

**RESOLUTION NO.\_\_\_\_\_, 2013**

**COLUMBIA TOWNSHIP, HAMILTON COUNTY, OHIO**

**APPROVING A CONTRACT WITH THE VILLAGE OF FAIRFAX, OHIO TO DESIGNATE THE COLUMBIA TOWNSHIP JOINT ECONOMIC DEVELOPMENT ZONE (JEDZ), DIRECTING THE FISCAL OFFICER TO FILE A COPY OF THIS RESOLUTION WITH THE HAMILTON COUNTY, OHIO BOARD OF ELECTIONS, DIRECTING THE HAMILTON COUNTY, OHIO BOARD OF ELECTIONS TO SUBMIT THIS RESOLUTION TO THE ELECTORS OF COLUMBIA TOWNSHIP, OHIO; AND DECLARING AN EMERGENCY**

**WHEREAS**, on August \_\_, 2013 the Board of Trustees of Columbia Township held a public hearing as set forth in Ohio Revised Code Section 715.691 concerning a contract and zone for the Columbia Township Joint Economic Development Zone (JEDZ); and

**WHEREAS**, on July \_\_, 2013, being more than thirty days prior to the public hearing, the Board of Township Trustees of Columbia Township published notice of the public hearing in a newspaper of general circulation in Columbia Township providing notice of the time and place of the public hearing; and

**WHEREAS**, during the thirty-day period prior to the public hearing, all the following documents were available for public inspection in the administrative office of the Fiscal Officer of the Township:

- (1) A copy of the contract designating the zone;
- (2) (2) A description of the area or areas to be included in the zone, including a map in sufficient detail t denote the specific boundaries of the area or areas;
- (3) (3) An economic development plan for the zone that includes a schedule for the provision of any new, expanded, or additional services, facilities, or improvements; and

**WHEREAS**, the public hearing allowed for public comment and recommendations on the contract and the zone; and

**WHEREAS**, the contracting parties may include in the contract any of those recommendations prior to approval of the contract; and

**WHEREAS**, the Board of Township Trustees of Columbia Township desires to adopt a resolution approving the contract to designate the Columbia Township Joint Economic Development Zone (JEDZ);

**NOW THEREFORE, BE IT RESOLVED**, by the Board of Township Trustees of Columbia Township, Hamilton County, State of Ohio:

**SECTION 1.** The Board of Township Trustees of Columbia Township hereby approves the contract with the Village of Fairfax, Ohio attached hereto as Exhibit 1 designating the Columbia Township Joint Economic Development Zone (JEDZ).

**SECTION 2.** The Fiscal Officer of Columbia Township is directed to file a copy of this resolution with the Hamilton County, Ohio Board of Elections and to direct the Hamilton County Board of Elections to submit this resolution to the electors of Columbia Township on the election to be held on November 5, 2013.

**SECTION 3.** In accordance with Ohio Revised Code 715.691, the ballot shall be in the following form:

“Shall the resolution of the Board of Trustees of Columbia Township approving the contract with the Village of Fairfax, Ohio for the designation of the Columbia Township Joint Economic Development Zone (JEDZ) be approved?”

FOR THE RESOLUTION AND CONTRACT  
AGAINST THE RESOLUTION AND CONTRACT”

If a majority of the electors of Columbia Township voting on the issue vote for the resolution and contract, the resolution shall become effective immediately and the contract shall go into effect immediately or in accordance with its terms.

**SECTION 4.** The Trustees of Columbia Township upon a unanimous vote do hereby dispense with any requirement that this resolution be read on two separate days and hereby authorize the adoption of this resolution upon its first reading.

**SECTION 5.** This resolution shall take effect on the earliest date allowed by law.

**SECTION 6.** Upon the unanimous vote of the Columbia Township Trustees, this Resolution is hereby declared to be an emergency measure necessary for immediate preservation of the public peace, health safety and welfare of Columbia Township. The reason for the emergency is to provide for a timely filing with the Board of Elections of Hamilton County, Ohio.

