

AMENDMENT TO LEASE

This shall be an Amendment to the Amended and Restated Lease Agreement (hereinafter designated as "Lease") dated June 16, 1994 between the City of Toledo, Ohio, a municipal corporation, duly organized and existing under and by virtue of the Constitution and the laws of the State of Ohio and a duly adopted Charter, (hereinafter designated as "Lessor") and the State of Ohio acting by and through the Ohio Arts Facilities Commission (hereinafter designated as "Lessee" or "Commission").

RECITALS

WHEREAS, Lessor and Lessee are parties to a certain Lease executed by them on June 16, 1994 for land improvements and leasehold improvements formerly known as the Portside Festival Market (as defined in the Lease as the "Premises"); and

WHEREAS, Lessor and Lessee, due to project characteristics, desire to include in said Lease additional parcels of land described on the attached Exhibit "A", which is incorporated herein by reference (the "Land").

NOW, THEREFORE, for valuable consideration received to their satisfaction and in accordance with COSI Toledo Board Resolution dated October 16, 1997, Lessor and Lessee mutually agree as follows:

1. Notwithstanding anything to the contrary contained in the Lease, Lessor and Lessee hereby agree that the Lease shall be amended so that the "Premises" as defined in the Lease includes the Land described in Exhibit "A" and graphically depicted on the attached Exhibit "B", which is incorporated herein by reference.
2. Except as modified by this Amendment, all terms, conditions and provisions of the Lease are hereby ratified and confirmed and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Amendment to be executed by their fully authorized officers on this 29 day of January, 1998.

Signed and Acknowledged  
in the Presence of:

Judith A. Roberts  
Donald Raymond Hubbell

LESSOR:

CITY OF TOLEDO

1/29/98

By:

[Signature]  
Carleton S. Finkbeiner, Mayor  
City of Toledo

Signed and Acknowledged  
in the Presence of:

[Signature]  
[Signature]

LESSEE:

Ohio Arts and Facilities Commission

By:

[Signature]  
Title: Chairman

APPROVED AS TO CONTENT

Ross Hamre  
Ross Hamre, Commissioner  
Department of Natural Resources

APPROVED AS TO FORM

Lionel Patterson SR ATTY  
Lionel Patterson, Senior Attorney  
Department of Law

LP.kjb.060696

Approved as to Form

Tieni Muldun  
Assistant Attorney General

**AMENDED AND RESTATED  
LEASE AGREEMENT**

**THIS AMENDED AND RESTATED LEASE AGREEMENT**, dated June 16, 1994 (the "Lease"), is made by and between the City of Toledo, Ohio, a municipal corporation, duly organized and existing under and by virtue of the constitution and the laws of the State of Ohio and a duly adopted charter (the "Lessor"), and the State of Ohio acting by and through the Ohio Arts Facilities Commission (the "Lessee" or the "Commission").

**BACKGROUND INFORMATION**

A. Lessor is the owner of certain parcels of land described on the attached Exhibit "A," which is incorporated herein by reference (the "Land"), together with all buildings, structures, furniture, fixtures and equipment and other improvements presently located in, on or upon the Land (the "Improvements"). At (and prior to) the time of the conveyance of the Improvements to Lessor by Toledo Economic Development Corporation, Lessor held fee simple title to the Land. Pursuant to the terms of the deed from Toledo Economic Development Corporation to Lessor, it is the intent of Lessor and Lessee that all encumbrances and appurtenances relating to the fee title and leasehold estate in the Land and Improvements shall survive the conveyance of the Improvements to Lessor, unless released or terminated in writing, and shall not merge by reason of such common ownership.

B. Lessee is the successor to Toledo Economic Development Corporation which was formerly known as T.E.P.C. Development Corporation ("TEDC") as the "lessee" under a certain lease agreement between Lessor and TEDC dated May 25, 1983 and a memorandum of which was recorded as Mortgage 83-585-A09, as amended by a First Amendment to Lease Agreement dated May 1, 1989 and recorded as Mortgage 89-607-B03 (collectively, the "Original Lease").

C. Lessor and Lessee desire to amend and restate the Original Lease in its entirety so as to provide for the renovation and use by Lessee, or Lessee's operator, of the Land and the Improvements located thereon as an Ohio arts facility, such facility consisting initially of a regional center of science and industry (the "Center") to be operated by COSI/Toledo, an Ohio non-profit corporation.

D. The Ohio Building Authority (the "Authority") is authorized by Sections 32 and 33 of Amended Substitute House Bill No. 904 ("Am. Sub. H.B. 904"), enacted by the 119th Ohio General Assembly, to proceed by taking all steps the Authority determines are desirable in connection with the issuance of obligations in an aggregate principal amount not to exceed Thirty Four Million Four Hundred Thousand Dollars (\$34,400,000) of which Ten Million Dollars (\$10,000,000) may be used to pay costs associated with the Center.

E. The Authority has issued heretofore some of the obligations described in the preceding paragraph.

F. In connection with the Authority's issuance of the obligations described in Paragraph D, the Lessee has assigned the Lessee's interest hereunder to the Authority in accordance with agreements mutually satisfactory to the Lessee and the Authority for a term at least equal to the original term of any outstanding obligations of the Authority issued to pay Ten Million Dollars (\$10,000,000) of costs associated with the Center (the "Obligations") or the estimated useful life of the Center as certified by the Director of Budget and Management, for a rental amount of good and valuable consideration, and the Authority has subleased the Premises to the Lessee in accordance with lease agreements as provided in R.C. §152.24(D) with rentals and other charges determined in accordance with R.C. §152.16 and under the terms of which the Department of Administrative Services ("DAS") shall provide, or cause to be provided, construction services in accordance with R.C. §3383.07(A) and DAS shall provide, or cause to be provided by

COSI/Toledo, general building services as provided by R.C. §3383.07(B) for the Center in accordance with R.C. Chapter 123.

G. The Commission and COSI/Toledo intend to enter into an agreement whereby COSI/Toledo shall be responsible for the management and operation of the Center. The initial term of that management agreement shall commence simultaneously with the Commencement Date (as defined below) of this Lease and shall continue until June 30, 1995; the term of the management agreement may be extended for an additional term or terms of two (2) years each upon agreement of the Commission and COSI/Toledo.

H. The Commission and COSI/Toledo intend to enter into an agreement, as authorized by Amended Substitute House Bill No. 152 (Section 1288) enacted by the 119th Ohio General Assembly, whereby COSI/Toledo shall design, develop and construct certain prototypes of and provide supervisory services relating to the exhibits to be installed in the Center prior to its opening to the public as a center of science and industry.

## STATEMENT OF AGREEMENT

Lessor and Lessee hereby acknowledge the accuracy of the above Background Information and agree as follows:

### 1. Definitions.

(a) "Center" has the meaning ascribed to it in Paragraph C of the Background Information section of this Lease.

(b) "Improvements" shall mean, collectively, the Improvements, as that term is defined in paragraph A of the Background Information section of this Lease, and all Leasehold Improvements (as that term is defined in subparagraph (d), below).

(c) "Initial Term" has the meaning ascribed to it in paragraph 5 of this Lease.

(d) "Leasehold Improvements" shall mean all renovations to Improvements and structural improvements made to the Premises, or any part thereof, by Lessee, whether pursuant to the Plans (as defined in paragraph 9(b)) or paragraph 9(c).

(e) "Lessee Improvements" shall mean the non-structural improvements made to the Premises by or at the direction of Lessee pursuant to the Plans (as defined in paragraph 9(b)) or paragraph 9(c), and all exhibits, trade fixtures and other equipment placed in or upon the Premises by Lessee or its operator.

(f) "Premises" has the meaning ascribed to it in paragraph 2 of this Lease.

(g) "Proceeds" has the meaning ascribed to it in paragraph 16(c) of this Lease.

(h) "Renewal Term" has the meaning ascribed to it in paragraph 6 of this Lease.

(i) "Rent" and "Additional Rent" have the meanings ascribed to them in paragraph 7 of this Lease.

### 2. Demise of Premises.

In consideration of the rents and covenants herein stipulated to be paid and performed by Lessee and upon the terms and conditions herein specified, Lessor hereby leases, lets and demises to Lessee for the use and benefit of the Ohio Arts Facilities Commission, and Lessee hereby leases of and from Lessor, for the term hereinafter described the Land, the Improvements, and all easements, rights and appurtenances now or hereafter relating thereto (the

Land, the Improvements, and the easements, rights and appurtenances shall hereafter be collectively referred to as the "Premises").

### **3. Title and Condition.**

The Premises are demised and let to Lessee subject to (i) any state of facts which an accurate survey or physical inspection thereof might show, (ii) all zoning regulations, restrictions, rules and ordinances, building restrictions and other laws and regulations, now in effect or hereinafter adopted by any governmental authority having jurisdiction over the Premises, and (iii) all matters of record pertaining to or affecting the Premises as of the date hereof. Lessee agrees to take the Premises "as is" without warranty as to condition of any kind.

### **4. Use of Premises; Quiet Enjoyment.**

(a) Subject to the provisions of paragraph 13 respecting contests and paragraph 22 respecting restrictions, Lessee hereby agrees that it will not occupy or permit the Premises or Lessee Improvements to be occupied for other than legal purposes or in a manner which would violate any applicable federal, state or local law, rule or regulation (including without limitation the Amended Vistula Meadows Urban Renewal Plan, as amended ("Redevelopment Plan")).

(b) Subject to the provisions of paragraph 13 respecting contests, Lessee shall comply in every respect with or cause the compliance with any and all applicable federal, state and local laws, ordinances, rules, regulations, codes, orders and notices now or hereafter in force or issued, whether or not presently contemplated, regarding all or any part of the Premises and the Lessee Improvements and the construction, use and occupancy thereof.

(c) Subject to the provisions of paragraph 13 respecting contests, Lessee shall at all times cause the Premises and the Lessee Improvements to be maintained and kept in good order and repair, ordinary wear and tear and damage by fire or other casualty excepted, and in a safe condition. Lessee may discharge this responsibility by contracting for its provision.

(d) If and so long as Lessee shall observe and perform all covenants, agreements and obligations required to be observed and performed by it hereunder, Lessor warrants peaceful and quiet occupation and enjoyment of the Premises by Lessee, subject only to the matters referred to in paragraph 3 hereof, provided that Lessor and its agents may, upon reasonable notice, enter upon and inspect the Premises at reasonable times for any reasonable purpose.

### **5. Term.**

Subject to the terms, covenants, agreements and conditions herein, Lessee shall have and hold the Premises for a term commencing on the date of this lease, (the "Commencement Date") and ending upon the retirement of the Obligations or upon the expiration of the useful life of the Center as certified by the Director of Budget and Management, whichever is greater, but in any event not less than twenty (20) years nor more than thirty (30) years (the "Initial Term"). Within ninety (90) days of the opening of the Center to the public, the Executive Director of the Commission shall fix and determine the exact length of the Initial Term and shall so notify the Mayor and Director of Law of the City of Toledo, DAS, the Authority and the President of COSI/Toledo in accordance with the provisions of paragraph 27 hereinbelow, except that if proceeds of the Obligations relating to the Center remain to be expended, the Initial Term will not be set until the funds are so expended.

