

**AMENDMENT ONE AND RESTATEMENT OF  
GREEN TOWNSHIP - CITY OF CHEVIOT  
JOINT ECONOMIC DEVELOPMENT DISTRICT VI  
CONTRACT**

The contracting parties hereby enter into this Contract to create the Green Township Joint Economic Development District VI (McAlister's) pursuant to lawful authority and for good and valuable consideration as more fully set forth:

1.     **Parties.** The contracting parties are:

A.     Green Township Trustees ["Township"]  
        6303 Harrison Avenue  
        Cincinnati, OH 45247  
and

B.     City of Cheviot ["Cheviot"]  
        3814 Harrison Avenue  
        Cheviot, OH 45211

2.     **Recitals.** The contracting parties are creating the Green Township Joint Economic Development District VI (McAlister's) for the purpose of facilitating economic development to create jobs and employment opportunities and to improve the economic welfare of the people in Green Township, the City of Cheviot, Hamilton County, the State of Ohio and in the area of the contracting parties.

The contracting parties share a common interest in facilitating economic development in the McAlister's area which will bring economic development, jobs and revenue to the contracting parties and to the County and State. The parties acknowledge the economic potential of commercial development to occur within the proposed McAlister's JEDD territory. Furthermore, the parties acknowledge the benefits associated with regional cooperation and

planning beyond the geographic boundaries of the contracting parties.

3. **Authority.** This Contract is entered into pursuant to the authority of R.C. 715.72 through 715.81 and other applicable sections of the Ohio Revised Code.

4. **Location.** The Green Township Joint Economic Development District VI (McAlister's) is located entirely within Green Township, Hamilton County, Ohio. The McAlister's JEDD is a 1.1171 acre (plus or minus) site located at 6135 Harrison Avenue, and is identified in Hamilton County Auditor's Book 550, Page 220, Parcel 1179.

The JEDD site is more particularly described in Exhibit A, attached hereto and incorporated by reference herein.

5. **Nexus.** Green Township is contiguous to the City of Cheviot. The McAlister's JEDD is located entirely within Green Township. Cheviot and Green Township are both located within Hamilton County, Ohio. Hence the geographic eligibility requirements regarding the contracting parties set forth in R.C. 715.72 © (1) are satisfied.

6. **McAlister's JEDD Criteria.** The areas to be included in the Green Township McAlister's JEDD meet all of the following criteria:

- A. The areas are located entirely within Green Township;
- B. No electors reside within the areas and no part of the areas are zoned for residential use; and
- C. The areas do not include any parcel of land owned in fee by or leased to a non-participating municipal corporation or township.

Hence the criteria for inclusion of areas set forth in R.C. 715.73 are satisfied.

7. **Territory.** The areas to be included within the Green Township McAlister's JEDD consists of one parcel that contains 1.1171 acres (plus or minus), presently listed in Hamilton County Auditor's Book 550, Page 220, Parcel 1179, and which is more particularly described in Exhibit A, and is referred to as the McAlister's JEDD territory. The following areas are to be included in the Green Township McAlister's JEDD:

**LEGAL DESCRIPTIONS - See Exhibit A.**

Hamilton County Auditor's Book 550, Page 220, Parcel 1179.

**MAP OF TERRITORY - See Exhibit B.**

Prior to adoption, the contracting parties may consent to deletion of any portion of the territory to assure compliance with the majority petition requirements applicable to owners of property and owners of businesses to be located in the Green Township McAlister's JEDD territory.

8. **Zoning.** The McAlister's JEDD territory is zoned for commercial use pursuant to the Hamilton County Zoning Resolution.

**TERRITORY ZONING MAP OF ALL AREAS - See Exhibit C.**

The parties acknowledge that the above land use and zoning classifications are the best and proper available use to encourage economic development. The area is currently developing consistent with prescribed zoning classifications. This Contract shall not operate as a limitation upon Green Township's or Hamilton County's authority to change the zoning district classification of the McAlister's JEDD territory (or any parcels contained herein), or to amend the Hamilton County Zoning Resolution, or to grant conditional use, variance, specially

permitted use, or other change pursuant to the Hamilton County Zoning Resolution as currently in effect or as amended from time to time.

9. **Economic Development Plan.** The contracting parties approve and ratify Green Township's Economic Development Plan for the McAlister's JEDD territory. See Exhibit D Economic Development Plan attached.

