



Management Services Agreement

THIS AGREEMENT ("**Agreement**") is made effective as of July 29, 2019 (the "**Effective Date**") by and between the CITY OF NEWAYGO TAX INCREMENT FINANCING AUTHORITY (the "**Owner**") and RIVER COUNTRY CHAMBER OF COMMERCE OF NEWAYGO COUNTY, a Michigan nonprofit corporation (the "**Chamber**").

Background

A. The Owner owns the second floor of a two story building located at 1 State Road, Newaygo, Michigan 49337 which is operated as an office and business incubator space under the name "The Stream," as shown at <http://newaygostream.com/> (the "**Property**"). As shown on the referenced website, Property is developed to offer a classroom, lecture room, multiple meeting rooms, private offices, and various workspaces.

B. The various work and other spaces within the Property are offered to third parties ("**Third Party Users**") under various membership, rental, and lease terms ("**User Agreements**"). Depending on the level of subscription and the terms of such agreements, these Third Party Users have use of the Property's amenities and services, which are shown on Exhibit A ("**Amenities**").

C. The Chamber currently occupies a portion of the Property under that certain Lease dated June 1, 2016 between the parties (the "**Chamber Lease**").

D. In addition to the Chamber Lease, and in part because the Chamber is operating from within the Property, the parties desire that the Chamber undertake certain management services for the Property and the Owner, more fully described as the Services below. The parties enter into this Agreement to set forth the engagement of the Chamber as an independent contractor of the Owner to provide the Services, as set forth herein.

Agreement

1. Chamber Lease. This Agreement is in addition to and independent from the Chamber Lease, and nothing set forth herein will amend or waive any provision of the Chamber Lease.

2. Services.

(a) Property Services. The "**Property Services**" include day to day management of the Property including oversight of Third Party Users, Amenities, enrolling new Third Party Users through new User Agreements, administering existing User Agreements, and all tasks set forth on Exhibit B, Part 1.

(b) Event Services. The Chamber will, in consideration of this Agreement, also perform certain event related “**Event Services**” to promote, manage, and carry out certain events throughout the year that the Owner and the City of Newaygo are involved in, as more fully set forth on Exhibit B, Part 2.

(c) Services. The Property Services and the Event Services are collectively referred to as the “**Services**” in this Agreement.

3. Independent Contractor Appointment. The Chamber is hereby engaged as an independent contractor to the Owner to provide the Services to the Owner. The parties agree that their relationship is that of independent contracting parties, and that the Chamber (and any of its agents) is not an employee, partner, agent of, or joint venturer with the Owner for any purpose. The Chamber is responsible for all withholding and all taxes associated with all payments or income to the Chamber hereunder.

4. Performance. The Chamber will perform the Services in a timely, first class, professional manner, consistent with the quality and reputation that the Owner has established and holds out to the public and in accordance with this Agreement and all other terms and specifications consistent with this Agreement which are communicated by the Owner to the Chamber (the “**Requirements**”).

5. Term. This Agreement will commence upon the Effective Date and continue until terminated as follows: (a) either party may terminate this Agreement with or without cause upon 60 days advance written notice; (b) the Owner may terminate this Agreement immediately upon a default of this Agreement or the Chamber Lease which is not cured within 5 days of notice, provided that in the case of illegal acts or emergency, no notice will be required; and (c) this Agreement may be terminated as set forth in the following section.

6. Property Listing; Outside Transactions. It is acknowledged that the Property is listed with a real estate broker for potential lease or sale of some or all of the Property. Subject to the Chamber Lease (or mutual agreement of the parties regarding the same), the Owner may enter into transactions of conveyance by lease or otherwise for some or all of the Property outside of this Agreement (“**Outside Transactions**”) and in such case the Owner will provide the Chamber with notice of the Outside Transaction and the following will then apply:

(a) Materially All of the Property Affected. If the Outside Transaction is for essentially all of the Property (other than the Chamber’s premises if the Chamber Lease will continue) such that the operation of The Stream in its existing structure will not be continued by the Owner, the Chamber will cooperate with the Owner to terminate all Third Party Users in time to accommodate the Outside Transaction and this Agreement will terminate upon the earlier of 15 days notice from the Owner or the closing/execution of the Outside Transaction.