### **6. Renewal.**

Tenant shall have the option to renew this Lease for up to twenty (20) years in order to protect the interests of the State with respect to the use of the Center as an Ohio arts facility or to protect the validity or federal tax status of any Obligations issued to pay costs of the Center (the

"Renewal Term"). Lessee's renewal option may be exercised by giving Lessor notice, not later than one (1) year before expiration of the term of this Lease, stating that Lessee thereby exercises such option; provided that, if Lessee fails to exercise such option by the last day of the term of this Lease, Lessee shall have an additional period within which to exercise such option, which additional period shall expire fifteen (15) days after Lessee receives notice from Lessor calling Lessee's attention to its failure to exercise such option. Any reference in this Lease to the "term of this Lease" shall include the Renewal Term should Lessee exercise its renewal option. If Lessee exercises its renewal option under this paragraph 6, all terms and conditions of this Lease which are applicable during the Initial Term of the Lease shall be applicable during such Renewal Term.

## **7. Rent.**

(a) The total rent ("Rent") due under this Lease shall be One Dollar (\$1.00) per annum during each year of the Initial Term and the Renewal Term, payable upon presentment to Lessee of an invoice therefor from Lessor. Should Lessor fail to present an invoice for Rent for any one particular year, Lessor shall be deemed to have waived its right to collect Rent for that year.

(b) Lessee covenants to pay and discharge, or cause the payment or discharge of, when the same shall become due as additional rent (the "Additional Rent"), all other amounts, liabilities and obligations which Lessee assumes or agrees to pay or discharge pursuant to this Lease, together with every fine, penalty, interest and cost which may be added for non-payment thereof and, in the event of any failure by Lessee to pay or discharge or cause the payment or discharge of any of the foregoing, Lessor shall have all rights, powers and remedies provided herein, by law or otherwise in the case of non-payment of rent.

(c) Lessee shall pay, or cause the payment of, before any fine, penalty, interest or costs may be added thereto, or become due or be imposed by operation of law for the nonpayment thereof, all water and sewer rents, rates and charges, charges for public utilities, excises, levies, licenses and permit fees and other assessments or governmental charges, general or special, ordinary or extraordinary, unforeseen or foreseen, of any kind and nature, whatsoever, which at any time during the term of this Lease may be assessed, levied, confirmed, imposed upon, or grow or become due and payable out of or in respect of, or become a lien on, the Premises or any Lessee Improvements (as defined below) thereon, or any part thereof or any appurtenance thereto, the rent and income received by the Lessee from subtenants, any use or occupation of the Premises, or any document (to which the Lessee is a party) creating or transferring an interest or estate in the Premises.

(d) Lessee may discharge its responsibilities under paragraphs 7(a), (b) and (c) above by contracting for their provision.

(e) Notwithstanding anything contained in paragraph 7 of this Lease to the contrary, Lessor shall pay or satisfy or discharge, or cause to be paid or satisfied or discharged, all taxes and assessments which are a lien on the Premises or any Improvements located therein, or any part thereof, as of the date of this Lease, which taxes are presently in the amount of approximately \$97,446.55 and which assessments are presently in the amount of \$14,671.30. With respect to the taxes presently outstanding on the Premises or the Improvements, Lessor shall be deemed to have sufficiently complied with the terms of this provision if it enters into a five-year agreement with the Treasurer of Lucas County, Ohio for the payment of such taxes and carries out its obligations thereunder to pay same.

## **8. Net Lease.**

(a) This Lease is a net lease and, any present or future law to the contrary notwithstanding, the Rent, Additional Rent and all other sums payable hereunder by Lessee shall be paid or caused to be paid without notice or demand, and without set-off, counterclaim,

reduction, abatement, supervision, deduction or defense except as otherwise expressly provided in this Lease.

(b) The parties intend that the obligations of Lessee hereunder shall be separate and independent covenants and agreements and shall continue unaffected unless such obligations shall have been modified or terminated pursuant to a provision of this Lease or any subsequent amendment thereto.

## **9. Improvements.**

(a) Lessee or Lessee's agents, assigns, sublessees, managers and/or operators shall within nine (9) months after the Commencement Date, at no cost to Lessor, commence the Leasehold Improvements and/or the construction of new Lessee Improvements upon the Premises, and shall upon completion of such work open the Center to the public on the Premises. All work done with respect to such renovation and construction shall be in conformity with the Ohio Basic Building Code (as administered by the Division of Factory and Building of the Ohio Department of Industrial Relations), this Lease, and all easements, rights and restrictions of record affecting the Premises.

(b) Lessee shall allow Lessor to review its preliminary plans and specifications for the said renovations and construction (the "Plans") prior to Lessee's commencement of such work. Lessor shall provide Lessee with any comments it may wish to express with regard to the Plans within fourteen (14) days of the receipt of the Plans by Lessor. Lessee may elect to incorporate into the Plans any comments provided by Lessor.

(c) Lessee shall have the right, but not the obligation, from time-to-time to make such other and further additions or alterations to the Premises or to replace the Lessee Improvements or any part thereof with such other structure or structures as Lessee may deem desirable, provided that no such structural addition, alteration, or replacement shall be made to the Premises without the prior written approval of Lessor, which approval shall not be unreasonably withheld or delayed.

(d) All right, title to and interest in the Leasehold Improvements shall be vested in Lessee until the expiration or termination of the term of this Lease, at which time all of the Lessee's right, title to and interest in the Leasehold Improvements shall automatically vest in the Lessor. Title to all Lessee Improvements shall be vested in the party which made or placed such items in or on the Premises and may be removed by Lessee or its operator, as the case may be, at any time during the term of this Lease.

## **10. Liens and Encumbrances.**

Nothing contained in this Lease shall be construed as constituting the consent of Lessor, express or implied, to or for the performance of any labor or services or the furnishing of any materials for the construction, alteration, addition, repair, renovation or demolition of or to any Lessee Improvements or the Premises or any part thereof by any contractor, subcontractor, laborer, material man or vendor. Notice is hereby given that the Lessor will not be liable for any labor, services or materials furnished or to be furnished to Lessee, or to anyone holding the Premises or any part thereof through or under Lessee.

## **11. Insurance; Indemnification.**

(a) Lessee shall maintain or cause to be maintained (by its managers, operators, assigns or sublessees) in force at all times during the term of this Lease:

(i) commercial general liability insurance against claims for personal injury, including death and property damage suffered by others occurring in, on, adjacent, or about the Premises, or any elevator, escalator or hoist located thereon. Such commercial general liability

insurance shall afford protection of not less than Two Million Dollars (\$2,000,000) in respect to bodily injury or death of any one person, and not less than Ten Million Dollars (\$10,000,000) in respect to bodily injury or death to any number of persons in any one accident or occurrence, and not less than Two Million Dollars (\$2,000,000) in respect of property damage in any one occurrence; and

(ii) insurance on all real or personal property which is the subject of this Lease. Such insurance shall provide coverage against "risks or direct physical loss" (Special Form). This insurance shall not exclude coverage for "collapse," "sprinkler leakage", "theft" or losses arising out of the enforcement of any building law or ordinance. Also, this insurance shall include the State's contribution for the acquisition, design, construction, renovation and equipping thereof plus the cost of all improvements made to the Premises by Lessee's operator and any property installed by Lessee or its operator upon the Premises, to the extent of not less than 100% of the full replacement cost thereof. In the event of any disagreement between the parties concerning what constitutes the "full replacement cost" or the distribution of proceeds of insurance, the amount of the "full replacement cost" or distribution shall be as determined in the following manner: Lessor and Lessee shall each appoint an appraiser, and the amount or distribution shall be determined by the two appraisers. If the two appraisers so appointed are unable to agree, the amount or distribution shall be determined by a third appraiser selected by the two appraisers appointed by the parties hereto; provided, however, if a third appraiser shall not have been appointed within a reasonable time, the third appraiser shall be appointed by the Court of Common Pleas, Lucas County, Ohio upon application by Lessor or Lessee. All appraisers shall be members in good standing of the Master Appraisers Institute or any organization succeeding thereto. Lessor and Lessee each shall bear one-half of the cost of such appraisals. Lessor and Lessee agree to be bound by any decision of the appraisers made in accordance with this paragraph 11(a)(ii).

Each insurance policy furnished under this paragraph 11 shall be issued by a nationally-recognized insurance company authorized to do business in Ohio, shall name Lessor as a loss payee and an insured party therein, and shall require written notice on modification thereof. Upon request, Lessee shall furnish Lessor with certificates of coverage and evidence of payment of premiums thereon from time-to-time. All proceeds of insurance payable with respect to any damage to the Premises shall be payable to the parties as their interests may appear based upon the appraised value of their respective interests.

(b) At all times during the term of this Lease, Lessee shall cause its operators, contractors, and other non-governmental parties (not including persons viewing exhibits or exhibitions or attending functions at the Center or the Premises) which may be employed at or occupying the Premises to fully indemnify, defend and save Lessor harmless from all claims, expenses or damages of any nature to any person/property resulting from any responsible event or occurrence in the Premises, and this indemnity shall be evidenced by a written document in a form the Lessor, in its reasonable opinion, deems necessary to provide it with adequate protection from the operation and construction at the Center or the Premises. In regards to the Lessee's initial operator of the Center and the Premises, Lessor acknowledges that the indemnity provided by COSI/Toledo in Article VIII of the management agreement to be entered into between the Commission and COSI/Toledo satisfies the requirements of this provision.

## **12. Easements.**

Lessor and Lessee acknowledge that Lessee hereby is and shall be the successor to and shall have all rights and duties of TEDC under all easements affecting or appurtenant to the Land, the Improvements, and/or the Original Lease including the easement attached hereto as Exhibit "B" (the "Easements"). Upon request, Lessor shall execute and deliver such amendments to the Easements that Lessee, in its reasonable opinion, deems necessary or appropriate to provide adequate security to the Premises for the operation of the Center.

Lessor and Lessee covenant and agree that from time-to-time at the request of the other party, each shall execute and deliver such additional documents or instruments confirming the



rights of each party under the Easements or more precisely fixing the location of the Easements as such requesting party shall deem to be necessary or appropriate, all expenses of which shall be borne by the party requesting such document or instrument.

