

ORDINANCE NO. 20 -16
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER John Beals ON THE
21st DAY OF November, 2016.

AN ORDINANCE AMENDING ORDINANCE NO. 7-13 (AS PREVIOUSLY AMENDED BY ORDINANCE NO. 05-14), WHICH ORIGINALLY RELATED TO THE CREATION OF A TAX INCREMENT FINANCING, TO PROVIDE FOR COMPENSATION TO THE BELLBROOK-SUGARCREEK LOCAL SCHOOL DISTRICT, THE GREENE COUNTY VOCATIONAL SCHOOL DISTRICT AND SUGARCREEK TOWNSHIP (GREENE COUNTY), OHIO, AND THE EXECUTION OF A RELATED FIRST AMENDMENT TO TAX INCENTIVE AGREEMENT.

WHEREAS, Pursuant to Sections 5709.40(B), 5709.42 and 5709.43 of the Ohio Revised Code (collectively, the "*TIF Statutes*"), this City Council heretofore passed Ordinance No. 7-13 on July 15, 2013 (the "*Original TIF Ordinance*"), which Original TIF Ordinance generally and, among other things, (i) declared that the improvement to certain parcels of real property located within the City (such parcels were identified and depicted on Exhibit A to the Original TIF Ordinance and are collectively referred to herein as the "*Parcels*") to be a public purpose and exempt from taxation (the "*Tax Exemption*"), (ii) required the owner of such parcels to make service payments in lieu of taxes, (iii) provided for the distribution of the applicable portion of such service payments to the Bellbrook-Sugarcreek Local School District (the "*School District*") and the Greene County Vocational School District (the "*Vocational School District*"), (iv) established a municipal public improvement tax increment equivalent fund for the deposit of the those service payments, and (v) specified public infrastructure

improvements made, to be made or in the process of being made that would directly benefit, or that once made would directly benefit those parcels (such public infrastructure improvements were identified and depicted on Exhibit B to the Original TIF Ordinance and are collectively referred to herein as the “*Public Infrastructure Improvements*”); and

WHEREAS, subsequent to the passage of the Original TIF Ordinance, the City completed negotiations with Cornerstone Developers, Ltd. for the proposed development of the Parcels, amended the Original TIF Ordinance by passage of Ordinance No. 05-14 on June 2, 2014 (the “*First Amendment to the Original TIF Ordinance*” and the Original TIF Ordinance as amended thereby, the “*TIF Ordinance*”) and entered into a Tax Incentive Agreement dated June 3, 2014 (the “*Tax Incentive Agreement*”) with the School District to provide for the specific compensation to be paid to the School District and the Vocational School District; and

WHEREAS, the Tax Incentive Agreement contemplated that the City may thereafter enter into negotiations with Sugarcreek Township (Greene County), Ohio (the “*Township*”) to provide for compensation payments to the Township in respect of the Tax Exemption; and

WHEREAS, the negotiations with the Township have been completed and the City and the Township have entered into a Fire/EMS Cooperative Agreement dated October 7, 2016 (the “*Cooperative Agreement*”) pursuant to which the City will amend the TIF Ordinance to provide compensation to the Township in respect of the Tax Exemption; and

WHEREAS, the Cooperative Agreement is conditioned upon the School District's agreement to reduce its annual compensation for non-residential improvements to the Parcels for certain years from sixty (60%) percent of the real property taxes that would otherwise be received with respect to those improvements to fifty-five percent (55%); and

WHEREAS, consistent with the Tax Incentive Agreement, the School District has agreed to a such reduced percentage of service payments which will be paid to the School District; and

WHEREAS, to provide for those payments, this Council has determined it necessary to further amend the TIF Ordinance and authorize the execution of a related amendment to the Tax Incentive Agreement (the "*First Amendment to Tax Incentive Agreement*"); and

WHEREAS, the Board of Education of the School District heretofore ratified the passage of the Original TIF Ordinance on May 30, 2014, and has passed a resolution on November 10, 2016 approving such amendment to the TIF Ordinance and the execution of the First Amendment to Tax Incentive Agreement and waiving any remaining notice requirements related under Ohio law, including, without limitation, Sections 5709.40, 5709.83 and 5715.27 of the Ohio Revised Code; and

WHEREAS, the Board of Education of the Vocational School District heretofore ratified the passage of the Original TIF Ordinance on May 29, 2014 and notice of this proposed Ordinance has been delivered to the Board of Education of the Greene County Vocational School District;

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THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

SECTION 1. Amendment of Section 4 of the Original TIF Ordinance. Section 4 of the TIF Ordinance is further amended as follows with new language to be added in underscoring and language to be deleted in ~~strikeout~~ as provided in Section 5.02 of the City's Charter:

“SECTION 4. Distributions. Pursuant to the TIF Statutes, the County Treasurer is requested to distribute the Service Payments and Property Tax Rollback Payments to the City for deposit in the TIF Fund held by the City and for further distribution as follows:

(a) to the Bellbrook-Sugarcreek Local School District, an amount which shall equal the product of (i) for any given payment date, the applicable percentage rate (*e.g.* ~~60~~55% or 100%) which is required to be used to compute the amount payable to that School District pursuant to the Tax Incentive Agreement (as amended by the First Amendment to Tax Incentive Agreement) multiplied by (ii) the amount the Bellbrook-Sugarcreek Local School District would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to each Parcel if the Improvement had not been exempt from taxation pursuant to this Ordinance;

(b) to the Greene County Vocational School District, an amount which shall equal the product of (i) for any given payment date, the same applicable percentage rate (*e.g.* ~~60~~55% or 100%) which is required to be used to compute the amount payable to the Bellbrook-Sugarcreek Local School District on that given

payment date as is determined in accordance with subsection (a) multiplied by (ii) the amount the Greene County Vocational School District would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to each Parcel if the Improvement had not been exempt from taxation pursuant to this Ordinance;

(c) to Sugarcreek Township (Greene County), Ohio, an amount which shall equal the product of (i) for any given payment date, the applicable percentage rate (e.g. 54% or 100%) which is required to be used to compute the amount payable to that Township pursuant to the Cooperative Agreement multiplied by (ii) the amount that Township would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to each Parcel if the Improvement had not been exempt from taxation pursuant to this Ordinance;

(d) to any other taxing subdivision, such amount as is then required to be distributed thereto pursuant to applicable law or agreement with the City; and

(de) to the City, all remaining amounts for further deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including payment of debt service on any debt issued to pay those costs.

All distributions required under subsection (a) shall be made at the times required pursuant to the Tax Incentive Agreement (as amended by the First Amendment to Tax Incentive Agreement). All distributions required under subsection (b) shall be made at the same times payments are required to be made to the Bellbrook-Sugarcreek Local School District pursuant to the Tax Incentive

Agreement (as amended by the First Amendment to Tax Incentive Agreement).
All distributions required under subsection (c) shall be made at the times required pursuant to the Cooperative Agreement. Any distributions required under subsection (~~ed~~) shall be made at the times required under the then applicable law or agreement. Any distributions required under subsection (~~ed~~) shall be made at the times determined by the City but shall not in any calendar year reduce the payments required to be made pursuant to subsections (a) and (b).”

SECTION 2. References to Tax Incentive Agreement and Cooperative Agreement. Upon the effective date of this Ordinance and the execution and effectiveness of the First Amendment to Tax Incentive Agreement, all references in the TIF Ordinance, as amended by this Ordinance, to the Tax Incentive Agreement and the Cooperative Agreement shall mean the Tax Incentive Agreement as amended by the First Amendment to Tax Incentive Agreement, and the Cooperative Agreement, respectively.

SECTION 3. Filing with Ohio Development Services Agency. Pursuant to Ohio Revised Code Section 5709.40(I), the City Manager is hereby directed to deliver a copy of this Ordinance to the Director of Development Services Agency of the State of Ohio within fifteen days after its effective date.

SECTION 4. Execution of First Amendment to Tax Incentive Agreement. The First Amendment to Tax Incentive Agreement by and between the City and the Bellbrook-Sugarcreek Local School District, in the form presently on file with the Clerk of Council, providing for, among other things, the provision of periodic payments from the City to the Bellbrook-Sugarcreek Local School District in exchange for the

Bellbrook-Sugarcreek Local School District's approval of the tax increment financing authorized by the TIF Ordinance as amended by this Ordinance, is hereby approved and authorized with changes therein not inconsistent with this Ordinance and not substantially adverse to this City and which shall be approved by the City Manager. The City Manager, for and in the name of this City, is hereby authorized to execute that First Amendment to Tax Incentive Agreement, provided further that the approval of changes thereto by that official, and their character as not being substantially adverse to the City, shall be evidenced conclusively by the execution thereof. This Council further authorizes the City Manager, for and in the name of the City, to execute any amendments to the First Amendment to Tax Incentive Agreement, which amendments are not inconsistent with this Ordinance and not substantially adverse to this City.

SECTION 5. 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 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 Ohio Revised Code Section 121.22.

SECTION 6. Continuing Force and Effect of Ordinance No. 7-13. Except for the provisions of Ordinance No. 7-13 amended by the First Amendment to the Original TIF Ordinance and so amended herein, all other provisions of Ordinance No. 7-13 shall remain in full force and effect.

SECTION 7. Effective Date. This Ordinance shall be in full force and effect on the earliest date permitted by law.

PASSED this 21st day of November, 2016.


Mayor of the City of Centerville, Ohio

ATTEST:


Clerk of Council, City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true and correct copy of Ordinance Number 20-16, passed by the Council of the City of Centerville, Ohio, on the 21st day of November, 2016.


Clerk of Council

Approved as to form, consistency
with the Charter and Constitutional
Provisions.
Department of Law
Scott Liberman
Municipal Attorney