(b) Some of the Property Affected; The Stream Continues. If the Outside Transaction leaves enough of the Property available such that the Owner will continue operation of The Stream in (or close to) its existing structure on a reduced scope, the Chamber will cooperate with the Owner to terminate all Third Party Users who occupy space that will go to the Outside Transaction in time to accommodate the Outside Transaction, and the parties will

endeavor to continue this Agreement with a proportionate adjustment to the payment due to the Chamber below. If the parties are not able to agree on the same within 45 days after notice of the Outside Transaction from the Owner (or such longer period as they may mutually agree), then either party may terminate this Agreement upon 15 days notice to the other. Provided, however, in all cases the Owner may terminate this Agreement effective as of the closing/execution of the Outside Transaction upon notice to the Chamber.

(c) Cooperation and Amendment. If there is an Outside Transaction, the parties will cooperate to accommodate the same. Nothing will prohibit the parties from terminating the Property Services and retaining the Event Services or coming to any other arrangement by amendment to this Agreement.

7. Payment. In consideration of the performance of all Services in accordance with the Requirements, the Owner will pay the Chamber the sum of **\$7,500.00 per quarter**, prorated for any partial quarter. The Chamber may not offset from rent due under the Chamber Lease Agreement said amount unless the Owner agrees otherwise. The Chamber will provide Platinum Level Sponsorship to The City. See Exhibit C.

8. Terms of Property and Service. The Owner has sole authority and discretion from time to time to determine or change, in whole or in part, the terms and forms of User Agreements, the Amenities available from time to time, the hours of operation of the Property for Third Party Users, and other such governance matters. The Chamber will implement any such changes upon notice from the Owner.

9. New Third Party Users. The Owner will provide the Chamber with the various agreements (membership, lease, conference room rental, etc.) that new Third Party Users must execute to use the Property in any respect. The Chamber will use the specified forms. Any amendment or alteration of such forms or any arrangement that is more than month to month requires the prior written consent of the Owner. Subject to the foregoing, the Chamber will add new Third Party Users in an effort to maximize occupancy of the Property. The Chamber will provide the Owner with an update on the terms of all new Third Party Users prior to start or at the start time of the new Third Party User's term.

10. Reporting. On the first calendar day of each quarter, the Chamber will provide an update and report of operations for The Stream and Events. Such reports will include reasonable member and property use data, a summary of new Third Party Users, Third Party User attrition, and other facts and information as the Owner may determine from time to time.

11. Expenses. The Chamber will be responsible for all of its own costs (labor, materials, etc.) in performing the Services, and such matters as are contemplated on Exhibit B). The Owner is responsible for and will pay the expenses of owning the Property (e.g., property taxes, utilities, etc.). The Chamber may seek reimbursement for any particular expense incurred which is the responsibility of the Owner hereunder by submitting a request therefor to Owner in advance (which the Owner will approve or deny), and then by submitting proper evidence of the expense together with receipts, etc. to the Owner.

12. Confidential Information. “**Confidential Information**” means all non-public information of the Owner, The Stream, its Third Party Users, and otherwise concerning the Property. All Confidential Information is the sole property of the Owner. The Chamber acknowledges the foregoing and covenants that it will not and shall not disclose Confidential Information to any party at any time and will not use Confidential Information at any time and for any reason, except in each case as is reasonably necessary and appropriate to perform the Services for the benefit of the Owner.

13. Work for Hire. All work product of the Chamber in performing the Services or for the Owner is “work for hire,” and all of the same belongs solely to the Owner.

14. Default. If the Chamber defaults in its duties hereunder, the Owner will provide a notice of the same and the Chamber will have 5 days to cure. If uncured, or if Owner issues more than two default notices in any 12 month period in good faith, the Owner may at any time thereafter terminate this Agreement effective upon notice to the Chamber. A default of the Chamber Lease is a default of this agreement.

