

CITY OF CHEVIOT
STATE OF OHIO

ORDINANCE NO. 13 - 14

TO APPROVE THE CREATION OF A JOINT ECONOMIC DEVELOPMENT DISTRICT WITH COLERAIN TOWNSHIP, OHIO, TO BE KNOWN AS THE "LIBERTY NURSING HEALTH CARE" JOINT ECONOMIC DEVELOPMENT DISTRICT .

WHEREAS, the City of Cheviot, having previously published the required notice in a newspaper of general circulation in the City of Cheviot, held a public hearing on the proposed Joint Economic Development District in order to invite public comment about the proposal; and


WHEREAS, the council of the City of Cheviot believes that the proposed Joint Economic Development District is in the best interest of the City of Cheviot;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHEVIOT, STATE OF OHIO, THAT:

Section 1. The Joint Economic Development District, created by the City of Cheviot and Colerain Township, to be known as the Liberty Nursing Health Care Joint Economic Development District near Cross County Highway, is hereby approved. The terms of the Joint Economic Development District are attached hereto as "Exhibit 1" and made a part hereof as is fully rewritten herein.

Section 2. Upon review and approval of the Law Director, the Mayor is authorized and directed to sign the Joint Economic Development District agreement on behalf of the City of Cheviot

Section 3. This ordinance shall become effective at eth earliest time permitted by law.


Deborah M. Slaughter
President of Council

2/2/13
Date passed

Samuel D. Keller

Samuel D. Keller
Mayor

7/2/13

Date approved

Attest:

Jenny M. Eilermann

Jenny M. Eilermann
Clerk of Council

APPROVED AS TO FORM:

Mark G. Waters

MARK G. WATERS
LAW DIRECTOR

CERTIFICATION OF PUBLICATION

I, Jenny M. Eilermann, Clerk of the Council of the City of Cheviot, Ohio, hereby certify that the foregoing ordinance, or a succinct summary, was published in the *Western Hills Press*, a newspaper of general circulation in the City of Cheviot, Ohio, in accordance with Section 731.21 of the Ohio Revised Code, on the following dates :

- 1) _____, 2013, and
- 2) _____, 2013.

Jenny M. Eilermann
Clerk of Council

**COLERAIN TOWNSHIP-CITY OF CHEVIOT
JOINT ECONOMIC DEVELOPMENT DISTRICT I
CONTRACT**

The contracting parties hereby enter into this Contract to create the COLERAIN TOWNSHIP Joint Economic Development District (Liberty Nursing Health Care) pursuant to lawful authority and for good and valuable consideration as more fully set forth:

1. Parties - The contracting parties are:

A. Colerain Township Trustees [hereinafter sometimes referred to as "Township"]
and

B. City of CHEVIOT [hereinafter sometimes referred to as "CHEVIOT"]

2. **Recitals** - The contracting parties are creating the COLERAIN TOWNSHIP Joint Economic Development District I [Liberty Nursing Health Care JEDD] for the purpose of facilitating economic development, to create and preserve jobs and employment opportunities, and to improve the economic welfare of the people in COLERAIN 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 Liberty Nursing Health Care 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 development to occur within the proposed Liberty Nursing Health Care 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 COLERAIN TOWNSHIP Joint Economic Development District I [Liberty Nursing Health Care JEDD] is located entirely within COLERAIN TOWNSHIP, ~~Clermont County, Ohio~~ ^{Hamilton County}. The Liberty Nursing Health Care JEDD is located at the intersection of Livingston and Blue Rock Roads and is further described by parcel number 510-0203-0005-00.

5. **Nexus** - COLERAIN TOWNSHIP is contiguous to the territory of a township, municipal corporation, or county that is contiguous to the City of CHEVIOT. The Liberty Nursing Health Care JEDD is located entirely within COLERAIN TOWNSHIP. CHEVIOT and COLERAIN TOWNSHIP are both located within Hamilton County, Ohio. Hence the geographic eligibility requirements regarding the contracting parties set forth in R.C. 715.72(C)(1) are satisfied.

