

ORDINANCE NO. 08-2013

An Ordinance Accepting the Terms and Conditions of a Compensation Agreement with Franklin County concerning proposed Incentive District Tax Increment Financing and to Authorize the City Manager to Enter into the Same.

WHEREAS, the City has undertaken efforts towards the creation of an incentive district tax increment financing (“TIF”) under Section 5709.40(C) of the Ohio Revised Code (“ORC”) to capture and redirect taxes from the incremental increase in value of redevelopment along West Wilson Bridge Road; and,

WHEREAS, formal development plans have been submitted by Crawford Hoying Development Partners (“Crawford Hoying”) to redevelop property at 160 West Wilson Bridge Road, including property immediately adjacent to the Shops at Worthington Place, with apartments, high-quality office space, and structured parking (“Development Plans”); and,

WHEREAS, the Development Plans have been reviewed by the Worthington Municipal Planning Commission and Architectural Review Board and forwarded to City Council for its review; and,

WHEREAS, the property to be redeveloped under the Development Plans will comprise the proposed incentive district TIF, with TIF revenues to fund planned public improvements that enhance the Wilson Bridge Corridor, such as streetscape and roadwork enhancements, multi-use trails, paving, utility realignment, and traffic studies and signalization; and,

WHEREAS, the City Council will be recommended at a future meeting to approve the creation of this incentive district TIF under City Ordinance 45-2012, as amended; and,

WHEREAS, prior to City Council’s vote on the creation of the incentive district TIF, Section 5709.40(E)(3) of the ORC requires that a mutually acceptable compensation agreement be agreed to by the Franklin County Board of Commissioners (“Board of Commissioners”) and the City Council; and,

WHEREAS, the Board of Commissioners approved Resolution 0847-12 on December 11, 2012, whereby the Board expressed its support for the redevelopment but nonetheless formally stated its objection to the incentive district TIF, pursuant to Section 5709.40(E)(2) of the ORC, to preserve its ability to enter into a compensation agreement with the City; and,

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WHEREAS, staff with the City and the Board of Commissioners thereafter negotiated an agreement to compensate Franklin County Children's Services, Franklin County Alcohol, Drug & Mental Health Services, Franklin County Board of Developmental Disabilities, and Franklin County Senior Options (collectively referred to as the "Franklin County Social Service Agencies") during the term of the proposed incentive district TIF.

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

SECTION 1. That the City Council does hereby accept the terms of the Franklin County Compensation Agreement (the "Compensation Agreement") attached hereto as EXHIBIT A, negotiated in good faith with Franklin County to compensate the Franklin County Social Service Agencies during the term of the proposed incentive district TIF, as follows:

- A. For TIF exemptions of Franklin County Social Service Agencies' current millage, levied at the time of this Ordinance, as set forth below:
 - a. Franklin County Children's Services' 5.0 mills, consisting of a 1.9 mill levy and 3.1 mill levy (effective rates of 1.751746 mills and 3.1 mills, respectively, for residential/agricultural property and 1.863248 mills and 3.1 mills, respectively, for commercial/industrial property);
 - b. Franklin County Alcohol, Drug & Mental Health Services' 2.2 mills (effective rates of 2.2 mills for residential/agricultural property and 2.2 mills for commercial industrial property);
 - c. Franklin County Board of Developmental Disabilities' 7.0 mills, consisting of two 3.5 mill levies (each with effective rates of 3.5 mills for residential/agricultural property and 3.5 mills for commercial industrial property); and
 - d. Franklin County Senior Options' 1.3 mills (effective rates of 1.3 mills for residential/agricultural property and 1.3 mills for commercial/industrial property).

- B. For each year during the term of the incentive district TIF, for which the City receives annual service payments in lieu of taxes thereunder, the City shall make payments from the TIF fund to the Board of Commissioners at a rate of compensation as follows:
 - a. Years 1-10, 0% contribution of exempted taxes;
 - b. Years 11-20, 25% contribution;
 - c. Years 21-25, 50% contribution;
 - d. Years 25-29, 75% contribution; and
 - e. Year 30, Franklin County Social Service Agencies are made 100% whole.

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SECTION 2. That the City Manager is hereby authorized and directed to enter into the Compensation Agreement with the Board of Commissioners as attached in EXHIBIT A and made a part hereof, establishing the conditions of the compensation of the Franklin County Social Service Agencies.

SECTION 3. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set 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. 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 April 15, 2013

[Signature on File]
President of Council

Attest:

[Signature on File]
Clerk of Council

Introduced April 1, 2013
P.H. April 15, 2013
Effective May 8, 2013

EXHIBIT A

FRANKLIN COUNTY COMPENSATION AGREEMENT

This Franklin County Compensation Agreement (this “**Compensation Agreement**”) by and between the CITY OF WORTHINGTON (the “**City**”) a municipal corporation with its offices at 6550 North High Street, Worthington, Ohio 43085, and the FRANKLIN COUNTY BOARD OF COMMISSIONERS (the “**Commissioners**”), a county government with its principal offices at 373 South High Street, Columbus, Ohio 43215, specifies the manner and procedure to be used to compensate the Commissioners for certain foregone tax revenues resulting from Worthington City Ordinance 45-2012, as amended (the “**TIF Ordinance**”), granting a one-hundred percent (100%) tax exemption for a period not to exceed thirty (30) years pursuant to Ohio Revised Code (“**ORC**”) §5709.40(C).

