

**WEST CHESTER TOWNSHIP  
JEDD-1  
JOINT ECONOMIC  
DEVELOPMENT DISTRICT  
CONTRACT**

**Dated  
as of**

    MAY 30, 2009

**WEST CHESTER TOWNSHIP JEDD-1 JOINT ECONOMIC DEVELOPMENT  
DISTRICT CONTRACT**

This West Chester Township JEDD-1 Joint Economic Development District Contract (the "Contract") is made and entered into as of MAY 30, 2009, by and among the Township of West Chester located in the County of Butler, Ohio (the "Township"), the City of Springdale located in the County of Hamilton, Ohio ("Springdale") and the City of Fairfield located in the Counties of Butler and Hamilton, Ohio ("Fairfield" together with Springdale the "Cities") in accordance with the terms and provisions set forth herein

**RECITALS**

A. The Township and the Cities intend to enter into this Contract to create and provide for the operation of the West Chester Township JEDD-1 Joint Economic Development District (the "District") in accordance with Sections 715.72 through 715.83 of the Ohio Revised Code for their mutual benefit and for the benefit of their residents and of the State of Ohio (the "State").

B. The legislative authorities of the Township and the Cities have each authorized and directed the Township and the Cities, respectively, to make and enter into this Contract by and through their respective officers in accordance with Ordinance No. 8-2009, passed by the Springdale City Council on MAY 6, 2009, Ordinance No. 68-09, passed by the Fairfield City Council on MAY 11, 2009, and Resolution No. 9-2009 adopted by the Board of Township Trustees on APRIL 28, 2009.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in this Contract, the Township and the Cities agree and bind themselves, their agents, employees and successors, as follows:

Section 1. Creation of District: Name. The Township and the Cities, by their combined action evidenced by the signing of this Contract, hereby create a joint economic development district in accordance with the terms and conditions of this Contract. The joint economic development district created by and pursuant to this Contract shall be known as the "West Chester Township JEDD-1 Joint Economic Development District."

Section 2. Contracting Parties. The "Contracting Parties" to this Contract are the Township of West Chester, a township existing and operating under the laws of the State, the City of Springdale a municipal corporation existing and operating under laws of the State, and the City of Fairfield a municipal corporation existing and operating under the laws of the State, and their respective successors, in all or in part. However, after 10 years from the date on which this Contract takes effect, the term "Contracting Parties" shall be defined to mean only Township and Fairfield and the term "Cities" shall be defined only to mean Fairfield. Each party hereby acknowledges that it is entering into this contract freely and without duress or coercion.

Section 3. Purpose. The Township and the Cities intend that the creation and operation of the District shall, and it is the purpose of the District, to facilitate economic

development to create or preserve jobs and employment opportunities and to improve the economic welfare of the people in the State, the County of Butler (the "County"), the Township, the Cities and the District.

Section 4. Territory of the District. The territorial boundaries of the District are described in Exhibit A attached to and made part of this Contract. This Contract incorporates and includes all exhibits attached hereto. The territory of the District is located entirely within the boundaries of the contracting parties and the County and does not include any "parcel of land" (as defined in Section 715.73(C) of the Ohio Revised Code) that is owned in fee by or is leased to a municipal corporation or township, except land owned by a Contracting Party. No electors reside within the area or areas comprising the District and no part of the area or areas comprising the District are zoned for residential use. Furthermore, the District is zoned "CBD Central Business District", as defined in Articles 30 and 31 of the West Chester Township, Butler County Zoning Resolution, which is appropriate zoning to carry out the functions of this Contract and to promote economic development.

Section 5. Addition and Removal of Areas from District. The Contracting Parties may amend this Contract from time to time to add to the District any area that was not originally included in the District when this Contract became effective, in accordance with Section 715.761 of the Ohio Revised Code. The Contract may be so amended by amending Exhibit A or by adding one or more exhibits to the Contract. Each of the Contracting Parties agrees to cooperate with the other to amend this Contract to add other areas to the District (or to create other joint economic development districts for such areas) in the future.

The Contracting Parties may also amend this Contract from time to time to remove an area from the District in accordance with the procedure set forth in Section 12 of this Contract.

Section 6. Term. This Contract shall take effect the date on which Butler County approves this Contract under Section 715.77 (A)(2) of the Ohio Revised Code, or the date this Contract is approved by default under Section 715.77 (A)(3) of the Ohio Revised Code, or the expiration of the 30 day referendum period for the Township's resolution approving this Contract, whichever is later. The initial term of this Contract shall terminate 40 years from the date on which this Contract takes effect, unless otherwise terminated prior to that date as provided herein. However, after 10 years from the date on which this Contract takes effect, Springdale shall cease to be a party to this Contract, and its rights, benefits, and obligations under this Contract shall end at that time.

This Contract shall automatically extend for up to three five-year renewal terms. On or before one year prior to the expiration of the term of this Contract or any extension thereof, the Contracting Parties shall determine whether to terminate the Contract. If the Contracting Parties mutually agree to terminate the Contract, they shall enter into an agreement to terminate the Contract on or before 180 days prior to the expiration of the Term of this Contract or any extension thereof. If the Contracting Parties take no action, then this Contract shall automatically extend for an additional 5-year term, for up to three additional 5-year terms.

This Contract may be terminated at any time by mutual consent of the Township and the Cities as authorized by their respective legislative authorities as provided herein. In order for

such termination to be effective, the legislative actions of the Contracting Parties that terminate this Contract must occur and be effective within a period of 90 days of each other.

The provision herein for the initial term and any extension of this Contract recognizes that the accrual of benefits to the parties from this Contract may take decades.

In the process of termination of this Contract but prior to final termination, any real or personal property, assets or funds of the District and any obligations, debts or liabilities of the District shall be distributed among the Cities and Township based on the Distributable Revenue percentages set forth in Section 10 (e) below, provided that, prior to incurring any obligation, debt or liability exceeding \$250, the Board shall have obtained the approval of the Township. Before any such distribution, the District shall first use any such property, assets or funds to pay, reduce or settle any obligations, debts or liabilities of the District in accordance with the terms under which such obligations, debts or liabilities were originally incurred. Obligations of the District include, but are not limited to, obligations of the District to one or more of the Contracting Parties under this Contract or separate agreements for the provision of money, services, facilities, capital improvements or other contributions to the District or otherwise. To the extent permitted by law, obligations of the District to a Contracting Party shall take precedence over other obligations, debts or liabilities of the District.

Pursuant to Section 715.74(D) of the Ohio Revised Code, this Contract shall continue in existence throughout its term and shall be binding on the Contracting Parties and on any entities succeeding the Contracting Parties, whether by incorporation, annexation, merger or otherwise. Any portion of the territory of the District (not now in a municipal corporation) that is included within a municipal corporation by annexation, merger or otherwise, after the date of this Contract, shall continue to be a part of the District subject to the terms of this Contract and to the income tax provided for in Section 10 hereof.

Section 7. Contributions to the District. In accordance with Section 715.74 of the Ohio Revised Code, the Township and the Cities each agree to provide services and improvements to the District to facilitate economic development in the District. The Township and the Cities may provide secretarial services and other staffing as each Contracting Party, in its sole discretion, determines, at no cost to the District. In addition, the Board may contract for such services with any and all of the Contracting Parties on such terms as the Board and the respective Contracting Parties may agree. The Contracting Parties may, but are not required to, make financial contributions to the District.

Fairfield shall provide the following contributions in order to facilitate economic development in the District: 1) a \$3,361,415 capital contribution ("Capital Contribution"), which shall be paid to the District as follows: a) \$228,518 per year commencing and first payable on January 15, 2011, and payable on January 15 of each year thereafter for a period of ten years, aggregating \$2,285,180 and b) \$215,247 per year commencing and first payable on January 15 of the first collection year after the first tax year for which real property would first be taxable (or alternatively the first collection year after the first tax year for which real property would first be taxable were that property not exempt from taxation) for two Class "A" midrise office buildings within the District for which construction commenced after January 1, 2010, with said payments continuing to be made on January 15 of each year thereafter for a period of five years,

aggregating \$1,076,235; 2) In order to accomplish the objectives of the Economic Development Plan for the District, at the Township's request, Fairfield shall provide for the following services: engineering studies and plans for traffic and storm water, building code plan review, permit approval and inspections, subject to Fairfield's regular fees and charges for such plan review services, approvals and inspections (and such fees and charges for services, approvals and inspections provided for the District will be the sole responsibility of and payable solely by the District), and assisting in the marketing of available properties in the District to prospective commercial or industrial enterprises; and 3) Collect and administer income tax collected by the District described in more detail below.

Springdale shall provide the following contributions in order to facilitate economic development in the District: 1) In order to accomplish the objectives of the Economic Development Plan for the District, at the Township's request, the City shall provide the following services: engineering studies and plans for traffic and storm water, building code plan review, permit approval and inspections; and 2) At the Township's request, provide advice and consulting services as to the collection of the income tax.

The Township shall provide the following contribution in order to facilitate economic development in the District: An amount not to exceed three million dollars of Service Payments in Lieu of Taxes to be used to pay the cost of eligible public infrastructure improvements on public property or in public right of way or property acquisition, as defined by Section 5709.73 of the Ohio Revised Code and Resolution No. 13-90, as amended, to be paid in accordance with the following terms: a) An amount not to exceed two million dollars to acquire property located within the District for a buffer between the initial development of the District and an existing public use on an adjacent piece of property, consistent with the terms and conditions of the "Purchase and Sale Agreement" entered, or to be entered into, between Township and Duke Construction Limited Partnership (or successor) and b) an additional amount not to exceed one million dollars to pay the cost of eligible public infrastructure improvements on public property or in the public right of way, as defined by Section 5709.73 of the Ohio Revised Code and Resolution No. 13-90, as amended, associated with the further development under terms and conditions to be established.

The Township shall prepare, or cause to be prepared, all documents of the Township and the District relating to the formation of the District including, but not limited to, this Contract, notices, and forms of City, Township, County and District legislation. Any costs incurred and paid by the Township in preparing such documents or otherwise incurred by the Township in assisting in the establishment of the District shall be reimbursed to the Township from revenues of the District income tax prior to the distributions of such revenues as set forth in Section 10 hereof. Any costs incurred and paid by either City in assisting in such preparation (but not including costs and expenses of a City incurred pursuant to Section 7 hereof) shall be reimbursed to the respective City from those revenues of the District prior to the distributions set forth in Section 10 hereof.

Section 8. Board of Directors. There are no businesses located within or persons working within the area to be included in the District, therefore, the Board of Directors shall be established in accordance with Section 715.78(A)(2) of the Ohio Revised Code. The Board of Directors (the "Board") shall be composed of three people and appointed as follows: one

member appointed by Township and serving per Section 715.78(A)(2)(b) of the Ohio Revised Code; one member appointed by Fairfield and serving per Section 715.78(A)(2)(a) of the Ohio Revised Code and one member selected by the Township appointed member and the Fairfield appointed member to serve as Chairperson per Section 715.78(A)(2)(c) of the Ohio Revised Code.

The Board members shall serve terms in accordance with Section 715.78(A)(2) of the Ohio Revised Code which provides in pertinent part,

The members of the board shall be appointed as provided in the contract. Of the members initially appointed to the board, the member described in division (A)(2)(a) of this section shall serve a term of one year; the member described in division (A)(2)(b) of this section shall serve a term of two years; and the member described in division (A)(2)(c) of this section shall serve a term of three years. Thereafter, terms for each member shall be four years, each term ending on the same day of the same month of the year as did the term it succeeds. A member may be reappointed to the board, but no member shall serve more than two consecutive terms on the board.

All subsequent appointments to the Board shall be made by the same appointing authority (i.e., Fairfield or the Township) as made the original appointment.

The members of the Board shall serve without compensation as such members. Necessary and authorized expenses incurred by members on behalf of the District shall be reimbursed from District funds in accordance with procedure established by the Board. Each member shall attend all meetings unless excused by action of the other members. A member who is absent without being excused from three consecutive meetings shall be deemed to have resigned as a member of the Board. In the event of the death, disqualification, removal or resignation of any member of the Board, a new member shall be appointed in the same manner as set forth above to serve as successor for the unexpired term of such member.

A member of the Board may be removed by the appointing party for "cause," which shall mean: willfully failing to perform a duty expressly imposed by this Contract or by law with respect to his or her office; or willfully performing any act forbidden by law with respect to his or her office; or failing to achieve the faithful, efficient and intelligent administration of his or her duties of office as required by this Contract or by law; or engaging in conduct unbecoming to such office. Removal shall be effective upon receipt of written notice of removal and the reasons therefore by the Board member being removed.

The Chairperson of the Board shall be the Board member as provided in Section 715.78(A)(2)(c) of the Ohio Revised Code. The Board shall elect the following officers (who along with the Chairperson shall constitute the Officers of the Board) from among its members: a Vice Chairperson, a Secretary and a Treasurer. The Officers (except the Chairperson) shall be elected at the first meeting of the Board and thereafter every year for a one-year term and shall serve until their respective successors take office. The Board shall establish a procedure for conducting those elections. The Officers shall perform such duties as provided herein and such additional duties as may be provided from time to time by the Board.

Section 9. Powers, Duties, Functions. The Board shall meet at least once each calendar quarter on a date determined by the Board, provided that the first meeting of the Board shall be within 30 days after this Contract becomes effective, on a date agreed to by the Contracting Parties. The Board shall adopt procedures for holding and conducting regular and special meetings. The Board shall establish a mailing address and shall hold its meetings at the Township Administration Building unless otherwise determined by the Board from time to time.

For the purpose of conducting a Board meeting, the attendance of at least two members shall be required and shall constitute a quorum. The Board shall act through resolutions or motions adopted by the Board and shall maintain minutes reflecting its decisions. A resolution or motion must receive the affirmative vote of at least two members of the Board to be adopted. A resolution or motion adopted by the Board shall be immediately effective unless otherwise provided in that resolution or by Sections 715.72 through and 715.83 of the Ohio Revised Code.

The Board shall adopt Bylaws for the regulation of the affairs of the Board and the conduct of the business of the Board consistent with this Contract. The Bylaws shall be in the form as attached as Exhibit B hereto. The Bylaws may be amended or supplemented from time to time by the Board.

The Chairperson shall preside over and conduct the meetings of the Board in accordance with its Bylaws or other procedures adopted by the Board. The Chairperson may call special meetings of the Board by giving notice of such meeting, as provided in the Bylaws, to each member delivered to his or her residence or place of business. Any two members of the Board may also call a special meeting by providing the same notice.

The Vice Chairperson shall act as Chairperson in the temporary absence, incapacity, resignation or removal of the Chairperson.

The Secretary shall be the records officer of the Board and shall have those duties as set forth in the Bylaws.

The Treasurer shall be the fiscal officer of the Board and shall have those duties as set forth in the Bylaws.

The Bylaws shall designate those Officers who may sign documents on behalf of the Board and those Officers who are required to obtain a fiduciary bond in connection with their duties to the District.

The Board shall adopt an annual budget for the District. The fiscal year of the District shall be the same as the fiscal year of the Township. The budget shall estimate the revenues of the District and expenses of the District. The Board shall provide a copy of the annual budget to the Contracting Parties promptly after its adoption. The Board shall establish an appropriations procedure to provide for payment of the expenses of the District and the distribution of income tax revenues pursuant to and consistent with this Contract. The Board shall establish and maintain such funds or accounts as it deems necessary, either of its own, or in conjunction with or through the Contracting Parties.

The Board is authorized to take such necessary and appropriate actions, or establish such programs, to facilitate economic development in the District in accordance with the purposes of this Contract and the funds appropriated or available for such actions or programs.

This Contract grants the Board the power and authority to adopt a resolution to levy an income tax within the District in accordance with Section 715.74 of the Ohio Revised Code and Section 10 hereof.

The Board is authorized to do all acts and things necessary or convenient to carry out the powers granted in this Contract. However the Board does not have the authority to borrow money or to issue notes or bonds, or to assign, pledge, hypothecate, or encumber tax revenue. If the Board's authority is unclear or if the Board desires to expand authority, the Board may request clarification of authority or additional authority from the Contracting Parties. The Board may not incur any obligation, debt or liability exceeding \$250 without first having obtained approval of the Township.

The Board shall purchase liability insurance protecting the District, its Board or Officers against any liability and/or purchase any necessary bonds to insure any Officer.

For property exempt from taxation pursuant to Section 5709.63 of the Ohio Revised Code located within the District, the Board shall transfer all or a portion of the Capital Contribution received pursuant to Section 7 above, to the Lakota Local School District, Butler County, Ohio (the "School District") within ten business days of the latter of the receipt of an invoice for payment from the School District (or notice otherwise deemed adequate by the Board) or the receipt of such Capital Contribution payment. However, the Board shall only transfer the lesser of (i) the amount of the Capital Contribution received or (ii) the amount of property tax receipts the School District would have received had the property within the District not been exempted from real property taxation less an amount equal to the amount which the School District's State Foundation Payments would have been reduced had the property within the District not been granted the tax exemption pursuant to Section 5709.63 of the Ohio Revised Code.

Annually, any amounts received as Capital Contributions pursuant to Section 7 above remaining upon payment to the School District, as set forth above, shall be maintained by the Board and may be used to pay administrative costs of the District or to pay for public infrastructure improvements benefitting the District, as determined by the Board.

In accordance with Section 715.81 of the Ohio Revised Code, but only at the request and approval of the Township, the Cities may exercise all of the powers of a municipal corporation, and may perform all of the functions and duties of a municipal corporation, within the District, including but not limited to, those powers, functions and duties set forth elsewhere in this Contract, as well as such others that are determined by the Township to be necessary to carry out the purposes of this Contract, all of which such exercise and performance shall be deemed to be pursuant to and consistent with this Contract.

