

COOPERATIVE DEVELOPMENT AGREEMENT

This COOPERATIVE DEVELOPMENT AGREEMENT (the “Agreement”) is entered into as of this [\_\_\_] day of [\_\_\_], 2015 by and between the CITY OF MARYSVILLE, OHIO (the “City”), a municipal corporation duly organized and validly existing under the laws of, and a political subdivision of, the State of Ohio (the “State”) and having an address for purposes hereof at 209 South Main Street, Marysville, Ohio 43040 and MILLCREEK TOWNSHIP, UNION COUNTY, OHIO (the “Township” and, together with the City, the “Cooperative Parties”), a political subdivision of the State and having an address for the purposes hereof at 10420 Watkins Road, Marysville, Ohio 43040.

RECITALS

WHEREAS, the Cooperative Parties, which are neighboring communities in Union County, Ohio, share a mutual interest in economic development that creates and preserves jobs and employment opportunities throughout Union County, thereby improving the economic welfare of the residents of the City, the Township, and the State of Ohio (the “State”) as a whole; and

WHEREAS, the Cooperative Parties seek a collaborative approach to fostering and supporting business growth in their communities, including specifically growth that is anticipated to occur in certain real property located within the territorial boundaries of the Township and depicted on Exhibit A hereto (the “Cooperative District”); and

WHEREAS, Ohio Revised Code (“ORC”) Section 9.482 authorizes contracts for services between political subdivisions, and ORC Chapter 715 empowers municipal corporations and townships to establish a joint economic development district, or “JEDD”, for the purposes of facilitating economic development by means of, among other things, providing for appropriate infrastructure and public services to support such growth and establishing an income tax to pay the costs thereof; and

WHEREAS, the Cooperative Parties have determined to pursue the creation of a JEDD with respect to the Cooperative District pursuant to the terms hereof and will, to that end, enter into an agreement creating and governing the JEDD according to the terms set forth in Exhibit B; and

WHEREAS, the legislative authorities of the City and the Township each have approved, authorized and directed the City and the Township, respectively, to make and enter into this Agreement by and through their respective officers in accordance with Ordinance No. [\_\_\_], adopted by the City on [\_\_\_], 2015, and Resolution No. [\_\_\_], enacted by the Township on [\_\_\_], 2015.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and promises herein contained, the sufficiency of which are acknowledged by the parties hereto, the City and the Township hereby agree as follows:

Section 1. Term.

(a) This Agreement shall be and remain in full force and effect from the date hereof and until [\_\_\_\_], 2065 (the “Initial Term”), at which time, unless otherwise terminated by either or both of the Cooperative Parties, this Agreement automatically shall renew for two successive terms of twenty-five (25) years each (each, a “Renewal Term”). During the final year of the Initial Term and the final year of each Renewal Term, either of the Cooperative Parties may, by written notification to the other party following authorization by its legislative authority, cause this Agreement to terminate at the end of such term. The provision herein for the Initial Term of this Agreement recognizes that the accrual of benefits to the parties from this Agreement may take decades.

(b) This Agreement may be terminated at any time by mutual consent of Cooperative Parties as authorized by their respective legislative authorities as provided herein. Unless otherwise agreed, in order for such termination to be effective, the legislative actions of the Cooperative Parties that terminate this Agreement must occur and be effective within a period of ninety (90) days of each other.

Section 2. Covenants of the City and the Township.

(a) Territory. The Cooperative Parties hereby agree to the covenants of this Section 2 with respect to any parcel of real property located, either in whole or in part, within the Cooperative District, which would include any developable land, including but not limited to commercial, industrial, manufacturing, business, etc. identified in the Millcreek Zoning Resolution or any adopted supplement. It is the intent of the Cooperative Parties that this territory of the Cooperative District, as depicted in Exhibit A, may be amended from time to time so that it conforms with Township rezoning. An amendment to the territory of the Cooperative District requires written consent of the Township Board of Trustees and the Marysville City Manager or chief administrative officer. Any other amendment to the Agreement shall be made in accordance with Section 5(h) hereof.

(b) Water and Sewer Service. Throughout the term of this Agreement, the City will not provide or permit access to its municipal water and sewer services to any parcel of real property within the Cooperative District, unless and until the following conditions have occurred:

(i) Either: (A) the parcel has been added to the territory of the JEDD, as defined in Section 3 hereof, under the procedures set forth in either ORC Section 715.72 et seq. relating to the establishment of the JEDD, ORC Section 715.761 relating to the expansion thereof; or (B) the parcel receives access to municipal water and sewer services provided by the City as of the date of this Agreement; and

- (ii) The owner of the parcel of real property shall have executed and delivered to the City, and the City shall have recorded with the County Recorder of Union County, Ohio at the cost of the owner of the parcel of real property, an instrument prescribed by the City to serve as evidence of a covenant running with the land with respect to the obligation of the owner and any future owner thereof to pay any applicable income tax levied by the JEDD throughout its term and any renewal thereof and to cause any businesses and employees located thereon to pay any applicable income tax levied by the JEDD throughout its term and any renewal thereof; and
- (iii) The owner or owners of any business located within the parcel of real property at the time of the extension of municipal water and sewer services, regardless of whether the owner or owners petitioned to join the JEDD, shall have executed and delivered to the City an instrument prescribed by the City to serve as the commitment of such business to cooperate in all respects with the operation of the JEDD, including through payment without dispute of any applicable income tax levied by the JEDD throughout its term and any renewal thereof.

Unless and until ORC Chapter 715 is amended to provide for the inclusion of residential property in a joint economic development district, this Section 2(b) shall not apply to any parcel of real property within the Cooperative District that is used for, or will upon improvement thereof be used for, residential purposes.

