

DOWNTOWN C-PASS EMPLOYER PARTICIPATION AGREEMENT

Each employer is required to accept Downtown C-pass Program Agreement prior to participation by checking "I Accept" when creating an online account.

Program Dates

C-passes are active beginning **June 1, 2018** and are funded through **December 31, 2020**.

Eligibility

Owners, partners, officers and employees who work in eligible buildings, and work at least an average of 15 hours per week with a planned tenure of at least two months, are eligible. Contract employees are also eligible — please notify C-pass staff of any contract employees.

Employees must not give or loan COTA credentials to anyone. Employers must not offer C-pass credentials to ineligible employees. Both employees and employers are subject to program disqualification if they misuse the program in any way.

COTA Services

Downtown C-pass gives eligible employees unlimited access on all COTA service with an acceptable credential. This includes all rush hour and local routes any day of the week.

COTA Credentials

Employees have four credential options. Credentials will be issued at no cost as part of the program; however, certain credentials will require a replacement fee, including \$4.50 for DESFire RFID stickers and \$10 for a new photo ID. See COTA Credential Options document for more information.

i **More questions?** We're happy to help. Contact Program Director Kacey Brankamp at info@downtowncpass.com or **614-591-4504**.
www.DowntownCpass.com



Registration

Employers will create accounts and maintain accurate employee records in a secure web portal at DowntownCpass.com. Individuals will not register.

Confidentiality Statement

Employee information will not be shared except as necessary to enable employee participation and to measure the program's impact.

Payment for C-pass

Program costs are covered by property assessments and community funding—there is no additional cost to employers or employees.

Employer Participation Tasks:

- Assign a C-pass account manager(s)** to administer the program.
- Promote Downtown C-pass program** to new and current employees.
- Advise employees** that credential misuse is cause for program disqualification.
- Maintain accurate employee records** in secure member portal.
- Deactivate ineligible employees** from the member portal.
- Acknowledge** that SID and COTA have the right to audit the member portal.
- Identify company champion** who promotes alternative commuting options.
- Complete and distribute surveys** to gauge program impact.



DOWNTOWN C-PASS PROGRAM AGREEMENT (Employers)

The Capital Crossroads Special Improvement District of Columbus (the **Capital Crossroads SID**) and you, as the **Employer**, agree to the terms and conditions of this Downtown C-Pass Program Agreement (the **Agreement**) as of the date of your acceptance of this Agreement.

BACKGROUND

The Capital Crossroads SID has developed a transit pass program for certain employers and residents in downtown Columbus in partnership with the Central Ohio Transit Authority (**COTA**) and the Mid-Ohio Regional Planning Commission (**MORPC**), which is powered by Gohio Commute and presented in association with Smart Columbus. Under the transit pass program (the **Downtown C-Pass Program**), COTA will provide access to all of its transit services to eligible people. Capital Crossroads SID will serve as the program administrator for the Downtown C-Pass Program, and MORPC will develop and manage a secure website and database for the Downtown C-Pass Program. By entering into this Agreement, the Employer agrees to receive the benefit of the Downtown C-Pass Program and in return to comply with each of the terms and conditions of this Agreement.

AGREEMENT

Section 1. Definitions.

In addition to the terms defined elsewhere in the body of this Agreement, capitalized terms used in this Agreement where the rules of grammar would not otherwise require capitalization are defined in the attached **Exhibit A**.

Section 2. Term.

The Downtown C-Pass Program's term shall commence at the beginning of June 1, 2018 and shall end, unless terminated earlier as described below, at the close of December 31, 2020 (the **Term**). This Agreement shall be effective from its date through and including December

31, 2020. The Term of the Downtown C-Pass Program may be terminated earlier than the close of December 31, 2020 if the Downtown C-Pass Program is terminated under the terms and conditions of the Master Downtown C-Pass Program Agreement. Unless the Employer is required to execute and deliver a copy of the terms and conditions contained in **Exhibit B** to this Agreement in order to participate in the Downtown C-Pass Program, the term of this Agreement may be terminated earlier than the close of December 31, 2020 if the Employer at any time terminates this Agreement by delivering written notice to the Capital Crossroads SID. The Employer acknowledges that special assessments will be assessed and due from all properties subject to the Transit Pass Plan through 2020 whether or not the owners or tenants of those properties participate in the Downtown C-Pass Program.

Section 3. Eligibility.

Subject to the terms and conditions of this Agreement, owners, partners, officers, and employees of the Employer who work for the Employer at a location within Downtown Columbus an average of 15 hours or more per week for an employment tenure reasonably expected to last two or more months during the Term of the Downtown C-Pass Program (**Employees**) shall be eligible for participation in the Downtown C-Pass Program. The Employer's contract employees and employees of any of the Employer's contractors, if any, are not eligible for the Downtown C-Pass Program under this Agreement. The Employer shall, however, provide to the Capital Crossroads SID all of the following information: (a) the identity of all of the Employer's contract employees, (b) the identity of all of the Employer's contractors, and (c) the identity of all of those contractors' employees working for the Employer or at the Employer's place or places of business to which this Agreement applies. The Employer shall provide all of the information described in the previous sentence to the extent it is necessary for the Capital Crossroads SID to be able to determine whether the identified individuals are eligible for the Downtown C-Pass Program due to their employment with their employer.

Employee eligibility shall be determined on a month-to-month basis. Employees shall not allow any other person to access COTA's transit services using Employees' credentials. Individual Employees shall be ineligible for the Downtown C-Pass Program if, in the reasonable opinion of COTA and the Capital Crossroads SID, they fail to comply with the terms and conditions of this Agreement, misuse their credentials, or behave disruptively or inappropriately while accessing COTA transit services. All of the Employer's Employees shall be ineligible for the Downtown C-Pass Program if, in the reasonable opinion of COTA and the Capital Crossroads SID, the Employer fails to comply with the terms and conditions of this Agreement, or the Employer's Employees misuse their credentials, or behave disruptively or inappropriately while accessing COTA transit services.

Section 4. Access to Transit Services.

During the Term of the Downtown C-Pass Program, but subject to the Employer's compliance with the terms and conditions of this Agreement, and under the terms and conditions of the Master Downtown C-Pass Program Agreement, COTA shall provide the Employer's eligible Employees who present valid credentials to COTA access to all of its transit services.

Section 5. Credentials.

In order to be granted access to COTA's transit services, each Employee must present valid credentials to COTA. Acceptable credentials include any credentials which COTA deems acceptable in its sole discretion and which allow COTA to validate Employees' participation in the Downtown C-Pass Program while accessing COTA transit services. Acceptable credentials include, but are not limited to:

- (a) Smart phone application (downloaded by Employee);
- (b) Property-issued magnetic stripe card that meets COTA specifications;
- (c) DESFire RFID sticker (applied by Employer);
- (d) New photo ID issued at COTA;
- (e) Other credentials deemed acceptable in the sole discretion of COTA.

Under the Master Downtown C-Pass Program Agreement, COTA shall provide DESFire stickers to be affixed to existing identification cards, after approval of those identification cards by the Capital Crossroads SID in its sole discretion, at a cost of \$4.50 per sticker. Under the Master Downtown C-Pass Program Agreement, COTA shall provide new photo identification cards at a cost of \$10.00 per card. If the Employer must purchase DESFire stickers or new photo identification cards, the Capital Crossroads SID shall pay the cost of the first DESFire stickers or identification cards issued to each of the Employer's eligible Employees. The Employer shall pay all costs of all additional or replacement DESFire stickers and identification cards.

Section 6. Eligible Employees Database.

