covenants set forth above in this Subsection.

2.7 Utilities. All utility service lines necessary or appropriate to serve the Property, to the extent the same do not already exist, will be brought to the Property as part of the construction of the Office Building and will be paid for by the City. The City, as agent for the Board in the management of MSD, will contract and pay for all utility services to the Property and for all stormwater management utility charges.

2.8 Maintenance and Repair. The City, as agent for the Board in the management of MSD shall: a) maintain and keep the Property in good condition and repair in accordance with prevailing standards for a class B+-quality office building, and in compliance with Legal Requirements; b) cause all maintenance and repair work to conform to Legal Requirements; and c) keep the Property clear of all filth, trash and refuse.

2.9 Real Estate Taxes and Assessments. The Board shall prepare and file an application for exemption from real estate taxes for the Property. At the Board's request, the City shall co-sign the application with the Board. The City, as agent for the Board in the management of MSD, shall pay any and all assessments that become due and payable during the Sublease Term.

2.10 Insurance. The City, as agent for the Board in the management of MSD, shall maintain or cause to be maintained during the Sublease Term the following insurance coverages: (a) during construction of the Office Building, and at any other time that improvements are being constructed, builders risk insurance with respect to the Office Building; (b) after completion of the Office Building, fire, casualty and extended coverage insurance with respect to the Office Building for the mutual benefit of the Board and the City, for the full insurable value of the Office Building, with a replacement cost endorsement, and with a deductible not to exceed \$250,000.00. All insurance required to be maintained by the City pursuant to this Section shall be effected under valid and enforceable policies issued by insurers of recognized responsibility, and upon the initiation of coverage, and also not less than ten (10) days prior to the expiration date of the policy or policies, certificates of the initial policy or renewal policies, as the case may be, or other satisfactory evidence of such insurance shall be delivered by the City to the Board. All such policies shall provide that they cannot be cancelled for any reason without sixty (60) days prior written notice to the Board.

2.11 Waiver of Subrogation. The Board and the City and all parties claiming under them mutually release and discharge each other and any director, officer, agent or employee thereof from all claims and liabilities arising from or caused by any hazard covered by insurance, regardless of the cause of the damage or loss, to the extent of any recovery by the injured party under such insurance. Any policies of insurance to be maintained hereunder shall, unless prohibited by law, contain provisions in which the rights of subrogation against the Board and

the City are waived by the insurance carrier. In the event that, notwithstanding the requirements of the immediately preceding sentence, any policy of insurance does not contain a provision in which the rights of subrogation against the Board and the City are waived by the insurance carrier, then the release set forth in the first sentence of this Section shall be effective only to the extent that such release does not adversely affect the releasing party's coverage under the appropriate policy of insurance.

2.12 Casualty. If any portion of the Office Building is damaged by fire or other casualty, the City as agent for the Board shall promptly restore the Office Building to a condition at least as good as that existing immediately prior to the loss.

2.13 Eminent Domain. If the entire Property is taken by any governmental or quasi-governmental authority under the power of eminent domain or condemnation or by any purchase or other acquisition in lieu thereof, then this Sublease shall terminate as of the date possession is required by the taking authority. If any part of the Property is taken by any governmental or quasi-governmental authority under the power of eminent domain or condemnation or by any purchase or other acquisition in lieu thereof, and such partial taking renders the portion of the Property not taken unsuitable for the use contemplated by this Sublease, then this Sublease shall terminate as of the date possession is required by the taking authority. If a partial taking of the Property does not render the portion of the Property not taken unsuitable for the use contemplated by this Sublease, then this Sublease shall continue in full force and effect. Any compensation awarded or paid upon a total or partial taking of the Property shall be allocated and paid (a) first to the City up to the amount necessary to pay off and satisfy, or defease, the Bonds in full; and (b) second, to the Board. Upon receipt by the City of the compensation allocable to the City pursuant to the immediately preceding sentence, the City shall apply said compensation towards paying off and satisfying, or defeasing, the Bonds in full.

2.14 Assignment and Subletting. Neither the Board nor the City may assign or transfer this Sublease or further sublease all or any portion of the Property.