(c) Sewer. The Cooperative Parties shall cooperate in good faith and take all steps necessary to secure any amendments to the Union County-Marysville Water/Sewer Service Agreement as may be necessary to support the JEDD.

(d) Public Infrastructure Improvements. The Cooperative Parties shall collaborate through the JEDD with respect to capital improvements in the event that the Cooperative Parties determine that economic development in the territory of the JEDD (the “JEDD District”) creates a demand for public infrastructure improvements serving the JEDD District or the area surrounding the JEDD District including, but not limited to, and solely upon joint agreement of the Cooperative Parties, paying costs of infrastructure improvements within the JEDD District or, upon joint agreement of the Cooperative Parties, otherwise benefitting the JEDD District, which infrastructure improvements may include improvements relating to roads, water and sewer, electric, natural gas, fiber, cable, or any other capital improvements directly supporting non-residential development within the Cooperative District, but which infrastructure improvements shall not include ordinary maintenance or repairs (collectively, the “Infrastructure Improvements”). In determining whether to pay the costs of the roadway improvements, the JEDD shall prioritize improvements recommended by the Union County Thoroughfare Plan as amended from time to time, or traffic studies prepared in connection with proposed development within or in the vicinity of the JEDD District. The JEDD may deviate from the Union County Thoroughfare Plan upon the approval of the Cooperating Parties provided that a completed traffic study or other study supports the alternative improvements.

(e) Road Maintenance. Upon joint agreement of the Cooperative Parties, the Township will enter into a service agreement with Union County with respect to the maintenance and repair

of dedicated and accepted Union County roads within the JEDD District, using the Union County Thoroughfare Plan or data from traffic studies whenever available to prioritize maintenance and repair projects.

Section 3. Terms of the JEDD.

(a) JEDD Agreement. The Cooperative Parties will take all steps necessary to create and enter into a joint economic development district agreement (the “JEDD Agreement”) under ORC Section 715.72 et seq. in substantially the form attached hereto as Exhibit B, which JEDD Agreement shall contain the following terms and provisions:

(b) JEDD Board. The JEDD Agreement shall provide for the governance of the JEDD by a board (the “Board”) appointed as follows, pursuant to ORC Section 715.78(A)(1):

- (i) The initial City member of the Board shall be [\_\_\_\_]. Subject to any applicable restrictions in ORC Section 715.78, all future City members of the Board shall be appointed by City Council and shall serve at the pleasure of City Council.
- (ii) The initial Township member of the Board shall be [\_\_\_\_]. Subject to any applicable restrictions in ORC Section 715.78, all future Township members of the Board shall be appointed by a majority vote of the Board of Township Trustees and shall serve at the pleasure of the Board of Township Trustees.
- (iii) The representative of the business owner or owners located in the JEDD District shall be appointed by mutual agreement of the City member and the Township member, provided that if the City member and the Township member do not so appoint a representative under this Section 3(b)(iii) within thirty (30) days after (A) the effective date of the JEDD Agreement, (B) the end of a term of office for a business owner representative, or (C) the occurrence of any other vacancy in the office of business owner representative, the chairperson of the Board shall notify the business with the greatest number of employees working in the JEDD District that said business is entitled to appoint the business owner representative, provided that any such appointment shall be made in writing by a duly authorized officer of the appointing business and delivered to the chairperson of the Board.
- (iv) The representative of the employees working in the JEDD District shall be appointed by mutual agreement of the City member and the Township member, provided that if the City member and the Township member do not so appoint a representative under this Section 3(b)(iv) within thirty (30) days after (A) the effective date of the JEDD Agreement, (B) the end of a term of office for a business owner representative, or (C) the occurrence of any other vacancy in the office of business owner representative, the chairperson of the Board shall notify the business with the greatest number of employees working in the JEDD District that said business is entitled to appoint the employee representative, provided that any such appointment shall be made in writing by a duly authorized officer of the appointing business and delivered to the chairperson of the Board.

- (v) The fifth member of the Board shall be nominated by the Board of County Commissioners of Union County and appointed by a majority vote of the Township member, the City member, the business owner representative, and the employee representative.
- (vi) The Board shall establish procedures for appointing future business owner and employee representatives.

Section 4. Power

(a) Territory. The JEDD District initially will include the first property or properties within the Cooperative District seeking access to the municipal water and sewer services of the City after the date hereof and not satisfying the exemption criteria set forth by Section 2(b)(i) and (ii) hereof. The Cooperative Parties will, from time to time and as necessary to accommodate proposed business development, cooperate with respect to additions of properties to the JEDD District under ORC Section 715.761, including where applicable and permitted under ORC Chapter 715 any properties located outside of the boundaries of the Cooperative District. For the avoidance of doubt, this Agreement shall not be interpreted to prohibit the Cooperative Parties from adding to the JEDD District a property outside of the Cooperative District or a property that does not meet the requirements of Section 2(b) hereof.

(b) Term. The JEDD Agreement shall have a term of thirty (30) years from its effective date and will automatically renew for two terms of fifteen (15) years each, unless either party acts to prevent such renewal according to terms of the JEDD Agreement.

(c) Income Tax. The JEDD Agreement will provide for an income tax on income earned by persons working within the JEDD District and based on net profits of businesses located in the JEDD District at a rate equal to the income tax levied in the City at the time of the JEDD Agreement, subject to adjustment by the Board of Directors of the JEDD (the “JEDD Board”) in the event of any change in the City income tax rate. The tax will be administered by the City, and its proceeds will be distributed as follows:

- (i) To the JEDD Board, seventy percent (70%), including (A) fifty-five percent (55%) of total JEDD District income tax revenue for costs of Infrastructure Improvements; (B) ten percent (10%) for JEDD Board economic development marketing by contract with the Union County Economic Development Partnership; and (C) five percent (5%) for JEDD Board administrative expenses;
- (ii) To the City, fifteen percent (15.0%), including payment to the City of three percent (3.0%) for its services in administering the JEDD income tax; and
- (iii) To the Township, fifteen percent (15.0%), which may be used, among other things, for costs incurred by the Township pursuant to Section 2(d) and (e) hereof.