10. **Acknowledgment.** Each contracting party acknowledges entering into this Contract freely and without duress or coercion for the stated public purpose of promoting economic development.

11. **Public Hearing/Approval.** Before any of the contracting parties approved this Contract, the contracting parties delivered a copy of the proposed contract to the Board of County Commissioners of each county in which a contracting party is located, i.e., Hamilton County, pursuant to R.C. 715.75.

The Green Township Trustees and the Council for Cheviot have each conducted public hearings after required notice and have approved their respective resolutions and ordinances authorizing this Contract.

12. **Adoption.** For adoption to occur, a majority of the owners of property (land) located in the McAlister's JEDD territory and a majority of the owners of businesses located in the McAlister's JEDD territory shall submit their petitions supporting creation of the Green Township McAlister's JEDD.

After adoption of the resolutions and ordinances approving this Contract to create the Green Township McAlister's JEDD, the contracting parties shall jointly file with the Hamilton

County Commissioners (i.e., the legislative authority of the county within which the contracting parties are located) all of the following documents:

- A. a signed copy of the Contract;
- B. a description of the areas to be included in the McAlister's JEDD, including a map in sufficient detail to denote the specific boundaries of the areas and to indicate any zoning restrictions applicable to the areas;
- C. the economic development plan attached hereto as Exhibit D;
- D. certified copies of the ordinances and resolutions of the contracting parties relating to the Contract and McAlister's JEDD;
- E. a certificate of each contracting party that the public hearings required by R.C. 715.75 were held, the date of the hearings, and evidence of publication of the notice of the hearings;
- F. a petition signed by a majority of the owners of property (land) located within the areas to be included in the McAlister's JEDD; and
- G. a petition signed by a majority of the owners of businesses located in the areas to be included in the McAlister's JEDD.

Green Township shall give timely notice (not later than ten days after filing) by certified mail to:

- A. those owners of property (land) located in the areas comprising the McAlister's JEDD territory who did not sign the petition; and
- B. those owners of businesses located in the areas comprising the

McAlister's JEDD territory who did not sign the petition.

Green Township Resolution No. 18-0910-B approving the creation of the Green Township McAlister's JEDD and authorizing the proposed Contract is not required to be submitted to the electors of the township for approval pursuant to R.C. 715.77 (A) (1) because:

- A. the resolution was approved by a unanimous vote of the members of the Board of Township Trustees;
- B. the creation of the McAlister's JEDD is proposed at the request of a majority of owners of land included within the proposed district; and
- C. the territory to be included in the proposed McAlister's JEDD is zoned in a manner appropriate to the function of the proposed district.

13. **Effective Date.** The creation of the Green Township McAlister's JEDD per approval or deemed approval by the Hamilton County Commissioners shall become effective that date which is not earlier than the thirty-first day after contract approval pursuant to R.C. 715.77 (A) (4).

14. **Term.** The initial term of this Contract shall commence upon the effective date and shall terminate on December 31, 2093. The contracting parties may by mutual consent extend this Contract for two additional terms of fifty years each.

The parties acknowledge that the development opportunities to be derived from the Contract are projected to occur well into the future. Road improvements and other infrastructure expansion, long range planning, expanded service, and other catalysts for economic development associated with the McAlister's JEDD may require many years for implementation and

completion. In consequence, resulting economic development may not be realized until decades after the originating improvements. The initial term and additional terms provided for herein are a function of the long range nature of the intended economic development.

15. **Board of Directors.** Businesses will be located and persons will be working within the McAlister's JEDD territory. Therefore, according to R.C. 715.78 (A) (1), the McAlister's JEDD Board of Directors shall be composed of the following members:

Representation	Initial Term
A. One member representing Cheviot [Municipal Member]	1 Year
B. One member representing Green Township [Township Member]	2 Years
C. One member representing the owners of businesses located in the McAlister's JEDD [Business Member]	3 Years
D. One member representing persons working within the McAlister's JEDD [Worker Member]	4 Years
E. One member selected by the members designated in subparagraphs (A) through (D) above. This member shall serve as Chairperson.	4 Years

Initial terms as prescribed by R.C. 715.78 (A) are indicated. Thereafter, terms for each member shall be four years, each term ending on the same day of the same month of the year as the term it succeeds. A member may be reappointed, but no member shall serve more than two consecutive terms on the board.

