

EMERGENCY RESOLUTION NO. 87-2014

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A DISTRICT INCOME TAX COLLECTION AND DISTRIBUTION AGREEMENT BY AND BETWEEN THE CITY OF MONROE, TURTLECREEK TOWNSHIP, AND THE TURTLECREEK-MONROE RACEWAY JOINT ECONOMIC DEVELOPMENT DISTRICT AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code Section 715.74 (C)(2) and Section 11 of the JEDD Agreement require the JEDD to enter into an agreement with the City of Monroe to administer, collect, and enforce the income tax on behalf of the JEDD.

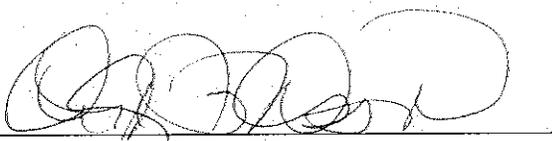
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO, THAT:

SECTION 1: The City Manager is hereby authorized to enter into a District Income Tax Collection and Distribution Agreement by and between the city of Monroe, Turtlecreek Township, and the Turtlecreek-Monroe Raceway Joint Economic Development District pursuant to the terms and conditions set forth on Exhibit "1" attached hereto and made a part hereof.

SECTION 2: This measure is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare and further for the reason that Council desires to authorize the agreement at the earliest possible date to avoid any delay in the collection of this income tax. Therefore, this measure shall take effect and be in full force from and after its passage.

PASSED: December 23, 2014

ATTEST:



Clerk of Council

APPROVED:



Mayor

I, the undersigned Clerk of Council of the City of Monroe, Ohio, hereby certify that the foregoing (ordinance or resolution) was published as Required by Section 7.16 of the Charter of the City of Monroe.

This legislation was enacted in an open meeting pursuant to the terms and provisions of the Sunshine Law, Section 121.22 of the Ohio Revised Code.



Clerk of Council
City of Monroe, Ohio

DISTRICT INCOME TAX COLLECTION AND DISTRIBUTION AGREEMENT

This Income Tax Collection and Distribution Agreement (the "Agreement") is made and entered as of December 1, 2014, by and among the City of Monroe, Ohio (the "City"), Turtlecreek Township, Warren County, Ohio (the "Township") and the Turtlecreek-Monroe Raceway Joint Economic Development District (the "JEDD"), a joint economic development district under Chapter 715 of the Ohio Revised Code with its principal offices located at 670 North State Route 123, Lebanon, Ohio 45036.

WITNESSETH:

WHEREAS, the City, the JEDD, and the Township (collectively, the "Contracting Parties") have determined that this Agreement is in their vital and best interests and that it will improve the health, safety, and welfare in the Contracting Parties' respective communities; and

WHEREAS, under the authority of Ohio Revised Code Chapter 715, the City and the Township entered into an agreement dated August 23, 2014 (the "JEDD Agreement") to create the JEDD relating to the property identified in Exhibit A attached hereto (the "District"); and

WHEREAS, on December 5, 2014, the Board of Directors of the JEDD (the "JEDD Board"), acting through its Resolution No. 2014-04, resolved to levy an income tax within the District with respect to income earned by persons working within the JEDD and on net profits of businesses located in the District (the "JEDD Income Tax") at a rate equal to the income tax levied by the City, currently one percent (1.5%) provided, however, that commencing with the fiscal year beginning on January 1, 2016, the rate of income tax applicable to net profits of businesses earned within the District during such fiscal year shall be adjusted to the lesser of the City's income tax rate or the rate which, if applied to the total net profits of the businesses earned within the District for the 2014 fiscal year on an annualized basis, would equal the annual budget of the District during the 2016 fiscal year, less the actual income tax liability for employee wages within the District for the 2014 fiscal year on an annualized basis, as more fully provided by Section 11 and Exhibit D of the JEDD Agreement; and

WHEREAS, Ohio Revised Code Section 715.74(C)(2) and Section 11 of the JEDD Agreement require the JEDD to enter into an agreement with the City to administer, collect, and enforce the income tax on behalf of the JEDD;

NOW, THEREFORE, in consideration of the promises and covenants contained in this Agreement, the Contracting Parties agree as follows:

Section 1. Administration, Collection, and Enforcement of Income Tax.

- (a) Under the authority of Chapter 715.74(C)(2) of the Revised Code, and pursuant to Section 11 of the JEDD Agreement, the City agrees to administer, collect and enforce, or contract with a third party on its behalf to administer, collect and enforce, the JEDD Income Tax on behalf of the JEDD.

- (b) The City Tax Commissioner shall be responsible for the receipt, safeguarding, and investment of the income tax collecting within the District (the "District Income Tax Revenue"). The City shall establish an agency fund with the description "Turtlecreek-Monroe Raceway JEDD." All monies received by the City on behalf of the JEDD shall be credited to this agency fund.
- (c) In the event that the City does not collect all District Income Tax Revenue levied and payable to the JEDD, the City agrees to use best efforts to enforce and collect the JEDD Income Tax. All monies and revenue collected as a result of any such collection efforts, including legal action when necessary, shall be paid to the City and shall be treated as District Income Tax Revenue.
- (d) The City shall maintain complete and accurate records of (a) all returns filed under the JEDD; (b) estimated taxes; (c) payroll or other withholding taxes; (d) payments; and (e) administrative and enforcement actions. All records shall be retained according to procedures that are agreed upon from time to time between the City and the JEDD Board.
- (e) In exchange for fulfilling its obligations with respect to the JEDD pursuant to this Agreement, the City shall be compensated in the amount of two percent (2%) of the District Income Tax Revenue. The City shall deduct its compensation from the District Income Tax Revenue prior to making any of the distributions pursuant to Section 2 of this Agreement.