WITNESSETH:

WHEREAS, the City and the Commissioners desire to encourage the development of the real property described and depicted on Exhibit A attached to this Agreement (the “**Property**”), as may be owned now and in the future by one or more owners (the “**Owners**”), to further the economic development goals of the City in a manner that is consistent with the existing neighborhood; and

WHEREAS, the City is taking steps pursuant to ORC §§5709.40, 5709.42 and 5709.43 (the “**TIF Statutes**”) to create an Incentive District comprised of the Property (the “**Incentive District**”) and will declare improvements to the Property within the Incentive District to be a public purpose (the “**Improvements**”) thereby exempting those Improvements from real property taxation, and will provide for annual service payments in lieu of taxes to be made by the Owners with respect to the Property (the “**Service Payments**”), and will establish a municipal public improvement tax increment equivalent fund (the “**TIF Fund**”) to pay a portion of the cost of Public Improvements (the “**Public Improvements**”); and

WHEREAS, pursuant to ORC §5709.40(F), the exemption of the Improvements from real property taxes does not include certain additional real property tax levies and certain renewal or replacement real property tax levies that exceed the effective tax rate of the levy renewed or replaced; and

WHEREAS, the exemption of the Improvements from real property taxes does include current real property tax levies; and

WHEREAS, 1.3 mills (effective rates of 1.3 mills for residential/agricultural property and 1.3 mills for commercial/industrial property) is being levied currently for providing or maintaining senior citizens services or facilities (the “**Senior Levy**”); and

WHEREAS, 7.0 mills, consisting of two 3.5 mill levies (each with effective rates of 3.5 mills for residential/agricultural property and 3.5 mills for commercial industrial

property) is being levied currently for community mental retardation and development disabilities programs and services (collectively, the “**BDD Levy**”); and

WHEREAS, 2.2 mills (effective rates of 2.2 mills for residential/agricultural property and 2.2 mills for commercial industrial property) is being levied currently for alcohol, drug addiction and mental health services or facilities (the “**ADAMH Levy**”); and

WHEREAS, 5.0 mills, consisting of a 1.9 mill levy and 3.1 mill levy (effective rates of 1.751746 mills and 3.1 mills, respectively, for residential/agricultural property and 1.863248 mills and 3.1 mills, respectively, for commercial/industrial property) is being levied currently for the support of children’s services and the placement and care of children (collectively, the “**Children’s Levy**”, and together with the Senior Levy, the BDD Levy and the ADAMH Levy, the “**Social Services Levies**”); and

WHEREAS, notice of the City’s intention to pass the TIF Ordinance and declare the Improvements exempt from real property taxes in excess of 75 percent for more than ten years has been delivered to the Commissioners in accordance with ORC §5709.40(E)(1); and

WHEREAS, by Resolution 847-12 adopted on December 11, 2012, and as certified by the Commissioners, the Commissioners formally objected to the exemptions from real property taxes of the Improvements as described in the TIF Ordinance, in accordance with ORC §5709.40(E)(2); and,

WHEREAS, the Commissioners remain in objection to the real property tax exemptions granted pursuant to the TIF Ordinance unless and until a mutually acceptable compensation agreement with the City is negotiated to compensate for tax revenues foregone pursuant to the TIF Ordinance for the Social Services Levies; and,

WHEREAS, the City and the Commissioners have negotiated this Compensation Agreement to compensate the Commissioners for tax revenues foregone for the Social Services Levies pursuant to real property tax exemptions granted by the TIF Ordinance.

NOW THEREFORE, in consideration of the foregoing and of the mutual promises, covenants and agreements hereinafter set forth, the parties agree as follows:

Section 1. Commissioners Compensation Rates. For each year for which the Owners receive a real property tax exemption and make corresponding Service Payments deposited into the TIF Fund, the City shall make payments (the “**Compensation Payments**”), solely from the TIF Fund, to the Commissioners as follows:

(A) For the first through the tenth tax year during the exemption period set forth in the TIF Ordinance, the Compensation Payments shall be equal to zero percent (0%) of the amount of taxes the Social Services Levies would have collected for the Improvements but for the exemption granted by the TIF Ordinance.

(B) For the eleventh through the twentieth tax year during the exemption period set forth in the TIF Ordinance, the Compensation Payments shall be equal to twenty-five percent (25%) of the amount of taxes the Social Services Levies would have collected for the Improvements but for the exemption granted by the TIF Ordinance.

(C) For the twenty-first through the twenty-fifth tax year during the exemption period set forth in the TIF Ordinance, the Compensation Payments shall be equal to fifty percent (50%) of the amount of taxes the Social Services Levies would have collected for the Improvements but for the exemption granted by the TIF Ordinance.