6. **Liberty Nursing Health Care JEDD Criteria** - The areas to be included in the COLERAIN TOWNSHIP Liberty Nursing Health Care JEDD meet all of the following criteria:

- A. The areas are located entirely within COLERAIN TOWNSHIP;
- B. No electors reside within the area on the effective date of this Contract and the area is zoned in a manner appropriate to the function of the district; 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 COLERAIN TOWNSHIP Liberty Nursing Health Care JEDD consist of 1 parcel and is referred to as the Liberty Nursing Health Care JEDD territory. The following area is to be included in the COLERAIN TOWNSHIP

Liberty Nursing Health Care JEDD:

LEGAL DESCRIPTIONS - See Exhibit A attached.

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 COLERAIN TOWNSHIP Liberty Nursing Health Care JEDD territory.

8. **Zoning** - The Liberty Nursing Health Care JEDD territory is zoned PDR use pursuant to the COLERAIN TOWNSHIP Zoning Resolution.

TERRITORY ZONING MAP OF ALL AREAS - See Exhibit A attached.

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 Township's [i.e., Board of Trustees, Zoning Commission or Board of Zoning Appeals] authority to change zoning district classification of the Liberty Nursing Health Care JEDD territory (or any parcels contained herein), or to amend the COLERAIN TOWNSHIP Zoning Resolution, or to grant conditional use, variance, specially permitted use, or other change pursuant to the COLERAIN TOWNSHIP Zoning Resolution as currently in effect or as amended from time to time.

9. **Economic Development Plan** - The contracting parties approve and ratify COLERAIN TOWNSHIP'S Economic Development Plan for the Liberty Nursing Health Care

JEDD territory. See Exhibit C Economic Development Plan Liberty Nursing Health Care Joint Economic Development District 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, creating and preserving jobs and employment opportunities, and to improve the economic welfare of the people of Colerain Township, the City of Cheviot, Hamilton County, and the State of Ohio.

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(C).

The COLERAIN TOWNSHIP Trustees and the Council for CHEVIOT have each conducted public hearings after required notice and have approved their resolution and respective ordinances authorizing this Contract.

12. **Adoption** - For adoption to occur, a majority of the owners of property (land) located in the Liberty Nursing Health Care JEDD territory and a majority of the owners of businesses located in the Liberty Nursing Health Care JEDD territory shall submit their petitions supporting creation of the COLERAIN TOWNSHIP Liberty Nursing Health Care JEDD.

After adoption of the resolution and ordinances approving this Contract to create the COLERAIN TOWNSHIP Liberty Nursing Health Care JEDD, the contracting parties shall jointly file with the Hamilton County Commissioners (i.e., the legislative authority of the county

within which a 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 Liberty Nursing Health Care 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 C;
- D. certified copies of the ordinances and resolutions of the contracting parties relating to the Contract and Liberty Nursing Health Care 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 Liberty Nursing Health Care JEDD; and
- G. a petition signed by a majority of the owners of businesses located in the areas to be included in the Liberty Nursing Health Care JEDD.

COLERAIN TOWNSHIP shall give timely notice (not later than ten (10) days after filing) by certified mail to:

- A. those owners of property (land) located in the areas comprising the Liberty Nursing Health Care JEDD territory who did not sign the petition; and
- B. those owners of businesses located in the areas comprising the Liberty Nursing Health Care JEDD territory who did not sign the petition.

COLERAIN TOWNSHIP Resolution No. _____ approving the creation of the Liberty Nursing Health Care 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 Liberty Nursing Health Care 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 Liberty Nursing Health Care JEDD is zoned in a manner appropriate to the function of the proposed district.