The Municipal Member may be a municipal elected official or employee; excepting,

however, any one serving in Cheviot's Finance Department or supervised by or reporting to the Finance Director. The City Council shall select the municipal member.

The Township Member may be a Township elected official or employee; with the exception, however, of the Township Administrator. The Green Township Trustees shall select the Township Member.

The Business Member, Worker Member, and Chairperson may be a resident of any of the contracting parties. The Green Township Trustees shall select the Business Member and the Worker Member, who shall be a business owner with a business located in the McAlister's JEDD and who shall be a person working within the McAlister's JEDD respectively.

The contracting parties may by consent adopt rules pertaining to Board Member service, removal for cause, and vacancy.

The authority of the Board of Directors is limited according to statutory authority of R.C. 715.72 to 715.81 and the powers conferred by this Contract applicable to the McAlister's JEDD territory. According to R.C. 715.78 (D), the Board of Directors is a public body for the purposes of R.C. 121.22 [Sunshine Law] and is subject to R.C. Chapter 2744 [Political Subdivision Tort Liability and Immunity].

The members of the Board of Directors shall serve without compensation. Necessary and authorized expenses incurred in relation to Board service shall be reimbursed from McAlister's JEDD funds allocated to the Board according to procedures established by the contracting parties and the Board. Only actual documented costs are eligible for reimbursement.

Three Members of the Board shall constitute a quorum and any action of the Board



requires concurrence of a majority in attendance. The Board shall act through the passage of resolutions. A resolution of the Board shall be effective immediately unless otherwise provided by the resolution or as required by law.

The Chairperson shall preside over meetings of the Board. Either the Chairperson or a majority of the Board may call special meetings upon at least twenty-four hours advanced notice to all Members.

The Board of Directors may adopt policies, procedures, and advance directives which may be administered by the Chairperson acting in conjunction with the Secretary.

16. **Board Activities.** The Board shall meet at least annually to review activities affecting the McAlister's JEDD including, but not limited to, progress on intended improvements, development activities, services to the McAlister's JEDD, and reports pertaining to the McAlister's JEDD, planning affecting the McAlister's JEDD, adequacy of services to the McAlister's JEDD, public relations, and so forth. The Board shall serve as a liaison with the private sector for the purpose of facilitating economic development within the McAlister's JEDD. The Board shall serve in an advisory capacity to the contracting parties, and may make recommendations upon request of the contracting parties in furtherance of economic development within the McAlister's JEDD territory. The Board shall perform such other duties as may be directed by consent of the contracting parties from time to time.

The Township Administrator shall serve as Secretary to the Board of Directors. The Administrator shall not serve as a Member and shall not have voting privileges. In the absence of a Township Administrator, Township may appoint a Secretary. The Secretary shall keep

minutes of Board meetings, and shall keep records of all Board activities, functions, and operations which shall be available for public inspection during routine Township business hours.

The Secretary, upon affirmative resolution of the Board or the fiscal officer of a contracting party, may review Cheviot's records relating to taxation from the McAlister's JEDD territory; provided, however, the record recipient is subject to and shall strictly comply with confidentiality provisions of R.C. 718.13 and the Cheviot Income Tax Codified Ordinance.

The Secretary, upon affirmative resolution of the Board, may request an independent review or audit of Cheviot's tax collection services and collection procedures relating to taxation from the McAlister's JEDD territory. The cost of the independent review or audit shall be treated as a collection related expense payable from JEDD gross income revenues.

The Secretary is authorized to issue and receive correspondence pertaining to Board activities and shall assist the Board with scheduling of meetings, organization of information, document preparation, and such other activities that pertain to Board functions and operations. The Secretary may utilize Township facilities and Township staff in furtherance of Board activities.

The Board may enter into agreements and may establish funds and accounts in furtherance of Board activities. The Board shall establish an appropriations procedure to provide for the payment of operating expenses associated with Board activities and operation of the McAlister's JEDD. The Board shall designate those members who may execute documents on behalf of the Board in furtherance of a resolution; provided, however, any agreements with third

parties shall require the signature of at least two Board Members; or in the alternative, a Board Member and the Secretary.

The Board may apply for and receive and accept grants from governmental units or the private sector for McAlister's JEDD related activities such as construction, maintenance, operation of any facility, research, and development for McAlister's JEDD programs. The Board may also accept contributions in money or in kind for McAlister's JEDD related activities.

