

ORDINANCE NO.: 2022-19 (*Amended October 25, 2022*)
SPONSOR: MAYOR NEUGEBAUER
INTRODUCED: SEPTEMBER 27, 2022 **ASSIGNED TO:** _____

AN ORDINANCE DECLARING IMPROVEMENTS TO CERTAIN REAL PROPERTY WITHIN THE CITY OF GREEN, OHIO TO BE A PUBLIC PURPOSE; EXEMPTING SUCH IMPROVEMENTS FROM REAL PROPERTY TAXATION; REQUIRING THE OWNERS OF THE PROPERTY TO MAKE SERVICE PAYMENTS IN LIEU OF REAL PROPERTY TAXES; PROVIDING FOR THE DEPOSIT OF THE SERVICE PAYMENTS INTO THE MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND; MAKING RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40, 5709.42, 5709.43 AND 5709.83; AUTHORIZING THE MAYOR TO EXECUTE A FIFTH AMENDMENT AND RESTATED DEVELOPMENT AGREEMENT WITH DEHOFF DEVELOPMENT COMPANY AND GREEN LAND TRUST, LTD.; AND DECLARING AN EMERGENCY.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GREEN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:

SECTION ONE:

City Council makes the following findings and determinations:

- (a) The City adopted Ordinance No. 2003-12 on September 10, 2003, (and amended that Ordinance through Ordinance 2004-03), establishing a tax increment financing program ("TIF Program"), authorizing the City to declare improvements to certain parcels of real property to be a public purpose, requiring the owner, and its successors and assigns, of any structure located on any parcel of real property declared to be a public purpose to make annual service payments in lieu of taxes ("Service Payments") to the Summit County Fiscal Officer, and providing the City the option to enter into an agreement ("TIF Agreement") with the owner of any structure located on any parcel of real property declared to be a public purpose under the TIF Program.
- (b) In accordance with Ordinance No. 2003-18, adopted November 25, 2003, City Council established a Municipal Public Improvement Tax Increment Equivalent Fund (the "TIF Fund"), as a separate fund of the City into which Service Payments distributed to the City under the TIF Program must be deposited.
- (c) Green Land Trust, LTD (the "Owner"), is the owner of certain real property identified **and depicted in** ~~in the map attached hereto as Amended Exhibit "A", attached hereto, and the legal description~~ **and portions of Spring Hill Business Park Phases 2 and 3, as identified in** ~~attached as Amended Exhibit "B" attached hereto~~ **(collectively, all comprising** the "TIF Property"), located within the boundaries of the City, and intends to make certain improvements upon the TIF Property (the "Development Improvements"), through an agreement with a developer, DeHoff Development Company (the "Developer").

- (d) In association with the Development Improvements, the Owner, through the Developer, intends to further construct certain public infrastructure improvements which are more fully set forth in the attached Exhibit "C" (the "Public Improvements"), which will directly benefit the TIF Property.
- (e) The Owner has requested that the City adopt this Ordinance in order to declare the increase in value to the TIF Property as a result of the Development Improvements to be a public purpose, to exempt 100% of the increase in value of the TIF Property resulting from the Development Improvements from real property taxation for a term of thirty (30) years, to provide for Service Payments in lieu of taxes, and for the City to pay to the Developer the Service Payments collected and deposited into the TIF Fund to reimburse the Developer for Developer's costs of constructing the Public Improvements pursuant to a Fifth Amendment and Restated Development Agreement between the City, the Owner and the Developer, a copy of which is attached hereto as **Amended** Exhibit "D", with any remaining Service Payments to be paid to the City for the benefit of the TIF Property.
- (f) City Council has, by notice delivered to the Board of Education of the Green Local School District on October 16, 2003, and to the Board of Education of the Portage Lakes Career Center on October 16, 2003, given notice of the City's intent to declare as a public purpose certain improvements to certain parcels of real property and of the Mayor's authorization to negotiate TIF Agreements under the TIF Program. A copy of Ordinance No. 2003-12 accompanied the notices.
- (g) The Board of Education of the Green Local School District passed a resolution (i) waiving the right to approve exemptions from taxation under Section 5709.40 of the Ohio Revised Code, for any improvements declared to be a public purpose and for any TIF Agreements entered into under the TIF Program on the condition that a compensation agreement be negotiated in accordance with Section 5709.40 of the Revised Code, and (ii) further waiving any notice under Section 5709.83 of the Ohio Revised Code.
- (h) The Board of Education of the Green Local School District, on November 17, 2003, entered into a compensation agreement with the City (the "Compensation Agreement"). The City and the Board of Education of the Green Local School District amended the Compensation Agreement effective January 1, 2006 and again on May 25, 2017. As a result of the May 25, 2017 amendment, the Green Local School District is required to receive a fourteen (14) day statutory notice from the City under Section 5709.83 of the Ohio Revised Code.
- (i) The City provided notice to the Board of Education of the Green Local School District in conformance with Section 5709.83 of the Ohio Revised Code prior to the adoption of this Ordinance.