The Contracting Parties agree that the Township shall have the right, in its sole and absolute discretion, to grant real property tax exemptions, pursuant to Sections 5709.73 et seq. of the Ohio Revised Code (Tax Increment Exemptions), within the District for any purpose



permitted by said statutes. Furthermore, the Contracting Parties agree that the Township shall have the right, in its sole and absolute discretion, to grant all other incentive and real property tax exemptions within the District as otherwise permitted under the Ohio Revised Code, including requesting Enterprise Zone exemptions pursuant to Section 5709.63 of the Ohio Revised Code be granted by the County. The Cities each consent to the use of these incentives and exemptions by the Township or the County at the Township's request and agree that no further consent is required from either of the Cities.

Section 10. Income Tax. The Board, at its first meeting, shall adopt a resolution to levy an income tax in the District at a rate of one percent (1.0%) in accordance with Section 715.74 of the Ohio Revised Code. Pursuant to Section 715.74 of the Ohio Revised Code this income tax shall be levied upon: A) income earned by individuals working in the District to be collected via payroll withholding; and B) net profits from business operations within the District which shall be levied on a pass through basis pursuant to subsection (k) below. This income tax shall go into effect and collection shall commence within 60 days of the adoption of that resolution.

The levy of income tax is necessary to effectuate the purpose of this Contract and once levied any disruption of the distribution of the tax would prevent the parties from fulfilling their obligations under this Contract and may cause financial hardship. Therefore, once the income tax is levied, the Board of Directors is not authorized to cease the levy of the income tax unless authorized by amendment of this Contract.

Fairfield shall administer, collect and enforce the income tax on behalf of the District consistent with the terms of this Agreement as set forth below. The Board, at its first meeting, shall adopt a resolution or motion establishing and enacting an income tax consistent with the terms set forth herein.

(a) Fairfield's Director of Finance shall serve as the Administrator of the income tax derived from the District and shall be responsible for the receipt, safekeeping, accounting, and investment of income tax revenues pending disbursement. All receipts shall be deposited to a separate District account which shall not be mingled with revenue from other sources. Earnings on the District account and investments related thereto shall be added to the account. The Administrator or designee has authority to grant refunds and compromise claims for tax, penalties, and interest. The Administrator or designee has authority to commence legal proceedings pertaining to delinquent tax collection and enforcement, and declaratory judgment regarding disputed interpretation and applicability of the income tax imposed hereunder. The Administrator or designee is authorized to investigate and audit taxpayer returns and to issue subpoenas in furtherance of duties. The Administrator is designated to be an interested party and is authorized to commence and defend legal proceedings in the name of the District in any way pertaining to the income taxation within the District.

(b) The Administrator shall report directly to the Board and Contracting Parties regarding receipt and distribution of income tax revenue including amounts retained in escrow. The Administrator shall furthermore report quarterly regarding District operating income and expenses for the preceding quarter and shall provide short term and long range projections concerning anticipated income and expenses associated with District operations. If requested the

Administrator shall provide monthly reports to the Contracting Parties regarding all revenue generated within the District.

(c) Pursuant to Section 715.74(C)(3) of the Ohio Revised Code, the Board on behalf of the Contracting Parties shall annually set aside 0.003% of the annual gross income tax revenues up to a maximum of \$7,500 annually for long-term maintenance of the District. Long-term maintenance of the District shall mean providing for the administration of the District. Annually the Board shall distribute the remaining income tax revenues (as well as the prior year's unspent funds, if any, from its .003% set aside) to the Contracting Parties based on Distributable Revenue percentages set forth below.

(d) In consideration of its services pertaining to income tax administration and collection, Fairfield shall receive annually a service fee equal to five (5%) percent of gross income tax revenues collected for that period. The service fee may be applied to administrative costs at Fairfield's discretion, but shall also be applied specifically to costs of collection and litigation including for example, attorney fees, court costs, expert fees, court reporter fees, and so forth. The Administrator shall also annually place two (2%) percent of the gross income tax revenue into an escrow fund. "Distributable Revenue" shall be annual gross income tax revenue minus the sum of (the 5% annual service fee and the 2% annual escrow fee and the lesser of \$7,500 or .003% of annual gross income tax revenue). Escrow proceeds may be utilized to pay refunds, and in general to balance accounts. In the event of an escrow deficiency, the Administrator may invoice the Contracting Parties according to their Distributable Revenue percentage set forth below to satisfy the deficiency. Invoices for deficiency are due and payable within thirty (30) days from invoice. Annually, any escrow surplus shall be distributed to the Contracting Parties based on the Distributable Revenue percentages set forth below. Earnings achieved on any surplus escrow shall be added to the escrow fund.

(e) For the first 120 months of the Contract, monthly, on or before the 10<sup>th</sup> day of each month Distributable Revenue from the prior month shall be paid to the Contracting Parties as follows 7% to Springdale, 10% to Fairfield, and 83% to Township. After 120 months from the date on which this Contract takes effect, Distributable Revenue from the prior month shall be paid to the Contracting Parties as follows: 10% to Fairfield and 90% to Township.

(f) After 60 months have elapsed, Fairfield's share of the aggregate Distributable Revenue collected should amount to  $\geq$  one million dollars. If after the 60<sup>th</sup> monthly payment of this Contract has been made to the Contracting Parties Fairfield's share of the aggregate Distributable Revenue collected over that period is less than one million dollars, and Fairfield has contributed at least one million dollars (or a lesser amount pursuant to subparagraph (h) below) under Section 7 above, then Fairfield shall report the amount of the deficiency to Township along with supporting documentation. At the Township's request, Fairfield's deficiency may be paid in one lump sum in month 61, which payment shall take precedence over the Township's Distributable Revenue percentage for that month only. Alternately, and at a minimum, for months — 61-72 only under this Contract, Fairfield's share of Distributable Revenue shall be increased by 1/12<sup>th</sup> of the amount of the deficiency, which additional 1/12<sup>th</sup> amount shall take precedence over Township's Distributable Revenue percentages for the months — 61-72 only. After the deficiency, if any, is paid, the Distributable Revenue

percentages shall revert back to the original percentages: 10% to Fairfield, 83% to West Chester, and 7% to Springdale.

(g) If after the 120<sup>th</sup> monthly payment of this Contract has been made to the Contracting Parties Fairfield's share of the aggregate Distributable Revenue collected over that period is less than three million dollars (inclusive of any lump sum payment made under the preceding subparagraph (f)), and Fairfield has contributed at least three million dollars (or a lesser amount pursuant to subparagraph (h) below) under Section 7 above, then Fairfield shall report the amount of the deficiency to Township along with supporting documentation. At the Township's request, Fairfield's deficiency may be paid in one lump sum in month 121, which payment shall take precedence over the Distributable Revenue percentage for that month only. Alternately, and at a minimum, for months 121-132 only under this Contract, Fairfield's share of Distributable Revenue shall be increased by 1/12<sup>th</sup> of the amount of the deficiency, which additional 1/12<sup>th</sup> amount shall take precedence over the Distributable Revenue percentages for the months 121-132 only. After the deficiency, if any, is paid, the Distributable Revenue percentages shall revert to and remain thereafter at 10% to Fairfield and 90% to Township.

(h) If under subparagraphs (f) and (g) above Fairfield's actual contributions under Section 7 above are less than stated, then the deficiency correction payment under subparagraphs (f) and (g), if any, shall be based upon the actual amount contributed.

(i) The income tax revenues are to be used by the District, the Township and the Cities to encourage and support the operations of the District or in the Township or in the Cities, including, but not limited to general governmental services, maintaining and improving the infrastructure facilities of the District and the Contracting Parties (including paying debt charges related thereto), providing safety and health services within the District and within the Contracting Parties, providing urban and economic development planning, engineering, counseling, consulting, marketing and financing services for the District and for the Contracting Parties, and generally improving the environment for those working and residing in the District and in the Contracting Parties, and for all other purposes as permitted by law. The revenues of the District income tax shall be used for the purposes of the District and the Contracting Parties pursuant to this Contract. With respect to revenues distributed to the Township, placement of such funds in the Township General Fund and used for all General Fund purposes is consistent with the purposes of the District as set forth under Section 715.74(C)(1) of the Ohio Revised Code and this Contract.

(j) The Board, at its first meeting, shall adopt, by resolution, all of the provisions, except as specifically set forth herein, of chapter 181, Income Tax, of the Codified Ordinances of Fairfield, Ohio, including all rules and regulations promulgated thereunder, as such laws were in effect on the date that the income tax is adopted by the Board (the "Fairfield Income Tax Ordinance"), to apply to the District income tax. A copy of the Fairfield Income Tax Ordinance is attached hereto as Exhibit C. The Board shall modify the provisions of the Fairfield Income Tax Ordinance as set forth on the attached Exhibit D. The Board may, with written approval of Fairfield and the Township, enact additional amendments to the Fairfield Income Tax Ordinance to apply to the District. In the event that Fairfield amends any provision of the Fairfield Income Tax Ordinance after the date that the income tax is adopted by the Board, the Administrator shall provide written notice of such amendment to the Board and Township. The Board shall, with

approval in writing of Township's Administrator, within the thirty (30) day period following the Board's receipt of the notice, adopt the amendments to the Fairfield Income Tax Ordinance. If the Board adopts or fails to reject the amendment within the thirty (30) day period following its receipt of the notice, the amendment shall automatically be incorporated into the District's income tax law, as long as the Township's Administrator consents in writing. The Board shall adopt all amendments to the income tax rules and regulations that have been issued by the Administrator, to the extent that such rules and regulations are not inconsistent with the District's income tax law then in effect. The income tax levied by the Board pursuant to this Contract and Section 715.74 of the Revised Code shall apply in the entire District throughout the term of this Contract, notwithstanding that all or a portion of the District becomes subject to annexation, merger or incorporation. In the event of conflict between the Fairfield Income Tax Ordinance and this Contract, this Contract shall prevail.

(k) For any "pass-through entity" located in the District owned by another entity, the income tax imposed on corporate net profits under this Contract will be based on the income/net profits of or from the pass-through entity as income/net profits of the owner(s) of the pass-through entity. Any pass-through entity will not be directly subject to a tax based on income/net profits by the District. The term "pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code. The owner(s) of any pass-through entity will be deemed to be conducting business in the District if the pass-through entity is conducting business in the District.

(l) Upon request of a Contracting Party, the Board shall provide a report regarding the receipt and distribution of the income tax of the District and the operating income and expenses of the District for the preceding six months, a copy of which shall be provided to both Contracting Parties.

(m) The District territory shall have primacy over residential status relating to the collection of the income tax derived from individual earnings within the District notwithstanding the provisions of the Fairfield Income Tax Ordinance which may provide to the contrary.

(n) This Contract and the income tax adopted by the Board pursuant to this Contract shall automatically terminate without further action of the Board, the Township, or the Cities in the event that Township incorporates and adopts a municipal income tax applicable to the entire area of the Township. Such termination shall be effective immediately upon the commencement (i.e., collection of municipal income tax dollars) of a municipal income tax imposed by the newly incorporated entity. In the event such incorporation is for some reason found to be invalid, this Agreement shall continue in force and effect. If termination as a result of the commencement of a municipal income tax occurs, Fairfield shall be entitled to repayment of its cash contribution to the District, up to three million dollars, under the following conditions:

1) Fairfield shall be limited to repayment of the amount it has actually paid under Section 7, paragraph 2, subsection 1) (Capital Contribution) of this Contract, not to exceed three million dollars.

2) Any repayment to Fairfield shall be reduced by an amount equal to the total Distributable Revenue dollars Fairfield has collected under this Contract.

3) Upon incorporation of Township, the Administrator shall provide an accounting to Township's Finance Director and to the Board stating the total Distributable Revenue dollars Fairfield has collected to date. If the total Distributable Revenue dollars received by Fairfield are less than the amount Fairfield has paid under Section 7, paragraph 2, subsection 1) (Capital Contribution) of this Agreement, then the Administrator shall estimate the date that the newly incorporated entity's municipal income tax will commence, and with Township's consent will immediately adjust the Distributable Revenue percentage so that Fairfield will be made whole by the time the newly incorporated entity's municipal income tax commences. As used herein, to be "made whole" means that Fairfield will receive an amount equal to the dollars Fairfield actually paid out as described in the preceding subparagraph 1), less the total Distributable Revenue dollars it has collected.

4) Alternatively, if under the preceding paragraph insufficient Distributable Revenue dollars are generated to make Fairfield whole, then the newly incorporated entity or Township to the extent allowable under law shall simply pay the reimbursement to Fairfield upon the commencement of the municipal income tax. It is intended and agreed that the newly incorporated entity shall be the legal successor to Township pursuant to Section 6 above.

Section 11. Defaults and Remedies. A failure to comply with the terms of this Contract shall constitute a default hereunder. The Contracting Party in default shall have 60 days after receiving written notice from another Contracting Party of the event of default to cure that default. If the default is not cured within that time period, a nondefaulting Contracting Party may sue the defaulting Contracting Party for specific performance under this Contract or for actual damages or both. Other than as provided in Sections 6 and 10 hereof, this Contract may not be canceled or terminated because of a default unless the Township and the Cities agree to such cancellation or termination.

Section 12. Amendments. In addition to the amendments provided for in Section 5 hereof, this Contract may be amended by the Township and the Cities only in a writing approved by the respective legislative authorities of each of the Contracting Parties by appropriate legislation authorizing that amendment. In order for such amendment to be effective, the legislative actions of the Contracting Parties that amend this Contract must occur and be effective within a period of 90 days of each other.

Section 13. Binding Effect; Mandamus. This Contract shall inure to the benefit of and shall be binding upon the District, the Township and the Cities and their respective permitted successors, subject, however, to the specific provisions hereof. This Contract shall not inure to the benefit of anyone other than as provided in the immediately preceding sentence. All of the obligations and duties of the Board, the Cities and the Township under this Contract are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the Board, the Cities and the Township within the meaning of Section 2731.01 of the Ohio Revised Code.

Section 14. Support of Contract. The Township and the Cities agree to cooperate with each other and to use their best efforts to do all things necessary for the creation and continued operation of the District. In the event that this Contract or any of its terms, conditions or provisions is challenged by any third party or parties in a court of law, the Township and the Cities agree to cooperate with one another and to use their best efforts in defending this Contract with the objective of upholding this Contract. The Township and the Cities shall each bear their own costs in any such proceeding challenging this Contract or any term, condition or provision thereof, provided that the Board shall reimburse the Township and the Cities for such costs to the extent funds of the District are available and appropriated therefore. In the event that District funds are not available and appropriated therefore, the costs of any such proceeding shall be allocated among the Contracting Parties based on the Distributable Revenue percentages set forth above.

Section 15. Signing Other Documents. The Contracting Parties agree to cooperate with one another and to use their best efforts in the implementation of this Contract and to sign or cause to be signed, in a timely manner, all other necessary instruments and documents, and to take any and all actions, in order to effectuate the purposes of this Contract.

Section 16. Severability. In the event that any section, paragraph or provision of this Contract, or any covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, or any application thereof, is held to be illegal or invalid for any reason:

(a) that illegality or invalidity shall not affect the remainder hereof or thereof, any other section or provision hereof, or any other covenant, agreement, obligation or action, or part thereof made, assumed, entered into or taken, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein or therein,

(b) the illegality or invalidity of any application hereof or thereof shall not affect any legal and valid application hereof or thereof and will not invalidate any preceding actions of the Board, and

(c) each section, paragraph, provision, covenant, agreement, obligation or action, or part thereof, shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law.

Section 17. Governing Law. This Contract shall be governed exclusively by and construed in accordance with the laws of the State, and in particular Sections 715.72 through 715.83 of the Revised Code. In the event that Sections 715.72 through 715.83 of the Ohio Revised Code are amended or supplemented by the enactment of a new section or sections of the Ohio Revised Code relating to joint economic development districts, the Contracting Parties may agree at the time to follow either the provisions of Sections 715.72 through 715.83 of the Ohio Revised Code existing on the date of this Contract or the provisions of Sections 715.72 through 715.83 of the Ohio Revised Code as amended or supplemented, to the extent permitted by law. Nothing in this Contract shall limit the ability of the District, the Cities or the Township to aggregate to acquire preferential rates for telecable, telephone, gas, electric or other utility services.

Section 18. Miscellaneous. The captions and headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections hereof. When using the phrase "to the extent permitted by law" herein, "law" means statutes of the State as interpreted by the courts of the State or the federal courts.

Section 19. Prohibition Against Annexation. This Section shall be considered an Annexation Agreement pursuant to Ohio Revised Code Section 709.192.


Fairfield shall not annex any property located in Township so long as this Contract is in effect.

Springdale shall not annex any property located in Township so long as it is a party to this Contract.

Section 20. Economic Development Plan. The Contracting Parties approve and ratify the West Chester Township Economic Development Plan for the District. See Exhibit E attached.

IN WITNESS WHEREOF, the Township and the Cities have caused this Contract to be duly signed in their respective names by their duly authorized officers as of the date hereinbefore written.

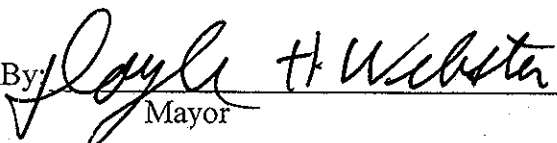
TOWNSHIP OF WEST CHESTER

By:   
Township Administrator

CITY OF FAIRFIELD

By:   
City Manager

CITY OF SPRINGDALE

By: , and  
Mayor

  
Clerk of Council/Finance Director

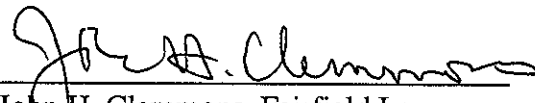
CERTIFICATE:

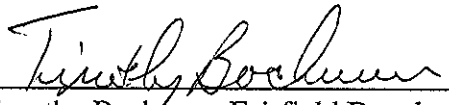
The undersigned, Finance Director of the City of Fairfield, Ohio, hereby certifies that funds to cover the first year capital contribution, with future annual appropriations intended, are presently available or in the process of collection and that Council has appropriated money for this purpose, and it remains unencumbered.