2.15 Liens and Claims. The City shall keep the Property, the City's interest in the Property and the Board's interest in the Property free and clear from all claims, liens and encumbrances caused by or through the City or by or through the occupancy of the Property by the City or occurring as the result of construction work, repairs, alterations, additions and restoration work required or permitted to be done by the City, and, subject to appropriation by the City, the City shall be solely responsible for all legitimate and reasonable loss, costs, expense and attorneys' fees incurred or expended by the Board in connection with any such claim, lien or encumbrance, or the prosecution or defense of any suit, action or proceeding relating thereto. The Board shall keep the Property, the Board's interest in the Property and the City's interest in the Property free and clear from all claims, liens and encumbrances caused by or through the Board or by or through the occupancy of the Property by the Board or occurring as the result of construction work, repairs, alterations, additions and restoration work required or permitted to be done by the Board, and, subject to appropriation by the Board, the Board shall be solely responsible for all legitimate and reasonable loss, costs, expense and attorneys' fees incurred or expended by the City in connection with any such claim, lien or encumbrance, or the prosecution or defense of any suit, action or proceeding relating thereto.

2.16 Quiet Enjoyment. The City covenants that the Board shall at all times during the Sublease Term peaceably and quietly have, hold, occupy and enjoy the Property without hindrance or molestation by the City, its successors or assigns, or anyone claiming through the City.

SECTION 3. DESIGN AND CONSTRUCTION OF OFFICE BUILDING

3.1 Design.

3.1.1 Design Development Documents. Not later than _____, the City shall commence preparation of the Design Development Documents. Not later than _____, the City shall submit completed Design Development Documents to the Board for review and approval as contemplated by Subsection 3.1.3. The City shall cause the Design Development Documents to be prepared consistent with the Design Criteria, in consultation with the Board, and at the City's sole cost and expense.

3.1.2 Construction Documents. Promptly after the Board's approval of the Design Development Documents, the City shall commence preparation of the Construction Documents and shall submit proposed Construction Documents to the Board for review and approval as contemplated by Subsection 3.1.3. The City shall cause the Construction Documents to be prepared on the basis of the approved Design Development Documents, in consultation with the Board, and at the City's sole cost and expense. The City anticipates that, in order to facilitate achieving Substantial Completion by the Outside Completion Date, the City will design and construct the Office Building on a "fast track" basis, such that the City will cause the Construction Documents to be prepared in segments and will construct certain segments of the Office Building as to which Construction Documents have been prepared and approved prior to completion and approval of Construction Documents for the entire Office Building. The City shall sequence the Construction Documents such that construction of the Office Building commences by _____ and thereafter proceeds without material interruption.

3.1.3 Board's Review and Approval of Design Documents. Within fifteen (15) Business Days after the City submits any Design Documents to the Board for review and approval, the Board shall, by written notice to the City, either approve or disapprove the proposed Design Documents. The Board shall not unreasonably withhold its approval of any proposed Design Documents, and in any disapproval of proposed Design Documents the Board shall set forth in reasonable detail its reasons for disapproval. The Board shall not disapprove Design Documents for reasons that are materially inconsistent with approvals of prior Design Documents. The parties intend that the Office Building shall be designed to be of class B+ quality so as to maximize the expected life of the Office Building and to minimize Operating Expenses, to the extent practical. Review and approval of the Design Documents by the Board pursuant to this Sublease does not relieve the City from responsibility for designing and constructing the Office Building in compliance with Legal Requirements and as required by this Agreement, and the Board shall not have any liability to the City or to any third parties for any Design Documents which are inconsistent with Legal Requirements or otherwise defective.

3.2 Construction.

3.2.1 General. The City shall, at the City's sole cost and expense, cause the construction of the Office Building to be performed in a good and workmanlike manner, in accordance with Legal Requirements and substantially in accordance with the Construction Documents, and shall cause Substantial Completion to be achieved not later than the Outside Completion Date. The City shall give the Board written notice of Substantial Completion at such time that Substantial Completion has been achieved. In the event that the City fails to cause Substantial Completion to be achieved by the Outside Completion Date, then, during the period from the Outside Completion Date until Substantial Completion is achieved,

3.2.2 Design Changes. The City may propose Design Changes from time to time after the Board approves the Construction Documents, in accordance with this Subsection. The City may make Design Changes which do not materially affect the exterior appearance of the Office Building, and do not reduce the number of offices within the Office Building, without notice to the Board. If the City desires to make any other Design Change, the City shall first submit such Design Change to the Board for review and approval. Within fifteen (15) Business Days after the City submits any Design Change to the Board for review and approval, the Board shall, by written notice to the City, either approve or disapprove the proposed Design Change. The Board shall not unreasonably withhold its approval of any proposed Design Change, and in any disapproval of a proposed Design Change the Board shall set forth in reasonable detail its reasons for disapproval. The City shall not be entitled to any extension of the Outside Completion Date by reason of any Design Change, and a Design Change initiated by the City shall not constitute Excusable Delay.