The Board may purchase insurance for property, casualty loss, or liability, and may participate in risk management pools or defense organizations regarding McAlister's JEDD activities.

The Board does not have authority to borrow money or to issue notes or bonds, or to assign, pledge, hypothecate, or encumber tax revenue without consent of the contracting parties.

The Board is authorized to do all acts and things necessary or convenient to carry out the powers granted in the Contract. If the Board's authority is unclear or if the Board desires expanded authority, the Board may request clarification of authority or additional authority from the contracting parties by consent.

17. **Income Tax.** This contract grants the McAlister's JEDD Board of Directors power to adopt a resolution to levy an income tax within the entirety of McAlister's JEDD territory at a maximum rate of one (1%) percent based net profits of all business operating with the JEDD District (the "Net Profits Tax"), and one (1%) percent on salaries or other personal service income earned by individuals from services performed within the JEDD (the "Earnings

Tax") , with a cap on earned income at \$100,000 per annum, which cap shall be adjusted annually on January 1st of each year during the existence of the JEDD, based upon the Consumer Prices Index (CPI-U) published by the U.S. Bureau of Labor Statistics on September 30 of the preceding year. Imposition of the earnings tax will not commence until after the final certificate of occupancy for the Retail/Restaurant Facility at McAlister's is issued. Construction workers participating in the construction of the Retail/Restaurant Facility or any other improvements at McAlister's will be excluded from the Earnings Tax imposed under the JEDD.

The resolution levying a Net Profits and Earnings Tax shall require the contracting parties to annually set aside a percentage of the amount of the Net Profits Tax and Earnings Tax collected for the long-term maintenance of the McAlister's JEDD; provided, however, the amount set aside shall not exceed \$1,000.00 annually without consent of the contracting parties. Not earlier than one (1) year after the effective date of the McAlister's JEDD, the Board of Directors, with written consent of the contracting parties, may increase or decrease the rate of taxation on a prospective basis in an amount as the contracting parties agree to in writing; provided, however, that (subject to the cap as hereinabove provided) the applicable rate of taxation shall not exceed the lesser of the rate of the municipal income tax then levied by Cheviot or one (1%) percent.

The resolution levying the Net Profits and Earnings Tax shall be consistent with the provisions of the City of Cheviot Income Tax Ordinance, as it may be amended from time to time; subject however to exceptions, limitations, or other provisions in this Contract or according to law. The Board may designate those provisions of the Cheviot Income Tax Ordinance, as it

may be amended from time to time, which are not applicable to taxation within the McAlister's JEDD; provided, however, that the Board may not exceed the taxing authority permitted by the Cheviot Income Tax Ordinance without consent of the contracting parties.

The Net Profits and Earnings Tax is effective and collection shall commence on the first day of the month following the Board's adopting resolution, unless extended by action of the JEDD not to exceed ninety (90) days after said resolution, or when the final certificate of occupancy for the Retail/Restaurant Facility is issued, whichever is later.

Any contracting party may request an independent audit of any aspect of revenue collection and distribution; provided, however, that the party requesting the audit shall bear the expense of audit, if applicable.

Cheviot shall administer, collect, and enforce the income tax on behalf of the McAlister's JEDD. Cheviot's Director of Finance or his designee shall serve as the Tax Administrator of the Net Profits and Earnings Tax derived from the McAlister's JEDD and shall be responsible for the receipt, safekeeping, accounting, and investment of Net Profits and Earnings Tax revenues pending disbursement. All receipts shall be deposited to a separate McAlister's JEDD account that shall not be co-mingled with revenue from other sources. Earnings on the McAlister's JEDD account and investments related thereto shall be added to the account. The Tax Administrator has authority to grant refunds and to compromise claims for tax, penalties, and interest. The Tax Administrator has authority to commence legal proceedings pertaining to delinquent tax collection and enforcement, and to seek a declaratory judgment regarding disputed interpretation and applicability of the Cheviot Income Tax Ordinance within the

McAlister's JEDD. The Tax Administrator is authorized to investigate and audit taxpayer returns and to issue subpoenas in furtherance of duties. The Tax Administrator is designated to be an interested party and is authorized to commence and defend legal proceedings in the name of the McAlister's JEDD in any way pertaining to the income taxation within the McAlister's JEDD.

