

ORDINANCE NO. 19 - 11
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Paul Gusham ON THE
19th DAY OF December, 2011.

AN ORDINANCE DECLARING THE IMPROVEMENT TO CERTAIN PARCELS OF REAL PROPERTY TO BE A PUBLIC PURPOSE AND EXEMPT FROM TAXATION; ESTABLISHING A TAX INCREMENT EQUIVALENT FUND AND PROVIDING FOR THE COLLECTION AND DEPOSIT OF SERVICE PAYMENTS INTO THAT FUND; SPECIFYING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS DIRECTLY BENEFITING THE PARCELS; AND AUTHORIZING MAKE-WHOLE COMPENSATION PAYMENTS TO THE CENTERVILLE CITY SCHOOL DISTRICT.

WHEREAS, Ohio Revised Code Sections 5709.40 to 5709.43 (collectively, the "*TIF Statutes*") authorize the legislative authority of a municipal corporation, by ordinance, to declare the improvement to each parcel of real property located within the municipal corporation to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, provide for the distribution of the applicable portion of such service payments to the city, local, or exempted village, and joint vocational school district, establish a municipal public improvement tax increment equivalent fund for the deposit of the those service payments, specify public infrastructure improvements made, to be made or in the process of being made that directly benefit, or that once made will directly benefit those parcels; and

WHEREAS, this Council has determined to declare the improvements to certain parcels of real property, which parcels are further identified and depicted

in Exhibit A attached hereto (each, as currently or subsequently configured, individually, a "*Parcel*" and collectively, the "*Parcels*") to be a public purpose; and

WHEREAS, this Council desires to provide for the public infrastructure improvements described in Exhibit B attached hereto (collectively, the "*Public Infrastructure Improvements*"); and

WHEREAS, this Council has determined that a portion of the service payments shall be paid to the Centerville City School District, Ohio (the "*School District*") in an amount equal to the real property taxes that the School District would have been paid if the Improvements (as defined herein) to each Parcel had not been exempted from taxation pursuant to this Ordinance; and

WHEREAS, notice of this proposed Ordinance has been delivered to the Board of Education of the Centerville City School District in accordance with and within the time period prescribed in Ohio Revised Code Sections 5709.40 and 5709.83;

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

SECTION 1. Exemption. This Council hereby finds and determines that 100% of the increase in assessed value of each Parcel subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "*Improvement*" as defined in Ohio Revised Code Section 5709.40(A)) is hereby declared to be a public purpose and shall be exempt from taxation for a period commencing with the first tax year that begins after the effective date of this Ordinance and in which an Improvement first appears on the tax list and duplicate

of real and public utility property for that Parcel and ending on the earlier of (a) thirty (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 Statutes.

Notwithstanding any other provision of this Ordinance, the exemption granted pursuant to this Section 1 and the payment obligations established pursuant to Section 2 of this Ordinance are subject and subordinate to any tax exemption applicable to the Improvement pursuant to Ohio Revised Code Section 140.08 or Sections 5709.12 and 5709.121.

SECTION 2. Service Payments. Subject to any tax exemption applicable to the Improvement pursuant to Ohio Revised Code Section 140.08 or Sections 5709.12 and 5709.121, and pursuant to Ohio Revised Code Section 5709.42, the owner of each Parcel is hereby required to and shall make service payments in lieu of taxes with respect to the Improvement allocable thereto to the Treasurer of Montgomery County, Ohio (the "*County Treasurer*") on or before the final dates for payment of real property taxes. The service payments 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 collected against that Improvement if it were not exempt from taxation pursuant to Section 1 of this Ordinance, including any penalties and interest (collectively, 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 Ohio Revised Code 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*"), shall be allocated and distributed in accordance with Section 4 of this Ordinance.

SECTION 3. TIF Fund. This Council hereby establishes, pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, the Miami Valley Hospital Municipal Tax Increment Equivalent Fund (the "*TIF Fund*"). The TIF Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 4 of this Ordinance. 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 Ohio Revised Code Section 5709.42 shall be used solely for the purposes authorized in the TIF Statutes or 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 transferred to the City's General Fund, all in accordance with Ohio Revised Code Section 5709.43.

All distributions required under this Section 3 are requested to be made at the same time and in the same manner as real property tax distributions.

SECTION 4. Distributions. Pursuant to the TIF Statutes, the County Treasurer is requested to distribute the Service Payments and Property Tax Rollback Payments as follows:

(i) to the School District, an amount equal to the amount the 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; and

(ii) 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.

SECTION 5. Public Infrastructure Improvements. This Council hereby designates the Public Infrastructure Improvements and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit, or that once made will directly benefit, the Parcels.

SECTION 6. Further Authorizations. This Council hereby authorizes and directs the Mayor, the Deputy Mayor, the City Manager, the Director of Finance, the Municipal Attorney, the Clerk of Council or other appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments. This Council further hereby authorizes and directs the Mayor, the Deputy Mayor, the City Manager, the Director of Finance, the Municipal Attorney, the Clerk of Council or other appropriate officers of the City to prepare and sign all documents and instruments and to take any other actions as may be appropriate to implement this Ordinance.

SECTION 7. Tax Incentive Review Council. The City hereby creates the Centerville Tax Incentive Review Council with the membership of that Council to be constituted in accordance with Section 5709.85 of the Ohio Revised Code. That Council shall, in accordance with Section 5709.85 of the Ohio Revised Code, review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other such matters as may properly come before that Council, all in accordance with Ohio Revised Code Section 5709.85.

SECTION 8. Filings with Ohio Department of Development. 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 of the State of Ohio within fifteen days after its effective date. Further, and on or before March 31 of each year that the exemption set forth in this Ordinance remains in effect, the Economic Development Director or other authorized officer of the City is directed to prepare and submit to the Director of Development of the State of Ohio the status report required under Ohio Revised Code Section 5709.40(I).

