

RESOLUTION NO. 51-10  
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Brooks Compton ON THE  
20<sup>th</sup> DAY OF December, 2010.

A RESOLUTION REPEALING RESOLUTION NUMBER 45-00 AND AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AN AGREEMENT BETWEEN THE COUNTY OF MONTGOMERY AND THE CITY OF CENTERVILLE FOR THE CITY'S PARTICIPATION IN THE ECONOMIC DEVELOPMENT/GOVERNMENT EQUITY (ED/GE) PROGRAM ESTABLISHED BY MONTGOMERY COUNTY.

WHEREAS, the Board of County Commissioners of Montgomery County, Ohio, established the Montgomery County Department of Community and Economic Development pursuant to Ohio Revised Code Chapter 307 for the purpose of developing and promoting plans and programs designed to assure that County resources are efficiently used, economic growth is properly balanced, and that County economic development is coordinated with that of the State of Ohio and other local governments, and

WHEREAS, the Board, acting on behalf of the County, has renewed the Montgomery County Economic Development/Government Equity (ED/GE) Program for an additional ten years beginning January 1, 2011, and

WHEREAS, the City of Centerville wishes to enter into an Economic Development/Government Equity Participation Agreement with the Board of County Commissioners of Montgomery County for the period 2011-2020.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. That the City Manager is hereby authorized and directed to sign the Agreement between the Board of Commissioners of Montgomery County, Ohio and the City of Centerville for the City's participation in the ED/GE Program for an additional ten year period beginning January 1, 2011, a copy of said Agreement, including an amendment from the county updating the agreement, is attached hereto, incorporated herein and marked Exhibit "A".

Section 2. That the Clerk of Council for the City of Centerville certify a copy of this Resolution to the Board of County Commissioners of Montgomery County, Ohio.

Section 3. That this Resolution shall become effective from and after the earliest day allowed by law.

PASSED this 20<sup>th</sup> day of December, 2010.

C. Mark Kugler  
Mayor of the City of Centerville, Ohio

ATTEST:

Julia M. Weaver  
Assistant Clerk of Council, City of Centerville, Ohio

**CERTIFICATE**

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true and correct copy of Resolution Number 51-10, passed by the Council of the City of Centerville, Ohio, on the 20<sup>th</sup> day of December, 2010.

Julia M. Weaver  
Assistant Clerk of Council

Approved as to form, consistency  
with the Charter and Constitutional Provisions.

Department of Law  
Scott A. Liberman  
Municipal Attorney

**ECONOMIC DEVELOPMENT/GOVERNMENT  
EQUITY (ED/GE) PROGRAM  
PARTICIPATION AGREEMENT**

**BETWEEN**

**MONTGOMERY COUNTY, OHIO  
AND**

**DATED AS OF \_\_\_\_\_, 2010 \_\_\_\_\_**

**ECONOMIC DEVELOPMENT/GOVERNMENT EQUITY**  
**PARTICIPATION AGREEMENT**

This Economic Development/Government Equity (ED/GE) Program Participation Agreement (the "Agreement") is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, pursuant to Chapter 307 of the Ohio Revised Code (the "Code") between the Board of County Commissioners of Montgomery County, Ohio (the "Board") or the Director of Economic Development for Montgomery County, Ohio (the "Director") on behalf of the County of Montgomery, Ohio (the "County") and \_\_\_\_\_ (the "Program Member"), a political subdivision of the County.

**ARTICLE I – RECITALS**

- 1.1 The Board has established the Montgomery County Department of Community and Economic Development pursuant to Ohio Revised Code Chapter 307 for the purpose of developing and promoting plans and programs designed to assure that County resources are efficiently used, economic growth is properly balanced, and that County Economic Development is coordinated with that of the State of Ohio and other local governments.
- 1.2 It is the intent of the Board, acting on behalf of the County, to continue the Montgomery County Economic Development/Government Equity (ED/GE) Program the "Program") to be administered by the Montgomery County Department of Community and Economic Development for the purposes set forth in Section 1.1.
- 1.3 The Board has a Director of Economic Development, who pursuant to Chapter 307 of the Ohio Revised Code has the authority, with the approval of the Board, to enter into agreements with Program Members to implement the Program.
- 1.4 The Director and the Program Member are desirous of entering into this Agreement to set forth their relative rights and obligations in pursuance of the purposes of the Program.
- 1.5 Cooperation and coordination between the County and the Program Members is intended to promote economic health and improve the economic opportunities of the people in Montgomery County by assisting in the establishment or expansion within the County of industrial, commercial or research facilities and by creating and preserving job and employment opportunities for the people of the County.

