

CITY OF BEDFORD

ORDINANCE NO. 9983-22

AN ORDINANCE DECLARING IMPROVEMENTS TO CERTAIN REAL PROPERTY WITHIN THE CITY OF BEDFORD, OHIO TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; REQUIRING ANNUAL STATUTORY SERVICE PAYMENTS IN LIEU OF TAXES; CREATING AN URBAN REDEVELOPMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SUCH STATUTORY SERVICE PAYMENTS; AUTHORIZING THE EXECUTION OF SERVICE AGREEMENTS AND A COOPERATIVE AGREEMENT; AND DECLARING AN EMERGENCY.

DECLARING improvements to certain real property in the City of Bedford, Ohio to be a public purpose and exempt from real property taxation for a period of 30 years pursuant to Section 5709.41 of the Ohio Revised Code.

R E C I T A L S

WHEREAS, prior to the passage of this ordinance, the City of Bedford entered into a *Memorandum of Understanding* with the County of Cuyahoga, Ohio (the “**County**”) (the “**MOU**”), pertaining to property located within the City at 3 Hemisphere Way, with permanent parcel numbers of 814-07-001, 814-07-002 and 814-07-024, as more fully described on Attachment A attached to this ordinance (the “**Property**”), as authorized by Resolution No. 2573-21 passed by this Council on September 7, 2021 (the “**MOU Ordinance**”); and

WHEREAS, the City executed the MOU in order to (i) create or preserve jobs and improve the economic welfare of the people of the City, consistent with Section 13 of Article VIII of the Ohio Constitution, and (ii) enhance the availability of adequate housing in the state and to improve the economic and general welfare of the people of the state, consistent with Section 16 of Article VIII of the Ohio Constitution; and

WHEREAS, the City executed the MOU in furtherance of a program of urban redevelopment the City undertook pursuant to Article XVIII, Section 3 of the Ohio Constitution, the Charter and ordinances of the City, and the Tinker’s Creek Redevelopment Plan adopted pursuant to the City’s Resolution No. 2574-21; and

WHEREAS, pursuant to the MOU, (i) the City acquired fee title to the Property, and (ii) the City subsequently conveyed or intends to convey the Property to the Cuyahoga County Land Reutilization Corporation (the “**Land Bank**”), as the City’s agency and instrumentality pursuant to the provision of Section 1724.10(B)(3) of the Ohio Revised Code, to enable the Land Bank to convey the Property to third-party developers in accordance with the MOU; and

WHEREAS, Ohio Revised Code Sections 5709.41, 5709.42 and 5709.43 provide that Council may in furtherance of its redevelopment activities: (i) declare by ordinance to be a public purpose any Improvement (as hereinafter defined) to a parcel of real property and thereby authorize the exemption of such Improvement from real property taxation for a period of time if (a) the City held fee title to the parcel at any time prior to the adoption of the ordinance and (b) the parcel is leased, or the fee of the parcel is conveyed, to any person either before or after the adoption of the

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ordinance; (ii) require the payment of service payments in lieu of taxes by the owner or owners of the parcel; and (iii) establish an urban redevelopment tax increment equivalent fund for the deposit of those service payments; and

WHEREAS, the City has determined that it is necessary and appropriate, in furtherance of the City's redevelopment activities, and in the best interest of the City, to provide for exemption of the Improvement to the Property from real property taxation, and for the payment of semiannual service payments in lieu of taxes with respect to the Property, pursuant to Ohio Revised Code Sections 5709.41 to 5709.43, subordinate to any tax exemptions applicable to any Improvements pursuant to Sections 3735.65 through 3735.70 of the Ohio Revised Code (the "CRA Act"); and,

WHEREAS, the Property is located within the boundaries of the Bedford City School District (the "School District"); and the School District has been notified of the City's intent to pass this Ordinance in accordance with Ohio Revised Code Sections 5709.41(C) and 5709.83;

WHEREAS, the City has transmitted a copy of this ordinance to the School District;

WHEREAS, the School District has previously waived its statutory rights to notice concerning the authorization of this ordinance pursuant to Ohio Revised Code Sections 5709.41(C) and 5709.93;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Bedford, State of Ohio:

Section 1. That the Recitals to this ordinance are incorporated herein by reference.

Section 2. This Council finds that the City is engaged in urban redevelopment and held fee title to each of the Parcels prior to passage of this ordinance as Council authorized by Ordinance No. 9897-21.

