

## ORDINANCE NO. 19 - 23

By: Matt Klingler

**Declaring the improvements to the former Trinity Seminary apartments site to be a public purpose; declaring such improvements to be exempt from real property taxation; requiring the owners thereof to make service payments in lieu of taxes; designating the public infrastructure improvements to be made that will directly benefit the real property; establishing a public improvement tax increment equivalent fund for the deposit of service payments; authorizing a revenue sharing agreement with the Bexley City School District; and authorizing a tax increment financing and redevelopment agreement with the developer of the site.**

**WHEREAS**, the City of Bexley, Ohio (the “City”) desires to increase employment opportunities and encourage the creation of new jobs in the City to improve the overall economic health of the City and its citizens; and

**WHEREAS**, in furtherance of this effort, the City and Continental Development Ventures, LLC, an Ohio limited liability company (or its designated affiliate, the “Developer”) expect to cooperate to facilitate the redevelopment of the real property depicted on Exhibit A hereto (the “Parcels”) into a mixed use development containing approximately 219 residential apartment units, 12,355 square feet of medical office space and 12,355 square feet of commercial retail space, together with approximately 302 parking spaces (collectively, the “Project”); and

**WHEREAS**, the City desires to pursue all reasonable and legitimate incentives measures to enable the Public Infrastructure Improvements to be undertaken and recognizes that the Public Infrastructure Improvements and the Project can benefit the City; and

**WHEREAS**, Ohio Revised Code (“R.C.”) Sections 5709.40, 5709.42 and 5709.43 (collectively, the “TIF Act”) and to facilitate redevelopment of the Parcels and the Project, this Council has determined to (i) declare 100% of the increase in assessed value of each Parcel subsequent to the acquisition of that property by the City (which increase in assessed value is also hereinafter referred to as the “Improvement” as defined in the TIF Act) to be a public purpose and exempt from real property taxation for a period of 30 years, with the tax exemption commencing for each Parcel in the year an Improvement due to a new building appears on the tax list and duplicate for that Parcel (e.g. separate 30 year exemptions for each Parcel); (ii) require the owner of each such parcel to make service payments in lieu of taxes; (iii) establish a municipal public improvement tax increment equivalent fund for the deposit of those service payments and specify the purposes for which money in that fund will be expended, and (iv) provide for the distribution of an applicable portion of such service payments of certain costs of the Project and revenue sharing payments to the Bexley City School District (the “School District”); and

**WHEREAS**, the development of the Project will necessitate and will be enhanced by the undertaking of certain of the public infrastructure improvements described in Exhibit B hereto

(the “Public Infrastructure Improvements”) including, without limitation, demolition and remediation of the current buildings on the Parcels and the construction of a parking facility; and

**WHEREAS**, it has been proposed that the City enter into a Revenue Sharing Agreement with the Bexley City School District (the “School Revenue Sharing Agreement”) substantially in the form attached hereto as Exhibit C to provide for payments to the School District in connection with the Project; and

**WHEREAS**, it has been proposed that the City and the Developer enter into a Tax Increment Financing and Redevelopment Agreement (the “TIF Agreement”) substantially in the form attached hereto as Exhibit D to provide for reimbursements to the Developer for the costs associated with the Public Infrastructure Improvements, only so long as the Developer is in compliance with the Agreement; and

**WHEREAS**, reimbursements for the costs associated with the completed Public Infrastructure Improvements will be made to the Developer solely from the Service Payments (as defined in Section 4) generated from the Parcels and received by the City pursuant to R.C. Section 5709.42 and deposited into the TIF Fund (as established herein);

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL FOR THE CITY OF BEXLEY, OHIO:**

**Section 1.**

The real property subject to this ordinance is identified and depicted on Exhibit A (as each currently or subsequently configured tax parcel, the “Parcels”, with each individual tax parcel a “Parcel”).