- (j) The Board of Education of the Portage Lakes Career Center, the vocational school serving the Green Local School District, passed a resolution on October 16, 2003 waiving any notice under Section 5709.83 of the Ohio Revised Code.
- (k) This Council finds and determines, after reviewing all pertinent information, that it is necessary, and in the best interest of the City, to adopt this Ordinance to declare the increase in value to the TIF Property resulting from the Development Improvements to be a public purpose, to exempt the value of the increase in value of the TIF Property resulting from the Development Improvements from real property taxation as set forth herein, to provide for Service Payments in lieu of taxes, and for the City to pay to the Developer the Service Payments collected and deposited into the TIF Fund to reimburse the Developer for Developer's costs of constructing the Public Improvements pursuant to a Fifth Amendment and Restated Development Agreement between the City, the Owner and the Developer, a copy of which is attached hereto as **Amended** Exhibit "D", with any remaining Service Payments to be paid to the City for the benefit of the TIF Property. This Council further authorizes the Mayor to execute and deliver to the Owner and Developer the Fifth Amendment and Restated Development Agreement.

SECTION TWO:

The Public Improvements described in Exhibit C are hereby designated as those public improvements that directly benefit, or that once made will directly benefit, the TIF Property and the City and are determined to be necessary for the public health, safety and welfare of the residents of the City and shall be a public purpose.

SECTION THREE:

Pursuant to and in accordance with the provisions of Section 5709.40(B) of the Revised Code, this Council hereby finds and determines that 100% of the increase in the assessed value of the TIF Property that would first appear on the tax list and duplicate of the TIF Property after the effective date of this Ordinance (which increase in assessed value is herein referred to as the "Improvement" or "Improvements" as defined in Section 5709.40(A)(4)) is a public purpose, and 100% of said Improvement is exempt from real property taxation for a period not to exceed 30 years, commencing for each parcel comprising the TIF Property with the first tax year that begins after the effective date of this Ordinance and in which an Improvement resulting from the construction or renovation of a structure on that parcel as part of the Developer Improvements first appears, and ending on the date each of such Improvement has been exempted from taxation for a period of 30 years (the "Exemption Period"); provided, however, that certain compensatory payments shall be paid to the School District in the amounts and on the dates as provided in Section 5 herein.

SECTION FOUR:

As provided in Section 5709.42 of the Ohio Revised Code, the Owner, and each subsequent owner of the Improvements are hereby required to and shall pay the Service Payments in lieu of ad valorem real property taxes to the Summit County Fiscal Officer on or before the final dates for payment of real property taxes, which Service Payments in lieu of ad valorem real property taxes, together with any associated rollback payments shall be deposited in the TIF Fund as described in

Section 5. Any late payments of Service Payments in lieu of ad valorem real property taxes be subject to penalty and bear interest at the then current rate established under Sections 323.121(B)(1) and 5703.47 of the Ohio Revised Code, as may hereinafter be amended, or any successor provisions thereto (the late payments together with the service payments in lieu of ad valorem real property taxes and rollback payments are referred to collectively as the Service Payments). This Council hereby authorizes the Mayor, the Finance Director, Law Director, and other appropriate officers of the City to provide such information and certifications, and execute and deliver or accept delivery of such instruments, as are necessary or incidental to collect those Service Payments, and to make such arrangements as are necessary and proper for payment of the Service Payments.

SECTION FIVE:

All Service Payments collected pursuant to this Ordinance by or on behalf of the City, as provided in Sections 5709.42 and 5709.43 of the Ohio Revised Code shall be deposited into the City's TIF Fund, and an account for the Service Payments collected under this Ordinance shall be established within the TIF Fund. All moneys deposited into the TIF Fund shall be used solely for the purposes authorized in 5709.40, et. seq. of the Ohio Revised Code, including for any or all of the following purposes:

- (i) First, to the Green Local School District and Portage Lakes Career Center, a portion of the Service Payments received by the City equal to the amount of owed to the each pursuant to the Compensation Agreement (the "School District Payments");
- (ii) Second, with respect to each year of the Exemption Period, to the Developer and the City, as set forth in the Fifth Amendment and Restated Development Agreement, the amount remaining after payment of the School District Payments, provided that all such payments shall be used solely to pay or reimburse costs of the Public Improvements, which shall include any and all planning, engineering, acquisition, construction, installation, maintenance, financing costs, and any and all other direct and indirect costs of the Public Improvements, including those costs set forth in Section 133.15(B) of the Ohio Revised Code and to further pay the interest and any premium on, and principal of, any loans entered into or bonds or notes or other obligations issued to finance the costs of the Public Improvements (including any amendment, replacement, refinancing, extension of such loans, bonds, notes or other obligations) until such notes or bonds or other obligations or loans are paid in full, and to pay any trustee, administrative and other costs related to servicing the obligations and providing and replenishing a reserve fund and to pay any costs charged by the issuer of the obligations. Such payments to the Developer and the City shall be in accordance to, in proportion to, and in the amounts set forth in the Fifth Amendment and Restated Development Agreement.
- (iii) Third, in the event all costs to be paid pursuant to paragraph (ii) are paid in full prior to the expiration of the Exemption Period, then any amount remaining after the School District Payments shall be paid to the City for the ongoing maintenance,

planning, engineering, acquisition, construction, installation, financing costs, and any and all other direct and indirect costs of Public Improvements, whether previously constructed by the Developer or otherwise, benefitting the TIF Property.

The TIF Fund shall be maintained in the custody of the City and shall receive all distributions of Service Payments required to be made to the City. The TIF Fund shall remain in existence so long as the Service Payments are collected and used for the aforesaid purposes, after which said TIF Fund shall be dissolved in accordance with Section 5709.43 of the Ohio Revised Code.

SECTION SIX:

This Council hereby designates the Public Improvements described in **Amended Exhibit C B** as “Public Infrastructure Improvements” as defined in Section 5709.40(A)(7) of the Revised Code.

SECTION SEVEN:

This Council further hereby authorizes and directs the Mayor, the Finance Director, the Law Director, the Clerk of Council or other appropriate officers of the City to sign and execute all documents and make such arrangements as are necessary and proper for (i) collection of the Service Payments to be deposited in the TIF Fund, (ii) payment of the School District Payments, and (iii) carrying out the provisions of this Ordinance.

SECTION EIGHT:

This Council hereby authorizes the Mayor to enter into a Fifth Amendment and Restated Development Agreement with the Developer and Owner in the form attached hereto as **Amended Exhibit D** and incorporated herein by reference, with such revisions as are not materially adverse to the City in the Mayor’s discretion, which shall be evidence by the execution of the Fifth Amendment and Restated Development Agreement by the Mayor. Furthermore, the Mayor is authorized to enter into ~~an amendment to the 2018 Cooperative Agreement as set forth in Section 1.2 of the Fifth Amendment and Restated Development Agreement and the~~ a new cooperative agreement pursuant to Section 1.7 of the Fifth Amendment and Restated Development Agreement.

SECTION NINE:

This Council hereby designates the City’s tax incentive review council (“TIRC”) previously established by this Council as the TIRC that shall annually review the exemptions provided pursuant to this Ordinance as required by Section 5709.85 of the Ohio Revised Code.

SECTION TEN:

In accordance with Section 5709.832 of the Ohio Revised Code, the City hereby determines that no employer located on the TIF Property shall deny any individual employment based on considerations of race, religion, sex, disability, color, national origin or ancestry.

SECTION ELEVEN:

Pursuant to Section 5709.40(I) of the Ohio Revised Code, the Clerk of Council is hereby directed to deliver or cause to be delivered a copy of this Ordinance to the Director of the Ohio Development Services Agency (the “Director”) within 15 days after its passage. On or before

March 31 of each year that the exemption set forth in Section 2 remains in effect, the Mayor, the Finance Director, the Director of Planning and Development, or other authorized officer of this City shall prepare and submit to the Director the status report required under Section 5709.40(I).

SECTION TWELVE:

This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken, and that all deliberations of this Council and of any committees that resulted in those formal actions were held, in meetings open to the public in compliance with the law.

SECTION THIRTEEN:

This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to enable the City to provide for the real property tax exemption, the Service Payments, and the related objectives provided for herein that are needed to benefit the City and its residents by creating economic opportunities, enlarging the property tax and income tax bases, and stimulating collateral development within the City; and provided it receives the approval of two-thirds of the members of Council, shall be in full force and effect from and after its passage and approval by the Mayor, or otherwise take effect and be in full force from and after the earliest period allowed by law.

ADOPTED: _____, 2022

Nichole Messner, Clerk of Council

Dave France, Council President

APPROVED: _____, 2022

Gerard M. Neugebauer, Mayor

ENACTED EFFECTIVE: _____, 2022

ON ROLL CALL: Babbitt _____ Brandenburg _____ DeVitis _____ France _____

 Noble _____ Meager _____ Yeargin _____

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Southside Leader publication on _____ and _____

Nichole Messner, Clerk of Council

~~9/22/2022~~ 10/20/22 Approved as to form and content by Lisa Dean, Director of Law _____