15. Notices. Notices must be in writing, and may be sent by any reasonable means including email. An email that is acknowledged (specifically or by return email or other writing) is sufficient under this Agreement. Emails traded, acknowledged, and agreed to in any reasonable manner are sufficient to bind the parties to the agreements evidenced therein, all of which will be governed by this Agreement whether such emails or other correspondence refer to this Agreement or not.

16. No Conflicts of Interest. The Chamber represents that it is free to enter into this Agreement and that this engagement does not violate the terms of any other agreement between the Chamber and any third party.

17. No Agency; Compliance. The parties expressly acknowledge and agree that neither has any authority, whether under this Agreement or otherwise, to provide consent for or bind the other.

18. General Terms. This Agreement may be amended only by a writing signed by both parties; is the entire agreement between the parties and all other terms, previous arrangements, and understandings are merged herein; and shall be governed, construed, interpreted, and enforced in accordance with the laws of the state of Michigan. Any dispute hereunder will be brought in the courts of Newaygo County, Michigan, and the parties consent to the jurisdiction thereof. A party will be charged with waiver only if the waiver is set forth in writing and signed by the party charged. If any provision of this Agreement is held in whole or in part to be unlawful or invalid, the invalid term or part will be severed and the remainder of such provision and this Agreement will remain in full force and effect. This Agreement may be validly executed in counterparts and delivered by any reasonable means including electronically.

THE CHAMBER:

RIVER COUNTRY CHAMBER OF COMMERCE OF
NEWAYGO COUNTY, a Michigan nonprofit
corporation

By: Colleen Lynema
Colleen Lynema
Its: Executive Director

OWNER:

CITY OF NEWAYGO TAX INCREMENT FINANCING
AUTHORITY

By: Rob Amstrong
Rob Amstrong
Its: CHAIRMAN

Exhibit A

Amenities

For all:

- General administrative assistance
- Staffed reception area (part-time)
- Wi-Fi and hardwired Internet access
- Fiber optic internet
- Kitchen use
- Coffee and refreshments
- Utilities (electricity, water, etc.)
- Janitorial services
- Free parking
- In-house advertising
- Access to networking events
- Easels
- TV Monitors in each meeting room
- Conference Phone available for use

For a fee:

- Black-and-white copies
- Color copies
- Fax
- Snack basket
- Catering arrangements
- Postal address and mail box

Exhibit B – Part 1

Property Services

- Daily morning tasks (stocking and making coffee, stock snacks, stock restrooms, check and stock copy machines, walk through and tidy rooms where needed, etc.
- Front Desk: Greet members and guests – assist them as necessary
- Answer Phones
- Manage and stock all supplies
- Manages snack revenue; responsible for buying snacks and coffee
- Schedule and coordination of meeting rooms
 - Schedule meetings;
 - Set and clean up rooms;
 - Assist with catering orders when necessary;
 - Assist with presentation and laptop technology as needed;
 - Early/late meetings – sometimes come in depending on who and what;
 - Confirm meeting schedule
- Monitor and answer email account for information inquiries
- Drop off location for members at front desk
- Tours
- Set guest passwords – Monthly
- Set doors accordingly
- Update slide show
- Assist guests and meeting room guests signing on with guest password
- Computer configuration
- Mail
- Provides proposals and quotes for potential members and meeting room rental requests.
- Troubleshoot problems
- Simplify internet sign on
- Connectivity to Printers:
 - Dedicated PC for printing
 - Prompt For user code
 - General email address

Exhibit B – Part 2

Event Services

- Event Responsibility
 - Memorial Weekend Arts & Craft Festival (answer vendors questions, registrations, promotion, social media, website, volunteers, sponsorship, emails).
 - Logging Festival (answer vendors questions, registrations, promotion, social media, website, volunteers, sponsorship, emails).
 - Christmas Walk Festival (Coordination of Santa & schools, business activities, vendors, registrations, promotion, social media, website, volunteers, sponsorship, emails).
- Answer Phones
- Greet visitors
- Copying
- Scanning Documents
- Email Membership
- Advertising and coordination of Small Business Saturday for downtown businesses.
- Advertising and promotion of TIFFA district businesses for groups visiting the area.
- Large group promotion