Motion to accept Resolution made by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

**VOTE:**

<b>TRUSTEE</b>	<b>Voting</b>	<b>Signature</b>	<b>Date</b>
Stephen Langenkamp, President	_____	_____	_____
Susan Hughes, Vice-President	_____	_____	_____
David Kubicki, Trustee	_____	_____	_____

**ATTEST:** \_\_\_\_\_

Paul C. Davis, Fiscal Officer

**APPROVED** as to form: \_\_\_\_\_

Columbia Township Legal Counsel

Passed this \_\_\_ day of \_\_\_\_\_, 2013.

**CERTIFICATE**

State of Ohio, Hamilton County

I, Paul C. Davis, Fiscal Officer of Columbia Township, Hamilton County, Ohio, certify that the foregoing Resolution No. \_\_\_\_\_ is taken and copied from the record of proceedings of the township, and that it has been compared by me with the resolution on the record and is a true copy.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Paul C. Davis, Fiscal Officer

Exhibit 1

**COLUMBIA TOWNSHIP**

**JOINT ECONOMIC DEVELOPMENT ZONE CONTRACT**

This Columbia Township Joint Economic Development Zone Contract (the “Contract”) is made and entered into as of \_\_\_\_\_, 2013, by and among the Township of Columbia, Hamilton County, Ohio (“Columbia” or the “Township”) and the Village of Fairfax, Hamilton County, Ohio (“Fairfax” or the “Village”) (collectively, the “Contracting Parties,” and in the singular, a “Contracting Party”).

**RECITALS**

A. The Township and the Village intend for their mutual benefit to create and provide for the operation of a joint economic development zone in accordance with Ohio Revised Code Section 715.691.

B. The Board of Trustees of the Township and the Council of the Village have each authorized and directed the Township and the Village, respectively, to enter into this Contract by and through their respective officers in accordance with Ordinance No. \_\_\_\_\_ passed by the Council of the Village on \_\_\_\_\_, 2013, and Resolution No. \_\_\_\_\_ adopted by the Board of Trustees of the Township on \_\_\_\_\_, 2013.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth in this Contract, the Township and the Village agree as follows:

Section 1: Creation of Zone. Pursuant to Ohio Revised Code Section 715.691, the Township and the Village hereby create a joint economic development zone known as the “Columbia Township Joint Economic Development Zone” (the “Zone”).

Section 2: Contracting Parties. This Contract shall be binding on the Contracting Parties and any entities succeeding the Contracting Parties, whether by incorporation, annexation, merger, or otherwise. Any portion of the territory of the Zone which is later included within a municipal corporation by annexation, merger, or otherwise shall continue to be a part of the Zone and fully subject to the terms of this Contract and to the income tax provided in Section 9 below.

Section 3: Purpose. The purpose of the Zone is to facilitate new or expanded commercial and economic development, create and preserve jobs, and improve the economic welfare of the Township, Village, and Zone.

Section 4: Territory of the Zone. The territory of the Zone is set forth in the description attached hereto as Exhibit A and the map attached hereto as Exhibit B. The territory of the Zone is located entirely within the boundaries of the Township and Hamilton County. No electors reside within the Zone. The Zone is zoned appropriately to carry out its purpose described above.

Section 5: Term and Termination. This Contract shall take effect as of the date on which the Hamilton County Board of Elections certifies that a majority of electors approve the Contract pursuant to the election required under Section 715.691(F) of the Ohio Revised Code, and shall continue for an initial term of forty (40) years (the “Initial Term”).

Following the Initial Term, and absent termination in compliance with this Contract, this Contract shall automatically extend for up to three ten-year renewal terms. If, however, either of the Contracting Parties does not wish to extend this Contract for any renewal term, that Contracting Party shall give written notice to the other Contracting Party of its intent not to renew the Contract. Such notice shall be given no sooner than three years and no later than two years prior to the date the Initial Term or any subsequent renewal term is due to expire.