The Tax Administrator shall report quarterly to the Board and contracting parties regarding receipt and distribution of Net Profits and Earnings Tax revenue including amounts retained in escrow. The Tax Administrator shall also report quarterly regarding McAlister's JEDD operating income and expenses for the preceding quarter and shall provide short term and long range projections concerning anticipated income and expenses associated with McAlister's JEDD operations. The Tax Administrator shall provide quarterly reports to the Secretary regarding all revenue with taxpayer sources. Such quarterly reports shall be subject to confidentiality covenants as more fully set forth herein.

The Tax Administrator shall pay one (1%) per cent of the gross Net Profits and Earnings Tax revenue into escrow. Escrow proceeds may be utilized to pay refunds, and in general to balance accounts. In the event of an escrow deficiency, the Tax Administrator may invoice the contracting parties according to their pro rata distribution to satisfy the deficiency. Invoices for deficiency are due and payable within thirty days from notice. At the end of each calendar year any escrow surplus shall be distributed as part of the Net Profits and Earnings Tax revenue.

The levy of the Net Profits and Earnings Tax is necessary to effectuate the purpose of this Contract and after 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 Net Profits and Earnings Tax is levied, the Board of Directors is not authorized to cease the levy of the Net Profits and Earnings Tax unless authorized by amendment of this Contract.

For purposes of this Contract, "Net Revenues" means the gross proceeds of the collection of the net profit portion of the McAlister's JEDD Net Profit Tax, and the net payroll portion of the McAlister's JEDD Earnings Tax, less (a) the amount allocated for the long-term maintenance of the McAlister's JEDD as provided in the second paragraph of this Section 17; and (b) the amount placed in escrow as provided in the eighth paragraph of this Section 17.

The Tax Administrator is authorized and may contract on behalf of the McAlister's JEDD with a municipal income tax collection and administration agency to perform the administration, collection and enforcement duties relating to the McAlister's JEDD Net Profit and Earnings Tax as set forth in this Contract. The fees and expenses of such an agency shall be deducted from the City of Cheviot's portion of the McAlister's JEDD Net Revenues and paid to such agency prior to distribution of those revenues as set forth in this Contract.

18. **Primacy.** The McAlister's JEDD territory shall have primacy over residential status relating to collection of the income tax derived from individual earnings with the McAlister's JEDD, notwithstanding provisions of the Cheviot Income Tax Ordinance which may be adopted to the contrary.

19. **Revenue Distribution.** Net tax revenue from the Green Township McAlister's JEDD shall be paid at least quarterly to Green Township and the City of Cheviot, according to



the following formula:

80% of Net Revenue from the Net Profit Tax and Earnings Tax to Township;

20% of Net Revenue from the Net Profit Tax and Earnings Tax to Cheviot.

20. **Allocation.** The contracting parties shall allocate a prorated portion of net income tax revenue to the Board of Directors adequate to meet operating expenses; provided, however, that the amount allocated shall not exceed \$1,000.00 annually without consent of the contracting parties.

21. **Contributions.** In furtherance of the economic development of the Green Township McAlister's JEDD the contracting parties shall undertake with diligence the following improvements and services. The contracting parties acknowledge that priorities may shift according to actual experience. The contracting parties shall cooperate with the common objective of facilitating economic development and serving public needs. The allocation of responsibilities is intended to be fair and equitable in relation to net tax revenue distribution.

A. **Township.**

1. The Township will provide for the construction and improvement of such roads in the Township it deems appropriate to provide an improved transportation network to benefit the McAlister's JEDD.

2. The Township will provide expanded public services to the McAlister's JEDD, such as police protection, fire protection, civil defense, local government, administration, and other services commensurate with economic growth. The Township expects to provide a superior level of



services in order to attract development and to support commerce once it is established.

3. The Township will enact proceedings necessary to provide the necessary funds for public infrastructure items deemed necessary for the development of the Site, as identified by McAlister's in consultation with the Township, and may include but shall not be limited to the addition and/or modification of curb, sidewalks, water mains, gravity and force main public sewers, traffic signal, pavement markings and signage.
4. The total amount to be paid by the Township for the public infrastructure improvements will be an amount not to exceed \$450,000.00.
6. Participating in McAlister's JEDD revenues may enable Township expenditures in furtherance of improvements which are already planned and utilization of tax increment financing and inter-governmental agreements pertaining thereto also in furtherance of improvements.

