

AMENDED AND RESTATED
INTERGOVERNMENTAL AGREEMENT
BETWEEN
CONSOLIDATED GOVERNMENT OF COLUMBUS, GEORGIA
AND
DEVELOPMENT AUTHORITY OF COLUMBUS, GEORGIA

This AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT (the “Agreement”), made and entered into this _____ day of October, 2014, by and between the CONSOLIDATED GOVERNMENT OF COLUMBUS, GEORGIA (the “City”) and the DEVELOPMENT AUTHORITY OF COLUMBUS, GEORGIA, a public body corporate and politic created and existing under the laws of the State of Georgia (the “Authority”);

RECITALS

WHEREAS, the Authority is a public body corporate and politic created and existing pursuant to the provisions of an act of the General Assembly of the State of Georgia (O.C.G.A. Chapter 36-62), as amended (the “Act”), and an activating resolution of the Council of the City, adopted on June 2, 1972; and

WHEREAS, the Authority has been created to develop and promote for the public good and general welfare trade, commerce, industry and employment opportunities and to promote the general welfare of the State of Georgia, and Section 36-62-6(a)(13) of the Act empowers the Authority to borrow money and to issue its revenue obligations and to use the proceeds thereof for the purpose of paying all or part of the cost of any project and to otherwise carry out the purposes of the Act; and

WHEREAS, pursuant to Section 36-62-2(6)(N) of the Act, a “project” includes the “acquisition, construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other improvements... all for the essential public purpose of the development of trade, commerce, industry, and employment opportunities;” and

WHEREAS, pursuant to the power granted to it under the Act and in furtherance of the public purposes thereof, the Authority entered into that certain Project Agreement, dated May 22, 2009 (the “NCR Project Agreement”) with NCR Corporation (“NCR”) pursuant to which the Authority agreed to acquire certain land and an existing manufacturing facility in Corporate Ridge Business Park, Columbus, Georgia (the “NCR Project Site”), which NCR planned to modify, improve, retrofit and expand for the manufacture and assembly of ATMs and related machinery and equipment and which, over a period of five (5) years, was to employ eight hundred seventy-two (872) employees and involve a capital investment of

approximately Twenty Million (\$20,000,000) Dollars (all of which is collectively referred to as the “NCR Project”); and

WHEREAS, cost of the NCR Project was to be financed through the issuance of industrial development revenue bonds to be funded through a lease or leases from the Authority, as the owner and lessor of the land, building and machinery and equipment, to the Company, as lessee (the “Bond Financing”) and a revolving line of credit financing between CB&T, a division of Synovus Bank (the “Bank”) and the Authority (the “NCR LOC”) to provide the timely payment of the commitment of the Authority to NCR incurred in connection with the NCR Project (the “NCR Project Commitment”); and

WHEREAS, the NCR LOC is being repaid currently through funds received by the Authority from the City pursuant to that Intergovernmental Agreement between the City and the Authority, dated June 19, 2009 (the “Original Intergovernmental Agreement”); and

WHEREAS, pursuant to the Original Intergovernmental Agreement, the City agreed to provide financial support for the NCR Project (the “NCR City Funding Commitment”) with the understanding and knowledge that the obligations of the City pursuant to the Original Intergovernmental Agreement in favor of the Authority would serve as the source of funds for the Authority’s repayment of the NCR LOC; and

WHEREAS, the Authority entered into a Project Agreement (the “BCBSGA Project Agreement”), dated as of June 28, 2013, with Blue Cross and Blue Shield of Georgia, Inc. (“BCBSGA”) and the Wellpoint Companies, Inc. (“Wellpoint”) (collectively referred to as “BCBSGA”); and

WHEREAS, pursuant to the BCBSGA Project Agreement, BCBSGA committed to employ up to 750 new full time employees and retain 815 full time employees and make a capital investment as specified in Schedule 3.1 of the BCBSGA Project Agreement; and

WHEREAS, based upon the commitment of BCBSGA as set forth in the BCBSGA Project Agreement, the Authority agreed to provide funding to BCBSGA in an amount not to exceed \$2,347,500 for Project costs (the “BCBSGA Project Commitment”); and

WHEREAS, the Authority intends to enter into a non-revolving line of credit financing (the “New Project Incentives LOC”) with the Bank in an amount equal to the sum of the following: (i) the BCBSGA Project Commitment in the amount of \$2,347,500; and (ii) the current payoff of the NCR LOC as of October 31, 2014, of \$4,709,577.73 (the “NCR LOC Payoff Amount”), less \$495,828.69 (which amount will be financed by a new loan from the Bank to the Authority to be repaid over a five (5) year term at a rate of interest of four (4%) percent per annum [the “New Authority Loan”]), which is not an obligation to be

reimbursed by the City and no portion of the New Authority Loan is included in the Revised City Funding Commitment, as defined in Paragraph 2(a) below; and

WHEREAS, the New Project Incentives LOC is to be for a period of ten (10) years and payable in annual installments of principal and accrued interest at a rate not to exceed four (4%) percent per annum and is to be repaid through funds to be received by the Authority from the City in the amount of approximately \$800,000 per year over a term of ten (10) years (the "Revised City Funding Commitment"); and