Section 3. That, pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.41, Council hereby declares that 100% of the increase in assessed value of each parcel (as currently or subsequently configured) within the real property constituting the Property (each a "**Parcel**") subsequent to the acquisition of the Property by the City (which increase in assessed value is hereinafter referred to as an "**Improvement**" within the meaning of Ohio Revised Code Section 5709.41(A)(2)) is hereby declared to be a public purpose and exempt from real property taxation commencing, as to each Parcel (i.e., on a parcel by parcel basis) (the "**TIF Exemption**"), on the first day of the tax year in which an Improvement of at least fifty thousand dollars (\$50,000.00) resulting from new construction on that Parcel first appears on the tax duplicate of real and public utility property and ends on the earlier to occur of (i) 30 years after such date or (ii) the date on which the City can no longer require service payments to be paid with respect to the Improvements for that Parcel in accordance with the requirements of Ohio Revised Code Sections 5709.41 to 5709.43 (such period of exemption being hereinafter the "**Exemption Period**"). The TIF Exemption granted and the payment obligations of this ordinance are subject and subordinate to any tax exemption applicable to the Improvement under Sections 3735.65 through 3735.70 of the Ohio Revised Code.

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Section 4. Subject to any tax exemptions applicable to any Improvements pursuant to Sections 3735.65 through 3735.70 of the Ohio Revised Code, and as provided in Ohio Revised Code Section 5709.42, the owners from time to time of all or any portion of the Property (each an “**Owner**”) are hereby required to, and shall make, service payments in lieu of taxes with respect to the Improvement allocable thereto to the Treasurer of Cuyahoga County, Ohio (the “**County Treasurer**”) on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes 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 Property if it were not exempt from taxation pursuant to Section 3 hereof. Any late payments shall be subject to penalty and bear interest at the then current rate established under Ohio Revised Code Sections 323.121(B)(1) and 5703.47, 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 payment of penalties and interest are collectively referred to herein with the service payments in lieu of taxes as the “**Service Payments**”). The Service Payments, and any other payments with respect to each Improvement that are received by the County Treasurer in connection with the reduction required by Sections 319.302, 321.24, 323.152 and 323.156 of the Ohio Revised Code, 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**”), shall be allocated and distributed in accordance with Section 5 of this ordinance. This Council further hereby authorizes and directs appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments from the Owners, including the preparation and filing of any necessary exemption applications. In accordance with Section 5709.42 of the Ohio Revised Code, the County Treasurer is hereby requested to distribute a portion of the Service Payments directly to the School District in the amount equal to the real property tax payments that the School District would have received had the Improvements not been exempted from real property taxation pursuant to this Ordinance.

Section 5. This Council hereby establishes, pursuant to and in accordance with the provisions of Section 5709.43 of the Ohio Revised Code, an urban redevelopment tax increment equivalent fund (the “**Tinker’s Creek TIF Fund**” or the “**TIF Fund**”), into which there shall be deposited the Service Payments collected from the Parcels not required to be distributed to the School District pursuant to this ordinance and paid to the City pursuant to this ordinance. The TIF Fund shall be maintained in the custody of the City, and those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of each Parcel and so deposited pursuant to Sections 5709.42 and 5709.43 of the Ohio Revised Code shall be used solely for the purposes authorized in the TIF Statutes and this ordinance. The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved, and any surplus funds remaining therein shall be transferred to the City’s General Fund, all in accordance with Section 5709.43 of the Ohio Revised Code.

Section 6. Pursuant to the TIF Statutes, the County Treasurer is requested to distribute the Service Payments and Property Tax Rollback Payments as follows:

- a) to the School District, an amount equal to the amount it would otherwise have received as real property tax payments (including the applicable portion of any

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Property Tax Rollback Payments) derived from the Improvement to each Parcel located within that School District if the Improvement had not been exempt from taxation pursuant to this ordinance and the TIF Exemption; provided, however, that no Service Payments or Property Tax Rollback Payments shall be distributed to the School District for any amounts of real property tax payments forgone due to a tax abatement or exemption granted by the City pursuant to the CRA Act; and

- b) to the City, all remaining amounts for further deposit into the TIF Fund for payment of the costs of urban redevelopment identified in this ordinance, the MOU and a subsequent cooperative agreement.

All distributions required under this section are requested to be made at the same time and in the same manner as real property tax distributions.

