

**ORDINANCE NO. 2014-73**

**AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF A TRUST AGREEMENT IN ORDER TO ISSUE AND TO SECURE INCOME TAX REVENUE OBLIGATIONS AND TO SECURE OUTSTANDING BONDS, BY PLEDGING THE INCOME TAX OF THE CITY OF BLUE ASH AND OTHER SECURITY IN ORDER TO PAY BOND SERVICE CHARGES ON INCOME TAX REVENUE OBLIGATIONS AND OTHER REPLENISHMENT AMOUNTS, EXPENSES, AND CHARGES DUE AND PAYABLE UNDER SUCH TRUST AGREEMENT, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Issuer currently levies the Income Tax;

**WHEREAS**, within the authorizing legislation for the Outstanding Bonds and the Series 2013 Notes, the Issuer has covenanted to pay bond service charges on such obligations from the Income Tax;

**WHEREAS**, although the Issuer has covenanted to pay bond service charges on the Outstanding Bonds and the Series 2013 Notes from the Income Tax, these obligations were also issued as limited tax general obligations of the Issuer whereby, if necessary, the holders of such obligations have a right to have ad valorem taxes levied by the Issuer in order to pay bond service charges on such obligations, and as a result, such obligations constitute general obligation debt of the Issuer and a debt or pledge of the full faith and credit of the Issuer;

**WHEREAS**, as a result of the Issuer's pledge of its ad valorem taxing power and full faith and credit in connection with the Outstanding Bonds and the Series 2013 Notes, the Issuer has little remaining capacity under its indirect debt (ten-mill) limitation to issue limited tax general obligation debt;

**WHEREAS**, as a result of the Issuer's Series 2013 Notes maturing on December 3, 2014, and the need for the Issuer to finance the Series 2014 Project in conjunction with the refunding of the Series 2013 Notes, the Issuer would be at or near the limits of its indirect debt (ten-mill) limitation, which limitation not only affects the Issuer's ability to issue limited tax general obligation debt, but also the ability of overlapping political subdivisions to issue limited tax general obligation debt;

**WHEREAS**, the Issuer may create a Trust Agreement pursuant to which it pledges its Income Tax in order to provide security for Income Tax Revenue Obligations, which Income Tax Revenue Obligations will not be subject to the indirect debt (ten-mill) limitation, other than the Outstanding Bonds;

**WHEREAS**, the creation of the Trust Agreement will provide a pledge of the Issuer's Income Tax to holders of Income Tax Revenue Obligations, and as a consequence, provide the Issuer with a viable means of issuing revenue obligations while preserving the Issuer's indirect debt (ten-mill) limitation, and enabling the Issuer to proceed with its plans for capital improvements now and in the future;

**WHEREAS**, the creation of the Trust Agreement will also provide a pledge of the Issuer's Income Tax to holders of the Outstanding Bonds because there currently exists a covenant in connection with each of these bonds that the Issuer will appropriate annually from lawfully available municipal income taxes and continue to levy and collect municipal income taxes in amounts necessary to meet debt service on the Outstanding Bonds;

**WHEREAS**, for the aforesaid reasons, the Issuer desires to provide for the authorization and creation of the Trust Agreement and a pledge of its Income Tax thereunder for purposes of securing the issuance of Income Tax Revenue Obligations and, further, to provide for the payment and security of the Outstanding Bonds by the Income Tax in the same manner and priority as with the other Income Tax Revenue Obligations, provided that the Outstanding Bonds will be secured by the Income Tax and not by Pledged Revenues other than the Income Tax;

**NOW, THEREFORE, BE IT ORDAINED**, by the City Council of the City of Blue Ash, Ohio, that

**SECTION 1.** The terms "hereof," "hereby," "hereto," "herein," and "hereunder," and similar terms, mean this Series 2014 Authorizing Ordinance. Unless the context or use clearly indicates a different meaning, the following words and terms are used in this Master Income Tax Ordinance with the following meanings:

"Additional Bonds" means additional parity bonds or other obligations of the Issuer that may be issued pursuant to the Trust Agreement.

"Codified Ordinances" means the Codified Ordinances of the Issuer, as such may be amended and/or supplemented from time to time.

"Income Tax" means a tax of 1.25% on all salaries, wages, commissions, and other compensation and on net profits earned within the boundaries of the Issuer, as well as on incomes of residents earned outside of the boundaries of the Issuer, as provided for in the Municipal Charter of the Issuer, including without limitation, Article IX, Section 9.01 of the Municipal Charter, and the Codified Ordinances of the Issuer, including without limitation, Title 7, Chapter 171 of the Codified Ordinances, and as such income tax has been approved by this City Council, as well as by the electors of the Issuer.

"Income Tax Revenue Obligations" means obligations of the Issuer secured by a parity pledge of Pledged Revenues, including bonds (or other obligations) issued pursuant to the Trust Agreement, including the Series 2014 Bonds and Additional Bonds.