(a) City Contributions. The City will agree in the JEDD Agreement to provide the following services to the JEDD District: water and sewer service, collection of JEDD income tax, and services as fiscal officer to the JEDD, including administration of JEDD budgets and accounts.

(b) Township Contributions. The Township will agree in the JEDD Agreement to provide the following services to the JEDD District: maintenance and repair of dedicated and accepted Township roads, police and fire protection, and zoning.

(c) Authority. The JEDD Agreement will authorize the JEDD Board, among other things and with the consent and agreement of the City, the Township and, where applicable, the County, to pay certain costs of such Infrastructure Improvements as may be necessary to support growth within the JEDD District.

(d) Incentives. Pursuant to ORC Section 715.81, throughout the term of the JEDD, each Contracting Party shall obtain the express written consent of the other Contracting Party prior to granting any tax exemption or abatement for any property in the JEDD District.

Section 4. Annexation Moratorium.

This Agreement shall be considered an Annexation Agreement pursuant to ORC Section 709.192. The City hereby agrees that, during the Initial Term or any Renewal Term of this Agreement, it shall not annex any real property within the Cooperative District. To the extent not prohibited by law, the City shall not accept any such annexation within the Cooperative District during the Initial Term or any Renewal Term of this Agreement.

Section 5. Other.

(a) Notices. Any notice or consent required or permitted to be given by or on behalf of either party to the other shall be given by mailing such notice or consent by United States certified or registered mail, postage prepaid and return receipt requested, or via a reputable express overnight mail service which provides proof of delivery addressed to the parties as set forth below or at such other address as may be specified from time to time in writing delivered to the other party. Notices shall be effective upon receipt or refusal, as the case may be.

If to the City: 209 South Main Street  
Marysville, Ohio 43040  
Attn: Law Director

If to the Township: 10420 Watkins Road  
Marysville, Ohio 43040  
Attn: Legal Counsel

(b) Waivers. All waivers of the provision of this Agreement must be in writing and signed by the appropriate authorities of the City and Township, and all amendments hereto must be in writing and signed by the appropriate authorities of the City and Township. No consent or waiver, express or implied, by either party to or of any breach of any covenant, condition, or duty

of the other party shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty to be observed by the other party.

(c) Severability. In the event that any portions, sections or subsections of this Agreement are rendered invalid by the decision of any court or by the enactment of any law, ordinance or regulation, such provision of this Agreement will be deemed to have never been included therein and the balance of the Agreement shall continue in full force and effect.

(d) Authority. Each party to this Agreement hereby represents and warrants that it is executing this Agreement with the full and proper authority and that the parties whose names appear hereon are duly authorized and empowered to make and execute this Agreement and that this Agreement is supported by consideration.

(e) Counterparts. This Agreement may be executed in counterpart, and in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same Agreement.

(f) Further Actions. The Cooperative Parties agree to execute such additional documents, and take such further actions, as may reasonably be required to carry out the provisions and intent of this Agreement.

(g) In General. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement by either party hereto, or any successor to such party, such party (or successor) shall, within fifteen (15) days of receipt of written notice from the other, proceed to cure or remedy such default or breach. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations. All rights and remedies shall be cumulative and shall not be construed to exclude any other remedies allowed at law or in equity.

(h) Amendments and Modifications. Except as otherwise provided herein, this Agreement may be amended by the Cooperative Parties only in writing and only following formal legislative approval of such amendment by both the Township Board of Trustees and Marysville City Council.

[Signature Page Follows]

IN WITNESS WHEREOF, the City and the Township have caused this Agreement to be executed by their duly authorized officers as of [\_\_\_\_], 2015.

TOWNSHIP OF MILLCREEK,  
UNION COUNTY, OHIO

CITY OF MARYSVILLE, OHIO

By: \_\_\_\_\_  
Trustee

By: \_\_\_\_\_  
John Gore, Mayor

By: \_\_\_\_\_  
Trustee

Approved as to form and correctness:

By: \_\_\_\_\_  
Trustee

\_\_\_\_\_  
Tim Aslaner, Director of Law



EXHIBIT A

MAP OF COOPERATIVE DISTRICT

[Map of Cooperative District]

EXHIBIT B

FORM OF JEDD AGREEMENT

CITY OF MARYSVILLE-MILLCREEK TOWNSHIP JOINT ECONOMIC  
DEVELOPMENT DISTRICT AGREEMENT

This City of Marysville-Millcreek Township Joint Economic Development District Agreement (the "Agreement") is made and entered into this [\_\_\_] day of [\_\_\_], 2015, by and between the CITY OF MARYSVILLE, OHIO (the "City"), a municipal corporation duly organized and validly existing under the laws of, and a political subdivision of, the State of Ohio (the "State") and having an address for purposes hereof at 209 South Main Street, Marysville, Ohio 43040 and MILLCREEK TOWNSHIP, UNION COUNTY, OHIO (the "Township" and, together with the "City", the "Contracting Parties" and each a "Contracting Party"), a political subdivision of the State and having an address for the purposes hereof at 10420 Watkins Road, Marysville, Ohio 43040, in accordance with the terms and provisions set forth herein.