  
\_\_\_\_\_  
Mary Hopton, Fairfield Finance Director

Approved As to Form:

Approved As to Content:

  
\_\_\_\_\_  
John H. Clemmons, Fairfield Law  
Director

  
\_\_\_\_\_  
Timothy Bachman, Fairfield Development  
Services Director



## FISCAL OFFICER'S CERTIFICATE

The undersigned, fiscal officer of West Chester Township, Ohio (the "Township") under the foregoing Joint Economic Development Contract, hereby certifies that the moneys required to meet the obligations of the Township during the year 2009 under the aforesaid Contract have been lawfully appropriated by the board of the Township for such purposes and are in the treasury of the Township or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

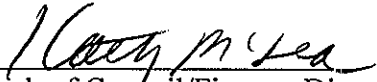
Dated: 5/29, 2009

  
Fiscal Officer

## FISCAL OFFICER'S CERTIFICATE

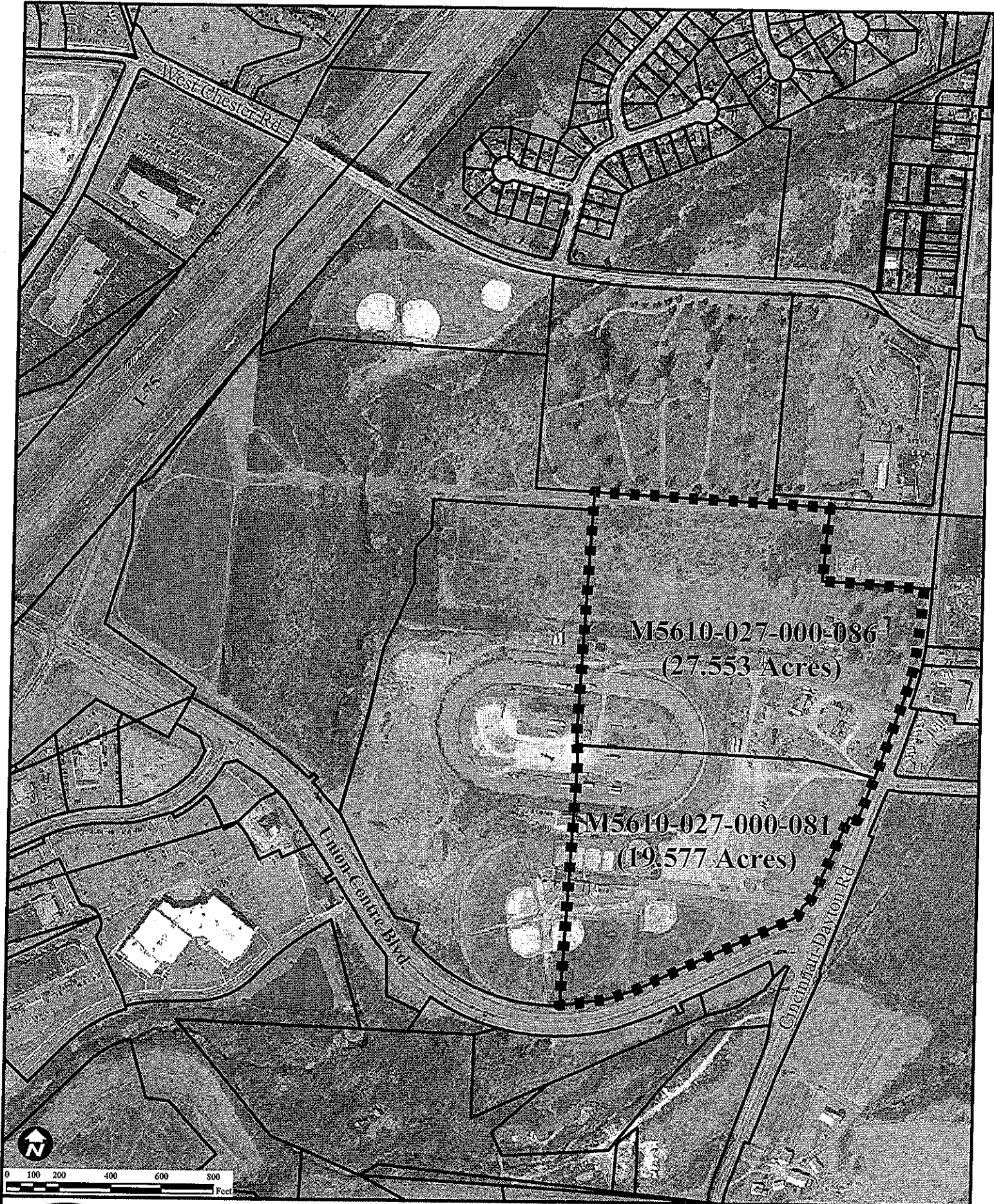
The undersigned, fiscal officer of the City of Springdale, Ohio ("Springdale") under the foregoing Joint Economic Development Contract, hereby certifies that no moneys are required to meet the obligations of Springdale during the year 2009 under the aforesaid Contract have therefore no appropriation by the city council of Springdale for such purposes need to be made. This certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: 5/30, 2009

  
Clerk of Council/Finance Director

This Document prepared by

Brenda Andreatta Wehmer, ESQ.  
Peck Shaffer & Williams, LLP  
201 East Fifth Street, Suite 900  
Cincinnati, Ohio 45202  
513-621-3394



**Exhibit A (Page 1 of 8) - JEDD Boundary Map**

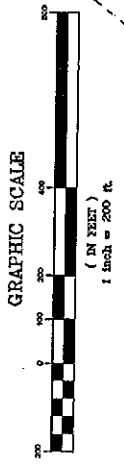
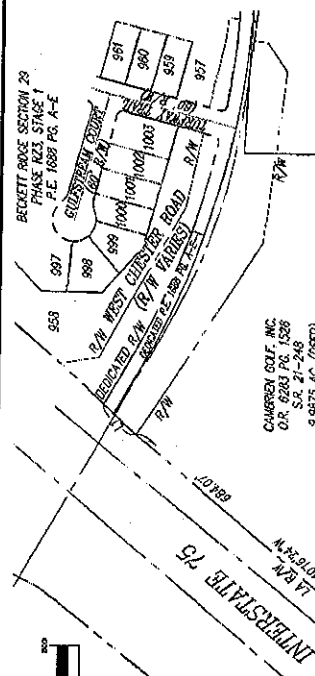
■■■■■ JEDD District Boundary (Total Acres = 47.13)



- NOTES:
- 1) EVIDENCE OF OCCUPATION GENERALLY FITS THE SURVEY.
  - 2) ALL INFORMATION FOUND IN GOOD CONDITION UNLESS NOTED OTHERWISE.
  - 3) SOURCE DOCUMENTS ARE AS NOTED.
  - 4) BEARINGS ARE BASED ON THE RIGHT-OF-WAY PLANS FOR CINCINNATI DAYTON ROAD FOR PLANS ON FILE AT THE BUTLER COUNTY ENGINEERS OFFICE IDENTIFIED AS BUT-0919-000

LINE	BEARING	DISTANCE
L1	S42°29'31"W	102.01
L2	S03°33'33"W	73.60
L3	S89°43'37"E	216.98
L4	N09°17'44"W	21.80

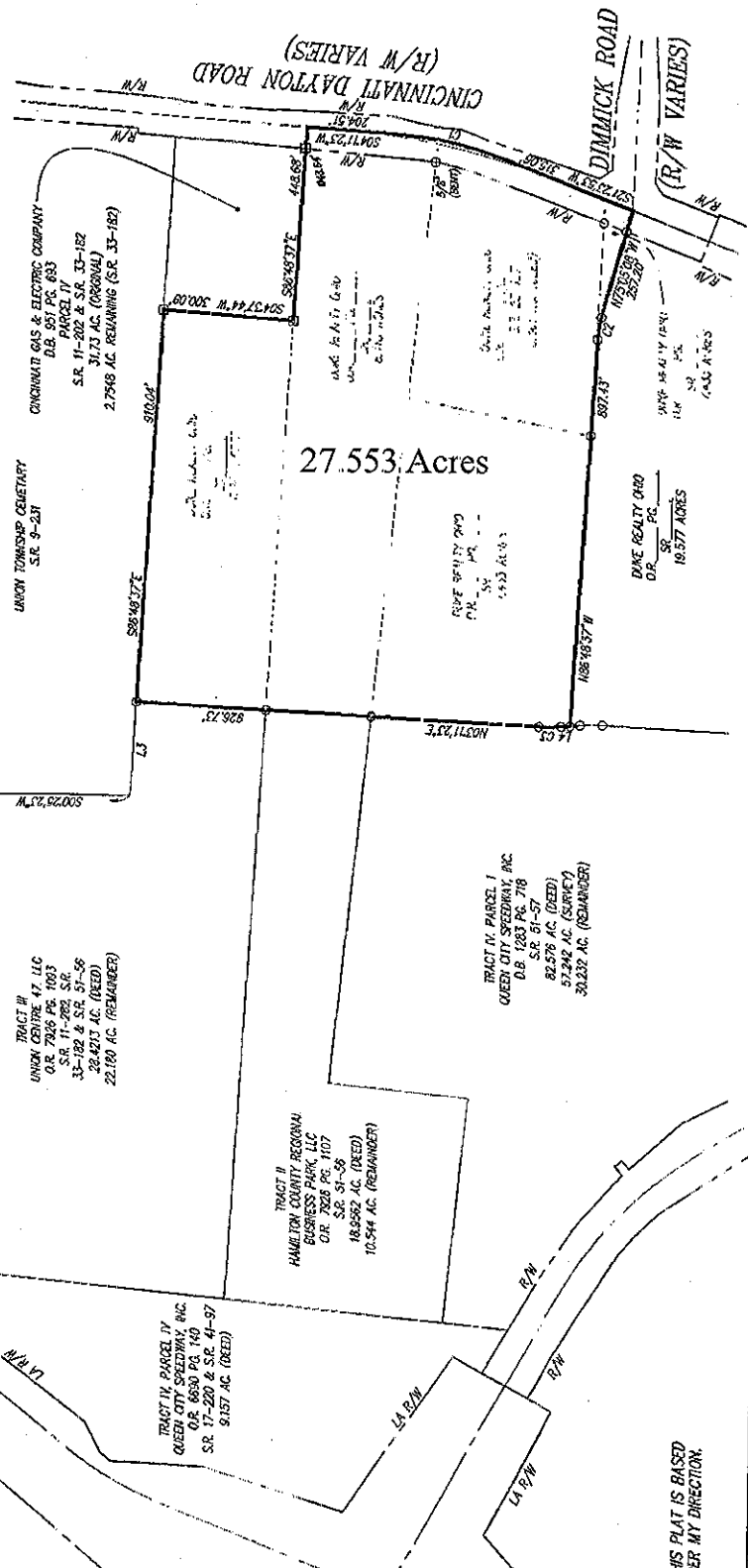
CURVE	PARCIS	LENGTH	CHORD	DIRECTION	DELTA
C1	650.00	258.29	257.32	S174°47'33"W	171°47'30"
C2	230.00	51.16	51.07	N09°58'32"W	11°45'29"
C3	400.00	61.79	61.79	N00°03'10"W	72°50'07"



**LEGEND**

- 5/8" RICH PIN FOUND WITH ID CAP STAMPED "KLEINGERS" (UNLESS NOTED OTHERWISE)
- CONCRETE MONUMENT FOUND

**Exhibit A - (Page 2 of 8)  
 Parcel Survey - M5610-027-000-086**



I HEREBY CERTIFY THAT THIS PLAT IS BASED UPON A FIELD SURVEY MADE UNDER MY DIRECTION.

BRIAN M. ELBE  
 OHIO PROFESSIONAL SURVEYOR NO. 8321



REVISIONS

CONSOLIDATION PLAT  
 27.553 ACRES  
 SECTION 27, TOWN 3, RANGE 2  
 WEST CHESTER TOWNSHIP  
 BUTLER COUNTY, OHIO  
 FOR: DUKE CONSTRUCTION LIMITED PARTNERSHIP

SCALE: 1"=200'  
 DATE: 7/15/08  
 DRAWN: R/F  
 DESIGNED: BME  
 CHECKED: BME  
 JOB NO.: 0707021002

Page 1 of 1

**KLEINGERS & ASSOCIATES**  
 6103 Centre Park Drive, West Chester, OH 45089  
 (513) 779-7851 Fax: (513) 779-7852  
 www.kleingers.com

July 17, 2008

**LEGAL DESCRIPTION**  
**27.553 ACRES**

Situated in Section 27, Town 3, Range 2, West Chester Township, Butler County, Ohio, and being all of a 6.241 acre (deed) tract, all of a 8.418 acre (deed) tract, all of a 7.433 acre (deed) tract and all of a 5.461 acre (deed) tract conveyed to Duke Realty Ohio in O.R. \_\_\_\_\_, Pg. \_\_\_\_\_ the boundary of which being more particularly described as follows:

Commencing at the southwest corner of Lot 958 of Saratoga Farms, Beckett Ridge, Section 29, Phase RZ3, Stage 1 as recorded in Plat Envelope 1688 Pages A-E also being in the easterly limited access right-of-way line of Interstate 75;

Thence along said limited access right-of-way line, S42°39'31"W a distance of 102.01 feet;

Thence continuing, S40°16'24"W a distance of 684.07 feet to the north corner of a 9.157 acre (deed) tract of land conveyed to Queen City Speedway, Inc. in O.R. 6690 Pg. 140;

Thence along the east line of said 9.157 acre (deed) tract, S05°53'23"W a distance of 79.60 feet to a point at the northwest corner of a 28.4213 acre (deed) tract of land conveyed to Union Centre 47, LLC in O.R. 7926 Pg. 1093;

Thence with the northerly lines of said 28.4213 acre (deed) tract the following four (4) courses:

1. N72°18'25"E a distance of 245.71 feet;
2. S86°48'37"E a distance of 861.89 feet to a point in the west line of a tract of land conveyed to Union Township Cemetery;
3. S00°25'23"W a distance of 511.50 feet;
4. S86°48'37"E a distance of 216.98 feet to a 5/8" iron pin found with an ID cap stamped "Kleingers" at the Point of Beginning;

Thence continuing along the northerly line of said 28.4213 acre (deed) tract and the southerly line of said cemetery lands, S86°48'37"E a distance of 910.04 feet to a concrete monument found at the northwest corner of a 2.7548 acre tract of land conveyed to Cincinnati Gas & Electric Company in D.B. 951, Pg. 693;

Thence along the west line of said 2.7548 acre tract S04°37'44"W a distance of 300.09 feet to a concrete monument found in the north line of an 8.801 acre tract;

Thence along the south line of said 2.7548 acre tract, S86°48'37"E a distance of 448.68 feet to a point in Cincinnati Dayton Road;

Thence with east line of the aforesaid 8.418 acre (deed) tract, the aforesaid 5.461 acre (deed) tract and the aforesaid 7.433 acre (deed) tract the following three courses:

1. S04°11'23"W a distance of 204.51 feet to a point of curvature;

Cincinnati, OH

Columbus, OH

Dayton, OH

Sierra Vista, AZ

**Exhibit A - (Page 3 of 8)**  
**Parcel Description - M5610-027-000-086**

www.kleingers.com

6305 Centre Park Drive  
West Chester, Ohio 45069

(513) 779-7851

FAX (513) 779-7852

2. Along a curve to the right for an arc distance of 258.29 feet to a point of tangency, said curve having a radius of 860.00 feet, a central angle of 17°12'30" and a chord bearing S12°47'38"W for 257.32 feet;
3. S21°23'53"W a distance of 315.06 feet to the northeast corner of a 19.577 acre (deed) tract conveyed to Duke Realty Ohio in O.R. \_\_\_\_\_ Pg. \_\_\_\_\_;

Thence with the north line of said 19.722 acre (deed) tract the following three (3) courses:

1. N75°05'08"W, passing a 5/8" iron pin found with an ID cap stamped "Kleingers" at 51.12 feet, a total distance of 257.20 feet to a 5/8" iron pin found with an ID cap stamped "Kleingers" at a point of curvature;
2. Along a curve to the left for an arc distance of 51.16 feet to a 5/8" iron pin found at a point of tangency, with an ID cap stamped "Kleingers", said curve having a radius of 250.00 feet, a central angle of 11°43'29" and a chord bearing N80°56'52"W for 51.07 feet;
3. N86°48'37"W a distance of 897.43 feet to a 5/8" iron pin found with an ID cap stamped "Kleingers" in the east line of a 49.809 acre tract conveyed to Queen City Speedway Inc., in D.B. 1283 Pg. 718;

Thence with the west line of said 7.433 acre (deed) tract, N04°13'44"W a distance of 21.80 feet to a 5/8" iron pin found with an ID cap stamped "Kleingers" at a point of curvature;

Thence continuing, along a curve to the right for an arc distance of 51.79 feet to a 5/8" iron pin found with an ID cap stamped "Kleingers" at a point of tangency, said curve having a radius of 400.00 feet, a central angle of 7°25'07" and a chord bearing N00°31'10"W for 51.76 feet;

Thence continuing along the west line of said 7.433 acre (deed) tract, and along the west line of the aforesaid 8.418 acre (deed) tract and the aforesaid 6.241 acre (deed) tract, N03°11'23"E a distance of 926.73 feet to the Point of Beginning.