13. **Effective Date** - The creation of the COLERAIN TOWNSHIP Liberty Nursing Health Care JEDD per approval or deemed approval by the Hamilton County Commissioners shall become effective that date which is not earlier than the thirty-first (31st) 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, 2043. The contracting parties may by mutual consent extend this Contract for two (2) terms of ten (10) 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 Liberty Nursing Health Care 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 Liberty Nursing Health Care JEDD territory. Therefore according to R.C. 715.78(A)(1) the Liberty Nursing Health Care JEDD Board of Directors shall be composed of the following members:

	<u>Representation</u>	<u>Member</u>	<u>Initial Term</u>
A.	One member representing CHEVIOT	[Municipal Member]	1 Year
B.	One member representing Colerain Township.	[Township Member]	2 Years
C.	One member representing the owners of businesses located in the Liberty Nursing Health Care JEDD.	[Business Member]	3 Years
D.	One member representing persons working within the Liberty Nursing Health Care 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.	[Chairperson]	4 Years

Initial terms as prescribed by R.C. 715.78(A) are indicated. Thereafter, terms for each member shall be four (4) 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 (2) 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; excepting however the Township Administrator. The COLERAIN 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 COLERAIN TOWNSHIP Trustees shall select the Business Member and the Worker Member whom shall be a business owner with a business located in the Liberty Nursing Health Care JEDD and whom shall be a person working within the Liberty Nursing Health Care 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 Liberty Nursing Health Care 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 furthermore 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 Liberty Nursing Health Care 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 (24) hours advanced notice to all Members.

The Board of Directors may adopt a) policies, b) procedures, and c) 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 Liberty Nursing Health Care JEDD including but not limited to progress on intended improvements, development activities, services to the Liberty Nursing Health Care JEDD, and reports pertaining to the Liberty Nursing Health Care JEDD, planning affecting the Liberty Nursing Health Care JEDD, adequacy of services to the Liberty Nursing Health Care 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 Liberty Nursing Health Care 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 Liberty Nursing Health Care 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's Assistant 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, the Township may appoint a Secretary. The Secretary shall keep minutes of Board meetings and resolution 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 Liberty Nursing Health Care 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 Section _____. 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 Liberty Nursing Health Care 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 Liberty Nursing Health Care 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 (2) 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 Liberty Nursing Health Care JEDD related activities such as construction, maintenance, operation of any facility, research, and development for Liberty Nursing Health Care JEDD programs. The Board may also accept contributions in money or in kind for Liberty Nursing Health Care 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 Liberty Nursing Health Care 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 including, but not limited to, granting tax credits pursuant to ORC §718.51, §718.151, and other pertinent sections of the Ohio Revised Code. 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 Liberty Nursing Health Care JEDD Board of Directors power to adopt a resolution to levy an income tax within the entirety of the Liberty Nursing Health Care JEDD territory at a maximum rate of two (2%) percent based on:

- a. income earned by persons working within the Liberty Nursing Health Care JEDD (the "Earnings Tax Portion");
- b. net profits of businesses located within the Liberty Nursing Health Care JEDD (the Net Profits portion). The income tax of the district shall follow the provisions of Chapter 718 of the Revised Code, except that no vote shall be required. (See Section 715.74(C)(a)).

The resolution levying an income tax shall require the contracting parties to annually set aside a percentage of the amount of the income tax collected for the long-term maintenance of the Liberty Nursing Health Care 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 Liberty Nursing Health Care 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 the applicable rate of taxation shall not exceed the lesser of the rate of the municipal income tax then levied by CHEVIOT or two (2%) percent.

The resolution levying the income tax shall be consistent with the provisions of the City of CHEVIOT Income Tax Ordinance No. _____, 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 Liberty Nursing Health Care 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 income 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.