**Section 2.**

This Council hereby designates the Public Infrastructure Improvements described in Exhibit B attached hereto as “public infrastructure improvements” (as such term is defined in Ohio Revised Code Sections 5709.40(A)(8) made, to be made, or in the process of being made, and that, once made, will directly benefit the Parcels.

**Section 3.**

This Council hereby finds and determines that 100% of the increase in assessed value of each Parcel subsequent to the effective date of this ordinance (which increase in assessed value is hereinafter referred to as the “Improvement” as defined in ORC 5709.40(A)) is declared to be a public purpose and will be exempt from taxation for a period commencing for each separate Parcel on the date an Improvement due to the construction of a new building on that Parcel first appears on the tax list and duplicate were it not for the exemption granted by this ordinance and ending on the earlier of (a) 30 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Act. It is the express intention of Council that each separate tax Parcel will have a separate 30-year exemption period. The exemption granted by this Section 3 is subordinate to any exemptions granted pursuant to ORC 3735.65 et. seq. (CRA abatements) or ORC 5709.61 et. seq. (Enterprise Zone abatements).

**Section 4.**

As provided in ORC 5709.42, the owner of each Parcel is hereby required to make service payments in lieu of taxes with respect to the Improvement allocable to each Parcel to the Franklin County Treasurer on or before the final dates for payment of real property taxes. The service payments in lieu of taxes will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and collected against that Improvement if it were not exempt from taxation pursuant to Section 3, including any penalties and interest (collectively, the "Service Payments"). The Service Payments, and any other payments with respect to the Improvement to each Parcel that are received in connection with the reduction required by ORC 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "Property Tax Rollback Payments"), will be deposited and distributed in accordance with Section 6.

**Section 5.**

This Council establishes, pursuant to and in accordance with the provisions of ORC 5709.43, the Trinity Apartments Municipal Public Improvement Tax Increment Equivalent Fund (the "TIF Fund"), into which the Service Payments and Property Tax Rollback Payments collected with respect to the Parcels will be deposited. The TIF Fund will be maintained in the custody of the City. The City may use amounts deposited into the TIF Fund only for the purposes authorized in the TIF Act and this ordinance (as it may be amended). The TIF Fund will remain in existence so long as the Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund will be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with ORC 5709.43.

**Section 6.**

Pursuant to the TIF Act, the County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments to the City for deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including, without limitation, debt charges on any notes or bonds issued to pay or reimburse finance costs or costs of those Public Infrastructure Improvements, to make revenue sharing payments to the School District authorized pursuant to Section 7, to make payments pursuant to the TIF Agreement authorized pursuant to Section 8, and for any other lawful purpose. The distribution from the County Treasurer to the City required under this Section is requested to be made at the same time and in the same manner as real property tax distributions. The City shall make all distributions requested under clause (i) of this Section to the extent not made by the County Treasurer.

**Section 7.**

The form of School Revenue Sharing Agreement between the City and the School District attached as Exhibit C hereto is hereby approved, together with any completions and changes thereto that are not substantially adverse to the City and are approved by the Mayor and the City Auditor. The Mayor and the City Auditor, for and in the name of the City, are hereby authorized to execute and deliver the Revenue Sharing Agreement in substantially that form, together with any such completions or changes. The approval of such completions and changes, and that such

completions and changes are not substantially adverse to the City, shall be conclusively evidenced by the execution of the Revenue Sharing Agreement by the Mayor and the City Auditor. This Council hereby further authorizes the making of revenue sharing payments pursuant to the terms of the School Revenue Sharing Agreement from the TIF Fund.

**Section 8.**

The form of Tax Increment Financing and Redevelopment Agreement (the “TIF Agreement”) between the City and the Developer attached as Exhibit D hereto is hereby approved, together with any completions and changes thereto that are not substantially adverse to the City and are approved by the Mayor and the City Auditor. The Mayor and the City Auditor, for and in the name of the City, are hereby authorized to execute and deliver the TIF Agreement in substantially that form, together with any such completions or changes. The approval of such completions and changes, and that such completions and changes are not substantially adverse to the City, shall be conclusively evidenced by the execution of the TIF Agreement by the Mayor and the City Auditor. This Council hereby further authorizes the making of revenue sharing payments pursuant to the terms of the TIF Agreement from the TIF Fund.

**Section 9.**

This Council hereby authorizes and directs the Mayor or other appropriate officers of the City to deliver a copy of this ordinance to the Director of Development of the State of Ohio and to make such arrangements as are necessary and proper for collection of the Service Payments. This Council further authorizes the Mayor or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this ordinance.

**Section 10.**

That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any decision making bodies of the City of Bexley which resulted in such formal actions were in meetings open to the public or in compliance with all legal requirements of the City of Bexley, Franklin County, Ohio.

**Section 11.**

This ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: \_\_\_\_\_, 2023

\_\_\_\_\_  
Troy Markham, President of Council

Attest: \_\_\_\_\_  
Matt McPeek, Clerk of Council

Approved: \_\_\_\_\_, 2023

\_\_\_\_\_  
Ben Kessler, Mayor

First Reading: June 27, 2023

Second Reading:

Third Reading:

**EXHIBIT A TO ORDINANCE**

**TIF Parcels**

The Parcels are shown on the following map.

[Attached]

## EXHIBIT B TO ORDINANCE

### **Public Infrastructure Improvements**

The Public Infrastructure Improvements consist generally of acquiring and constructing the infrastructure described below:

- Construction of one or more public parking facilities, including a new parking garage on the Parcels with approximately 302 parking spaces and related improvements, off-street parking facilities, including those in which all or a portion of the parking spaces are reserved for specific uses when determined to be necessary for economic development purposes, and all other appurtenances thereto;
- Construction, reconstruction or installation of improvements (including any underground utilities) of public storm lines and associated structures and the continued maintenance of water and sewer lines, and all other appurtenances thereto;
- Construction, reconstruction or installation of gas, electric, and communication service facilities, including broadband and fiber services, and all other appurtenances thereto;
- Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, bridges (both roadway and pedestrian), traffic calming devices, sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing lighting systems, signalization, and traffic controls, the continued maintenance of public roads and highways, and all other appurtenances thereto;
- Construction or installation of streetscape and landscape improvements including trees and shrubs, landscaping mounds and fencing, tree grates, planting beds, signage, curbs, sidewalks, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, and all other appurtenances thereto;
- Demolition, remediation and excavation, including demolition, remediation and excavation on the Parcels and other private property when determined to be necessary for economic development purposes;
- Acquisition of the Parcels and other real estate or interests in real estate (including easements) necessary to accomplish the foregoing improvements;
- Any on-going administrative expenses relating to the Public Infrastructure Improvements and maintaining the TIF revenues, including but not limited to engineering, architectural, legal, TIF administration, and other consulting and professional services; and,
- All inspection fees and other governmental fees related to the foregoing.

The Public Infrastructure Improvements specifically include the costs of financing the Public Infrastructure Improvements, including the items of “costs of permanent improvements” set forth in Ohio Revised Code Section 133.15(B), and incurred with respect to the Public Infrastructure Improvements, which “costs” specifically include any reimbursement payments for the reimbursement of the costs of the Public Infrastructure Improvements and the debt service on, and

other expenses relating to the issuance of, any bonds, notes, or other obligations issued to finance the Public Infrastructure Improvements.

All of the Public Infrastructure Improvements described above are hereby determined to be “public infrastructure improvements” (as defined in Ohio Revised Code Sections 5709.40(A)(8)) and are intended to benefit the real property described in Exhibit A.



**EXHIBIT C TO ORDINANCE**

**Form of School Revenue Sharing Agreement**

(attached hereto)

**EXHIBIT D TO ORDINANCE**

**Form of Tax Increment Financing and Redevelopment Agreement**

(attached hereto)