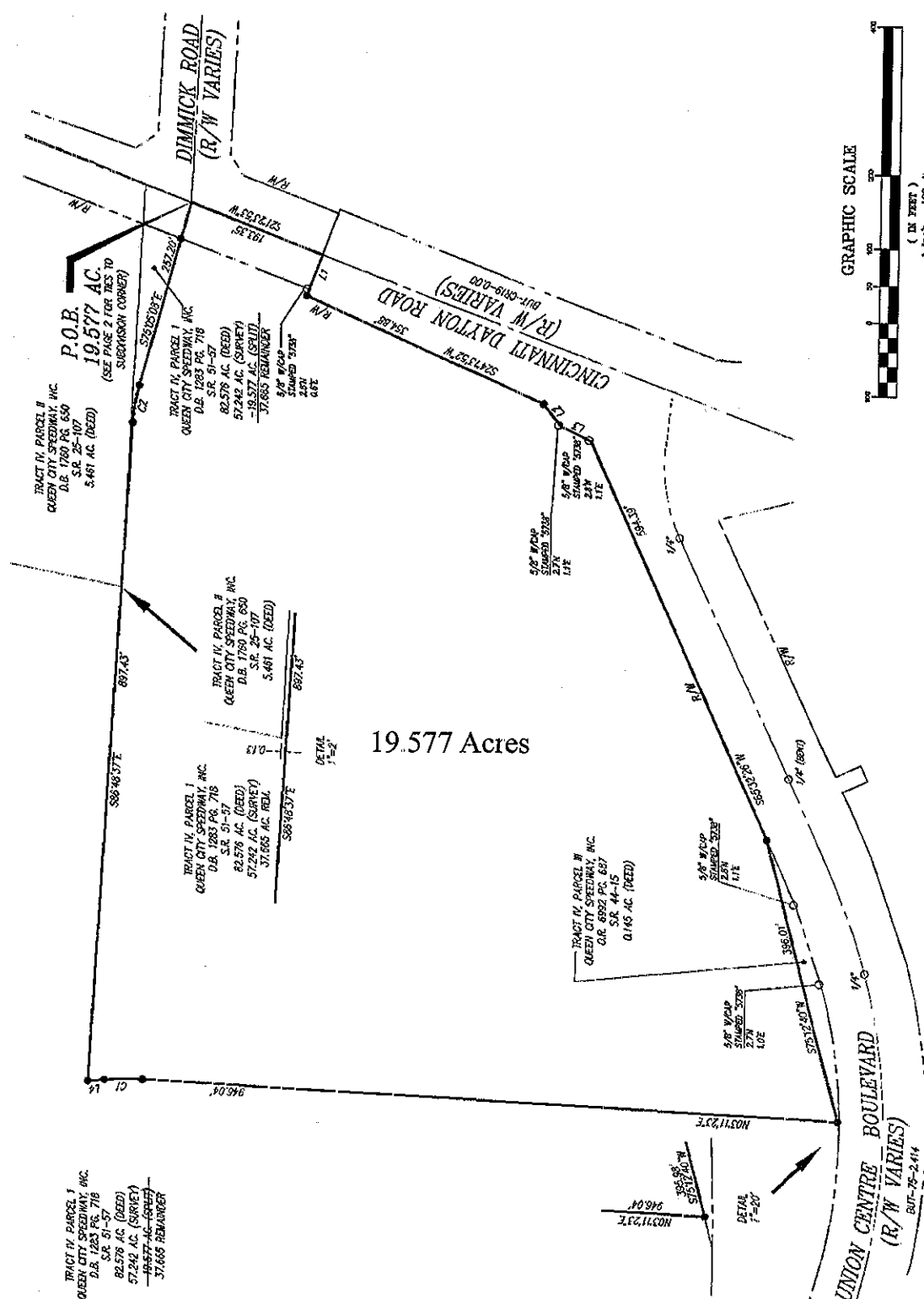
Containing 27.553 acres, more or less and being subject to easements, restrictions and rights-of-way of record.

Bearings are based on the right-of-way plans for Cincinnati-Dayton Road per plans on file at the Butler County Engineers Office identified as But-CR19-000.

The above description is based upon a field survey made by Kleingers & Associates, Inc., under the direction of Brian M. Elbe, Ohio Professional Surveyor No. 8321. A plat of survey is recorded in Volume \_\_\_\_\_ Page \_\_\_\_\_ of the Butler County Engineers Record of Land Surveys.

LINE	LENGTH	RADIUS	BEARING	CHORD
C1	51.78	40.00	N03°31'10"W	51.76
C2	51.16	230.00	S80°58'52"E	51.07

LINE	BEARING	DISTANCE
L1	N85°55'57"W	38.39
L2	S52°00'54"W	38.26
L3	S26°04'20"W	48.67
L4	N03°33'44"W	24.15



**LEGEND**

- 5/8" IRON PIN FOUND (UNLESS NOTED OTHERWISE)
- 5/8" IRON PIN SET W/D CAP STAMPED "KLEINGERS"

OF OCCUPATION GENERALLY FITS THE  
 DOCUMENTATION FOUND IN GOOD CONDITION  
 NOTED OTHERWISE.  
 ARE BASED ON THE RIGHT-OF-WAY  
 BY CINCINNATI DAYTON ROAD PER PLANS  
 AT THE BUTLER COUNTY ENGINEERS OFFICE  
 D AS 807-CR10-000

SENSE  
 7' REDEMPT SURVEYING, INC.  
 707

**Exhibit A - (Page 5 of 8)**  
**Parcel Survey - M5610-027-000-081**

I HEREBY CERTIFY THAT THIS PLAN IS BASED  
 UPON A FIELD SURVEY MADE UNDER MY DIRECTION.

DATE \_\_\_\_\_  
 ERICAN M. ELBE  
 OHIO PROFESSIONAL SURVEYOR NO. 8321



REVISIONS

BOUNDARY SURVEY and DIVISION  
 19.577 ACRES  
 SECTION 27, TOWN 3, RANGE 2  
 WEST CHESTER TOWNSHIP  
 BUTLER COUNTY, OHIO  
 FOR: DUKE CONSTRUCTION LIMITED PARTNERSHIP

SCALE: 1"=100'  
 DATE: 7/15/08  
 DRAWN: RF  
 DESIGNED:  
 CHECKED: BME  
 JOB NO.: 070702/002

Page 1 of 2

**KLEINGERS & ASSOCIATES**  
 6805 Centre Park Drive, West Chester, OH 45389  
 (613) 779-7851 Fax: (613) 779-7852  
 www.kleingers.com



July 17, 2008

**LEGAL DESCRIPTION**  
**19.577 ACRES**

Situated in Section 27, Town 3, Range 2, West Chester Township, Butler County, Ohio, and being part of an original 82.576 acre tract of land conveyed to Queen City Speedway, Inc. in D.B. 1283 Pg. 718, the boundary of which being more particularly described as follows:

Commencing at the southwest corner of Lot 958 of Saratoga Farms, Beckett Ridge, Section 29, Phase RZ3, Stage 1 as recorded in Plat Envelope 1688 Pages A-E also being in the easterly limited access right-of-way line of Interstate 75;

Thence along said limited access right-of-way line, S42°39'31"W a distance of 102.01 feet;

Thence continuing, S40°16'24"W a distance of 684.07 feet to the north corner of a 9.157 acre (deed) tract of land conveyed to Queen City Speedway, Inc. in O.R. 6690 Pg. 140;

Thence along the east line of said 9.157 acre (deed) tract, S05°53'23"W a distance of 1308.63 feet to a point at the southwest corner of a 18.9562 acre (deed) tract of land conveyed to Hamilton County Regional Business Park, LLC in O.R. 7926 Pg. 1107.

Thence along the south line of said 18.9562 acre (deed) tract the following three (3) courses:

1. S84°14'07"E a distance of 522.72 feet;
2. N05°53'23"E a distance of 324.85 feet;
3. S84°14'07"E a distance of 2196.10 feet to the northeast corner of a 5.461 acre (deed) tract of land conveyed to Queen City Speedway, Inc. in D.B. 1760 Pg. 650, said point being in Cincinnati-Dayton Road;

Thence along the east line of said 5.461 acre (deed) tract, along a non tangent curve to the right for an arc distance of 160.45 feet to a point of tangency, said curve having a radius of 860.00 feet, a central angle of 10°41'23" and a chord bearing S16°03'12"W for 160.22 feet;

Thence continuing along the east line of said 5.461 acre (deed) tract, and in part along the east line of the aforesaid 82.576 acre (deed) tract, S21°23'53"W a distance of 315.06 feet to the Point of Beginning;

Thence continuing along the east line of said 82.571 acre (deed) tract, S21°23'53"W a distance of 193.35 feet to a mag nail set;

Thence N68°56'55"W a distance of 58.59 feet to a iron pin set in the westerly right-of-way line of Cincinnati-Dayton Road;

Thence along said westerly right-of-way line, the following three (3) courses:

1. S24°13'52"W a distance of 354.88 feet to a 5/8" iron pin set;

**Exhibit A - (Page 6 of 8)**  
**Parcel Description - M5610-027-000-081**

Cincinnati, OH

Columbus, OH

Dayton, OH

Sierra Vista, AZ

[www.kleingers.com](http://www.kleingers.com)

6305 Centre Park Drive  
West Chester, Ohio 45069

(513) 779-7851

FAX (513) 779-7852

2. S52°00'54"W a distance of 38.26 feet to a point being referenced by an iron pin found (2.7' North and 1.1' East);

3. S26°04'20"W a distance of 46.67 feet to a point in the northerly right-of-way line of Union Centre Boulevard, being referenced by an iron pin found (2.8' North and 1.1' East);

Thence along said northerly right-of-way line, S65°32'26"W a distance of 594.39 feet to a 5/8" iron pin set;

Thence along the north line of a 0.145 acre (deed) tract conveyed to Queen City Speedway Inc. in O.R. 6992, Pg. 687, S75°12'40"W a distance of 396.01 feet to a 5/8" iron pin set;

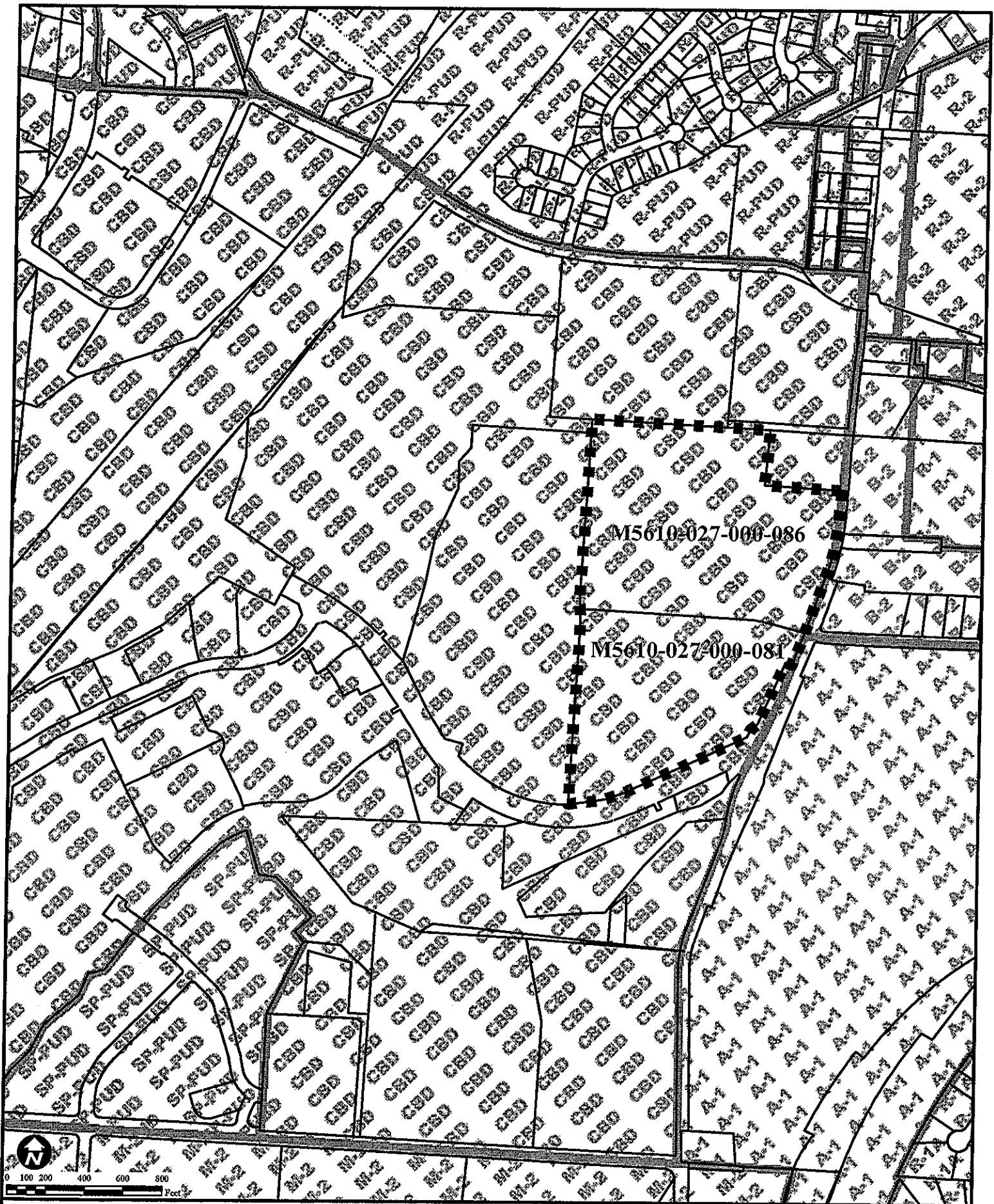
Thence along new division lines through the aforesaid 82.576 acre (deed) tract, the following six (6) courses:

1. N03°11'23"E a distance of 946.04 feet to a 5/8" iron pin set at a point of curvature;
2. Along a curve to the left for an arc distance of 51.79 feet to a 5/8" iron pin set at a point of tangency, said curve having a radius of 400.00 feet, a central angle of 07°25'07" and a chord bearing N00°31'10"W for 51.76 feet;
3. N04°13'44"W a distance of 23.15 feet to a 5/8" iron pin set;
4. S86°48'37" E a distance of 897.43 feet to a 5/8" iron pin set at a point of curvature;
5. Along a curve to the right for an arc distance of 51.16 feet to a 5/8" iron pin set at a point of tangency, said curve having a radius of 250.00 feet, a central angle of 11°43'29" and a chord bearing S80°56'52"E for 51.07 feet;
6. S75°05'08"E a distance of 257.20 feet, passing a 5/8" iron pin set at 206.09 feet, to the Point of Beginning.

Containing 19.577 acres, more or less and being subject to easements, restrictions and rights-of-way of record.

Bearings are based on the right-of-way plans for Cincinnati-Dayton Road per plans on file at the Butler County Engineers Office identified as But-CR19-0.00.

The above description is based upon a field survey made by Kleingers & Associates, Inc., under the direction of Brian M. Elbe, Ohio Professional Surveyor No. 8321. A plat of survey is recorded in Volume \_\_\_\_\_ Page \_\_\_\_\_ of the Butler County Engineers Record of Land Surveys.



M5610-027-000-086

M5610-027-000-081

Exhibit A (Page 8 of 8) - Township Zoning

■■■■■ JEDD District Boundary (Total Acres = 47.13)



**BYLAWS**  
**GOVERNING**  
**WEST CHESTER TOWNSHIP JEDD-I JOINT**  
**ECONOMIC DEVELOPMENT DISTRICT**

**BYLAWS GOVERNING  
WEST CHESTER TOWNSHIP JEDD-I JOINT  
ECONOMIC DEVELOPMENT DISTRICT**

A. Sections 715.72 to 715.83 of the Ohio Revised Code authorize municipal corporations and townships under certain conditions to enter into an agreement to create a joint economic development district to facilitate the economic development of the district, the city and the township.

B. West Chester Township, Butler County, Ohio (the "Township"), the City of Fairfield, Butler County, Ohio ("Fairfield"), and the City of Springdale, Hamilton County, Ohio ("Springdale" and together with Fairfield the "Cities"), each authorized and directed by its legislative authority, entered into the West Chester Township JEDD-1 Joint Economic Development District Contract (the "Contract") as of \_\_\_\_\_, 2009, to facilitate economic development to create or preserve jobs and employment opportunities and to improve the economic welfare of the people in the West Chester Township JEDD-1 Joint Economic Development District (the "District"), the Township, the Cities, Butler County, Ohio (the "County") and the State of Ohio (the "State").

C. Section 9 of the Contract provides that the Board of Directors of the District shall adopt bylaws for the regulation of its affairs and the conduct of its business consistent with the Contract.

NOW, THEREFORE, the following provisions shall constitute the Bylaws of the District

Section 1. Definitions. Any capitalized word or phrase used in these Bylaws and not otherwise defined herein, shall have the meaning given in the Contract, as that Contract may, from time to time, be amended, modified or supplemented in accordance therewith.

Section 2. Board of Directors and Officers. The Board (the "Board") shall be the governing body of the District.

(A) Composition of Board of Directors. The Board shall be established and organized as provided in Section 8 of the Contract. As provided in the Contract, the members of the Board shall serve without compensation. Necessary and authorized expenses incurred by members on behalf of the District shall be reimbursed from District funds in accordance with procedures established in Section 6 hereof.

(B) Officers; Election Procedure. The officers of the District shall be the Chairperson, Vice Chairperson and the Secretary/Treasurer. The Chairperson shall be the Board member selected in accordance with Section 715.78 (A)(2) of the Ohio Revised Code and the Contract. The other officers shall be elected by and from the members of the Board. The Board shall elect officers at the first meeting of the Fiscal Year. The Chairperson shall accept nominations for each officer and conduct a voice vote of the members to elect each officer. The officers shall serve as officers for a one-year term but shall continue to serve until their respective successors take office. Officers may serve more than one term as such officers.

**EXHIBIT**

B

In the event of the death, disqualification, removal or resignation of any officer (other than the Chairperson), the Board shall elect a successor for the balance of the unexpired term of such officer. In the event of the death, disqualification, removal or resignation of the Chairperson, the Vice Chairperson shall assume the office of Chairperson until a new Chairperson has been selected by the other Board members in accordance with Section 715.78 of the Revised Code and the Contract.