The improved transportation links from the McAlister's JEDD to surrounding areas are critical for economic development involving improved access for customers and employees, as well as vendors, service providers, suppliers, and others engaged in the stream of commerce.

Intended contributions assume adequacy of net tax revenues, anticipated revenues, funding from other sources, and availability of financing upon acceptable terms in order to provide necessary funding for projects and services. As of the date of commencement of the Contract, the contracting parties do not have specific revenue projections and final construction

estimates to enable defined improvements and improvement schedules. Nevertheless, the contracting parties shall exercise due diligence in planning for improvements and undertaking construction in furtherance of economic development to benefit the McAlister's JEDD, the contracting parties, Hamilton County, and the State of Ohio.

B. **Cheviot.** Cheviot will, upon request of the McAlister's JEDD Board, provide financial services to the Secretary for analysis of economic activity affecting the McAlister's JEDD. The scope of services is limited to utilization of Cheviot's available personnel. The services contemplated by this section are limited to collections, distribution and a review and analysis of economic activity pertaining to the McAlister's JEDD. Cheviot has established departments with capable personnel and is able to provide these limited services in furtherance of its participation. Cheviot will be responsible for the costs of administering, collecting and enforcing the income tax whether incurred by the City of Cheviot or by a municipal income tax collection and administration agency in accordance herewith and with the tax administration agreement between the City of Cheviot and the McAlister's JEDD. Notwithstanding the foregoing, the Township will contribute a one-time sum not to exceed \$5,000.00 to the City of Cheviot to help defray the cost of computer hardware and software upgrades to be purchased by the City of Cheviot. This sum shall be due and payable upon the ratification of this Agreement and the purchase of

the computer upgrades by the City of Cheviot. Thereafter, the Township will be reimbursed for the sum paid to the City of Cheviot from the initial collection of JEDD Revenues prior to the distribution of initial Net Revenues.

- C. If the income tax levied by the McAlister's JEDD Board pursuant to this Contract is determined to be invalid or unenforceable pursuant to a final, non-appealable judgment of a court of competent jurisdiction or by act of law, the contracting parties will have no further duty to make aforesaid contributions under this Contract.

22. **Financing.** This Agreement shall not be construed as a limitation upon the contracting parties to use tax increment financing, improvement districts, special assessments, or other public financing mechanisms which are available, or which may become available, to fund capital improvements, maintenance, or other costs associated with contributions (such as road projects). Furthermore, this Contract shall not be construed to restrict any of the contracting parties from requiring any property owner, operator, or developer (as the case may be) to construct internal improvements such as roads, utilities, or surface water detention, or to participate in the cost in whole or in part of public improvements necessitated by development activity or expanded usage as a condition of approving the proposed activity. In furtherance of the economic development plan, the contracting parties may exercise lawful authority for public acquisition when necessary or appropriate to carry out projects and improvements inside and outside of the McAlister's JEDD territory.

23. **Facility Ownership.** Public facilities, including interests in real property which are acquired, developed, or constructed by a contracting party in furtherance of this Contract, shall be owned, operated, and maintained by that contracting party, unless otherwise agreed. Termination or expiration of the Contract shall not affect ownership of public facilities, including interests in real property located within the McAlister's JEDD territory regardless of method of acquisition or contract purpose pertaining thereto.

24. **Third Party Service Providers.**

A. **Water.** The Greater Cincinnati Water Works supplies public fresh water distribution to the McAlister's JEDD territory. To the extent authorized by law, the Township may establish special assessment procedures for the levy and collection of assessments to recover for the Greater Cincinnati Water Works the costs associated with capital improvements to the water distribution system which may become necessary to support development. In addition, the Township may enter into inter-governmental agreements and third party developer compensation agreements in furtherance of extending adequate supply of water to the McAlister's JEDD.

B. **Sanitary Sewer.** The Metropolitan Sewer District supplies sanitary sewer service to the McAlister's JEDD territory. To the extent authorized by law, the Township may establish special assessment procedures for the levy and collection of special assessments to recover the cost of capital improvements to the sanitary sewer system which may become necessary

to support development. In addition, the Township may enter into inter-governmental agreements and third party developer compensation agreements in furtherance of providing adequate sanitary sewer service to the McAlister's JEDD.