3.2.3 Construction Defects. Within one (1) year after the City gives the Board written notice that Substantial Completion has been achieved, and at any time prior to Substantial Completion that the Board believes a Construction Defect to exist, the Board may give the City written notice of any Construction Defect which the Board believes to exist. With reasonable promptness after receipt of a notice of any Construction Defect, the City shall either (a) cause such Construction Defect to be remedied, or (b) if the City disagrees with the Board's assertion that such a Construction Defect exists, give the Board written notice of objection to such assertion. If the City objects to any assertion by the Board that a Construction Defect exists, the City and the Board shall negotiate in good faith to attempt to agree upon whether, and to what extent, a Construction Defect exists. With reasonable promptness after any determination that a Construction Defect exists, the City shall cause the Construction Defect to be remedied.

3.3 Alterations. If the City desires or is required to make any alterations to the Property beyond the original construction of the Office Building, the City shall first submit to the Board detailed plans and specifications therefore. Within fifteen (15) Business Days after the City submits proposed plans and specifications to the Board, the Board shall, by written notice to the City, approve or disapprove the proposed plans and specifications. In any disapproval of proposed plans and specifications, the Board shall specify the respects in which the proposed plans and specifications are not satisfactory. The Board shall not unreasonably refuse to approve any proposed plans and specifications. The City may make alterations to the Property beyond the original construction of the Office Building, at the City's cost and expense, subject to the following conditions: (a) the alterations shall be made in accordance with plans and specifications approved by the Board as contemplated above in this Section; (b) the alterations

shall be made in a good and workmanlike manner; and (iii) the alterations shall be made in accordance with Legal Requirements. All alterations to the Property shall become a part of the Property.

3.4 Funds for Design and Construction. Funds for the design and construction of the Office Building shall be paid from the proceeds of the issuance of the Bonds. The City shall have no obligation to use any other City funds to pay for said design and construction.

SECTION 4. GENERAL PROVISIONS

4.1 Default and Remedies. There shall exist an "Event of Default" if any default by a defaulting party under this Sublease continues after written notice for more than thirty (30) days and such additional time, if any, as is reasonably necessary to cure the default if the default is of such a nature that it cannot reasonably be cured in thirty (30) days and the defaulting party commences such cure within said thirty (30) day period and thereafter diligently pursues such cure to completion. A party's remedies with respect to an Event of Default will be limited to such of the following as are available under the circumstances under applicable law: (a) recovery of a judgment for any amounts owing by the defaulting party under this Sublease; (b) recovery of a judgment for actual damages, if any, suffered by the party by reason of the Event of Default; (iii) a judgment for specific performance; (iv) injunctive relief; or (v) the right to cure the Event of Default following thirty (30) days prior written notice to the defaulting party. Any default by the City as agent for the Board in the management of MSD shall not be considered an Event of Default by the Board.

4.2 Resolution of Disputes. Any dispute between the parties under this Sublease shall, as a condition precedent to litigation, first be subject to the Dispute Resolution Procedures provided for in this Section. The parties shall attempt in good faith to resolve disputes amicably and in a timely manner consistent with a cooperative approach to problem-solving and, if not achieved, by using the Dispute Resolution Procedures prior to either party commencing litigation with respect to a dispute. The Dispute Resolution Procedures shall be as set forth below in this Section.

4.2.1 Negotiated Settlement. The first step in the Dispute Resolution Procedures shall be a good faith attempt to negotiate a settlement of the dispute, as follows:

(a) A party desiring to initiate good faith settlement negotiations (the "Initiating Party") may do so by giving written notice to the other party (the "Responding Party") of the basis for the dispute within ten (10) Business Days after the Initiating Party first recognizes the condition giving rise to the dispute, provided that the Initiating Party shall use its best efforts to furnish the Responding Party, as expeditiously as possible, with notice of any dispute once such dispute is recognized, and shall cooperate with the Responding Party in an effort to mitigate the alleged or potential damages, delay or other adverse consequences arising out of the condition which is the cause of such dispute.

