

Exhibit A

Collaborative Settlement Agreement

COLLABORATIVE SETTLEMENT AGREEMENT

The City of Cincinnati (“City”), the Cincinnati Retirement System (“CRS”), Mayor John Cranley (“Mayor”), City Manager Harry Black (“City Manager”); Nick Sunyak (“Sunyak”) Jeffery Harmon (“Harmon”), Jill Allgeyer (“Allgeyer”), Kim Kappel (“Kappel”), Waleia Jackson (“Jackson”), Finley Jones (“F. Jones”), and Richard Ganulin (“Ganulin”), individually and on behalf of the classes and sub-classes of current City employee plaintiffs later defined herein; Thomas A. Gamel, Sr., (“Gamel”), Paul Smith (“Smith”), Mark K. Jones (“M. Jones”), Dennis Davis (“Davis”), Ely Ryder (“Ryder”) and Ann DeGroot (“DeGroot”), individually and on behalf of the class of intervening City retiree plaintiffs later defined herein; and the American Federation of State and Municipal Employees Ohio Council No. 8 (“AFSCME”) (“the Parties”) do hereby enter into this Collaborative Settlement Agreement (“Agreement” or “Collaborative Agreement”) on May 7, 2015. This Collaborative Agreement constitutes a full and complete settlement of any and all claims asserted against the City, the CRS and related City Defendants, or that could have been asserted, in consideration of the mutual promises of the Parties and pursuant to the terms and conditions set forth below, all subject to the approval of the Court.

INTRODUCTION

The Parties have litigated complex questions about the management of the CRS – and the respective rights of plan participants – for nearly five years. This litigation has addressed, *inter alia*, benefits levels, eligibility requirements, healthcare benefits and funding mechanisms. While some of these lawsuits have been subject to conclusive appellate rulings, many pertinent legal and factual questions remain. In past years, each new set of proposed CRS reforms have invited a new round of legal challenges – including, but not limited to, questions of procedural and substantive due process as raised by both current employees, future retirees and current retirees.

The Parties have concluded that continued litigation would be wasteful and counterproductive. Any dispositive rulings on the pending issues would likely take years to achieve – years during which the CRS' accruing unfunded liability would continue to grow and the City's bond rating may become ever more endangered. Given these facts, the Parties determined it was in their best interests and the public interest to craft a collaborative mediation process in which all issues relating to the CRS are addressed. These efforts culminated in the terms of this Collaborative Agreement.

VALUE STATEMENT

This Collaborative Agreement represents a sincere effort to “share the pain” of complex and much-needed pension reforms. It is the product of many months of cooperative, collaborative and iterative negotiations amongst the City, representatives of employees, a labor union which represents many of them, and representatives of City retirees.

The reforms promulgated in this Collaborative Agreement constitute a comprehensive strategy to stabilize the CRS while also securing sustainable and competitive retirement benefits for both current and future City retirees. The terms of this Collaborative Agreement will greatly improve the City's long-term financial position and will meaningfully address concerns regarding the City's creditworthiness as determined by both governmental entities and national credit rating agencies.

GOALS OF COLLABORATIVE SETTLEMENT AGREEMENT

While this Agreement primarily addresses the accruing unfunded liability that has destabilized the CRS during the past decade, its overall goals go far beyond actuarial calculations. The Parties acknowledge that years of poor communication among the various stakeholders has created suspicion and occasional animosity. This contentious atmosphere has often rendered substantive discussions impossible. Thus, this Agreement addresses both

material issues within the CRS and the less tangible (but equally important) issues of trust, access and transparency that have long hampered reform efforts. Accordingly, the Parties have adopted the following overarching goals in regards to the structure and implementation of this Agreement:

First Goal: Stabilize the overall financial position of the CRS so that both current and future retirees can expect to receive meaningful and competitive benefits in the future, specifically pension, including a Cost of Living Adjustment (“COLA”), and healthcare benefits.

Second Goal: The pension trust fund will be funded at actuarially appropriate levels, with the goal of establishing a projected 100 percent funding ratio in 30 years, and will remain so funded for the balance of this Agreement, pursuant to its terms and provisions.

Third Goal: The trust fund for healthcare benefits is to be funded at actuarially appropriate levels sufficient to provide the healthcare benefits set forth herein for the remaining term of this Agreement, subject to the terms of this Agreement.

Fourth Goal: Reduce the CRS’s accruing unfunded liability so that national credit rating agencies and state agencies will no longer threaten the City with potentially devastating downgrades directly related to such liability.

Fifth Goal: Set forth a long-term plan to ensure the provision of pension benefits for future generations of City employees, while also maintaining flexibility to address unexpected market downturns and upturns as well as new opportunities. Specifically, the City must be able to consider and respond to possible merger opportunities with other large public retirement systems. The City must also retain its ability to adapt to changes in the healthcare marketplace, especially those changes precipitated by federal law.

Sixth Goal: Retirees have made irrevocable elections of retirement benefits, expecting the City to guarantee those promised benefits, and thus understandably seek stability in those benefits. They must have confidence that those retirement benefits will be funded by the City and that the City will not ignore its funding commitment for those benefits. They must also have confidence that neither the City nor the other Parties will attempt to alter these benefits outside of the parameters set forth in this Agreement.

Seventh Goal: Increase the transparency of CRS-related decisions so that both current and future retirees may better understand and exercise their collective rights as members of the system.

Further, this Agreement will resolve the issues raised by the various pending complaints and motions for preliminary injunction, as well as the pending writ of mandamus filed by AFSCME on behalf of its Cincinnati-area members in the Hamilton County Court of Common Pleas.

The Parties, their agents, successors and all persons in active concert or participation with any of them shall abide by the terms of this Agreement. It is understood and agreed that the terms and implementation of this Agreement are not intended to (and shall not be construed to) violate the terms of any collective bargaining agreement by and between the City and any other entities representing employees of the City. Additionally, it will not include any terms and conditions of employment that must be negotiated by and between the City, the Parties and any other such representative entities.

The Parties also acknowledge that asset performance and the macro-economic environment are beyond the control of the CRS stakeholders and the Court.

JURISDICTION

This Collaborative Agreement memorializes the terms by which the Parties fully and finally resolve the allegations and claims set forth in two consolidated cases pending before the Honorable Michael R. Barrett in the United States District Court for the Southern District of Ohio: (1) *Sunyak v. City of Cincinnati*, Case No. 1:11-cv-445; and (2) *Harmon v. City of Cincinnati*, Case No. 1:12-cv-329. In addition, this Agreement fully and finally resolves the allegations and claims set forth in the litigation titled *State ex rel. Council 8 AFSCME, et al. v. City of Cincinnati, et al.*, Case No. A 1104791, pending before the Hamilton County Court of Common Pleas.

Central to this Agreement is the Consent Decree which is attached hereto as Exhibit 1 and which fully incorporates by reference the terms of this Agreement. The Consent Decree establishes that the Court shall retain jurisdiction over the implementation, interpretation, administration, and enforcement of this settlement following the Effective Date.

The Parties agree that, after Finality, they will: (1) dismiss with prejudice the claims asserted in the Actions; and (2) approve the terms and conditions of this Agreement and the related Consent Decree, such that these Actions and the claims shall be finally and fully resolved, settled, and compromised based upon and subject to the terms and conditions set forth both in this Agreement and attached Consent Decree.

DEFINITIONS

Wherever used in this Agreement and the attached Consent Decree, the following boldface terms have the meanings specified below:

“115 Trust Fund” means the fund to be created under Section 115 of the United States Internal Revenue Code and those funds to be held in trust and invested for the sole purpose of funding secured health care benefits for eligible retired members of the CRS.

“401(h) Account” means the funds presently held and invested for the purpose of funding retirees’ medical benefits.

“Actions” or **“Litigation”** mean the following cases now pending: *Sunyak v. City of Cincinnati*, Case No. 1:11-cv-445 (S.D. Ohio); *Harmon v. City of Cincinnati*, Case No. 1:12-cv-329 (S.D. Ohio); and *State ex rel. Ohio Council 8 AFSCME, et al. v. City of Cincinnati, et al.*, Case No. A 1104791 (Hamilton County Ohio Court of Common Pleas).

“**AFSCME**” means the plaintiff in the litigation titled *State ex rel. Council 8 AFSCME, et al. v. City of Cincinnati, et al.*, Case No. A 1 104791, pending before the Hamilton County Ohio Court of Common Pleas.

“**Class Counsel**” means Current Employees Class Counsel and Retirees Class Counsel.

“**Class Member(s)**” means an individual who is either a Current Employees Class member or a Retirees Class member.

“**Class Notice**” or “**Notice**” means the settlement notice set forth below, the text of which shall be substantially similar to the notice attached hereto as Exhibit 2.

“**Classes**” means the Current Employees Class and the Retirees Class.

“**COLA**” means cost of living adjustment to a pension annuity payment.

“**Consent Decree**” means the decree to be entered, a copy of which is attached hereto as Exhibit 1.

“**Court**” means the United States District Court for the Southern District of Ohio, Western Division, which is presiding over this settlement and the *Sunyak* and *Harmon* actions.

“**Covered Payroll**” means the annual amount of pensionable salaries for full-time employees who are members of the CRS. The City represents and warrants that this amount has been employed in the actuarial calculations referenced throughout this Agreement, including, but not limited to, the calculation of the City’s Annual Contribution. This definition only applies to the terms and provisions of this Agreement.

“**CRS**” means the Cincinnati Retirement System.

“**CRS Pension Trust Fund**” means those funds to be held in trust and invested for the purpose of funding benefits, other than medical benefits, for the CRS.

“Current Employees Class” means the approximately 2,900 current City employees (approximately 2,400 are employed as of the date of this Agreement) defined as follows: All individuals who participated in the CRS with at least five years of creditable service and who were actively employed or otherwise qualified for benefits on July 1, 2011, and who are members of Group C, Group D, Group E, or Group F as these terms are defined by Cincinnati Municipal Code (“CMC”) §203-1-MI (b), (c), (d), and (e). The Current Employees Class also includes the Dependents and/or the Surviving Beneficiaries of any Current Employees Class member who are entitled to the retirement benefits which are the subject of this Agreement and Consent Decree. As detailed below in the subclass descriptions, members of the Current Employees Class have experienced significant increases in their pension contributions, reductions in their eventual retirement benefits, extensions of the years of work required to be eligible for unreduced pension benefits, and significant increases in current healthcare costs during their employment, including an increase of more than 100 percent in their premiums in recent years.

“Current Employees Class Counsel” means Marc D. Mezibov, Esq., Robert D. Klausner, Esq., Christian A. Jenkins, Esq., and Jeffrey S. Goldenberg, Esq.

“Current Employees Class Representatives” mean the Current Employees Plaintiffs designated in this document.

“Defendants” or **“City Defendants”** mean the Defendants in any of the Actions who are: (1) the City, (2) the Mayor, (3) the City Manager, (4) the Vice-Mayor, (5) the City Council Members, (6) the CRS; and (7) the Board of Trustees of the CRS (“Board”).