(C) Duties of Officers.

(1) Chairperson. The Chairperson shall preside at all meetings of the Board. The Chairperson's duties include, without limitation, preparing the agenda for each meeting of the Board and distributing an annual report concerning the activities and operations of the District. The Chairperson may designate the date, time and place of special meetings as provided herein and shall have general supervision over the business and affairs of the District subject to the direction of the Board.

(2) Vice Chairperson. The Vice Chairperson shall assist the Chairperson in the discharge of the duties of the Chairperson and shall perform such other duties as the Board may require. In the absence of the Chairperson, the Vice Chairperson shall preside at meetings of the Board and shall perform all the duties of the Chairperson. In such circumstances, the Vice Chairperson shall have all the powers and authority of the Chairperson and any documents signed by the Vice Chairperson shall be as valid and binding as though signed by the Chairperson.

(3) Secretary/Treasurer. The Secretary/Treasurer shall be responsible for the records of the Board including, but not limited to, correspondence and minutes of the meetings of the Board. Minutes of all Board meetings shall be kept by the Secretary/Treasurer and distributed to each member of the Board and to the Cities and the Township promptly after each Board meeting. The Secretary/Treasurer shall provide written notice to all members of the Board and to others as required by law of all meetings of the Board in accordance with paragraph (D) of this Section. The Secretary/Treasurer shall perform such other duties as the Board may request.

The Secretary/Treasurer shall also act as the fiscal officer of the District and shall be responsible for all fiscal matters of the District including, but not limited to, the preparation of the budget, the appropriations resolution and all necessary fiscal reports for the Board, paying or providing for the payment of expenses of operation and administration of the District, receiving, safekeeping and investing or providing for the receipt, safekeeping and investment of funds of the District and maintaining, or providing for the maintenance of, accurate accounts of all receipts and expenditures. The Secretary/Treasurer shall obtain and keep in force a fidelity bond, in an amount determined by the Board and with a surety company approved by the Board, or, in lieu of a separate fidelity bond, the Board may direct the Secretary/Treasurer to continue and keep in force any existing fidelity bond the Secretary/Treasurer may have that the Board determines to be adequate. In either case, the District shall be named as an insured on such bond and the amount thereof shall not be reduced without prior written consent of the Board. The Board may designate or employ another person (including an employee of the District, the Cities or the Township) to assist the Secretary/Treasurer in carrying out the duties of that office.

(4) Signing. The Chairperson, the Vice Chairperson and the Secretary/Treasurer may each sign all authorized documents, including without limitation, all contracts and other obligations, in the name of the District, provided that

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each document shall be signed by at least two officers. Bank checks of the District shall be signed by the Chairperson (or the Vice Chairperson in the absence of the Chairperson) and the Secretary/Treasurer.

(D) Meetings of Board of Directors. Two members of the Board shall constitute a quorum to transact business. Each member of the Board shall have one vote and the affirmative vote of two members is necessary for any action taken by a vote of the Board. A member of the Board must be present in person at meetings of the Board in order to vote.

The Board shall meet at least once each calendar quarter, provided that the first meeting of the Board shall be held on or before \_\_\_\_\_, 2009, at which time the Board shall determine the location for its meetings and its mailing address (which the Board may change from time to time), appoint the third member of the Board in accordance with the Contract and Section 715.78(2)(c) of the Ohio revised Code and elect the officers of the District. At its first meeting in each Fiscal Year, the Board shall set the dates, time and location for its regular meetings for that Fiscal Year and shall, if necessary, elect the officers of the District whose terms have expired.

Special meetings may be called by the Chairperson as necessary or may be called by two members of the Board. Notice, in writing, of each such meeting shall be provided by the Chairperson or the two members of the Board, as applicable, and shall state the date, time and place of the meeting and subject or subjects to be considered at the meeting, and shall be given by or on behalf of the Secretary/Treasurer (by personal delivery, first class mail, telegram or telecopy) to each member of the Board at each member's residence or place of business not less than 24 hours preceding the time for the meeting and to others requesting such notice unless in the event of an emergency. The requirements and procedures for notice may be waived in writing by each member of the Board and any member of the Board shall be deemed conclusively to have waived such notice by attendance of that member at such meeting. Each member shall attend all meetings unless excused by action of the other members. A member who is absent without being excused from three consecutive meetings shall be deemed to have resigned as a member of the Board, upon action by the Board affirmatively accepting such resignation.

All meetings of the Board shall be open to the public and notice shall be given in accordance with Section 3 hereof, subject to the exceptions in Section 121.22(G) of the Ohio revised Code, as that Section may be amended from time to time.

For the purpose of receiving mail and other notices, the initial mailing address of the Board shall be 9113 Cincinnati-Dayton Road, West Chester, Ohio 45069, and shall continue to be such until changed by the Board.

(E) Resolutions. All actions of the Board, except as provided herein, shall be by resolution entered on its records. The affirmative vote of two members of the Board shall be required for the enactment of every resolution. Unless otherwise specifically provided in the resolution or by Sections 715.72 or 715.83 of the Ohio Revised Code, all resolutions shall be effective immediately upon enactment, subject to any authorizations or certifications required by the Ohio revised Code to be made by the Secretary/Treasurer or the Board.

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(F) Powers and Duties.

(1) Prior to December 1 in each Fiscal Year, the Board shall adopt an annual budget for the following Fiscal Year based on the estimate of the total revenues and expenses of operating and administering the District and its programs for the next Fiscal Year.

(2) Prior to December 1 in each Fiscal Year, the Board shall approve the annual appropriations of the District for the next Fiscal Year based upon the annual budget determined pursuant to the preceding paragraph in accordance with the Contract.

(3) At its first meeting in each Fiscal Year, the Board shall elect the officers of the District for the next one-year term in accordance with Section 2(B) hereof.

(4) At its first meeting, the Board shall adopt a resolution to levy an income tax of one percent (1%) within the District in accordance with Section 715.74 of the Revised Code and Section 10 of the Contract. The Board shall adopt a resolution to change the rate of the income tax, when necessary, as provided in the Contract. The Board will enter into an agreement with Fairfield to administer, collect and enforce the income tax on behalf of the District (the "Tax Agreement"), which agreement may not be assigned or subcontracted to another agency by Fairfield.

(5) The Board shall exercise the powers and perform the duties and functions set forth in Section 9 of the Contract.

(6) In addition, the Board may:

(a) act as the managerial body for the District;

(b) appoint one or more advisory committees, as provided in Section 4 hereof, if determined by the Board to be necessary or appropriate to assist the Board in the management of the District;

(c) direct the Secretary/Treasurer concerning disbursements from the funds maintained by the District;

(d) amend the budget and appropriations of the District, subject to certification by the Secretary/Treasurer that the amended budget and appropriations are within the limits of the District's resources and consistent with the Contract;

(e) make determinations concerning any matter relating to the District and its programs, including but not limited to: (i) amendments to or modifications of the Bylaws (provided such amendments or modifications are consistent with the Contract); (ii) appropriations of the District, and (iii) do all acts and things necessary and convenient to carry out the powers granted in the Contract;

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- (f) authorize the retention of the services of consulting engineers, financial consultants, accounting experts, architects, attorneys and such other consultants and independent contractors as are necessary in its judgment to carry out the purposes of the Contract, and fix the compensation thereof, which shall be payable from any available funds of the District, provided that the cost thereof is within the budget approved by the Board in accordance with these Bylaws;
- (g) apply for and receive and accept grants from governmental units or the private sector for District related activities such as construction, maintenance, operation of any facility, research, and development for District programs;
- (h) accept contributions in money or in kind for District activities; and
- (i) purchase insurance for property, casualty loss, or liability, and may participate in risk management pools or defense organizations regarding District activities.

(7) There is reserved in the Board the authority, at all times, to delegate, transfer, assign and reassign duties, to the extent permitted by law and in compliance with the Contract.

Section 3. Public Notice Rules for Meetings.

(A) Meetings. Except as otherwise provided herein or by law, meetings of the Board and of any of its committees shall be open to the public at all times. The Secretary/Treasurer or the person otherwise designated to perform such duty shall prepare, file and maintain the minutes of each meeting, and the minutes of each meeting shall be open to public inspection. The record of proceedings need only reflect the general subject matter of discussions in executive session.

(B) Formal Action. Any resolution, rule, motion or formal action shall be deliberated and voted upon in an open meeting except to the extent deliberation occurs in an executive session, which shall be held only at a regular or special meeting and only for the purpose of considering those matters permitted by law to be considered at executive sessions.

(C) Notice of Meetings.

(1) Posted Notice.

- (a) Regular Meetings. The Secretary/Treasurer shall post a statement of the time and place of the first regular meeting of the Board for the Fiscal Year not later than the second day preceding the day of that meeting. The Secretary/Treasurer shall post a statement of the times and places of regular meetings of the Board or of any advisory committee appointed by the Board for each calendar year not later than the second day preceding the day of the

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second regular meeting of the Fiscal Year. The Secretary/Treasurer shall check at reasonable intervals to ensure that such statement remains posted during the calendar year. If at any time during the Fiscal Year the time or place of regular meetings, or of any regular meeting, is changed on a permanent or temporary basis, the Secretary/Treasurer shall post a statement of the time and place of any changed regular meeting at least 24 hours before the time of the first changed regular meeting. All such statements shall be posted at the City Hall of each of the Cities and the Township Hall of the Township.

- (b) Special Meetings. Except in the case of an emergency requiring immediate official action, the Secretary/Treasurer shall post a statement of the time, place and purpose of any special meeting of the Board or any advisory committee at least 24 hours before the time of the special meeting. That notice shall be in addition to any other notice these Bylaws require to be given to members of the Board.
- (c) Adjournment. Upon the adjournment of any regular or special meeting to another day, the Secretary/Treasurer shall post notice promptly of the time and place of the rescheduled meeting.
- (2) Notice to News Media.
  - (a) Any news media that desires advance notification of special meetings shall file with the Secretary/Treasurer a request therefor. Such requests may be modified or extended only by filing a complete new request with the Secretary/Treasurer. The request shall specify whether the request is for meetings of the Board or for an advisory committee, if any, the name of the news media, the name and address of the person to whom written notifications to the media can be mailed, and at least one telephone number that can be called at any hour of the day or night for the purpose of giving oral notification to the media.
  - (b) Except in the event of an emergency requiring immediate official action, a special meeting shall not be held unless the Secretary/Treasurer has given at least 24 hours advance written notification or oral notification to the requesting news media of the time, place and purpose of the special meeting. The Secretary/Treasurer shall give that advance notice for any special meeting; provided that if the Secretary/Treasurer does not give that advance notice, it may be given by any member of the Board.
  - (c) In the event of an emergency requiring immediate official action, a special meeting may be held even though 24 hours advance notice has not been given to the requesting news media. The person or persons calling the special meeting, or the Secretary/Treasurer on their behalf, shall

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immediately give written notification or oral notification, or both, as the person or persons giving such notification determine, of the time, place and purpose of the meeting to the requesting news media. The record of any such meeting shall state the general nature of any emergency requiring immediate official action.

(3) Notification of Discussion of Specific Types of Public Business. Any person may, upon written request and as provided herein, obtain reasonable advance notification of all meetings at which any specific type of public business is scheduled to be discussed.

- (a) Such person may file a request with the Secretary/Treasurer, which request shall specify the person's name and mailing address, the telephone number or numbers at which the person can be reached during and outside of business hours, whether the Board or an advisory committee, if any, is the subject of the request, the specific type of public business concerning which the person is requesting advance notification, and the number of calendar months that the request covers.
  - (b) The request filed with the Secretary/Treasurer must be accompanied by a supply of self-addressed, stamped envelopes in addition to any fee that the Board determines to be reasonable to cover costs of providing such notifications. Such request may be modified or extended only by filing a complete new request with the Secretary. A request shall not be deemed to be made unless it is complete in all respects, and the information contained in such request may be conclusively relied on by the Board and the Secretary/Treasurer.
  - (c) The Secretary/Treasurer shall, if possible, give such advance notification by written notification, provided that written notification shall be given only so long as the supply of self-addressed, stamped envelopes lasts. If such written notification cannot be given or has not been given (other than for lack of such envelopes), the Secretary/Treasurer shall give oral notification.
- (4) General.
- (a) Any notification provided herein to be given by the Secretary/Treasurer may be given by any person acting on behalf of or under authority of the Secretary/Treasurer.
  - (b) The Secretary/Treasurer shall maintain a record of the date and time, if pertinent under this Section, of all notices and notifications given or attempted to be given under this Section, and to whom such notifications were given or unsuccessfully attempted to be given.

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- (c) The Secretary/Treasurer, or any person acting on behalf of or under the authority of the Secretary/Treasurer, or any member of the Board or advisory committee, if any, shall, upon request and within a reasonable time, submit a certificate of the Secretary/Treasurer or any person acting on behalf of or under the authority of the Secretary/Treasurer, as to compliance with this Section of these Bylaws as to notice and notification. A reasonable attempt at notification shall constitute notification in compliance therewith. That certificate shall be conclusive upon the Board as to the facts set forth therein.

Section 4. Advisory Committees. The Board may appoint one or more advisory committees to assist the Board in the management of the District or any of its programs. The members of an advisory committee shall be appointed by and shall serve at the pleasure of the Board and for such period of time as may be determined by the Board. Members of the advisory committee shall serve without pay. At least one member of the Board shall serve as liaison to each advisory committee. Each advisory committee shall perform the duties directed by the Board.

The Board shall appoint a chairperson and vice chairperson for each advisory committee. The advisory committee chairperson shall preside at all committee meetings and prepare the agenda for each meeting following consultation with the Board. In the absence of the committee chairperson, the committee vice chairperson shall preside at committee meetings. The committee vice chairperson shall succeed to the office of the committee chairperson, should it be vacated before the end of a term, and shall assist the committee chairperson in the discharge of the chairperson's duties.

Each advisory committee shall make recommendations to the Board concerning any matter referred to it by the Board.

Section 5. Conduct of Meetings. All meetings provided for in these Bylaws shall be conducted in accordance with the rules established by the chairperson of the meeting; provided, however, upon the request of two members at a meeting, the chairperson shall conduct the meeting in accordance with the then current edition of *Robert's Rules of Order, Revised*. The Chairperson (and, in the case of an advisory committee, the committee chairperson) shall be the parliamentary procedure officer and the decisions of such chairperson with respect to matters of parliamentary procedure shall be final.

Section 6. District Funds. The District's funds shall be established and maintained by the Secretary/Treasurer separate and apart from all other funds that may be under the custody of the Secretary/Treasurer. The Board shall establish a General Fund for the operation and administration of the District. The District's funds shall be subject to the laws of the State concerning the investment and management of public funds, particularly Chapter 135 of the Revised Code, and shall be the responsibility of the Secretary/Treasurer.

The Secretary/Treasurer of the District shall deposit or cause to be deposited in the General Fund the revenues received from income tax or from other sources for operating costs of the District. Money may be transferred from the General Fund to any other fund of the District by action of the Board. Any interest earned on money in any District fund shall be credited to that fund. Disbursements may be made from a District fund by the Secretary/Treasurer at the direction of the Board for any proper purpose of the District, including but not limited to payment of operating costs, costs incurred in

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connection with the organization and meetings of the District, costs and expenses of studies undertaken relating to new programs that may be of benefit to the District, fees and expenses provided under the Contract or the Tax Agreement or of consultants and lawyers, payment of other operating expenses, and payment of other costs of programs or projects of the District.

The Secretary/Treasurer shall maintain records that account for all disbursements from the District funds. The Secretary/Treasurer shall request the Administrator under the Tax Agreement to make quarterly reports to the Board concerning all contributions to and disbursements from the District's funds during the preceding calendar quarter.

Section 7. Equipment and Facilities. The Board may purchase, lease, lease with an option to purchase, or otherwise provide for supplies, materials, equipment and facilities as it deems necessary and appropriate to carry out the programs and projects of the District. The District shall comply with the laws of the State and the Contract with respect to the procedures for bidding and letting of contracts for the acquisition, repair or improvement of its facilities, equipment and supplies. All contracts or leases or lease-purchase agreements or other arrangements entered into by the District for supplies, materials, equipment or facilities of the District shall be approved by the Board and shall be signed by the Chairperson and by the Secretary/Treasurer. In the absence or unavailability of the Chairperson, such contracts or leases or other agreements may be signed by the Vice Chairperson.

Section 8. Amendments. These Bylaws may be modified, amended or supplemented in any respect upon approval of the modification, amendment or supplement by at least two members of the Board. The Secretary/Treasurer shall promptly provide a copy of the modified, amended or supplemented Bylaws to the City and the Township.

Section 9. Transition. In the first Fiscal Year of the Board's operations, actions required by these Bylaws to be taken by the Board prior to specified dates shall be taken as soon as practical following the effective date of the Bylaws.

ADOPTED on \_\_\_\_\_, 2009

**WEST CHESTER TOWNSHIP JEDD-I  
JOINT ECONOMIC DEVELOPMENT DISTRICT**

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Vice-Chairperson

\_\_\_\_\_  
Secretary/Treasurer

**EXHIBIT**

	TITLE NINE - Taxation
Chap. 181.	Income Tax.
Chap. 183.	Recreation Site Tax.
Chap. 185.	Motor Vehicle License Tax.
Chap. 187.	Transient Lodging Tax.

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**CHAPTER 181**  
**Income Tax**

181.01	Purpose.	181.11	Collection of unpaid taxes; refund of overpayments.
181.02	Definitions.	181.12	Board of Review.
181.03	Imposition of tax.	181.13	Credit for tax paid to another municipality.
181.04	Effective period.	181.14	Reports required on tenants and lessees.
181.05	Return and payment of tax.	181.15	Severability.
181.06	Collection at source.	181.99	Penalty.
181.07	Declarations.		
181.08	Duties of the Administrator.		
181.09	Investigative powers of the Administrator; divulging confidential information		
181.10	Interest and penalties.		