If the Contracting Parties mutually agree to terminate the Contract prior to the expiration of the Initial Term or a subsequent renewal term, they shall enter into a separate agreement setting forth a specific termination date.

Either Contracting Party may unilaterally terminate this Contract at any time for any reason provided the terminating Contracting Party gives written notice to the other Contracting Party at least two years prior to the date of termination.

This Contract shall automatically terminate if: (a) within one year of the effective date of this Contract, the Board of Directors of the Zone has not adopted a resolution to levy the income tax set forth in Ohio Revised Code Section 715.691; or (b) a final order of a court of competent jurisdiction invalidates this Contract or the levy of the income tax, and all appeals or the time for such appeals have been exhausted.

The provision herein for the initial term and any extension of this Contract recognizes that the full accrual of contractual benefits to the Contracting Parties may take decades.

Prior to final termination of this Contract, any real or personal property, assets, or funds of the Zone shall be distributed among the Village and Township based on the Distributable Revenue percentages set forth in Section 9(f) below. Before any such distribution, the Zone shall first use any such property, assets, or funds to pay, reduce, or settle any obligations, debts, or liabilities of the Zone in accordance with the terms under which such obligations, debts, or liabilities were originally incurred. Obligations of the Zone include, but are not limited to, obligations of the Zone to one or more of the Contracting Parties or separate agreements for the provision of money, services, facilities, capital improvements, or other contributions to the Zone or otherwise. To the extent permitted by law, obligations of the Zone to a Contracting Party shall take precedence over other obligations, debts, or liabilities of the Zone.

Upon the termination or nonrenewal of this Contract, the Board of Directors of the Zone (“Board”) referenced in Section 7 below shall continue to exist for the sole purpose of winding down the Zone, including discharging outstanding obligations, collecting outstanding income tax, liquidating any property and assets of the Zone, and distributing any remaining funds and assets to the Village and the Township. The Board shall cease to exist when it adopts a resolution certifying that such winding down is complete.

Section 6: Contributions to the Zone. In accordance with Ohio Revised Code Section 715.691, the Township and the Village each agree to provide services and improvements to the Zone in accordance with its purpose. The Township and the Village may provide administrative or clerical services and other staffing as each Contracting Party, in its sole discretion, determines. In addition, the Board may contract for services with any and all of the Contracting Parties on such terms as the Board and the respective Contracting Parties agree. The Contracting Parties may, but are not required to, make financial contributions to the Zone.

In addition, the Village shall, as to the Zone: administer, collect, enforce, and disburse the Zone's income tax; upon request of the Township, and at no cost to the Village beyond the routine absorption of its personnel costs, advise as to the budgeting of the income tax; as agreed by the Contracting Parties, promote, complement, and encourage economic and commercial development within the Zone; and provide any other services as separately agreed by the Contracting Parties. The Contracting Parties may also explore the Village providing additional shared services to the Zone, such as enhanced mutual aid for police services related to first responder protocols and general police presence in the Zone.

The Township shall, as to the Zone: provide infrastructure improvements, including, but not limited to, the planning, design, approval and construction of streets and roads (including access roads); provide maintenance; provide repair, signalization, and streetscape buffers to improve and enhance vehicular traffic; provide enhancements to pedestrian circulation, including walkways, pedestrian traffic control devices, and retaining walls for ease of access and safety; increase storm water capacity and quality initiatives; enhance police patrols; enhance fire and emergency medical services; explore environmental remediation, land acquisition, parking facilities, demolition of blighted properties, and other infrastructure improvements to enhance economic development opportunities and aesthetics. In addition, the Township shall provide administrative staff and professional services for planning purposes.

Each Contracting Party shall determine the manner in which it provides the services described above.

