

**CAPITAL IMPROVEMENTS PROJECT  
MODIFICATION NO. 1 TO CONTRIBUTION AGREEMENT  
BETWEEN  
CITY OF COLUMBUS, OHIO  
AND  
CITY OF GAHANNA, OHIO  
ARTERIAL STREET REHABILITATION – MORSE ROAD – PRESERVE TIF  
IMPROVEMENTS  
CAPITAL IMPROVEMENT PROJECT 530103-100044**

This modification (the “AGREEMENT”) to a Contribution Agreement authorized by Ordinance No. 0327-2014, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015 (the “Effective Date”), by and between the City of Columbus, an Ohio municipal corporation, acting through its Director of Public Service, hereinafter designated as COLUMBUS, pursuant to and under the authority of Ordinance No. 0327-2014, passed by the City Council of the City of Columbus, approved by the Mayor of said city, and attested to by the City Clerk on the 6th day of May 2014, and the City of Gahanna, an Ohio municipal corporation, acting through its Mayor, hereafter designated GAHANNA, pursuant to and under the authority of Ordinance No. \_\_\_\_\_; and

**WHEREAS**, COLUMBUS agrees to accept a deposit of funds from GAHANNA for COLUMBUS to construct certain necessary improvements on behalf of GAHANNA, and in GAHANNA’s jurisdiction, in conjunction with COLUMBUS’ Arterial Street Rehabilitation – MORSE ROAD – PRESERVE TIF IMPROVEMENTS project; and

**WHEREAS**, COLUMBUS proposes to construct or to cause to be constructed additional public improvements, as identified in Exhibits A attached hereto and incorporated herein and further known as the “Improvements”; and

**WHEREAS**, under the original Contribution Agreement, GAHANNA contributed \$333,685.00; and

**WHEREAS**, GAHANNA wishes to add additional Improvements in their jurisdiction and GAHANNA shall make a deposit of \$646,000.00 for these additional Improvements, for a total amount of \$979,685.00; and

**WHEREAS**, COLUMBUS and GAHANNA recognize the benefit that the Improvements will have on its citizens and that it is in the best interests of COLUMBUS and GAHANNA to enter into this Agreement;

**NOW THEREFORE**, for and in consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree, as follows:

**1. DEFINITIONS:**

- A. “Cost of Work” is defined as the total cost of the project for the construction and inspection of the Improvements.
- B. “Estimated Cost” means **\$646,000.00** for the Improvements within GAHANNA’S jurisdiction and specifically identified within Exhibit B, with the total not to exceed said amount, unless and until additional amounts are appropriated by GAHANNA and an appropriate modification of this agreement is entered into by the parties.

C. “Work” means the construction of the Improvements.

2. **DEPOSIT:** The contribution of \$333,685.00 by GAHANNA under the original Contribution Agreement is a lump sum contribution and applies to the Improvements included in the original Contribution Agreement, regardless of the Cost of Work of the Improvements.

The deposit of \$646,000.00 by GAHANNA under this Agreement is a deposit based upon an Estimated Cost of the Improvements described in Exhibit A. For the Improvements included in Exhibit A of this Agreement, COLUMBUS shall track quantities installed and work performed and refund any unused deposit to GAHANNA upon completion of the project and after final accounting. If the Cost of Work of the Improvements included in Exhibit A exceeds the deposit, COLUMBUS and GAHANNA shall execute a contract modification and GAHANNA shall deposit additional funds in amounts determined by COLUMBUS.

Check shall be made out to: City Treasurer – Columbus and delivered to:

Department of Public Service  
Office of Support Services  
50 W. Gay St. – 5<sup>th</sup> Floor  
Columbus, Ohio 43215  
Attn: Tom Crawford

3. **INSPECTION:** COLUMBUS shall do and perform all inspection services for the Improvements, including the following:
- A. Directly interface with the Contractor.
  - B. Directly interface with the Consultant as needed.
  - C. Manage the change order process and shall seek GAHANNA’S approval of change orders for work in GAHANNA’S jurisdiction.
  - D. Invite GAHANNA to the final punch list meeting and walkthrough of the project. If items remain that must be completed or remedied in GAHANNA’s jurisdiction by COLUMBUS’ contractor(s) as determined by GAHANNA, COLUMBUS shall cause the work to be performed immediately upon being notified.
  - E. Upon final approval and acceptance of the Improvements, shall notify the Contractor and GAHANNA in writing.
  - F. Perform the one year warranty inspection and provide GAHANNA a final report. GAHANNA shall be invited to attend the one year inspection walk-through.

GAHANNA shall give final approval and acceptance of the Improvements in their jurisdiction.