### **13. Permitted Contests.**

Neither Lessor nor Lessee shall be required, nor shall Lessor have the right to comply with or cause the Premises or Lessee Improvements to comply with any requirement referred to in paragraph 4(a), (b) or (c), as long as Lessor or Lessee, as the case may be, shall contest the existence, amount or validity thereof, the amount of damage caused thereby or the extent of its liability therefor by appropriate proceedings which shall operate during the pendency thereof to prevent (i) the collection of, or other realization upon, the amount so contested, (ii) the sale, forfeiture or loss of the Premises or any part thereof or the Rent or any Additional Rent or any portion thereof to satisfy the same or to pay any damages caused by the violation of any such matter, (iii) any interference with the use or occupancy of the Premises, Lessee Improvements or any part thereof, and (iv) any interference with the payment of the Rent or any Additional Rent or any portion thereof, and if unsuccessful in such context, Lessee shall promptly and fully pay and discharge, or cause to be fully paid and discharged any fine, penalty, judgment, interest costs and expenses attributable thereto and in connection therewith and perform or cause to be performed all acts mandated thereby; provided, that such contest shall not subject Lessor to the risk of any criminal liability.

### **14. Surrender.**

Upon the expiration or earlier termination of this Lease, Lessee shall peaceably leave and surrender the Premises to Lessor in "broom clean" and good condition and repair, ordinary wear and tear and any damage by fire or other casualty excepted. At the time of such surrender the Premises shall be free of and unencumbered by any liens or encumbrances other than liens and encumbrances (i) existing at the time of the execution of this Lease, (ii) created by or resulting from any act or status of Lessor or failure by Lessor to perform any obligation not required to be performed by Lessee or indemnified against by Lessee hereunder, or (iii) created by or resulting from any act or status or failure to act by Lessee or any sublessee of Lessee to which Lessor shall have expressly consented to in writing. At or prior to the time of surrender of the Premises, Lessee shall remove, or caused to be removed, all Lessee Improvements from the Premises at Lessee's cost and repair any damage caused by such removal. Any property or Lessee Improvements left and/or situated on the Premises upon surrender shall automatically become the property of Lessor and simultaneously with such surrender Lessee, as further evidence thereof, shall convey to Lessor by quitclaim deed, in accordance with O.R.C. §3383.04(D), all of Lessee's right, title and interest in the Premises and any Improvements or property located thereon. Lessor may discharge its responsibilities under this paragraph by contracting for their discharge.

### **15. Casualty.**

(a) Insured Casualty -- If the Lessee Improvements or the Premises shall be substantially damaged or destroyed in any single casualty during the term hereof, Lessee shall commence or cause to be commenced their repair and restoration within six (6) months after such fire or casualty, or within a longer period of time if consented to by Lessor due to the impracticability of starting within said six (6)-month period, Lessor's consent shall not be unreasonably withheld or delayed, provided that all proceeds payable with respect to any insurance policy maintained by or on behalf of Lessor and Lessee or Lessee's operator shall be applied in payment for such repair or restoration as their interests may be determined pursuant to paragraph 11(a).

(b) Uninsured Casualty -- Nothing contained in this Lease shall obligate Lessor, Lessee or Lessee's operator to make any structural or capital repairs or improvements to the Premises, nor to be responsible for the cost thereof, unless expressly provided in this Lease. In the event that structural or capital repairs or improvements to the Premises become necessary

during the term of this Lease in order to keep the Premises in a good, safe and sanitary condition (other than improvements and repairs necessitated by damage to the Premises for which insurance proceeds are available under paragraph 11(a)(ii)) and neither Lessor, Lessee nor Lessee's operator elects to make and pay for such repairs or improvements, then either party hereto may terminate this Lease upon ninety (90) days' notice to the other party. If, however, Lessor, Lessee or Lessee's operator, or any combination thereof, elect to make such structural or capital repairs or improvements, the cost of same shall be borne by the party or parties making such repairs or improvements as they may agree.

## **16. Condemnation.**

(a) If the entire Premises shall be taken in or by condemnation or other eminent domain proceedings under any law, general or special (other than a taking for temporary use), this Lease shall terminate on the date of such taking, except with respect to obligations and liabilities of Lessee under this Lease, actual or contingent, which have arisen on or prior to such date of termination, upon payment by Lessee of (i) all Rent then due with respect to the period during which this Lease is in effect, and (ii) all other sums due and payable by Lessee under this Lease to and including such date. In the event of a taking (other than a taking for temporary use) under such proceedings of any substantial portion of the Premises which is sufficient, in the good faith judgment of Lessee, to render the remaining portion thereof impractical for Lessee's or its manager's, operator's or sublessee's continued use and occupancy, Lessee, at its election, not later than six (6) months after such taking, may give notice to Lessor of the termination of this Lease, and this Lease shall terminate on the date specified in such notice, except with respect to obligations and liabilities of Lessee under this Lease, actual or contingent, which have arisen on or prior to such date of termination, upon payment by Lessee of the sums set forth in (i) and (ii) above. In either instance, the awards and payments made on account of any such taking shall be paid to Lessor and Lessee as set forth below.

(b) In the event of a partial taking of the Premises which does not result in a termination of this Lease pursuant to paragraph 16(a) above, this Lease shall continue unaffected and the obligations to pay Rent and Additional Rent provided herein shall continue unabated. The awards and payments made on account of any such partial taking shall be paid to Lessor and Lessee as set forth below.

(c) The awards and payments made from time to time on account of any taking of the Premises or any part thereof in condemnation or other eminent domain proceedings (other than a taking for temporary use) shall be paid as follows (all such awards and payments, collectively, "Proceeds"): (i) the total amount of such Proceeds allocated to any Leasehold Improvements and Lessee Improvements shall be paid to Lessee, and (ii) the total amount of such Proceeds allocated to the Premises shall be paid to Lessor. Should the condemning authority fail to expressly allocate any Proceeds between the Premises and the Leasehold Improvements and Lessee Improvements or in the event either the Lessor or Lessee disagrees with the allocation made by the condemning authority, such allocation shall be as determined by Lessor and Lessee. Should Lessor and Lessee fail to agree on any allocation of the Proceeds between the Premises and the Leasehold Improvements and Lessee Improvements, the allocation shall be made in the following manner: Lessor and Lessee shall each appoint an appraiser, and the allocation shall be determined by the two appraisers. If the two appraisers so appointed are unable to agree upon such allocation, the allocation shall be determined by a third appraiser selected by the two appraisers appointed by the parties hereto; provided, however, if a third appraiser shall not have been appointed within a reasonable time, the third appraiser shall be appointed by the Court of Common Pleas, Lucas County, Ohio upon application by Lessor or Lessee. All appraisers shall be members in good standing of the Master Appraisers Institute or any organization succeeding thereto. Lessor and Lessee each shall bear one-half of the cost of such appraisals. Lessor and Lessee agree to be bound by the allocation determined in accordance with this paragraph 16(c). Lessor and Lessee shall be entitled, at their own expense, to appear in any proceeding or action, to negotiate, prosecute and adjust any claim for their respective interests in any Proceeds on account of any such taking, requisition or sale.

(d) In the event of a taking in or by such proceeding of all or any portion of the Premises and the Leasehold Improvements and Lessee Improvements for temporary use, this Lease shall continue in full force and effect without reduction or abatement of Rent and Additional Rent, and Lessee shall be entitled to make claim for, recover and retain any Proceeds, made on account thereof, whether in the form of Rent or otherwise, for the period of such taking covered by the term of this Lease.

(e) For the purposes of this Lease, all amounts payable pursuant to any agreement with any condemning authority which has been made in settlement of or under threat of such taking, or pursuant to a sale in lieu of such taking, shall be deemed to constitute an award made in such proceeding.

(f) The provisions herein respecting the allocation of all Proceeds made on account of any taking, condemnation or eminent domain proceeding shall survive the termination of this Lease.

### **17. Assignment and Subletting.**

(a) Lessee shall have the right at any time to assign its interest under this Lease or to sublease all or a portion of the Premises, provided, however, Lessee obtains the prior written consent of Lessor, which consent shall not be unreasonably withheld and provided further that no such assignment or sublease shall relieve Lessee of its obligations and duties under the terms, covenants and conditions of this Lease, and any assignee of Lessee under this paragraph 17(a) shall expressly assume, and by reason of such assignment shall be deemed as having assumed, all of the obligations and duties of Lessee hereunder.

(b) Lessor hereby acknowledges and consents to (i) the assignment of this Lease of the Premises to the Ohio Building Authority ("Authority"), and (ii) the sublease of the Premises by the Authority to the Lessee, each of which is dated the same date as this Lease. Lessor further expressly acknowledges that the Authority is not liable for any of Lessee's obligations or duties hereunder by reason of the assignment or sublease referred to in clauses (i) and (ii) of this paragraph 17(b).

(c) Lessee, or Lessee's assignees or sublessees, may enter into a management or operating agreement with any third party for the operation and management of the Premises and Lessee Improvements as an Ohio arts facility, provided that such operation and management, shall, in all respects, be subject to the terms, conditions and covenants of this Lease, and further provided that the Lessor's prior permission is obtained, which permission shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Lessor hereby consents to Lessee's entering into the aforesaid management agreement with COSI/Toledo.

### **18. Default.**

(a) In the event any one or more of the following events shall have occurred and shall not have been remedied as hereinafter provided: (i) Lessee's failure to make any payment of Rent, Additional Rent or other sum required to be paid by Lessee when the same shall become due and payable and the continuance of such failure for a period of 60 days after receipt by Lessee of notice from Lessor in writing of such failure, (ii) Lessee's failure to substantially construct or cause the substantial construction of the Center as set forth in paragraph 9(a) hereof within two (2) years after the Commencement Date, and (iii) Lessee's failure to perform or observe any other covenant, condition or agreement herein contained on Lessee's part to be performed or observed and the continuance of such failure without curing of same for a period of ninety (90) days after receipt by Lessee of notice of such failure (provided that in the case of any default referred to in this clause (iii) which cannot with diligence be cured within such ninety (90)-day period, if Lessee shall proceed promptly to cure the same default with diligence, then upon receipt by Lessor of a certificate from Lessee stating the reason that such default cannot be cured within ninety (90) days

and stating that Lessee is proceeding with diligence to cure such default, the time within which such default may be cured shall be extended for such period as may be necessary to complete the curing of same with diligence); then, Lessor may, at its option, give to Lessee a notice of election to end the term of this Lease upon the date specified in such notice, which date shall not be less than ninety (90) days after the date of such notice, and upon the date specified in such notice the term of this Lease and the estate created hereby shall expire and terminate on such date as fully and completely and with the same effect as if such date were the date hereinbefore fixed for the expiration of the term of this Lease, and all rights of Lessee shall expire and terminate, title to the Leasehold Improvements shall automatically vest in Lessor pursuant to the terms of paragraph 14, Lessee to have the duty to remove, or cause the removal of, the Lessee Improvements or any portion thereof but Lessee shall remain liable as hereinafter provided in paragraph 18(c) hereof. Simultaneously with the sending of any notice of default to Lessee, hereinabove provided for, Lessor shall send a copy of such notice to the Authority and any other sublessee(s) of the Premises or portions thereof that Lessee may select, in writing, from time-to-time, and any additional persons or parties having an interest in the Premises that Lessee may select, in writing, from time to time. The curing of any default within the above time limits by any of the aforesaid parties or combination thereof, shall constitute a curing of any default hereunder with like effect as if Lessee had cured same.

(b) Upon termination of this Lease, Lessor shall have the immediate right to re-enter and repossess the Premises by due process of law.

(c) Upon the termination of this Lease by reason of the happening of any event of default specified hereunder, or upon Lessor recovering possession of the Premises in the manner or under any of the circumstances herein mentioned, or in any other manner or circumstances whatsoever pursuant to legal process, by reason of or based upon or arising out of the occurrence of any such event of default under this Lease, Lessee shall pay to Lessor the Rent, Additional Rent and all other sums required to be paid by Lessee, up to the time of such termination of this Lease.

## **19. Termination.**

This Lease may be terminated by Lessee upon ninety (90) days written notice to Lessor given at any time after (i) the expiration, cancellation or termination of the aforesaid management agreement entered into between Lessee and COSI/Toledo, (ii) enactment of any statutory measure which divests the Lessee of the authority to operate or manage the Premises, or (iii) the retirement of the Obligations if the Lessee finds and determines that the State purposes (to provide for the development, performance, and presentation of the arts) in connection with the Center have been fulfilled.

## **20. Estoppel Certificates.**

Lessor and Lessee agree, from time to time, following demand, promptly to execute, acknowledge and deliver to the other, a statement in recordable form certifying to the effect that this Lease is unmodified and in full effect (or, if there have been modifications, that this Lease is in full effect as modified, and setting forth such modifications) and the dates to which Rent, Additional Rent and other sums payable hereunder have been paid, and either stating that to the knowledge of the signer of such statement no default or event which with notice or lapse of time, or both would constitute an event of default, exists hereunder or specifying each such default of which the signer has knowledge, it being intended that any such statement made pursuant to this paragraph 20 may be relied upon by any prospective sublessee or purchaser of the Premises or Lessee Improvements. The parties hereto further agree to furnish promptly following demand, satisfactory evidence and proof of payment of items for which they are respectively responsible under this Lease.

## **21. Memorandum of Lease.**

Neither party hereto shall place this Lease of record, but each party shall, at the closing of this transaction, execute and deliver a memorandum of lease or similar instrument reflecting such of the terms of this Lease as are required pursuant to Section 5301.251 of the Ohio Revised Code, and which instrument shall be recorded in the public offices of Lucas County, Ohio, without further notice at Lessor's expense. Lessor shall, at its expense, promptly provide Lessee with a certified copy of the recorded memorandum of lease.

## **22. Restrictions.**

(a) Lessee, for itself and its successors and assigns, agrees that it shall and will cause the Premises and the Lessee Improvements to be devoted to and only to, and in accordance with, the uses specified in the Redevelopment Plan (which permits the use of the Premises and the Lessee Improvements as a regional center of science and industry) for so long as said Plan remains applicable to the Premises and/or Lessee Improvements, and further that it will not during the term of this Lease discriminate upon the basis of race, color, religion, sex or national origin in the lease or rental or in the use or occupancy of the Premises or the Lessee Improvements.

(b) Lessee, for itself and its successors and assigns, further agrees that it will, within two (2) years from the commencement of the renovation of the Premises under paragraph 9(a), open the Center to the public, and will thereafter continuously operate the Center for such purpose, or for such other purpose as is permissible under this Lease. In the event that Lessee ceases to operate the Center for any of the foregoing purposes for a period in excess of one year, Lessor may, at any time after the expiration of such one-year period and prior to Lessee resuming operations within the Premises, declare this Lease to have been surrendered under paragraph 14 and/or Lessee to be in default under paragraph 18. In the event that Lessor declares a default under paragraph 18, the 90-day (or longer) cure period under paragraph 18(a) (iii) shall not be applicable to such declaration.

## **23. Equal Employment Opportunity.**

Lessee, for itself and its successors, assigns and operators, agrees that during the term of this Lease that no employee or applicant for employment at the Center will be unlawfully discriminated against because of race, color, religion, sex, or national origin. Lessee will insure that applicants for employment at the Center are employed, and that its employees working at the Center are treated during employment, without regard to their race, color, religion, sex, or national origin. Lessee and Lessee's operators shall comply with the provisions of any applicable affirmative action laws, rules or regulations adopted or promulgated by the State of Ohio.

## **24. Separability.**

Each provision hereof shall be separate and independent and the breach of any such provision by Lessor shall not discharge or relieve Lessee from its obligations to perform each and every covenant to be performed by Lessee hereunder. If any provisions hereof or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remaining provisions to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforceable to the extent permitted by law.

## **25. Rights Cumulative.**

All rights and remedies of Lessor and of Lessee enumerated in this Lease shall be cumulative and, except as specifically contemplated otherwise by this Lease, none shall exclude any other right or remedy allowed at law or in equity, and said rights or remedies may be exercised or enforced concurrently and all obligations, rights and remedies shall survive formal termination of this Lease.

**26. Waiver.**

The waiver by Lessor or Lessee of, or the failure of Lessor or Lessee to take action with respect to any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition, or subsequent breach of the same, or any other term, covenant or condition therein contained. The subsequent acceptance of Rent or Additional Rent hereunder by Lessor or payment of or offer to pay same by Lessee shall not be deemed to be a waiver of any preceding breach by Lessor or Lessee of any term, covenant or condition of this Lease.

**27. Notice, Demands or Instruments.**

All notices, demands, requests, consents, approvals and other instruments required or permitted to be given pursuant to the terms of this Lease shall be in writing and shall be deemed to have been properly given if hand-delivered or sent by U.S. registered or certified mail, postage prepaid, (a) with respect to Lessor, addressed to Lessor:

City of Toledo  
One Government Center, Suite 2200  
Toledo, Ohio 43604  
Attention: Mayor

with an additional copy sent to:

City of Toledo  
One Government Center, Suite 2250  
Toledo, Ohio 43604  
Attention: Director of Law

and, (b) with respect to Lessee, addressed to Lessee:

Ohio Arts Facilities Commission  
Vern Riffe Center for Government and the Arts  
77 South High Street, 21st Floor  
Columbus, Ohio 43266  
Attention: Executive Director

with additional copies sent to:

Department of Administrative Services  
30 East Broad Street, 40th Floor  
Columbus, Ohio 43215-3428  
Attention: Director

and to:

Ohio Building Authority  
30 East Broad Street, 40th Floor  
Columbus, Ohio 43215-3428  
Attention: Executive Director

Lessor, Lessee and the additional governmental agencies designated above shall each have the right from time to time to specify as its address for purposes of this Lease any other address in the United States of America upon giving of fifteen (15) days written notice thereof, similarly given, to the other parties.

**28. Binding Effect.**

All of the covenants, conditions and obligations contained in this Lease shall be binding upon and inure to the benefit of the respective successors and assigns of Lessor and Lessee to the same extent as if each such successor and assign were in each case named as a party to this Lease. This Lease may not be changed, modified or discharged except by a writing signed by Lessor and Lessee.

**29. Governing Law.**

This Lease shall be governed by and interpreted under the laws of the State of Ohio, any action or proceeding arising out of the terms of this Lease shall be brought in a court of competent, jurisdiction located in Franklin County, Ohio.

**30. Headings.**

The headings to the various paragraphs and exhibits to this Lease have been inserted for reference only and shall not to any extent have the effect of modifying, amending or changing the expressed terms and provisions of this Lease.

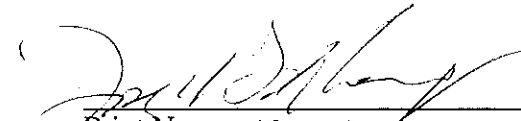
31. Original Lease.

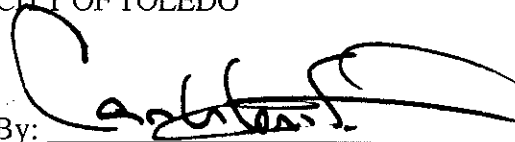
The intent of Lessor and Lessee in executing this Lease is to amend and restate, in its entirety, the Original Lease, and to establish the sole source of obligations between Lessor and Lessee with respect to the Premises. Notwithstanding the assignment to and assumption of the Original Lease by Lessee, no covenant, obligation, liability or restriction set forth in the Original Lease shall be binding upon or inure to the benefit of the Lessor or Lessee unless expressly set forth herein.

IN WITNESS WHEREOF, Lessor (pursuant to Ordinance No. \_\_\_\_\_ 154 -94) and Lessee have caused this Lease to be executed as of the day and year first above written by their duly authorized representatives.

Signed in the presence of:

CITY OF TOLEDO

  
Print Name: JOSEPH GOLDBERG

By:   
Carleton S. Finkbeiner, Mayor

  
Print Name: MARK SCHMOLLINGER

Approved as to Form:


Approved as to Content:

  
Director of Law

  
Director of Economic Development

STATE OF OHIO, acting by and through the Ohio Arts Facilities Commission

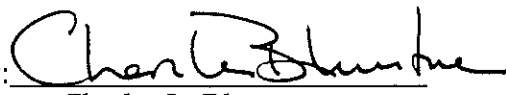
Signed in the presence of:

  
~~Print Name:~~ MARK SCHMOLLINGER

By:   
Kathleen M. Fox  
Executive Director

  
Print Name: KEVIN H. CONNOR

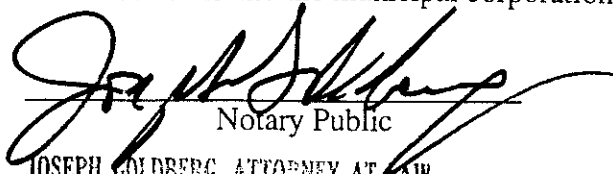
Approved as to Form:  
Lee Fisher  
Attorney General

By:   
Charles L. Bluestone  
Assistant Attorney General



STATE OF OHIO       )  
                                  ) ss.:  
COUNTY OF LUCAS)

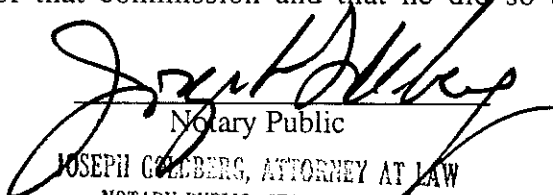
The foregoing instrument was acknowledged before me on June 16, 1994, by Carleton S. Finkbeiner, the Mayor of the City of Toledo, a municipal corporation, on behalf of said corporation, who acknowledged that he executed the foregoing lease agreement for and on behalf of that municipal corporation and that he did so as his and the municipal corporation's own free act and deed.