“Defendants’ Counsel” means Steven P. Goodin, Esq. and John Pinney, Esq. (and the law firm of Graydon Head and Ritchey, LLP) and the City Solicitor for the City of Cincinnati, Paula Boggs Muething.

“Dependents” means spouses and eligible dependent children and orphans of members of the Current Employees Class and the Retirees Class.

“Effective Date” or **“Effective Date of the Settlement”** means the day after which all of the following events have occurred: (1) this Settlement Agreement is fully executed by all the Parties; (2) the Court enters the Preliminary Approval Order as set forth below; and (3) the Court enters the Order Granting Final Approval as set forth below.

“Fairness Hearing” means the hearing before the Court at which time the Court considers:

- (1) Whether this Agreement, including the Exhibits to this Agreement, should be approved as fair, adequate, and reasonable;
- (2) Whether an Order Granting Final Approval as set forth below should be entered;
- (3) Whether the applications of Class Counsel for payment of attorneys’ fees, costs and expenses should be approved; and
- (4) Any other matters addressed by the Court, including any objections properly raised by Class Members.

“Finality” means: (1) If no timely appeal has been taken from the Order Granting Final Approval, the day after the day on which all periods of time for any Party or Class Member to appeal have expired; or (2) If any timely appeal is undertaken, the day after the day on which any such appeal shall have been fully resolved, the Final Order shall have been affirmed in all

material respects, and no further appeal to, or discretionary review remains in any court (whether by expiration of the time for any further appeal or otherwise).

“Funded Ratio” means the actuarial value of assets divided by the actuarial accrued liability at a given period in time.

“Group C Sub-Class” means the Current Employees Class members who are also members of Group C.¹ The Group C Sub-Class is represented by Jill Allgeyer. The adoption and enforcement of Ordinance No. 84-2011 negatively impacted members of Group C because they no longer would receive a death benefit of at least \$5,000.

“Group D Sub-Class” means the Current Employees Class members who are also members of Group D.² The Group D Sub-Class is represented by Kappel, Jackson, and Ganulin. The adoption and enforcement of Ordinance No. 84-2011 negatively impacted members of Group D because they no longer receive a death benefit of at least \$5,000 and a three percent COLA compounded annually. Ordinance No. 84-2011 replaced the three percent compounding COLA with a simple indexed COLA not to exceed two percent. Members of Group D who did not retire on or before January 1, 2014 were automatically assigned to Group E.

“Group E Sub-Class” means the Current Employees Class members who are also members of Group E.³ The Group E Sub-Class is represented by F. Jones. Pursuant to the adoption and enforcement of Ordinance No. 84-2011, members of Group E no longer receive a death benefit of at least \$5,000, a three percent per year COLA compounded annually, and a retirement benefit amount calculated based on the highest 36 months final average salary with a

¹ CMC §203-1-M1 (c) defines Group C as those employees who had at least 30 years of service credit before July 1, 2011, or who were at least 60 years old with 5 years of service credit before July 1, 2011.

² CMC §203-1-M1 (d) defines Group D as those employees who have at least 30 years of service credit by December 31, 2013, or employees who reach age 60 with at least 5 years of service credit by December 31, 2013.

³ According to the CMC §203-1-M1 (e), Group E consists of those employees originally assigned to Group D who did not retire on or before January 1, 2014.

2.22 percent or 2.5 percent multiplier applicable to all years of creditable service ("Higher Benefit Amount"). Ordinance No. 84-2011 replaced the three percent compounding COLA with a simple indexed COLA not to exceed two percent and replaced the Higher Benefit Amount with a less generous formula to calculate the benefit accrued from January 1, 2014 until retirement - limiting the multiplier applicable to such years to two percent for years over 30 years of service and 2.2 percent for all other years after January 1, 2014 and using the highest 60 months final average salary for years after said date.

"Group F Sub-Class" means the Current Employees Class members who are also members of Group F.⁴ The Group F Sub-Class is represented by Sunyak and Harmon. Pursuant to the adoption and enforcement of Ordinance No. 84-2011, members of Group F no longer receive the Higher Benefit Amount, and the right to retire with unreduced benefits upon reaching 30 years of service - regardless of age. Ordinance No. 84-2011 replaced the three percent compounding COLA with a simple indexed COLA not to exceed two percent, replaced the Higher Benefit Amount with a new formula to calculate the benefit accrued from July 1, 2011 until retirement - limiting the multiplier for years after July 1, 2011 to 2.2 percent for years of service up to 30 and two percent for years of service over 30. It also used the highest 60 months final average salary for years after July 1, 2011, and replaced the 30 years of service requirement with a requirement that such employees also must be 60 years of age to receive full unreduced benefits.

"Higher Benefit Amount" means a death benefit of at least \$5,000, a three percent COLA compounded annually, a retirement benefit amount calculated based on the highest 36

⁴ The Current Employees Class only includes those members of Group F who had at least 5 years of creditable service on July 1, 2011 and who were not assigned to Group C, D, or E.

months' salary with a 2.22 percent or 2.5 percent multiplier applicable to all years of creditable service.

"Notice Date" means the first day on which the Notices are mailed.

"Notice Program" means the process by which information about this Settlement shall be made available to the Current Employees Class members and the Retirees Class members as set forth below.

"Order Granting Final Approval" or **"Final Order"** means the Order from the Court granting final approval to this Settlement and ordering that this Court retain jurisdiction over the administration, enforcement, and interpretation of this settlement pursuant to and consistent with the Consent Decree.

"Ordinance No. 84-2011" means City Ordinance No. 84-2011 which became effective on July 1, 2011.

"Ordinance No. 85-2011" means City Ordinance No. 85-2011 which became effective on July 1, 2011.

"Original Plaintiffs" or **"Current Employees Plaintiffs"** mean the following plaintiffs in the *Sunyak* and *Harmon* cases: (1) Sunyak, (2) Harmon, (3) Allgeyer, (4) Kappel, (5) Jackson, and (6) Ganulin, each of whom were active City employees at the time the *Sunyak* and *Harmon* cases were filed. Current Employees Plaintiffs also include F. Jones, who is to be added as a party to this litigation pursuant to the Preliminary Approval Order.

"Parties" mean: (1) the Current Employees Plaintiffs; and (2) the Current Employees Class, (3) the Retiree Plaintiffs; (4) the Retirees Class; (5) AFSCME; and (6) the Defendants.

"Plaintiffs" mean the Current Employees Plaintiffs, the Retiree Plaintiffs, and AFSCME.

“Preliminary Approval Date” means the date on which the Court enters the Preliminary Approval Order.

“Preliminary Approval Order” means the Order from the Court granting preliminary approval to this Settlement.

“Retiree Plaintiffs” mean the following retirees who initially filed a Motion to Intervene in the *Sunyak* and *Harmon* cases on March 17, 2014: Gamel, Beets, Smith, M. Jones, Davis, Ryder, and DeGroot.

“Retirees Class” means the approximately 4,400 individuals formerly employed by the City of Cincinnati, the University of Cincinnati, the University Hospital f/k/a General Hospital and Hamilton County, who retired on or before July 1, 2011 and have received retirement benefits from the City and their Dependents and/or their Surviving Beneficiaries who are entitled to those benefits. Pursuant to the adoption and enforcement of Ordinance No. 84-2011 and Ordinance No. 85-2011, members of the Retirees Class no longer receive a death benefit of \$7,500, having been reduced to \$5,000, no longer receive premium-free healthcare separately identified as a benefit on documents signed by retirees upon retirement and which premiums totaled as much as \$1,125 in 2014, no longer receive dental and vision insurance coverage both of which premiums totaled \$875 in 2014, no longer receive reimbursement for Medicare premiums of over \$1,200 per year (over \$2,400 per year including spouse), have a smaller healthcare provider network and many no longer qualify for “carve-out” benefits owing to a more stringent criteria. Members of the Retirees Class and their beneficiaries lost over an estimated \$4,000 per capita per year in healthcare benefits as a result of benefit reductions imposed in 2010 through 2012. Additionally, Members of the Retirees Class are prepared to sacrifice an additional \$2,800 per capita per year in pension in order to gain long-term stability

in healthcare benefits which had been reduced. These costs have been and will be imposed on retirees whose average pension is \$35,000. Further, other Retirees Class benefits have been threatened by the huge growth in CRS unfunded liabilities, which is a result, in part, of the City's failure to contribute to the CRS Pension Fund in accordance with the funding formula set forth in §203-93 CMC. The Retirees Class is also concerned about the potential loss of their Death Benefits of \$5,000 per retiree.

"Retirees Class Counsel" means Robert A. Pitcairn, Jr., Esq., James F. McCarthy, III, Esq., Peter J. O'Shea, Esq. and the law firm of Katz, Teller, Brant & Hild.

"Retirees Class Death Benefit" A lump sum of \$5,000 available only to the members of the Retirees Class in accordance with the provisions of CMC § 203-47, in effect January 1, 2015.

"Retirees Class Healthcare Benefits" means those benefits provided by the CRS to the Retirees Class. The benefits include: (1) the specific benefits described in the Medical Benefits Booklet for City of Cincinnati Retirees administered by Anthem, effective January 1, 2014, subject to the limitations and exclusions, copayments, deductibles and coinsurance requirements specified in that booklet (a copy of that booklet is attached as Exhibit 3); (2) the "exclusion approach," as used in 2014, for the coordination of Medicare benefits; (3) Rx formulary as administered in 2014 by Optum (and as set forth on the Optum website at www.optumrx.com);⁵ (4) the limitations, exclusions, copayments, deductibles and coinsurance requirements as prescribed in the contract by and between the City and Optum in effect in 2014 (a copy of that agreement is attached as Exhibit 4); (5) Rx Coach program which provides no-copay prescriptions for lipids reduction, high blood pressure regulation, and diabetes control for patients who participate in provider counseling programs; (6) no lifetime limit on benefits; (7) all

⁵ Members must create an account to sign into the website. Once logged in, members should select the link titled "Formulary" to view the list of approved drugs. A hard copy of the Formulary for December 31, 2014 shall be retained by Retirees Class Counsel.

“preventative health care” and “essential health care” benefits, as mandated by the State of Ohio or the federal government; and (8) such treatment and formularies which are generally accepted best medical practices. This definition is subject to the terms of this Agreement.

“**Retirees Class Representatives**” mean the Retiree Plaintiffs as identified in this document.

“**Settlement Administrator**” means the entity responsible for issuing notice to Current Employees Class and the Retirees Class.

“**Settlement Date**” means the date on which this Agreement becomes fully executed by all the Parties.

“**Settlement Website**” means the Internet website described herein.

“**Surviving Beneficiaries**” means spouses and eligible dependent children and orphans of members of the Current Employees Class and the Retirees Class.

