

BEREA CITY COUNCIL

City of Berea, Ohio

ORDINANCE NO. 2025- __

By: _____ Sponsor: Mayor Cyril M. Kleem

AN ORDINANCE

AN ORDINANCE DECLARING THE IMPROVEMENT TO CERTAIN PARCELS OF REAL PROPERTY WITHIN THE CITY TO BE A PUBLIC PURPOSE AND EXEMPT FROM TAXATION PURSUANT TO ORC SECTION 5709.41; PROVIDING FOR THE COLLECTION AND DEPOSIT OF SERVICE PAYMENTS; SPECIFYING THE PURPOSES FOR WHICH THOSE SERVICE PAYMENTS MAY BE EXPENDED; AUTHORIZING A SCHOOL COMPENSATION AGREEMENT WITH THE BEREA CITY SCHOOL DISTRICT; AUTHORIZING A TAX INCREMENT FINANCING AGREEMENT WITH BEREA MIXED USE PROJECT LLC OR AN AFFILIATE; AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance No. 2025-17, this Council previously approved a Development Agreement (as amended, the “*Development Agreement*”), between the City and Berea Mixed Use Project LLC (the “*Developer*”) for the urban redevelopment of the real property located shown on the map attached hereto as Exhibit A (the “*Parcels*”) into a multi-purpose community field, hotel, sports medicine facility, multifamily apartments, restaurants, parking garage and other mixed-uses (the “*Project*”); and

WHEREAS, pursuant to the Development Agreement, the City agreed to provide tax increment financing for the Project in order to enable the redevelopment of the Parcels and the development of the Project; and

WHEREAS, Ohio Revised Code (“*ORC*”) Sections 5709.41, 5709.42 and 5709.43 (collectively, the “*TIF Act*”) authorize this Council to declare the improvement to the Parcels to be a public purpose and exempt from taxation, require the owner of the Parcels to make service payments in lieu of taxes, establish an urban redevelopment tax increment equivalent fund for the deposit of the those service payments, and specify the purposes for which money in that fund will be expended; and

WHEREAS, as required by the TIF Act, the City acquired fee title to the Parcels for urban redevelopment purposes prior to enacting this Ordinance; and

WHEREAS, the City desires to implement a tax increment financing program for the Parcels pursuant to the TIF Act to enable the City to fulfill its obligations under the Development Agreement and to pay costs of the urban redevelopment of the Parcels and the development of the Project; and

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WHEREAS, on April 14, 2025, the Board of Education of the Berea City School District (the “*School District*”) has adopted a resolution granting its approval of the exemptions from taxation granted by this Ordinance, waived notice of this Ordinance and authorized the School District to enter into a School Compensation Agreement with the City (the “*School Compensation Agreement*”); and

WHEREAS, notice of this proposed Ordinance has been delivered to the Board of Education of the Polaris Joint Vocational School District in accordance with and within the time periods prescribed in ORC Section 5709.83; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berea, County of CUYAHOGA, OHIO, THAT:

SECTION 1. Parcels. The real property subject to this Ordinance is identified and depicted in Exhibit A attached hereto (as currently or subsequently configured, the “*Parcels*”, with each individual tax parcel a “*Parcel*”). This Council finds that the City acquired the Parcels while engaged in urban redevelopment.

SECTION 2. Urban Redevelopment Costs. This Council finds and determines that the City acquired title to the Parcels prior to adopting this Ordinance pursuant to the City’s urban redevelopment plan for the Parcels as evidenced by the Development Agreement, the First Avenue Community Revitalization Plan and other City documents. Money deposited into the TIF Fund (as defined in Section 5) may be used to pay, finance or reimburse any costs incurred by the Developer or the City for improvements that are part of urban redevelopment efforts, including, without limitation, the costs of improvements to be made in connection with the Project as further described in the Development Agreement and the Tax Increment Financing Agreement described in Section 8 below (including, but not limited to, those costs listed in ORC Section 133.15(B)), together with any other costs hereafter designated by ordinance (the “*Urban Redevelopment Costs*”).