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 Liberty Nursing Health Care JEDD. CHEVIOT's Director of Finance or his designee shall serve as the Tax Administrator of the income tax derived from the Liberty Nursing Health Care JEDD 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 Liberty Nursing Health Care JEDD account that shall not be co-mingled with revenue from other sources. Earnings on the Liberty Nursing Health Care 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 declaratory judgment regarding disputed interpretation and applicability of the CHEVIOT Income Tax Ordinance within the Liberty Nursing Health Care 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 Liberty Nursing Health Care JEDD in any way pertaining to the income taxation within the Liberty Nursing Health Care JEDD.

The Tax Administrator shall report quarterly to the Board and contracting parties regarding receipt and distribution of income tax revenue including amounts retained in escrow. The Tax Administrator shall furthermore report quarterly regarding Liberty Nursing Health Care 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 Liberty Nursing Health Care JEDD operations. The Tax Administrator shall provide monthly reports to the Secretary regarding all revenue with taxpayer sources. Such monthly reports shall be subject to confidentiality covenants as more fully set forth.

The Tax Administrator shall pay one (1%) per cent of the gross income 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 (30) days from notice. At the end of each calendar year any escrow surplus shall be distributed as part of the net income tax revenue.

The levy of the income 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 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.

For purposes of this Contract, "Net Revenues" means the gross proceeds of the collection of the net profit portion of the Liberty Nursing Health Care JEDD income tax and earnings tax portion of the Liberty Nursing Health Care JEDD less (i) the amount allocated for the long-term maintenance of the Liberty Nursing Health Care JEDD as provided in the second paragraph of this Section 17, (ii) the amount placed in escrow as provided in the eighth paragraph of this Section 17, and (iii) the amount necessary to pay the costs of administering, collecting and enforcing the income tax whether incurred by the City or by a municipal income tax collection and administration agency in accordance herewith and with the tax administration agreement between the City and the Liberty Nursing Health Care JEDD. This definition is applicable to the total income tax.

The Tax Administrator is authorized and may contract on behalf of the Liberty Nursing Health Care JEDD with a municipal income tax collection and administration agency (such as the Regional Income Tax Agency, "RITA") to perform the administration, collection and enforcement duties relating to the Liberty Nursing Health Care JEDD income tax as set forth in this Contract. The fees and expenses of such an agency shall be deducted from the Liberty Nursing Health Care JEDD income tax revenues and paid to such agency prior to distribution of those revenues as set forth in this Contract.

18. **Primacy** - The Liberty Nursing Health Care JEDD territory shall have primacy over residential status relating to collection of the income tax derived from individual earnings within the Liberty Nursing Health Care JEDD notwithstanding provisions of the CHEVIOT Income Tax Ordinance which may be adopted to the contrary.

19. **Revenue Distribution-** Net tax revenue from the COLERAIN TOWNSHIP Liberty Nursing Health Care JEDD shall be paid at least monthly to COLERAIN TOWNSHIP and the City of CHEVIOT, according to the following formula:

CITY OF CHEVIOT: 10% of Net Revenues

COLERAIN TOWNSHIP: 90% of Net Revenues

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 Colerain Township Liberty Nursing Health Care 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 -**The Township shall reimburse the developer for the construction and improvement of a sanitary sewer extension in the District and will provide for such infrastructure it deems appropriate to provide an improved transportation network to benefit the Liberty Nursing Health Care JEDD.

The Township shall furthermore provide expanded public services to the Liberty Nursing Health Care JEDD, for example, police protection, fire protection, civil defense, local government, administration, and so forth commensurate with economic growth.

The Township expects to provide superior level of services in order to attract development and to support commerce once it is established. Participating in Liberty Nursing Health Care JEDD revenues may enable Township expenditures in furtherance of improvements which are already planned.

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 Liberty Nursing Health Care JEDD, the contracting parties, Hamilton County, and the State of Ohio.

B. **CHEVIOT** - CHEVIOT shall upon request of the Liberty Nursing Health Care JEDD Board provide financial services to the Secretary for analysis of economic activity affecting the Liberty Nursing Health Care 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 Liberty Nursing Health Care JEDD. CHEVIOT has established departments with capable personnel and is able to provide these limited services in furtherance of its participation.