“**Tax Receipts**” means the gross annual amount of funds collected by the City from all taxes, income and property.

GENERAL ALLEGATIONS PROVIDING CONTEXT FOR SETTLEMENT

Generally, the Original Plaintiffs allege in their Amended Consolidated Complaint that the Defendants unlawfully revoked and impaired their vested retirement benefits by adopting and enforcing Ordinance No. 84-2011.

The Original Plaintiffs seek declaratory and injunctive relief for themselves and all others similarly situated who participated in the CRS and had earned or purchased as provided in this Agreement at least five years of creditable service prior to July 1, 2011, and who are members of Group C, Group D, Group E or Group F as these Groups are defined by Cincinnati Municipal Code § 203-1-MI(b), (c), (d), and (e).

Allgeyer is a member of Group C. Pursuant to the adoption and enforcement of Ordinance No. 84-2011, members of Group C no longer receive a death benefit of at least \$5,000. Allgeyer will represent the Group C Sub-Class of the Current Employees Class.

Kappel, Jackson, and Ganulin are members of Group D. Pursuant to the adoption and enforcement of Ordinance No. 84-2011, members of Group D no longer receive a death benefit of at least \$5,000 and a three percent COLA compounded annually. Ordinance No. 84-2011 replaced the three percent compounding COLA with a simple indexed COLA not to exceed two percent. Members of Group D who did not retire on or before January 1, 2014 were automatically assigned to Group E. Kappel, Jackson and Ganulin will represent the Group D Sub-Class of the Current Employees Class.

F. Jones is a member of Group E. Pursuant to the adoption and enforcement of Ordinance No. 84-2011, members of Group E no longer receive the Higher Benefit Amount. Ordinance No. 84-2011 replaced the three percent compounding COLA with a simple indexed COLA not to exceed two percent and replaced the Higher Benefit Amount with a less generous formula to calculate the benefit accrued from January 1, 2014 until retirement – thus limiting the multiplier applicable to such years to 2.2 percent up to 30 years and two percent for each year of service accrued thereafter. F. Jones will represent the Group E Sub-Class of the Current Employees Class.

Sunyak and Harmon are members of Group F. Pursuant to the adoption and enforcement of Ordinance No. 84-2011, members of Group F no longer receive the Higher Benefit Amount, and the right to retire with unreduced benefits upon reaching 30 years of service - regardless of age. For Group F, Ordinance No. 84-2011 replaced the three percent compounding COLA with a simple indexed COLA not to exceed two percent, replaced the Higher Benefit Amount with a

less generous formula to calculate the benefit accrued from July 1, 2011 until retirement - limiting the multiplier to 2.2 percent for years of service up to 30 and two percent for years of service over 30 and using the highest 60 months final average salary, and replaced the 30 years of service requirement with a requirement that such employees also must be 60 years of age to receive unreduced benefits. Sunyak and Harmon will represent the Group F Sub-Class of the Current Employee Class.

Generally, the Retiree Plaintiffs allege that the City has already unilaterally and significantly curtailed retiree health benefits and threatened and continues to threaten to further suspend or significantly curtail retiree health benefits, reduce the Retiree Plaintiffs' COLA from the current three percent compounding COLA with a simple indexed COLA not to exceed two percent, and to suspend the COLA for a period of years.

Pursuant to the adoption and enforcement of the Ordinance No. 84-2011 and Ordinance No. 85-2011, Members of the Retirees Class no longer receive a death benefit of \$7,500, having been reduced to only \$5,000, no longer receive premium-free healthcare separately identified as a benefit on documents signed by retirees upon retirement and which premiums totaled as much as \$1,125 in 2014, no longer receive premium-free dental and vision insurance coverage both of which premiums totaled \$875 in 2014, no longer receive reimbursement for Medicare premiums of over \$1,200 per year (over \$2,400 per year including spouse), have a smaller healthcare provider network and many no longer qualify for "carve-out" benefits owing to more stringent criteria. Members of the Retirees Class and their beneficiaries estimate their losses to be over \$4,000 per capita per year in healthcare benefits as a result of benefit reductions imposed in 2010 through 2012. Additionally, Members of the Retirees Class are prepared to sacrifice an additional estimated \$2,800 per capita per year in pension in order to gain long-term stability in

healthcare benefits which had been reduced. These costs have been and will be imposed on retirees whose average pension is \$35,000. Further, other Retirees Class benefits have been threatened by the huge growth in CRS unfunded liabilities, which is a result, in part, of the City's failure to contribute to the CRS Pension Fund in accordance with the funding formula set forth in §203-93 CMC. The Retirees Class is also concerned about the potential loss of the Retiree's Class Death Benefit. These concerns are based upon numerous communications from and discussions with City officials.

The Members of the Retirees Class are also concerned that the adjudication of the Original Plaintiffs' claims in the Amended Consolidated Complaint will prejudice them by "adversely affecting" the financial viability and ability of the CRS to pay benefits, and that any settlement related to the Original Plaintiffs' Amended Consolidated Complaint could prejudice the Retirees Class Members' ability to independently assert their claims at a later date. The Plaintiffs are also concerned that, in the absence of a global resolution, the CRS Pension Fund, which is approximately 36 percent underfunded as of December 31, 2013, is likely to be unable to pay out future benefits. Consequently, the City is likely to eliminate or substantially modify and/or further reduce the retirement benefits.

AFSCME, which represents approximately 1,800 current employees of the City, filed an action in mandamus in the Hamilton County Court of Common Pleas alleging that the City failed to adequately fund the CRS in violation of the terms of the Cincinnati Municipal Code. AFSCME and its members are concerned that the adjudication or settlement of the Original Plaintiff's claims in the Amended Complaint will prejudice them by adversely affecting the City's ability to adequately fund the CRS and to pay future benefits to AFSCME's members. AFSCME's members are also concerned that in the absence of a global settlement and with any

continued underfunding of the CRS, the City would face fiscal challenges in balancing the General Fund and in the downgrading of the City's bond rating that would result in reduction or loss of City services, layoffs, increased employee benefit and CRS contributions and/or reduced health care benefits.

The City contends that it faces several imminent fiscal and regulatory challenges that require immediate action to stabilize the CRS. These challenges include, but are not limited to, the following:

- i. The ongoing negative impact on the City's general obligation bond rating if the City cannot reduce or eliminate the CRS' accruing unfunded liability;
- ii. The concern that the Ohio Auditor could place the City on fiscal caution, watch, or emergency pursuant to relevant provisions of the Ohio Revised Code;
- iii. The concern that the CRS Pension Fund has an unfunded liability in excess of \$829 million and is only 63.2% funded as of December 31, 2013; and
- iv. Contemplated legislation in the Ohio General Assembly, which if approved, will require pension systems in the State to be 100% funded within a 30-year period.

The City thus contends that it is in a position of substantial fiscal challenge which may adversely affect its long-term ability to sustain the CRS.

Further, recent jurisprudence involving retiree healthcare, including but not limited to *M&G Polymers USA, LLC v. Tackett*, 574 U.S. ____ (2015), may limit the ability of the Retirees Class to effectively litigate their rights to any such benefits. Moreover, recent jurisprudence has failed to provide clarity about common law and statutory entitlement to set COLA levels and

other retirement benefits. Thus, there is risk to all Parties concerning the possible result of continued litigation. The Parties agree that a judicially-supervised collaborative resolution of these issues is in the best interest of the Parties.

CLASS CERTIFICATION

The Parties agree that the goal of securing the implementation of the terms of this Agreement shall be accomplished through certification of plaintiff class actions (and related subclasses) under Fed. R. Civ. P. 23(b)(1)(a), 23(b)(1)(b) and 23(b)(2) covering the Classes. The Original Plaintiffs shall serve as class representatives of the Current Employees Class and the Retiree Plaintiffs shall serve as class representatives of the Retirees Class. The Parties acknowledge that AFSCME members are included within the Current Employees Class and related sub-classes. The Parties agree to the certification of the mandatory Classes for settlement purposes only under Fed. R. Civ. P. 23(b) subject to the Court's approval.

The Parties agree that they are entering into this Agreement for settlement purposes only. Any acquiescence or agreement to the class certification in this case does not constitute an admission of liability or fault by the City, the City Defendants, or any of their officials, agents, or employees, and may not be used as evidence in any proceeding by any member of the Classes except proceedings under this Agreement and the related Consent Decree. Further, by agreeing to class certification for settlement purposes only, the Parties agree that any resulting classes or sub-classes do not constitute classes or sub-classes in other proceedings. The City agrees to be responsible for the issuance of any notices to interested parties required to implement this Agreement. The City agrees to pay any costs associated with such notice(s) including the cost to engage the Settlement Administrator.

CLASS COUNSEL

The following are hereby designated class counsel by agreement of the Parties subject to the final approval of the Court pursuant to Rule 23(g): (1) Christian A. Jenkins, Esq., Minnillo & Jenkins, Co. LPA, 2712 Observatory Avenue, Cincinnati, Ohio 45208; Marc D. Mezibov, Esq., Law Office of Marc Mezibov, 401 E. Court Street, Suite 600, Cincinnati, OH 45202; Jeffrey S. Goldenberg, Esq., Goldenberg Schneider, LPA, One West Fourth Street, 18th Floor, Cincinnati, Ohio 45202; and Robert D. Klausner, Esq., Klausner, Kaufman, Jensen & Levinson, 7080 Northwest Fourth Street, Plantation, FL 33317 and shall serve as the Current Employees Class Counsel; and (2) Robert A. Pitcairn, Jr., Esq., James F. McCarthy, III, Esq., Peter J. O'Shea, Esq., and the law firm of Katz Teller Brant & Hild, 255 East Fifth Street, Suite 2400, Cincinnati, Ohio, 45202 shall serve as the Retirees Class Counsel.

The Parties do hereby stipulate that the Current Employees Class Counsel and the Retirees Class Counsel are competent to handle the matters described herein and have relevant experience in same. None face any disqualifying conflict of interest or ethical duty and undertake such duties with full knowledge of all attendant obligations and responsibilities.

OTHER PARTIES' COUNSEL

For the purposes of the execution of this Agreement only, R. Sean Grayson, Esq., AFSCME, Ohio Council 8, 6800 North High Street, Worthington, OH 43085-1918, shall serve as counsel for AFSCME and Steven P. Goodin, Esq. and John B. Pinney, Esq., Graydon Head, 1900 Fifth Third Center, 511 Walnut Street, Cincinnati, OH 45202, of counsel to City Solicitor Paula Boggs Muething, shall serve as counsel for the City and all City Defendants.