- 1.6 It is the intention of the County and the Program Members that, over the life of the ED/GE Program, no Program Member will contribute more on a net basis to the Government Equity Fund than it receives for Economic Development projects from the Economic Development Fund.
- 1.7 This Agreement is intended to supplement, and not to replace or restrict, all other agreements between the County and the Program Members or between individual Program Members relating to economic development in the County.

## ARTICLE II – DEFINITIONS

As used in this Agreement, each of the following terms shall have the meaning assigned to it as follows:

“Announcement Year” shall mean the year set forth under that heading in Schedule A.

“Base Year” means the 2007 calendar year for the first year of the Program. After this time period, it will advance by one year for each subsequent year of the Program (see Schedule A).

“Contribution/Distribution Year” shall mean the year set forth under that heading in Schedule A.

“Distribution Formula” has the meaning ascribed to in Section 4.2(c) hereof.

“Economic Development” means promoting economic welfare and improving the economic opportunities of the people in Montgomery County by assisting in the establishment or expansion within the County of industrial, commercial, or research facilities and by creating and preserving job and employment opportunities for the people of the County.

“Economic Development Fund” means the fund resulting from the allocation of a minimum of Two Million Dollars (\$2,000,000) annually in the years 2011-2019. The funds will be allocated from Ohio sales tax revenues and Montgomery County’s general operating funds as authorized pursuant to Division (EE) of Section 5705.19 of the Ohio Revised Code pending availability of those funds as determined by the Board of County Commissioners.

“ED Amount” shall mean the total amount allocated to a Program Member from the Economic Development Fund for an ED Period.

“ED Period One” shall mean calendar years 2011 through 2013.

“ED Period Two” shall mean calendar years 2014 through 2016.

“ED Period Three” shall mean calendar years 2017 through 2019.

“ED/GE Program Advisory Committee” or “Economic Development/Government Equity Program Advisory Committee” means the group of representatives that will monitor implementation of the Program and recommend improvements as necessary.

“Government Equity Fund” means the fund resulting from contributions from all Program Members based on the Growth Contribution Formula.

“Government Equity Fund Differential” or “Differential” means for each year of the nine-year term of the Agreement an amount equal to the difference between the Program Member’s contribution to the Government Equity Fund, as determined by the Growth Contribution Formula, and the Program Member’s distribution from the Government Equity Fund, as determined by the Distribution Formula.

“GE Contribution Amount” shall mean the net contribution by a Program Member with respect to the Government Equity Fund for a GE Period.

“GE Distribution Amount” shall mean the net distribution to a Program Member with respect to the Government Equity Fund for a GE Period.

“GE Period One” shall mean Contribution/Distribution Years 2012 through 2014.

“GE Period Two” shall mean Contribution/Distribution Years 2015 through 2017.

“GE Period Three” shall mean Contribution/Distribution Years 2018 through 2020.

“Growth Contribution Formula” has the meaning ascribed to in Section 4.2(b) hereof.

“Program” or “ED/GE Program” or “Montgomery County Economic Development/Government Equity Program” means the program of economic development established by the Board pursuant to Chapter 307 of the Ohio Revised Code and including collection and distribution of the Economic Development Fund and the Government Equity Fund.

“Program Member” means any political subdivision which is a party to this Agreement.

### **ARTICLE III – REPRESENTATIONS AND WARRANTIES**

3.1 The Director represents and warrants to the Program Member that the execution and delivery of this Agreement has been duly authorized by all

appropriate actions of the Board of County Commissioners and that this Agreement constitutes a legal, valid and binding obligation of the County in accordance with its terms.