Under the Master Downtown C-Pass Program Agreement, MORPC shall provide a secure website and database (the **Database**) through which accurate records of eligible Employees shall be maintained. During the Term of the Downtown C-Pass Program, the Employer shall:

- (a) Maintain records of eligible Employees of the Employer in the Database accurate as of the last day of the most recent month;
- (b) Add newly eligible Employees to the Database;
- (c) Remove formerly eligible Employees from the Database;
- (d) Certify that the eligible Employees shown in the Database are accurate for the preceding month on the first day of each month during the Term of the Downtown C-Pass Program; and
- (e) Allow the Capital Crossroads SID, MORPC, and COTA to audit the data uploaded into the Database.

Confidentiality Statement: None of the Capital Crossroads SID, MORPC, or COTA shall use or share Employee information uploaded to the Database except as is necessary to

enable Employees to participate in the Downtown C-Pass Program and to measure the Downtown C-Pass Program's performance and impact.

Under the Master Downtown C-Pass Program Agreement, MORPC shall provide notice or allow COTA to receive notice of all eligible Employees within the Database in order to activate and deactivate the Employees' credentials.

Section 7. Payment for Downtown C-Pass Program Services.

If the Employer occupies a building located within Downtown Columbus that has been assessed under the Transit Pass Plan submitted to the Council of the City of Columbus, Ohio and approved by the Council on April 5, 2017 by its Resolution 0072X-2017 (the **Transit Pass Plan**), the Employer's special assessment payments shall constitute payment in full for its participation in the Downtown C-Pass Program services.

If the Employer does not occupy a building located within Downtown Columbus that has been assessed under the Transit Pass Plan but is nevertheless eligible for participation in the Downtown C-Pass Program, the Employer shall comply with all terms and conditions in **Exhibit B** to this Agreement, including the terms of payment described in **Exhibit B**.

The Capital Crossroads SID shall pay COTA all costs of the Downtown C-Pass Program Services under the Master Downtown C-Pass Program Agreement.

Section 8. Additional Employer Obligations.

During the Term of the Downtown C-Pass Program, the Employer shall:

- (a) Assign a Downtown C-Pass Program manager to:
 - i. Administer the benefit to Employees;
 - ii. Be responsible for maintaining the Database on behalf of the Employer as described in Section 6;
 - iii. Inform eligible Employees that they alone may use their credentials to access the Downtown C-Pass Program and that allowing others to use their credentials to access the Downtown C-Pass Program will result in revoked credentials and ineligibility for the Downtown C-Pass Program;
 - iv. Complete surveys regarding the Downtown C-Pass Program during its term; and
 - v. Carry out the Employer's other obligations under this Agreement.
- (b) Immediately deactivate or revoke credentials for formerly eligible Employees who become ineligible;
- (c) Maintain accurate rosters of eligible Employees;

- (d) Allow the Capital Crossroads SID and COTA to deactivate any and all credentials of the Employer if, in their reasonable opinion, the Downtown C-Pass Program is being misused or eligible Employees are disruptive or behaving inappropriately while accessing COTA transit services;
- (e) Allow the Capital Crossroads SID, COTA, and MORPC to audit employment records of the Employer to verify eligibility for the Downtown C-Pass Program;
- (f) Promote the Downtown C-Pass Program internally;
- (g) Include information on the Downtown C-Pass Program in on-boarding materials to newly eligible Employees;
- (h) Solicit an internal commuting champion who can be a point person within the Employer for alternative commuting options; and
- (i) Distribute surveys to eligible Employees (both participating in the Downtown C-Pass Program and not participating) during the Term of the Downtown C-Pass Program and request the completion of surveys.

Section 9. Federal Tax Matters.

To the fullest extent permissible under Section 132(f) of the Internal Revenue Code and the Treasury Regulations thereunder (as determined by Employer's independent tax counsel or advisor), Employer shall treat the access to COTA's transit services described under the terms of this Agreement and provided by Employer to eligible Employees as a Qualified Transportation Fringe Benefit. Employer is solely responsible for any tax obligations or tax reporting requirements that may arise as a result of providing its eligible Employees access to COTA's transit services and participating in the Downtown C-Pass Program.