OPERATIVE SETTLEMENT TERMS

The Parties agree, stipulate and warrant to the following terms of settlement:

1. CRS Funds: All funds held in the CRS Pension Trust Fund shall be used solely for the benefit of the members of the CRS.⁶

2. CRS Pension Trust Fund: The funds held in the CRS Pension Trust Fund shall be subject to this Agreement and the following: (1) all funds held and invested are to pay retirement benefits, excluding healthcare benefits; (2) the funds shall not be subject to the claims of creditors; (3) the City may not grant any security interest or creditor interest in the CRS Pension Trust Fund; (4) the board of trustees of the CRS may not grant any security or creditor interest in the funds held in the CRS Pension Trust Fund; and (5) upon agreement of the Parties or by order of the Court, expenses and fees outlined in this Agreement may be paid from funds in the CRS Pension Trust Fund.

3. 115 Trust Fund: The City shall create a 115 Trust Fund prior to the Effective Date for the purpose of holding and investing funds to provide Retirees Class Healthcare Benefits, Current Employees Class Healthcare upon Retirement and healthcare benefits upon retirement to members of the CRS as provided pursuant to the CMC, subject to the terms and conditions in this Agreement. The City shall be obligated to fund the 115 Trust Fund at actuarially appropriate levels sufficient to provide these benefits for the term of this Agreement. The funds held in the 115 Trust Fund shall be subject to this Agreement and the following: (1) the funds held and invested are to pay Retirees Class Healthcare Benefits, Current Employees Class Retirement Healthcare Benefits and retiree healthcare benefits for any eligible City employees; (2) the funds shall not be subject to the claims of creditors, except as may be required by the terms of this Agreement; (3) the City may not grant any security interest or

⁶ This Agreement shall not bind the Defendants or the CRS regarding individuals not covered by this Agreement. Subject to applicable law and collective bargaining rights, the City retains the exclusive authority to set benefit levels for those current and future employees who are not subject to this Agreement.

creditor interest in the 115 Trust Fund; and (4) the board of trustees of the CRS may not grant any security or creditor interest in the funds held in the 115 Trust Fund.

4. Transfer of Funds to the 115 Trust Fund: The City shall transfer from the CRS 401(h) account to the 115 Trust Fund such funds as may be required to fund healthcare benefits at actuarially appropriate levels sufficient to provide the healthcare benefits set forth herein for the term of this Agreement. The Parties will allow a reasonable period to complete this transaction, with the understanding that those funds will likely be unavailable for transfer until the 401(h) liabilities have been paid out.

5. Projected Healthcare Savings Applied to Pension: The Defendants shall apply at least \$200 million but not more than \$220 million from the 401(h) Account to the CRS Pension Trust Fund to reduce its unfunded liability. Any savings from the healthcare modifications must be realized consistent with the projections outlined in the Cavanaugh MacDonald report attached as Exhibit 5 and must allow the 115 Trust Fund to remain at actuarially appropriate levels sufficient to provide the benefits.

6. Retirees Class and Current Employees Class Rights: All members of the Current Employees Class and the Retirees Class have guaranteed rights in their pension, including COLA, and healthcare benefits, subject to the terms and provisions of this Agreement and the Consent Decree.

7. CRS COLA Calculation: Effective January 1, 2016 or the Effective Date, whichever is later, the COLA for current and future retirees in the Current Employees Class and the Retirees Class, except as provided in this Agreement, will be a three percent fixed simple adjustment⁷ (as opposed to the three percent compounded COLA currently received by most

⁷ The simple three percent COLA will be applied on the anniversary date as follows: Assume a retiree has an annual pension of \$10,000 per year. The three percent COLA is equal to \$300. Each succeeding COLA amount is

members of the Retirees Class and the simple COLA indexed to inflation not to exceed two percent currently applicable to most members of the Current Employees Class). Until such time, the Retirees Class and current and future retirees in the Current Employees Class shall receive the COLA, compounded or simple, to which they were entitled as part of their pension pursuant to the terms of the CMC as of December 31, 2014. For those Members who retired prior to July 1, 1987, the new COLA calculations will commence on January 1, 2016. For those Members who retired on or after July 1, 1987, the new COLA calculations will commence on their retirement anniversary date, subject to the rights of Current Employees Class Members to receive payments under Paragraph 16 below as if said COLA was in effect at the time of their retirement.

8. CRS Retirees' Class COLA: The basis for the calculation of the simple COLA set out in Paragraph Seven for Members of the Retirees Class will be the gross monthly pension payment payable on January 1, 2016 but shall include all previously granted COLAs and the compounded COLA earned in 2015.

9. Current Employees Class COLA Delay Period: Each Current Employees Class member shall be subject to a three-year COLA delay period during which he or she will not receive a COLA. For those members of this Class yet to retire, the three-year COLA delay period begins on the one-year anniversary date following their date of retirement. These individuals shall not receive a COLA in their second, third and fourth years of retirement, but shall receive a COLA in all years after their fourth year of retirement. For those members of this Class who retired after July 1, 2011 and on or prior to January 1, 2016, the three-year COLA

aggregated with the prior COLA payment. In the first year in which a COLA is applied, the annual benefit would be \$10,300. The next COLA payment of \$300 would take the annual benefit to \$10,600. The third COLA payment of \$300 would take the annual amount to \$10,900. This process would continue on an annual basis.

delay period begins to run on their next retirement anniversary date or on January 1, 2016, whichever is later.

10. Retirees Class COLA Suspension Periods: Beginning January 1, 2016, or January 1 of the year following the Effective Date, no Member of the Retirees Class shall be entitled to a simple COLA for a period of three years except as provided elsewhere in this Agreement. The suspension period shall commence upon January 1, 2016, or the anniversary date of the individual member's retirement, whichever date is later, pursuant to the applicable provisions of the Cincinnati Municipal Code effective December 31, 2014. Members of the Retirees Class shall receive a one-time payment calculated at three percent of their base pension annuity benefit (but in any event, capped at \$1,000) at the commencement of the third year of their respective COLA suspension period.

11. COLA Poverty Exception: Any member of the Retirees Class or the Current Employees Class (or their surviving dependent entitled to continuing CRS benefits) who retired (or retires) with at least five years of creditable service and whose household income is below 150% of the U.S. Department of Health and Human Service's updated annual poverty guideline pursuant to 42 U.S.C. 9902(2) will receive the above-referenced three percent compounding COLA without being subject to any COLA delay or suspension. If for that year and any subsequent year their household income (as defined in CMC § 203-44) exceeds 150 percent of the federal poverty guidelines, these retirees will receive the three percent simple COLA described above, after appropriate notice has been provided to the qualifying retirees.

12. Current Employees Class Retirement Eligibility: Current Employees Class members can retire with unreduced pension benefits pursuant to the terms of this Agreement upon reaching 30 years of service or at age 60 with five years of service.⁸

13. Retirement Benefit Multiplier Calculation: When calculating a retirement benefit for a Current Employees Class Member, the CRS administrator shall utilize a 2.5 percent multiplier⁹ for the greater of: (a) 20 years of service or (b) the number of years of service prior to July 1, 2011 for Current Employees Class members in Group F and the number of years of service prior to January 1, 2014 for Current Employees Class members in Group E. A 2.2 percent multiplier shall be used for all other years of service unless a higher multiplier would apply under Ordinance No. 84-2011, in which case such higher multiplier shall apply. The Parties agree that the two percent multiplier for years of service in excess of 30 as provided by Ordinance No. 84-2011 shall be superseded by the foregoing multipliers.

14. Final Average Salary Calculation: The Final Average Monthly Salary ("FAS") component used to calculate the pension benefits of members of the Current Employees Class upon their retirement shall continue to be determined in the same manner as it has been for each respective class since adoption of Ordinance No. 84-2011. Specifically, this means that: (1) Members of Group C and D will have an FAS based on their highest 36 months of service including pensionable lump sum payout for 2.22 percent members; and (2) Group E will have an FAS with two separate components based upon: a) years of service through December 31, 2013,

⁸ Those employees who are veterans shall be permitted to purchase service credit for their years of active duty military service prior to July 1, 2011 in accordance with existing CRS policies. Any service credit purchased in this manner will count toward obtaining five years of creditable service prior to July 1, 2011 thereby enabling veterans to vest for purposes of the benefits afforded under this Agreement regardless of when purchased or otherwise accrued.

⁹ Those Class Members who previously elected to utilize a 2.22 percent multiplier for all earnings during the applicable years, including without limitation overtime hours, shall be subject to the 2.22 percent multiplier in the same manner as the 2.5 percent multiplier under this provision.

on the highest 36 consecutive months of earnings during entire membership in CRS from first day of membership through last day of paid employment; and b) years of service on and after January 1, 2014, on the highest consecutive 60 months of earnings during entire membership in the CRS; and (3) Group F will have an FAS based upon the following two components: a) for years of service through June 30, 2011, on the highest 36 consecutive months of earnings during entire membership in CRS from first day of membership through last day of paid employment; and b) for years of service after June 30, 2011 on the highest consecutive 60 months of earnings during entire membership in CRS.

15. Early Retirement Eligibility: The following Early Retirement Eligibility changes shall occur for the benefit of the Current Employees Class members: (1) the age 57 and 15 years of service requirement formula established Ordinance No. 84-2011 shall be superseded by the terms of this Agreement; and (2) the age 55 and 25 years of service requirement that existed prior to Ordinance No. 84-2011 shall be reinstated; and (3) the retirement option for those employees who reach age 60 and have at least five years of service that existed prior to Ordinance No. 84-2011 shall be reinstated.

16. Annuity Adjustments: The pension annuity benefits for Current Employees Class members in Groups D and members of Groups E and F who retire before January 1, 2016, or the Effective Date, whichever is later, will be adjusted prospectively by being increased to the amount that their benefits would have been had the Consent Decree been in effect on the date of their retirement. In addition, these Current Employees Class members will receive a payment designed to compensate for the difference between the amount of pension benefits they received from the date of their retirement until the effective date of the Agreement and the amount they would have received had the Agreement been in effect on the date they retired. These payments

shall be made no later than 120 days after the Effective Date of the Agreement. Current Employees Class Counsel shall be entitled to review and confirm that these payments are accurate and in compliance with this provision prior to these payments being issued.

17. Employee Contributions: Pension contributions made by Current Employees Class members shall not exceed nine percent of pensionable wages during the term of the Consent Decree, subject to this Agreement and the Consent Decree. Any reduction in pension contributions may not adversely affect benefits as defined in this Agreement for members of the Classes.

18. Group C Settlement Payment and Retirement Healthcare Benefits: Because members of the Group C Sub-Class, upon their retirement, would have been entitled to a three percent compounding COLA from July 1, 2011 until January 1, 2016,¹⁰ or the Effective Date, whichever is later, they shall receive a one-time Group C Settlement Payment pursuant to the following schedule to be paid no later than 90 days after the Effective Date of this Agreement or within 90 days following the member's retirement, if later:

- i. Retired after July 1, 2011 through December 31, 2011: \$125
- ii. Retired on or after January 1, 2012 through December 31, 2012: \$250
- iii. Retired on or after January 1, 2013 through December 31, 2013: \$375
- iv. Retired on or after January 1, 2014 through December 31, 2014: \$500
- v. Retired on or after January 1, 2015 or remained employed by the City as of the effective date of the Consent Decree: \$625

In addition, notwithstanding any language in this Agreement to the contrary, all members of Group C, including both those who have retired prior to the Effective Date and those who have

¹⁰ Members of the Group C Current Employee Sub-Class were entitled to retire with full benefits (other than the retirement death benefit) as of July 1, 2011 but remained employed by the City.

not, shall be entitled to Retirees Class Healthcare Benefits on the same terms as members of the Retirees Class, including specifically but not limited to continued eligibility for retiree health benefits with 15 years of creditable service. The City renders no opinion, and accepts no liability, in regards to any tax consequences related to such payments.

19. City's Annual Contribution to CRS Pension Trust Fund: The City shall contribute to the CRS Pension Trust Fund no less than 16.25 percent of Covered Payroll annually for the duration of the Consent Decree (30 years) notwithstanding any contrary calculations claimed by any Party or non-party under any provision of the CMC or any other basis.

20. Additional Contributions to CRS Pension Trust Fund:

- i. The City, recognizing the risk typically borne by the employer in a defined benefit plan, shall contribute to the CRS Pension Trust Fund an additional three percent of Covered Payroll for three consecutive years before requesting an Annual Minimum Funded Ratio Re-opener as defined in Paragraph 35 (iii) of this Agreement. Following that three-consecutive-year supplemental contribution, the City may seek an Annual Minimum Funded Ratio Re-opener only if the City complies with the requirements of the Annual Minimum Funded Ratio Re-opener set forth in Paragraph 35 (iii) for the term of this Agreement.
- ii. If the City sells an asset or privatizes any City service or otherwise transfers or loses a City function which results in a reduction of total Covered Payroll, the City shall provide or secure funding for any remaining pension and healthcare liabilities to remedy any impact on the CRS.

- iii. Recognizing the need for additional cash contributions, the City shall make an additional contribution equal to or greater than the remaining liability on the Early Retirement Incentive Program (ERIP) through a judgment or settlement bond with the consent of the Parties and the Court or continue current required payments.

21. Deferred Retirement Option Plan ("DROP"): Beginning with the completion of 30 years of creditable service, Current Employees Class members may effectively retire and freeze their accrual of years of service in the CRS plan and defer receipt of retirement benefits, including health care benefits for retirees, for a period not to exceed five years while continuing City employment. Current Employees Class members will be subject to the COLA delay period set forth in Paragraph 9 at the close of their individual DROP periods, and shall not be paid COLAs during the DROP period. The deferred pension benefits of DROP participants shall accumulate during their participation in the DROP in an individual account together with any individual employee contributions during such period. All amounts credited to individual DROP accounts shall be 100 percent vested in such individuals and shall not be subject to forfeiture under any circumstances. Such amounts shall experience earnings but in no event less than zero percent per year. At or before the end of the five-year deferral period, such employees must separate from service. The deferred amount either must be distributed or rolled over into a qualified account within 120 days of said separation from service. The DROP program shall be cost neutral to the CRS Pension Trust Fund and shall not negatively impact the CRS Funded Ratio and may be primarily administered by a third party entity. If insurance coverage for the CRS to guard against negative performance can be obtained on reasonable terms, the City shall acquire such coverage at the expense of each DROP participant. If such insurance is not

available, the City shall assess reasonable and sufficient fees, payable from each DROP account, to insure against negative performance and to cover the cost of administration and expenses to the CRS. The Parties agree to facilitate an independent actuarial analysis of the DROP during the fifth year of its implementation. If, based upon that analysis, the program is not cost-neutral to the CRS Pension Trust Fund, the Parties shall then submit the matter to the Court for possible reformation or closure of the DROP, as warranted by the facts and determined by the Court to assure the DROP is cost neutral, provided that any individual who has entered the DROP shall be entitled to participate in the DROP for five full years. The establishment of the DROP is a material element of the Settlement for both the Current Employees Class and AFSCME. Any dispute over the terms, conditions and administration of the DROP shall be referred to the Court for resolution.

22. Retirees Class Healthcare Benefits: For each year following the Effective Date, co-pay, deductibles and out of pocket amounts shall not increase for the term of this Agreement. The premiums charged shall be five percent of the CRS healthcare costs for the previous year, net of copays, deductibles, and out of pocket expenses paid by retirees.

23. Current Employees Class Retirement Healthcare Benefits: Current Employees Class members shall be entitled to retirement healthcare benefits as provided in this Agreement if they retire with at least 30 years of creditable service regardless of age, or at or after age 60 with at least 20 years of creditable service (except for members of Group C, who shall be entitled to the same retirement healthcare benefits as members of the Retirees Class if they retire with at least 15 years of creditable service). These Current Employees Class members shall receive the most favorable plan available to active employees (excluding police and fire) at the time of their respective retirements.

24. Current Employees Class Retirement Healthcare Premium Percentages¹¹:
- i. Pre January 9, 1997 Hire Date: Current Employees Class members hired prior to January 9, 1997 shall pay the same percentage of premium for retiree healthcare benefits as paid by active employees at the time of their retirement. However, in no event shall these Current Employees Class members pay greater than 10% of their premium.
 - ii. January 9, 1997 or later Hire Date: Current Employees Class members hired on or after January 9, 1997 shall pay the percentage of premium for retiree healthcare benefits according to a revised Point System to be negotiated which will address the perceived inequities in the current Point System. For example, under the current Point System (attached as Exhibit 8) a Current Employees Class member retiring with 30 years of service at age 59 would pay 25% of the premium, whereas a Current Employees Class member retiring with 30 years of service at age 60 would pay only 5% of the premium. The goal of such negotiations between the Parties will be to provide retiree healthcare benefits at a cost of 10% of the premium to as many future retirees as possible without reducing the funding ratio of the 115 Trust Fund below actuarially appropriate levels and cost neutral to the 115 Trust Fund. If the Parties cannot agree to a framework for such reforms within six months of the Effective Date, then the matter shall be submitted to the Court for a final resolution and/or determination. If this issue is submitted to the Court, the Court shall not increase any Current Employees Class Member's premium percentages beyond those contained in the Point System as of January 1, 2015 and the Court cannot alter the funding ratio of the 115 Trust Fund

¹¹ Pursuant to Paragraph 18 above, the provisions set forth in Paragraph 24 do not apply to Group C.

below actuarially appropriately levels or materially increase costs to the 115 Trust Fund.

25. Healthcare Modifications for Retirees: To be effective January 1 of the year following the Effective Date, the City shall:

- i. Establish an Employer Group Waiver Plan ("EGWHP") to maximize prescription-drug-related reimbursements from federal healthcare programs. The EGWHP will provide substantially similar benefits to the Retirees Class Healthcare Benefits;
- ii. Implement a voluntary, medical expense reimbursement program ("MERP"); and
- iii. Alter retirement health care eligibility requirements for members of the Current Employees Class in accordance with this Agreement.¹²

26. Healthcare Funding Obligation: The City shall develop and present to the Parties a proper funding policy for the 115 Trust Fund no later than 30 days prior to the Fairness Hearing. The funding policy will satisfy all consent decree requirements including but not limited to the City's obligation to fully fund the 115 Trust at actuarially appropriate levels for the term of this Agreement.

27. Retirees Class Death Benefit: The Retirees Class Death Benefit shall be paid to the designated beneficiaries of the members of the Retirees Class who will be entitled to a Retirees Class Death Benefit.

28. Consent Decree Duration: The Consent Decree shall remain in force for 30 years from the Effective Date.

¹² This provision is not applicable to members of Group C who will receive benefits as set forth in the other applicable provisions of this Agreement.

29. Assumed Rate of Return: A 7.5 percent annual assumed rate of return shall be applied to any and all actuarial calculations related to the valuation of the CRS Pension Trust Fund and the 115 Trust Fund for purposes of this Agreement.

30. Pension Board Reforms: The Parties agree to negotiate in good faith reforms for the administration of the CRS including the composition of the Board of Trustees and the administration of the CRS. If the Parties are unable to reach agreement on such reformation within 120 days of the execution of this Agreement, the Court shall determine the composition, structure and function of the Board. In such an event, the Parties agree that the Court will honor the following parameters:

- i. A Board of Trustees shall be established. The Board shall have nine members. Four members shall be appointed by the Mayor, three members shall be elected by retired members and two members shall be elected by employee members. The Board is subject to and bound by the terms and provisions of this Agreement.
- ii. The Mayor's appointees shall be made with input from City Council and subject to any subsequent ordinances adopted by City Council.
- iii. The members shall elect a chair and vice-chair who shall each serve two-year terms. The chair (or vice-chair in the absence of the chair) shall be responsible for communicating the concerns of the Board to the CRS administrator, setting Board meeting agendas and, after consulting with the board as a whole, establishing priorities for the CRS administrator (Director of Retirement Department) and CRS staff.
- iv. The Board shall administer the CRS for the benefit of the members of the CRS. The Board shall have the exclusive authority to administer the CRS Pension Trust

Fund and the 115 Trust Fund, subject to the terms and provisions of this Agreement and the Cincinnati Municipal Code, provided that, in the event of any conflict, this Agreement and Consent Decree shall control. Each member of the Board shall have fiduciary responsibility as defined under the laws of the State of Ohio. The fiduciary responsibility shall be solely to the active and retired members of the CRS.

- v. The City Manager shall be the appointing authority for the Director of the Retirement Department and shall supervise his or her performance. The Board will actively participate in any searches for a new Director, whether by committee or otherwise, and may present candidates for consideration. The City Manager and the Board shall develop formalized procedures for the evaluation of the Director and the Board's annual written evaluation of the Director's performance shall be submitted to the City Manager at the close of each fiscal year. The City Manager may also dismiss the Director if warranted by circumstances and performance. The City Manager shall dismiss the Director of the Retirement Department at the request of a two-thirds majority of the Board of Trustees.
- vi. The Board will follow the City's established procurement process for its selecting and contracting with any actuaries, investment advisors and other professionals deemed necessary for the administration of the CRS. Any investment manager(s) and firms hired shall be experienced and reputable professionals in the field. They shall have experience and competencies in the areas of management of funds for large public pension plans. They shall be experienced in assessing index funds, assessing, comparing, choosing and administering appropriate asset

allocation plans, and satisfying objectives. Any firm(s) chosen shall also have records of achievement regarding integrity and attaining plan goals. The term of investment firm and manager contract(s) shall be two years, with two additional two year extensions, for a maximum term of six years. Prior to the end of the six-year term, these contractual services must be rebid, but nothing herein is intended to preclude selection of the former contractor.