WHEREAS, the City and the Township desire to promote cooperative economic development efforts by means of creating a joint economic development district (the "District" or the "JEDD") pursuant to Ohio Revised Code ("ORC") Sections 715.72 through 715.81 (the "Act"), which District shall facilitate economic development to create or preserve jobs and employment opportunities within the meaning of ORC Section 725.72(C), thereby improving the economic welfare of residents of the City, the Township, and the State of Ohio (the "State") generally; and

WHEREAS, pursuant to a Cooperative Development Agreement, dated [\_\_\_], 2015 (the "Cooperative Development Agreement"), between the City and the Township, the Contracting Parties agreed to negotiate and execute a joint economic development district agreement to promote and support economic development within certain defined territory of the Township; and

WHEREAS, the City and the Township are located entirely within Union County, Ohio ("Union County") and share contiguous territorial boundaries; and

WHEREAS, the legislative authorities of the City and the Township have each approved, authorized and directed the City and the Township, respectively, to make and enter into this Agreement, by and through their respective officers in accordance with Ordinance No. [\_\_\_], enacted by the City on [\_\_\_], 2015, and Resolution No. [\_\_\_], adopted by the Township on [\_\_\_], 2015.

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

Section 1.     Creation of District and Purpose.

The City and the Township, as contracting parties within the meaning of ORC Section 715.72(A)(1), by their combined action evidenced by the adoption of legislation identified above

and by the duly authorized execution of this Agreement, hereby create the District, which shall be known as the “City of Marysville-Millcreek Township Joint Economic Development District.” The District shall be a joint economic development district under, operating pursuant to, the Act.

Each Contracting Party hereby acknowledges and agrees as follows with respect to this Agreement and the District:

- A. that it is entering into this Agreement freely and without duress or coercion;
- B. that the creation of the District and the levy of an income tax within the District as provided herein will enable the City, the Township, and the District to more efficiently provide governmental services to the area within the District and to more effectively promote economic development within the District, the City, and the Township;
- C. that the District shall, and it is the purpose of the District to, facilitate economic development to create or preserve jobs and employment opportunities and to improve the economic welfare of the people in the State, Union County, the City, and the Township; and
- D. that consideration exists to support this Agreement.

Section 2. Territory of the District.

The territorial boundaries of the District are described in Exhibit B attached hereto and incorporated by reference into this Agreement. The territory of the District is located entirely within the territorial boundaries of the Township. The territory to be included in the District is currently zoned [\_\_\_], which zoning designation is appropriate to the function of the District.

Section 3. Formation of the District.

It is the intent of the Contracting Parties that this Agreement be approved without an election by complying with the requirements of ORC Section 715.77(A)(1). The Contracting Parties represent and warrant as follows:

- A. The resolution approving this Agreement has been approved by a unanimous vote of the Township Trustees;
- B. Owners of a majority of the properties and business located within the proposed District have requested by means of petition, as contemplated under the Act, that the District be formed; and
- C. The territory to be included in the District is zoned in a manner appropriate to the proposed function of the District.

The Township shall be responsible for filing with the County Commissioners of Union County the documents required to be filed by ORC Sections 715.75 and 715.76, respectively. The Township shall be responsible for filing with the Director of Development Services of the State the documents required by ORC Section 715.771. Each Contracting Party shall separately bear its own costs related to the establishment of the District, including professional engineering, legal counsel, or other services that may be necessary.

Section 4. Term.

The initial term of this Agreement shall commence on the date that the Agreement is first effective, being the date that is thirty-one (31) days after the Agreement is approved in accordance with ORC Section 715.77(A)(4), and shall be for a period of thirty (30) years. This Agreement shall automatically extend for two renewal terms of fifteen (15) years each in duration unless (i) either the Township or City notifies the other Contracting Party in writing at least one year prior to the expiration of the original term that it does not intend to renew this Agreement, or (ii) either the Township or the City notifies the other Contracting Party in writing at least one year prior to the expiration of the original term or any renewal term that it is requesting to extend this Agreement beyond the originally contemplated term of thirty (30) years or the originally contemplated renewal term of fifteen (15) years, as applicable, in which case this Agreement shall extend in accordance with such written request if such written request is accepted by the other Contracting Party. In the event of any expansion of the District pursuant to Section 6 herein, the Agreement shall begin a new Initial Term, followed by up to two Renewal Terms pursuant to the terms herein.

This Agreement may only be terminated in compliance with applicable statutory provisions and in accordance with Section 6 of this Agreement. The Agreement shall continue in existence throughout its term and shall be binding on the Contracting Parties and on either Contracting Party's succeeding entities, whether such entities succeed by annexation, merger, or otherwise.

The provision herein for the initial term and any extension of this Agreement recognizes that the accrual of benefits to the Contracting Parties resulting from this Agreement may take decades.

Section 5. Amendments to the Agreement Other than to Amend to Add Property.

The Contracting Parties may amend or modify the terms of this Agreement or terminate this Agreement at any time by mutual agreement. An amendment or modification to this Agreement shall not be effective or binding on the Contracting Parties unless the legislative authorities of both Contracting Parties pass the appropriate legislation agreeing to and authorizing the amendment to this Agreement within ninety (90) days of each other.

This Agreement may only be terminated pursuant to its terms as set forth in Section 4 or in accordance with this Section. If the Contracting Parties mutually agree to terminate this Agreement, such agreement to terminate must provide for the unwinding of this Agreement and must be approved by the legislative authorities of both Contracting Parties within ninety (90) days of each other. Upon termination of this Agreement, the City shall keep and maintain the records of the District in accordance with the City's records retention policy.

If any portion of this Agreement becomes null and void or illegal, or the performance of any provision of this Agreement becomes impossible, through any subsequent change, amendment or enactment of state law or through a ruling of any court that has jurisdiction over the Contracting Parties, the Contracting Parties agree to negotiate in good faith to reach mutual agreement regarding the manner and method of amending this Agreement to bring the Agreement into compliance with then applicable statutory provisions or case law and to maintain the intent of the Contracting Parties under this Agreement and/or to rebalance the equities between the Contracting

Parties consistent with the intent of this Agreement. In the event that the Contracting Parties are unable to reach a new agreement that is authorized and approved by the legislative authorities of both Contracting Parties, then the Contracting Parties may either mutually agree to terminate this Agreement in accordance with the provisions of the next paragraph, or either Contracting Party may apply to a court of competent jurisdiction to interpret the contract consistent with then applicable statutes or case law, and if necessary modify or terminate this Agreement in order to comply with then applicable statutes or case law and to preserve the equities of the Contracting Parties as set forth in this Agreement.

Section 6. Addition of Property to the District.

Subject to any applicable provisions of the ORC now existing or hereafter adopted, this Agreement, including exhibits hereto, may be amended from time to time to add property to the District. Property may be added to the District upon the filing with either Contracting Party of a request by the majority of the owners of the property to be added to the District and a majority of the owners of the businesses to be added to the District. Upon agreement of both Contracting Parties, the Agreement, including Exhibits A, B, and C hereto, shall be amended to add such property to the territory of the District pursuant to the request of the majority of the owners of that property and a majority of the owners of those businesses. Property added to the District shall meet all of the requirements of Section 3 herein and ORC Section 715.73, and all procedures of ORC Section 715.761 shall be followed in connection with any such addition of property to the District. Property shall not be removed from the District without the agreement of both Contracting Parties.

Section 7. Contributions and Covenants of the Contracting Parties.

A. The City shall:

- i. Provide municipal water and sewer service to the District in accordance with all City policies, rules, and regulations.
- ii. Collect, administer, enforce, and audit the JEDD income tax applicable in the District in accordance with this Agreement.
- iii. Be responsible for the acceptance, dedication, and maintenance of all existing or future City roads located within the District.
- iv. Through its Finance Director, provide service as fiscal officer to the District, including administration and management of JEDD Board accounts.
- v. The City shall work in good faith with the Township regarding incentives for locating new or expanding existing businesses within the Cooperative District and, further, the City agrees and affirms that it will not unreasonably deny tax exemptions or abatements duly granted by the Township and Union County Board of County Commissioners.

- B. The Township shall:
- i. Provide police and law enforcement services within the District through a personal service officer contract with the Union County Sheriff's Office, which services shall be provided at a level sufficient to enable economic development as contemplated by the District and this Agreement.
  - ii. Provide fire and emergency medical services within the District at a level sufficient to enable economic development as contemplated by the District and this Agreement.
  - iii. Be responsible for the acceptance, dedication, and maintenance of all existing or future Township roads located within the District.
  - iv. Have the right to issue and reissue levies in all areas of the Township, including within the District, for the provision of such services.
  - v. Maintain and enforce zoning regulations within the District.
- C. The Contracting Parties shall:
- i. promptly after the first meeting of the JEDD Board, contribute Two Thousand Dollars (\$2,000), each, to the JEDD for the purposes of establishing an operating reserve account; and, in each subsequent year thereafter until the first year after Total Revenues in one year equals or exceeds Ten Thousand Dollars (\$10,000), contribute One Thousand Dollars (\$1,000), each, to the JEDD; provided that, the Contracting Parties shall be required to make the One Thousand Dollar (\$1,000) contribution in any year following a year in which Total Revenues do not equal or exceed Ten Thousand Dollars (\$10,000).
  - ii. jointly cooperate in carrying out the economic development plan for the District attached hereto as Exhibit A.
  - iii. collaborate through the District with respect to capital improvements in the event that the Contracting Parties determine that economic development in the District creates a demand for public infrastructure improvements serving the District or the area surrounding the District including, but not limited to, and solely upon joint agreement of the Contracting Parties, paying costs of infrastructure improvements within or otherwise benefitting the District; which infrastructure improvements may include improvements relating to roads, water and sewer, electric, natural gas, fiber, cable, or any other capital improvements directly supporting non-residential development within the District, the Cooperative District, as defined in the Cooperative Development Agreement or, upon the joint agreement of the Contracting Parties, otherwise benefitting the District, but which

infrastructure improvements shall not include ordinary maintenance or repairs (collectively, the “Infrastructure Improvements”).

- iv. pay equal shares of any District administrative costs in excess of income tax revenue received by the JEDD Board each year.
- v. cooperate in good faith and take all steps necessary to secure any amendments to the Union County-Marysville Water/Sewer Service Agreement as may be necessary to support the District.
- vi. comply with the Union County Economic Development Incentive Policy to the extent adopted by the Township with respect to the provision of any incentives to properties within the District and, pursuant to ORC Section 715.81, obtain the express written consent of the other Contracting Party prior to granting any tax exemption or abatement for any real property located in the District.

Section 8. Board of Directors of the District.

The Board is hereby established to govern the District. The Board shall consist of five members appointed as set forth in ORC Section 715.78(A)(1).