(b) The Initiating Party shall, within five (5) Business Days after giving written notice to the Responding Party of the basis for the dispute, prepare and provide to the Responding Party a written, detailed summary of the basis for the dispute, together with all

facts, documents, backup data and other information reasonably available to the Initiating Party that support the Initiating Party's position in the dispute.

(c) The Initiating Party shall designate and make any of its employees or agents having knowledge of the dispute available to the Responding Party to respond to questions of the Responding Party.

(d) Within fourteen (14) days after the Initiating Party gives notice of a dispute, employees or agents of the parties who have authority to settle the dispute and are senior to those persons who have direct responsibility for the subject matter of the dispute, along with other parties having knowledge of or an interest in the dispute, shall meet at a mutually acceptable time and place in Cincinnati, Ohio, in a good faith effort to compromise and settle the dispute.

4.2.2 Mediation. Unless delay in initiating or prosecuting a claim in litigation would irrevocably prejudice a party, any dispute which is not resolved by direct discussions and negotiations as provided in Subsection 4.2.1 shall be submitted to mediation under the Commercial Mediation Rules of the American Arbitration Association or such other rules as the parties may agree to use. If the parties cannot agree on the selection of a mediator within ten (10) days of the request for mediation, either party may immediately request the appointment of a mediator in accordance with the governing mediation rules. Mediation shall occur at any location in Cincinnati, Ohio that the mediator may designate. Each party shall be responsible for an equal share of the mediation expenses. The parties shall conclude mediation proceedings under this Section within sixty (60) days after the designation of the mediator. In the event that mediation proceedings do not resolve the dispute within such period, either party may commence litigation with respect to the dispute.

4.2.3 No Prejudice to Rights or Remedies. Provided the Initiating Party has complied with the requirements for giving notice of the existence of a dispute, no delay in disposing of such dispute while the parties pursue the Dispute Resolution Procedures shall prejudice the rights of either party.

4.3 Limitation Upon Liability. The Board agrees to look solely to the City's interest in the Property for satisfaction of any claims by the Board against the City under this Sublease, it being agreed that the City shall not be personally liable for any such claims. The provision contained in the foregoing sentence is not intended to, and shall not, limit any right that the Board might otherwise have to obtain injunctive relief against the City or to maintain any other action not involving the personal liability of the City, or to maintain any suit or action in connection with enforcement or collection of amounts which may become owing or payable under or on account of insurance maintained by the City.

4.4 Transfer by the Board. The Board may sell or transfer its interest in the Property and this Sublease at any time.

4.5 Notices. Any notice required or intended to be given or delivered to a party under or with respect to this Sublease shall be in writing, shall be deemed to have been given, delivered or served upon the earliest of (a) three (3) business days following deposit in the U.S. Mail, with proper postage prepaid, certified or registered, return receipt requested, (b) the next business day

after delivery to a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement, satisfactory with such carrier, made for the payment of such fees, or (c) receipt of notice given by telecopy or personal delivery, addressed to the party to be notified at the following address or addresses or at such other address or addresses as such party shall have designated for itself from time to time by notice hereunder:

If to the City:

City of Cincinnati
801 Plum Street
Cincinnati, Ohio 45202
Attn: City Manager

With a copy to:

Executive Director
Metropolitan Sewer District of Greater Cincinnati
1600 Gest Street
Cincinnati, Ohio 45204

If to the Board:

County Administrator
138 East Court Street, 6th floor
Cincinnati, Ohio 45202

With a copy to:

Hamilton County Prosecuting Attorney
230 E. Ninth Street, Suite 4000
Cincinnati, Ohio 45202

4.6 Non-waiver. The failure of the City or the Board to enforce any of the rights given to it under this Sublease by reason of the violation of any of the covenants in this Sublease to be performed by the City or the Board shall not be construed as a waiver of the rights of the City or the Board to exercise any such rights as to any subsequent violations of such covenants, or as a waiver of any of the rights given to the City or the Board by reason of the violation of any of the other covenants of this Sublease.