The Township shall also prepare all documents relating to the formation and operation of the Zone.

Section 7: Board of Directors. The Board of Directors of the Zone shall be established in accordance with Ohio Revised Code Section 715.691(G). The Board shall be comprised of six members, appointed as follows: three members appointed by the Township; and three members appointed by the Village. The Board members shall serve terms in accordance with Section 715.691(G)(1) of the Ohio Revised Code. All subsequent appointments to the Board shall be made by the same appointing authority (Village or Township) as made the original appointment.

The members of the Board shall serve without compensation. Necessary and authorized expenses incurred by members on behalf of the Zone shall be reimbursed from Zone funds in accordance with procedures established by the Board. Each member shall attend all meetings unless excused by action of the other members. A member who is absent without being excused from three consecutive meetings shall be deemed to have resigned as a member of the Board. In the event of the death, disqualification, removal, or resignation of any member of the Board, a new member shall be appointed in the same manner as set forth above to serve as successor for the unexpired term of such member.

A member of the Board may be removed by the appointing party for “cause,” which shall mean: willfully failing to perform a duty expressly imposed by this Contract or by law with respect to his or her office; willfully performing any act forbidden by law with respect to his or her office; failing to achieve the faithful, efficient, and intelligent administration of his or her duties of office as required by this Contract or by law; or engaging in conduct unbecoming to such office. Removal shall be effective upon receipt of written notice of removal and the reasons therefor by the Board member being removed.

The Township shall select the Chairperson of the Board who shall be a Board member. The Board shall elect the following officers (who along with the Chairperson shall constitute the Officers of the Board) from among its members: a Vice Chairperson, a Secretary and a Treasurer. The Officers (except the Chairperson) shall be elected at the first meeting of the Board and thereafter every year for a one-year term and shall serve until their respective successors take office. The Board shall establish a procedure for conducting those elections. The Officers shall perform such duties as provided herein and such additional duties as may be provided from time-to-time by the Board.

Section 8: Powers, Duties, Functions. The Board shall meet at least once each calendar quarter on a date determined by the Board, provided that the first meeting of the Board shall be within 30 days after all Board members have been appointed, on a date agreed by the Contracting Parties. The Board shall adopt procedures for holding and conducting regular and special meetings. The Board shall establish a mailing address and shall hold its meetings at the Township Administration Building unless otherwise determined by the Board.

For the purpose of conducting a Board meeting, the attendance of at least four members shall be required and shall constitute a quorum. The Board shall act through resolutions or motions adopted by the Board and shall maintain minutes reflecting its decisions. To be adopted, a resolution or motion must receive the affirmative vote of at least a majority of a quorum. A resolution or motion adopted by the Board shall be immediately effective unless otherwise provided in that resolution.

The Board shall adopt Bylaws, or a Code of Regulations, for the regulation of the affairs of the Board and the conduct of the business of the Board consistent with this Contract. The Bylaws may be amended or supplemented by the affirmative vote of at least four members of the Board, and not simply by a majority of a quorum.

The Chairperson shall preside over and conduct the meetings of the Board in accordance with its Bylaws or other procedures adopted by the Board. The Chairperson may call special meetings of the Board by delivering written notice of such meeting within the time and in the manner provided in the Bylaws. Any three members of the Board may also call a special meeting by providing the same notice.

The Vice Chairperson shall act as Chairperson in the temporary absence, incapacity, resignation or removal of the Chairperson.

The Secretary shall be the records officer of the Board and shall have those duties as set forth in the Bylaws.

The Treasurer shall be the fiscal officer of the Board and shall have those duties as set forth in the Bylaws.

The Bylaws shall designate those Officers who may sign documents on behalf of the Board and those Officers who are required to obtain a fiduciary bond in connection with their duties to the Zone.