  
Notary Public

JOSEPH GOLDBERG, ATTORNEY AT LAW  
NOTARY PUBLIC, STATE OF OHIO  
Permanent Commission, O.R.C. 147.03

STATE OF OHIO       )  
                                  ) ss.:  
COUNTY OF LUCAS)

The foregoing instrument was acknowledged before me on June 16, 1994, by Kathleen M. Fox, the Executive Director of the Ohio Arts Facilities Commission, on behalf of the Commission, acting for and on behalf of the State of Ohio, who acknowledged that he executed the foregoing lease agreement for and on behalf of that commission and that he did so as his and the commission's own free act and deed.

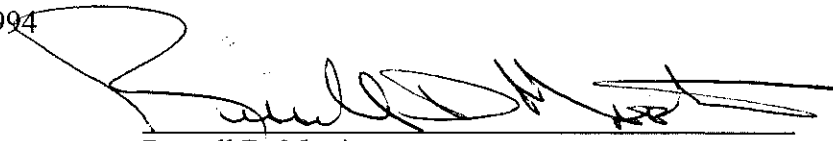
  
Notary Public

JOSEPH GOLDBERG, ATTORNEY AT LAW  
NOTARY PUBLIC, STATE OF OHIO  
Permanent Commission, O.R.C. 147.03

## CERTIFICATE OF AVAILABILITY OF FUNDS

The undersigned, as fiscal officer of the City of Toledo under the aforesaid Lease, hereby certifies that the moneys required to meet the obligations of the City of Toledo during the year 1994 under the aforesaid Lease have been lawfully appropriated by the Council of said City for such purposes and are in the custody of the undersigned or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code §§5705.41 and 5705.44.

Dated: June 16, 1994

A handwritten signature in black ink, appearing to read "Russell D. Martin", written over a horizontal line.

Russell D. Martin  
Director of Finance  
City of Toledo, Ohio

MEMORANDUM OF LEASE

This is a memorandum of an Amended and Restated Lease Agreement (the "Lease") by and between The City of Toledo, Ohio ("Landlord") and The State of Ohio acting by and through the Ohio Arts Facilities Commission ("Tenant"), which Lease is hereby incorporated herein by reference.

1. The address of Landlord is: One Government Center, Suite 2200, Toledo, Ohio 43604, Attention: Mayor.

2. The address of Tenant is: Vern Riffe Center for Government and the Arts, 77 South High Street, 21st Floor, Columbus, Ohio 43266, Attention: Director.

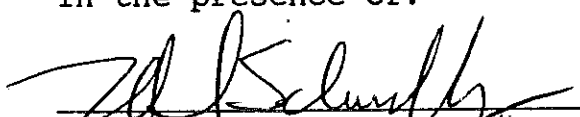
3. The date of execution of the Lease was as of June 16, 1994.

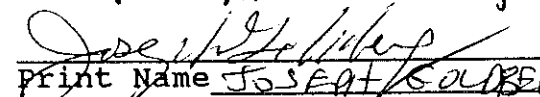
4. The leased premises is located in Toledo, Lucas County, Ohio, and is further described on the attached Exhibit A, which is hereby incorporated herein by reference (the "Premises").

5. The term of the Lease commences June 16, 1994 and ends upon the retirement of the Obligations (as such term is defined in the Lease) or upon the expiration of the useful life of the Center (as defined in the Lease) as certified by the Director of Budget and Management, or whichever is greater, but in any event not less than 20 nor more than 30 years.


Executed as of June 16, 1994.

Signed and acknowledged  
in the presence of:

  
Print Name MARK SCHMOLLINGER

  
Print Name JOSEPH GOLDBERG

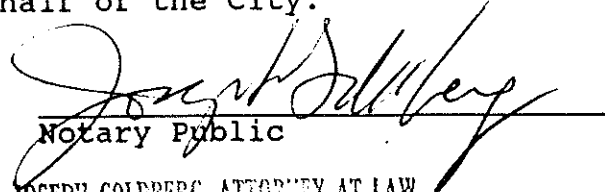
THE CITY OF TOLEDO, OHIO

By   
Carleton S. Finkbeiner, Mayor

(Acknowledgement continued on next page)

STATE OF OHIO  
COUNTY OF LUCAS

The foregoing was acknowledged before me on June 16<sup>th</sup>, 1994  
by Carleton S. Finkbeiner, Mayor of the City of Toledo, Ohio, on  
Ohio municipal corporation, on behalf of the City.

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

JOSEPH GOLDBERG, ATTORNEY AT LAW  
NOTARY PUBLIC, STATE OF OHIO  
Permanent Commission, O.R.C. 147.03

This document prepared by:

Charles Bluestone, Esq.  
Ohio Attorney General's Office  
30 East Broad Street, 23rd Floor  
Columbus, Ohio 43215

LEGAL DESCRIPTION

PARCEL 1: A parcel of land being part of Lot number two (2) in "SeaGate", part of Lots numbers nine hundred thirty (930) thru nine hundred thirty-six (936) in "Port Lawrence Division" and also part of Water Street, all being located in the City of Toledo, Lucas County, Ohio, said parcel of land being bounded and described as follows:

Commencing at the point of intersection of the centerline of Adams Street with the centerline of Summit Street; thence in a Northeasterly direction along the said centerline of Summit Street, having an assumed bearing of North forty-one (41) degrees, fifty-four (54) minutes, eleven (11) seconds East, a distance of thirty-three and one hundredth (33.01) feet to the intersection of the Northwesterly extension of the Southwesterly lot line of said Lot number two (2) in "SeaGate"; thence South forty-eight (48) degrees, six (06) minutes, thirty-five (35) seconds East along the said Northwesterly extension of the Southwesterly lot line of Lot number two (2) in "SeaGate", a distance of seventy-five and zero hundredths (75.00) feet to the intersection of a line drawn seventy-five and zero hundredths (75.00) feet Southeasterly of and parallel with the said centerline of Summit Street, said point of intersection being the true point of beginning; thence North forty-one (41) degrees, fifty-four (54) minutes, eleven (11) seconds East along said line drawn seventy-five and zero hundredths (75.00) feet Southeasterly of and parallel with the centerline of Summit Street, a distance of one hundred four and eighty-two hundredths (104.82) feet to a turning point; thence South forty-eight (48) degrees, eight (08) minutes, four (04) seconds East along a line, a distance of seventy and seventy-six hundredths (70.76) feet to a turning point; thence North eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along a line a distance of twenty-three and twenty-three hundredths (23.23) feet to a turning point; thence North forty-one (41) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along a line a distance of thirty-six and seven hundredths (36.07) feet to a turning point; thence South forty-eight (48) degrees, eight (08) minutes, four (04) seconds East along a line a distance of one hundred eighty-nine and seventy-nine hundredths (189.79) feet to a turning point; thence North eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along a line a distance of sixty-nine and eighty-three hundredths (69.83) feet to a turning point; thence North forty-one (41) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along a line a distance of seven and seven hundredths (7.07) feet to a turning point; thence North eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along a line a distance of sixteen and ninety-seven hundredths (16.97) feet to a turning point; thence South forty-eight (48) degrees, eight (08) minutes, four (04) seconds East along a line a distance of forty-five and zero hundredths (45.00) feet to a turning point; thence South three (03)

(Continued)

**EXHIBIT "A"**

**Legal Description**

LEGAL DESCRIPTION  
(Cont.)

degrees, eight (08) minutes, four (04) seconds East along a line a distance of seventy and zero hundredths (70.00) feet to a turning point; thence South forty-one (41) degrees, fifty-one (51) minutes, fifty-six (56) seconds West along a line a distance of seventy-one and eighty-five hundredths (71.85) feet to the intersection of the Southeasterly line of the recorded Subdivision Plat of said "Port Lawrence Division"; thence South fifty-four (54) degrees, forty-four (44) minutes, fifty-nine (59) seconds West along said Southeasterly line of the recorded Subdivision Plat of "Port Lawrence Division", a distance of ninety-one and thirty-nine hundredths (91.39) feet to a turning point; thence South eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds West along a line a distance of twenty-one and ninety-two hundredths (21.92) feet to the intersection of the Southeasterly extension of said Southwesterly lot line of Lot number two (2) in "SeaGate", said Southeasterly extension of the Southwesterly lot line of Lot number two (2) in "SeaGate" also being a line drawn thirty-three and zero hundredths (33.00) feet Northeasterly of and parallel with the centerline of Adams Street; thence North forty-eight (48) degrees, six (06) minutes, thirty-five (35) seconds West along the said southeasterly extension of the Southwesterly lot line of Lot number two (2) in "SeaGate" and along said Southwesterly lot line of Lot number two (2) in "SeaGate", a distance of three hundred ninety-seven and four hundredths (397.04) feet to the true point of beginning.

The above described parcel of land contains an area of sixty-nine thousand five hundred sixty-three (69,563) square feet, or one and five hundred ninety-seven thousandths (1.597) acres of land, more or less.

Excepting from the above described parcel of land the two (2) attached Exhibits titled as follows:

Exhibit One "Lower Cupola Level" description

Exhibit Two "Upper Cupola Level" description

Exhibit One "Lower Cupola Level" Description

A parcel of land being part of Lot number two (2) in "SeaGate", a Subdivision in the City of Toledo, Lucas County, Ohio, said parcel of land being bounded and described as follows:

Commencing at the point of intersection of the centerline of Adams Street with the centerline of Summit Street; thence in a Northeasterly direction along said centerline of Summit Street having an assumed bearing of North forty-one (41) degrees, fifty-four (54) minutes, eleven (11) seconds East, a distance of thirty-three and one hundredth (33.01) feet to the intersection of the Northwesterly extension of the Southwesterly lot line of said Lot number two (2) in "SeaGate"; thence South forty-eight (48) degrees, six (06) minutes, thirty-five (35) seconds East along said Northwesterly extension of the Southwesterly lot line of Lot number two (2) in "SeaGate", and along said Southwesterly lot line of Lot number two (2)

(Continued)

LEGAL DESCRIPTION  
(Cont.)