Section 7. That, to facilitate the redevelopment project, Council hereby authorizes the City Manager, upon request of and in consultation with the Owner(s), to prepare (or cooperate in the preparation of) and file an application for the real property tax exemption granted in Section 2 of this ordinance.

Section 8. This Council ratifies the delivery of the notice of this ordinance to the School District pursuant to Section 5709.41 and Section 5709.83 of the Ohio Revised Code; to make such arrangements as are necessary and proper for collection of the Service Payments; further authorizes and directs the proper City officials to take all necessary and appropriate actions to fulfill the terms of this ordinance and the MOU, including, without limitation, executing a cooperative agreement with the County and any and all ancillary agreements and other documents, including any necessary service agreements.

Section 9. That, pursuant to Ohio Revised Code Section 5709.41(E), the Clerk of this Council is hereby directed to deliver a copy of this ordinance to the Director of the State of Ohio Department of Development (“**ODOD**”), 77 South High Street, 29th Floor, Columbus, Ohio 43215, within fifteen days after its passage, and that, on or before March 31 or each year that the exemption set forth in Section 2 hereof remains in effect, the City Administrator is authorized to prepare and submit to the Director of ODOD the status report required under Ohio Revised Code Section 5709.41(E).

Section 10. That it is hereby found and determined that all formal actions of 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 of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Section 11. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Section II-10 of the Charter, be in full force and effect immediately upon adoption. The reason for the emergency is to enable the redevelopment of the Property described in the MOU to

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commence at the earliest possible time for the economic welfare of, and the provision of adequate housing opportunities for, the people of the City of Bedford.

1st Rdg.: 6/6/22

2nd Rdg.: 7/5/22

Stanley C. Koci, Mayor-President of Council

Tracy M. Simons, Clerk of Council

Prepare and approved as to legal content by: _____

John J. Montello, Law Director

PASSED: August 1, 2022

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CERTIFICATE

The undersigned, Clerk of Council, City of Bedford, Ohio, hereby certifies the foregoing to be a true and correct copy of **Ordinance No. 9983-22**, adopted on the **1st day of August 2022**.

Tracy M. Simons, Clerk of Council

CERTIFIED: August 2 , 2022

EXTRACT FROM MINUTES OF MEETING

The Council of the City of Bedford, County of Cuyahoga, Ohio, met in Regular Session, at 8:00 p.m., on the 6th day of June 2022, at Bedford City Hall Council Chamber, with the following members present:

- Mayor Stanley Koci
- Councilwoman Sandy Spinks
- Councilman Walter Genutis
- Councilman Victor Fluharty
- Councilman Frank Smith Jr.
- Councilman Jeff Asbury
- Councilman Donald Saunders

There was presented and read to Council Ordinance No. 9983-22, entitled:

AN ORDINANCE DECLARING IMPROVEMENTS TO CERTAIN REAL PROPERTY WITHIN THE CITY OF BEDFORD, OHIO TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; REQUIRING ANNUAL STATUTORY SERVICE PAYMENTS IN LIEU OF TAXES; CREATING AN URBAN REDEVELOPMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SUCH STATUTORY SERVICE PAYMENTS; AUTHORIZING THE EXECUTION OF SERVICE AGREEMENTS; AND DECLARING AN EMERGENCY.

Mrs. Spinks then moved that Ordinance No. 9983-22 be adopted. Mr. Genutis seconded the motion and, the roll being called upon the question, the vote resulted as follows:

	<u>Yeas</u>	<u>Nays</u>
<u>Mayor Stanley Koci</u>	_____	_____
<u>Councilwoman Sandy Spinks</u>	_____	_____
<u>Councilman Walter Genutis</u>	_____	_____
<u>Councilman Victor Fluharty</u>	_____	_____
<u>Councilman Frank Smith Jr.</u>	_____	_____
<u>Councilman Jeff Asbury</u>	_____	_____
<u>Councilman Donald Saunders</u>	_____	_____

The ordinance was declared adopted on August 1, 2022.

CERTIFICATE

The undersigned, Clerk of Council of said municipality, hereby certifies that the foregoing is a true and correct extract from the minutes of a meeting of the council of said municipality, held on the 1st day of August 2022, to the extent pertinent to consideration and adoption of the above-entitled legislation.

Tracy M. Simons, Clerk of Council

CERTIFIED: August 2, 2022

ATTACHMENT A

PARCEL IDENTIFICATION NUMBERS OF PROPERTY

LEGAL DESCRIPTION OF PROPERTY