

2011 Agreement between CIC and the City of Gahanna

This Agreement (the "Agreement") is made and entered into on _____, 2011, by and between the City of Gahanna, Ohio ("Gahanna" or "City"), an Ohio Municipal Corporation, with offices at 200 S. Hamilton Road, Gahanna, Ohio 43230 and the Gahanna Community Improvement Corporation ("CIC"), with a mailing address of 200 S. Hamilton Road, Gahanna, Ohio 43230 for the services as detailed herein. Gahanna and the CIC are collectively referred to herein as the "Parties."

WITNESSETH:

WHEREAS, the City of Gahanna has enacted Gahanna City Code Section 165.02 (a) to authorize a lodging tax for the purpose of encouraging and promoting tourism and visitors to the City of Gahanna.

WHEREAS, the City, on the _____ day of _____, 2011, adopted ORD _____, wherein the Mayor of the City of Gahanna, Ohio, is hereby authorized to enter into an Agreement with the CIC for the development of tourism business retention and attraction in order to bring tourist, cultural, educational, religious, professional, and sports businesses into the City for the benefit of the citizens and for the economic vitality of the community thereof in accordance with Gahanna City Code Section 165.02 (d).

WHEREAS, the City, on the 19th day of May, 2008, adopted ORD 0112-2008 authorizing the establishment of a CIC for the purpose of industrial, economic, civic, commercial, distribution and research development in the City.

NOW, THEREFORE, in consideration of the foregoing and of the covenants and Agreements contained herein, the Parties, intending to be legally bound, agree as follows:

SECTION I – TERM

1. This Agreement shall be for a period of twelve (12) months, beginning on the first day of January, 2011, and extending to and including the second day of January, 2012.

SECTION II – CIC OBLIGATIONS

1. The CIC agrees to work cooperatively and in support of the City through the specific economic goals and objectives of the City, through its designated departments and, more specifically, for the furtherance and advancement of the City's tourism and attraction economic engine model.
2. The CIC agrees to assist in the development and publicity of the City to encourage its economic vitality through the promotion of and patronage of businesses and through

expansion and retention efforts for the benefit of the business and residential community of the City. This service shall include, but shall not be limited to the following:

- a. The promotion of economically viable developments that support meetings, conferences, events, and tourism within the City, i.e. hotels, lodging facilities and attractions; and
 - b. The provision of advice, direction, and assistance to persons desiring to develop such facilities or hold conventions, meetings and conferences in the City; and
 - c. The promotion and continued development of the commercial, historical, cultural, and natural resources, including but not limited to Creekside, of the City for tourism; and
 - d. The preparation, compilation, printing, broadcasting, publishing, distribution and dissemination of information and data of all kinds which may be useful in furthering the purpose of the City; and
 - e. To do all these things to promote and publicize the continued development for economic sustainability of the City to residents and visitors.
3. The CIC agrees to, based on an evaluation which shall begin not later than September 1st of each year, prepare a budget recommendation and an Action Plan for the City for the next calendar year. These items shall include, but not be limited to, the CIC's activities for the upcoming year and anticipated expenditures for such items. The CIC Board of Trustees shall approve the Budget and Action Plan and then submit both documents to the City, Mayor, and Council for approval.
 4. The CIC shall prepare in writing and orally deliver to the City, an Annual Report covering the previous calendar year detailing the activities and accomplishments of the CIC, including a complete schedule of the expenditure of funds remitted to the CIC by the City. This Annual Report shall be submitted to the City Council prior to the end of the first quarter of each year. The CIC shall also make regular progress reports on achievement of the CIC's activities and accomplishments to the City.
 5. The CIC shall keep complete and accurate records and accounts of all financial transactions. The City or State of Ohio has the right to examine and audit all such records at any time upon reasonable notice. The CIC shall be solely responsible for the conduct of any such State audit and the cost thereof. It is expected that the City will, at a minimum, receive an annual financial review and activity report.
 6. The CIC agrees to indemnify, protect, defend and hold harmless Gahanna and its elected officials, officers, agents, employees, and volunteers from and against any claims, costs (including attorney's fees and court costs), expenses, damages, liabilities, losses or judgments arising out of, or in connection with, any claim,

demand or action made by any third party, if such are sustained as a direct or indirect consequence of the execution of the CIC's obligations under this Agreement and are a direct or indirect result of the acts or omissions of the CIC and/or its staff, employees, agents, or guests.

