

North Canton City Council
Community and Economic Development Committee

Ordinance No. 10 - 2018

An ordinance authorizing the Mayor of the City of North Canton to enter into an Industrial and Commercial Occupancy Grant Agreement ("Agreement") by and between the City of North Canton and Children's Hospital Medical Center of Akron ("Children's Hospital"), and declaring the same to be an emergency.

WHEREAS, North Canton encourages job creation opportunities throughout the City; and

WHEREAS, Children's Hospital is desirous of expanding its operations in the City and increasing employment opportunities, provided certain development incentives are afforded to support such economic viability; and

WHEREAS, the City is desirous of providing Children's Hospital with certain incentives for expanding its operations within the City thereby creating new jobs and increasing and enhancing medical care for our residents and guests' children; and

WHEREAS, North Canton and Children's Hospital, pursuant to the Ohio Constitution, Article VIII, Section 13, Article XVIII, Sections 3 and 13, the Ohio Revised Code Section 718.15, possess the legal authority to enter into a grant Agreement.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

- Section 1. That the Mayor of the City of North Canton, be, and is hereby authorized to enter into an Industrial and Commercial Occupancy Grant Agreement with Children's Hospital to increase City employment opportunities. A copy of the Agreement is attached hereto and is incorporated herein by this reference.
- Section 2. That if a provision of this ordinance is or becomes illegal, invalid or unenforceable, that shall not affect the validity or enforceability of any other provision of this ordinance.
- Section 3. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and peace of the City of North Canton and further necessary for immediate construction preparation and commencement to quickly realize the grant Agreement's benefits for increased and enhanced medical care and treatment for our residents and guests' children, increased City revenue, and immediate construction preparation and commencement for the major overhaul and improvement of the City's park system; wherefore, provided it receives the affirmative vote of six or more members of Council elected thereto, this ordinance shall take effect and be in full force immediately upon its adoption by Council and approval by the Mayor.

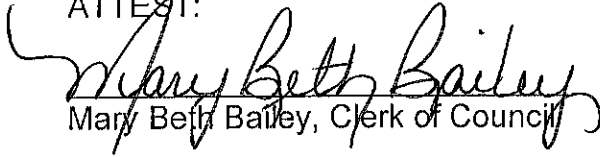
Passed in Council this 12th day of February 2018.



David Held, Mayor

Signed 2/2/18, 2018

ATTEST:



Mary Beth Bailey, Clerk of Council

**INDUSTRIAL AND COMMERCIAL
JOB CREATION INCENTIVE GRANT AGREEMENT**

This Agreement is made and entered into by and between THE CITY OF NORTH CANTON, OHIO, an Ohio municipal corporation, (“North Canton” or “the City”) and CHILDREN’S HOSPITAL MEDICAL CENTER OF AKRON, an Ohio non-profit corporation (“CHILDREN’S HOSPITAL”) collectively, the Parties (“Parties”), as of the date indicated below.

RECITALS

WHEREAS, North Canton encourages job creation opportunities throughout the City; and

WHEREAS, Children’s Hospital is desirous of expanding its operations in the City and increasing employment opportunities (the “Project”), provided certain development incentives are afforded to support the Project’s economic viability; and

WHEREAS, North Canton City Council enacted Ordinance No. 10 - 2018 DATE, 2018, therein authorizing the Mayor to enter into this Industrial and Commercial Job Creation Incentive Grant Agreement (the “Agreement”), pursuant to the Ohio Constitution, Article VIII, Section 13, Article XVIII, Sections 3 and 13, and the Ohio Revised Code Section 718.15; and

WHEREAS, having the appropriate authority to enter into this Agreement, the City is desirous of providing Children’s Hospital with certain incentives for development of the Project, thereby increasing employment opportunities.

NOW, THEREFORE, the Parties intended to be legally bound, and in consideration of the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the benefit of which to be derived by the Parties herein from the execution hereof, the Parties agree as follows:

AGREEMENT

1. Description of the Project

Children’s Hospital shall lease the fully completed, new construction space at 6076 Whipple Avenue NW, North Canton, Ohio (the “Facility”), which will house its operations, for no less than the length of this Agreement and any extensions, if applicable.