SECTION 9. 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 10. Effective Date. This Ordinance shall be in full force and effect on the earliest date permitted by law.

PASSED this 19th day of December, 2011.

C. Mark Kyrce
Mayor of the City of Centerville, Ohio

ATTEST:

Debra A. James
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 19-11, passed by the Council of the City of Centerville, Ohio, on the 19th day of December, 2011.

Debra A. James
Clerk of Council

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

EXHIBIT A

PROPERTY

The shaded area on the following map specifically identifies and depicts the Parcels and constitutes part of this Exhibit A. The Parcels include the following tax parcels: O68-00603-0047.

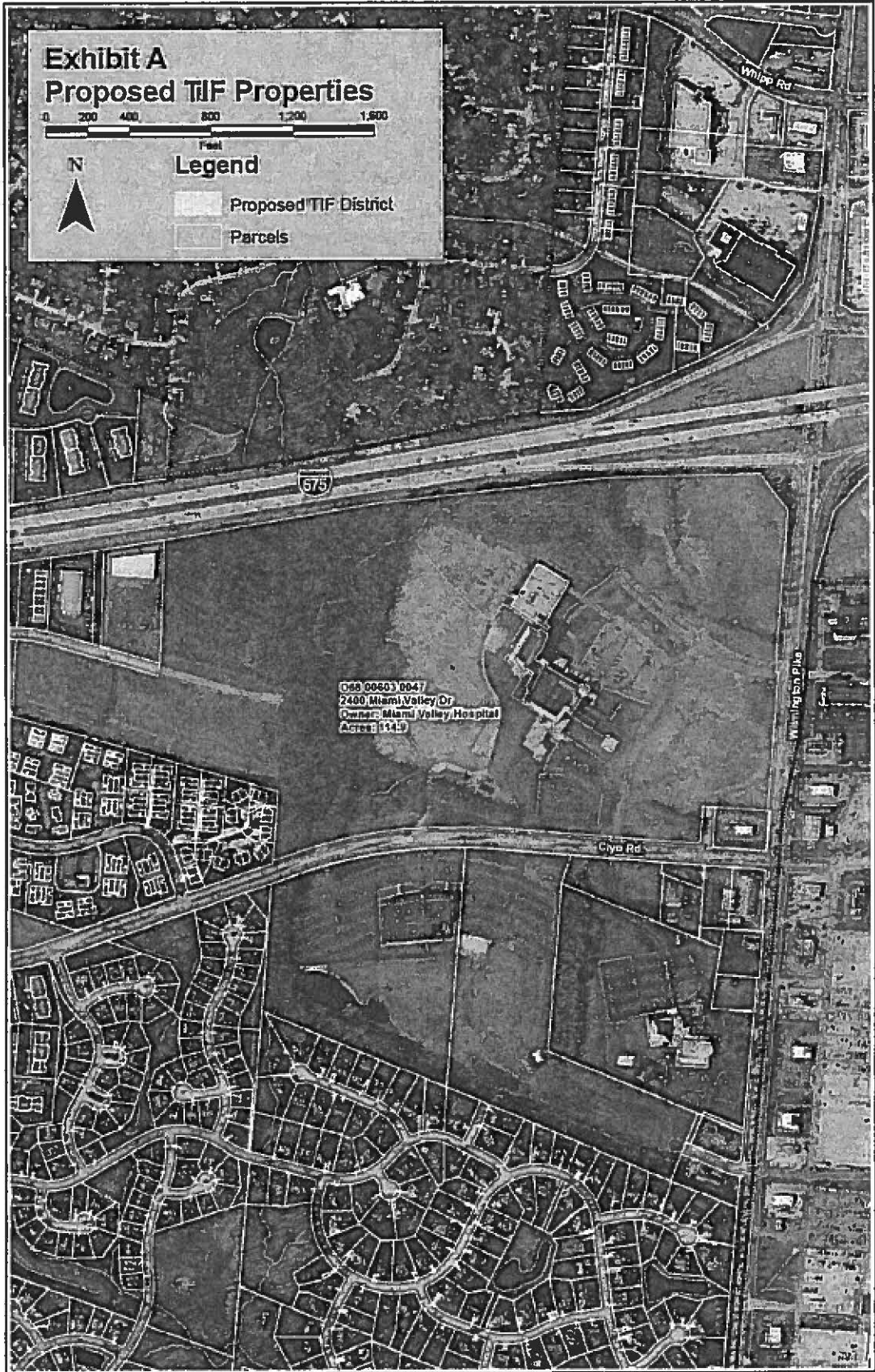


EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements include the construction of the following improvements on or near the Parcels that will directly benefit the Parcels and all related costs of permanent improvements (including, but not limited to, those costs listed in Section 133.15(B) of the Ohio Revised Code):

- construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of Clyo Road, Wilmington Pike, Whipp Road, Feedwire Road, the extension of Miami Valley Drive east to Clyo Road, and I-675, and related bridges (both roadway and pedestrian), together with constructing and installing curbs and gutters, public utilities which include water mains, fire hydrants, sanitary sewer, and storm sewer, stormwater improvements, lighting, burial of utility lines, gas, electric and communications service facilities (including fiber optics), street lighting and signs, medians, viaducts, sidewalks, bikeways, and landscaping (including scenic fencing and irrigation), traffic signs and signalization, and including design and other related costs, any right-of-way or real estate acquisition, erosion and sediment control measures, grading, drainage and other related work, survey work, soil engineering, inspection fees and construction staking, any other necessary site improvements, and in each case, all other costs and improvements necessary and appurtenant thereto.