in "SeaGate", a distance of one hundred thirty-two and fifty-four hundredths (132.54) feet to the intersection of the Northwesterly face of the design curtain wall for the said "Lower Cupola Level", said point of intersection being the true point of beginning; thence North forty-one (41) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along said Northwesterly face of the design curtain wall, a distance of five and ninety-three hundredths (5.93) feet to the intersection of the Westerly face of said design curtain wall; thence North three (03) degrees, eight (08) minutes, four (04) seconds West along said Westerly face of the design curtain wall, a distance of eight and thirty-five hundredths (8.35) feet to the intersection of the Southwesterly face of said design curtain wall; thence North forty-eight (48) degrees, eight (08) minutes, four (04) seconds West along said Southwesterly face of the design curtain wall, a distance of nine and fifty hundredths (9.50) feet to the intersection of the Southeasterly face of the design curtain wall separating the "Gas Meter Room" from the "Cupola Maintenance Room"; thence North forty-one (41) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along said Southeasterly face of the design curtain wall, a distance of thirteen and fifty hundredths (13.50) feet to the intersection of the Southwesterly face of the design curtain wall separating the said "Cupola Maintenance Room" from the "Service Facility"; thence South forty-eight (48) degrees, eight (08) minutes, four (04) seconds East along said Southwesterly face of the design curtain wall and along the Southwesterly face of the design curtain wall separating said "Lower Cupola Level" from the said "Service Facility", a distance of eighteen and sixty-five hundredths (18.65) feet to the intersection of the Southerly face of said design curtain wall; thence North eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along said Southerly face of the design curtain wall, a distance of eight and forty-nine hundredths (8.49) feet to the intersection of the Southwesterly face of said design curtain wall; thence South forty-eight (48) degrees, eight (08) minutes, four (04) seconds East along said Southwesterly face of the design curtain wall, a distance of six and fifty-six hundredths (6.56) feet to the intersection of the Westerly face of the said design curtain wall; thence South three (03) degrees, eight (08) minutes, four (04) seconds East along said Westerly face of the design curtain wall, a distance of five and ninety-five hundredths (5.95) feet to the intersection of the Northwesterly face of said design curtain wall; thence South forty-one (41) minutes, fifty-one (51) minutes, fifty-six (56) seconds West along said Northwesterly face of the design curtain wall, a distance of twenty-seven and fourteen hundredths (27.14) feet to the intersection of said Southwesterly lot line of Lot number two (2) in "SeaGate"; thence North forty-eight (48) degrees, six (06) minutes, thirty-five (35) seconds West along said Southwesterly lot line of Lot

(Continued)



LEGAL DESCRIPTION  
(Cont.)

number two (2) in "SeaGate", a distance of twenty and zero hundredths (20.00) feet to the true point of beginning.

Said parcel of land containing an area or eight hundred six (806) square feet, or nineteen thousandths (0.019) acres of land, more or less.

Said parcel of land being all that part of the Real Property lying below a tangent to the surface of the earth and parallel to the top-most level of the design Structure Floor Slab (Finished Floor) now under construction upon said premises.

Said plane being located at an approximate elevation of six hundred and zero hundredths (600.00) feet above sea level based on City of Toledo datum.

Exhibit Two "Upper Cupola Level" Description

A parcel of land being part of Lot number two (2) in "SeaGate", a Subdivision in the City of Toledo, Lucas County, Ohio, said parcel of land being bounded and described as follows:

Commencing at the point of intersection of the centerline of Adams Street with the centerline of Summit Street; thence in a Northeasterly direction along said centerline of Summit Street having an assumed bearing of North forty-one (41) degrees, fifty-four (54) minutes, eleven (11) seconds East, a distance of thirty-three and one hundredth (33.01) feet to the intersection of the Northwesterly extension of the Southwesterly lot line of said Lot number two (2) in "SeaGate"; thence South forty-eight (48) degrees, six (06) minutes, thirty-five (35) seconds East along said Northwesterly extension of the Southwesterly lot line of Lot number two (2) in "SeaGate" and along said Southwesterly lot line of Lot number two (2) in "SeaGate", a distance of one hundred thirty-five and three hundredths (135.03) feet to a point; thence North forty-one (41) degrees, fifty-three (53) minutes, twenty-five (25) seconds East along a line a distance of three and forty-two hundredths (3.42) feet to the intersection of the Southwesterly face of the design curtain wall, of said "Upper Cupola Level", said intersection being the true point of beginning; thence North three (03) degrees, eight (08) minutes, four (04) seconds West along the Westerly face of said design curtain wall, a distance of fifteen and forty-two hundredths (15.42) feet to the intersection of the Northwesterly face of said design curtain wall; thence North forty-one (41) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along said Northwesterly face of the design curtain wall, a distance of fifteen and forty-two hundredths (15.42) feet to the intersection of the Northerly face of said design curtain wall; thence North eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along said Northerly face of the design curtain wall, a distance of fifteen and forty-two hundredths (15.42) feet to the intersection of the Northeasterly face of said design curtain wall; thence South forty-eight (48) degrees, eight (08)

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minutes, four (04) seconds East along said Northeasterly face of the design curtain wall, a distance of fifteen and forty-two hundredths (15.42) feet to the intersection of the Easterly face of said design curtain wall; thence South three (03) degrees, eight (08) minutes, four (04) seconds East along said Easterly face of the design curtain wall, a distance of fifteen and forty-two hundredths (15.42) feet to the intersection of the Southeasterly face of said design curtain wall; thence South forty-one (41) degrees, fifty-one (51) minutes, fifty-six (56) seconds West along said Southeasterly face of the design curtain wall, a distance of fifteen and forty-two hundredths (15.42) feet to the intersection of the Southerly face of said design curtain wall; thence South eighty-eight (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds West along said Southerly face of the design curtain wall, a distance of fifteen and forty-two hundredths (15.42) feet to the intersection of said Southwesterly face of the design curtain wall; thence North forty-eight (48) degrees, eight (08) minutes, four (04) seconds West along said Southerly face of the design curtain wall, a distance of fifteen and forty-two hundredths (15.42) feet to the true point of beginning.

Said parcel of land containing an area of one thousand one hundred forty-eight (1,148) square feet, or twenty-six thousandths (0.026) acres of land, more or less.

Said parcel of land being all that part of the Real Property lying above a tangent to the surface of the earth and parallel to the top-most level of the design Structure Floor Slab (Finished Floor) now under construction upon said premises.

Said plane being located at an approximate elevation of six hundred and zero hundredths (600.00) feet above sea-level based on City of Toledo datum.

PARCEL 2: "Leased Property Easement No. 1" -

A parcel of land being part of Lot number nine hundred thirty (930) in "Port Lawrence Division" and also being part of a parcel of land lying between the Southeasterly line of the Recorded Subdivision Plat of "Port Lawrence Division" and the Northwesterly "Maumee River Harbor Line" as established by the U.S. Army Corps. of Engineers and shown on Drawing dated November 29, 1916 denoted "Toledo Harbor, Ohio - Established Harbor Lines", File NO. 1-1-40, all being in the City of Toledo, Lucas County, Ohio, said parcel of land being bounded and described as follows:

Commencing at the point of intersection of the centerline of Adams Street with the centerline of Summit Street; thence in a Northeasterly direction along the said centerline of Summit Street, having an assumed bearing of North forty-one (41) degrees, fifty-four (54) minutes, eleven (11) seconds East, a distance of thirty-three and one hundredth (33.01)

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feet to the intersection of the Northwesterly extension of the Southwesterly lot line of Lot number two (2) in "SeaGate"; thence South forty-eight (48) degrees, six (06) minutes, thirty-five (35) seconds East along said Northwesterly extension of the Southwesterly lot line of Lot number two (2) in "SeaGate", and along said Southwesterly lot line of Lot number two (2) in "SeaGate", and along the Southeasterly extension of said Southwesterly lot line of Lot number two (2) in "SeaGate", a distance of four hundred seventy-two and four hundredths (472.04) feet to the intersection of the Southerly line of the proposed "Portside Marketplace Lease Area", said Southeasterly extension of the Southwesterly lot line of Lot number two (2) in "SeaGate" also being a line drawn thirty-three and zero hundredths (33.00) feet Northeasterly of and parallel with the said centerline of Adams Street; thence North eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along said Southerly line of the proposed "Portside Marketplace Lease Area", a distance of one and fifteen hundredths (1.15) feet to the intersection of the Southwesterly face of the design retaining wall, said point of intersection also being the true point of beginning; thence continuing North eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along said Southerly line of the proposed "Portside Marketplace Lease Area", a distance of twenty and seventy-seven hundredths (20.77) feet to the intersection of the Southeasterly line of said proposed "Portside Marketplace Lease Area"; thence North fifty-four (54) degrees, forty-four (44) minutes, fifty-nine (59) seconds East along said Southeasterly line of the proposed "Portside Marketplace Lease Area", a distance of fourteen and thirty-five hundredths (14.35) feet to the intersection of the Northeasterly face of said design retaining wall; thence South forty-eight (48) degrees, eight (08) minutes, four (04) seconds East along said Northeasterly face of the design retaining wall, a distance of eleven and one hundredth (11.01) feet to a point; thence South forty-one (41) degrees, fifty-one (51) minutes, fifty-six (56) seconds West along a line a distance of two and zero hundredths (2.00) feet to the intersection of the Southwesterly face of said design retaining wall, said point of intersection being located two and zero hundredths (2.00) feet Northwesterly of an angle point in said Southwesterly face of the design retaining wall; thence South eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds West along a line a distance of thirty-four and eighty-nine hundredths (34.89) feet to the intersection of the Southeasterly face of said design retaining wall,

LEGAL DESCRIPTION  
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said intersection being located two and zero hundredths (2.00) feet Northeasterly of an angle point in said Southeasterly face of the design curtain wall; thence South forty-one (41) degrees, fifty-one (51) minutes, fifty-six (56) seconds West along said Southeasterly face of the design retaining wall, a distance of two and zero hundredths (2.00) feet to the intersection of said Southwesterly face of the design retaining wall; thence North forty-eight (48) degrees, eight (08) minutes, four (04) seconds West along said Southwesterly face of the design retaining wall, a distance of four and twenty-two hundredths (4.22) feet to the true point of beginning.

Said parcel of land containing an area of one hundred thirty-nine (139) square feet or three thousandths (0.003) acres of land, more or less.