The Board shall adopt an annual budget for the Zone. The fiscal year of the Zone shall be the same as the fiscal year of the Township. The budget shall estimate the revenues of the Zone and expenses of the Zone. The Board shall provide a copy of the annual budget to the Contracting Parties promptly after its adoption. The Board shall establish an appropriations procedure to provide for payment of the expenses of the Zone and the distribution of income tax revenues pursuant to and consistent with this Contract. The Board shall establish and maintain such funds or accounts as it deems necessary, either of its own, or in conjunction with or through the Contracting Parties.

The Board is authorized to take necessary and appropriate action, or establish programs, to facilitate economic development in the Zone in accordance with the purpose of this Contract and the funds appropriated or available for such action or programs.

This Contract grants the Board the power and authority to adopt a resolution to levy an income tax within the Zone in accordance with Section 715.691 of the Ohio Revised Code and Section 9 hereof.

To the full extent authorized by law, the Board is authorized to take all acts and exercise all powers necessary or appropriate to achieve the purpose of this Contract. However, the Board does not have the authority to borrow money or to issue notes or bonds, or to assign, pledge, hypothecate, or encumber tax revenue. If the Board's authority is unclear or if the Board desires to expand authority, the Board may request clarification of authority or additional authority from the Contracting Parties.

The Board shall purchase commercially reasonable liability insurance and/or bonds protecting the Zone and its Board, Officers, employees, or agents from liability. The Board may also purchase such other insurance or bonds deemed necessary for the Zone. The cost of such insurance or bonds, and any deductibles or retentions, shall be paid from gross revenues of the Zone.

The Board may hire legal counsel as needed, payable from gross revenues of the Zone.

Upon the request and approval of the Township, the Village may exercise any or all of the powers, functions, and duties of a municipal corporation within the Zone. The exercise and performance of these powers, functions, and duties shall be limited to those appropriate to achieve the purpose of this Contract including, but not limited to, enforcement of the income tax.

The Township shall have the right, in its sole and absolute discretion, to grant real property tax exemptions within the Zone, pursuant to Sections 5709.73 et seq. or any other provision of the Ohio Revised Code, for any purpose permitted by said statutes. Furthermore, the Township shall have the right, in its sole and absolute discretion, to grant all other incentive and real property tax exemptions within the Zone as otherwise permitted under the Ohio Revised Code, including requesting Enterprise Zone exemptions pursuant to Section 5709.63 of the Ohio Revised Code and any income tax abatements that may be allowed by law. The Village consents to the use of these incentives and exemptions by the Township or the County at the Township's request and agrees that no further consent is required from the

Village. However, any incentive or exemption that would reduce the amount of income tax the Village receives under this Contract must receive the consent of the Village.

Section 9: Income Tax. The Board, at its first meeting, shall adopt a resolution to levy an income tax in the Zone at a rate of one percent (1.00%) in accordance with Section 715.691 of the Ohio Revised Code. Pursuant to Section 715.691 of the Ohio Revised Code, this income tax shall be levied upon: A) income earned by individuals working in the Zone to be collected via payroll withholding; and B) net profits from business operations within the Zone which shall be levied on a pass through basis pursuant to the Village's Income Tax Ordinance and its rules and regulations. Unless otherwise agreed by the Contracting Parties, this income tax shall go into effect and collection shall commence \_\_\_\_\_.

Upon the Board's adoption of an income tax, the Village's Income Tax Ordinance (including all applicable rules and regulations) shall apply to the Zone. In the event the Village amends any provision of its Income Tax Ordinance after adoption of the Zone's income tax, the Village shall provide written notice of such amendment to the Board and Township. Following the Board's receipt of the Township's written approval of the amendments, the Board shall, within thirty (30) days of receiving such notice, adopt the amendments to the Village's Income Tax Ordinance. If the Board fails to adopt the amendments within such thirty (30) day period, the amendments shall automatically apply to the Zone notwithstanding any contrary Board action. The income tax levied by the Board pursuant to this Contract and Section 715.691 of the Revised Code shall apply in the entire Zone throughout the Initial Term and all renewal terms of this Contract, notwithstanding that all or a portion of the Zone becomes subject to annexation, merger, or incorporation.