(D) For the twenty-sixth through the twenty-ninth tax year during the exemption period set forth in the TIF Ordinance, the Compensation Payments shall be equal to seventy-five percent (75%) of the amount of taxes the Social Services Levies would have collected for the Improvements but for the exemption granted by the TIF Ordinance.

(E) For the thirtieth tax year during the exemption period set forth in the TIF Ordinance, the City shall make Compensation Payments to the Commissioners equal to one hundred percent (100%) of the amount of taxes the Social Services Levies would have collected for the Improvements but for the exemption granted by the TIF Ordinance.

Section 2. Timing of the Payments. Commencing in the eleventh tax year during the exemption period set forth in the TIF Ordinance and continuing so long as the City receives Service Payments pursuant to the TIF Ordinance, the City shall pay to the Commissioners, on or prior to March 31, the Compensation Payment accruing in the immediately preceding year. Each Compensation Payment will include an explanation of the calculation used to determine the amount of the Compensation Payment, including the true value of the Improvements as determined by the Franklin County Auditor on the applicable tax lien date and the applicable property tax millage rate and any other adjustments then in effect. The City and the Commissioners shall cooperate in calculating the Compensation Payments to ensure accuracy, fairness and that the spirit of this Compensation Agreement is maintained.

Section 3. Amendment of Compensation Payments. The intent of this Compensation Agreement is to lessen the revenues foregone for the Social Services Levies pursuant to the real property tax exemption granted by the TIF Ordinance. Should the TIF Statutes be amended in a manner that would cause (i) the Social Services Levies to be excluded, in whole or in part, from the real property tax exemption granted pursuant to the TIF Ordinance, or (ii) those tax levies excluded pursuant to ORC §5709.40(F) from the real property tax exemption granted pursuant to the TIF Ordinance to be included, in whole or in part, in the real property tax exemption granted pursuant to the TIF Ordinance, the City and the Commissioners agree that they shall negotiate an amendment to this Compensation Agreement to adjust the Compensation Payments.

Section 4. Commissioners Acknowledgment and Consent. In consideration of the Compensation Payments, the Commissioners hereby:

- (i) Acknowledge that notice by the City was proper and timely per requirements set forth in ORC § 5709.40(E) with respect to the TIF exemptions;
- (ii) Relinquish any and all objection to the real property tax exemptions to be granted under the TIF Ordinance for the Property, including such objection previously stated in Commissioners Resolution 0847-12; and
- (iii) Waive any defects or irregularities relating to the exemption from taxation of the Property.

Section 5. Application of ORC §5709.40(E). The Commissioners acknowledge and agree that this Compensation Agreement provides the only compensation to be received by the Commissioners in connection with real property tax exemptions granted pursuant to the TIF Ordinance and the compensation provided for in this Compensation Agreement is in lieu of any other compensation as may be contemplated under ORC §5709.40(E)(2).

Section 6. Amendments. This Compensation Agreement may be amended or modified by the parties, only in writing, signed by the City and the Commissioners.

Section 7. Entire Agreement. This Compensation Agreement sets forth the entire agreement and understanding between the parties as to the subject matter contained herein and merges and supersedes all prior discussions, agreements, and undertakings of every kind and nature between the parties with respect to the subject matter of this Compensation Agreement.

Section 8. Notices. All payments, certificates, reports and notices which are required to or may be given pursuant to the provisions of this Compensation Agreement shall be sent by regular mail, postage prepaid, and shall be deemed to have been given or delivered when so mailed to the following addresses:

Municipality: City of Worthington
 c/o City Manager
 6550 North High Street
 Worthington, Ohio 43085

With a copy to: City of Worthington
 c/o Law Director
 370 Highland Avenue
 Worthington, Ohio 43085

County: Franklin County Board of Commissioners
 c/o Board President
 373 South High Street, 26th Floor
 Columbus, Ohio 43215

With a copy to: Franklin County Prosecutor
373 South High Street, 14th Floor
Columbus, Ohio 43215

Any party may change its contact or address for receiving notices and reports by giving written notice of such change to the other parties.

Section 9. Severability of Provisions. The invalidity of any provision of this Compensation Agreement shall not affect the other provisions of this Compensation Agreement, and this Agreement shall be construed in all respects as if any invalid portions were omitted.

In witness thereof, the parties have caused this Compensation Agreement to be executed as of _____.

CITY OF WORTHINGTON, OHIO

By: _____

Name: _____

Title: _____

FRANKLIN COUNTY BOARD OF
COMMISSIONERS

By: _____

Name: _____

Title: _____

Approved as to form:

Pamela A. Fox, Law Director
City of Worthington, Ohio

EXHIBIT A

PROPERTY DESCRIPTION

Real property located at 160 West Wilson Bridge Road, Parcel No. 100-005595-00, which such property constitutes an area enclosed by a continuous boundary, in Worthington, Franklin County. This Property shall include any purported subdivisions of the enumerated parcels.