2. Project Investment

A. The Project will involve Children's Hospital's direct investment in excess of \$8,000,000.00 in land acquisition, interior build out, furniture, fixtures and equipment, in addition to indirect investments of approximately \$5,800,000.00 by the developer for the building shell.

B. Construction shall begin on or about March 1, 2018, and shall be completed on or about April 30, 2019.

3. Job Creation

A. Within 180 days of the Facility's completed construction, Children's Hospital shall employ 31 new and additional full-time employees ("New Employees"), and shall maintain such level during the period of this Agreement.

B. The New Employees shall generate at least \$2,750,000 of annual additional payroll or \$41,250.00 in annual, retained, City income tax revenue during the period of this Agreement.

C. If Children's Hospital elects during the term of this Agreement to expand the Facility by an additional 12,000 square feet, pursuant to the building design, and adds an additional 25 New Employees with at least \$1,500,000.00 of additional payroll, the City shall extend the term of the Agreement an additional three years.

4. Issuance of Grant

A. Pursuant to the terms and conditions of this Agreement, and contingent upon Children's Hospital's creation and retention of the above-described payroll and jobs in North Canton, and the Project's completed construction, the City shall award Children's Hospital an Industrial and Commercial Job Creation Incentive Grant (the "Grant"). Unless extended, the Grant shall be paid in 10 annual installments in the manner described in Section 5 below.

B. The Grant amount shall be calculated annually based on Children's Hospital's performance in meeting its payroll and employment projections for the previous year, as further described in Exhibit "A," which is incorporated herein by this reference. Children's Hospital must achieve at least 75% of the payroll projection for the previous year to be eligible for Grant proceeds. Should Children's Hospital exceed an annual payroll projection, the additional proceeds shall be used as the basis for determining the annual Grant payment in any given year having fallen

short. Total additional amounts exceeding 25% above the maximum projection, however, shall not receive grant proceeds.

C. The annual amount of each Grant shall be based on the retained tax revenue for each calendar year, including any extensions, as specified on Exhibit "A."

5. Grant Payments

A. Grant payments described herein shall not be remitted until the City receives Children's Hospital's written certification that New Employee projections set forth in Section 3 above have been met by: December 31, 2019; December 31, 2020; December 31, 2021; December 31, 2022; December 31, 2023; December 31, 2024; December 31, 2025; December 31, 2026; December 31, 2027; and December 31, 2028; and if extended, December 31, 2029; December 31, 2030; December 31, 2031.

B. Provided Children's Hospital files its Form 17- Reconciliation of Income Tax Withheld for the prior tax year by February 28th with the Regional Income Tax Agency; Grant payments based on the previous year's performance shall be made by June 30th of each year. If Children's Hospital obtains an extension to file the Form 17- Reconciliation of Income Tax Withheld, Grant payments shall be made within three months of the extended filing date.

C. If Children's Hospital does not meet Year 1 projections due to construction delays, not attributed to Children's Hospital, the initial Grant payment may occur in the year following the Project's first full year. Grant amounts shall be calculated annually based on Children's Hospital performance in meeting its payroll and employment projections for the previous year.

6. Other Consideration

Children's Hospital agrees to commit \$250,000 to support the design and construction of the Children's Performing Arts Pavilion proposed in the City's park expansion plan for Dogwood Park beginning in 2018. Children's Hospital will identify its team to work with community representatives identified by the City to design a Children's Hospital pavilion to support the City's plan for a children's-focused park.

7. Payment of Taxes and Filing Reports and Returns

Children's Hospital shall pay all taxes and shall file tax reports and returns as required by law. If Children's Hospital fails to pay such taxes or file such returns and reports, all incentives granted under this Agreement are terminated beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.

8. Annual Review

A. Upon the City's request and on City-provided forms, Children's Hospital shall provide the City with any information reasonably required to evaluate Children's Hospital compliance with the terms and conditions of this Agreement. This information will be requested annually following the February 28th deadline for submittal of Form 17- Reconciliation of Income Tax Withheld.

B. The City's Director of Finance shall prepare annual performance reports to be reviewed by a Committee ("Committee"), consisting of the Director of Administration, the Director of Finance, and the President of Council.

C. If the Committee finds Children's Hospital has not fully complied with the terms and conditions of this Agreement, it shall promptly provide it, via certified mail, a written report fully describing the alleged noncompliance, together with a reasonable opportunity to cure.

D. If the Committee, by majority vote of its members, determines Children's Hospital failed to comply with the terms and conditions of this Agreement, and has not cured the noncompliance within a reasonable time, no Grant payment shall be made until, and if, the Committee determines, by the majority vote of its members, that the noncompliance has been cured.

E. If the Committee, by a majority vote of its members, determines that Children's Hospital has complied with the terms of this Agreement, Grant payment shall be made in the manner described in Section 5 above.

9. Certification as to Taxes

Children's Hospital certifies that at the time it executes this Agreement, it has no delinquent: real property taxes; tangible personal property taxes; or taxes to any taxing authority of the State of Ohio. Children's Hospital further certifies it has no delinquent taxes for which it is liable under Chapters 5733, 5735, 5739, 5741, 5743,

or 5753 of the Ohio Revised Code, or, if such delinquent taxes are owed, it currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such petition has been filed against it. For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

10. Termination of Agreement

Year 1 projections must be met by December 31 of Year 1. If, however, the Project start or occupancy of the Project facility is delayed, Children's Hospital may send a written request to the Director of Administration for a one-year extension. The extension may be approved by the Committee with notice to City Council. If the Project does not proceed as specified herein, or within the one-year extension period, Council may rescind this Agreement upon Committee recommendation. If Children's Hospital fails to meet 75% of its payroll or employment projections in three consecutive years at any time during the term of this Agreement, City Council shall rescind this Agreement following the Director of Administration's annual report. If the Project, or its occupancy, begins in the 3rd or 4th quarter of its first year, and this causes Children's Hospital to be unable to meet its Year 1 projections by December 31st of that year, the first full year of occupancy shall be considered Year 1 of this Agreement.

11. Non-Discrimination in Employment

By executing this Agreement, Children's Hospital is committing to follow non-discriminatory employment practices acknowledging that no individual may be denied employment or subjected to employment discrimination on the basis of race, religion, sex, disability, color, national origin, military status, or ancestry.

12. Notices

Any notices, statements, acknowledgements, consent approvals, certificates, reports, records or requests required to be given on behalf of either Party shall be made in writing at the following addresses:

If to the City to: City of North Canton, Attn: Mayor, 145 North Main Street, North Canton, Ohio 44720. With a copy to: Director of Law.

If to Children's Hospital to: Children's Hospital Medical Center of Akron, One Perkins Square, Akron, Ohio 44308, Attn: Grace Wakulchik, President.

13. Miscellaneous

A. A waiver of any breach of any provision of this Agreement shall not operate or be construed as a waiver of a breach of any other provision of this Agreement or of any subsequent breach.

B. This Agreement shall not be transferrable or assignable by either party.

C. This Agreement has been drafted jointly and there shall be no presumption of construction against either Party. The Parties agree the language of all parts of this Agreement shall in all cases be construed as a whole, according to the fair meaning, and not strictly for or against any Party.

D. This Agreement sets forth the entire Agreement between the Parties regarding the Industrial and Commercial Job Creation Incentive Grant Agreement awarded by this Agreement and fully supersedes all prior agreements or understandings (written or oral) between Children's Hospital and the City regarding Grant awarded by this Agreement.

E. Except as otherwise noted above, no provisions of this Agreement may be modified, amended, waived or terminated, except in writing, signed by the Mayor of the City and an authorized Children's Hospital representative.