Notwithstanding any other provision of the Contract, the income tax rate of the Zone may only be amended at the direction of the Township, subject to the provision of Section 715.691(H) of the Ohio Revised Code and as provided herein.

The levy of income tax is necessary to effectuate the purpose of this Contract and once levied any disruption of the distribution of the tax would prevent the parties from fulfilling their obligations under this Contract and may cause financial hardship. Therefore, once the income tax is levied, the Board is not authorized to cease the levy of the income tax or change the rate thereof unless directed by the Township. The Board shall pass a resolution at the direction of the Township when notified by resolution of the Township to amend the tax rate. While the rate of taxation shall be exclusively in the sole discretion of the Township, such rate shall not exceed the rate set by the Village for levy of the income tax within the Village. The Village expressly acknowledges the right of the Township to amend the rate of income tax imposed by the Zone as provided herein. Any rate change shall be effective at the beginning of the next calendar year.

The Village shall administer, collect, enforce, and disburse the income tax on behalf of the Zone consistent with the terms of this Contract. The rate of the levy shall not be reduced below that amount sufficient to compensate the Village as set forth in Section 9(d) below.

Additionally:

(a) The Village's Clerk-Treasurer shall serve as the Administrator of the income tax derived from the Zone and shall be responsible for the receipt, safekeeping, accounting, and investment of income tax revenues pending disbursement. All receipts shall be deposited to a separate Zone account which shall not be mingled with revenue from other sources. Earnings on the Zone account and investments related thereto shall be added to the account. The Administrator has authority to grant refunds and compromise claims for tax, penalties, and interest. The Administrator has authority to commence any appropriate legal or enforcement proceedings, whether civil or criminal, pertaining to tax collection. The Administrator is authorized to investigate and audit taxpayer returns and to issue subpoenas in furtherance of his or her duties. The Administrator is designated to be an interested party and is authorized to commence and defend legal proceedings in the name of the Zone in any way pertaining to the income taxation within the Zone.

(b) The Administrator shall report directly to the Board and Contracting Parties regarding receipt and distribution of income tax revenue, including amounts retained in escrow. The Administrator shall furthermore report quarterly regarding Zone operating income and expenses for the preceding quarter and shall provide short term and long range projections concerning anticipated income and expenses associated with Zone operations. If requested, the Administrator shall provide monthly reports to the Contracting Parties regarding all revenue generated within the Zone.

(c) The Board shall annually set aside 1% of the Zone's annual gross income tax revenues, up to a maximum of \$7,500 annually, as a reserve for future maintenance, administration, and expenses of the Zone (the "Reserve Fee"). The Board may, as needed, use any portion of the total reserve consistent with the purpose of this Contract, and, at its discretion, shall determine the size of an appropriate total reserve from time-to-time and distribute any unneeded portion of the total reserve according to the Distributable Revenue percentages set forth below.

(d) In consideration of the Village's services pertaining to income tax administration, collection, enforcement, and disbursement, the Zone shall pay the Village an annual service fee equal to two percent (2%) of gross income tax revenues collected for the applicable annual period, or an amount equal to the actual and reasonable costs of the Village's administration, collection, enforcement, and disbursement, whichever amount is greater (the "Service Fee"). The Village's reimbursable costs shall include attorney fees, expert fees, litigation costs and expenses, employee wages and benefits, equipment, and software, but only to the extent used or incurred for the Zone. The Board, at its discretion, may also reimburse the Village out of the Zone's total reserve or escrow for costs which the Village necessarily incurs to provide tax administration, collection, enforcement, and disbursement services to the Zone, but would not have incurred but for providing such services.