Section 10. Employer's Representations and Warranties.

The Employer represents and warrants:

- (a) As of the date of this Agreement, it employs eligible Employees at buildings located within Downtown Columbus.
- (b) The representative confirming the Employer's consent to this Agreement by indicating his or her acceptance through electronic means has full authority bind the Employer to the terms and conditions of this Agreement.
- (c) The Employer is duly authorized to agree to, deliver, and perform this Agreement, and upon its acceptance of this Agreement, this Agreement shall be a valid and binding agreement enforceable against the Employer.
- (d) The Employer is duly authorized to conduct its business within the State.

- (e) There are no actions, suits, or proceedings pending, or to its knowledge threatened, against or affect it that, if adversely determined, would individually or in the aggregate materially impair its ability to perform any of its obligations under this Agreement, or materially adversely affects its financial condition (each an **Action**), and during the term of this Agreement, the Employer shall promptly notify the other Parties of any Action commenced or to its knowledge threatened against it.
- (f) It is not in default under this Agreement, and no condition exists, the continuance in existence of which, would constitute a default under this Agreement.

Section 11. Indemnification and Release.

- (a) If the Employer is not a Public Entity, the Employer shall indemnify, hold harmless, and hereby releases the Capital Crossroads SID, COTA, and MORPC, (including any member, officer, director, or employee of the Capital Crossroads SID, COTA, and MORPC) (collectively, the **Indemnified Parties**) against any liabilities, obligations, claims, damages, penalties, causes of action, costs, and expenses (including, without limitation, reasonably attorneys' fees and expenses) (**Indemnified Costs**) imposed upon, incurred by, or asserted against an Indemnified Party arising or resulting from or under this Agreement, including, without limitation, as a result of a breach of the Database and any release of confidential information resulting from a breach, all except as may arise or result from the Indemnified Party's gross negligence or purposeful act.
- (b) If the Employer is a Public Entity, the Employer hereby releases the Indemnified Parties (but does not indemnify, hold harmless, or obligate itself in any way to pay any Indemnified Costs to the Indemnified Parties) from Indemnified Costs imposed upon, incurred by, or asserted against an Indemnified Party arising or resulting from or under this Agreement, including, without limitation, as a result of a breach of the Database and any release of confidential information resulting from a breach, all except as may arise or result from the Indemnified Party's gross negligence or purposeful act.

Section 12. Miscellaneous.

- (a) Notices. All notices, certificates, requests, or other communications required to be given under this Agreement shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, and addressed to the appropriate Notice Address. The Parties, by notice given under this Agreement to the others, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

- (b) Extent of Agreements. All terms and conditions and all obligations of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law.
- (c) Binding Effect. This Agreement shall inure to the benefit of, and shall be binding in accordance with its terms upon, the Parties.
- (d) Third Party Beneficiaries. COTA and MORPC are hereby each acknowledged to be, and designated as, express third party beneficiaries of each of the Employer's representations, warranties, obligations, and duties under this Agreement. No other persons or entities, however, shall have any express or implied third party beneficiary rights in or to this Agreement.
- (e) Assignment. This Agreement shall not be assigned by any of the Parties. Any attempt to assign this Agreement shall be void.
- (f) Modifications. This Agreement shall not be modified or terminated except by a unanimous written agreement signed by each of the Parties. Any attempt to modify or terminate this Agreement except by a unanimous written agreement signed by each of the Parties shall be void.
- (g) Severability. If any term of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, that determination shall not affect any other term of this Agreement, each of which shall be construed and enforced as if the invalid term was not contained in this Agreement giving full force and effect to the meaning and intent of this Agreement. Any invalidity or unenforceability shall not affect any valid or enforceable application of the same term, and that term shall be deemed to be effective to the full extent permitted by law.
- (h) Governing Law. This Agreement is made under the laws of the State and shall be governed by and construed in accordance with the laws of the State.
- (i) Jurisdiction. Any and all disputes relating to this Agreement shall be resolved in a court of competent jurisdiction located in Franklin County, Ohio. Each of the parties hereby waives all objections to the personal jurisdiction of courts located within Franklin County, Ohio.

