

City of Bexley

Office Incentive Grant Agreement

This first amended agreement is entered into between The City of Bexley, Ohio (“City”) and **CSD Bexley LLC** (“Company”) on this \_\_\_\_\_ day of \_\_\_\_\_\_\_, 2023.

1. **Terms of the Agreement:**

The City of Bexley shall provide an office incentive grant to Company equal to 50% of the “New Income Tax” attributed to the project, with the total grant amount not to exceed $50,000 for any calendar year. “New Income Tax” shall be calculated as the total Bexley income tax paid by all individuals qualified as “New Employee Positions” working at the new COhatch office to be located at the real property situated within the City at 2691 East Main Street and designated as parcel number 020-002011-00 (the “Site”). New Employee Positions are positions that must be all of the following: (1) full-time or full-time equivalent; (2) non-retail; (3) employed by a private sector, for-profit entity; and (4) either newly created in the City (e.g. the individual is not already paying income taxes to the City of Bexley prior to the passage of authorizing City of Bexley Ordinance 17-23) or transferred from outside the corporate limits of the City to within the corporate limits of the City after the passage of authorizing City of Bexley Ordinance 17-23. New Income Taxes shall not include any income tax for which a refund is filed by the taxpayer or income taxes paid by remote employees working outside of the City of Bexley. Individuals do not need to be employees of CSD Bexley LLC, but the New Income Tax for any individuals shall not be taken into account for purposes of the office incentive grant unless all required information for those individuals is included in the Office Incentive Grant Report.

1. **Grant Commencement and Expiration:**

The Net Income Tax measurement period for the grant shall commence on January 1, 2025, and shall expire on December 31, 2034. The grant due hereunder with respect to a calendar year shall be paid on or before June 30th of the following calendar year. No grant shall be due for a year if New Income Taxes are less than $60,000 for that year.

1. **Annual Reporting Requirement:**

The grant for a calendar year shall be payable to Company after the City has received a completed Office Incentive Grant Report for that year. Said report shall be completed by Company on an annual basis by April 30th of each year (first report due April 30, 2026) and shall contain complete information pertaining to the prior year’s New Income Tax paid to the City of Bexley, including, without limitation, the roster of individual and company members for the Site, the social security numbers and company EINs of the individuals for which the New Income Tax is paid, a list of any private office tenants of the Site, and other information reasonably requested by the City. If Company fails to timely file an Office Incentive Grant Report, the City may delay payment of the grant due by the same number of days that the Office Incentive Grant Report is overdue.

1. **Subject to Funding:**

Annual funding of the Bexley Office Incentive Grant Program is contingent upon Council appropriation and approval based on the availability of general fund non-tax revenue. The City shall have no monetary liability under this Agreement (due to a breach or otherwise) except to the extent that funding is appropriated by Council.

1. **Employment Best Efforts:**

Company is required to use best efforts to hire residents of the City and use the Franklin County Department of Job and Family Services and/or the Private Industry Council, Inc. as primary employment sources to the fullest extent possible.

1. **Company Representations:**

The Company represents and warrants that it does not owe (i) any delinquent taxes to the State or a political subdivision of the State; (ii) any moneys to the City for the administration or enforcement of any environmental laws of the City; and (iii) any other moneys to the City, State or other political subdivision that are past due, whether or not the amount owed is being contested in a court of law. The Company authorizes the City to inspect the personal or corporate financial statements of the Company, including tax records and other similar information not open to public inspection, as necessary to confirm the foregoing representations and warranties.

1. **No False Statements:**

The Company represents and warrants that it has made no false statements to the City in the process of obtaining approval for the grant. If any representative of the Company has knowingly made a false statement to the City to obtain the incentives provided hereunder, the Company shall be required to immediately return all benefits received under this Agreement and shall be ineligible for any future economic development assistance from the City. Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to Section 2921.13 of the Ohio Revised Code, which is punishable by a fine of not more than One Thousand Dollars ($1,000) and/or a term of imprisonment of not more than six (6) months.

1. **Termination of the Grant:**

This grant shall automatically terminate should any of the following occur:

* Company fails to pay all taxes due and payable by it or with respect to the Site.
* Company fails to comply with all laws and ordinances of the City.
* Any representation of Company made hereunder is materially false when made.
* The COhatch facility at the Site closes operations for more than 30 consecutive days.
* New Income Taxes are less than $60,000 for three consecutive years.
* Company fails to provide 4 “unlimited memberships” to the City for the COhatch facility at the Site, some or all of which may be reallocated by the City to the Bexley City School District or the Bexley Public Library.
* Company files a voluntary petition in under federal bankruptcy laws, or is subject to an involuntary petition that is not dismissed within 90 days of filing.

1. **Miscellaneous:**

This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof. No presumptions shall apply against either party as a result of the drafting or negotiation of this Agreement. The Company shall not have the right to assign this Agreement to any successor or assign without the prior written consent of the City. Amendments or modifications to this Agreement shall not be effective until a written amendment is signed by the Mayor, on behalf of the City, and by an authorized officer of the Company, on behalf of the Company. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Agreement. Counterparts executed or signatures delivered or stored by electronic means (such as e-mailed PDF files) are deemed to be original counterparts or signatures for all purposes.

**Agreed to and Accepted:**

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Benjamin Kessler, Mayor of Bexley CSD Bexley LLC

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Matt McPeek, Bexley City Auditor

**Approved as to Form:**

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Marc Fishel, Bexley City Attorney