**CROSS REFERENCES**

Power to pass income tax law - see Ohio Const., Art. XII, Sec. 8  
 Apportionment - see Ohio Const., Art. XII, Sec. 9  
 Payroll deductions - see Ohio R. C. 9.42  
 Municipal income taxes - see Ohio R. C. Ch. 718  
 State income tax - see Ohio R. C. Ch. 5747

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**181.01 PURPOSE.**

(a) There is hereby levied a tax on all qualifying wages, commissions and other compensation, and on net profits, as hereinafter provided, in the sum of one and one-half percent (1-1/2%) apportioned as follows: (Ord. 179-03. Passed 11-24-03 )

- (1) One and one-tenth percent (1.1%) of the tax to provide funds for the purposes of general Municipal operations, maintenance of equipment, extension and enlargement of Municipal services and facilities, and capital improvements of the City.

- (2) Two-tenths of one percent (.2%) of the tax to be used for the purposes of capital improvements and the retirement of debt.
- (3) Two-tenths of one percent (.2%) of the tax to be used for the purposes of street improvement, reconstruction and repair.

(b) As to the use of these funds, "Capital Improvement" shall be defined as any property, asset or improvement with an estimated life or usefulness of five years or more, including land and interests therein, and including reconstructions, enlargements and extensions thereof having an estimated life or usefulness of five years or more. Reconstruction for street purposes includes the resurfacing, but not the ordinary repair, of streets.

(c) The revised allocation of the municipal income tax specified in paragraph (a) above shall be effective for municipal income tax revenue received on or after January 1, 2004. (Ord. 133-02. Passed 7-8-02.)

#### 181.02 DEFINITIONS.

(a) For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning.

- (1) "Adjusted Federal taxable income" means a C corporation's Federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions under Section 718.01(A)(1). Pass-through entities must compute adjusted Federal taxable income as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code Section 5745.03 or to the net profit from a sole proprietorship.
- (2) "Administrator" means the individual designated by this chapter, and having the direct responsibility to administer and enforce the provisions of this chapter.
- (3) "Association" means a partnership, limited partnership, limited liability company, S corporation or any other form of unincorporated enterprise, owned by two or more persons.
- (4) "Board of Review" means the Board created by and constituted as provided in Section 181.12.
- (5) "Business" means an enterprise, activity, profession, or undertaking of any nature, conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation, or any other entity including, but not limited to, the renting and leasing of property, real, personal or mixed.
- (6) "City" means the City of Fairfield, Ohio.
- (7) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the state of Ohio, or any other state, territory, or foreign country or dependency.
- (8) "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
- (9) "Employee" means one who works for wages, salary, commission or other type of compensation for the service of an employer.

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- (10) "Employer" means an individual, partnership, association, corporation, governmental body, unit, or agency, or any other entity, whether or not organized for profit, and including the officers and senior resident manager, who or which employs one or more persons on a salary, wage, commission or other compensation basis.
- (11) "Fiscal year" means an accounting period of twelve months or less, ending on any other day than December 31.
- (12) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (13) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income. The City shall accept for filing a generic form of such a return, report, or document if the generic form, once completed and filed contains all of the information required to be submitted with the City's prescribed returns, reports, or documents.
- (14) "Gross receipts" means the total income from any source whatsoever.
- (15) "Income from pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.
- (16) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code and patents, copyrights, trademarks, tradenames, real estate investment trusts, regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.
- (17) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (18) "Internet" means the International Computer Network of both federal and non-federal interoperable packet switched data networks, including the graphical sub-network known as the World Wide Web.
- (19) "Joint Economic Development District or Zone" means a District or Zone created under Ohio Revised Code Sections 715.70, 715.71 and 715.73, as amended from time to time.
- (20) "Municipality" means the City of Fairfield, Ohio.
- (21) "Net profits." For a taxpayer other than an individual, means adjusted federal taxable income and "net profit" for a taxpayer who is an individual, means the individual's profit, other than amounts described in Section 181.03(f), required to be reported on Schedule C, Schedule E, or Schedule F.
- (22) "Non-qualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
- (23) "Nonresident" means an individual domiciled outside the City.

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- (24) "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the City.
- (25) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City.
- (26) "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual.
- (27) "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.
- (28) "Owner's proportionate share", with respect to each owner of a pass-through entity, means a ratio of:
- A. The owner's income from the pass-through entity that is subject to taxation by the City, to
  - B. The total income from that entity of all owners whose income from the entity is subject to taxation by the City.
- (29) "Pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (30) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entities. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to an unincorporated entity, shall mean the partners or members thereof, and, as applied to corporations, the officers thereof.
- (31) "Place of business" means any bona fide office, other than a mere statutory office, factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
- (32) "Qualifying wages" means wages, as defined in Section 3121 of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code.
- (33) "Resident" means an individual domiciled in the City.
- (34) "Resident incorporated business entity" means an incorporated business entity having an office or place of business within the City.
- (35) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City.
- (36) "Return preparer" means any person other than the taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document on behalf of the taxpayer.
- (37) "Schedule C" means Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- (38) "Schedule E" means Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
- (39) "Schedule F" means Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
- (40) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

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- (41) "Tax Administrator" means the individual designated by this chapter, and having the direct responsibility to administer and enforce the provisions of this chapter.
- (42) "Taxable income" means qualifying wages, including, but not limited to, severance pay, sick pay, vacation pay and supplemental unemployment benefits paid by an employer or employers, commissions, compensation of personal services, other income defined by statute as taxable, and/or the net profits from operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this chapter.
- (43) "Taxable year" means the period of time corresponding to the tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (44) "Taxing Municipality" means a Municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.
- (45) "Taxpayer" means a person subject to a tax on income levied by the City. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying Subchapter S subsidiary. The singular shall include the plural, and the masculine shall include the feminine and the neuter.  
(Ord. 179-03. Passed 11-24-03.)

#### 181.03 IMPOSITION OF TAX.

(a) Annual Tax. An annual tax for the purposes specified in Section 181.01 shall be and is hereby levied on and after January 1, 1981 at the rate of one and one-half percent (1.5%) per annum upon the following:

- (1) On all taxable income earned by residents of the City.
- (2) On all taxable income earned, including non-qualified deferred compensation and severance pay, as defined herein by nonresidents for work done or services performed or rendered in the City and on all taxable income as defined herein paid by the City of Fairfield, irrespective of where the work is done or services performed or rendered.
- (3) A. On the portion attributable to the City of the net profits earned by all resident unincorporated businesses, professions, or other activities, derived from the sales made, work done, services performed or rendered, or business or other activities conducted in the City.  
B. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity not attributable to the City, and not levied against such unincorporated business entity.
- (4) A. On the portion attributable to the City of the net profits earned by all nonresident unincorporated businesses, professions, or other activities, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City.

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- B. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity not attributable to the City, and not levied against such unincorporated business entity.
- (5) On the portion attributable to the City of the net profits earned of all corporations, including S Corporations derived from sales made, work done, services performed or rendered, and business or other activities conducted in the City, whether or not such corporations have an office or place of business in the City.

(b) Business Both in and Outside the City Boundaries. This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745, of the Ohio Revised Code. Except for individuals who are residents of the City, net profit from a business or profession conducted both within and outside the boundaries of the City shall be considered as having taxable situs in the City for purposes of municipal income taxation in the same proportion as the average ratio of the following:

- (1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
  - (2) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
  - (3) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the City under Section 718.011 of the Ohio Revised Code.
  - (4) Adding together the percentage determined in accordance with subsections (b)(1) through (3) hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer, and dividing the total so obtained by the number of percentages used in deriving the total
  - (5) A factor is applicable, even though it may be apportioned entirely inside the City, but it is not applicable if entirely apportioned outside the City.
  - (6) However, in the event a just and equitable result cannot be obtained under the apportionment provided for, the Administrator upon application of the taxpayer, shall under uniform regulations have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.
- (c) As used in subsection (b) of this section, "sales made in the City" means:
- (1) All sales of tangible personal property delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City.

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- (2) All sales of tangible personal property delivered with the City regardless of where title passes even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.
  - (3) All sales of tangible personal property shipped from a place within the City to purchasers outside the City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
- (d) Operating Loss Carry Forward.
- (1) The portion of a net operating loss sustained in any taxable year subsequent to October 1, 1959, apportioned to the City which has been detailed in a return submitted to the Tax Administrator within four months of the close of the calendar or fiscal year in which such loss occurred may be applied against the portion of the profit of succeeding year(s) apportioned to the City, until exhausted, but in no event for more than three taxable years. No portion of a net operating loss shall be carried back against net profits of any prior years.
  - (2) The portion of a net operating loss sustained shall be apportioned to the City in the same manner as provided herein for allocating net profits to the City.
  - (3) Losses from the operation of a business or profession are not deductible from employee earnings (W-2 or 1099-MISC) but may be carried forward and applied to net profits as provided in this chapter.
  - (4) The Administrator shall provide, by rules and regulations, the manner in which such net operation loss carry forward shall be determined.
- (e) Consolidated Returns.
- (1) Filing of consolidated returns, providing they clearly show the income and expenses attributable to this Municipality alone, may be permitted, required or denied in accordance with rules and regulations prescribed by the Administrator.
  - (2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related to stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory, or activity within the City, constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City. If the Administrator finds net profits are not properly allocated to the City by reason of transactions with stockholders, or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory, or activity, or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City.

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- (f) Exceptions. The tax provided herein shall not be levied upon:
- (1) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service; or
  - (2) Proceeds of insurance, annuities, Workers' Compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages; or
  - (3) Dues, contributions and similar payments received by charitable, religious, education organizations, or labor unions, trade or professional associations, lodges and similar organizations; or
  - (4) Gain from involuntary conversion, cancellation of indebtedness, interest on federal obligations and income of decedent's estate during the period of administration (except such income from the operation of a business); or
  - (5) Alimony; or
  - (6) Compensation for damage to property by way of insurance claim; or
  - (7) Interest and dividends from intangible property; or
  - (8) The military pay or allowance of members of the armed forces of the United States; or
  - (9) The net profits of any civic, charitable, religious, fraternal or other organization specified in Ohio R.C. 718.01, to the extent that such net profits are exempted from Municipal income taxes under such section; or
  - (10) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder; or
  - (11) In the event any association or organization receives taxable income provided in the preceding paragraph from real or personal property ownership or income producing business located both within and outside the City limits, it shall calculate its income apportioned to the City under the method or methods provided above; or
  - (12) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from municipal income tax; or
  - (13) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.
  - (14) The compensation of persons serving as precinct elections officials, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars (\$1,000) shall be subject to taxation. The payer of such compensation is not required to withhold City tax from that compensation; or
  - (15) Employees of a transit authority, regional transit authority, or regional transit commission under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regular scheduled route, the operator is subject to tax by reason of residence or domicile in the municipal corporation or the headquarters of the authority or commission is located within the municipal corporation; or

- (16) The compensation of a nonresident individual if the compensation is paid for personal services performed by the individual in the City on twelve (12) or fewer days during the calendar year, and, in the case of an individual who is an individual who is an employee, the principal place of business of the individual's employer is located outside of the City and the individual pays tax on compensation described above, to the City, if any, in which the employer's principal place of business is located, and no portion of the tax is refunded to the individual. The individual is not a professional entertainer or professional athlete, the promoter of entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the City.
- (17) Any compensation arising from the grant, sale, exchange or other disposition of stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under the stock option.
- (18) The income from a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except starting January 1, 2002, the income of an electric company or combined company and the income of a telephone company or combined company, as defined in Ohio R.C. 5727.01, shall be levied by the municipal ration subject to Chapter 5745 of the Ohio Revised Code.
- (19) Generally the above noted items in this section are the only forms of income not subject to tax. Any other income, benefits or other forms of compensation shall be taxable.  
(Ord. 179-03. Passed 11-24-03.)

#### 181.04 EFFECTIVE PERIOD.

The tax imposed by this chapter shall be levied, collected, and paid with respect to all income and net profits subject to the tax earned on or after January 1, 1971.  
(Ord. 16-81. Passed 1-12-81.)

#### 181.05 RETURN AND PAYMENT OF TAX.

(a) Every person subject to the provisions of Section 181.03 (a) and every resident, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 30 of each year prior to tax year 2004 and April 15 of each year thereafter. When the return is made for a fiscal year or other period different from a calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Administrator is authorized to provide, by regulation, that the return of an employer or employers, showing the amount of tax deducted by such employer or employers from qualifying wages, commissions, or other compensation of an employee, and paid by him or them to the Administrator shall be accepted as the return required of any employee whose sole income subject to tax under this chapter is such qualifying wages, commissions or other compensation.

- (1) Exception. No resident under the age of sixteen shall be required to file an annual return unless said resident is subject to the provisions of subsection 181.03(a) of this Chapter.

(b) A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the City return regardless of whether their federal and state returns were filed separately or jointly. If a joint City return is made, the tax shall be computed on the aggregated taxable income and the liability with respect to the tax shall be joint and several.

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(c) The return shall be filed with the Administrator on a form or forms furnished by or acceptable to the Administrator, setting forth:

- (1) The aggregate amounts of qualifying wages, commissions earned by him, and gross income from business, profession, or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax.
- (2) The amount of the tax imposed by this chapter on such earnings and profits.
- (3) Such other pertinent statements, information returns or other information as the Administrator may require.
- (4) No return shall be considered to have been submitted unless it clearly sets forth the income and expenses attributable to the Municipality alone.
- (5) The City shall accept a generic form of any return, report, or document required to be filed if the generic form once completed and filed, contains all of the information required to be submitted with the City's prescribed returns, reports or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the rules or ordinances of the City governing the filing of returns, reports or documents.

(d) The Administrator may extend the time for filing of the annual return upon the request of the taxpayer by filing a copy of the taxpayer's request for federal extension. Any taxpayer not required to file a federal income tax return may request an extension for filing the City's tax return in writing. All requests for extensions shall be filed no later than the last day for filing the City's tax return as prescribed by ordinance or rule of the municipal corporation. A valid extension request extends the due date for filing a return to the last day of the month following the month to which the due date of the federal income tax return has been extended. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty shall be assessed in those cases in which the return is filed and the final tax is paid within the period as extended; however, the Tax Administrator shall charge interest at a rate of one percent (1%) per month where a tentative return is not accompanied by a payment consistent with the previous year's tax paid. The Administrator may deny the taxpayer's request for extension if the taxpayer fails to timely file the request, fails to file a copy of the federal extension request (if applicable), owes the City any delinquent income tax or any penalty, interest, assessment or other charge for late payment or nonpayment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period.

- (e) (1) The taxpayer making a return shall, at the time of filing, pay to the Administrator the amount of taxes shown as due. However, where any portion of the tax due shall have been deducted at the source, pursuant to Section 181.06, or where any portion of the tax shall have been paid by the taxpayer pursuant to Section 181.07, or where an income tax has been paid to another Municipality, credit for the amount so paid in accordance with Section 181.13 shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.

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- (2) A taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter, may have the overpayment applied against any subsequent liability hereunder, or, at his election indicated on the return, the overpayment, or part thereof, shall be refunded. No additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.
- (f) (1) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 181.11 and 181.15. Amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (2) Within three months from the final determination of any federal tax liability affecting the taxpayer's City tax liability, the taxpayer shall make and file an amended City return showing income subject to the City tax, based on the final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment. (Ord. 179-03. Passed 11-24-03.)

#### 181.06 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the City, shall deduct, at the time of the payment of the salary, wage, commission, or other compensation, the tax of one and one half percent (1-1/2%) of the gross salaries, wages, commission, or other compensation due by the employer to the employee; and, when the amount of taxes so deducted by an employee exceeds three hundred dollars (\$300.00) in any calendar month, such employer shall make a return and pay to the Administrator the amount of taxes so deducted on or before the fifteenth (15th) day of the month following such withholding. All other employers shall make a return and pay to the Administrator the amount of taxes so deducted on or before the last day of the month following the close of each calendar quarter. The Tax Administrator may revoke the approval of quarterly filing and payments whenever he has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the City to do so. Notice of withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with this section. Returns shall be on a form or forms prescribed by or acceptable to the Administrator, and shall be subject to the rules and regulations prescribed by the Administrator. The employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not the taxes have, in fact, been withheld.

(b) The employer, in collecting the tax, shall be deemed to hold it, until payment is made by the employer to the City, as a trustee for the City, and any tax collected by the employer from his employees shall, until it is paid to the City, be deemed a trust fund in the hands of the employer. (Ord. 179-03. Passed 11-24-03.)

(c) An employer may report the amount of municipal income tax withheld from qualifying wages paid on or after January 1, 2007, and may remit such amounts, by using the Ohio Business Gateway. Employers shall make payment by electronic funds transfer to the Administrator of the Municipal Income Taxes withheld on qualifying wages. Payment of taxes by electronic funds transfer does not affect employer's obligation to file the return as required under Section 181.06(e), except as otherwise provided in this paragraph.

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(d) The Administrator shall adopt rules governing the remittance of withheld municipal income taxes by electronic funds transfer as required by this chapter. The Administrator may grant an exemption to an employer from the duty to make payments by electronic funds transfer upon application for such exemption by the employer and the employer's demonstration to the Administrator that the requirement to make payments by electronic funds will impose a hardship upon the employer. The Administrator may implement means of acknowledgment upon request of a taxpayer, receipt of electronic tax remittances. The person requesting acknowledgment shall pay the cost of acknowledging receipt of electronic remittances.

