

ORDINANCE NO. 39-2011

An Ordinance Authorizing the City Manager and Director of Finance to Enter into Community Reinvestment Area Agreements with Subsequent Purchasers of Office Condominium Units from Worthington Professional Park Limited, with the Terms and Conditions of Such Agreements Referencing, Incorporating, and Continuing the Provisions of the Community Reinvestment Area Agreement with Worthington Professional Park Limited Concerning Properties Located at 740 – 760 Lakeview Plaza Blvd., Parcel Nos. 100-006589, 100-006592, 100-006633, 100-006644, and 100-006679 in the City of Worthington.

WHEREAS, the Council of the City of Worthington has created a Community Reinvestment Area (CRA) pursuant to Sections 3735.65 through 3735.70 of the Ohio Revised Code via the enactment of Ordinance No. 18-2005 (effective June 8, 2005); and,

WHEREAS, effective June 27, 2005, the Director of Development of the State of Ohio determined that the area designated in said Ordinance No. 18-2005 contains the characteristics set forth in Section 3735.66 of the Ohio Revised Code, “ORC”, and confirmed said area (i.e., Area No. 049-86604-01) as a CRA under said ORC Chapter 3735; and,

WHEREAS, Worthington Professional Park Limited did purchase real estate and did construct improvements to such real estate (hereinafter referred to as the “Project”) within the boundaries of the aforementioned Community Reinvestment Area, and the appropriate development incentives were made available to support the economic viability of said project; and,

WHEREAS, the Council of the City of Worthington, Ohio, by Ordinance No. 18-2005, effective June 8, 2005, designated the area in which Worthington Professional Park Limited has undertaken the Project as a “Community Reinvestment Area” pursuant to ORC Chapter 3735; and,

WHEREAS, Worthington Professional Park Limited remitted the required state application fee of Seven Hundred Fifty Dollars (\$750.00) payable to the Ohio Department of Development which was forwarded to said Department with a copy of the Community Reinvestment Agreement; and,

WHEREAS, Worthington Professional Park Limited and subsequent purchasers of properties at the Project will remit to the City of Worthington the required annual fee equal to the greater of one per cent of the amount of taxes exempted or five hundred dollars, up to a maximum two thousand five hundred dollars, as set forth in subdivision (D) of ORC Section 3735.671; and,

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WHEREAS, the City Manager of the City of Worthington investigated the application of Worthington Professional Park Limited and did recommend the same to the City Council of Worthington on the basis that Worthington Professional Park Limited is qualified by financial responsibility and business experience to preserve employment opportunities in said Community Reinvestment Area and improve the economic climate of the City of Worthington; and,

WHEREAS, the project site of Worthington Professional Park Limited is located in the Worthington School District and the Board of Education of the Worthington School District was notified in accordance with ORC Section 5709.83 and was given a copy of the application; and,

WHEREAS, the Worthington Tax Incentive Review Council held its annual meeting on July 26, 2011, and a review of the Worthington Professional Park exemption project was conducted, with recommendations that Worthington City Council continue the exemptions in place, subject to the payment of any required annual fees due and outstanding; and,

WHEREAS, subsequent purchasers of properties at the Project, namely JT/MM LLC, DayHuff Group II LLC, MA Equities LLC, Blue Sky RE Ltd, and Healthy Children Holdings LLC, currently own real property at 740 – 760 Lakeview Plaza Blvd., in the City of Worthington, Franklin County, Ohio 43085 and on which was constructed improvements by Worthington Professional Park Limited for the original purpose of redeveloping and selling such real estate and improvements to other businesses within the boundaries of the Community Reinvestment Area; and,

WHEREAS, the Community Reinvestment Area Agreement with Worthington Professional Park Limited was executed in May 2007 and expressly provides that the parties intend subsequent purchasers of properties at 740 – 760 Lakeview Plaza Blvd. to be beneficiaries of the Community Reinvestment Area Agreement, and that subsequent purchasers are intended to stand in place of Worthington Professional Park Limited under the Agreement if and when Worthington Professional Park Limited ceased to own any of the properties in the Project; and,

WHEREAS, the City is desirous of ensuring that each subsequent purchaser individually and/or collectively fulfills Worthington Professional Park Limited's obligations and receives the benefits set forth under the Community Reinvestment Area Agreement; and,

