

ORDINANCE NO. 21-2019

Authorizing the City Manager to Enter into a Community Reinvestment Area Agreement with Worthington 17, LLC to Grant a Seventy-Five Percent (75%) Tax Exemption for Real Property Improvements to be Made to the Property Located at 6740 North High Street in the City of Worthington for a Period Not to Exceed Ten (10) Years.

WHEREAS, the Worthington City Council adopted Ordinance No. 18-2005, creating a Community Reinvestment Area (CRA) pursuant to Ohio Revised Code (“ORC”) §§3735.65 through 3735.70; and,

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

WHEREAS, Worthington 17, LLC (“Worthington 17”) has acquired real property at 6740 North High Street, within the Worthington Community Reinvestment Area, and proposes to renovate said property for the purpose of attracting new jobs to the City, provided that the appropriate development incentives are available to support the economic viability of the proposed redevelopment; and,

WHEREAS, Worthington 17 has remitted the required application fee, set forth under ORC §3735.672(C) and Ohio Administrative Code Rule 122:9-1-01, payable to the State of Ohio and which will be forwarded to the Development Services Agency with a copy of the final Community Reinvestment Agreement; and,

WHEREAS, the City Housing Officer verified the application materials submitted by Worthington 17 and determined the construction meets the requirements for such an exemption under the City’s CRA program; and,

WHEREAS, the project site as acquired by Worthington 17 is located in the Worthington School District and the Board of Education of the Worthington City School District (“Board”) has been notified in accordance with ORC §5709.83 and been given a copy of the draft CRA agreement; and,

WHEREAS, the City and the Board have mutually agreed that sufficient revenues to the Board will accrue through a combination of Worthington 17’s project at 6740 North High Street, as well as through the anticipated development of parcels 100-002605 and 100-002641 directly adjacent to the south. As such, there will be no compensation to the Board during the exemption period approved hereby.

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

ORDINANCE NO. 21-2019

SECTION 1. Pursuant to ORC §3735.67(D), the proposed improvements by Worthington 17 to the property located at 6740 North High Street, Worthington, Ohio 43085 (Franklin County Auditor Parcel IDs 100-002642, 100-002579, 100-002683, 100-002578, 100-002694, and 100-002459)(the “Property”), hereby is declared to be a public purpose for which exemptions from real property taxation may be granted.

SECTION 2. The City Manager is hereby authorized and directed to enter into a Community Reinvestment Area Agreement (“CRA Agreement”) with Worthington 17, LLC, a domestic limited liability company, substantially in the form attached hereto as Exhibit A, which CRA Agreement shall provide for a seventy-five percent (75%) tax exemption for real property improvements to be made to the Property for a period not to exceed ten (10) years, together with such revisions or additions thereto as approved by the City Manager as consistent with the objectives and requirements of this Ordinance, which approval shall be conclusively evidenced by the signing of said CRA Agreement.

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 June 3, 2019

/s/ Bonnie D. Michael
President of Council

Attest

/s/ D. Kay Thress
Clerk of Council

Introduced May 20, 2019
P.H. June 3, 2019
Effective June 26, 2019

EXHIBIT A

COMMUNITY REINVESTMENT AREA ABATEMENT AGREEMENT

This Community Reinvestment Area Abatement Agreement (“**Agreement**”) is made and entered between the CITY OF WORTHINGTON, a municipal corporation with its offices at 6550 North High Street, Worthington, Ohio 43085 (the “**City**”), and WORTHINGTON 17, LLC, a domestic limited liability company, with its principal offices at 50 W. Broad Street, Suite 200, Columbus, OH 43215 (“**WORTHINGTON 17**”), (both collectively referred to herein as the “**Parties**”) and sets forth the complete understanding of the Parties as to the exemption of real property taxes on improvements made to the Property, defined below, pursuant to the City’s Community Reinvestment Area exemption program and Ohio Revised Code (“**ORC**”) §§3735.65 *et seq.* (the “**CRA Exemption**”).