- 3.2 The Program Member represents and warrants to the Director that the execution and delivery of this Agreement has been duly authorized by all appropriate actions of its governing body and that this Agreement constitutes a legal, valid and binding obligation of the Program Member in accordance with its terms.
- 3.3 The Director represents and warrants to the Program Member, and the Program Member represents to the Director, that to the best of each of their knowledge there is no pending or threatened litigation or government proceeding which would adversely affect the Agreement.

#### **ARTICLE IV – OBLIGATIONS OF THE DIRECTOR**

- 4.1 During the term of the Agreement, the Director shall, with the approval of the Board and subject to the provisions of Section 4.5 hereof:
- (a) Establish with the Board the Economic Development Fund for deposit and disbursement of gifts and contributions from the County for Economic Development purposes.
  - (b) Receive and accept annually for the term of the Agreement Two Million Dollars (\$2,000,000) in the years 2011-2019, which the Board appropriates each year of the nine-year Agreement term from Ohio sales tax revenues and Montgomery County's general operating funds for the creation of the office and the implementation of the Program pursuant to Chapter 5705 of the Ohio Revised Code, and deposit said monies into the Economic Development Fund pending availability of those funds as determined by the Board of County Commissioners;
  - (c) Establish administrative guidelines and criteria in accordance with the ED/GE Program Handbook (Attachment A) for determining the projects for which the Program Member may receive financial assistance from the Economic Development Fund, taking into account the recommendations of the ED/GE Program Advisory Committee and subject to the approval of the Board; said criteria shall include, but not be limited to, the requirement that recipients of Economic Development Fund disbursements shall be Program Members;
  - (d) Allocate the Economic Development Fund to Program Members annually for each year of the nine-year Agreement term to provide

financial assistance for Economic Development projects for the purposes of the Program according to the established guidelines and criteria, taking into account the recommendation of the ED/GE Program Advisory Committee and subject to the approval of the Board as to the selection of the projects to receive funding.

- (e) An ED/GE grant given to a member jurisdiction will be awarded as follows: (1) Seventy-five percent (75%) of the grant amount will be reimbursed to the jurisdiction on an invoice basis; (2) Twenty-five percent (25%) of the grant amount will be reimbursed to the jurisdiction at anytime during a three (3) year period commencing with the full execution of the agreement (the “contract date” – for definition see attached Handbook under “Funding Process”) that the recipient/business of the grant funds attains thirty-three percent (33%) of the total pledged jobs.

In determining projects for which a Program Member may receive financial assistance, the Director may at his option require the Program Member requesting a project to provide a legal opinion that such project would constitute a legally permissible expenditure of public funds. Such opinion shall be at the Program Member’s expense, and shall be rendered by legal counsel acceptable to the Director (which counsel may, but need not, be the Program Member’s legal advisor pursuant to statute, charter or ordinance).

4.2 In addition to the obligations set forth in Section 4.1 above, the Director shall, with the approval of the Board and subject to the provisions of Sections 4.3, 4.4 and 4.5 hereof:

- (a) Establish with the Board the Government Equity Fund for deposit and disbursement of contributions received annually from Program Members.
- (b) Determine annually for each year of the nine-year term of the Agreement the Program Member’s contribution to the Government Equity Fund according to the following method of computation (the “Growth Contribution Formula”):



$$\text{GROWTH CONTRIBUTION RATE} = \frac{1/3 \text{ Growth in Property and Income Taxes Over Base Year For Participating Program Members Increase in Assessed Valuation Over Base Year for Participating Program Members}}{1}$$

$$\text{INDIVIDUAL JURISDICTION CONTRIBUTION} = \text{GROWTH CONTRIBUTION RATE} \times \begin{matrix} \text{The Sum of:} \\ 100\% \text{ of the Increase in Commercial and Industrial Property Assessed Valuation Over the Base Year} \\ + \\ 25\% \text{ of the Increase in Residential Property Assessed Valuation Over the Base Year} \\ + \\ 50\% \text{ of the Increase in Property Tax Revenues Over the Base Year} \\ + \\ 50\% \text{ of the Increase in Income Tax Revenues Over the Base Year} \end{matrix}$$

As used in the Growth Contribution Formula, “income taxes” means the Program Member’s share of municipal income taxes less any municipal income tax reimbursed by a Program Member as an economic development incentive; “property taxes” means the Program Member’s share of total property taxes for all funds and all types of property.