4.7 Estoppel Statement. Each party shall, upon the request of the other, execute and deliver a written statement (a) ratifying this Sublease, (b) certifying that this Sublease is in full force and effect and has not been modified, supplemented or amended (except by such writings as shall be stated), (c) certifying that all conditions under this Sublease to be performed by the other party have been satisfied (or setting forth any exceptions to that statement), (d) certifying that there are no defenses or offsets against the enforcement of this Sublease (or stating those claimed, if any), (e) certifying the date to which rental has been paid, and (f) containing such other certifications or information concerning the status of the Sublease and the parties' performance hereunder as may from time to time be reasonably requested.

4.8 Recording. This Sublease shall not be recorded. However, either party shall have the right to record a memorandum of this Sublease in accordance with Section 5301.251, Ohio Revised Code, and each party shall, at the request of the other, reasonably cooperate in the preparation, execution and recording of such a memorandum.

4.9 Bonds non-taxable. The parties hereto hereby represent that they have taken and caused to be taken, and covenant that they will take and cause to be taken, all actions that may be required of them, alone or in conjunction with the other party hereto, for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, and represent that they have not taken or permitted to be taken on their behalf, and covenant that they will not take or permit to be taken on their behalf, any actions that would adversely affect such exclusion under the provisions of the Internal Revenue Code.

4.10 City as Agent. Except as provided herein, the City's financial obligation as agent for the Board in the management of MSD shall be paid solely from funds appropriated by the Board for the management of MSD by the City."

SECTION 5. MISCELLANEOUS

5.1 Entire Sublease. This Sublease sets forth the entire Sublease between the parties regarding the subject matter hereof. Any prior conversations or writings are merged herein and extinguished. No subsequent amendment to this Sublease shall be binding upon the City or the Board unless reduced to writing and signed by the party sought to be charged.

5.2 Captions. The captions appearing herein are inserted only as a matter of convenience and are not intended to define, limit, construe or describe the scope or intent of any provision of this Sublease nor in any way affect the interpretation of this Sublease.

5.3 Governing Law. This Sublease shall be governed by and construed in accordance the laws of the State of Ohio.

5.4 Multiple Counterparts. This Sublease may be executed in multiple counterparts, each of which shall constitute an original document.

5.5 Invalidity of Provisions. If any provision of this Sublease or the application thereof to any party or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Sublease, or the application of such term or provision to parties whose circumstances are other than those to which it is held invalid or unenforceable, shall not be affected thereby.

5.6 Successors and Assigns. This Sublease shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

The parties hereto have hereunto set their hands as of the day and year first above written

SUBLESSOR:
CITY OF CINCINNATI

SUBLESSEE:
BOARD OF COUNTY COMMISSIONERS
OF HAMILTON COUNTY, OHIO

By: _____
Milton Dohoney, Jr., City Manager

By: _____
Patrick Thompson, Administrator

STATE OF OHIO, COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 2008, by Milton Dohoney, Jr., City Manager of the City of Cincinnati, an Ohio municipal corporation, on behalf of the corporation.

Notary Public, State of Ohio

STATE OF OHIO, COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 2008, by Patrick Thompson, Hamilton County Administrator, on behalf of the Board of County Commissioners of Hamilton County, Ohio.

Notary Public, State of Ohio

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Assistant City Solicitor

Assistant Hamilton County Prosecutor

EXHIBIT A
to Sublease between the City and the Board
LEGAL DESCRIPTION OF THE PROPERTY

Situated in Section 30, Town 4, Fractional Range 1, in Storrs Township, Hamilton County, Ohio and more particularly described as follows:

Commencing at the north east corner of lot 10 of Stephen Wilder's subdivision, as recorded in Plat Book 1, Page 282, in the Hamilton County Recorders office; thence with the north lines of lots 10 and 11 of said Subdivision, N 84°00' 56" W, 200.00' to a point in the east line of Summer St, said point being the north west corner of lot 11 of said Subdivision, thence with the east line of Summer St. along the west lines of Stephen Wilder's Subdivision and C.R. Wilder's Subdivision as recorded in Plat Book 5, Page 207, in the Hamilton County Recorders office, S 5°58' 16" W, 325.00' to a point in the south west corner of lot 5 of said C.R. Wilder's Subdivision, thence leaving Summer St., with the south lines of lots 5 and 10 of said C.R. Wilder's Subdivision, S 84°00'56" E, 200.00' to a point in the east line of Woodrow St., said point being the south east corner of lot 10 of said C.R. Wilder's Subdivision; thence with the west line of Woodrow St. along the east lines of said C.R. Wilder's Subdivision and said Stephen Wilder's Subdivision N 5°58' 16" E, 325.00' to the place of beginning. Containing 65,000 square feet more or less.