WHEREAS, the City has agreed to provide financial support to the Authority under the Revised City Funding Commitment in order for the Authority to be able to satisfy its obligations under the NCR Project Commitment and the BCBSGA Project Commitment; and

WHEREAS, the City and the Authority wish to work cooperatively in the undertakings provided herein for the mutual benefit of the Authority and the City, through the development and promotion for the public good and general welfare of trade, commerce, industry and employment opportunities;

WITNESSETH:

In order thereby to carry out the public purposes as set forth above, the Authority and the City hereby agree as follows:

1. Authority's Obligations. (a) Other Funding. The Authority will seek to obtain from the State of Georgia such funding for the costs of the BCBSGA Project as can be utilized in a manner that will reduce the City Funding Commitment as set forth in Paragraph 2 below.

(b) BCBSGA Project Agreement. Pursuant to the BCBSGA Project Agreement, the Authority will retain title to the Project Site and coordinate with BCBSGA for the financing for the construction of the new building and facilities as provided in Section 2.3 of the BCBSGA Project Agreement. In connection therewith, the Authority will pay to the Company the BCBSGA Project Commitment.

2. City's Obligations. The City will pay to the Authority annually at such time as will permit the Authority to make timely payment of its obligations under the New Project Incentives LOC the sum of \$800,000 per year (said annual payment being the amount which would permit the repayment by the Authority of the New Project Incentives LOC over a period of ten (10) years at a rate of interest not to exceed four (4%) percent.

3. Timing of Payment. The Authority and the City will work together to determine the appropriate times for payment of the NCR City Funding Commitment and the BCBSGA City Funding Commitment (collectively the "City Funding Commitment"), it being the intent of both the Authority and the City for the City to make payments to the Authority so that the Authority can pay in a timely manner the New Project Incentives LOC.

4. Security for Payment. The City understands that the Bank and the Authority have committed to the New Project Incentives LOC and the repayment of the Authority's obligations thereunder in reliance upon the Revised City Funding Commitment. The City agrees that, without the prior written consent of the Bank, the Revised City Funding Commitment will not be terminated or reduced until payment in full of the New Project Incentives LOC.

5. Financial Coordinator. In order to facilitate the coordination and payments hereunder, the City designates the City Manager or his designee, to serve as the financial liaison between the City and the Authority and to be responsible for the planning and coordination of the payments to be made pursuant to the Revised City Funding Commitment.

6. Cooperation. The City and the Authority will cooperate with each other and with the Bank in good faith in pursuing the completion of the undertakings of the parties hereunder and under the New Project Incentives LOC.

7. Governing Law. This Agreement and the rights and obligations of the parties hereto (including third party beneficiaries) shall be governed, construed, and interpreted according to the laws of the State of Georgia.

8. Entire Agreement. This Agreement expresses the entire understanding and agreement between the parties hereto.

9. Severability. The invalidity of any one or more phrases, sentences, clauses, or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part thereof.

10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

11. Amendments in Writing. No waiver, amendment, release, or modification of this Agreement shall be established by conduct, custom, or course of dealing, but solely by an instrument in writing executed by the parties hereto.

12. Notices. Except as otherwise specifically provided herein, any notices, demands, approvals, consents, requests, and other communications hereunder shall be in

writing and shall be deemed given when the writing is delivered in person or three (3) days after being mailed, if mailed, by certified mail, return receipt requested, postage prepaid, to the City and the Authority, at the addresses shown below or at such other addresses as may be furnished by the City or the Authority in writing from time to time:

City: Consolidated Government of Columbus, Georgia
100 Tenth Street (Zip 31901)
P.O. Box 1340
Columbus, Georgia 31902
Attention: City Manager

With a copy to: Clifton C. Fay
City Attorney
P.O. Box 1340
Columbus, Georgia 31902

Authority: Development Authority of Columbus, Georgia
1200 Sixth Avenue (Zip 31901)
P.O. Box 1200
Columbus, Georgia 31902
Attention: Chairman

With a copy to: J. Edward Sprouse
Page, Scrantom, Sprouse, Tucker & Ford, P.C.
P.O. Box 1199
Columbus, Georgia 31902

13. Limitation of Rights. Nothing in this Agreement express or implied, shall give to any person, other than the Bank and the parties hereto and their successors and assigns hereunder, any benefit or any legal or equitable right, remedy, or claim under this Agreement.

14. Defined Terms. Capitalized terms that are not otherwise defined herein shall the meaning set forth in the Project Agreement.

COLUMBUS, GEORGIA

Date Signed: _____

By _____
Isaiah Hugley, City Manager

Attest _____
Tiny Washington, Clerk of Council

Approved as to Form:

Clifton C. Fay, City Attorney

DEVELOPMENT AUTHORITY OF
COLUMBUS, GEORGIA

Date Signed: _____

By _____
William R. Blanchard, Chairman

Attest _____
Stella Bucholtz, Secretary

(AUTHORITY SEAL)