- (c) Determine annually for each year of the nine-year term of the Agreement the Program Member’s distribution from the Government Equity Fund according to the following method of computation (the “Distribution Formula”):

$$\text{INDIVIDUAL PROGRAM MEMBER'S DISTRIBUTION} = \frac{\text{Total of All Program Members' Contribution For That Year}}{\text{Population of Program Member Total Population of Participating Program Members}}$$

As used in the Distribution Formula, “population” means the figures for each political subdivision of the County most recently determined for the distribution of the Local Government Revenue Assistance Fund in the County; “Total of All Program Members’ Contribution for that Year” means the sum of the individual jurisdiction’s contributions as determined by applying the formula set forth in Section 4.2(b).

- (d) Determine annually for each year of the nine-year term of the Agreement the Government Equity Fund Differential (the “Differential”), which shall be the difference between the Program

Member's contribution for such year and its distribution for such year (from the Growth Contribution Formula), being subject to the provisions of Section 4.5 hereof.

- (e) Where the Differential indicates a net contribution from the Program Member, receive said net contribution from the Program Member and deposit same in the Government Equity Fund; distribute said net distribution to the Program Member from the Government Equity Fund.

4.3 The schedule for receipt into and distribution from the Government Equity Fund shall be as follows for each year of the nine-year term of the Agreement:

- (a) Pending verification of data being used in the Government Equity Model by all Program Members and the receipt of copies of the Ohio Department of Taxation Municipal Income Tax Certification from each of the Program Members who have reported income tax to the Ohio Department of Taxation for the Comparison Year, the Director shall announce annually to the Program Member its net contribution or net distribution between October 1 and October 16 of the year following the year for which the Differential is determined (the "Announcement Year"). The first such annual announcement shall be made October 16, 2011 for the 2010 comparison year.
- (b) Where the Differential indicates a net contribution from the Program Member, the Director shall invoice the Program Member for the same on or before March 15 of the year following the Announcement Year; and said net contribution shall be payable by the Program Member on or before April 15 immediately following notification;
- (c) Where the Differential indicates a net distribution to the Program Member, the Director shall distribute said net distribution on or before April 30 of the year following the Announcement Year, such distribution being subject to the provisions of Section 4.5 herein and the receipt of all contributions from Program Members being invoiced;

If in any year additional contributions are received from Program Members following the April 15 date of Section 4.3(d) above, said contributions shall be distributed on or before December 1 of such year to the Program members who were entitled to a net distribution as described in Section 4.3(c) above in the same

proportion as the distributions described in Section 4.3(c) above were made.

- (d) Where additional contributions are received from Program Members following the December 1 distribution date of Section 4.3(d) above, said contributions shall be distributed on next April 30 according to the distribution formula for that year.

4.4 In addition to the provisions of the Agreement setting forth the manner of determining the allocation of the Economic Development Fund and the contributions to and distribution of the Government Equity Fund, the following computation shall be made and the following distributions shall be provided for:

- (a) Promptly following the announcement of the allocation of the Economic Development fund for 2013, the Director shall compute the total amount allocated to each Program Member from the Economic Development Fund (the "ED Amount") for ED Period One. Promptly following the announcement of the allocation of the Economic Development Fund for 2016 and 2019, the Director shall make the same computation with respect to ED Period Two and ED Period Three, respectively.
- (b) Promptly following the announcement of the Differentials for each Program Member in Announcement Year 2013 (Contribution/Distribution Year 2014), the Director shall compute the net contribution by, or distribution to, each Program Member with respect to the Government Equity Fund (the "GE Contribution Amount" or "GE Distribution Amount," as applicable) for GE Period One. Promptly following the announcement of such Differentials in Announcement Year 2016 (Contribution/Distribution Year 2017) and Announcement Year 2019 (Contribution/Distribution Year 2020), the Director shall make the same computation with respect to GE Period Two and GE Period Three, respectively.
- (c) Upon making the computations described in subsections (a) and (b) above with respect to ED Period One and GE Period One, the Director shall compare the ED Amount for such period for each Program Member with the GE Contribution Amount or GE Distribution Amount for such Program Member. If any Program Member's GE Contribution Amount exceeds such Program Member's ED Amount for such computation period, that Program Member shall be entitled to an allocation in the amount of such excess from the Economic Development Fund. This allocation may be used by the Program Member at its discretion. The Program

Member may also opt to apply the excess amount to an economic development project from the next distribution of the Economic Development Fund, so long as the project qualifies for funding under the guidelines and criteria established pursuant to paragraph 4.1 of the Agreement.

- (d) For ED and GE Periods Two and Three, the process set forth in subparagraph (c) above shall be repeated; provided, however, that prior to making the comparison provided for in subparagraph (c), the Director shall add to the Program Member's ED Amount for the period being computed: (i) the amount by which the Program Member's ED Amount for the previous period exceeded the Program Member's GE Contribution for the previous period, and (ii) the Program Member's GE Distribution Amount for the previous period. The amount of any grant for any period pursuant to subparagraph (c) shall not be taken into consideration in the computation of a Program Member's grant eligibility for any subsequent period.

4.5 Notwithstanding any provision in this Article IV to the contrary:

- (a) The contribution for Program Member, as determined by Section 4.2(b) above, shall not be an amount greater than thirteen percent (13%) of the growth from the base year of the Program Member's property and income tax revenues; and
- (b) The Director is not obligated to distribute from the Government Equity Fund for any year of the term of the Agreement an amount greater than the total net contributions received into the Government Equity Fund for that year, and where the total net contributions received for the year are less than an amount equal to the net contributions for all Program Members for the year as determined by the Differential, the net distribution for the Program Member for that year will be adjusted to a pro rata basis.
- (c) Five percent (5%) of the Economic Development Fund to be reserved for responding to unexpected economic opportunities within the territory of the parties hereto or threats to the well-being of the County.
- (d) The County and the Director covenant that the allocations to Program Members of the ED Amounts for the Year 2020 will not be determined until after Program Members' GE Contribution Amounts and GE Distribution Amounts for Contribution/Distribution Year 2020 have been determined.

## ARTICLE V – OBLIGATIONS OF THE PROGRAM MEMBER

- 5.1 During the term of this Agreement, the Program Member shall:
- (a) Provide prompt verification of data used in the Government Equity Model as requested by the Director and furnish such additional information as may be required to accurately complete the Model;
  - (b) Pay promptly all annual contributions to the Government Equity Fund as determined by the Director, said determination made for the years 2011 through 2019, payable in years 2012 through 2020, inclusive, according to the provisions in Article IV of the Agreement, said payments to be made within 31 days of receipt of notice of the amount due;
  - (b) Provide accurate and timely reporting of the use of the allocations to the Program Member of the Economic Development Fund and the status of projects funded thereby; and
  - (c) Provide, at its expense, any legal opinions required by the Director pursuant to Section 4.1 hereof.
- 5.2 In the event of a fiscal problem or extraordinary circumstances beyond its control which causes a delay in fulfilling the payment obligation of 5.1(a) above, the Program Member shall deliver notice of same by the obligation's due date, pursuant to Article IV herein, to the Director and be, thereby, afforded consideration for a late payment. Consideration for late payment due to such hardship shall be determined by the Director in consultation with the ED/GE Program Advisory Committee, and the terms of late payment as described in this Section 5.2 shall be within the discretion of the Director.
- 5.3 All program members awarded an ED/GE grant are required to enter into a written development agreement with the recipient/business receiving the grant funds that memorializes the recipient/business's understanding of the seventy-five percent (75%) and twenty-five percent (25%) nature of the award, and sets forth the grant monitoring obligations of the recipient/business and the Program Member