EXHIBIT B
to Sublease between the City and the Board
DESIGN CRITERIA

[design criteria]

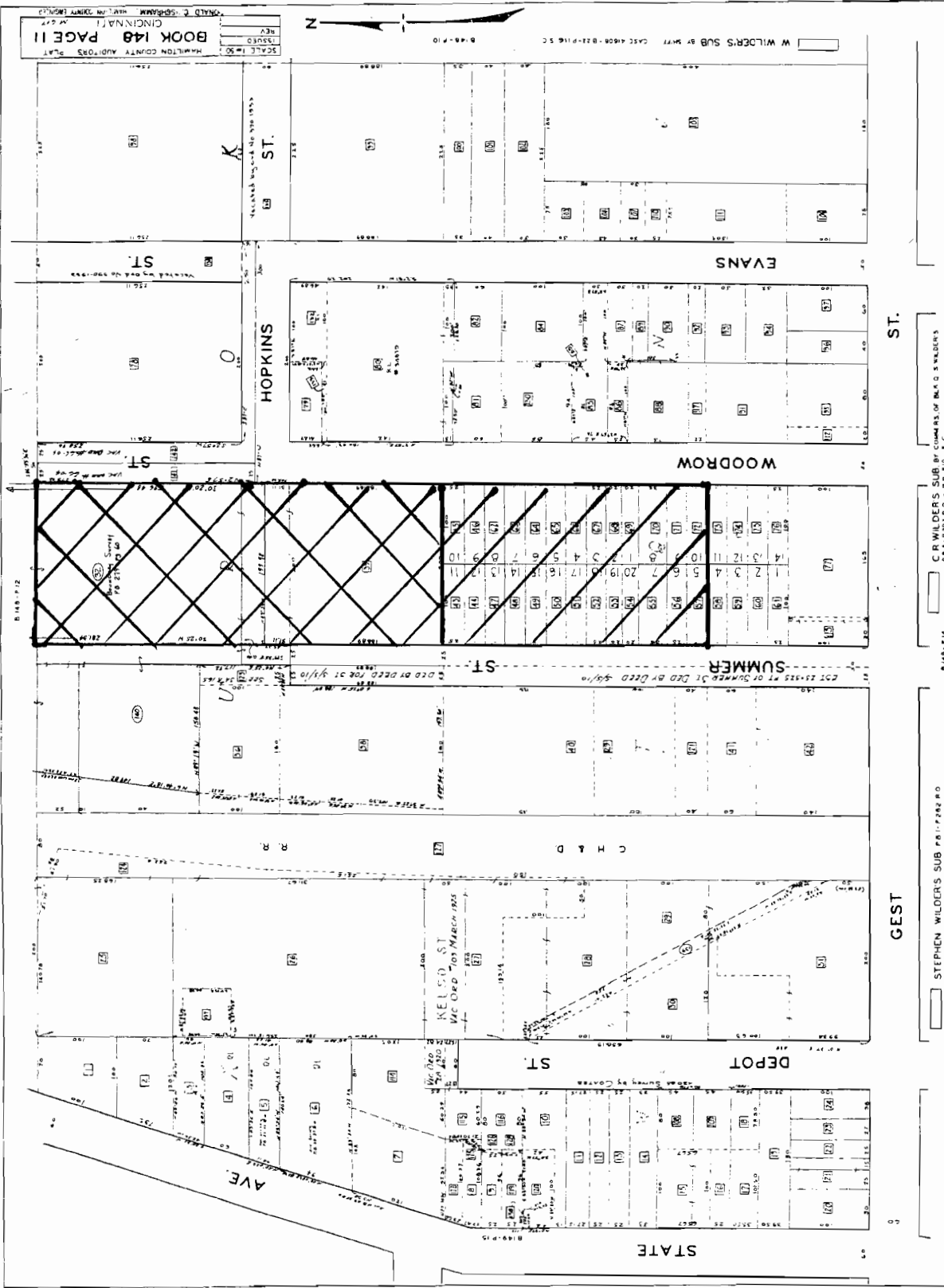
EXHIBIT C
to Sublease between the City and the Board
RENT SCHEDULE

[rent schedule]

GEST

ST

ST



the "Property", site of the new MSD office building

MSD Administration and Industrial Waste building