- vii. The Board may determine the format and content of any reports from the actuary and investment managers. However, the Board shall not limit, in any way, the right and duty of the actuary or investment manager(s) to provide content deemed by the actuary or investment manager(s) to be important for the Board, the members, staff and public. All reports shall be provided to the members of the Board, and members of the Board may request additional reports as needed.
 - viii. Any deposits, expenditures, transfers, loans, or withdrawals for the CRS Pension Trust Fund, the 115 Trust Fund, or staff funds that were not identified in the annual budgets must be approved by a vote of two-thirds of the members present. All such actions shall be included and identified as a line item in the budget which shall be approved annually by the board by a two-thirds vote of those present. The payment of attorneys' fees and expenses as approved by the Court pursuant to this Agreement is not subject to this provision.
 - ix. Board and committee meetings shall be considered meetings of a public body and be open to the public subject to lawfully convened executive sessions.
31. No Disgorgement: Neither as a result of this Agreement nor the related Consent Decree shall any retirement benefit being received by any retiree be reduced. Likewise, no

retiree shall be required to repay or otherwise disgorge any amounts received from the CRS after the Effective Date as a result of this Agreement. The City reserves the right to attempt to recoup overpayments made due to administrative error.

32. Actuarial Confirmation: The City shall provide to the Current Employees Class Counsel, the Retirees Class Counsel and Counsel for AFSCME confirmation of the actuarial data utilized during the mediation process. Any dispute as to whether confirmation of this actuarial data has occurred shall be resolved by the Court no later than 30 days prior to the Fairness Hearing. The City shall also provide, as requested by Current Employees Class Counsel, the Retirees Class Counsel and Counsel for AFSCME other information related to class membership, pension statistics, or other similar data or information to facilitate final approval of this Settlement. Any dispute as to whether confirmation of this actuarial data has occurred shall be resolved by the Court no later than 30 days prior to the Fairness Hearing.

33. Contingency and Lack of Severability: Given the unique nature of this Agreement and Consent Decree and the interlocking nature of their terms, the Parties hereby expressly agree that the terms and provisions set forth in this Agreement and Consent Decree are contingent upon one another. The reforms contained herein are cumulative, iterative and based upon actuarial projections, and must be enforced *in toto*.

34. Attorney's Fees: The Parties agree that Current Employees Class Counsel and Retirees Class Counsel may submit an application for an award of attorneys' fees to the Court no later than twenty-one days prior to the deadline for Class Members to object to the terms of the Settlement Agreement. Attorneys' fees and expenses awarded by the Court shall be paid within 20 business days following the Effective Date. Defendants and Current Employees Class Counsel further agree and stipulate that any class counsel fees associated with representation of

the Current Employees Class will be ultimately paid back to the CRS Fund by members of that class from their pension benefits over time in a fair manner consistent with the terms of the Class Notice. The Defendants and the Current Employees Plaintiffs acknowledge and agree that Current Employees Class Counsel fees shall be based upon the value of the pension and healthcare benefits conferred upon the Current Employees Class as determined by the Court. The Defendants and Current Employees Class Plaintiffs stipulate that said benefit is at least \$40 million. The Retirees Class Representatives do not stipulate to any aspect of this proposed fee arrangement.

35. RE-OPENERS: The events or circumstances described below, upon presentation of adequate evidence to satisfy the Court that such conditions exist, shall constitute sufficient reason to re-open the Consent Decree based upon the continuing jurisdiction of the Court as set forth in Paragraph 42. The Parties acknowledge that contributions, costs, expenses, and benefits (except pension) are subject to modification to resolve a reopener.

Reopeners shall only be pursued as a last resort and must specifically meet the criteria stated for the reopener.

The Parties recognize that the pension typically provides life's basic needs for a retiree including food, clothing, shelter, and healthcare are critical to providing for their long-term financial and physical well-being. The Parties further acknowledge that, owing to age and often ill-health, the opportunity for retirees to improve their revenue stream is typically very limited. As a result, the Parties agree that no further reductions to the monthly pension annuities, including COLA, of those already retired at the time the reopener is sought will be a part of any re-opener during the Consent Decree.

The continued provision of Retirees Class Healthcare Benefits is considered a material part of the Settlement and Consent Decree. Reductions in benefits or increases in cost for Retirees Class Healthcare Benefits shall occur only with the express approval of the Court and be shared as equitably as possible among all Parties, taking into account the necessity for any solution sought, the impact on the well-being and affordability to retirees and current employees, the impact of retiree and current employee benefit reductions since 2007, the disparity, if any, in healthcare benefits being provided to retirees and current employees, and the negotiation of tradeoffs in organized labor contracts, and the availability of alternative vehicles providing substantially similar benefits.

Recognizing that it is very likely that the methods, organization, regulation, and institutional systems for delivering healthcare benefits to retirees will change during the life of the Consent Decree, the Parties agree that the process for changing the methods, organization, and/or institutional systems for delivering healthcare benefits to retirees should be something other than an adversarial reopening of the Consent Decree. If the federal or state government, or the organizational entities that customarily deliver healthcare benefits (e.g. doctors, clinics, hospitals, insurance companies) require a modification to deliver healthcare services to retirees, the parties agree to amicably negotiate the transition to available methods, organizations, regulations, and institutional systems to provide the healthcare benefits as described in this Agreement.

The Party who believes that a reopener condition exists shall issue written notice to the other Parties and to the Court explaining the basis for such reopener. It shall be the burden of the Party issuing such notice to convince the Court that there has been a material change in circumstances which meet the stated criteria warranting a reopening of the Consent Decree.

When any of the following reopener conditions is triggered by the above process, the Parties shall negotiate in good faith, subject to the Court's oversight, management, and administration, to reach an amicable resolution regarding any necessary modifications to CRS, the funds managed by the CRS, operations, benefit levels, contributions, funding sources or any other related issue consistent with this Agreement and Consent Decree. Should the Parties be unable to reach an amicable resolution regarding any necessary modification, then the Party who gave notice of the reopener must file a motion with the Court setting forth in detail the nature and/or grounds of the request for reopener and the requested modification to the CRS, the funds managed by the CRS, operations, benefit levels, contributions, funding sources or any other related issue which is sought. The Party requesting the modification shall have the burden of convincing the Court that the requested modification is in the best interest of the City, the CRS, and the members of the CRS in light of and giving due consideration to the purposes, objectives and goals of this Agreement and the Consent Decree. The Court may grant a modification to this Agreement and the Consent Decree when the requested modification is both necessary and appropriate based on the clear and convincing evidence of any of the following:

- i. There is an annual change in City total tax receipts of greater than ten percent that remains at or outside that range for five consecutive fiscal years;
- ii. There is an actual reduction in Covered Payroll of ten percent or more that has occurred or will occur and which will cause the CRS Pension Trust Fund to be 90 percent funded or less by the end of the term of the Agreement;
- iii. The actuaries of the CRS will create a Schedule of Funded Ratios (Preliminary). This chart will show the Annual Target Funded Ratio (Column 1), which, if achieved throughout the term of this Agreement, would result in the CRS Pension

Fund being fully funded at its expiration. It will be incorporated into this Agreement by reference. The Annual Minimum Funded Ratio (Column 2) will be equal to 90 percent of each year's Annual Target Funded Ratio. The Maximum Funded Ratio (Column 3) will be equal to 110 percent of each year's Annual Target Funded Ratio. If the Funded Ratio remains below the yearly Annual Minimum Funded Ratio or above the Maximum Funded Ratio for five consecutive years, any party may seek to reopen the Consent Decree. However, if the five-year annualized actual CRS return for that stated period has not exceeded the blended five year annualized actual return for that period of 75 percent of the S&P 500 Index and 25 percent of the Barclay (formerly Lehman) US Bond Index, no request for an Annual Minimum Funded Ratio reopener shall be made. The Parties further agree that the above-referenced Schedule of Funded Ratios will be revised every five years to more accurately reflect the assets and liabilities of the CRS;

- iv. The City proposes a plan to transition healthcare benefits to a Medicare exchange portal/HRA model effective no earlier than ten years after the Effective Date, so long as the model does not negatively affect healthcare benefits;
- v. CRS becomes subject to the so-called "Cadillac Tax" (as defined by the Affordable Care Act) for Retirees Class Healthcare Benefits. The City agrees to make all reasonable efforts to avoid the implementation of said tax. If the CRS becomes subject to a tax greater than ten percent of the annual cost of healthcare to the CRS for the previous fiscal year, any Party may move to reopen this Agreement;

- vi. The City proposes a plan to merge CRS functions with another public pension plan on terms that would require the assuming plan to honor all pension and other benefit commitments and costs provided for in this Agreement and the Consent Decree. The City may not propose a plan to merge for ten years following the Effective Date;
- vii. The average CPI-U Index for the most recently completed calendar year and for the previous four consecutive calendar years exceeds five percent;
- viii. If a restructuring or modification of funding healthcare through government regulation or legislation results in the 115 Trust Fund being no longer required to fund healthcare benefits for retirees, the Consent Decree may be reopened as to the use of the 115 Trust Fund;
- ix. If any cause or condition exists or comes to exist which would reduce the 30-year projected funding ratio for either the CRS Pension Trust Fund or the Section 115 Trust Fund to 90 percent or less; or
- x. If otherwise agreed upon by all the Parties.

36. Denial of Liability: Defendants dispute Plaintiffs' claims, deny that the Classes are entitled to any relief, and have asserted numerous defenses to the allegations at issue in the Actions, and would continue to do so in the event these Actions did not settle. Defendants have agreed to enter into this Settlement Agreement and the related Consent Decree without any express or implied acknowledgment, in any way, of any fault or liability to anyone, including the Plaintiffs herein. Defendants have concluded that settlement, on the terms set forth in this Agreement and the related Consent Decree, is in their best interests, taking into account, among other concerns, the inconvenience, distraction, delay, and expense associated with and the

unpredictable nature of further litigation and in an attempt to quell all controversy and to avoid additional and costly expenses, including but not limited to disruption of its business and also the burdensome, disruptive and costly litigation necessary to defend these Actions. Throughout the course of these Actions, and otherwise at all times, Defendants have denied all allegations of wrongdoing or liability whatsoever asserted and/or which could have been asserted in these Actions. Defendants continue to do so and neither this Settlement Agreement nor the related Consent Decree, nor anything contained herein, or offered and exchanged between the Parties as negotiated and/or leading to this Settlement Agreement and the related Consent Decree, may be used or construed by any person or entity as an admission or concession by Defendants of the truth of any of the allegations in the Actions, or of any liability, fault, or wrongdoing of any kind on the part of any Defendant. Other than the procedures adopted by the Consent Decree, this Settlement Agreement and related Consent Decree shall not be offered or received in evidence in any action or proceeding in any court, administrative panel or proceeding, or other tribunal, as an admission or concession of liability or wrongdoing of any nature on the part of any Defendant. In the event the Settlement Agreement and related Consent Decree are not finally approved for any reason, Defendants retain the right to contest the Actions and/or any other case on any ground.