(e) On or before February 28, of each year, each employer shall file a withholding return on a form or forms prescribed by, and obtainable from the Administrator, setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year, and the amount of tax withheld from the listed employees, and such other information as may be required by the rules and regulations adopted by the Tax Administrator. Employers who are required to submit IRS Form W-2 information electronically for Federal Tax purposes shall submit the information required by the municipality in electronic format. The submission of required information in an electronic format does not affect an employer's obligation to file the returns as required under this section, except as otherwise provided in this paragraph. The Administrator shall adopt rules governing the submission of the information required by this section. The Administrator may grant an exemption to an employer from the duty to submit the required information electronically upon application for such exemptions by the employer and the employer's demonstration to the Administrator that the requirement to submit such information will impose a substantial hardship upon the employer. In addition to the wage reporting requirements of this section, any business required by the Internal Revenue Service to report on Form 1099 MISC payments to individuals not treated as employees for services performed shall also report such payments to the Administrator when the services were performed in the Municipality. The information may be submitted on a listing that shall include the individual's name, address, social security number (or federal identification number), and the amounts of fee payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of the calendar year in which such payments are made.

(f) However, no person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about the person's residence (Ord. 137-07. Passed 11-12-07.)

#### 181.07 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 181.06, or who engages in any business, profession, enterprise, or activity, shall file a declaration setting forth the estimated income or the estimated profit or loss from the business activity, together with the estimated tax due, if any. However, if a taxpayer's income is wholly from qualifying wages from which the tax shall be withheld and remitted to the City in accordance with Section 181.06, the person need not file a declaration.

- (b) (1) The declaration shall be filed on April 30 of each year prior to tax year 2004 and on April 15 of each year thereafter, or within four months of the date the taxpayer becomes subject to tax for the first time.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

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- (c) (1) The declaration shall be filed on a form furnished by, or obtainable from the Administrator. However, credit shall be taken for City tax to be withheld from any portion of the income. Credit may be taken for tax to be paid to or to be withheld and remitted to another taxing Municipality in accordance with Section 181.13.
- (2) A declaration of estimated tax to be paid the City shall be accompanied by a payment of at least twenty-two and one-half percent of the estimated tax liability for the current year, less credit for taxes withheld or paid to another Municipality and at least a similar amount shall be paid on or before the last day of the seventh, tenth, and thirteenth months after the beginning of the tax year.
- (3) The original declaration, or any subsequent amendment, may be increased or decreased on or before any subsequent quarterly payment date, as provided for herein.

(d) An amended declaration shall be filed on or before January 31 of any year, or in the case of a taxpayer on a fiscal year accounting basis, on or before the date fixed by regulation of the Tax Commissioner, if it appears that the original declaration made for the year underestimated the taxpayer's income by ten percent (10%) or more. At that time a payment which, together with prior payments, is sufficient to pay taxpayer's entire estimated liability shall be made. If, on filing the return required by Section 181.05, it appears that the taxpayer did not pay ninety percent (90%) of his tax liability, as shown on the return, on or before January 31, or the date fixed by regulation, whichever is applicable, the difference between ninety percent (90%) of the taxpayer's tax liability and the amount of estimated tax he actually paid on or before January 31, or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Section 181.10.

(e) On or before the last day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith, in accordance with the provisions of Section 181.05. (Ord. 179-03. Passed 11-24-03)

#### 181.08 DUTIES OF THE ADMINISTRATOR.

- (a) (1) There is hereby created a subdepartment within the Finance Department to be entitled the Fairfield Income Tax Division for the administration of the provisions of this chapter. Such Division shall consist of a Tax Commissioner or Administrator, Deputy Tax Commissioner or Administrator and such clerical and secretarial personnel as may be determined to be necessary for the administration of this chapter, all of whom shall be appointed as provided for in the City Charter.
- (2) It shall be the duty of the City Tax Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof and to report all moneys so received.
- (3) It shall be the duty of the Administrator to enforce payment of all taxes owing the City, to keep accurate records for a minimum of five years, showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld and to show the dates and amounts of payments thereof.

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- (b) (1) The Administrator is charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.
- (2) The Administrator is authorized to arrange for the payment of unpaid taxes, interest, and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. The authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter. Failure to make any deferred payment when due shall cause the total amount unpaid, including penalty and interest, to become payable on demand, and the provisions of Sections 181.10, 181.11 and 181.99 shall apply.
- (c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax which appears to be due the City from the taxpayer, and shall send to the taxpayer a written statement showing the amount of tax so determined, together with interest and penalties, if any.
- (d) Subject to the consent of the Board of Review or pursuant to regulation approved by the Board of Review, the Administrator shall have the power to abate any interest or penalty imposed by this chapter. (Ord. 179-03. Passed 11-24-03.)

#### 181.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; DIVULGING CONFIDENTIAL INFORMATION.

(a) The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records, and Federal Income Tax Returns of any employer, or of any taxpayer or person subject to the tax, for the purpose of verifying the accuracy of any return made; or, if no return was made, to ascertain the tax due under this chapter. Every employer, supposed employer, taxpayer, or supposed taxpayer, is hereby directed and required to furnish, on written request by the Administrator, or his duly authorized agent or employee, the means, facilities, and opportunity for making the examinations and investigations as are hereby authorized. (Ord. 16-81. Passed 1-12-81.)

(b) The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him, and may examine the person, under oath, concerning any income which was or should have been returned for taxation, or any transaction tending to affect such income; and for this purpose may compel the production of books, papers, records and federal, State, County and Municipal income tax returns, and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of the income or information pertinent to such inquiry. (Ord. 108-83. Passed 7-25-83.)

(c) The refusal to produce books, papers, records and Federal Income Tax Returns, or the refusal to submit to the examination, by any employer or person subject or presumed to be subject to the tax or by any officer, agent, or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with any order of subpoena of this chapter, shall be punishable as provided in Section 181.99.

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(d) Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid.

(e) Any information gained as a result of any returns, investigations, hearings, or verifications required or authorized by this chapter shall be confidential, except for disclosure to Municipal, County, State or Federal taxing agencies, and except for official purposes as the Law Director shall determine and except in accordance with proper judicial order. Whoever divulges such information in violation of this section shall be guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the City who violates the provisions of this section relative to the disclosure of confidential information shall be subject to immediate dismissal. (Ord. 16-81. Passed 1-12-81.)

#### 181.10 INTEREST AND PENALTIES.

(a) All taxes imposed and moneys withheld or required to be withheld by employers under the provisions of this chapter, and remaining unpaid after they have become due, shall bear interest, in addition to the amount of the unpaid tax or withholdings, at the rate of one percent (1%) per month or fraction thereof.

(b) In addition to interest as provided in subsection (a) hereof, penalties for failure to pay taxes and to withhold and remit and to file a tax return pursuant to the provisions of this chapter are hereby imposed as follows:

- (1) In the case of taxpayers failing to pay the full amount of tax due, a penalty of the higher of:
  - A. Fifty dollars (\$50.00); or
  - B. Two percent (2%) per month, or fraction thereof, of the amount of the unpaid tax, if the tax is paid during the first year after such tax became due, and five percent (5%) per month, or fraction thereof, of the amount of unpaid tax, if the tax is paid later than one year after it became due. The percentages herein specified, when used, shall apply from the first month of delinquency.
- (2) In the case of employers who fail to withhold and remit to the Administrator, the taxes to be withheld from employees, a penalty of the higher of:
  - A. One hundred dollars (\$100.00); or
  - B. Five percent (5%) per month, or fraction thereof, of unpaid withholding if paid after such tax became due. The percentage herein specified, when used, shall apply from the first month of delinquency.
- (3) In the case of taxpayers who fail to file a return as required by subsection 181.05(a), a penalty of two hundred dollars (\$200.00).

(c) A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid within the time prescribed by the Administrator. Provided, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, provided an amended return is filed, and the additional tax is paid within three months after the final determination of the federal tax liability. (Ord. 179-03. Passed 11-24-03.)

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**181.11 COLLECTION OF UNPAID TAXES; REFUND OF OVERPAYMENTS.**

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties, by suit, as other debts of like amounts are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later. However, in those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the federal tax liability.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on which the payment was made or the return was due, or within three months after final determination of the federal tax liability, whichever is later.

(c) Amounts of less than one dollar (\$1.00) shall not be collected or refunded. (Ord. 16-81. Passed 1-12-81.)

**181.12 BOARD OF REVIEW.**

(a) A Board of Review, consisting of the Law Director, and two other qualified electors of the City to be appointed by the City Manager of the City, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules, elect its own chairman, and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before the Board of Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.

(b) All rules and regulations, and amendments or changes which are adopted by the Administrator under the authority conferred by this chapter, shall be approved by the Board of Review before the same shall become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(c) Whenever the Tax Administrator issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the City, the Tax Administrator shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

(d) Any person aggrieved by any ruling or decision of the Administrator and who has filed with the City the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Administrator has issued the decision. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof.

(e) The imposition of penalty and interest as prescribed by the Codified Ordinances of the City is not a sole basis for an appeal.

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(f) The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen (15) days after issuing the decision. (Ord. 179-03. Passed 11-24-03.)

#### 181.13 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a resident of the City is subject to a Municipal income tax in another municipality, or in a joint economic development district or zone, he shall not pay a total Municipal income tax on the same income greater than the tax imposed at the higher rate.

(b) Every individual taxpayer who resides in the City who receives net profits, salaries, wages, commissions, personal service compensation, any other type of compensation, or other income from a resident or nonresident business entity or association of which he is partner or owner, for work done, or services performed or rendered outside the City, if he or such business entity has paid another Municipal or Joint Economic Development District or Zone income tax on or with respect to the same income taxable under this chapter to another municipality or Joint Economic Development District or Zone, shall be allowed a credit against the tax imposed by this chapter. In no event, however, shall any municipal income tax or any Joint Economic Development District or Zone income tax to the extent paid to another municipality or to a Joint Economic Development District or Zone and allowed as credit hereunder be deductible in computing the net profit of such taxpayer or such business entity. The amount of credit allowed shall not exceed the rate of tax imposed by this chapter. Determination of credit shall be calculated as follows:

- (1) Tax credit for taxes paid to another City is limited to the income determined to be taxable by the Administrator or designee. The credit allowed is limited to the income taxed by another City. The credit allowed for taxes paid to another Municipality whose rate is higher than Fairfield's rate is calculated by dividing the tax withheld by that City's tax rate and multiplying that income by the tax rate imposed by this chapter. A taxpayer who pays a tax to a City whose rate is less than the tax rate imposed by this chapter shall only receive credit for the tax paid. No excess tax withheld for a Municipality whose rate is higher than Fairfield's rate shall apply to income taxed by another Municipality whose rate is lower than Fairfield's rate.
- (2) Tax credit for taxes paid by a resident on his net profits shall be limited to the income determined to be taxable by the Administrator or designee. If the taxpayer pays directly to another Municipality for his unincorporated entity but has additional unincorporated entities sustaining losses, the tax credit allowed will be reduced to the net taxable income recognized by the City. No taxes paid to another Municipality will be credited or refunded or applied to other income of the taxpayer in such cases.

(c) A claim for refund or credit under this section shall be made in such manner as the Administrator may, by regulation, provide.

**EXHIBIT**

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(d) Except as provided in subsection (e) hereof, if tax or withholding is paid to a municipal corporation on income or wages, and if a second municipal corporation imposes a tax on that income or wages after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a nonrefundable credit, against the tax or withholding the second municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipal corporation with respect to such income or wages.

(e) If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit described in subsection (d) hereof shall be calculated using the tax rate in effect in the second municipal corporation.

(f) Specific provisions of this chapter may be modified as they apply to Joint Economic Development Districts or Zones if the modifications are passed by Council in an ordinance which either specifically approves a Joint Economic Development District or Zone contract or specifically amends this chapter.

(g) The Finance Director shall, subject to the approval of Council, have the authority to enter into an agreement with another political subdivision for the division of the tax imposed on the qualifying wages, commissions, other compensation and other income received by residents or nonresidents of the City.  
(Ord. 179-03. Passed 11-24-03.)

#### 181.14 REPORTS REQUIRED ON TENANTS AND LESSEES.

(a) The owner, manager, or any person in control who rents or leases to other persons, real estate for any purpose in the City must make a report within thirty (30) days after a new tenant occupies rental property of any kind within the City to the Administrator of the identity of their tenants, lessees, or other occupants of the real estate, and the address and telephone number, if available, of the same. The property owner, manager, or any person in control of a vacated rental property shall file within thirty (30) days after the tenant vacates, a report showing the date of vacation from the rental property and a forwarding address, if available.

(b) Any owner, manager, or person in control of the real estate who fails to make the report of lessees, tenants, or occupants of premises under their control as required in subsection (a) hereof, shall be fined up to a maximum of one hundred dollars (\$100.00).  
(Ord. 193-00. Passed 11-27-00.)

#### 181.15 SEVERABILITY.

(a) If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter.

(b) All provisions, sentences, clauses, sections or other parts of this chapter are hereby declared to be severable. (Ord. 16-81. Passed 1-12-81.)

**EXHIBIT**

## 181.99 PENALTY.

(a) Whoever shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (2) Make an incomplete, false or fraudulent return; or
- (3) Fail, neglect or refuse to pay the tax penalties or interest imposed by this chapter; or
- (4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Tax Administrator; or
- (5) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or his employer's books, records, papers and Federal Income Tax Return; or
- (6) Fail to appear before the Tax Administrator and produce his or his employer's books, records, papers or Federal Income Tax Returns upon order or subpoena of the Tax Administrator; or
- (7) Refuse to disclose to the Tax Administrator any information with respect to such person's or such person's employer's income or net profits; or
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or
- (9) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter; or
- (10) Fail to use ordinary diligence in maintaining proper records of employees residence addresses, total wages paid and City tax withheld; or to knowingly give the Administrator false information;

shall be guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00), or imprisoned not more than sixty (60) days, or both.

(b) All prosecutions under this chapter shall be commenced within three years from the time of the offense complained of, except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitations of time within which prosecution shall be commenced shall be six years from the date the return was due or the date the false or fraudulent return was filed.

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return of declaration, from filing such form or from paying the tax.

(d) The term "person", as used in this chapter, shall, in addition to the meaning prescribed in Section 181.02, include in the case of an association or corporation not having any partner, member or officer within the City, any employee or agent of such association or corporation who can be found within the corporate limits of the City.  
(Ord. 16-81. Passed 1-12-81.)

**EXHIBIT**

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**EXHIBIT D**  
**MODIFICATIONS TO FAIRFIELD INCOME TAX ORDINANCE**

**Section 181.02(a)(42) shall be deleted from the Ordinance in its entirety and replaced with the text set forth below:**

(42) "Taxable income" means qualifying wages, including, but not limited to, severance pay; sick pay; vacation pay and supplemental unemployment benefits paid by an employer or employers; commissions; compensation of personal services; compensation arising from the grant, sale, exchange or other disposition of stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under the stock option; other income defined by statute as taxable; and/or the net profits from operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this chapter.

**Section 181.03(a) shall be deleted from the Ordinance in its entirety and replaced with the text set forth below:**

An annual tax for the purposes specified in Section 181.01 shall be and is hereby levied on and after the date an income tax is adopted by the Board pursuant to Section 10 of the Contract at the rate of one percent (1.0%) per annum upon the following:

- (1) On all taxable income earned by employees, including non-qualified deferred compensation and severance pay, as defined herein for work done or services performed or rendered within the District, as well as all taxable income earned by employees whose primary place of employment is within the District, irrespective of where the work is done or services performed or rendered.
- (2) On every owner's distributive share of net profits attributable to the District earned by all pass-through entities and other unincorporated businesses, which are derived from the sales made, work done, services performed or rendered, or business or other activities conducted in the District.
- (3) On the portion attributable to the District of the net profits earned of all corporations (other than pass-through entities), derived from sales made, work done, services performed or rendered, and business or other activities conducted in the District, whether or not such corporations have an office or place of business in the District.

**Section 181.03(f)(17) shall be deleted from the Ordinance in its entirety.**

**EXHIBIT E**  
**ECONOMIC DEVELOPMENT PLAN**

**West Chester Township JEDD-1 Joint Economic Development District  
Economic Development Plan**

**Introduction**

The purpose of this plan is to set forth the goals and strategies for the economic development of the West Chester Township JEDD-1 Joint Economic Development District ("JEDD"). The intended result from this economic development planning effort is a more inclusive strategy to move the community forward through the creation of a JEDD. This plan is intended to facilitate economic development and fulfill the requirement of Section 715.75(C).

**Background**

West Chester Township is conveniently located in the center of the Cincinnati-Dayton Metroplex. The Township is located just 19 miles north of downtown Cincinnati and only 30 miles south of downtown Dayton. West Chester's strategic location between two major metropolitan areas allows ready access to big-city amenities such as major colleges and universities, professional sports, two international airports, parks and recreation as well as shopping.

West Chester, today, is Greater Cincinnati's 5<sup>th</sup> largest community and is projected to become the 2<sup>nd</sup> largest community in the Cincinnati Metropolitan Statistical Area (MSA) behind the City of Cincinnati. West Chester was ranked as the fastest growing community in the region (1990-2000) by population growth. Population has more than doubled each of the past two decades and is projected to reach 70,000 to 80,000 at build out. Population as of yearend 2007 was 62,127. Among other Ohio townships, West Chester has one of the highest growth rates accounting for nearly 20% of the total population in Butler County.

West Chester is becoming an employment epicenter in the region with over 2,500 thriving businesses and 50,000 employees. There is a skilled labor force of more than one million within a 45 minute commute. Drivers behind this employment growth include: three of the top ten largest regional industrial parks, a regional medical campus, presence of five colleges/universities, and the continued growth of the 7<sup>th</sup> largest public school system in Ohio, the acclaimed Lakota Local Schools, ranking as Ohio's largest "Excellent" school district six years running.

West Chester has consistently been a job growth leader in Butler County, Ohio. In 2007, Butler County outpaced all other counties in the 15 county metro area in job growth with 6,133 new and retained jobs; West Chester accounted for 5,322 or 87% of that total. In addition to the new and retained jobs, the total dollars invested in new projects in Butler County for 2007 amounted to \$856 million with West Chester accounting for \$729 million or 85% of that total.