- C. **Electric and Gas Service.** Duke Energy is the utility supplier of electric and natural gas to the McAlister's JEDD territory. To the extent permitted by law, the contracting parties may enter into reimbursement agreements associated with relocating utility distribution lines or other fixtures for road improvements or other public improvements. Deregulation of utilities may enable new opportunities associated with purchase and supply of energy (i.e., electric and natural gas). The contracting parties shall cooperate with one another in undertaking new ventures, investigating new technologies, conservation programs, and financial programs in furtherance of extending adequate energy at competitive rates to the JEDD District VI territory.

25. **Annexation.** Cheviot shall not annex any property located in the JEDD so long as this Contract is in effect. The contracting parties shall cooperate in resisting any annexation, merger, or consolidation process involving Green Township McAlister's JEDD territory to any third party governmental unit or political subdivision (i.e., other township or municipality); provided, however, Cheviot is not required to be a party to litigation or to participate in litigation expense with regard to any annexation, merger, or consolidation process involving Green

Township McAlister's JEDD territory.

26. **Real Property Taxation.** The creation of the McAlister's JEDD shall not be construed to affect real property taxation within the McAlister's JEDD territory and shall not affect the Township's distributive share of real property tax revenue.

27. **Filing.** The Green Township Administrator shall file this Contract with the Director of Development after it becomes effective.

28. **Recording.** The Green Township Administrator shall record this Contract, together with certified copies of the resolutions and ordinances of the contracting parties approving the contract, with the Hamilton County Recorder after it becomes effective.

29. **Integration.** The Contract (upon final approval as revised) with attached exhibits and materials incorporated by express reference represents the entire agreement of the parties and supersedes prior drafts and negotiations. The parties and their respective successors, assigns and transferees, agree to execute any further contracts, agreements, documents or instruments as may be reasonably necessary to effectuate the purpose and intent of this Contract. To the extent permitted by this Contract, and in compliance with all laws and resolutions and ordinances controlling this Contract, the parties and their respective successors, assigns and transferees, specify that any amendment must be in writing and signed by the applicable parties.

30. **Amendment.** The contracting parties may amend the Contract to add areas to the Green Township McAlister's JEDD in compliance with R.C. 715.761, or as said section may be amended from time to time. Amendment to add areas requires unanimous consent of the contracting parties.

The contracting parties reserve the right to amend any provision of the Contract from time to time and to provide Board directives upon approval of all contracting parties. Furthermore, one or more of the contracting parties may enter into independent inter-governmental agreements with one or more contracting parties or non-contracting parties which may be consistent with and in furtherance of the economic development plan and the public purpose stated in this Contract.

The contracting parties may not amend provisions of the Contract which affect the maximum rate of the earnings tax or the cap on each individual's earnings without the consent of the McAlister's JEDD Board of Directors.

31. **Consent.** Any consent of the contracting parties pursuant to this Contract or in furtherance of performance thereof shall be in writing with the concurrence of all contracting parties.

32. **Default.** Non-performance of a contractual duty, unless excused by consent or by operation of law shall constitute a default. A contracting party who questions another party's ability to perform may request adequate assurances in lieu of declaring a default. Any party who contends the existence of a default shall provide notice declaring default to the other contracting parties. A defaulting party shall have sixty days in which to cure the default or to indicate action intended to cure the default by substantial performance as soon as practicable.

In the event that a default is not cured, the party who contends the existence of a default may initiate legal proceedings. In the alternative to judicial legal proceedings, the contracting

parties may consent to alternative dispute resolution. The parties acknowledge that specific performance and other equitable remedies may be appropriate to assure Contract performance due to the potential for irreparable harm upon a default.

33. **Force Majeure.** Performance of contractual duty is excused to the extent that an event or occurrence beyond the control of a contracting party (e.g., act of God, intervening action of independent governmental authority, act of war, riot, labor stoppage or strike, or national or regional tragedy) makes performance impossible or impracticable so long as the affected contracting party did not control the circumstance, or anticipate and accept the risk.

34. **Venue.** The contracting parties stipulate that Hamilton County Court of Common Pleas shall have exclusive venue over legal proceedings between the contracting parties.