## ARTICLE VI – EVENTS OF DEFAULT AND REMEDIES

- 6.1 Events of Default. The following shall be “events of default” under this Agreement and the terms “events of default” and “default” shall mean, whenever they are used in the Agreement with respect to the Program Member, any one or more of the following events:

- (a) Failure by the Program Member to pay any contribution by the date when such payments are due under the Agreement;
- (b) Failure by the Program Member to fulfill any other obligation on its part required hereunder; or
- (c) The filing by the Program Member of a case in bankruptcy, or the subjection of any right or interest of such Program Member under this Agreement to any execution, garnishment or attachment, or adjudication of such Program Member for the benefit of creditors, or the entry by the Program Member into an agreement of composition with creditors or approval by a court of competent jurisdiction of a petition applicable to the Program Member in any proceedings instituted under the provisions of the Federal bankruptcy code, as amended, or under any similar act which may hereafter be enacted.

6.2 Remedies on Default. Whenever any event of default referred to in Section 6.1 above shall have happened and be continuing, it shall be lawful for the Director to exercise any and all remedies available pursuant to law or granted pursuant to this Agreement. Upon the occurrence of an event of default as described in Section 6.1(a) above, the Program Member may cure the default by paying the contribution due plus interest on such payment at a rate of twelve percent (12%) per annum, provided such payment is received by the Director within thirty (30) days of the date the contribution was due. If such payment is not made within thirty (30) days of the due date, the Program Member's default may be cured by payment of an amount equal to the contribution due plus interest accruing at a rate of twelve percent (12%) per annum from the payment due date plus a penalty charge of ten percent (10%) of the amount of the contribution. In addition, a Program Member in default shall not be entitled to any allocations from the Economic Development Fund or distribution from the Government Equity Fund unless and until the default is cured.

6.3 No Remedy Exclusive. No remedy conferred herein upon or reserved to the Director is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity, including, but not limited to, the right of any owner by mandamus or other suit or proceeding at law or in equity to enforce his rights against the Program Member and to compel the Program Member to perform and carry out its duties under this Agreement. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed

expedient. In order to entitle the Director to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notices as may be required in this Article or by law.

- 6.4 Attorneys' Fees and Expenses. In the event any party to this Agreement should default under any of the provisions hereof and the non-defaulting party should employ attorneys or incur other expenses for the collection of monies or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party contained herein, the defaulting party agrees that it will on demand, therefore, pay to the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party awarded to the non-defaulting party by a court of competent jurisdiction.

#### ARTICLE VII – TERM OF AGREEMENT

- 7.1 Term of Agreement. The term of the Agreement shall commence January 1, 2011, and continue in full force and effect until December 31, 2019, or until all obligations incurred hereunder shall have been fulfilled if such date is later than December 31, 2019 (the "Expiration Date"). Additional renewal terms may become effective upon written agreement by the parties.
- 7.2 Termination. The Agreement may be terminated or suspended at the sole discretion of the Board. All settle-up requirements as set forth in Section 4.4 of the Agreement shall be calculated and paid to Program Members no later than six months after termination of the Agreement.
- 7.3 Termination by Program Member. Any Program Member may terminate its membership in the ED/GE program by giving written notice of said termination, in compliance with Article 9.2(a), within a one month period either: prior to the conclusion of the first three years of the herein agreement (i.e., 12-31-2013), or at the conclusion of the second three years of the herein agreement (i.e., 12-31-2016).

#### ARTICLE VIII – AMENDMENTS, CHANGES AND MODIFICATIONS

- 8.1 Amendments in Writing. Except as otherwise provided herein, this Agreement shall not be effectively amended, changed or terminated except in writing, signed on behalf of the Director and the Program Member. Such amendments, changes or termination shall become effective only upon the execution of substantially similar amendments, changes or termination by every Program Member.
- 8.2 Parties Treated Similarly. It is the intent of this Article that all parties in the Program shall be treated similarly.