- A. The initial City member of the Board shall be [\_\_\_\_]. Subject to any applicable restrictions in ORC Section 715.78, all future City members of the Board shall be appointed by City Council and shall serve at the pleasure of City Council.
- B. The initial Township member of the Board shall be [\_\_\_\_]. Subject to any applicable restrictions in ORC Section 715.78, all future Township members of the Board shall be appointed by a majority vote of the Board of Township Trustees and shall serve at the pleasure of the Board of Township Trustees.
- C. The representative of the business owner or owners located in the District shall be appointed by mutual agreement of the City member and the Township member, provided that if the City member and the Township member do not so appoint a representative under this Section 8(C) within thirty (30) days after (i) the effective date of this Agreement, (ii) the end of a term of office for a business owner representative, or (iii) the occurrence of any other vacancy in the office of business owner representative, the Chairperson of the Board shall notify the business with the greatest number of employees working in the District that said business is entitled to appoint the business owner representative, provided that any such appointment shall be made in writing by a duly authorized officer of the appointing business and delivered to the Chairperson of the Board.
- D. The representative of the employees working in the District shall be appointed by mutual agreement of the City member and the Township member, provided that if the City member and the Township member do not so appoint a representative under this Section 8(D) within thirty (30) days after (i) the effective date of this

Agreement, (ii) the end of a term of office for a business owner representative, or (iii) the occurrence of any other vacancy in the office of business owner representative, the Chairperson of the Board shall notify the business with the greatest number of employees working in the District that said business is entitled to appoint the employee representative, provided that any such appointment shall be made in writing by a duly authorized officer of the appointing business and delivered to the Chairperson of the Board.

- E. The fifth member of the Board shall be nominated by the Board of County Commissioners of Union County and appointed by a majority vote of the Township member, the City member, the business owner representative, and the employee representative.
- F. The Board shall establish procedures for appointing future business owner and employee representatives.

The members of the Board shall serve without compensation. Necessary and authorized expenses incurred by members on behalf of the District shall be reimbursed from District funds in accordance with procedures established by the Board. Unless only one business is located within the District, the Board members described in paragraphs C and D above shall not be affiliated with the same business, except with the written approval of the City and the Township.

The Board shall elect the following officers (hereinafter, the "Officers"): a Vice Chairperson, a Secretary, and a Treasurer. The Chairperson shall be the Board Member specified in ORC Section 715.78. The Vice-Chairperson shall be a Board Member. The Treasurer of the Board shall be the Finance Director of the City. The Officers shall be elected at the first meeting of the Board and thereafter every other year for two-year terms and shall serve until their respective successors take office. The Board shall establish a procedure for conducting those elections. The Officers shall perform such duties as provided herein and such additional duties as may be provided from time to time by the Board. The Board may employ such additional personnel or professional services as may be necessary to assist the Board or the Officers in the performance of their duties.

Section 9. Power, Duties, and Functions of Board.

The Board shall meet at least once each calendar year on a date determined by the Board. The Board shall adopt procedures for holding and conducting regular and special meetings. The Parties shall provide the Board with necessary meeting space. The City shall also provide any necessary clerical and administrative assistance that the Board may need from time to time, including telephone services and a mailing address.

A minimum of three members shall constitute a quorum for Board meeting purposes. The Board shall act through resolutions adopted by the Board. A resolution must receive the affirmative vote of at least a majority of members present and constituting a quorum to be adopted. A resolution adopted by the Board shall be immediately effective unless otherwise provided in that resolution.



The Board may adopt by-laws for the regulation of its affairs and the conduct of its business consistent with this Agreement. The Chairperson shall preside over and conduct the meetings of the Board in accordance with its by-laws or other procedures adopted by the Board. Pursuant to ORC Section 715.78(D), the Board is a public body for the purposes of ORC Section 121.22, the Ohio Public Meetings Act. All meetings of the Board, whether regularly scheduled or special meetings, must comply with the provisions of ORC Section 121.22 as amended from time to time.

The Vice-Chairperson shall act as Chairperson in the temporary absence of the Chairperson. The Secretary shall be responsible for the records of the Board including, but not limited to, correspondence and minutes of the meetings of the Board. The Finance Director of the City, as Treasurer of the Board, shall be the fiscal officer of the Board and shall be responsible for all fiscal matters of the Board including, but not limited to, the preparation of the budget and the appropriations resolution, paying or providing for the payment of expenses of operation of the Board, receiving, safekeeping, and investing, or providing for the receipt, safekeeping, and investment of, funds of the Board and maintaining, and providing for the maintenance of, accurate accounts of all receipts and expenditures. The Board shall designate by resolution, or in its by-laws, those Officers who may sign documents on behalf of the Board.

The Board, upon the recommendation of the Finance Director of the City, shall adopt an annual budget for the District. The fiscal year of the District shall be the same as the fiscal year of the City. The budget shall estimate the revenues of the District and the expenses of the operation of the District. The Board shall establish an appropriations procedure to provide for payment of the long-term maintenance of the District and the distribution of income tax revenues in accordance with Section 10 herein.

The Board, on behalf of the District, shall:

- A. establish and maintain such funds or accounts as it deems necessary, either of its own, or in conjunction with or through the Parties to this Agreement, which accounts shall be managed by the Finance Director of the City;
- B. authorize one or more Officers to sign all instruments necessary or incidental to the performance of its duties and the execution of its powers under this Agreement;
- C. adopt a resolution to levy an income tax within the District in accordance with ORC Section 715.74(C) and Section 10 herein;
- D. apply the JEDD Board Revenue, as defined in Section 10(D) herein, which equals seventy percent (70%) of Total Revenues, as follows: fifty-five percent (55%) of Total Revenues for costs of Infrastructure Improvements to be constructed or improved within the JEDD or, upon joint determination by the City and the Township, otherwise directly benefitting the JEDD; (B) ten percent (10%) of Total Revenues for economic development marketing by contract with the Union County Community Improvement Corporation; and (C) five percent (5%) of Total Revenues for Board administrative expenses.