35. **Termination.** This Contract may be terminated by consent of the contracting parties; provided, however, the following conditions precedent are applicable before termination is effective:

- A. The legislative actions of the contracting parties must become effective within ninety days of one another;
- B. The termination shall not become effective sooner than ninety days after the last of the contracting parties' action in furtherance of termination becomes effective; and
- C. The termination agreement shall provide for distribution and refund (if applicable) of the income tax revenue derived from the McAlister's JEDD to the respective parties who paid the taxes.



In the event that any improvement projects associated with the McAlister's JEDD are incomplete as of the effective date of termination, the contracting parties shall provide for payment of their respective contract obligations associated with such projects which may become due after termination.

Unilateral withdrawal from the Contract by any contracting party is prohibited.

36. **Notices.** All notices or required communications among the contracting parties shall be in writing and shall be sent via U.S. mail or by courier with delivery receipt as follows:

A. Green Township Trustees  
Green Township Administration Building  
6303 Harrison Avenue  
Cincinnati, OH 45247  
Attn: Township Administrator

With a copy to: Green Township Law Director  
Francis M. Hyle  
5767 Harrison Avenue  
Cincinnati, OH 45248

B. City of Cheviot  
Attn: City Mayor  
3814 Harrison Avenue  
Cheviot, OH 45211

With a copy to: City of Cheviot Law Director  
3914 Harrison Avenue  
Cheviot, OH 45211


A contracting party may designate a substitute or additional contacts. Any communications disseminated via electronic media (e.g., facsimile, E-MAIL) or other media shall not be effective unless confirmed in writing. The parties may dispense with written notice as a condition to any action by written consent or agreement.

37. **Severability.** The unenforceability of any term or covenant of this Contract shall not affect the enforceability of the remaining terms and covenants.

38. **Captions.** Paragraph captions are provided for convenience and are not intended to affect interpretation or application of the Contract covenants.

**INTENDING TO BE LEGALLY BOUND**, the Green Township Trustees and the City of Cheviot have caused this Contract to be duly executed by their authorized officers.

**Green Township Board of Trustees**

By:   
Frank A. Birkenhauer, Administrator  
Pursuant to Authority of Resolution No.  
18-0910-B & 18-1022-F

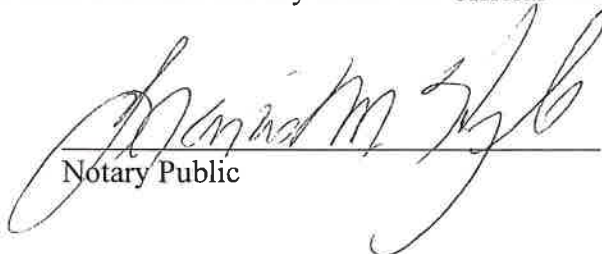
STATE OF OHIO                     )  
  SS:  
COUNTY OF HAMILTON        )

Before me, a Notary Public, in and for said county, personally appeared the above-named Green Township Trustees, County of Hamilton, State of Ohio, by their duly appointed Township Administrator, Frank R. Birkenhauer, by authority of Resolution No. 18-0910-B and Resolution No. 18-1022-F, who acknowledged that he did sign the foregoing instrument and the same is the free act and deed of said Township Trustees and the free act and deed of his personally and as such duly appointed Township official.


IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 22<sup>nd</sup>  
day of October, 2018.



**FRANCIS M. HYLE**  
Attorney at Law  
Notary Public, State of Ohio  
My Commission Has No Expiration  
Date. Section 147.03 O.R.C.

  
\_\_\_\_\_  
Notary Public

City of Cheviot

By:   
\_\_\_\_\_  
Samuel D. Keller, Mayor  
Pursuant to Authority of Ordinance No. 18-18  
and 18-23

STATE OF OHIO                     )  
  SS:  
COUNTY OF HAMILTON        )

Before me, a Notary Public, in and for said county, personally appeared the above-named City of Cheviot, County of Hamilton State of Ohio, by Samuel D. Keller, the duly appointed Mayor, by authority of Ordinance No. 18-18 and Ordinance No. 18-23, who acknowledged that he did sign the foregoing instrument and the same is the free act and deed of said City and the free act and deed of his personally and as such duly appointed City official.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 31  
day of OCTOBER, 2018.



**NICOLE M. KASTNER**  
Notary Public, State of Ohio  
My Commission Expires 05-24-2023

  
\_\_\_\_\_  
Notary Public