"Issuer" means the City of Blue Ash, Hamilton County, Ohio.

"Master Income Tax Ordinance" means this ordinance, authorizing the pledge of the Issuer's Income Tax for purposes of securing Income Tax Revenue Obligations and the Outstanding Bonds.

"Municipal Charter" means the Municipal Charter of the Issuer, as such may be amended and/or supplemented from time to time.

“Outstanding Bonds” means the following bonds which are currently outstanding and which are currently secured by a covenant from the Issuer to pay debt service or bond service charges on such bonds from the Income Tax, and which debt service or bond service charges will be paid and secured by the Income Tax in the same manner and priority as with the other Income Tax Revenue Obligations, provided that the Outstanding Bonds will be secured by the Income Tax and not by Pledged Revenues other than the Income Tax: (a) Limited Tax General Obligation Reed Hartman Highway Improvement Bonds, 2005 Series, dated as of October 15, 2005, and issued in the original principal amount of \$3,700,000, (b) Limited Tax General Obligation Recreation Center Improvement Bonds, 2007 Series, dated August 9, 2007, and issued in the original principal amount of \$9,975,000, (c) General Obligation (Limited Tax) Municipal Golf Course Improvement Bonds, Series 2010, dated October 14, 2010, and issued in the original principal amount of \$9,775,000, (d) General Obligation (Limited Tax) Osborne Boulevard-Reed Hartman Highway Connector Road Bonds, Series 2011, dated September 1, 2011, and issued in the original principal amount of \$3,125,000, and (e) General Obligation (Limited Tax) Real Estate Acquisition Bond, Series 2013, dated August 8, 2013, and issued in the original principal amount of \$31,250,000.

“Pledged Revenues” means “Pledged Revenues,” as defined in the Trust Agreement, including without limitation, the Income Tax and certain funds and/or accounts created under the Trust Agreement pledged to the repayment of the Series 2014 Bonds and any Additional Bonds.

“Series 2013 Notes” means the Issuer’s General Obligation (Limited Tax) Municipal Recreation Facilities Improvement Bond Anticipation Notes, Series 2013, issued on December 4, 2013, maturing December 3, 2014, and issued in the original principal amount of \$9,900,000.

“Series 2014 Bonds” means the Issuer’s Income Tax Improvement and Refunding Revenue Bonds, Series 2014, to be issued in an aggregate principal amount not to exceed \$21,000,000.

“Series 2014 Project” means the capital expenditures in connection with the acquisition, construction, designing, equipping, improving, and installation of recreational facilities known as Summit Park within the boundaries of the Issuer.

“Trust Agreement” means the Trust Agreement by and between the Issuer and a trustee, providing for the issuance and delivery and security of Income Tax Revenue Obligations, as such agreement may be amended and/or supplemented from time to time.

**SECTION 2.** This Master Income Tax Ordinance is being passed pursuant to the authority of Article XVIII, Section 3 of the Ohio Constitution, Chapter 133 of the Ohio Revised Code, and the Municipal Charter.

**SECTION 3.** During the years while the Income Tax Revenue Obligations are outstanding, the Issuer hereby covenants to levy and collect annually the Income Tax in a sufficient amount to pay debt service or bond service charges on the Income Tax Revenue Obligations and the Outstanding Bonds, to meet the coverage requirements established in the Trust Agreement, and to meet debt service or bond service charges on other obligations of the Issuer to be paid from the Income Tax. In addition, the Issuer covenants that the payment of debt

service or bond service charges under the Trust Agreement shall provide for a pledge of the Income Tax in order to pay for and to secure the Outstanding Bonds in the same manner and priority as with the other Income Tax Revenue Obligations, provided that the Outstanding Bonds will be secured by the Income Tax and not by Pledged Revenues other than the Income Tax.

**SECTION 4.** This City Council hereby finds and determines that all formal actions relative to the adoption of this Master Income Tax Ordinance were taken in an open meeting of this City Council, and that all deliberations of this City Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with the law, including Section 121.22 of the Revised Code

**SECTION 5.** This Master Income Tax Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, and safety of the Issuer, and for the other reason that this Master Income Tax Ordinance is required to be immediately effective in order to provide for the prompt issuance and sale of the Series 2014 Bonds on terms most advantageous to the Issuer and thus to permit the Issuer to achieve favorable rates of interest, and provided that this Master Income Tax Ordinance will take effect and be in force at the earliest period allowed by law.

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[Signature page to Ordinance 2014-73]

**PASSED** this 11<sup>th</sup> day of September, 2014

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Lee Czerwonka, Mayor

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Jamie K. Eifert, Clerk of Council

**APPROVED AS TO FORM:**

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Bryan E. Pacheco, Solicitor

[END OF ORDINANCE]