C. If the income tax levied by the Liberty Nursing Health Care 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 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 (e.g., 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 Liberty Nursing Health Care 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 Liberty Nursing Health Care JEDD territory regardless of method of acquisition or contract purpose pertaining thereto.

24. **Third Party Service Providers**

A. **Water** - The City of Cincinnati supplies public fresh water distribution to the Liberty Nursing Health Care JEDD territory. To the extent authorized by law, the Township

may establish special assessment procedures for the levy and collection of assessments to recover 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 Liberty Nursing Health Care JEDD.

B. **Sanitary Sewer** - The Metropolitan Sewer District supplies sanitary sewer service to the Liberty Nursing Health Care JEDD territory. To the extent authorized by law, the Township may establish special assessments 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 Liberty Nursing Health Care JEDD.

C. **Electric and Gas Service** - Duke Energy (fka Cincinnati Gas & Electric) is the utility supplier of electric and natural gas to the Liberty Nursing Health Care 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 Liberty Nursing Health Care JEDD territory.

25. **Annexation** - CHEVIOT shall not annex any property located in COLERAIN TOWNSHIP so long as this Contract is in effect. The contracting parties shall cooperate in resisting any annexation, merger, or consolidation process involving COLERAIN TOWNSHIP Liberty Nursing Health Care 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 COLERAIN TOWNSHIP Liberty Nursing Health Care JEDD territory.

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

27. **Filing** - The COLERAIN TOWNSHIP Administrator shall file this Contract with the Director of Development after it becomes effective.

28. **Recording** - The COLERAIN TOWNSHIP Administrator shall record this Contract, together with certified copies of the resolution 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

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, national or regional tragedy, and so forth) 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** --

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

1. The legislative actions of the contracting parties must become effective within ninety (90) days of one another;

With a copy to: Colerain Township Law Director:
Lawrence E. Barbieri, Esq.
Schroeder, Maundrell, Barbieri & Powers
5300 Socialville Foster Road, Suite 200
Mason, Ohio 45040

B. **CITY OF CHEVIOT**
3814 Harrison Avenue
Cheviot, Ohio 45211

Attn: Mayor Samuel D. Keller

With a copy to: City of Cheviot Law Director :
Mark G. Waters, Esq.
via email: mwaters@cheviot.org

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 COLERAIN TOWNSHIP Trustees and the City of CHEVIOT, have caused this Contract to be duly executed by their authorized officers.

**COLERAIN TOWNSHIP BOARD OF
TOWNSHIP TRUSTEES**

By: _____
James Rowan, Administrator
(Pursuant to Authority of Resolution No. ____)

Lawrence E. Barbieri,
Colerain Township Law Director

STATE OF OHIO
COUNTY OF HAMILTON:

Before me, a Notary Public, in and for said county, personally appeared the above-named COLERAIN TOWNSHIP TRUSTEES, County of Hamilton, State of Ohio, by their duly appointed Township Administrator, James Rowan, by authority of Resolution No. _____, 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 _____ day of _____, 2013.

Notary Public

CITY OF CHEVIOT, OHIO

By: Samuel D Keller
Samuel D. Keller, Mayor
(Pursuant to authority of Ordinance No. 13-14)

Mark G. Waters
Mark G. Waters, Law Director
City of Cheviot, Ohio
STATE OF OHIO
COUNTY OF HAMILTON:

Before me, a Notary Public, in and for said county, personally appeared the above-named CITY OF CHEVIOT, State of Ohio, by its duly authorized Mayor, Samuel D. Keller, by authority of Ordinance No. 13-14, 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 him personally and as such duly appointed City official.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 2nd day of July, 2013.

