

ORDINANCE 15- 10

By: Mr. Kessler

AN ORDINANCE TO APPROVE AND AUTHORIZE THE MAYOR AND THE CITY AUDITOR TO SIGN THE AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF BEXLEY AND ONE DAWSON PLACE, L.L.C. TO PROVIDE INCENTIVES AVAILABLE FOR PROJECT DEVELOPMENT IN THE MAIN STREET RE/DEVELOPMENT COMMUNITY REINVESTMENT AREA.

WHEREAS, the Council of the City of Bexley, Ohio (the "City") by its Ordinance No. 68-02, adopted September 24, 2002 (and amended by Ordinance No. 60-04, adopted September 28, 2004 and Ordinance No. 73-04, adopted October 26, 2004) (the "Ordinance"), designated the Main Street Re/Development Community Reinvestment Area (as depicted on Exhibit "A" and labeled thereon as the "CRA") which enables the City to offer real property tax exemption on the construction of certain new structures and the remodeling of certain existing structures as described in Ohio Revised Code Section 3735.67; and

WHEREAS, the Director of Development of the State of Ohio has determined that the aforementioned area designated in said Ordinances contains the characteristics set forth in O.R.C. 3735.66 and confirmed that area as a "Community Reinvestment Area" pursuant to that Section 3735.66; and

WHEREAS, the city desires to pursue all reasonable and legitimate incentive measures to assist, encourage and stimulate development in the CRA, which has not enjoyed sufficient reinvestment from remodeling or new construction; and

WHEREAS, the City and One Dawson Place, L.L.C. (the "Developer") entered into a Main Street Re/Development Community Reinvestment Area Agreement (the "Agreement") dated August 12, 2005 (as set forth in Exhibit "B" attached hereto); and

WHEREAS, the City has adopted an amendment to the Ordinance to provide for certain residential exemptions pursuant to O.R.C. 3735.67 and the City and the Developer desire to amend the Agreement to remove from the Agreement two residential units on the top two floors of the project, and allow the Developer to apply for the new residential exemption; and

WHEREAS, the City desires to provide the Developer with incentives for development of new residential structures within the boundaries of the CRA consistent with the terms of O.R.C. 3735.65 et al;

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


Section 1. That the amendment to Agreement between the Developer and the City (the "Amendment") substantially in the form attached hereto as Exhibit "C" and made a part hereof, hereby is approved and authorized with changes therein not inconsistent with this Ordinance and not substantially adverse to the City, and the Mayor and the City Auditor hereby are authorized to execute the Amendment and directed to take any further actions, and execute and deliver any further agreements, certificates or documents necessary to accomplish the terms and conditions of the Amendment, provided further that the approval of changes thereto by those officials, and their character as not being substantially adverse to the City, shall be evidenced conclusively by the execution thereof.

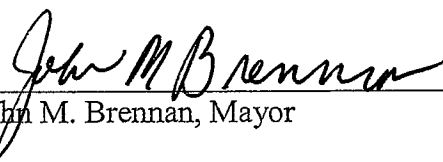
Section 2. That all other provisions of the Ordinance remain in full force and effect and that this Ordinance shall go into effect and be in force from and after the earliest period allowed by law.

Passed: 4/13/10



President of Council

Attest: 



John M. Brennan, Mayor

First Reading 3/9/10
Second Reading 3/16/10
Third Reading 4/13/10
PASSED

EXHIBIT "A"

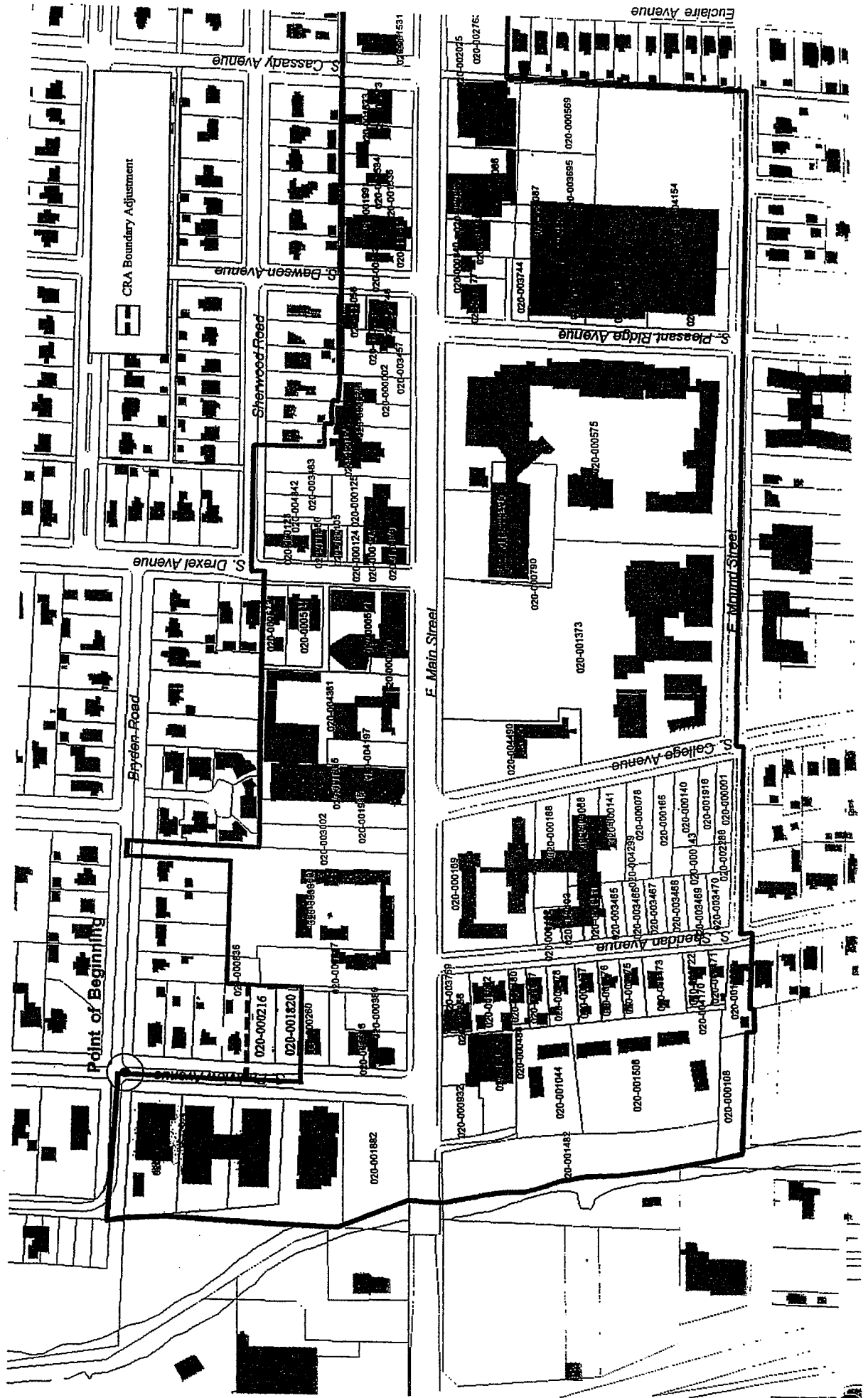


EXHIBIT "A"

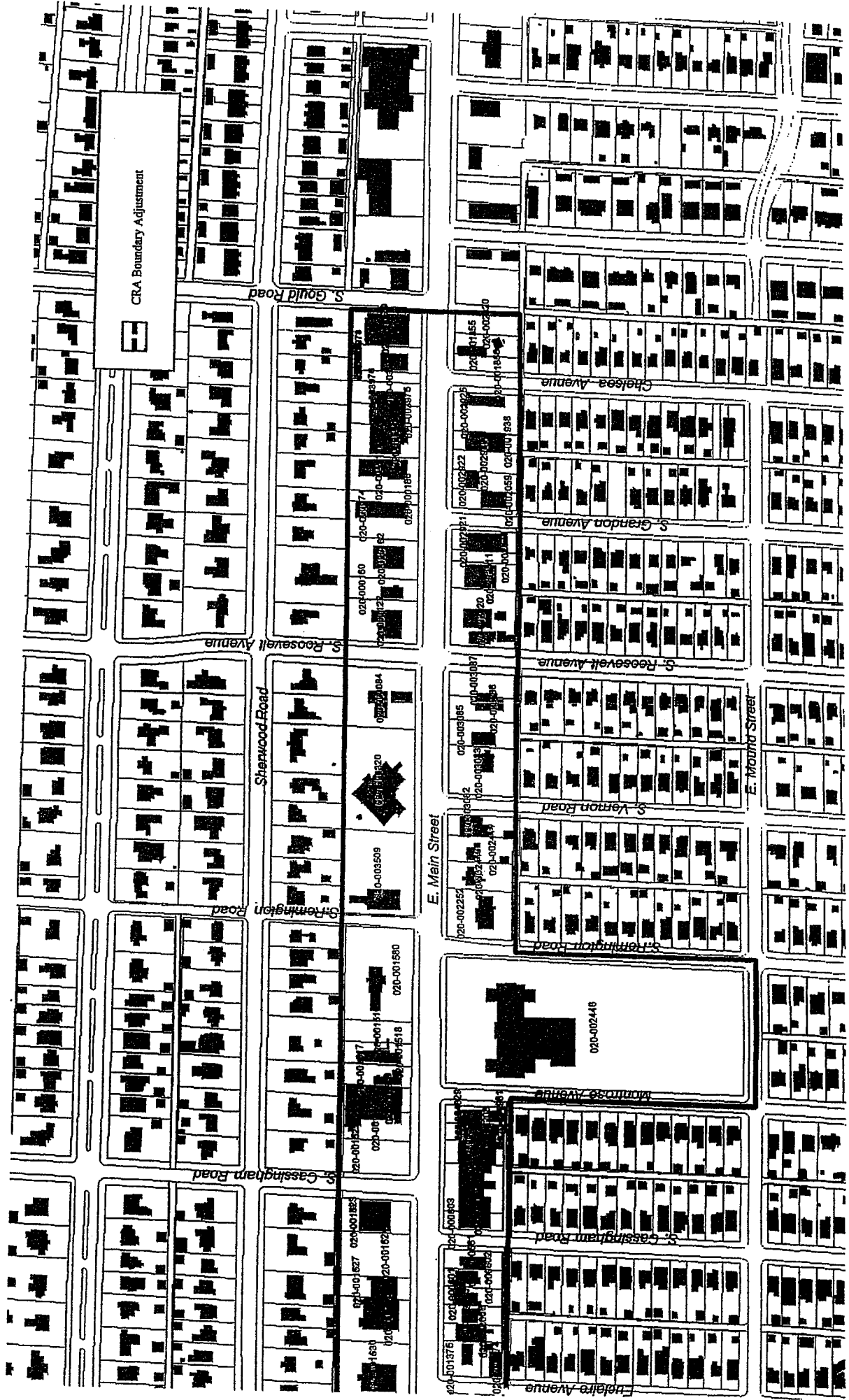


EXHIBIT "B"

**MAIN STREET RE/DEVELOPMENT
COMMUNITY REINVESTMENT AREA AGREEMENT**

This agreement (this "Agreement") made and entered into by and between the City of Bexley, Ohio (the "City"), a municipal corporation duly organized and validly existing under the Constitution and laws of the State of Ohio and its Charter, located at 2242 East Main Street in the City, and One Dawson Place, L.L.C., an Ohio limited liability corporation, with offices located at 369 East Livingston Avenue, Columbus, Ohio 43215 (hereinafter referred to as the "Developer", and together with any successors, assigns or transferees, collectively or singly, as the context requires, referred to hereinafter as the "Owner").

WITNESSETH:

WHEREAS, the City desires to pursue all reasonable and legitimate incentive measures to assist, encourage and stimulate development in specific areas of the City that have not enjoyed sufficient reinvestment from remodeling or new construction; and

WHEREAS, the City Council by its Ordinance No. 68-02 adopted September 24, 2002 (the "Ordinance") created the Main Street Re/Development District Community Reinvestment Area (the "CRA") and authorized real property tax exemption on the construction of certain new structures and the remodeling of certain existing structures as described in Ohio Revised Code Section 3735.67; and

WHEREAS, the Developer has acquired the real property contained within the CRA and described on Exhibit A attached hereto (the "Land"), and intends to construct or cause to be constructed on the Land a five (5)-story mixed-use development (the "Project") consisting of up to nine (9) condominium dwelling units and street level commercial retail (the building hereinafter referred to as the "Structure" and the individual units hereinafter referred to as the "Unit" or "Units"), that if completed, may be eligible for a tax exemption under the Ordinance; and

WHEREAS, the Developer intends to subject the Project to the condominium form of ownership pursuant to Chapter 5311 of the Ohio Revised Code (the "Condominium Act"); and

WHEREAS, the Developer has submitted to the City a proposed Community Reinvestment Area Agreement Application (the "Application"), attached hereto as Exhibit B; and

WHEREAS, the Developer also has submitted to the City with the Application a non-refundable processing/monitoring fee of \$250.00 payable to the City of Bexley and a one-time fee of \$750.00 payable to the Ohio Department of Development; and

WHEREAS, pursuant to Ohio Revised Code Section 3735.67(A) and in conformance with the format required under Ohio Revised Code Section 3735.671(B), the City and the Owner desire to formalize their agreement with respect to matters hereinafter contained; and

WHEREAS, by its Ordinance 60-04, adopted September 28, 2004, the Council of the City approved this Agreement and authorized the execution of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

1. Project Description. The Developer agrees to redevelop the 0.18± acre site located at the northeast intersection of Dawson and Main Street with a new five-story mixed-use development consisting of up to nine condominium units and street level commercial retail. The street level building area will be dedicated to resident parking, lobbies and approximately 850 square feet of retail space. Floors 2 through 5 will be dedicated to full-time residential use. The approximate total cost of the construction of the Project which may occur on the Land, including all personal property to be incorporated therein, is expected to be approximately \$3,600,000.

The construction of the Project is expected to begin on or about October 1, 2004. The Project is scheduled for completion in approximately October, 2005 (the "Project Period").

2. Jobs. The Developer currently estimates there will be created at the Project by approximately December 2005 one full-time permanent employment position and three to six additional retail positions, which may be any combination of full-time permanent, part-time permanent, full-time temporary and part-time temporary, with an aggregate annual payroll for all of the positions of approximately \$90,000 upon completion of the Project.

3. Tax Exemption. The parties herein agree that the Structure shall receive a real property tax exemption on the below-specified percentage of its assessed valuation in excess of the Minimum Fully Taxable Value (hereinafter defined) for that year for a period of five (5) years based upon the following schedule:

<u>Year</u>	<u>Exemption Percentage</u>
1	100%
2	80%
3	60%
4	40%
5	20%

The Minimum Fully Taxable Value shall be the difference between \$101,250 (the tax year 2003 taxable value – i.e., the 35% value -- of parcel no. 020-001538) and the value of the Land as established by the Franklin County Auditor for the tax year of the exemption, but in no event shall the Base Value be a negative number. Notwithstanding anything to the contrary contained herein, no exemption granted hereunder shall commence after January 1, 2006 (tax year 2006) nor extend beyond January 1, 2010 (tax year 2010).

4. Conditions Precedent.

(a) The Developer and City acknowledge that this Agreement must be approved by formal action of City Council as a condition for the Agreement to take effect. This Agreement takes effect upon such approval.

(b) The Developer acknowledges that such tax exemption is subject to the filing of a real property tax exemption application with the Housing Officer immediately following the completion of construction. Upon receipt of the real property tax exemption application, the Housing Officer shall verify and investigate the facts and circumstances necessary to determine whether the Structure is eligible for a tax exemption pursuant to this Agreement. If the Housing Officer determines that the Structure is eligible for a tax exemption, the Housing Officer shall certify the tax exemption to the Franklin County Auditor and shall perform such other acts as are reasonable, necessary or appropriate to effect, claim, reserve, and maintain the tax exemption described in this Agreement, including, without limitation, joining in the execution of all documents and providing any necessary certificates required in connection with such tax exemption.

5. Owner's Covenants. To induce the City to enter into and maintain this Agreement, the Owner covenants as follows:

(a) The Owner shall pay such real and tangible personal property taxes as are not exempted under this Agreement or otherwise and are charged against the Land and Structure, and shall file all tax reports and returns as required by law.

(b) The Owner affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio or a political subdivision of the State; (2) any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State; and (3) any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.

(c) During the period (the "Reporting Period") beginning on the date of this Agreement and ending on the date that all exemptions provided for by this Agreement have expired or have been otherwise terminated the Owner shall provide the Housing Officer with written notice:

(i) At least fifteen (15) days before all or any part of the Structure or the Land is converted to condominium property pursuant to Ohio Revised Code Chapter 5311;

(ii) At least fifteen (15) days notice prior to any contemplated change of ownership of all or any part of the Structure or the Land, including

the estimated proposed date of transfer and the name and address of the proposed transferee;

(iii) Of any actual change in ownership of all or any part of the Structure or the Land within thirty (30) days after the occurrence thereof, (whether or not the notice under section 5(c) (ii) shall have been given), or within sixty (60) days if the change resulted from the death of the Owner, including a copy of the deed or other instrument of conveyance.

(d) With regard to all or any part of the Owner's portion of the Structure or the Land, the Owner shall comply with all applicable fair housing and non-discrimination laws, and no individual shall be denied access to or commercial or residential use of all or any part of the Owner's portion of the Structure or the Land solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

(e) The Owner shall properly maintain the Owner's portions of the Structure and Land and keep the same repaired.

(f) Within thirty (30) days after written request from the City, the Owner shall provide (i) any information necessary for a tax incentive review council or housing officer or housing council to perform its review or other responsibilities under Revised Code Sections 3735.68, 3735.69 or 5709.85, as applicable, and (ii) any information necessary for the City to comply with any other applicable legal requirements.

(g) During the Reporting Period, the Owner shall furnish any transferee of all or any part of the Owner's portion of the Structure or the Land with a copy of this Agreement; and any deed or other instrument of conveyance of the Structure, a Unit or the Land or any part thereof, shall contain the following provision:

"Grantee, for Grantee and for Grantee's heirs, devisees, administrators, executors, successors and assigns, agrees for the benefit of Grantor and of the city of Bexley that, so long as the real property conveyed by this deed enjoys any exemption or partial exemption from real property taxes (whether or not the exemption shall yet then have commenced), pursuant to the terms of the City of Bexley Ordinance No. 68-2, adopted September 24, 2002, Grantee, Grantee's heirs, devisees, administrators, executors, successors and assigns will give written notice, addressed to 'Housing Officer, City of Bexley, 2242 West Main Street, Bexley, Ohio 43209' as follows:"

(Such deed shall then include verbatim the provisions set forth in Section 5(c)(i) through 5(c)(iii) of this Agreement.)

6. Assumption by Successor. Except as described in this section, this Agreement is not transferable or assignable without the express, written approval of the City.

As used in this Agreement, "Successor Owner" means, as of any point in time, each person, except Developer, which is then the owner of all or any part of the Structure or the Land, and "Prior Owner" means, as of any point in time, any person which shall have been, but is not then, an owner of all or any part of the Structure or the Land.

The right to receive the tax exemptions set forth in this Agreement may be assigned or transferred to another Owner but solely if such assignee or transferee files with the Housing Officer of the City an Assumption Agreement in the form attached hereto as Exhibit C wherein such Owner (i) assumes all obligations of Owner under this Agreement with respect to the Owner's portion of the Structure or the Land, and (ii) certifies to the validity as to such assignee or transferee of the representations, warranties and covenants contained herein. Upon the receipt by the Housing Officer of such certificate, the Successor Owner shall have all entitlements and rights as to the portion of the Structure or Land as if it had been the original Owner and signatory to this Agreement.

Upon receipt of the Assumption Agreement and acceptance thereof by the Housing Officer, each Prior Owner will be released from liability for any Events of Default occurring after the date of the change in ownership by which that Prior Owner became a Prior Owner; provided, however, that:

- (a) If the Successor Owner is controlled by, in control of or under common control with (in any of such cases, an "Affiliate of") a Prior Owner, then that Prior Owner shall nonetheless remain liable as surety; and
- (b) Following the change in ownership, each Prior Owner shall nonetheless remain obligated to deliver any information required by Section 5(f) pertaining to any period prior during which it or an Affiliate of it owned all or any part of the Structure or the Land. Upon failure of any Prior Owner to furnish any information which it is required by this paragraph to provide:
 - (i) That Prior Owner shall be liable to the City for any actual damages resulting from such failure;
 - (ii) That Prior Owner and its Affiliates shall be ineligible for any future economic development assistance from the City pursuant to Ohio Revised Code Section 9.66(C)(1); and
 - (iii) If that Prior Owner is an Affiliate of the Successor Owner and such failure becomes an Event of Default under Section 8, the City may exercise any remedy made available for Event of Default under Section 9.

The preceding notwithstanding, none of the remedies set forth in this section shall be invoked, unless and until the City shall have given a second written request (the "Second Request") to Prior Owner for information under Section 5(f) and Prior Owner has failed to provide the requested information within ten (10) days after the Second Request. Any Second Request shall contain a prominent and explicit warning of the consequences set forth in this section that may result from a continued failure of Prior Owner to provide the requested information within such ten (10) day period. Such Second Request to the Prior Owner shall be sent simultaneously with the ten (10) day notice set forth in Section 8(e).

7. Warranties and Representatives. To induce the City to enter into and maintain this Agreement, the Owner makes the following warranties and representations:

- (a) That this Agreement was entered into prior to the commencement of the construction of the Structure;
- (b) That at the time this Agreement is executed, the Owner does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which the Owner is liable under Chapter 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, the Owner currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against the Owner. For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes.
- (c) The Owner affirmatively covenants that it has made no false statements to the State or the City or any other local political subdivisions in the process of obtaining approval of the Community Reinvestment Area incentives for the Project.
- (d) The Developer will maintain membership in the Bexley Chamber of Commerce.

8. Event of Default. An event of default (an "Event of Default") means the occurrence of one or more of the following described events:

- (a) The representations or warranties made by any Owner in Section 7 shall be false or incorrect in any respect material to the determination that the Structure or any part thereof was eligible and entitled to the benefits provided for in this Agreement;
- (b) The determination by the Housing Officer making an inspection under Ohio Revised Code Section 3735.68 that the Owner has failed to maintain or repair the Structure and such default shall continue without cure for thirty (30) days after written notice thereof shall have been given to the Owner by the Housing Officer;

(c) The Owner fails to furnish when required the information described in Section 4(f) and such default shall continue without cure for ten (10) days after written notice thereof shall have been given to the Owner by the Housing Officer;

(d) Any Affiliate of the Owner fails to furnish when required the information described in Section 6(b) and such default shall continue without cure for ten (10) days after written notice thereof shall have been given to the Owner by the Housing Officer, provided that the Second Request required by Section 6(b) shall be sent to the Prior Owner simultaneously with the ten (10) day notice to the Owner; or

(e) The Owner defaults in the performance or observation of any other covenant made or required to be observed or performed under this Agreement and such default shall continue without cure for thirty (30) days after written notice thereof shall have been given to the Owner by the Housing Officer; or

(f) The Owner fails to pay such real property taxes as are not exempted under this Agreement and are charged against such property or file any tax reports and returns as required by law.

9. **Remedies.** If any Event of Default shall occur, the Housing Officer may pursue any one or more of the following remedies concurrently or successively. No delay or omission to exercise any such remedy shall impair any such right or power or shall be construed to be a waiver thereof.

(a) In the case of an occurrence of any Event of Default attributable to an Owner, by written notice from the Housing Officer to that Owner, the Housing Officer may terminate this Agreement with respect to that Owner and revoke the tax exemption granted to that Owner pursuant to this Agreement, with such revocation effective as of the date of the Event of Default.

(b) In the case of an Event of Default under Section 8(a) attributable to an Owner or its Affiliate, that Owner shall be required to immediately return all benefits received by that Owner or its Affiliate under this Agreement.

(c) In the case of any Event of Default attributable to an Owner, the Housing Officer on behalf of the City may exercise or pursue or cause the City to pursue any other remedy or cause of action previously permitted under this Agreement or conferred upon the City at law or in equity.

(d) In the case of an Event of Default under Section 8(f) by an Owner, exemptions from taxation granted under this Agreement for that Owner are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.

(e) If (i) an Owner otherwise materially fails to fulfill its obligations under this Agreement, or (ii) if the City determines that the certification as to delinquent taxes

required from an Owner by this Agreement is fraudulent, the City may terminate or modify the exemptions from taxation granted under this Agreement with respect to that Owner, and may, in its sole discretion, require the repayment of the amount of taxes from that Owner that would have been payable had the property not been exempted from taxation under this Agreement.

10. No Falsification. All applications, reports and other writings submitted by the Developer to the City shall constitute the representations and warranties of the Developer as to the truth and accuracy of all facts, calculations and other information set forth therein, as though fully set forth and repeated in this Agreement. Should any such representations or warranties be false or incorrect in any material respect, the Developer shall be ineligible for any future economic development assistance from the State, any State agency or a political subdivision pursuant to Ohio Revised Code Section 9.66(C)(1). Further, any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code Section 2921.13(D)(1), which is punishable by a fine of not more than \$1,000 and/or a term of imprisonment of not more than six months.

11. Discontinuation of Operations. Exemptions from taxation granted under this Agreement shall be revoked with respect to an Owner if it is determined that the Owner, any successor to that Owner or any related member (as those terms are defined in division (E) of Section 3735.671 of the Ohio Revised Code) has violated the prohibition against entering into this Agreement under division (E) of Section 3735.671 or Section 5709.62 or 5709.63 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections.