EXHIBIT A

Definitions for Downtown C-Pass Program Agreement

In addition to terms defined within the body of the Downtown C-Pass Program Agreement (the **Agreement**):

1. **Agreement** means this Downtown C-Pass Program Agreement between the Capital Crossroads SID and the Employer, as it may be validly amended and in effect at any time.

2. **COTA** means the Central Ohio Transit Authority, a transit authority under the laws of the State, and any successor to it under the laws of the State.

3. **Database** means the secure website and database provided by MORPC for administration of the Downtown C-Pass Program.

4. **Downtown Columbus** means the geographic area of the City zoned as part of the Downtown District.

5. **Downtown C-Pass Program** means the program for the provision of access to COTA transit services described in this Agreement.

6. **Employee** means owners, partners, officers, and employees of the Employer who work for the Employer at a location within Downtown Columbus an average of 15 hours or more per week for an employment tenure reasonably expected to last two or more months during the Term of the Downtown C-Pass Program.

7. **Employer** means the natural person, corporation, limited liability company, partnership (whether general or limited), governmental agency or subdivision, or any other organization on whose behalf this Agreement is being accepted, as the Employer under this Agreement, and any of its permitted successors and assigns.

8. **Franklin County** means, collectively, the County of Franklin, Ohio and each of its agencies, boards, departments, offices, commissions, and related entities listed on **Exhibit C** to this Agreement.

9. **Master Downtown C-Pass Program Agreement** means the Master Downtown C-Pass Program Agreement between the Capital Crossroads SID, COTA, and MORPC, as it may be validly amended and in effect at any time.

10. **MORPC** means the Mid-Ohio Regional Planning Commission, a regional planning commission under the laws of the State, and any successors to it under the laws of the State.

11. **Notice Address** means:

As to the Capital Crossroads SID: Capital Crossroads Special Improvement
District of Columbus
23 North Fourth Street
Columbus, Ohio 43215
Attention: Cleve Ricksecker

As to the Employer: The address provided through the secure
member portal at DowntownCpass.com

12. **Parties** means, collectively, the Capital Crossroads SID and the Employer.
13. **Party** means any one of the Parties.
14. **Public Entity** means the State, any “state agency,” as that term is defined in Section 1.60 of the Ohio Revised Code, any “subdivision,” as that term is defined in Section 5705.01(A) of the Ohio Revised Code, and any “taxing unit,” as that term is defined in Section 5705.01(H) of the Ohio Revised Code.
15. **State** means the State of Ohio.
16. **Term** means the period commencing on and including June 1, 2018 and concluding on and including December 31, 2020, unless earlier terminated under this Agreement.
17. **Transit Services Plan** means the Transit Services Plan submitted to the Council and approved by the Council on April 5, 2017 by its Resolution 0072X-2017, as it may be validly amended and in effect at any time.
18. **Transit Services Plan Area** means the geographic area shown on Exhibit B to the Transit Services Plan.

EXHIBIT B

Additional Terms and Conditions for Employers Not Occupying Assessed Buildings

The Capital Crossroads Special Improvement District of Columbus (the **Capital Crossroads SID**) and [EMPLOYER] (**Employer**) agree to the terms and conditions of this **Exhibit B** to the Downtown C-Pass Program Agreement (the **Agreement**) as of [DATE] in addition to each of the terms and conditions of the Agreement.

Section A. Payment Terms.