Mark G. Waters
Notary Public

Mark G. Waters
Attorney at Law
My Commission has no expiration

JULY 1, 2010

**LEGAL DESCRIPTION
19.2698 ACRES**

SITUATE IN SECTION 14, TOWN 2, ENTIRE RANGE 1, COLERAIN TOWNSHIP, HAMILTON COUNTY, OHIO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN EXISTING 1" IRON BAR AT THE NORTHEAST CORNER OF GRACE ACRES SUBDIVISION AS RECORDED IN PLAT BOOK 358, PAGE 57 OF THE HAMILTON COUNTY, OHIO RECORDS; THENCE ALONG THE WESTERLY LINE OF SAID GRACE ACRES SUBDIVISION, SOUTH 05°15'18" WEST, 191.18 FEET TO A SET 5/8" IRON PIN AND CAP; THENCE LEAVING THE WESTERLY LINE OF SAID GRACE ACRES SUBDIVISION, NORTH 81°11'39" WEST, (PASSING A SET 5/8" IRON PIN AND CAP AT 1275.87 FEET) 1,305.92 FEET TO A POINT IN THE CENTERLINE OF LIVINGSTON ROAD, SAID POINT BEING WITNESSED BY AN EXISTING P.K. NAIL WHICH IS 0.39 FEET EAST; THENCE ALONG THE CENTERLINE OF LIVINGSTON ROAD, NORTH 05°24'51" EAST, 627.75 FEET TO A SET MAG NAIL AT THE INTERSECTION OF THE CENTERLINE OF LIVINGSTON ROAD AND THE SOUTHERLY LIMITED ACCESS RIGHT OF WAY OF CROSS COUNTY HIGHWAY (S.R. 126/RONALD REAGAN HIGHWAY); THENCE LEAVING THE CENTERLINE OF LIVINGSTON ROAD ALONG THE SOUTHERLY LIMITED ACCESS RIGHT OF WAY OF CROSS COUNTY HIGHWAY (S.R. 126/RONALD REAGAN HIGHWAY) THE FOLLOWING THREE COURSES AND DISTANCES, SOUTH 76°33'09" EAST, 277.94 FEET TO A SET 5/8" IRON PIN AND CAP; THENCE SOUTH 87°57'41" EAST, 451.00 FEET TO A SET 5/8" IRON PIN AND CAP AND SOUTH 82°55'31" EAST, 577.06 FEET TO A SET 5/8" IRON PIN AND CAP; THENCE SOUTH 05°18'47" WEST, 484.82 FEET TO THE PLACE OF BEGINNING.

THUS CONTAINING 19.2698 ACRES OF LAND AND BEING SUBJECT TO THE RIGHT OF WAY OF LIVINGSTON ROAD AND ALL EASEMENTS AND RESTRICTIONS OF RECORD.

BEARING USED IN THIS LEGAL DESCRIPTION ARE RELATIVE TO NAD-83, OHIO STATE PLANE COORDINATE SYSTEM SOUTH ZONE BASED ON REALTIME GPS OBSERVATIONS OF HAMILTON COUNTY, OHIO GEODETIC CONTROL MONUMENTS.

THE ABOVE DESCRIBED REAL ESTATE IS ALL OF THE SAME PREMISES DESCRIBED IN DEED BOOK 3881, PAGE 323 OF THE HAMILTON COUNTY, OHIO RECORDS. BEING THE RESULT OF A SURVEY AND PLAT DATED 6-30-2010, MADE BY STEPHEN L. CAHILL, PLS, OF ABERCROMBIE & ASSOCIATES, INC., OHIO REGISTERED SURVEYOR NUMBER 7862.

05-0071A-19.2698AC.DOC





Economic Development Plan Liberty Nursing Health Care
Joint Economic Development District

The Economic Development Plan (Plan) for the Liberty Nursing Health Care JEDD is a combination of public and private funds used to facilitate the economic vitality of the subject parcels. The administration of the Plan will include cooperation from the Board of Trustees in conjunction with the City of Cheviot and the property owners and employees of the Joint Economic Development District (District). Directors of the District will use all revenue accumulated through the operation of the District consistent with the terms and conditions of the incorporating documents of the District.