SECTION 3. Exemption. This Council hereby finds and determines that 100% of the increase in assessed value of each Parcel subsequent to the acquisition of that Parcel by the City (which increase in assessed value is hereinafter referred to as the “*Improvement*” as defined in ORC Section 5709.41) is hereby declared to be a public purpose and to be exempt from taxation for a period commencing for each separate Parcel, on a parcel-by-parcel basis, on the first day of the tax year in which 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 this 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 Section 3735.65 et. seq. (CRA abatements) or ORC Section 5709.61 et. seq. (Enterprise Zone abatements).

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SECTION 4. Service Payments. As provided in ORC Section 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 Cuyahoga County Treasurer (the “*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 each Improvement that are received in connection with the reduction required by ORC Sections 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. TIF Fund. This Council establishes, pursuant to and in accordance with the provisions of ORC Section 5709.43, the Berea Mixed Use Project Urban Redevelopment 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 Section 5709.43.

SECTION 6. Distributions; Payment of Costs. Pursuant to the TIF Act, the County Treasurer is requested to distribute the Service Payments and Property Tax Rollback Payments to the City for deposit into the TIF Fund. Money deposited into the TIF Fund shall be used to pay, finance or reimburse the Urban Redevelopment Costs, including, without limitation, payment of reimbursements to the Developer, the City's General Fund or other City funds, payment of debt charges on any notes or bonds of the City or other political subdivision pursuant to a cooperative arrangement with the City and issued to pay or reimburse the Urban Redevelopment Costs, to make school compensation payments authorized pursuant to Section 7 and any other lawful purpose. 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. School Compensation Agreement and Payments. This Council hereby authorizes (a) the Mayor, for and in the name of the City and on its behalf, to execute and deliver the School Compensation Agreement which shall be and read substantially in the form on file with this Council, with such changes therein as are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor. The approval of such changes, and that such changes are not inconsistent with this Ordinance and not substantially adverse to the City, shall be conclusively evidenced by the execution of the School Compensation Agreement by the Mayor, and (b) the making of compensation payments to the School District pursuant to the terms of the School Compensation Agreement between the City and the School District for the Project, including the income tax sharing payments and Service Payment sharing

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payments required thereunder, as the same may be amended from time to time. This Council hereby further authorizes any compensation payments required to be made to the Polaris Joint Vocational School District as required by law.

SECTION 8. Tax Increment Financing Agreement and Payments. This Council hereby authorizes (a) the Mayor, for and in the name of the City and on its behalf, to execute and deliver the Tax Increment Financing Agreement which shall be and read substantially in the form on file with this Council, with such changes therein as are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor. The approval of such changes, and that such changes are not inconsistent with this ordinance and not substantially adverse to the City, shall be conclusively evidenced by the execution of the Tax Increment Financing Agreement by the Mayor, and (b) the making of payments pursuant to the terms of the Tax Increment Financing Agreement for the Project. Any obligation of the City pursuant to the Tax Increment Financing Agreement (the "City Obligations") constitutes a special obligation of the City and are payable solely from Service Payments and Property Tax Rollback Payments received by the City and no other funds are pledged for the payment of the City Obligations.

SECTION 9. Further Authorizations. This Council hereby authorizes each of the Mayor, the Law Director, the Director of Finance, Director of Planning and Development or other appropriate officers of the City, to deliver a copy of this Ordinance to the Ohio Department of Development within fifteen days after its effective date, in accordance with ORC Section 5709.41(E), and to make such arrangements as are necessary and proper for collection of the Service Payments. This Council further authorizes the Mayor, the Law Director, the Director of Finance, Director of Planning and Development 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. Open Meetings. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including ORC Section 121.22.

SECTION 11. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare of the City, and for the further reason that this Ordinance is required to be immediately effective in order to proceed with tax increment financing as herein-described to promote urban renewal, employment and job creation in the City, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____

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President of Council

ATTEST: _____
Clerk of Council

APPROVED:

APPROVED AS TO FORM

Mayor

Date

Director of Law