A long favored residential community, in the past decade West Chester has become a regional powerhouse for business development. The Township ranks among the Tri-state's top tier office and industrial locations for its unmatched access to five full interstate interchanges, numerous office parks, large inventory of available land and buildings and a dense labor pool; all in an attractive setting. Community leaders have planned for and achieved development of an expansive corporate base to complement and balance residential growth.

### **Values and Goals for the Future**

The West Chester Township 2025 Vision, developed by citizens of West Chester, identifies values and goals to ensure West Chester's sustainability for the 21<sup>st</sup> century. This 2025 Vision will be used to identify economic development initiatives for the JEDD.

#### ***Values:***

As a vibrant community in the heart of a rapidly growing metroplex, we value:

- A safe and secure community
- Educational excellence that provides life-long learning opportunities
- A vibrant and balanced economy
- Social, cultural, economic, and spiritual diversity within an atmosphere of mutual respect
- Protection and stewardship of our natural and man-made environment
- An infrastructure that supports community growth and a broad range of recreational and intellectual opportunities

#### ***Goals as Related to Economic Development:***

- To have an expanded business presence of high quality companies
- To complete a Land Use Plan that increases the emphasis on higher density commercial occupancies and specifically encourages an urban office/mixed use core in the Union Centre area. The Plan will incentivize flagship high-rise class A office facilities
- 67% of the property taxes come from commercial and industrial resources
- To be ranked among the top three of the best places to live, work, or have a business in the Cincinnati-Dayton metroplex

#### ***Economic Development Priorities:***

- Encourage commercial, medical, technology, manufacturing and office development in West Chester
- Stabilize the tax base through the attraction of more commercial investment
- Educate residents on the need for commercial investment to help stabilize the tax base and other community costs
- Capitalize on redevelopment opportunities
- Encourage development that will create and retain jobs in the Township

In order to develop, plan, and encourage commercial development, West Chester Township must continue provide the necessary infrastructure. Infrastructure improvements result from traffic demand, existing inadequate infrastructure and etc. The proposed services, facilities, and improvements set forth in the attached Schedule A and the tax revenues described in the attached Schedule B (and the expenditure thereof) will have a direct benefit to the future companies and

their employees operating within the JEDD boundaries. Especially in the Union Centre Boulevard area, the JEDD will aid in accomplishing the goals of the West Chester Comprehensive Land Use Plan and the plan entitled "A Vision for West Chester in 2025" (both of which are incorporated herein by reference).

**Schedule A**  
**New, Expanded, or Additional Services, Facilities, or Improvements**

Contributions to the District. In accordance with Section 715.74 of the Ohio Revised Code, the Township and the Cities each agree to provide services and improvements to the District to facilitate economic development in the District. The Township and the Cities may provide secretarial services and other staffing as each Contracting Party, in its sole discretion, determines, at no cost to the District. In addition, the Board may contract for such services with any and all of the Contracting Parties on such terms as the Board and the respective Contracting Parties may agree. The Contracting Parties may, but are not required to, make financial contributions to the District.

Fairfield shall provide the following contributions in order to facilitate economic development in the District: 1) \$3,361,415 capital contribution, which shall be paid to the District as follows: a) \$228,518 per year commencing and first payable on January 15, 2011, and payable on January 15 of each year thereafter for a period of ten years, aggregating \$2,285,180 and b) \$215,247 per year commencing and first payable on January 15 of the first collection year after the first tax year for which real property would first be taxable (or alternatively the first collection year after the first tax year for which real property would first be taxable were that property not exempt from taxation) for two Class "A" midrise office buildings within the District for which construction commenced after January 1, 2010, with said payments continuing to be made on January 15 of each year thereafter for a period of five years, aggregating \$1,076,235; 2) In order to accomplish the objectives of the Economic Development Plan for the District, at the Township's request, Fairfield shall provide for the following services: engineering studies and plans for traffic and storm water, building code plan review, permit approval and inspections, subject to Fairfield's regular fees and charges for such plan review services, approvals and inspections, and assisting in the marketing of available properties in the District to prospective commercial or industrial enterprises; and 3) Collect and administer income tax collected by the District described in more detail below.

Springdale shall provide the following contributions in order to facilitate economic development in the District: 1) In order to accomplish the objectives of the Economic Development Plan for the District, at the Township's request, the City shall provide the following services: engineering studies and plans for traffic and storm water, building code plan review, permit approval and inspections; and 2) At the Township's request, provide advice and consulting services as to the collection of the income tax.

The Township shall provide the following contribution in order to facilitate economic development in the District: An amount not to exceed three million dollars of Service Payments in Lieu of Taxes Revenue to be used to pay the cost of eligible public infrastructure improvements on public property or in the public right of way or property acquisition, as defined by Section 5709.73 of the Ohio Revised Code and Resolution No. 13-90, as amended, to be paid in accordance with the following terms: a) An amount not to exceed two million dollars to acquire property located within the District for a buffer between the initial development of the District and an existing public use on an adjacent piece of property, consistent with the terms and conditions of the "Purchase and Sale Agreement" entered, or to be entered into, between

Township and Duke Construction Limited Partnership (or successor) and b) an additional amount not to exceed one million dollars to pay the cost of eligible public infrastructure improvements on public property or in the public right of way or property acquisition, as defined by Section 5709.73 of the Ohio Revised Code and Resolution No. 13-90, as amended, associated with the further development of the District under terms and conditions to be established.

The Township shall prepare, or cause to be prepared, all documents of the Township and the District relating to the formation of the District including, but not limited to, this Contract, notices, and forms of City, Township, County and District legislation. Any costs incurred and paid by the Township in preparing such documents or otherwise incurred by the Township in assisting in the establishment of the District shall be reimbursed to the Township from revenues of the District income tax prior to the distributions of such revenues as set forth in Section 10 hereof. Any costs incurred and paid by either City in assisting in such preparation (but not including costs and expenses of a City incurred pursuant to Section 7 of the Contract) shall be reimbursed to the respective City from those revenues of the District prior to the distributions set forth in Section 10 hereof.

**Schedule B**  
**Collection of an Income Tax**

Income Tax. The Board, at its first meeting, shall adopt a resolution to levy an income tax in the District at a rate of one percent (1.0%) in accordance with Section 715.74 of the Ohio Revised Code. Pursuant to Section 715.74 of the Ohio Revised Code this income tax shall be levied upon: A) income earned by individuals working in the District to be collected via payroll withholding; and B) net profits from business operations within the District which shall be levied on a pass through basis pursuant to subsection (k) below. This income tax shall go into effect and collection shall commence within 60 days of the adoption of that resolution.

The levy of income tax is necessary to effectuate the purpose of this Contract and once levied any disruption of the distribution of the tax would prevent the parties from fulfilling their obligations under this Contract and may cause financial hardship. Therefore, once the income tax is levied, the Board of Directors is not authorized to cease the levy of the income tax unless authorized by amendment of this Contract.

Fairfield shall administer, collect and enforce the income tax on behalf of the District consistent with the terms of this Agreement as set forth below. The Board, at its first meeting, shall adopt a resolution or motion establishing and enacting an income tax consistent with the terms set forth herein.

(a) Fairfield's Director of Finance shall serve as the Administrator of the income tax derived from the District and shall be responsible for the receipt, safekeeping, accounting, and investment of income tax revenues pending disbursement. All receipts shall be deposited to a separate District account which shall not be mingled with revenue from other sources. Earnings on the District account and investments related thereto shall be added to the account. The Administrator or designee has authority to grant refunds and compromise claims for tax, penalties, and interest. The Administrator or designee has authority to commence legal proceedings pertaining to delinquent tax collection and enforcement, and declaratory judgment regarding disputed interpretation and applicability of the income tax imposed hereunder. The Administrator or designee is authorized to investigate and audit taxpayer returns and to issue subpoenas in furtherance of duties. The Administrator is designated to be an interested party and is authorized to commence and defend legal proceedings in the name of the District in any way pertaining to the income taxation within the District.

(b) The Administrator shall report directly to the Board and Contracting Parties regarding receipt and distribution of income tax revenue including amounts retained in escrow. The Administrator shall furthermore report quarterly regarding District operating income and expenses for the preceding quarter and shall provide short term and long range projections concerning anticipated income and expenses associated with District operations. If requested the Administrator shall provide monthly reports to the Contracting Parties regarding all revenue generated within the District.

(c) Pursuant to Section 715.74(C)(3) of the Ohio Revised Code, the Board on behalf of the Contracting Parties shall annually set aside 0.003% of the annual gross income tax revenues up to a maximum of \$7,500 annually for long-term maintenance of the District. Long-term

maintenance of the District shall mean providing for the administration of the District. Annually the Board shall distribute the remaining income tax revenues to the Contracting Parties based on Distributable Revenue percentages set forth below.

(d) In consideration of its services pertaining to income tax administration and collection, Fairfield shall receive annually a service fee equal to five (5%) percent of gross income tax revenues collected for that period. The service fee may be applied to administrative costs at Fairfield's discretion, but shall also be applied specifically to costs of collection and litigation including for example, attorney fees, court costs, expert fees, court reporter fees, and so forth. The Administrator shall also annually place two (2%) percent of the gross income tax revenue into an escrow fund. "Distributable Revenue" shall be annual gross income tax revenue minus the sum of (the 5% annual service fee and the 2% annual escrow fee and the lesser of \$7,500 or .003% of annual gross income tax revenue). Escrow proceeds may be utilized to pay refunds, and in general to balance accounts. In the event of an escrow deficiency, the Administrator may invoice the Contracting Parties according to their Distributable Revenue percentage set forth below to satisfy the deficiency. Invoices for deficiency are due and payable within thirty (30) days from invoice. Annually, any escrow surplus shall be distributed to the Contracting Parties based on the Distributable Revenue percentages set forth below. Earnings achieved on any surplus escrow shall be added to the escrow fund.

(e) For the first 120 months of the Contract, monthly, on or before the 10<sup>th</sup> day of each month Distributable Revenue from the prior month shall be paid to the Contracting Parties as follows 7% to Springdale, 10% to Fairfield, and 83% to Township. After 120 months from the date on which this Contract takes effect, Distributable Revenue from the prior month shall be paid to the Contracting Parties as follows: 10% to Fairfield and 90% to Township.

(f) After 60 months have elapsed, Fairfield's share of the aggregate Distributable Revenue collected should amount to  $\geq$  one million dollars. If after the 60<sup>th</sup> monthly payment of this Contract has been made to the Contracting Parties Fairfield's share of the aggregate Distributable Revenue collected over that period is less than one million dollars, and Fairfield has contributed at least one million dollars (or a lesser amount pursuant to subparagraph (h) below) under Section 7 of the Contract, then Fairfield shall report the amount of the deficiency to Township along with supporting documentation. At the Township's request, Fairfield's deficiency may be paid in one lump sum in month 61, which payment shall take precedence over the Township's Distributable Revenue percentage for that month only. Alternately, and at a minimum, for months — 61-72 only under this Contract, Fairfield's share of Distributable Revenue shall be increased by 1/12<sup>th</sup> of the amount of the deficiency, which additional 1/12<sup>th</sup> amount shall take precedence over Township's Distributable Revenue percentages for the months — 61-72 only. After the deficiency, if any, is paid, the Distributable Revenue percentages shall revert back to the original percentages: 10% to Fairfield, 83% to West Chester, and 7% to Springdale.

(g) If after the 120<sup>th</sup> monthly payment of this Contract has been made to the Contracting Parties Fairfield's share of the aggregate Distributable Revenue collected over that period is less than three million dollars (inclusive of any lump sum payment made under the preceding subparagraph (f)), and Fairfield has contributed at least three million dollars (or lesser amount pursuant to subparagraph (h) below) under Section 7 of the Contract, then Fairfield shall report



the amount of the deficiency to Township along with supporting documentation. At the Township's request, Fairfield's deficiency may be paid in one lump sum in month 121, which payment shall take precedence over the Distributable Revenue percentage for that month only. Alternately, and at a minimum, for months 121-132 only under this Contract, Fairfield's share of Distributable Revenue shall be increased by 1/12<sup>th</sup> of the amount of the deficiency, which additional 1/12<sup>th</sup> amount shall take precedence over the Distributable Revenue percentages for the months 121-132 only. After the deficiency, if any, is paid, the Distributable Revenue percentages shall revert to and remain thereafter at 10% to Fairfield and 90% to Township.

(h) If under subparagraphs (f) and (g) above Fairfield's actual contributions under Section 7 of the Contract are less than stated, then the deficiency correction payment under subparagraphs (f) and (g), if any, shall be based upon the actual amount contributed.

(i) The income tax revenues are to be used by the District, the Township and the Cities to encourage and support the operations of the District or in the Township or in the Cities, including, but not limited to general governmental services, maintaining and improving the infrastructure facilities of the District and the Contracting Parties (including paying debt charges related thereto), providing safety and health services within the District and within the Contracting Parties, providing urban and economic development planning, engineering, counseling, consulting, marketing and financing services for the District and for the Contracting Parties, and generally improving the environment for those working and residing in the District and in the Contracting Parties, and for all other purposes as permitted by law. The revenues of the District income tax shall be used for the purposes of the District and the Contracting Parties pursuant to this Contract. With respect to revenues distributed to the Township, placement of such funds in the Township General Fund and used for all General Fund purposes is consistent with the purposes of the District as set forth under Section 715.74(C)(1) of the Ohio Revised Code and this Contract.

(j) The Board, at its first meeting, shall adopt, by resolution, all of the provisions, except as specifically set forth herein, of chapter 181, Income Tax, of the Codified Ordinances of Fairfield, Ohio, including all rules and regulations promulgated thereunder, as such laws were in effect on the date that the income tax is adopted by the Board (the "Fairfield Income Tax Ordinance"), to apply to the District income tax. A copy of the Fairfield Income Tax Ordinance is attached hereto as Exhibit C. The Board shall modify the provisions of the Fairfield Income Tax Ordinance as set forth on the attached Exhibit D. The Board may, with written approval of Fairfield and the Township, enact additional amendments to the Fairfield Income Tax Ordinance to apply to the District. In the event that Fairfield amends any provision of the Fairfield Income Tax Ordinance after the date that the income tax is adopted by the Board, the Administrator shall provide written notice of such amendment to the Board and Township. The Board shall, with approval in writing of Township's Administrator, within the thirty (30) day period following the Board's receipt of the notice, adopt the amendments to the Fairfield Income Tax Ordinance. If the Board adopts or fails to reject the amendment within the thirty (30) day period following its receipt of the notice, the amendment shall automatically be incorporated into the District's income tax law, as long as the Township's Administrator consents in writing. The Board shall adopt all amendments to the income tax rules and regulations that have been issued by the Administrator, to the extent that such rules and regulations are not inconsistent with the District's income tax law then in effect. The income tax levied by the Board pursuant to this Contract and

Section 715.74 of the Revised Code shall apply in the entire District throughout the term of this Contract, notwithstanding that all or a portion of the District becomes subject to annexation, merger or incorporation. In the event of conflict between the Fairfield Income Tax Ordinance and this Contract, this Contract shall prevail.

(k) For any "pass-through entity" located in the District owned by another entity, the income tax imposed on corporate net profits under this Contract will be based on the income/net profits of or from the pass-through entity as income/net profits of the owner(s) of the pass-through entity. Any pass-through entity will not be directly subject to a tax based on income/net profits by the District. The term "pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code. The owner(s) of any pass-through entity will be deemed to be conducting business in the District if the pass-through entity is conducting business in the District.

(l) Upon request of a Contracting Party, the Board shall provide a report regarding the receipt and distribution of the income tax of the District and the operating income and expenses of the District for the preceding six months, a copy of which shall be provided to both Contracting Parties.

(m) The District territory shall have primacy over residential status relating to the collection of the income tax derived from individual earnings within the District notwithstanding the provisions of the Fairfield Income Tax Ordinance which may provide to the contrary.

(n) This Contract and the income tax adopted by the Board pursuant to this Contract shall automatically terminate without further action of the Board, the Township, or the Cities in the event that Township incorporates and adopts a municipal income tax applicable to the entire area of the Township. Such termination shall be effective immediately upon the commencement (i.e., collection of municipal income tax dollars) of a municipal income tax imposed by the newly incorporated entity. In the event such incorporation is for some reason found to be invalid, this Agreement shall continue in force and effect. If termination as a result of the commencement of a municipal income tax occurs, Fairfield shall be entitled to repayment of its cash contribution to the District, up to three million dollars, under the following conditions:

- 1) Fairfield shall be limited to repayment of the amount it has actually paid under Section 7, paragraph 2, subsection 1) (capital contribution) of this Contract, not to exceed three million dollars.

- 2) Any repayment to Fairfield shall be reduced by an amount equal to the total Distributable Revenue dollars Fairfield has collected under this Contract.

- 3) Upon incorporation of Township, the Administrator shall provide an accounting to Township's Finance Director and to the Board stating the total Distributable Revenue dollars Fairfield has collected to date. If the total Distributable Revenue dollars received by Fairfield are less than the amount Fairfield has paid under Section 7, paragraph 2, subsection 1) (capital contribution) of this Agreement, then the Administrator shall estimate the date that the newly incorporated entity's municipal

income tax will commence, and with Township's consent will immediately adjust the Distributable Revenue percentage so that Fairfield will be made whole by the time the newly incorporated entity's municipal income tax commences. As used herein, to be "made whole" means that Fairfield will receive an amount equal to the dollars Fairfield actually paid out as described in the preceding subparagraph 1), less the total Distributable Revenue dollars it has collected.

4) Alternatively, if under the preceding paragraph insufficient Distributable Revenue dollars are generated to make Fairfield whole, then the newly incorporated entity or Township to the extent allowable under law shall simply pay the reimbursement to Fairfield upon the commencement of the municipal income tax. It is intended and agreed that the newly incorporated entity shall be the legal successor to Township pursuant to Section 6 of the Contract.