Generally, the Plan for the District involves a cooperative environment between the public and the private sectors. The District will use all-economic tools available to attract, sustain and enhance job creation, economic development and the quality of life for residents of Colerain Township, the City of Cheviot, and Hamilton County, including but not limited to:

1. Earnings Tax
2. Developer Contributions

Specifically, the Plan shall require the Liberty Nursing Health Care adequately addresses all zoning, infrastructure and aesthetic issues. Colerain Township shall also agree to distribute the first 1% portion of the earnings tax revenue to the developer as reimbursement for sanitary sewer infrastructure for a maximum of \$50,000 per year with a maximum total of \$300,000.



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- The Plan will include a mix of revenues generated from sources such as:
 - o Earnings Tax
 - o Developer Contributions
- The Developer will provide an infrastructure that is conducive to positive economic growth
- The Township through revenues received from the improvements within the District shall distribute revenue to the Colerain Township CIC over the course of the Plan in order to further promote economic development.

The nature of Plan is "fluid" and the Directors should view the Economic Plan as a framework. The availability of revenue based upon the rate at which the development occurs will dictate the ability of the District to make improvements to the public infrastructure and promote economic development and job creation.

Schedule for Collection of Income Tax:

The Contract provides that the District will levy an income tax of 2% as set forth in Section 17 of the Contract. The income tax is effective and collection shall commence on the 1st 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. The City of Cheviot shall administer, collect and enforce the tax on behalf of the Liberty Nursing Health Care JEDD all in accordance with Section 17 of the Contract.

Liberty Nursing Health Care
J.E.D.D.
Colerain Township - City of Cheviot
Board of Directors

**RESOLUTION NO. 2015-01
LEVYING AN INCOME TAX IN J.E.D.D. DISTRICT I**

The Colerain Township-City of Cheviot Joint Economic Development District No. 1 (Liberty Nursing Health Care JEDD) Board of Directors met on March 25, 2015 with the following members present:

Frank Birkenhauer
Bruce Carpenter
Jeff Ritter
Tom Braun
Jeff Urban

RESOLVED by the Board of Directors of the Colerain Township-City of Cheviot Joint Economic Development District No. 1 ("Liberty Nursing Health Care J.E.D.D.") of Colerain Township, and the City of Cheviot, that

WHEREAS, the Liberty Nursing Health Care J.E.D.D. Board of Directors desires to levy an income tax within the entirety of the J.E.D.D. territory at the rate of one per cent (2%) based on income earned by persons working in the Liberty Nursing Health Care J.E.D.D. to be collected via employee withholding from payroll located in the Liberty Nursing Health Care J.E.D.D.; and

WHEREAS, the Liberty Nursing Health Care J.E.D.D. Board of Directors has the authority to adopt a resolution to levy an income tax through the Liberty Nursing Health Care J.E.D.D. Contract including **Section 17 - Income Tax** as permitted under the Ohio Revised Code 715.72 through 715.81;

THEREFORE BE IT RESOLVED the Liberty Nursing Health Care J.E.D.D. Board of Directors does hereby levy an income tax within the entirety of the Liberty Nursing Health Care J.E.D.D. territory at the rate of one percent (2%) based on income earned by persons working in the Liberty Nursing Health Care J.E.D.D. to be collected via employee withholding from payroll located in the Liberty Nursing Health Care J.E.D.D. **effective as of March 27, 2015 with collection of said taxes to begin on - April 10, 2015.**

BE IT FURTHER RESOLVED that one (1%) per cent of the income tax collected shall be set aside for the long term maintenance of the Liberty Nursing Health Care J.E.D.D.; provided, however, the amount set aside shall not exceed \$1,000 annually without consent of the contracting parties.

Director R. Hux moved for the adoption of the foregoing resolution.