7. The CIC agrees that funding received from Gahanna under this Agreement shall be allocated at its sole discretion, but shall be allocated in pursuit of activities permissible under section 165.02 of the Gahanna City Code and the obligations expressed in this Agreement.
8. The CIC agrees that funding received from Gahanna under this Agreement shall be the full extent of funding received from the City for completion for completion of the obligations expressed in this Agreement and that, in the event that other funding is requested from the City, it shall be provided under a separate Agreement.

SECTION III – CITY OBLIGATIONS

1. In exchange for the CIC completing the above said obligations, **the City agrees to pay the CIC 0.0833 percent of lodging tax revenue received under section 165.02(a) of the Gahanna City Code**, excluding interest earned on the funds. Said payment shall be remitted monthly to the CIC pursuant to a schedule determined by the City Finance Director and agreed to by the CIC.
2. The City will not be responsible for making up any shortage if receipts from the lodging tax are less than anticipated or budgeted.

SECTION IV- AGREEMENT TERMINATION

1. Either party to this Agreement may terminate the same upon the giving of one hundred and eighty (180) days written notice thereof to the other party.
2. In the event of termination, the City shall be responsible for a prorated payment of existing CIC obligations or encumbrances in an amount not to exceed budget approval for that specified calendar year. Any and all monies remaining in CIC accounts, originally received from the City, shall be returned to the General Fund of the City and will be disbursed at the discretion of Gahanna City Council for purposes authorized under section 165.02 of the Gahanna City Code. All fixed assets purchased with such tax funds shall be returned and remitted to the City or per cost basis remitted to the City for the use of any subsequent CIC contracted for by, or operated by, the City.

SECTION V – MISCELLANEOUS PROVISIONS

1. This Agreement may be changed only by an instrument in writing signed by both parties with sixty (60) days advance notice.

2. No waiver of any breach shall affect or alter this Agreement but each and every covenant, Agreement, term and condition of this Agreement shall continue in full force and effect.
3. This Agreement constitutes all promises, conditions, inducements and understandings between the City and the CIC.
4. In the event any term or provision of this Agreement shall for any reason be held invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other term or provision herein.
5. This Agreement shall be enforceable between the Parties. Unless otherwise expressly agreed to in writing by the Parties, no other person, entity, organization, or group shall have rights under this Agreement
6. Unless agreed to by the Parties, no third party shall have any rights under this Agreement as a third party beneficiary.
7. Whenever there is a conflict between any provision of this Agreement, and any new law, rule, or regulation, such law, rule or regulation shall prevail and this Agreement shall be curtailed, modified, or limited only to the extent necessary to eliminate such conflict.
8. This Agreement shall be deemed made and entered into in the State of Ohio and shall be governed by and construed in accordance with the Gahanna City Code and the laws of Ohio. Any controversy of claim, whether based upon contract, statute, tort, fraud, misrepresentation or other legal theory, related directly or indirectly to this Agreement, whether between the Parties, or of either of the Parties' employees, agents, staff, members, elected officials, or affiliates, will be resolved in the appropriate court in Franklin County, Ohio.
9. In the event that either Party breaches this Agreement, the Parties agree to resolve outstanding funding issues as if the Agreement were terminated pursuant to Section IV (2) of Agreement and agree to treat the date of breach as the date of termination.

(The Remainder of This Page Left Intentionally Blank)

IN WITNESS WHEREOF, the parties have caused duplicate originals of this Agreement to be executed on the _____ day of _____, 2011.

SIGNED IN THE PRESENCE OF:

WITNESSES:

City of Gahanna

By: _____
Rebecca W. Stinchcomb, Mayor

Gahanna Community Improvement Corp.

By: _____
President

Approved as to Form:

Thomas L. Weber, City Attorney