12. Survival. This Agreement and all covenants, agreements, representations and warranties made herein shall survive the execution of this Agreement and the filing of the Application with the Housing Officer, the granting by the Housing Officer of the tax exemption, if any, and shall continue in full force and effect until this Agreement is terminated. This Agreement shall be terminated at the earlier of such time (i) the exemption period expires, (ii) as the Agreement is terminated by the Housing Officer following an Event of Default, or (iii) as the Agreement is terminated by the mutual written agreement of the parties.

Further, if for any reason the City revokes the designation of the CRA, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless an Owner materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the exemption from taxation granted pursuant to this Agreement to that Owner.

13. Notices. All notices required or permitted to be sent to the parties pursuant to this Agreement shall be sent to the following addresses, by hand delivery, commercial courier service or by the United States certified mail, postage prepaid:

The Housing Officer:

Daniel J. Lorek
Development Director

City of Bexley
2242 East Main Street
Bexley, Ohio 43209

The Developer

One Dawson Place, L.L.C.
369 East Livingston Avenue
Columbus, Ohio 43215
Attn: George D. Berardi

Such notices shall be effective when received or, if delivery is refused or if certified mail is returned unclaimed, then upon the date of such refusal or return.

14. Severable Provisions. The parties herein intend and believe that each provision in this Agreement, the Application and Ordinance (together, the "Exemption Documents") comport with all applicable local, state and federal laws and judicial decisions. However, if any provision or provisions, or if any portion of any provision or provisions, in the Exemption Documents are found by a court of law to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decision, or public policy, and if such court shall declare such portion, provision or provisions of the Exemption Documents to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of the parties herein that such portion, provision or provisions shall be given force and effect to the fullest possible extent, that the remainder of the Exemption Documents shall be construed as if such provision or provisions were not contained therein, and that the rights, obligations and interests of the parties under the remainder of the Exemption Documents shall continue in full force and effect.

[THIS SPACE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the City of Bexley, Ohio, by David H. Madison, its Mayor, and Gary W. Qualmann, its City Auditor, and pursuant to Ordinance No. 60-04 adopted September 28, 2004, has caused this instrument to be executed as of this 18th day of OCTOBER, 2004, and One Dawson Place, LLC, by its MEMBER, has caused this instrument to be executed as of this 18th day of OCTOBER, 2004.

CITY OF BEXLEY, OHIO

By: 

David H. Madison
Mayor

By: 

Gary W. Qualmann
City Auditor

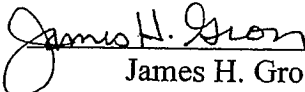
ONE DAWSON PLACE, L.L.C.

By: 

Printed Name: GEORGE BERARDI

Its: Member

Approved as to form:


James H. Gross
City Attorney

[Note: A copy of this Agreement must be forwarded to the Ohio Department Development within fifteen (15) days of finalization.]

Exhibit A

[Legal Description]



KLEINGERS
& ASSOCIATES
ENGINEERS AND SURVEYORS

Situated in the City of Hoxley, County of Franklin, State of Ohio; also being Lot Number 384 in Bexley Park Addition, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 11, Page 35, Recorder's Office, Franklin County, Ohio; and being more particularly described as follows:

Beginning at an iron pin set at the intersection of the northerly line of Main Street (80' wide right-of-way) and the easterly line of Dawson Avenue (60' wide right-of-way); thence,

Along the easterly line of Dawson Avenue, *North 01° 43' 34" East, one hundred sixty and ninety-six one-hundredths feet (160.96')* to a point at the intersection of the easterly line of Dawson Avenue and the southerly line of an alley (15' wide right-of-way), said point witnessed by a 5/8" iron pin found with no cap bearing *South 40° 37' 45" West, zero and sixty-four one-hundredths feet (0.64')*; thence,

Along the southerly line of said 15' wide alley, *South 90° 00' 00" East, forty-seven and ninety one-hundredths feet (47.90')* to an iron pin set; said point being the northwesterly corner of Lot Number 383, lands as conveyed to 2700 Partnership as described in Instrument No. 199808250214803; thence,

Along the westerly line of said Lot Number 383, *South 01° 43' 34" West, one hundred sixty and ninety-six one-hundredths feet (160.96')* to an iron pin set along the northerly line of Main Street; thence,

Along the northerly line of Main Street, *North 90° 00' 00" West, forty-seven and ninety one-hundredths feet (47.90')* to the point of beginning, containing 0.177 acres of land, more or less, as determined by Michael L. Keller, Professional Surveyor, Ohio License No. 7978, based on a survey performed by Kleingers and Associates in August, 2004.

Basis of bearings for the herein-described courses is an assumed bearing of North 90° 00' 00" West for the northerly right-of-way line of Main Street.

All iron pins set are 5/8" diameter, 30" long rebar with plastic caps stamped "KLEINGERS & ASSOC".

Subject to any easements, restrictions, covenants, ordinances, or agreements of record.

Michael L. Keller

Michael L. Keller
Ohio Professional Surveyor No. 7978

10/12/04
Date

EXHIBIT "C"

THIRD AMENDMENT TO MAIN STREET RE/DEVELOPMENT
COMMUNITY REINVESTMENT AREA AGREEMENT

This amendment (the "Amendment") to the Main Street Re/Development Community Reinvestment Area Agreement (the "Agreement") is made and entered into by and between the City of Bexley, Ohio (the "City"), a municipal corporation duly organized and validly existing under the Constitution and laws of the State of Ohio and its Charter, located at 2242 East Main Street in the city, and One Dawson Place, L.L.C., and Ohio limited liability company, with offices located at 2950 East Broad Street, Columbus, Ohio (the "Developer").

WITNESSETH:

WHEREAS, the Council of the City of Bexley, Ohio (the "City") by its Ordinance No. 68-02, adopted September 24, 2002 (and amended by Ordinance No. 60-04, adopted September 28, 2004 and Ordinance No. 73-04, adopted October 26, 2004) (the "Ordinance"), designated the Main Street Re/Development Community Reinvestment Area (the "CRA") which enables the City to offer real property tax exemption on the construction of certain new structures and the remodeling of certain existing structures as described in Ohio Revised Code Section 3735.67; and

WHEREAS, the Developer acquired the real property contained within the CRA and described on Exhibit "A" attached hereto (the "Land"), and has constructed on the Land a five-story mixed-use development (the "Project") consisting of seven (7) condominium dwelling units and one (1) commercial retail/office unit (the building hereinafter referred to collectively as the "Development"); and

WHEREAS, the City and the Developer entered into the Agreement dated October 18, 2004 (a copy of which is attached hereto as Exhibit "B"); and

WHEREAS, the City has created a residential exemption applicable to new residential structures constructed within the Main Street Re/Development CRA; and

WHEREAS, the City and the Developer desire to amend the Agreement to remove from the described property the two top floors of the Development which contain two residential condominium units so they may be included under the new residential exemption within the Main Street Re/Development CRA;

NOW, THEREFORE, in consideration of the mutual covenants contained in the Agreement and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

The first paragraph of Section 1 of the Agreement is hereby amended to read as follows:

1. Project Description. The Developer agrees to redevelop the 0.18+/- acre site located at the northeast intersection of Dawson and Main Streets with a new five-story mixed use development consisting of up to nine condominium units and street level commercial retail. The street level building area will be dedicated to residential parking, lobbies and approximately 850 square feet of retail space. Floors 2 through 5 will be dedicated to full-time residential use. The approximate total cost of the construction of the Project which may occur on the Land, including all personal property to be incorporated therein, is expected to be approximately \$3,600,000. For the purposes of this Agreement, floors 4 and 5 will not be subject to the terms of this Agreement. The Tax Parcel Numbers related to this Agreement will be 020-004731, 020-004732, 020-004733, 020-004734, 020-004735, and 020-004736.

The parties hereto reaffirm each and every other provision of the original Agreement dated October 18, 2004 as if fully rewritten herein and made a part hereof.

IN WITNESS WHEREOF, the City of Bexley, Ohio, by John M. Brennan, its Mayor, and Gary Qualmann, its City Auditor, and pursuant to Ordinance No. ____-10 adopted _____, 2010, has caused this instrument to be executed as of this _____ day of _____, 2010, and One Dawson Place, L.L.C., by its Managing Member has caused this instrument to be executed as of this _____ day of _____, 2010.

CITY OF BEXLEY, OHIO

By: _____
John M. Brennan, Mayor

By: _____
Gary Qualmann, Auditor

DEVELOPER

By: _____

Approved as to form:

Louis Chodosh, City Attorney