- E. in any year in which ten percent (10%) of Total Revenues does not equal or exceed Ten Thousand Dollars (\$10,000), the Board shall pay to the Union County Community Improvement Corporation, drawing from contributions of the City and the Township under Section 7(C) herein, the difference between One Thousand Dollars (\$1,000) and ten percent (10%) of Total Revenues such that, in each year, the Board pays the Union County Community Improvement Corporation an amount greater than or equal to One Thousand Dollars (\$1,000);
- F. use any other revenues of the District available to the Board to carry out the economic development plan for the District and, from time to time, modify the economic development plan to better accomplish the public purposes of the District;
- G. apply for, receive and accept from any federal agency, state agency or other person or entity grants for or in aid of the construction or operation of any District facility, or for programs or other projects of the District, and receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the benefit of the District and the purposes for which such grants, aid or contributions are made;
- H. purchase liability insurance protecting the District, its Board or Officers against any liability and/or to purchase any necessary bonds to insure any Officer;
- I. be authorized to execute any agreement, cooperative agreement, financing agreement, or other arrangement with any private entity and with any other political subdivision or governmental entity as may be permitted by law, including but not limited to Union County, the Township, and the City, to provide or facilitate the provision of public infrastructure improvements that benefit of the District or whenever otherwise necessary or convenient to carry out the powers granted in this Agreement, including, without limitation, any agreement related to any economic development program, tax increment financing program, special assessment program, or bond financing undertaking by any Contracting Party or political subdivision in cooperation with any Contracting Party;
- J. be authorized to do all acts and things necessary or convenient to carry out the powers granted in ORC Sections 715.72 through 715.81 or any successor provisions thereto; and
- K. be authorized to do all acts and things necessary or convenient to carry out the powers granted in this Agreement.

The City and the Township agree that the JEDD Board may use any available revenues of the District to carry out the economic development plan for the District and may, from time to time, modify the economic development plan to better accomplish the public purposes of the District. The City and the Township agree that the Board or either Contracting Party may execute any agreement, cooperative agreement, financing agreement, or other arrangement with any

private entity and with any other political subdivision, including but not limited to Union County, the Township, and the City, to provide or facilitate the provision of public infrastructure improvements to benefit the District or whenever otherwise necessary or convenient to carry out the powers granted in this Agreement, including, without limitation, any agreement related to any tax increment financing program, special assessment program, or bond financing undertaking by any Contracting Party or political subdivision in cooperation with any Contracting Party.

Section 10. Income Tax to be Levied in the District.

- A. The Board at its initial meeting and at a meeting before the beginning of each subsequent year in which the Board will levy an income tax shall adopt a resolution to levy a tax on income earned by persons working within the District and based on net profits of businesses located in the District in accordance with ORC Section 715.74(C) (the “Income Tax Resolution”). Each annual Income Tax Resolution shall be effective until it is replaced by a subsequent Income Tax Resolution. Pursuant to ORC Section 715.74(C), all income tax collected from any business or entity within the District or any person working within the District shall be subject to this Agreement and included in the total income tax revenue collected within the District (collectively, the “Total Revenues”). The income tax shall go into effect as soon as legally permissible.
- B. The Income Tax Resolution shall establish the income tax rate for employees working in the District (the “Employee Rate”), which Employee Rate shall at all times during the term of this Agreement equal the rate levied in the City. As of the date of execution of this Agreement by the Contracting Parties, the City income tax rate is one and one half percent (1.5%). In each annual Income Tax Resolution, the Board shall adjust the Employee Rate as necessary so that it matches the rate of income taxation in the City.
- C. The Income Tax Resolution also shall establish the income tax rate applicable to net profits of businesses located in the District (the “Business Rate”), which Business Rate shall at all times during the term of this Agreement equal the rate levied in the City. In each annual Income Tax Resolution, the Board shall adjust the Business Rate as necessary so that it matches the rate of income taxation in the City.
- D. The Income Tax Resolution shall designate that: (i) seventy percent (70%) of the Total Revenues collected each year (the “JEDD Board Revenue”) shall be paid to the JEDD Board pursuant to the terms hereof; (ii) fifteen percent (15.0%) of Total Revenues collected each year shall be paid to the City pursuant to the terms hereof, which amount includes payment equal to three percent (3.0%) of Total Revenues to the City for its services administering the JEDD income tax, and which amount maybe used by the City for any lawful purpose, including but not limited to expenses related to the District and its purposes; and (iii) fifteen percent (15.0%) of Total Revenues collected each year shall be paid to the Township pursuant to the terms hereof to be used by the Township for any lawful purpose, including but not limited to expenses related to the District and its purposes.

- E. The Board shall resolve that, pursuant to this Agreement, the City will collect, administer, and enforce the income tax within the District in accordance with this Agreement and the City's rules and regulations currently in effect and as may be amended from time to time regarding the collection, administration, and enforcement of income tax.

Pursuant to ORC Section 715.74(C)(2), the Board shall enter into an agreement with the City (the "District Income Tax Collection and Distribution Agreement") as expeditiously as possible upon the District's creation to administer, collect and enforce the income tax on behalf of the District in accordance with this Agreement. The District Income Tax Collection and Distribution Agreement shall provide that the City is responsible for the receipt, safeguarding, and investment of the income tax revenues collected within the District and that the City shall make an annual written report to be mailed to the Board and the Township within sixty (60) days of the end of the fiscal year regarding the receipt and distribution of the income tax of the District during the previous fiscal year.

The Board may establish procedures by which the income tax levied on employee wages earned within the District is to be collected from employees employed within the District or withheld by businesses located in the District, and the Board shall establish procedures by which the income tax on net profits of businesses located in the District is to be collected from one or more businesses located in the District. Such procedures may provide for the payment of withholding or estimated taxes by those employees or businesses and the reconciliation of income taxes paid on net profits of businesses between fiscal years.