Section 2. Income Tax Sharing.

- (a) Within thirty (30) days after the close of each calendar quarter, beginning after the first quarter of calendar year 2015, the City shall distribute District Income Tax Revenue to accounts designated by the City, the JEDD Board, and the Township in accordance with Section 11 of the JEDD Agreement (each such distribution is hereinafter referred to as a "Revenue Distribution"); provided, however, that any portion of District Income Tax revenue representing payments of estimated taxes shall not be distributed by the City until the payment made thirty (30) days after the close of the fourth calendar quarter of each year.
- (b) The Revenue Distributions will be calculated in accordance with the accounting standards and procedures used by the City to complete its comprehensive annual financial report ("Accounting Standards"). In calculating the amount of any Revenue Distribution, the City shall not increase the Revenue Distribution payable to a Contracting Party in the event of any infrastructure improvement or similar costs incurred by any of the Contracting Parties.
- (c) The City shall provide each of the Contracting Parties with its Revenue Distribution, together with a statement describing the City's calculation of the Revenue Distribution for that quarter (the "Calculation"), no later than thirty (30) days after the last day of each calendar quarter ("Due Date"). The records of the City relating to the Calculation and/or the amount of any Revenue Distribution shall be made available to the Contracting Parties for audit by the Contracting

Party's fiscal officer or by an independent auditor of the auditing district's choice and at its sole expense.

Section 3. Annual Reconciliation.

- (a) The City shall conduct an annual reconciliation ("Reconciliation") in accordance with its Accounting Standards. The City agrees to conduct its Reconciliation by the thirtieth (30th) day of April following each tax year for which Revenue Distributions are due under this Agreement.
- (b) The Reconciliation shall examine of any deficiencies in the administration of the JEDD Income Tax and/or Revenue Distributions that violate Accounting Standards and shall include, but not be limited to, an accounting review of the calculation of JEDD Income Tax, the amount of JEDD Income Tax collected (including delinquent amounts due for prior periods), the amount of JEDD Income Tax due (including amounts not yet collected), the amount of Revenue Distributions paid to the Contracting Parties, and the amount of Revenue Distributions owed under this Agreement.
- (c) Upon completion of the Reconciliation, the City shall use its best efforts to resolve, in a timely manner, any deficiencies in the administration of the JEDD Income Tax or Revenue Distributions and shall promptly pay the Contracting Parties any amounts owed under this Agreement that have not been previously paid.
- (d) The City Tax Commissioner shall, within sixty (60) days of the end of each fiscal year, provide a written report to the JEDD and the Township detailing the receipt and distribution of the District Income Tax Revenue, which written report shall take the form of a cash basis report.

Section 4. Miscellaneous.

- (a) To the extent permitted by law, the JEDD shall indemnify and hold harmless the City, its employees, and representatives for any claims, losses, damages, or expenses (including reasonable attorney fees) to the extent that such claims losses, damages, or expenses are caused by or arise from the performance of the City's obligations under this Agreement.
- (b) The JEDD shall adopt legislation authorizing the City Tax Commissioner to act as the Income Tax Administrator of the JEDD and authorizing said City Tax Commissioner to act in accordance with the City's income tax rules and regulations for the collection of the JEDD Income Tax.
- (c) The City shall provide all of the following as needed for the performance of the City's obligations under this Agreement: (a) machines, including computers, printers, calculators, and miscellaneous machines, and the maintenance of same; (b) office furnishings and the maintenance of the same; (c) personnel, including

Any of the Contracting Parties may change its address for receiving notices and reports by giving notice of such change to the other Contracting Parties.

Section 8. Entire Agreement. This Agreement constitutes the entire agreement of the Contracting Parties with respect to the subject matter of this Agreement.

Section 9. Severability. The invalidity of any provision of this Agreement shall not affect the other provisions of this Agreement, and this Agreement shall be construed in all respects as if any invalid portions were omitted.

Section 10. Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any Contracting Party may execute this Agreement by signing any such counterpart.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the date set forth above.

CITY OF MONROE, OHIO

TURTLECREEK TOWNSHIP

By: _____

By: _____

Its: City Manager

Its: Trustee, Board President

Approved as to Form:

Approved as to Form:

Law Director

J. Caleb Bell, Esq., Township Legal Representative

TURTLECREEK-MONROE RACEWAY
JOINT ECONOMIC DEVELOPMENT
DISTRICT

By: _____

Its: Authorized Representative

Approved as to Form:

J. Caleb Bell, Esq., Joint Economic Development District Legal Representative

EXHIBIT A

DESCRIPTION OF THE SITE

The Turtlecreek-Monroe Raceway Joint Economic Development District consists of the following parcel, as identified in the records of the County Auditor of Warren County, Ohio as of December 5, 2014:

Parcel Number
11064000200

Territory included in the Turtlecreek-Monroe Raceway Joint Economic Development District is outlined in the following map:

