

ORDINANCE NO. 01 - 14

AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY LOCATED IN THE CITY OF BEXLEY, OHIO TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; AUTHORIZING THE EXECUTION OF A COMPENSATION AND COOPERATION AGREEMENT; ESTABLISHING AN URBAN REDEVELOPMENT TAX INCREMENT EQUIVALENT FUND; DESIGNATING THE PURPOSES FOR WHICH MONEYS DEPOSITED IN THE URBAN REDEVELOPMENT TAX INCREMENT EQUIVALENT FUND MAY BE USED; AND RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.41, 5709.42, 5709.43, 5709.82 and 5709.85.

WHEREAS, Ohio Revised Code ("R.C.") Section 5709.41 provides that this Council may, under certain circumstances, declare Improvement (as defined below) to parcels of real property located in the City of Bexley (the "City") to be a public purpose, thereby exempting that Improvement from real property taxation, provided the City has held fee title to such real property prior to the adoption of the ordinance providing for the exemption; and

WHEREAS, pursuant to R.C. Section 5709.41, said exemption may exceed 75% of such Improvement for up to thirty (30) years with the approval of the affected local school district; and

WHEREAS, the real property described in Exhibit A hereto and incorporated herein by reference (the "Property") is located in the State of Ohio (the "State"), County of Franklin, and the City; and

WHEREAS, a private developer is desirous of redeveloping the Property by constructing an urban grocery store thereon (the "Project"); and

WHEREAS, the Property as currently improved consists of outdated, functionally obsolete structures and is located in the City's Main Street corridor; and

WHEREAS, the proposed Project would be consistent with the City's redevelopment efforts as described in the 2011 Land Use Strategy (the "Redevelopment Plan"), and in particular, the recommendations for East Main Street contained in Section C, page 6 of the Redevelopment Plan; and

WHEREAS, the Project will increase density, enhance the Main Street corridor and is a critical component of the City's redevelopment efforts; and

WHEREAS, pursuant to Second Amended Ordinance No. 20-13, passed September 17, 2013, the City transferred fee title to the Property to Bexley Community Improvement Corporation (the "CIC"); and

WHEREAS, pursuant to Ordinance No. 47-13, passed October 8, 2013, the City acquired fee title to the Property back from the CIC and re-conveyed the Property to the CIC; and

WHEREAS, the CIC is leasing the Property to the private developer to enable the developer to construct the Project; and

WHEREAS, because the City currently occupies the Property and must move its facilities located thereon, it is necessary for the City to acquire one or more other properties, to make improvements thereto and to incur related costs; and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interests of the City to provide for service payments in lieu of real property taxes ("Service Payments," as further defined below) with respect to the Improvement to the Property pursuant to R.C. Section 5709.42; and

WHEREAS, notice of this proposed Ordinance has been delivered to the Board of Education of the Bexley City School District (the "School District") in accordance with R.C. Sections 5709.41 and 5709.83, or such notice has been waived; and

WHEREAS, in connection with the hereinafter-described compensation to be provided to the School District, the Board of Education of the School District, pursuant to a Resolution passed on October 7, 2013, has approved this Ordinance and the exemptions provided herein;

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

Section 1. One hundred percent (100%) of the increase in the assessed value of the Property subsequent to the acquisition of the Property by the City from the CIC (which increase in assessed value is an "Improvement" as defined in R.C. Section 5709.41 and which Improvement is described on Exhibit B attached hereto and incorporated by reference herein) shall be a public purpose and shall be exempt from real property taxation for a period commencing on the effective date of this Ordinance and ending thirty (30) years after such date.

Section 2. The costs described in Exhibit C attached hereto and incorporated by reference herein (the "Designated Costs") are hereby designated as a public purpose and as costs that will facilitate the urban redevelopment of the City in a manner consistent with the City's Redevelopment Plan. This Council hereby finds that the City is engaged in urban redevelopment through its paying all or a portion of the Designated Costs.

Section 3. As provided in R.C. Section 5709.42, the owner of any portion of the Property is required hereby to make annual payments in lieu of taxes to the Franklin County Treasurer (the "County Treasurer") on or before the final dates for payment of real property taxes. Each such payment (including interest and penalties) shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been

charged and payable against the Improvement of the Property if it were not exempt from taxation pursuant to R.C. Section 5709.41 (with the payments in lieu of tax, including any penalties and interest, the "Service Payments"). The County Treasurer shall remit all Service Payments, in respect of the Improvement, to the City for deposit in the Bexley City Hall Urban Redevelopment Tax Increment Equivalent Fund established in Section 4 hereof. This Council hereby authorizes the Mayor or the City Auditor or 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 and incidental to collect those Service Payments and to make such arrangements as are necessary and proper for payment of the Service Payments. Any late payments shall be subject to penalty and bear interest at the then current rate established under R.C. Sections 323.121 and 5703.47, as may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time. The Service Payments shall be allocated and deposited in accordance with Sections 4 and 5 of this Ordinance.

