

## **ORDINANCE NO. 33 - 24**

By: Jessica Saad

**Approving a Tax Increment Financing and Cooperative Agreement with the Columbus-Franklin County Finance Authority, the City of Bexley, Ohio and CAG Bexley Apts, LLC for the issuance of Bonds by the Columbus-Franklin County Finance Authority in support of the CAG Bexley Apts, LLC; pledging Net Service Payments received by the City from the Trinity Apartments TIF for the payment of bonds to be issued by the Columbus-Franklin County Finance Authority pursuant to that Cooperative Agreement; and declaring an emergency.**

**WHEREAS**, City Council, by its Amended Ordinance No. 19-23, passed on November 14, 2023 (the “TIF Ordinance”), declared that 100% of the increase in true value of each parcel of the property at the site of the former Trinity Apartments at 2160-2184 East Main Street (with each such parcel hereinafter referred to a “Parcel” and collectively the “Parcels”) to be a public purpose, exempted such increase in true value to each Parcel from real property taxation for a period of thirty (30) years commencing with the first year that begins after the effective date of the TIF Ordinance and in which an improvement due to the construction of a new building on that Parcel first appears on the tax list and duplicate of real and public utility property and required the owners of such property to make service payments in lieu of taxes to the Franklin County Treasurer (the “Statutory Service Payments”); and

**WHEREAS**, the City and the Board of Education of the Bexley City School District (the “School District”) entered into a Tax Increment Financing Compensation and Cooperation Agreement dated November 14, 2023 (the “School Compensation Agreement”) to provide for the School District’s approval of the TIF Ordinance and the real property tax exemptions provided therein in exchange for compensation payments to be made to the School District from Statutory Service Payments received by the City; and

**WHEREAS**, CAG Bexley Apts, LLC and/or its affiliates (the “Developer”) have acquired the Parcels and will construct a mixed-use development that will include approximately 232 residential apartment units, 11,850 square feet of class A office, 10,800 square feet of retail space and related site improvements (the “Private Project”), together with a parking facility containing approximately 269 spaces and related improvements (the “Public Infrastructure Improvements”); and

**WHEREAS**, in order to fund costs of the Public Project, the Developer has requested that the City execute a Tax Increment Financing and Cooperative Agreement (the “Cooperative Agreement”) with the Columbus-Franklin County Finance Authority (the “CFCFA”) to provide for the issuance of bonds (the “Bonds”) to fund a portion of the costs of the Public Infrastructure Improvements and pledge to CFCFA (or the Bond trustee) the Statutory Service Payments actually received by the City (such Statutory Service Payments, net of compensation payments due to the School District pursuant to the School Compensation Agreement, together with any minimum service payments received by the City from the Parcels, the “Net Service Payments”) to provide for

payment of debt charges on the Bonds, funding of Bond reserves, and payment of related administrative expenses; and

**WHEREAS**, an emergency exists in that the Bonds need to be issued within the next 30 days in order for the construction of the Private Project and the Public Infrastructure Improvements to occur within a time period that allows the Developer to secure the necessary third party financing for the Private Project and the Public Infrastructure Improvements and retain contractors for the Private Project and the Public Infrastructure Improvements, such immediate action being necessary for the immediate preservation of the public peace, health and safety of the City since construction of the Private Project will eliminate blighted conditions within the City and provide new employment and housing opportunities within the City;

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

**Section 1.**

In order to provide for the issuance of Bonds, the Cooperative Agreement in substantially the form attached as Exhibit A hereto is hereby approved with changes therein and amendments thereto not inconsistent with this ordinance and not substantially adverse to this City and which shall be approved by the Mayor and the City Auditor. The Mayor and the City Auditor, for and in the name of this City are hereby authorized to execute and deliver the Cooperative Agreement in substantially that form, together with changes therein or amendments thereto, provided that the approval of such changes and amendments thereto by the Mayor and the City Auditor, and the character of those changes and amendments as not being substantially adverse to this City, shall be evidenced conclusively by the Mayor's and the City Auditor's execution thereof.

**Section 2.**

The obligation of the City to pay the Net Service Payments to the CFCFA or the trustee for the Bonds pursuant to the Cooperative Agreement constitutes a special obligation of the City and is payable solely from Net Service Payments actually received by the City (the "Pledged Payments"). All such Pledged Payments shall be deposited into the TIF Fund created by the TIF Ordinance and are pledged for those payments to be made by the City pursuant to the Cooperative Agreement. No other funds are pledged for those payments, and none of the CFCFA, the Developer, the Bond trustee or any other beneficiary of those Pledged Payments has a right to have taxes levied or any other claim on funds of the City to make those payments. All Pledged Payments hereafter deposited in the TIF Fund are hereby appropriated to make those payments required by the Cooperative Agreement, and the City Auditor is hereby authorized and directed to make those payments in accordance with the Cooperative Agreement.

**Section 3.**

This Council hereby further authorizes the Mayor and the City Auditor or other appropriate officers of the City to prepare and sign all documents and to take any other actions as may be appropriate to implement this Ordinance or the Cooperative Agreement, including, without limitation, executing any declaration of covenants or service agreement necessary for the collection of

minimum service payments from the owners of the Parcels and taking all action necessary or advisable for the collection of those minimum service payments.

**Section 4.**

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 5.**

This ordinance is declared to be an emergency measure, necessary for the immediate preservation of the public peace, health and safety of the City, for the reasons stated in the Preamble hereto, which is hereby made a part hereof; wherefore, this Ordinance shall be in full force and effect immediately upon its passage.

Passed: \_\_\_\_\_, 2024

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Monique Lampke, President of Council

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

Approved: \_\_\_\_\_, 2024

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Ben Kessler, Mayor

First Reading: September 24, 2024

Second Reading:

Third Reading: