

TOOELE COUNTY CORPORATION
CONTRACT # 11-12-15

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BEFORE THE UTAH STATE TAX COMMISSION

MILLER MOTORSPORTS PARK, UTAH,
LLC,

Petitioner,

v.

TOOELE COUNTY BOARD OF
EQUALIZATION,

Respondent.

**STIPULATION ON "FAIR MARKET
VALUE" AND JOINT MOTION FOR
ENTRY OF ORDER**

Appeal No. 11-348

Locally-Assessed Property Tax

Tax Year: 2010

Judge Jan Marshall

Petitioner, Miller Motorsports Park, Utah, LLC ("Miller") and the Tooele County Board of Equalization (the "Board") (collectively the "Parties") hereby stipulate and agree in full settlement of this action and of the fair market value as of January 1, 2010, for Miller's leased property, including improvements thereon, as follows (referred herein in its entirety as the "Stipulation"):

1. The subject property consists of 512.455 acres of leased land, with motorsports park improvements thereon (grand prix racetrack, go cart track, grandstands, and 27 buildings), located at 2901 North Sheep Lane, Tooele, Utah with a tax number of BL 10-0053. The subject

property is utilized for business purposes as a high-quality motorsports park and is taxed under the privilege tax pursuant to U.C.A. § 59-4-101 *et seq.*

2. For the tax year 2010, Tooele County assessed Miller's value at \$59,141,234 for the real property. For the tax year 2011, Tooele County assessed Miller's real property at the same value of \$59,141,234.

3. Miller's appeal of the 2010 real property valuation to the Tooele Board of Equalization was denied. Miller subsequently appealed to the Utah State Tax Commission ("Commission").

4. Miller alleges that it never received notice of the real property value for tax year 2011 and that such notice was never sent. Tooele County alleges that it sent the notice of real property value for tax year 2011 and that it was received by Miller, but the notice did not contain the appeal rights information.

5. This Stipulation is a settlement of the appeal and resolves all valuation disputes between the Parties for both the 2010 and 2011 tax years.

6. Based upon the Parties' discussions and evaluation of relevant documents and data, the Parties agree and stipulate that the fair market value for Miller's leased real property, BL 10-0053, was \$27 million as of January 1, 2010 and \$27 million as of January 1, 2011.

7. As a means of avoiding additional appeals and procedural hurdles relating to the real property value for tax year 2011, the Parties' further stipulate that (1) the Commission may order a decrease of Miller's real property assessed value to \$27 million for tax year 2011 pursuant to its authority under U.C.A. § 59-2-1008(2) and Miller shall provide its annual financial statements, certified by Miller's management to fairly represent the financial results and

condition of the Company for 2010 and 2011 to the Board, which information shall be kept strictly confidential by the Board.

8. This Stipulation represents a compromise of disputed issues and is subject to Rule 408 of the Utah Rules of Evidence. This Stipulation may not be used by any party for any other purpose or in any other proceeding under Title 59, Chapter 2 of the Utah Code.

9. This Stipulation has been executed and delivered within the State of Utah, and shall be construed, interpreted, governed, and enforced in accordance with the laws of the State of Utah, without regard to any conflict of law provision.

10. The Parties understand and agree that this Stipulation shall constitute the entire agreement between them.

11. The Parties have carefully read the entire Stipulation and agree to all of its contents. Any amendment to this Stipulation must be in writing signed by the Parties and stating the intent to amend the Stipulation.

12. This Stipulation is contingent on and subject to final approval by the Utah State Tax Commission ("Commission").

13. Once the Commission has issued an order that approves this Stipulation, reduces the fair market value to \$27 million for tax year 2011 pursuant to the Commission's authority under U.C.A. § 59-2-1008(2) (the "Order"), instructs Miller to provide to the Board, Miller's annual financial statements, certified by Miller's management that they fairly represent the financial results and condition of the Company for 2010 and 2011, and also instructs the Board that it shall keep such financial statements of Miller strictly confidential, Miller stipulates to having its respective appeal dismissed with prejudice.

14. Once the Commission has issued the Order, the Parties agree that the Order will be a final and unappealable order and all rights to future appeals regarding any issue that could have been raised in this appeal are waived.

JOINT MOTION FOR ORDER APPROVING STIPULATED FAIR MARKET VALUE

1. Based upon the Parties' Stipulation, the Parties jointly move the Tax Commission for entry of the Order setting the fair market value of BL 10-0053 at \$27 million as of January 1, 2010.

2. In addition, pursuant to the Commission's authority under § 59-2-1008(2) and based upon the Parties' Stipulation, the Parties jointly move the Tax Commission for entry of the Order (i) decreasing the fair market value of BL 10-0053 to \$27 million as of January 1, 2011 (2) instructing Miller to provide to the Board, Miller's annual financial statements, certified by Miller's management that they fairly represent the financial results and condition of the Company for 2010 and 2011, (iii) instructing the Board that it shall keep such financial statements of Miller strictly confidential and (iv) directing the County Board of Equalization, the Tooele County Assessor and the Tooele County Auditor to make the changes as required under this Stipulation.



ATTEST:

Marilyn K. Gillette
MARILYN K. GILLETTE
TOOELE COUNTY CLERK

Dated: _____

Colleen S. Johnson
Colleen S. Johnson
Tooele County Commissioner, Chair

Mark K. Buchi
Counsel for Miller Motorsports Park, Utah,
LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this _____ day of November, 2011, a true and correct copy of the foregoing **STIPULATION ON "FAIR MARKET VALUE" AND JOINT MOTION FOR ENTRY OF ORDER** was served in the manner and upon the recipients named below:

<input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax <input type="checkbox"/> E-Mail	Wendy Shubert Toole County Assessor 47 South Main Tooele, UT 84074 435-843-3110 wshubert@co.tooele.ut.us
<input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax <input type="checkbox"/> E-Mail	Duane Moss Jared Moss MOSS LAW OFFICES, P.C. 175 North Main Street, Suite 102 Heber City, Utah 84032 435-654-7122 duane@mosslawyer.com

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