Section 4. This Council hereby establishes, pursuant to and in accordance with the provisions of R.C. Section 5709.43, the Bexley City Hall Urban Redevelopment Tax Increment Equivalent Fund (the "Fund"), into which shall be deposited all of the Service Payments distributed to the City with respect to the Improvement to the Property by or on behalf of the County Treasurer, as provided in R.C. Section 5709.42, and hereby provides that all of the moneys deposited in the Fund shall be used as provided below. The Fund shall remain in existence so long as Service Payments are collected and used for the aforesaid purposes, after which said Fund shall be dissolved in accordance with R.C. Section 5709.43(D). Upon dissolution, any incidental surplus money remaining in the Fund shall be disposed of as provided in R.C. Section 5709.43(D).

The Service Payments deposited into the Fund shall be used for the following purposes and in the following order:

(1) First, the City hereby requests that the Franklin County Auditor (the "County Auditor") and the County Treasurer make compensation payments (the "School District Compensation") to the School District pursuant to the Compensation and Cooperation Agreement (as described in Section 5 hereof); and

(2) Second, to reimburse the City for Designated Costs.

If the County Auditor and County Treasurer do not pay the School District Compensation directly to the School District as described in (1) above, the City shall pay the School District Compensation to the School District within thirty (30) days after each deposit by the County Auditor and County Treasurer of Service Payments in the Fund. Should any owners of the Property make a Service Payment that is less than the full amount due, the City and the School District shall negotiate in good faith to determine what portion of the partial Service Payment will be paid to the School District as the School District Compensation.

Section 5. The Mayor and City Auditor are hereby authorized and directed to sign the Compensation and Cooperation Agreement between the City and the School District (the "Compensation and Cooperation Agreement") on behalf of the City pursuant to R.C. Section

5709.82 providing for the payment of the School District Compensation. The Compensation and Cooperation Agreement shall be in substantially the form attached hereto as Exhibit D and incorporated herein by reference together with such revisions as are approved by the Mayor and City Auditor as consistent with the objectives and requirements of this Ordinance, which approval shall be conclusively evidenced by the signing of the Compensation and Cooperation Agreement.

Section 6. This Council hereby authorizes the Mayor, the City Auditor or other appropriate officers of the City, to take such actions as are necessary or appropriate to implement the transactions contemplated by this Ordinance, including the filing of one or more applications for exemption as provided in R.C. Section 5709.911.

Section 7. The Mayor, the City Auditor, and/or any other official, as appropriate, are each authorized and directed to sign any other documents, instruments or certificates and to take such actions as are necessary or appropriate to consummate or implement the actions described herein, or contemplated by this Ordinance.

Section 8. This Council hereby designates the tax incentive review council (the "TIRC") established in Ordinance 67-02, passed September 24, 2002, as the TIRC that shall annually review the exemptions provided pursuant to this Ordinance as required by R.C. Section 5709.85.

Section 9. The City requires exemption recipients to follow non-discriminatory hiring. Thus, no owner of any portion of the Property may deny employment to an individual solely on the basis of race, color, religion, sex, national origin, age or disability. The TIRC shall evaluate the exemption recipients' compliance with such non-discriminatory hiring policies during its annual review.

Section 10. Pursuant to R.C. Section 5709.41, the Mayor is hereby directed to deliver a copy of this Ordinance to the Director Ohio Development Services Agency ("DSA") within fifteen days after its passage. On or before March 31 of each year that the exemption set forth in Section 1 hereof remains in effect, the Mayor, the City Auditor or other authorized officer of this City shall prepare and submit to the Director of DSA the status report required under R.C. Section 5709.41(E).

Section 11. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any decision making bodies of the City that resulted in such formal actions were in meetings open to the public and in compliance with all legal requirements.

Section 12. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2014

President of Council

Attest: _____
Clerk of Council

Approved: _____, 2014

Ben Kessler, Mayor

EXHIBIT A to TIF Ordinance

DESCRIPTION OF PARCELS AFFECTED BY THE IMPROVEMENTS

The Property is comprised of the following tax year 2013 parcel numbers:

020-004381-00

020-004197-00

020-000570-00

EXHIBIT B to TIF Ordinance

DESCRIPTION OF IMPROVEMENT

The Improvement may include, but is not limited to, the following:

The construction of an urban grocery store and related improvements at an estimated cost of between \$5,000,000 and \$5,500,000 on the Property.

EXHIBIT C to TIF Ordinance

DESCRIPTION OF THE DESIGNATED COSTS

The Designated Costs may include, but are not limited to, costs related to the following:

The relocation of the current City Hall and City Service Department facilities from the Property to certain other property; the acquisition of the property commonly known as “Bexley Square Shopping Center;” the acquisition of other property that may be used for City services or functions; the improvement of public roads, water and sewer systems, rights-of-way, sidewalks, public parking lots, landscaping and other public infrastructure; environmental remediation; demolition; together with all necessary and appropriate appurtenances and hard and soft costs associated therewith.

EXHIBIT D to TIF Ordinance

**FORM OF COMPENSATION AND COOPERATION AGREEMENT
(attached hereto)**