PARCEL 3: "Leased Property Easement No. 2" -

A parcel of land being part of Lots number nine hundred thirty-two (932) thru nine hundred thirty-seven (937) in "Port Lawrence Division", also being part of a parcel of land lying between the Southeasterly line of the Recorded Subdivision Plat of "Port Lawrence Division" and the Northwesterly "Maumee River Harbor Line" as established by the U.S. Army Corps. of Engineers and shown on Drawing dated November 29, 1916 denoted "Toledo Harbor, Ohio - Established Harbor Lines", File No. 1-1-40, and also being part of vacated Water Street, all being in the City of Toledo, Lucas County, Ohio, said parcel of land being bounded and described as follows:

Commencing at the point of intersection of the centerline of Adams Street with the centerline of Summit Street; thence in a Northeasterly direction along the said centerline of Summit Street, having an assumed bearing of North forty-one (41) degrees, fifty-four (54) minutes, eleven (11) seconds East, a distance of thirty-three and one hundredth (33.01) feet to the intersection of the Northwesterly extension of the Southwesterly lot line of Lot number two (2) in "SeaGate"; thence South forty-eight (48) degrees, six (06) minutes, thirty-five (35) seconds East along said Northwesterly extension of the Southwesterly lot line of Lot number two (2) in "SeaGate" and along said Southwesterly lot line of Lot number two (2) in "SeaGate" and along the Southeasterly extension of said Southwesterly lot line of Lot number two (2) in "SeaGate", a distance of four hundred seventy-two and four hundredths (472.04) feet to the intersection of the Southerly line of the proposed "Portside Marketplace Lease Area", said Southeasterly extension of the Southwesterly lot line of Lot number two (2) in "SeaGate" also being a line drawn thirty-three  
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LEGAL DESCRIPTION

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and zero hundredths (33.00) feet Northeasterly of and parallel with the said centerline of Adams Street; thence North eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along said Southerly line of the proposed "Portside Marketplace Lease Area", a distance of twenty-one and ninety-two hundredths (21.92) feet to the intersection of the Southeasterly line of the proposed "Portside Marketplace Lease Area"; thence North fifty-four (54) degrees, forty-four (44) minutes, fifty-nine (59) seconds East along said Southeasterly line of the proposed "Portside Marketplace Lease Area", a distance of seventy-seven and thirty-one hundredths (77.31) feet to the intersection of the Southerly face of the design retaining wall, said point of intersection being the true point of beginning; thence continuing North fifty-four (54) degrees, forty-four (44) minutes, fifty-nine (59) seconds East along said Southeasterly line of the proposed "Portside Marketplace Lease Area", a distance of fourteen and eight hundredths (14.08) feet to an angle point in said Southeasterly line of the proposed "Portside Marketplace Lease Area"; thence North forty-one (41) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along said Southeasterly line of the proposed "Portside Marketplace Lease Area", a distance of seventy-one and eighty-five hundredths (71.85) feet to the intersection of the Easterly line of said proposed "Portside Marketplace Lease Area"; thence North three (03) degrees, eight (08) minutes, four (04) seconds West along said Easterly line of the proposed "Portside Marketplace Lease Area", a distance of seventy and zero hundredths (70.00) feet to the intersection of the Northeasterly line of said proposed "Portside Marketplace Lease Area"; thence North forty-eight (48) degrees, eight (08) minutes, four (04) seconds West along said Northeasterly line of the proposed "Portside Marketplace Lease Area", a distance of forty-five and zero hundredths (45.00) feet to the intersection of the Northerly line of said proposed "Portside Marketplace Lease Area"; thence South eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds West along said Northerly line of the proposed "Portside Marketplace Lease Area", a distance of four and thirty-one hundredths (4.31) feet to a point; thence North forty-one (41) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along a line a distance of twenty-two and sixty-eight hundredths (22.68) feet to a point; thence South forty-eight (48) degrees, eight (08) minutes, four (04) seconds East along a line a distance of twenty and ninety hundredths (20.90) feet to the intersection of the Northerly face of said design retaining wall, said point of intersection being located two and zero hundredths (2.00) feet Easterly of an angle point in said Northerly face of the design retaining wall; thence South three (03) degrees, eight (08) minutes, four (04) seconds East along a line a distance of two and zero hundredths (2.00) feet to the intersection of the Southerly face of said design retaining wall; thence South eighty-six

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(86) degrees, fifty-one (51) minutes, fifty-six (56) seconds West along said Southerly face of the design retaining wall, a distance of one and seventeen hundredths (1.17) feet to the intersection of the Southeasterly face of said design retaining wall; thence South forty-one (41) degrees, fifty-one (51) minutes, fifty-six (56) seconds West along said Southeasterly face of the design retaining wall, a distance of ten and seventeen hundredths (10.17) feet to the intersection of the Northeasterly face of said design retaining wall; thence South forty-eight (48) degrees, eight (08) minutes, four (04) seconds East along said Northeasterly face of the design retaining wall, a distance of thirty-seven and ninety-two hundredths (37.92) feet to a point; thence North eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds East along a line a distance of ten and fifty hundredths (10.50) feet to a point; thence South three (03) degrees, eight (08) minutes, four (04) seconds East along a line a distance of twenty-three and twenty hundredths (23.20) feet to the intersection of the Southerly face of said design retaining wall; thence South eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds West along said Southerly face of the design retaining wall and along the Westerly extension of said Southerly face of the design retaining wall, a distance of ten and fifty hundredths (10.50) feet to the intersection of the Northerly extension of the Easterly face of said design retaining wall; thence South three (03) degrees, eight (08) minutes, four (04) seconds East along said Northerly extension of the Easterly face of the design retaining wall and along said Easterly face of the design retaining wall a distance of fifty-one and sixty-six hundredths (51.66) feet to the intersection of the Southeasterly face of said design retaining wall; thence South forty-one (41) degrees, fifty-one (51) minutes, fifty-six (56) seconds West along said Southeasterly face of the design retaining wall, a distance of forty-one and forty-two hundredths (41.42) feet to the intersection of the Southerly face of said design retaining wall; thence South eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds West along said Southerly face of the design retaining wall, a distance of seven and seven hundredths (7.07) feet to the intersection of the Southeasterly face of said design retaining wall; thence South forty-one (41) degrees, fifty-one (51) minutes, fifty-six (56) seconds West along said Southeasterly face of the design retaining wall, a distance of thirty and zero hundredths (30.00) feet to the intersection of said Southerly face of the design retaining wall; thence South eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds West along said Southerly face of the design retaining wall, a distance of eighteen and twenty-eight hundredths (18.28) feet to the true point of beginning.

Said parcel of land containing an area of two thousand eight hundred fifty-nine (2,859) square feet or sixty-six thousandths (0.066) acres of

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land, more or less.

PARCEL 4: A parcel of land being the Southerly part of Lots numbers nine hundred thirty-two (932), nine hundred thirty-three (933), nine hundred thirty-four (934), nine hundred thirty-five (935) and nine hundred thirty-six (936) of the Port Lawrence Division and also a part of a parcel of land lying between the Southeasterly line of the recorded Subdivision Plat of Port Lawrence Division and the Northwesterly Maumee River Harbor Line, as established by the United States Army Corp. of Engineers and shown on a drawing dated November 29, 1916 denoted (Toledo Harbor, Ohio - established Harbor Line, File No. 1-1-40), all being in the City of Toledo, Lucas County, Ohio and being more particularly described as follows:

Commencing at the point of intersection of the centerline of Adams Street with the centerline of Summit Street; thence North forty-four (41) degrees, fifty-four (54) minutes, eleven (11) seconds East, on the centerline of Summit Street, a distance of thirty-three and one hundredth (33.01) feet to a point of intersection of the centerline of Summit Street with the Northwesterly extension of the Southwesterly line of Lot number two (2) of "SeaGate", a Subdivision in the City of Toledo, Lucas County, Ohio; thence South forty-eight (48) degrees, six (06) minutes, thirty-five (35) seconds East, on the Northwesterly extension of the Southwesterly line of Lot number two (2) of "SeaGate" and on the Southwesterly line of Lot number two (2) of "SeaGate", passing through the sixty (60) foot right of way of Water Street and continuing on the Southwesterly line of Lot number nine hundred thirty (930) of the Port Lawrence Division, a total distance of four hundred seventy-two and four hundredths (472.04) feet to a point, said point being eleven and ninety-five hundredths (11.95) feet Northwesterly of the Southeasterly corner of Lot number nine hundred thirty (930) of Port Lawrence Division; thence North eighty-six (86) degrees, fifty-one (51) minutes, fifty-six (56) seconds East, a distance of twenty-one and ninety-two hundredths (21.92) feet to a point on the Southeasterly line of the Plat of the Port Lawrence Division, said point being fifteen and ninety hundredths (15.90) feet Northeasterly of the Southeasterly corner of Lot number nine hundred thirty (930); thence North fifty-four (54) degrees, forty-four (44) minutes, fifty-nine (59) seconds East on the Southeasterly line of the recorded Subdivision Plat of Port Lawrence Division, a distance of fourteen and seven hundredths (14.07) feet to a point on the Northeasterly face of a two (2.00) foot wide concrete retaining wall, said point being the true point of beginning of the easement herein described; thence continuing North fifty-four (54) degrees, forty-four (44) minutes, fifty-nine (59) seconds East, on the Southeasterly line of the recorded Subdivision Plat of Port Lawrence Division, a distance of seventy-seven and thirty-two hundredths (77.32) feet to a point on the

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Southeasterly line of Lot number nine hundred thirty-two (932) of the Port Lawrence Division; thence North forty-one (41) degrees, fifty-one (51) minutes, fifty-six (56) seconds East, on a line passing through Lots numbers nine hundred thirty-two (932) and nine hundred thirty-three (933), a total distance of seventy-one and eighty-five hundredths (71.85) feet to a point within Lot number nine hundred thirty-four (934); thence North three (03) degrees, eight (08) minutes, four (04) seconds West, a distance of twenty-five and seventy-two hundredths (25.72) feet to a point on the Southeasterly face of an existing two (2.00) foot wide concrete retaining wall and to a point located within Lot number nine hundred thirty-four (934); thence North eighty-six (86) degrees, forty-eight (48) minutes, twenty (20) seconds East, along the Southeasterly face of an existing two (2.00) foot wide concrete retaining wall and on a line passing through Lots numbers nine hundred thirty-four (934) and nine hundred thirty-five (935), a total distance of forty-five and twenty-three hundredths (45.23) feet to a point located within Lot number nine hundred thirty-six (936); thence South forty-seven (47) degrees, fifty-eight (58) minutes, twenty-nine (29) seconds East along the Southeasterly face of a two (2.00) foot wide concrete retaining wall, a distance of fourteen and fourteen hundredths (14.14) feet to a point on the Southeasterly line of Lot number nine hundred thirty-six (936); thence continuing South forty-seven (47) degrees, fifty-eight (58) minutes, twenty-nine (29) seconds East, on the Southeasterly face of a two (2.00) foot wide retaining wall, a distance of three and ninety-five hundredths (3.95) feet to a point; thence South five (05) degrees, seventeen (17) minutes, thirty-eight (38) seconds West on the Southwesterly face of a two (2.00) foot wide concrete retaining wall, a distance of twenty-seven and nineteen hundredths (27.19) feet to a point; thence South fifty (50) degrees, thirty-nine (39) minutes, fifty-three (53) seconds West on the Northwesterly face of a two (2.00) foot wide concrete retaining wall, a distance of one hundred forty-four and six hundredths (144.06) feet to a point; thence South eighty-six (86) degrees, fifty-nine (59) minutes, fifty-one (51) seconds West and continuing on the Northwesterly face of a two (2.00) foot wide concrete retaining wall, a distance of forty-seven and two hundredths (47.02) feet to a point; thence North forty-eight (48) degrees, eight (08) minutes, thirty-four (34) seconds West on the Northeasterly face of a two (2.00) foot wide concrete retaining wall, a distance of nine and ninety-four hundredths (9.94) feet to the true point of beginning of the parcel herein described, containing seven thousand three hundred forty-three (7,343) square feet of land, more or less.