(e) The Administrator shall also annually place two percent (2%) of the gross income tax revenue into an escrow fund (the "Escrow Fee"). Total escrow proceeds may be utilized to pay refunds, and, in general, to balance accounts or pay expenses. In the event of an escrow deficiency, the Administrator may invoice the Zone to satisfy the deficiency. Invoices for deficiency are due and payable within thirty (30) days from invoice. Annually, any escrow surplus shall be distributed to the Contracting Parties based on the Distributable Revenue percentages set forth below. Earnings achieved on any surplus escrow shall be added to the escrow fund.

(f) “Distributable Revenue” means the Zone’s annual gross income tax revenue minus the sum of the Reserve Fee, the Service Fee, and the Escrow Fee. Following the collection of tax through December 31 of the first calendar year in which the Zone collects tax, Distributable Revenue from the prior quarter shall be paid to the Contracting Parties as follows: 10% to the Village and 90% to Township. The Board shall determine the frequency with which Distributable Revenue is paid to the Contracting Parties, which shall be not less than quarterly. For the purpose of such periodic payments, the Board shall determine how to account for the application of the annual Reserve Fee, Service Fee, and Escrow Fee.

(g) The Contracting Parties may use the Distributable Revenue for any lawful purpose.

(h) Each Contracting Party shall have the right to review or audit all books, records, collections, distributions, payments, and expenses of the Zone in a reasonable manner.

(i) The Zone shall have primacy over residential status relating to the collection of the income tax derived from individual earnings within the Zone notwithstanding any provisions of the Village Income Tax Ordinance to the contrary.

(j) This Contract and the income tax adopted by the Board pursuant to this Contract shall automatically terminate without further action of the Board, the Township, or the Village in the event that Township incorporates and thereafter adopts a municipal income tax applicable to the entire area of the newly incorporated entity. Such termination shall be effective immediately upon the commencement (i.e. collection of municipal income tax dollars) of a municipal income tax imposed by the newly incorporated entity. In the event such incorporation is for some reason found to be invalid, this Contract shall continue in force and effect.

Section 10: Defaults and Remedies. A failure to comply with any of the terms of this Contract shall constitute a default hereunder. The Contracting Party in default shall have 60 days after receiving written notice from another Contracting Party of the event of default to cure that default. If the default is not cured within that time period, a nondefaulting Contracting Party may sue the defaulting Contracting Party for specific performance or other equitable relief under this Contract or for actual damages. This Contract may not be automatically canceled or terminated because of a default unless both the Township and the Village agree to such cancellation or termination, except as set forth under Section 5.

Section 11: Amendments. In addition to the amendments provided for in Section 5 hereof, this Contract may be amended by the Township and the Village only in a writing approved by the respective legislative authorities of each of the Contracting Parties by appropriate legislation authorizing that amendment. In order for such amendment to be effective, the legislative actions of the Contracting Parties that amend this Contract must be effective within a period of 90 days of each other.

The parties recognize that monetary damages may be insufficient to compensate the other party in the event of a default. Therefore, a party may seek and obtain specific performance or other equitable relief as a result of a default hereunder.

Section 12: Binding Effect; Mandamus. This Contract shall inure to the benefit of and shall be binding upon the Zone, the Township, and the Village and their respective permitted successors, subject, however, to the specific provisions hereof. The parties hereby agree that no third party beneficiary rights are intended to be created by this Contract.

Section 13: Support of Contract. The Township and the Village agree to cooperate with each other and to use their best efforts to do all things necessary for the creation and continued operation of the Zone. In the event that this Contract or any of its terms, conditions or provisions is challenged by any third party or parties in a court of law, the Township and the Village agree to cooperate with one another and to use their best efforts to defend this Contract with the objective of upholding this Contract.