37. Settlement Administrator and Administration: The Parties agree that the City will propose for Court approval that Class Action Administration, Inc. be designated as the Settlement Administrator. The Settlement Administrator shall (i) oversee the provision of Notice to the Current Employees Class and the Retirees Class; (ii) oversee and maintain the settlement website; (iii) audit and confirm the issuance of payments made to any Current Employees Class member pursuant to this Agreement; and (iv) provide a certification to the

Court regarding the issuance of Notice as set forth herein. Defendants shall pay the reasonable costs of administering the Settlement once Preliminary Approval is granted by the Court from general revenue funds. Such costs will include, for example, the reasonable costs of notifying the Current Employees Class members and the Retirees Class members, mailing the Class Notice, creating and maintaining a settlement website, and creating and maintaining an automated toll-free telephone number to answer frequently asked questions. The City agrees to supply to the Settlement Administrator names and last known addresses for each Current Employees Class member and each Retirees Class member. The City shall provide such information on a timely and responsive basis and in a readily usable format so as to enable the Settlement Administrator to satisfy the requirements of the Notice Program described below. For any Current Employees Class member or Retirees Class member for whom a current address cannot be located, the City shall provide the Settlement Administrator with the last known address for the representative or agent of each such Current Employees Class member and Retirees Class member.

38. Notice to Class Members: The Notice Program will consist of the following: (i) mailing of the Notice (the text of which shall substantially conform to Exhibit 2 hereto) to Current Employees Class members and Retirees Class members by first-class mail; (ii) creating and maintaining the Settlement Website (the text of which shall substantially conform to Exhibit 2 hereto) which will include a copy of the Notice, the Settlement Agreement, Consent Decree and other information relating to the terms of the Settlement; and (iii) establishing a toll free number containing answers to frequently asked questions (the text of which shall substantially conform to Exhibit 2 hereto). No later than 30 days after the Preliminary Approval Date, the Settlement Administrator shall mail the Notice by first-class mail to each Current Employees Class member and each Retirees Class member. The first day on which the Notices are mailed

shall constitute the Notice Date. The Settlement Administrator shall certify to the Court the Notice Date in writing. As necessary, the Settlement Administrator shall locate or update all addresses for Current Employees Class members and Retirees Class members prior to mailing the Notices. If any Notices are returned as undeliverable, then the Settlement Administrator shall, to the extent it is reasonably able to locate a current address, re-send all such Notices by first-class mail. If the Settlement Administrator cannot reasonably locate a current address for those Notices returned as undeliverable, then the Settlement Administrator may send such Notices by first class mail to the last known address of the agent or representative of each of these Current Employees Class members and Retirees Class members, if available.

39. Objections to the Settlement: Any Class Member who wishes to object to the fairness, reasonableness or adequacy of this Settlement Agreement, the Consent Decree, or to the requested amount of attorneys' fees and expenses must, by the date specified in the Class Notice (which will be 60 days after the Notice Date) deliver to Class Counsel and Defendants' Counsel and file with the Court a statement of the objection, as well as the specific reason(s), if any, for the objection, including any legal support and any evidence the Class Member wishes to introduce in support of the objection. Any Class Member may so object either on their own or through an attorney hired at their own expense. Any Class Member who files and serves a written objection, as described in this Section, may appear at the Fairness Hearing, either in person or through personal counsel hired at that Class Member's expense, to object to the fairness, reasonableness or adequacy of this Settlement Agreement or to the requested attorneys' fees and expenses. Class Members or their attorneys intending to make an appearance at the Fairness Hearing pursuant to their objection must no later than 14 days prior to the Fairness Hearing: (1) file a notice of intention to appear with the Court; (2) deliver to Class Counsel and

Defendants' Counsel a copy of such notice of intention; and (3) identify any documents they will seek to introduce or witnesses they intend to call at the Fairness Hearing. The Parties and their respective counsel shall not solicit or encourage any objections.

Any Class Member who fails to comply with this Section shall waive and forfeit any and all rights that the Class Member may have to appear separately or object, or to take any appeal of the orders or judgments, and shall be bound by all the terms of the Settlement Agreement, the Consent Decree and by all proceedings, order, and judgments related thereto, including but not limited to the Order Granting Final Approval. The Parties and their respective counsel will not solicit Class Members to submit written objections to the Settlement or appeal from the Court's Order Granting Final Approval.

40. Preliminary Approval Order: On or before May 6, 2015, an application will be made to the Court for an order that will, among other things:

- i. Preliminarily approve this Settlement Agreement and related Consent Decree as fair, reasonable, and adequate so as to warrant sending notice to the Classes;
- ii. Conditionally certify the Current Employees Class and the Retirees Class pursuant to Fed. R. Civ. P. 23(b)(1) and (b)(2) and appoint Current Employees Class Counsel and Retirees Class Counsel to represent the respective classes;
- iii. Approve the notice methodology described herein and the proposed Class Notice for mailing;
- iv. Direct the Settlement Administrator to mail or to cause the appropriate Class Notice to be mailed to each Class Member's last known address within 30 days from entry of the Preliminary Approval Order;

- v. Direct the Settlement Administrator to create and maintain the Settlement Website and to establish a toll-free telephone number to answer frequently asked questions within 30 days from entry of the Preliminary Approval Order;
- vi. Find that the Class Notice to be provided to Class Members: (a) is the best practicable notice; (b) is reasonably calculated to apprise Class Members of the terms of this Settlement and their right to object to the proposed Settlement; (c) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and (d) meets all applicable requirements of the Federal Rules of Civil Procedure, the Class Action Fairness Act, the United States Constitution (including the Due Process Clause), the Rules of the Court, and any other applicable law;
- vii. Require each Class Member who wishes to object to submit a valid and timely statement of objection pursuant to the terms of this Agreement;
- viii. Require any attorney hired by a Class Member for the purpose of objecting to the fairness, reasonableness or adequacy of this Settlement Agreement and the Consent Decree, to any terms of the Settlement Agreement or Consent Decree, or to the proposed attorneys' fees and expenses, to file with the Court and deliver to Class Counsel and Defense Counsel a notice of appearance no later than 14 days prior to the Fairness Hearing;
- ix. Require any Class Member who files and serves a written objection and who intends to make an appearance at the Fairness Hearing, either in person or through counsel hired at that Class Member's expense, to deliver to Class Counsel and Defense Counsel and file with the Court no later than 14 days prior

to the Fairness Hearing, a notice of intention to appear and a statement identifying any documents the Class Member will seek to introduce or witnesses the Class Member will seek to call at the Fairness Hearing;

- x. Preliminarily enjoin Class Members from filing, commencing, prosecuting, intervening in, or participating (as Class Members or otherwise) in any lawsuit in any jurisdiction based on the claims in the Actions;
- xi. Schedule the Fairness Hearing no later than 120 days after the Notice Date;
- xii. Stay any and all litigation activities except for activities related to the approval and implementation of this Settlement;
- xiii. Direct Class Counsel to file their requests for attorneys' fees and expense reimbursements no later than 21 days prior to the deadline for Class Members to file any objections to this Settlement; and
- xiv. Contain any additional provisions that might be necessary to implement and administer the terms of this Settlement Agreement and the related Consent Decree.

The proposed Preliminary Approval Order is attached hereto as Exhibit 6.

41. Dismissal of *State ex rel. Council 8 AFSCME, et al. v. City of Cincinnati*: Within ten business days of Finality, the parties to *State ex rel. Council 8 AFSCME, et al. v. City of Cincinnati, et al.*, Case No. A I 104791, pending before the Hamilton County Court of Common Pleas will stipulate to a dismissal of that action.

42. Continuing Jurisdiction Over *Sunyak and Harmon v. City of Cincinnati*: The Parties agree that the Court shall retain exclusive jurisdiction to oversee, enforce, interpret, implement, and administer this Settlement Agreement and the Consent Decree through the

pending consolidated actions, *Sunyak v. City of Cincinnati*, Case No. 1:11-cv-445 (S.D. Ohio) and *Harmon v. City of Cincinnati*, Case No. 1:12-cv-329 (S.D. Ohio). Each of the Parties expressly and irrevocably submits to the jurisdiction of the Court in connection with any proceedings related to the oversight, enforcement, interpretation, implementation, or administration of this Settlement Agreement or the Consent Decree.

43. Order Granting Final Approval of Settlement: After the conclusion of the Fairness Hearing, and upon the Court's approval of this Settlement Agreement and related Consent Decree, the Parties shall seek and obtain from the Court an Order Granting Final Approval, which shall, among other things:

- i. Find that the Court has personal jurisdiction over the Parties, and the Court has subject matter jurisdiction to approve the Settlement Agreement, including all Exhibits to the Settlement Agreement;
- ii. Approve this Settlement as fair, reasonable, and adequate, consistent and in compliance with all applicable requirements of the Federal Rules of Civil Procedure, the Class Action Fairness Act, the United States Constitution (including the Due Process Clause), the Rules of the Court, and any other applicable law, and in the best interests of each of the Parties and the Class Members;
- iii. Certify the Current Employees Class and the Retirees Class pursuant to Federal Rule of Civil Procedure 23(b)(1) and (b)(2) and finally approve and appoint Current Employees Class Counsel and Retirees Class Counsel to represent their respective class.

- iv. Direct the Parties and their counsel to implement and consummate this Settlement Agreement according to its terms and provisions;
- v. Declare this Settlement Agreement and related Consent Decree to be incorporated into the Order Granting Final Approval and to be binding on all Class Members and preclusive in all pending and future lawsuits or other proceedings;
- vi. Find that the Class Notice and the notice methodology implemented pursuant to this Settlement Agreement:
 - 1. Constituted the best practicable notice;
 - 2. Constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of the terms of the Proposed Settlement, their right to object or exclude themselves from the proposed Settlement, and their right to appear at the Fairness Hearing;
 - 3. Were reasonable and constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and
 - 4. Met all applicable requirements of the Federal Rules of Civil Procedure, the Class Action Fairness Act, the United States Constitution (including the Due Process Clause), the Rules of the Court, and any other applicable law;
- vii. Find that Class Counsel and the Class Representatives adequately represented the Classes and Sub-Classes for purposes of entering into and implementing the Settlement and that Class Counsel is entitled to the payment of attorneys' fees in the amounts approved by the Court;

- viii. Order that AFSCME take all necessary actions to dismiss with prejudice *State ex rel. Council 8 AFSCME, et al. v. City of Cincinnati, et al.*, Case No. A 1 104791, within 10 days of Finality, without fees or costs to any Party except as provided in this Settlement Agreement; and
- ix. Without affecting the Finality of the Order Granting Final Approval for purposes of appeal, retain jurisdiction as to all matters relating to the administration, consummation, enforcement, and interpretation of this Settlement Agreement, the Order Granting Final Approval, the Consent Decree, and for any other necessary purpose.

The proposed Order Granting Final Approval is attached hereto as Exhibit 7.