4. **EXCLUSIVE RIGHT:** GAHANNA agrees that the Estimated Cost for the Improvements will be limited to those items specifically delineated within Exhibit B. COLUMBUS, through the DIRECTOR or designee, may consider authorizing reasonable increases and/or decreases in said items, or approving new items within GAHANNA’S jurisdiction that are deemed reasonable to the successful completion of the project, so long as the cost therein does not exceed the Estimated Cost and only after GAHANNA’S written approval.

5. **COOPERATION:** If, during the course of Work, it is anticipated that the Estimated Cost shall exceed the deposit amount of \$646,000.00, COLUMBUS and GAHANNA shall make every effort to discuss the issue(s) and identify the party responsible for funding the increase Estimated Cost before the work commences, unless COLUMBUS deems the work an emergency. If COLUMBUS deems the work an emergency, discussion of fiscal responsibility shall occur immediately after the Work has commenced.

GAHANNA shall be responsible for, but not limited to, unforeseen site conditions resulting in increased cost in their portion of the project. COLUMBUS shall be responsible for, but not limited to, work performed by COLUMBUS' contractor. Notwithstanding the foregoing, COLUMBUS and GAHANNA agree to cooperate and negotiate in good faith an appropriate modification of this Agreement in the event the Improvements and/or Estimated Cost is materially different than anticipated by the parties hereto at the time of this Agreement.

If the Estimated Cost or Cost of Work is greater than the \$646,000.00, and, as set forth above, GAHANNA is responsible for such increased cost, COLUMBUS and GAHANNA shall promptly execute a contract modification to increase the Estimated Cost or Cost of Work amount to reflect the additional amount needed.

6. **FINAL ACCOUNTING:** For purposes of determining the final construction cost of the project, COLUMBUS shall be required to keep complete and accurate books of account showing the Cost of Work to date and shall provide documentation of project related expenditures through a Change Order. When COLUMBUS has made final inspection and has deemed the Improvement to have been constructed in accordance with the contract documents, COLUMBUS shall proceed with a final accounting to arrive at the final Cost of Work.

If the Cost of Work is greater than the Estimated Cost and additional funding is required, COLUMBUS and GAHANNA shall promptly execute an addendum this agreement, and GAHANNA shall make payment to COLUMBUS within 30 days of receipt of invoice and copy of executed agreement modification.

If the Cost of Work is less than the Estimated Cost, COLUMBUS shall process a refund and make payment to GAHANNA within 30 days after the Cost of Work is determined.

7. **CONTRACT CERTIFICATION:** It is further agreed by GAHANNA that this modifying contract shall in no way constitute a breach of the original Contribution Agreement.

It is further understood and agreed by and between COLUMBUS and GAHANNA that as to all Work under the original Contribution Agreement that the scope, covenants, provisions, terms, and conditions thereof shall be binding and that the only purpose of this Modification of Agreement is for the changes outlined above: additional scope of work and GAHANNA depositing additional funds.

8. **ADDITIONAL DOCUMENTATION:** The following document exhibits to be hereby incorporated into and made part of the Contract as though specifically rewritten herein:

- A. Exhibit A: Improvements
- B. Exhibit B: Estimated Costs
- C. Exhibit C: Change Order, incorporated by reference as if attached

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on the dates appearing below.

**CITY OF COLUMBUS**

**CITY OF GAHANNA**

By: \_\_\_\_\_  
Tracie Davies, Director  
Department of Public Service

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM AND  
CORRECTNESS:**  
Richard C. Pfeiffer, Jr.  
Columbus City Attorney

**APPROVED AS TO FORM AND  
CORRECTNESS:**  
Gahanna City Attorney

\_\_\_\_\_  
\_\_\_\_\_  
Date

\_\_\_\_\_  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Date

## **EXHIBIT A - IMPROVEMENTS**

This revision is proposed to include the addition of curb and gutter, storm sewer, and sidewalk on the south side of Morse Road between Trellis Lane and the western boundary of the New Albany Company Development.

**EXHIBIT B – ESTIMATED COSTS**

**Preliminary Opinion of Additional Project Cost (Design and Construction)**

<b><u>Item</u></b>	<b><u>Estimated Cost</u></b>
Design and Engineering	\$ 45,000
Storm Sewer (Includes Culvert Extension)	\$328,100
Curb and Gutter (includes underdrain)	\$ 51,900
Sidewalk (includes embankment)	\$109,700
Potential Incidentals (MOT, Seeding, etc.)	\$ 20,000
<u>Contingency</u>	<u>\$ 91,300</u>
<b>Total Estimated Additional Project Cost</b>	<b>\$646,000</b>