#### Section 11. Defaults and Remedies.

A failure to comply with the terms of this Agreement shall constitute a default hereunder. The Contracting Party in default shall have sixty (60) days after receiving written notice from the other Contracting Party of the event of default and demand to cure the default. If the default is not cured within that time period, the non-defaulting Contracting Party may sue the defaulting Contracting Party for specific performance under this Agreement or for damages or both. This Agreement may not be terminated because of default under the Agreement by either Contracting Party unless termination occurs as provided for in Section 5 of this Agreement.

The Contracting Parties agree that the nature of the Agreement is unique and monetary damages are inadequate to fully compensate a non-defaulting Contracting Party. Accordingly, the Contracting Parties agree that specific performance is an appropriate and available remedy for a breach of contract action brought pursuant to this Agreement in addition to any other remedy available at law and equity. Both Contracting Parties also agree that because monetary damages are inadequate to fully compensate a non-defaulting Contracting Party, a non-defaulting Contracting Party has the right to seek an injunction or other equitable relief to prevent the continued breach of this Agreement by a defaulting Contracting Party.

Section 12. Support of Contract.

This Agreement shall be binding upon the Contracting Parties and their lawful successors and assigns. The Contracting Parties agree to cooperate with each other and to use their best efforts to do all things necessary for the creation and continued operation of the District. In the event that this Agreement, or any of its terms, conditions, or provisions is challenged by any third party or parties in a court of law, the Contracting Parties agree to cooperate with one another and to use their best efforts in defending this Agreement with the object of upholding this Agreement. Each Contracting Party shall bear its own costs in any such proceeding challenging this Agreement or any term or provision herein.

Section 13. Severability.

With the exception of Section 7 or Section 10 of this Agreement, if any other paragraph, provision or section of this Agreement is held to be illegal or invalid for any reason, then:

- (i) that illegality or invalidity shall not affect the remainder of any other paragraph, provision or section, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein;
- (ii) the illegality or invalidity of any paragraph, provision or section shall not affect any legality or applicability of any other paragraph, provision, or section of this Agreement; and
- (iii) each paragraph, provision, or section of this Agreement shall be deemed to be effective, operative, made, assumed, entered into, or taken in the manner and to the full extent permitted by law.

If any paragraph, provision, or part thereof of Section 7 or Section 10 of this Agreement is held to be illegal or invalid for any reason, then provisions of Section 5 shall be applicable.

Section 14. Governing Law.

This Agreement shall be governed exclusively by and construed in accordance with the laws of the State of Ohio, and in particular, ORC Sections 715.72 through 715.81 in effect as of the date when the owners of property in the District and the owners of business in the District filed their respective petitions consenting to the formation of the District. A copy of ORC Sections 715.72 through 715.81 in effect as of the date when the owners of property in the District and the owners of business in the District filed their respective petitions consenting to the formation of the District is attached hereto as Exhibit C. In the event that any of ORC Sections 715.72 through 715.81 is amended or is supplemented by the enactment of one or more new sections of the ORC relating to joint economic development districts, the Contracting Parties shall follow the provisions of ORC Sections 715.72 through 715.81 when the owners of property in the District and the owners of business filed their respective petitions consenting to the formation of the District, unless the Contracting Parties agree to amend this Agreement in accordance with Section 5 herein. If any amendment or subsequent enactment of one or more new sections of the ORC relating to joint

economic development districts renders any existing sections of ORC Sections 715.72 through 715.81 illegal or impossible, then the provisions of Section 6 of this Agreement shall apply.

Section 15. Miscellaneous.

The captions and headings herein are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections herein.

This Agreement may be executed in one or more counterparts, each of which shall be regarded as an original and all of which together shall constitute but one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the Contracting Parties have caused this Agreement to be duly signed in their respective names by their duly authorized officers, all as of the date first hereinbefore written.

TOWNSHIP OF MILLCREEK,  
UNION COUNTY, OHIO

CITY OF MARYSVILLE, OHIO

By: \_\_\_\_\_  
Trustee

By: \_\_\_\_\_  
John Gore, Mayor

By: \_\_\_\_\_  
Trustee

Approved as to form and correctness:

By: \_\_\_\_\_  
Trustee

\_\_\_\_\_  
Tim Aslaner, Director of Law

CITY'S FISCAL OFFICER'S CERTIFICATE

The undersigned, Fiscal Officer of the City of Marysville, Ohio, hereby certifies that the moneys required to meet the obligations of the City during the year 2015 under the foregoing Agreement have been lawfully appropriated by the City Council of the City of Marysville, Ohio for such purpose and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

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Fiscal Officer  
City of Marysville, Ohio

Dated: [\_\_\_\_], 2015



TOWNSHIP'S FISCAL OFFICER'S CERTIFICATE

The undersigned, Fiscal Officer of Millcreek Township, Ohio, hereby certifies that the moneys required to meet the obligations of the Township during the year 2015 under the foregoing Agreement have been lawfully appropriated by the Board of Trustees of Millcreek Township, Ohio for such purpose and are in the treasury of the Township or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

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Fiscal Officer  
Millcreek Township, Ohio

Dated: [\_\_\_], 2015

EXHIBIT A

ECONOMIC DEVELOPMENT PLAN

EXHIBIT B

LEGAL DESCRIPTION AND MAP  
OF TERRITORY TO BE INCLUDED IN  
CITY OF MARYSVILLE-MILLCREEK TOWNSHIP  
JOINT ECONOMIC DEVELOPMENT DISTRICT

EXHIBIT B

The City of Marysville-Millcreek Township Joint Economic Development District shall include the following parcels, as identified in the records of the County Auditor of Union County, Ohio as of [\_\_\_], 2015:

Parcel Number

## EXHIBIT B

The parcels included in the City of Marysville - Millcreek Township Joint Economic Development District are outlined in the following map:

OHIO REVISED CODE SECTIONS  
715.72 THROUGH 715.82  
EFFECTIVE AS OF DATE OF PETITION