WHEREAS, for purposes of R.C. 3735.671, the City intends to enter into a Community Reinvestment Area Agreement with JT/MM LLC, DayHuff Group II LLC, MA Equities LLC, Blue Sky RE Ltd, and Healthy Children Holdings LLC with such agreement referencing, incorporating, and continuing the provisions of the Community Reinvestment Area Agreement with Worthington Professional Park Limited and therefore serving to formalize a relationship between the City and the subsequent purchasers as had been intended under the Community Reinvestment Area Agreement; and,

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WHEREAS, for purposes of R.C. 3735.673, the City did provide notice to the Council of the Cities of Columbus and Dublin, Ohio, and the Commissioners of Franklin County, Ohio, via personal service more than 30 days prior to the day of the first public meeting at which the Community Reinvestment Area Agreement with DayHuff Group II LLC, MA Equities LLC, Blue Sky RE Ltd, and Healthy Children Holdings LLC was to be deliberated by the Council of the City of Worthington; and,

WHEREAS, the City will negotiate a Community Reinvestment Area Compensation Agreement with the Worthington Board of Education in accordance with applicable laws.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. The City Manager is hereby authorized and directed to enter into a Community Reinvestment Area Agreement with subsequent purchasers from Worthington Professional Park Limited of the properties at the Project as listed in EXHIBIT A attached hereto, namely JT/MM LLC, DayHuff Group II LLC, MA Equities LLC, Blue Sky RE Ltd, and Healthy Children Holdings LLC, as appropriate, for purposes of placing such subsequent purchasers in the place of Worthington Professional Park Limited after it ceased to own any or all of the properties at the Project, substantially in the form of the CRA Agreement attached hereto as EXHIBIT B and which is incorporated herein.

SECTION 2. The notice of the passage of this Ordinance shall be by publication of a notice, one time, in a newspaper of general circulation in the City setting forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council, and that this Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed: November 7, 2011

[Signature on File]
President of Council

Attest:

[Signature on File]
Clerk of Council

Introduced October 17, 2011
P.H. November 7, 2011
Effective November 30, 2011

EXHIBIT A

Parcel Number	Street Address	Owner
100-006589	740 Lakeview Plaza Blvd., Suite 100	JT/MM LLC
100-006592	740 Lakeview Plaza Blvd., Suite 300	DayHuff Group II LLC
100-006633	740 Lakeview Plaza Blvd., Suite 250	MA Equities LLC
100-006644	760 Lakeview Plaza Blvd., Suite 700	Blue Sky RE Ltd
100-006679	760 Lakeview Plaza Blvd., Suite 500	Healthy Children Holdings LLC

EXHIBIT B

COMMUNITY REINVESTMENT AREA AGREEMENT

Between

THE CITY OF WORTHINGTON

And

XXXXXXXXXXXXXXXXXX

This successive Community Reinvestment Area Agreement (the “**Successive Agreement**”) has been made and entered into as of the ____ day of _____, 2011 (the “**Effective Date**”) between the CITY OF WORTHINGTON, OHIO, a political subdivision of the State of Ohio, through its City Council (the “**City**”), acting pursuant to the authority of Ordinance No. XX-2011 passed by the City Council on [MONTH DAY], 2011; and [ENTITY FULL NAME], an Ohio [ENTITY TYPE] (the “[**ENTITY SHORT NAME**]”).

WITNESSETH:

WHEREAS, the City has encouraged the redevelopment of real property located in the area designated as the Worthington Community Reinvestment Area; and

WHEREAS, [ENTITY SHORT NAME] has purchased real property at [STREET ADDRESS] in the City of Worthington, Franklin County, Ohio 43085 and as described in Attachment A and incorporated herein (the “**Subject Property**”) on which was constructed improvements by [DEVELOPER] (the “**Developer**”) for the Developer’s original purpose of redeveloping and selling such real estate and improvements to other businesses such as [ENTITY SHORT NAME] (collectively the “**Project**”) within the boundaries of the aforementioned Community Reinvestment Area, for which appropriate development incentives were made available by the City to support the economic viability of said Project; and

WHEREAS, the Council of the City by Ordinance No. 18-2005 effective June 8, 2005, designated the area in which the Project, including the [ENTITY SHORT NAME]’s Subject Property, is located, as a “Community Reinvestment Area” pursuant to Ohio Revised Code (“R.C.”) Chapter 3735; and

WHEREAS, effective June 27, 2005, the Director of Development of the State of Ohio determined that the aforementioned area designated in said Ordinance No. 18-2005 contains the characteristics set forth in R.C. 3735.66 and confirmed said area (i.e., Area No. 049-86604-01) as a Community Reinvestment Area under said R.C. 3735; and