F. If any part, term, or provision, of this Agreement is determined by any court of competent jurisdiction to be illegal, invalid, or unenforceable, the validity of the remaining parts, terms and provisions shall not be affected thereby and any illegal, invalid or unenforceable part, term, or provision shall be deemed not to be a part of this Agreement.

G. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. The parties hereto expressly consent to the jurisdiction of the courts located in the State of Ohio. The City and the Children's Hospital agree that any disputes between them concerning this Agreement or any other matter shall be brought only in the Stark County Court of Common Pleas.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the last date below.

CITY OF NORTH CANTON, OHIO

By: _____
David J. Held, Mayor

CHILDREN'S HOSPITAL MEDICAL CENTER OF AKRON

By: _____
Grace Wakulchik, President

I hereby certify that sufficient funds are available to make the Grant payment described in the foregoing Agreement.

DIRECTOR OF FINANCE

By: _____
Laura Brown

Date: _____

Approved as to form and content

DIRECTOR OF LAW

By: _____
Timothy L. Fox

Date: _____

**CHILDREN'S HOSPITAL MEDICAL CENTER OF AKRON
INDUSTRIAL AND COMMERCIAL JOB CREATION INCENTIVE
GRANT AGREEMENT**

**EXHIBIT
A**

	INITIAL BASE PAYROLL	WAGES	INCOME TAX	TAX INCENTIVE GRANT SCHEDULE	CHMCA	CITY
	\$ 1,560,000.00	\$ 23,400.00	\$ -	\$ 23,400.00		
YEAR 1	\$ 2,750,000.00	\$ 41,250.00	100%	\$ 41,250.00	\$ -	\$ -
YEAR 2	\$ 2,750,000.00	\$ 41,250.00	100%	\$ 41,250.00	\$ 41,250.00	\$ -
YEAR 3	\$ 2,750,000.00	\$ 41,250.00	75%	\$ 30,937.50	\$ 10,312.50	\$ 10,312.50
YEAR 4	\$ 2,750,000.00	\$ 41,250.00	75%	\$ 30,937.50	\$ 10,312.50	\$ 10,312.50
YEAR 5	\$ 2,750,000.00	\$ 41,250.00	75%	\$ 30,937.50	\$ 10,312.50	\$ 10,312.50
YEAR 6	\$ 2,750,000.00	\$ 41,250.00	50%	\$ 20,625.00	\$ 20,625.00	\$ 20,625.00
YEAR 7	\$ 2,750,000.00	\$ 41,250.00	50%	\$ 20,625.00	\$ 20,625.00	\$ 20,625.00
YEAR 8	\$ 2,750,000.00	\$ 41,250.00	50%	\$ 20,625.00	\$ 20,625.00	\$ 20,625.00
YEAR 9	\$ 2,750,000.00	\$ 41,250.00	25%	\$ 10,312.50	\$ 30,937.50	\$ 30,937.50
YEAR 10	\$ 2,750,000.00	\$ 41,250.00	25%	\$ 10,312.50	\$ 30,937.50	\$ 30,937.50
TOTAL 1-10	\$ 27,500,000.00	\$ 412,500.00		\$ 257,812.50	\$ 154,687.50	
MINIMUM TOTAL PAYROLL IF EXTENDED						
YEAR 11	\$ 4,250,000.00	\$ 63,750.00	25%	\$ 15,937.50	\$ 47,812.50	\$ 47,812.50
YEAR 12	\$ 4,250,000.00	\$ 63,750.00	25%	\$ 15,937.50	\$ 47,812.50	\$ 47,812.50
YEAR 13	\$ 4,250,000.00	\$ 63,750.00	25%	\$ 15,937.50	\$ 47,812.50	\$ 47,812.50
TOTAL 11-13	\$ 12,750,000.00	\$ 191,250.00		\$ 47,812.50	\$ 143,437.50	
GRAND TOTAL INCLUDING ALL EXTENDED YEARS	\$ 40,250,000.00	\$ 603,750.00		\$ 305,625.00	\$ 298,125.00	