The expenses and fees of the Board, the Village and the Township, including reasonable attorney fees, incurred in any lawsuit brought against the Zone, the Board, the Village, or the Township, or their respective directors, officers, agents, and employees, relating to this Contract or the Zone shall be paid or reimbursed from the gross revenues of the Zone. If gross revenues are insufficient at any time to pay such expenses and fees, the Village and Township shall initially pay such expenses and fees according to the proportion of distribution, with 10% attributed to the Village and 90% attributed to the Township, and such expenses shall be reimbursed by the Zone for the amount of such expenses and fees when revenues are available for such reimbursement. In the event Zone funds are not available to pay or reimburse the Contracting Parties, such costs shall be allocated among the Contracting Parties based on the Distributable Revenue percentages set forth herein.

All judgments or other expenses or liabilities relating to the operation of the Zone shall be the responsibility of the Zone as an independent public body separate and distinct from the Village and the Township. Neither the Village nor the Township, or their respective directors, officers, agents, or employees, shall be responsible for any judgments or other expenses or liabilities relating to the Zone.

Section 14: Signing Other Documents. The Contracting Parties agree to cooperate with one another and to use their best efforts in the implementation of this Contract and to sign or cause to be signed, in a timely manner, all other necessary instruments and documents, and to take any and all actions, in order to effectuate the purposes of this Contract.

Section 15: Severability. In the event that any section, paragraph or provision of this Contract, or any covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, or any application thereof, is held to be illegal or invalid for any reason:

(a) that illegality or invalidity shall not affect the remainder hereof or thereof, any other section or provision hereof, or any other covenant, agreement, obligation or action, or part thereof made, assumed, entered into or taken, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein or therein;

(b) the illegality or invalidity of any application hereof or thereof shall not affect any legal and valid application hereof or thereof and will not invalidate any preceding actions of the Board; and

(c) each section, paragraph, provision, covenant, agreement, obligation or action, or part thereof, shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law.

Section 16: Governing Law. This Contract shall be governed exclusively by and construed in accordance with the laws of the State of Ohio, and in particular Section 715.691 of the Revised Code, as amended and supplemented.

Section 17: Headings. The captions and headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections hereof.

Section 18: Prohibition Against Annexation. This Section shall be considered as Annexation Agreement pursuant to Ohio Revised Code Section 709.192.

The Village shall not annex any property located in Township so long as this Contract is in effect including any extensions hereof. The Village specifically agrees that regardless of any applicable section of the Ohio Revised Code under which an annexation of any area of the Township is filed, the Village will not annex, attempt to annex, cooperate in any annexations or accept any annexation of any area of the Township.

Section 19: Economic Development Plan. The Contracting Parties approve and ratify the Columbia Township Economic Development Plan for the Zone. In the event of a conflict between that plan and this Contract, the provisions of this Contract shall prevail.

Agreed:

BOARD OF TOWNSHIP TRUSTEES OF  
COLUMBIA TOWNSHIP, OHIO

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

Stephen Langenkamp, President

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

Paul C. Davis, Fiscal Officer

VILLAGE OF FAIRFAX

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

Jennifer M. Kaminer, Village Administrator

**FISCAL OFFICER’S CERTIFICATE**

The undersigned fiscal officer of Columbia Township, Ohio (the “Township”) hereby certifies that the moneys required to meet the obligations of the Township during the year 2013 under the aforesaid Contract have been lawfully appropriated by the Board of the Township for such purposes and are in the treasury of the Township or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Section 5705.41 and 5705.44, Ohio Revised Code.

Dated \_\_\_\_\_

\_\_\_\_\_

Fiscal Officer

**FISCAL OFFICER’S CERTIFICATE**

The undersigned fiscal officer of the Village of Fairfax, Ohio (“Village”) hereby certifies that the moneys required to meet the obligations of the Village during the year 2013 under the aforesaid Contract have been lawfully appropriated by the Village Council for such purposes need to be made. This certificate is given in compliance with Section 5705.41 and 5705.44, Ohio Revised Code.

Dated \_\_\_\_\_

\_\_\_\_\_

Clerk-Treasurer