## **EXHIBIT "B"**

### **Easement**

Lessor reserves unto itself, its successors and assigns a perpetual exclusive easement in that land described as Parcel 4 on Exhibit A attached hereto (the "Easement Premises") for the servicing, maintenance and repair, if and when necessary, of existing 12 inch and 16 inch high pressure water lines which presently run beneath and under the Easement Premises. Lessee hereby agrees to at all times keep said lines free from interference by Lessee and, pursuant to the terms of the Lease, Lessee shall cause Lessor to be fully indemnified and held harmless from any and all claims, liabilities, damages and costs resulting from or arising out of any damage or destruction to or of said lines due to Lessee's occupancy and use of the Easement Premises under the terms and conditions of the Lease. Lessee understands that if said lines have to be repaired and/or replaced at any time during the term of the Lease, it may necessitate the removal or alteration of any improvements placed within the Easement Premises. Lessee hereby agrees that it will at its expense see to said removal or alteration of any such improvements if same is absolutely necessary for any such repairs or replacements to said lines or the Easement Premises.



## J. C. ANDRUS & ASSOCIATES, INC.

**ENGINEERS - SURVEYORS - PLANNERS**

445 - 10TH STREET TOLEDO, OHIO 43624

(419) 248-3737 • (419) 248-0801 • (313) 243-5877

FAX (419) 248-1089 • 1-800-689-5315

December 1, 1993

Revised: May 17, 1996

Survey Number: 935-7033

**TOTAL COSI BOUNDARY**  
1.944 Acre Parcel

A parcel of land being a part of Lot No. 2 and Lot No. 3 in "Seagate", a part of Lots No. 930 through 937 in "Port Lawrence Division", Part of vacated Water Street and part of a parcel of land lying between the Southeasterly line of the recorded Subdivision plat of "Port Lawrence Division" and the Northwesterly Maumee River Harbor line, as established by the U.S. Army Corps of Engineers and shown on a drawing dated November 29, 1918, denoted Toledo Harbor, Ohio - Established Harbor Line, file No. 1-1-40, all in the City of Toledo, Lucas County, Ohio and being more particularly described as follows:

Commencing at the point of intersection of the centerline of Adams Street with the centerline of Summit Street;

thence North  $41^{\circ} 54' 11''$  East, on the centerline of Summit Street, a distance of 33.01 feet to the intersection of the centerline of Summit Street with the Northwesterly extension of the Southwesterly line of Lot No. 2 in "Seagate";

thence South  $48^{\circ} 08' 35''$  East, on the Northwesterly extension of the Southwesterly line of Lot No. 2 in "Seagate", a distance of 75.00 feet to a point on the Southeasterly right-of-way line of Summit Street, said point being the **TRUE POINT OF BEGINNING** of the parcel herein described;

thence North  $41^{\circ} 54' 11''$  East, on the Southeasterly right-of-way line of Summit Street, a distance of 104.82 feet to a point;

thence South  $48^{\circ} 08' 04''$  East, a distance of 70.76 feet to a point;

thence North  $86^{\circ} 51' 56''$  East, a distance of 23.23 feet to a point;

thence North  $41^{\circ} 51' 56''$  East, a distance of 38.07 feet to a point;

thence South  $48^{\circ} 08' 04''$  East, a distance of 189.79 feet to a point;

**TOTAL COSI BOUNDARY**  
**1.944 Acre Parcel**  
**Page 2**

thence North  $88^{\circ} 51' 56''$  East, a distance of 59.83 feet to a point;

thence North  $41^{\circ} 51' 56''$  East, a distance of 7.07 feet to a point;

thence North  $86^{\circ} 51' 56''$  East, a distance of 16.87 feet to a point, said point being within Lot No. 936, "Port Lawrence Division";

thence North  $85^{\circ} 28' 45''$  East, a distance of 27.31 feet to a point of intersection with the Southerly face of an existing 2 foot wide concrete wall, said point being within Lot No. 937;

thence North  $86^{\circ} 54' 13''$  East, on the Southerly face of an existing 2 foot wide concrete wall, a distance of 15.27 feet to the intersection of the Southwesterly face of an existing 2 foot wide concrete wall;

thence South  $39^{\circ} 00' 42''$  East, on the Southwesterly face of an existing 2 foot wide concrete wall, a distance of 63.55 feet to the intersection of the Northwesterly face of an existing 2 foot wide concrete wall;

thence South  $17^{\circ} 51' 02''$  East, on a line passing through Lot No. 938 and the Southeasterly line of the recorded Subdivision Plat of "Port Lawrence Division", a distance of 38.33 feet to the point of intersection with the Westerly face of an existing 2 foot wide concrete wall;

thence South  $05^{\circ} 17' 38''$  West, on the Westerly face of an existing 2 foot wide concrete wall, a distance of 27.19 feet to the intersection of the Northwesterly face of an existing 2 foot wide concrete wall;

thence South  $50^{\circ} 38' 53''$  West, on the Northwesterly face of an existing 2 foot wide concrete wall, a distance of 144.06 feet to the intersection of the Northerly face of an existing 2 foot wide concrete wall;

thence South  $88^{\circ} 59' 51''$  West, on the Northerly face of an existing 2 foot wide concrete wall, a distance of 47.02 feet to the intersection of the Northeasterly face of an existing 2 foot wide concrete wall;

thence South  $85^{\circ} 28' 35''$  West, a distance of 18.95 feet to a point on the Southeasterly line of Lot No. 930, "Port Lawrence Division";

thence South  $86^{\circ} 51' 56''$  West, a distance of 21.92 feet to a point on the Southwesterly line of Lot No. 930, "Port Lawrence Division";

**TOTAL COSI BOUNDARY**  
**1.944 Acre Parcel**  
**Page 3**

thence North  $48^{\circ} 06' 35''$  West, on the Southwesterly line of Lot No. 890, "Port Lawrence Division", passing through the 66 foot wide right-of-way of Vacated Water Street and on the Southwesterly line of Lot No. 2 of "Seagate", a distance of 192.24 feet to a point of intersection with the Northerly face of an existing 2 foot wide concrete wall;

thence South  $86^{\circ} 51' 56''$  West, on the Northerly face of an existing 2 foot wide concrete wall, a distance of 22.57 feet to the intersection of the Northeasterly face of an existing 2 foot wide concrete wall;

thence North  $48^{\circ} 08' 04''$  West, on the Northeasterly face of an existing 2 foot wide concrete wall, passing through the end of said 2 foot wide concrete wall, an opening for an existing stairway and the start of an existing 1 foot wide concrete wall, a distance of 29.72 feet to the intersection of the Northerly face of an existing 1 foot wide concrete wall;

thence South  $86^{\circ} 51' 56''$  West, on the Northerly face of an existing 1 foot wide concrete wall, a distance of 4.70 feet to the intersection of the Northwesterly face of an existing 1 foot wide concrete wall;

thence South  $41^{\circ} 51' 56''$  West, on the Northwesterly face of an existing 1 foot wide concrete wall, a distance of 26.61 feet to a point of curvature of said 1 foot wide concrete wall;

thence Westerly on a curve to the right, on the Easterly face of an existing 1 foot wide concrete wall, said curve having a radius of 8.00 feet, a central angle of  $180^{\circ} 00' 00''$ , an arc length of 25.13 feet, a chord bearing of North  $48^{\circ} 08' 04''$  West and a chord length of 16.00 feet to a point of tangency, said point of tangency also being the point of intersection of the Southeasterly face of an existing 1 foot wide concrete wall;

thence North  $41^{\circ} 51' 56''$  East, on the Southeasterly face of an existing 1 foot wide concrete wall, a distance of 1.00 feet to the intersection of the Northeasterly face of an existing 1 foot wide concrete wall;

thence North  $48^{\circ} 08' 04''$  West, on the Northeasterly face of an existing 1 foot wide concrete wall and on the Northwesterly extension of said concrete wall, a distance of 63.00 feet to a point;

thence North  $41^{\circ} 51' 56''$  East, a distance of 44.94 feet to a point on the Southwesterly line of Lot No. 2 in "Seagate";

thence North  $48^{\circ} 06' 35''$  West, on the Southwesterly line of Lot No. 2 in "Seagate", a distance of 76.80 feet to the TRUE POINT OF BEGINNING of the parcel herein described, containing 1.944 acres of land, more or less, subject to any and all leases, easements or restrictions of record.

**TOTAL COSI BOUNDARY**  
**1.944 Acre Parcel**  
**Page 4**

The bearings used herein are for the purpose of describing angles only and are not referenced to true or magnetic North.

  
\_\_\_\_\_  
Jose G. Silva, R.L.S.  
Registered Land Surveyor #7247





Authorizing and directing the Mayor to execute an amendment to the Lease Agreement with COSI Toledo in accordance with Toledo City Council Ordinance No. 154-94; and declaring an emergency.

WHEREAS, Toledo City Council Ordinance No. 154-94 authorized and approved execution of agreements and actions furthering development of the COSI Project at Portside; and

WHEREAS, the City of Toledo ("Lessor") did enter into a Lease Agreement ("Lessor") with the State of Ohio acting by and through the Ohio Arts Facilities Commission ("Lessee"), dated June 16, 1994; and

WHEREAS, Lessor and Lessee, due to project characteristics, desire to include in said Lease additional parcels of land described in Lease Amendment attached, which is incorporated herein by reference ("Amendment"); NOW, THEREFORE,

Be it ordained by the Council of the City of Toledo:

SECTION 1. That the Mayor be and he is hereby authorized and directed to execute on behalf of the City of Toledo, the attached Amendment to the June 16, 1994 Lease with the Ohio Arts and Facilities Commission.

SECTION 2. That the Amendment shall cover the three (3) additional parcels as described in said Amendment.

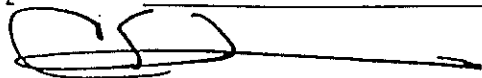
SECTION 3. That this Ordinance is hereby declared to be an emergency measure, and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health, safety and property, and for the further reason that the Lease of said property will allow the expeditious completion of the facility in furtherance of Ordinance No. 154.94

Vote on emergency clause: yeas 12, nays 0.

Passed: Feb 18, 1997, as an emergency measure: yeas 12, nays 0.

ATTEST: Larry J. Brewer Gene Cook  
LARRY J. BREWER PRESIDENT OF COUNCIL  
Clerk of Council

Approved: FEB 19, 1997.



MAYOR



I hereby certify that the above is a true and correct copy of  
a Ordinance passed by Council on FEB 18, 1997.

ATTEST: Larry J. Brewer  
LARRY J. BREWER  
Clerk of Council

~~PUBLISHED IN TCJ 2-22-97~~  
Natural Resources  
Finance  
Accounts  
Real Estate  
Neighborhoods

2-20-97