## ARTICLE IX – MISCELLANEOUS

9.1 Non-Waiver. Any waiver, whether in writing or by failures of the waiving party to timely act, of any requirement within this Agreement or of any breach of any requirement within this Agreement:

- (a) Shall not constitute a waiver of any subsequent requirement herein or of any subsequent breach of any requirement herein; and
- (b) Shall not otherwise affect the rights of the waiving party under this Agreement with respect to any said subsequent requirement or subsequent breach of said requirement.

9.2 Notices and Correspondence. All notices pertaining to or affecting the provisions of this Agreement shall be in writing and either delivered in person or sent by registered mail or certified mail, return receipt requested, to the parties at the following addresses:

(a) Correspondence to the Director:

Mailed: Dept. of Community & Economic Development  
10<sup>th</sup> Floor  
P.O. Box 972  
Dayton, OH 45422

Delivered: Dept. of Community & Economic Development  
10<sup>th</sup> Floor  
451 W. Third St.  
Dayton, OH 45422

(b) Correspondence to the Program Member

Mailed:

Delivered:

Either of the parties shall be entitled to specify as its proper address for the purposes of this Agreement any other address located within the County upon ten (10) days prior written notice to the other party.



- 9.3 Captions. Captions in this Agreement are inserted for convenience of reference only and shall in no way be construed to be interpretations of the text.
- 9.4 Applicable State Law. The rights, obligations, and remedies of the parties as specified under this Agreement shall be interpreted and governed in all respects by the laws of the State of Ohio.
- 9.5 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Director and the Program Member and their respective legal successors. Any obligations of the Director created by or arising out of this Agreement shall be payable out of Program Funds and, in the complete discretion of the Director, from any other source deemed legal and appropriate by the Director. Any obligations of the Program Member created by or arising out of this Agreement shall be payable from whatever source deemed legal and appropriate by the Program Member.
- 9.6 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which collectively shall constitute one and the same instrument.

(the remainder of this page intentionally left blank)

WITNESSES:

BOARD OF COUNTY COMMISSIONERS  
MONTGOMERY COUNTY, OHIO

\_\_\_\_\_

\_\_\_\_\_  
Dan Foley

\_\_\_\_\_

\_\_\_\_\_  
Deborah A. Lieberman

\_\_\_\_\_

\_\_\_\_\_  
Judy Dodge

OR

\_\_\_\_\_

\_\_\_\_\_  
Deborah A. Feldman, County Administrator

AND

\_\_\_\_\_

\_\_\_\_\_  
Joseph P. Tuss, Director

POLITICAL JURISDICTION:

\_\_\_\_\_

\_\_\_\_\_  
Name of Jurisdiction

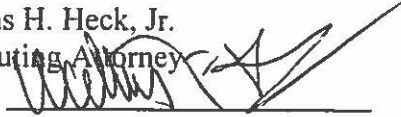
By: \_\_\_\_\_

Its: \_\_\_\_\_

APPROVED AS TO FORM:

Mathias H. Heck, Jr.

Prosecuting Attorney

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

Date: 11.17-10

**SCHEDULE A  
SCHEDULE OF BASE YEAR AND COMPARISON YEAR  
FOR EACH CONTRIBUTION/DISTRIBUTION YEAR**

<b>Contribution/ Distribution Year</b>	<b>Base Year</b>	<b>Comparison Year</b>	<b>Announcement Year</b>
2012	2007	2010	2011
2013	2008	2011	2012
2014	2009	2012	2013
2015	2010	2013	2014
2016	2011	2014	2015
2017	2012	2015	2016
2018	2013	2016	2017
2019	2014	2017	2018
2020	2015	2018	2019

## ADDENDUM

### Addition to Section 4.2

- (f) In any Contribution/Distribution Year that either the numerator or the denominator of the Growth Contribution Formula is a negative number, the Government Equity Fund contributions and distributions for that Contribution/Distribution Year shall be zero.