WHEREAS, effective [EXECUTION DATE], the City and the Developer executed a predecessor Community Reinvestment Area Agreement that set forth the terms and conditions of the Community Reinvestment Area exemption for purposes of the Project as originally developed by the Developer, pursuant to the authority granted under Ordinance No. XX-2007 passed by the City Council, with said agreement amended by the parties thereto in compliance with the 2011 Tax Incentive Review Council, which is attached hereto and incorporated herein by this reference (the “**Predecessor Agreement**”); and

WHEREAS, the Predecessor Agreement expressly provided that the parties thereto intended subsequent purchasers of the Subject Property to be beneficiaries of the Predecessor Agreement, and to stand in place of the Developer if and when the Developer ceased to own the Subject Property; and

WHEREAS, the City has learned that [ENTITY SHORT NAME] purchased the Subject Property from the Developer on [TRANSACTION DATE] and the City is desirous of ensuring that [ENTITY SHORT NAME] individually and/or collectively fulfills Developer’s obligations and receives the benefits set forth under the Predecessor Agreement; and

WHEREAS, the City has determined that the most expedient and reasonable course of action to ensure that [ENTITY SHORT NAME] fulfills the obligations and receives the benefits intended under the Predecessor Agreement is to execute this Successive Agreement for and between the City and [ENTITY SHORT NAME]; and

WHEREAS, for purposes of R.C. 3735.671, this Successive Agreement provides [ENTITY SHORT NAME] with the same terms and conditions, including exemption benefit levels and real property improvement time periods, as set forth under Predecessor Agreement and serves only to formalize a relationship between the City and [ENTITY SHORT NAME] as had been intended under the Predecessor Agreement; and

WHEREAS, the Developer remitted prior to or at the time of the Predecessor Agreement the required state application fee of Seven Hundred Fifty Dollars (\$750.00) payable to the Ohio Department of Development which was forwarded to said Department with a copy of the Predecessor Agreement; and

WHEREAS, the City Manager of the City prior to the Predecessor Agreement investigated the application of the Developer and recommended the same to the Council of the City on the basis that Developer was qualified by financial responsibility and business experience to create and preserve employment opportunities in said Community Reinvestment Area and improve the economic climate of the City; and

WHEREAS, the Subject Property is located in the Worthington City School District and the Board of Education of the Worthington City School District was notified prior to the Predecessor Agreement in accordance with R.C. 5709.83 and was given a copy of the Predecessor Agreement, which this Successive Agreement references, incorporates, and continues; and

WHEREAS, pursuant to R.C. 3735.67 and concerning the Subject Property, the City housing officer received and processed an application for exemption from real property taxation under the Predecessor Agreement and the Franklin County Auditor received and processed the same, recording the exemption in place for the Subject Property with such benefit available to and taken by [ENTITY SHORTY NAME]; and

WHEREAS by incorporated reference to the Predecessor Agreement and in conformance with the format required under R.C. 3735.671(B), the parties hereto desire to set forth their agreement with respect to matters hereinafter contained.

NOW, THEREFORE, in consideration of these premises and in furtherance of the terms and conditions set forth under the Predecessor Agreement, the parties do hereby covenant and agree with the others as follows:

Section 1. Subsequent Purchasers of the Subject Property were Contemplated.

That the City and the Developer intended subsequent purchasers of the Subject Property, to include here [ENTITY SHORT NAME], to stand in place of the Developer under the terms and conditions of the Predecessor Agreement, including but not limited to exemption benefit levels, real property improvement time periods, and default provisions.

Section 2. Continue Obligations and Benefits between the Parties as under Predecessor Agreement.

That the provisions of the Predecessor Agreement, not specifically altered or changed herein, shall remain in full force and effect between the City and [ENTITY SHORT NAME] until superseded or otherwise modified.

IN WITNESS WHEREOF, the City and [ENTITY SHORT NAME] have caused this Successive Agreement to be executed in their respective names by their duly authorized representatives, all as of the date first written above.

CITY OF WORTHINGTON, OHIO

By: _____
Name: _____
Title: _____

[ENTITY NAME]

By: _____
Name: _____
Title: _____

The legal form and correctness of the within instrument is hereby approved for the City of Worthington.

By: _____
Michael Minister, Law Director
City of Worthington, Ohio