44. Plaintiffs' Representations: Current Employees Plaintiffs and Retirees Plaintiffs represent and certify that: (1) they have been willing, able, and ready to perform the duties and obligations of representatives of the Classes; (2) they have read the pleadings in this Action, including the complaints, and have had the contents of such pleadings described to them; (3) they have been kept informed of the progress of the Actions and the settlement negotiations among the Parties, and they have either read this Settlement Agreement and related Consent Decree or have received a description of it from Class Counsel, and have agreed to the terms of the Settlement Agreement and related Consent Decree; (4) they have consulted with Class Counsel about the Actions, this Settlement Agreement and related Consent Decree and the obligations of a representative of the Classes; (5) they support this Settlement Agreement and the related Consent Decree and have agreed to execute this Settlement Agreement; and (6) they will remain and serve as representatives of the Classes until the Court authorizes their withdrawal as Class representatives. Should any Class representative withdraw, or if any Class representative

is found to be no longer capable of performing any responsibilities as a Class representative, the remaining Class representatives shall nominate replacement representatives subject to Court approval.

45. Enforcement: This Agreement is to be final and binding on all Parties and enforceable by the Court. Neither the City, City Council, nor the Board shall have any authority to take any action which is contrary to this Agreement, or which would undermine, obviate or otherwise avoid any of the material provisions contained herein. Should the City fail to take any action or make any payment required under this Agreement, the City waives any and all defenses, including, without limitation, jurisdictional defenses, and the Court's judgment shall be immediately enforceable through all means available under applicable law.

46. Governing Law: This Agreement and the Consent Decree shall be governed by and interpreted according to Ohio law.

47. Continuing Jurisdiction: The Parties agree and stipulate to the continuing jurisdiction and venue of the Court. Any action to enforce this Settlement Agreement or the related Consent Decree (including enforcing any re-opener provision) shall be commenced and maintained only in the Court. The administration, execution, interpretation, consummation, and enforcement of the Settlement Agreement and the related Consent Decree shall be under the authority of the Court. AFSCME shall have standing to enforce this Agreement and to assert any reopener.

48. No Presumption Against Drafter: The Parties agree that this Settlement Agreement and the related Consent Decree was drafted by counsel for the Parties at arm's length, with substantial input from all Parties and their counsel, and no reliance was placed on any representations other than those contained herein. The Parties agree that the Settlement

Agreement and the Consent Decree shall be construed by its own terms, and not by any presumption against the drafter; and that no parol or other evidence may be offered to explain, construe, contradict, or clarify its terms, the intent of the Parties or their counsel, or the circumstances under which the Settlement Agreement and related Consent Decree were drafted or executed.

49. No Tax Opinions: No opinion concerning the tax consequences of the proposed Settlement to individual Class Members is being given or will be given by Plaintiffs, Class Counsel, Defendants, or Defendants' counsel; nor is any representation or warranty in this regard made by virtue of this Settlement Agreement or the Consent Decree.

50. Counterparts Permitted: This Agreement and related Consent Decree may be signed in counterparts, each of which shall constitute a duplicate original. Electronic or facsimile transmitted copies of the signatures shall constitute a duplicate original.

51. Successors and Assigns: The provisions of this Agreement, the related Consent Decree, and all Exhibits and documents relating thereto shall be binding upon and inure to the benefit of the respective successors and assigns of the Plaintiffs, members of the Classes, Class Counsel, and Defendants.

52. General Compliance Reviews: In order to monitor and report on the implementation of this Agreement and Consent Decree, the City and Class Counsel shall regularly conduct compliance reviews to ensure that Defendants have implemented and continue to implement all measures required by this Agreement. Each Party shall designate counsel to serve as liaisons to the Court for compliance purposes. This counsel shall serve as a liaison between the City and the Court, and shall assist with the City's compliance with this Agreement. The City will provide access to such public documents as are required to properly ensure

compliance with the terms set forth in this Agreement. Liaison counsel will be permitted to apply for an award of fees for any services rendered to be paid by the City. The City shall be liable for payment of liaison counsel fees up to \$5,000 in any given year.

53. Regular Status Reports: Beginning six months after the Effective Date, and every 12 months thereafter until this Agreement is terminated, the City and Class Counsel shall file a status report with the Court, including any supporting documentation, delineating all steps taken during the reporting period to comply with this Agreement. These reports shall track the Defendants' attainment of the requirements and goals contained in this Agreement, identify any areas of alleged non-compliance, instruct the Court as to how the Parties intend to remedy any areas of alleged non-compliance and, if necessary, request that the Court issue orders on compliance as necessary. If the Court issues any such order to ensure compliance with this Agreement and the related Consent Decree, the Party or Parties subject to the Order shall have 60 days from receipt of such Order to cure the asserted failure. On or before the termination of this 60 day period, the Party or Parties subject to the Order shall file an additional report with the Court documenting efforts taken to comply with the Court's Order. The Court may award reasonable attorneys' fees incurred by any party to secure compliance with this Agreement and require the responsible Party or Parties to this Agreement to pay the same.

54. Record Keeping Requirements: During the term of this Agreement and the Consent Decree, and subject to record retention requirements and procedures imposed by federal, state or local law, or any relevant collective bargaining agreement, the City and Class Counsel shall maintain all records documenting compliance with this Agreement and all documents required by or developed pursuant to this Agreement. These records shall be made

available to all Parties upon request in accordance with all state and federal laws requiring open records provisions.

55. Arms-Length Negotiations: This Agreement is the product of extensive arms-length negotiations by competent legal counsel for the Parties.

56. No Admission of Liability: The Parties agree that they are entering into this Agreement for settlement purposes only. Any acquiescence or agreement to the class certification in this case does not constitute an admission of liability or fault by the City and may not be used as evidence in any proceeding for damages by any member of the Classes.

57. No Retaliation: No Party shall retaliate in any manner against any other Party, including any members of the Classes, for their participation in the Actions or this Settlement.

58. Obligation to Cooperate and Use Best Efforts: All Parties hereto agree to exercise their best efforts and to take all reasonable steps necessary to effectuate the Settlement set forth in this Agreement.

59. Entire Agreement: This Agreement and the related Consent Decree constitute the entire agreement and accord among the Parties with regard to the subject matter of this Agreement.

60. Notice: Any notice, request, instruction, Order, or other document to be given hereunder by any Party hereto to any other Party (other than class notification) shall be in writing and delivered personally or sent registered or certified mail, postage prepaid, to the Parties as follows:

To: City of Cincinnati

City Manager Harry Black or his successor as Chief Executive Officer of the City of Cincinnati
with a copy to City Solicitor Paula Boggs Muething or her successor as Chief Legal Officer of the City of Cincinnati

City Hall
801 Plum Street
Cincinnati, OH 45202

Steven P. Goodin
John B. Pinney
Graydon Head & Ritchey LLP
1900 Fifth Third Center
511 Walnut Street
Cincinnati, OH 45202

To: Current Employee Class Counsel

Christian A. Jenkins
Minnillo & Jenkins Co., LPA
2712 Observatory Ave.
Cincinnati, OH 45202

Marc Mezibov
401 E. Court Street, Suite 600
Cincinnati, OH 45202

Robert D. Klausner
Klausner Kaufman Jensen & Levinson
7080 Northwest Fourth Street
Plantation, FL 33317

Jeffrey S. Goldenberg
Goldenberg Schneider, LPA
One West Fourth Street, 18th Floor
Cincinnati, OH 45202

To: Retiree Class Counsel

Robert A. Pitcairn, Jr.
James F. McCarthy, III
Peter J. O'Shea
Katz Teller
255 East Fifth Street, 24th Floor
Cincinnati, OH 45202-4724

To: AFSCME Council No. 8

R. Sean Grayson
6800 N. High Street
Worthington, Ohio 43085-2512

61. Public Document: This Agreement is a public document and shall be posted on appropriate websites maintained by the City and the CRS.

62. Modification: This Agreement may only be modified in writing and with consent of the Parties, subject to the approval of the Court or by order of the Court.

63. Termination: This Agreement will terminate 30 years after the Effective Date.

64. Implementation Date: Any provision of this Agreement which is silent as to the implementation date shall be implemented on the Effective Date or January 1, 2016, whichever is later.

The below Parties have read and agree to the terms of this Collaborative Settlement Agreement and related Consent Decree:

Current Employees Plaintiffs and Putative Current Employees Class Representative

/s/ Nick Sunyak April 29, 2015
Nick Sunyak Date

/s/ Jeffrey Harmon April 29, 2015
Jeffrey Harmon Date

/s/ Jill Allgeyer April 29, 2015
Jill Allgeyer Date

/s/ Kim Kappel April 29, 2015
Kim Kappel Date

/s/ Waleia Jackson April 29, 2015
Waleia Jackson Date

Richard Ganulin April 29, 2015
Date

/s/ Finley Jones April 29, 2015
Finley Jones Date

The below Parties have read and agree to the terms of this Collaborative Settlement Agreement and related Consent Decree:

Retirees Plaintiffs and Putative Retirees Class Representatives

/s/ Thomas A. Gamel, Sr May 7, 2015
Thomas A. Gamel, Sr., Date

/s/ Paul Smith May 7, 2015
Paul Smith Date

/s/ Mark K. Jones May 7, 2015
Mark K. Jones Date

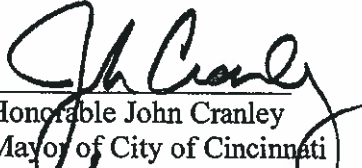
/s/ Dennis Davis May 7, 2015
Dennis Davis Date

/s/ Ely Ryder May 7, 2015
Ely Ryder Date


/s/ Ann DeGroot May 7, 2015
Ann DeGroot Date

The below Parties have read and agree to the terms of this Collaborative Settlement Agreement and related Consent Decree:

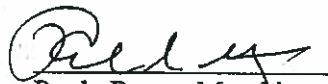
Defendants:


Honorable John Cranley
Mayor of Cincinnati

4/29/15
Date


Harry Black
City Manager of Cincinnati, on behalf of City Defendants

4/29/15
Date


Paula Boggs Muething
City Solicitor of Cincinnati, on behalf of City Defendants

4/29/15
Date

The below Counsel have read and agree to the terms of this Collaborative Settlement Agreement and related Consent Decree:

Current Employees Class Counsel:

/s/ Jeffrey S. Goldenberg May 7, 2015
Jeffrey S. Goldenberg Date

/s/ Christian A. Jenkins May 7, 2015
Christian A. Jenkins Date

/s/ Robert D. Klausner May 7, 2015
Robert D. Klausner Date

/s/ March Mezibov May 7, 2015
Marc Mezibov Date

Retiree Class Counsel:

/s/ Robert A. Pitcairn, Jr. May 7, 2015
Robert A. Pitcairn, Jr. Date

/s/ James F. McCarthy, III May 7, 2015
James F. McCarthy, III Date

AFSCME Council No. 8:

/s/ R. Sean Grayson May 7, 2015
R. Sean Grayson Date

Counsel for City of Cincinnati:

/s/ Steven P. Goodin May 7, 2015
Steven P. Goodin Date