The Employer shall pay the Capital Crossroads SID \$40.50 per eligible Employee for all eligible Employees who work in buildings that are not assessed under the Transit Services Plan per year in each of the calendar years during the Term of the Downtown C-Pass Program. The \$40.50 per eligible Employee payment due for calendar year 2018 shall be paid to the Capital Crossroads SID on or before the date this Agreement becomes effective. The \$40.50 per eligible Employee payment due for calendar years 2019 and 2020 shall be paid to the Capital Crossroads SID on or before January 15 of each of those years. For purposes of clarity, the full \$40.50 per calendar year per eligible Employee shall be paid by the Employer regardless of whether the Agreement or this Exhibit B become effective at any time during the calendar year. The full \$40.50 per calendar year per eligible employee shall under no circumstances be prorated or reduced.

Section B. Number of Eligible Employees.

The minimum number of the Employer's eligible Employees shall be set prior to the date this Agreement becomes effective. The minimum number of eligible Employees established prior to the date this Agreement becomes effective shall be used to calculate the minimum total annual payment of \$40.50 per eligible Employee due to the Capital Crossroads SID under this Agreement.

The number of eligible Employees shall be adjusted every calendar year during the Term of the Downtown C-Pass Program, by the end of each calendar year, for the next succeeding calendar year. After each adjustment date, the payments due from the Employer shall be increased or decreased to total \$40.50 per eligible Employee determined as of the most recent determination date. At no point during the Term of the Downtown C-Pass Program, however, shall the payments due from the Employer be less than \$40.50 per the minimum number of eligible Employees determined prior to the date this Agreement becomes effective per year.

Section C. Additional Representation and Warranties.

In addition to the representations and warranties of the Employer stated in Section 10 of this Agreement, the Employer represents and warrants:

- (a) The Employer is:
 - i. A property owner that owns any portion of the real property assessed under the Transit Services Plan and employs Employees at any portion of those properties, employs additional Employees at locations outside of those properties but within Downtown Columbus, and wishes to allow Employees employed at locations outside of those properties but within Downtown Columbus to participate in the Downtown C-Pass Program; or
 - ii. A property owner that owns or leases property within the Transit Services Plan Area that will not be assessed under the Transit Services Plan but nevertheless elects to make payments under this Agreement in exchange for Employees employed at those properties participating in the Downtown C-Pass Program.
- (b) The minimum number of eligible Employees determined prior to the date this Agreement becomes effective is an accurate number of the Employer's eligible Employees.

As evidence of its intent to be bound by the additional terms and conditions of the Agreements stated in this Exhibit B, the Employer, through its duly authorized representative, has signed this Exhibit B as of the date first written above.

[EMPLOYER]

EXHIBIT C

List of Franklin County Entities With Eligible Employees

For purposes of the above Downtown C-Pass Program Agreement (the **Agreement**) and Exhibit C to the Agreement, Employees of the following Franklin County political subdivisions, boards, commissions, offices, departments, and related entities shall be eligible Employees, and the following boards, commissions, offices, departments, and related entities shall purchase the right to access all COTA services for all of their Employees:

- Franklin County Board of Commissioners, which includes:
 - Franklin County Department of Animal Care & Control
 - Franklin County Department of Economic Development & Planning
 - Franklin County Department of Child Support Enforcement
 - Franklin County Department of Human Resources
 - Franklin County Department of Fleet Management
 - Franklin County Office on Aging
 - Franklin County Department of Job & Family Services
 - Franklin County Office of Management & Budget
 - Franklin County Office of Homeland Security & Justice Programs
 - Franklin County Department of Public Facilities Management
 - Franklin County Department of Public Affairs
 - Franklin County Department of Sanitary Engineering
 - Franklin County Department of Purchasing

- Franklin County Auditor
- Franklin County Data Center
- Franklin County Clerk of Courts
- Franklin County Court of Common Pleas
- Franklin County Domestic & Juvenile Court
- Franklin County Engineer
- Franklin County Law Library
- Franklin County Probate Court
- Franklin County Prosecuting Attorney
- Franklin County Public Defender
- Franklin County Recorder
- Franklin County Treasurer

- Any other entity that agrees to participate in the Transit Pass Program after the effective date of this agreement, subject to the requirement that payment will be for the entire amount required for the duration of the agreement