WITNESSETH:

WHEREAS, the Worthington City Council, by Ordinance 18-2005, adopted May 16, 2005, designated an area of the City as a “**Community Reinvestment Area**” pursuant to ORC Chapter 3735; and,

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

WHEREAS, the City has encouraged the acquisition and redevelopment of real property in the Worthington Community Reinvestment Area; and,

WHEREAS, WORTHINGTON 17 has acquired real property within the Worthington Community Reinvestment Area and proposes to make improvements to said property for the purpose of attracting new jobs to the City, provided that the appropriate development incentives are available to support the economic viability of the proposed redevelopment; and,

WHEREAS, pursuant to ORC §§3735.65 *et seq.*, the City has the authority to provide, and is desirous of so providing, WORTHINGTON 17 with a CRA Exemption to induce the Project, defined below; and,

WHEREAS, in the time since the Director of Development of the State of Ohio’s confirmation, the Worthington City Council has from time to time adopted legislation to maintain its authority to provide CRA Exemption incentives, to include making the City Economic Development Manager the City Housing Officer under ORC §3735.66 (Ordinance 58-2011, adopted December 12, 2011) and naming new members to the Worthington CRA Housing Council under ORC §3735.69; and,

WHEREAS, WORTHINGTON 17 filed an application with the City Housing Officer on March 27, 2019 (the “**Application**”), for an exemption from real property taxation of a percentage of assessed valuation of the improved structure to be renovated under the Project, defined below, with such renovated structure to be used for commercial purposes; and,

WHEREAS, the City Housing Officer verified the Application submitted by WORTHINGTON 17 and determined the improvements meet the requirements for such a CRA Exemption; and,

WHEREAS, the City Housing Officer will include in filings with the Ohio Development Services Agency regarding this matter the application fee, remitted by WORTHINGTON 17, as such fee is set forth under ORC §3735.672(C) and Ohio Administrative Code Rule 122:9-1-01; and,

WHEREAS, the Project site is located in the Worthington School District, and because 75 percent of the taxes on the Property, defined below, will be exempted from taxation under this Agreement, the City is required to obtain approval of the CRA Exemption by the Board of Education of the Worthington City School District (the “**Board**”), pursuant to ORC §3735.671. The Board approved a resolution to support the CRA Exemption at their meeting on May 13, 2019; and,

WHEREAS, the City provided the Board with notice of the proposed CRA Exemption on March 28, 2019, and the Board approved a resolution to waive the required fourteen (14) day notice period pursuant to the requirements set forth under ORC §5709.83; and,

WHEREAS, WORTHINGTON 17 and the City acknowledge that this Agreement must be approved by formal action by the Worthington City Council as a condition for this Agreement to take effect, with this Agreement thereafter taking effect upon any such approval; and,

WHEREAS, the Worthington City Council adopted Ordinance 21-2019 on June 3, 2019, declaring that renovation of existing structures under the Project, defined below, are a public purpose for which exemptions from real property taxation may be granted (the “**Improvements**”); and,

WHEREAS, WORTHINGTON 17 and the City further acknowledge that this Agreement has been entered into prior to the commencement of construction under the Project as defined herein.

NOW THEREFORE, in consideration of the mutual covenants hereinafter contained and he benefit to be derived by the Parties from the execution hereof, the Parties herein agree as follows:

§1. Project Description. WORTHINGTON 17 has purchased 6740 North High Street, Worthington, Ohio 43085, Franklin County Auditor Parcel IDs 100-002642, 100-002579, 100-002683, 100-002578, 100-002694, and 100-002459 (the “**Property**”) in fee and will renovate the existing structures thereon to facilitate the attraction of new jobs in the City (the “**Project**”). The Project will involve a total investment by WORTHINGTON 17 of at least ten million five hundred thousand dollars (\$10,500,000.00). Included in this investment is six million five hundred thousand dollars (\$6,500,000.00) for the acquisition of the Property, and an estimated four million dollars (\$4,000,000.00) in renovation costs.

The Project will commence on or about July 1, 2019, or (the “**Commencement Date**”). It is intended that all construction and improvements will be completed in calendar year 2020.

§2. Employment Positions & Total Annual Payroll. Beginning with the Commencement Date and continuing throughout the term of this Agreement, WORTHINGTON 17 shall create a total of four hundred (400) new full-time permanent employment positions at the Project (“**New Jobs**”). WORTHINGTON 17 shall retain zero (0) existing full-time permanent employment positions (“**Retained Jobs**”).

Pursuant to ORC §3735.671(B)(4) and (5), WORTHINGTON 17’s New Jobs, the Retained Jobs and the total annual payroll therefrom are itemized below:

Time Period (Year)	New Jobs Created (Cumulative)	Retained Jobs (Cumulative)	Total Annual Payroll
1	0	0	\$ 0
2	100	0	\$4,000,000
3	200	0	\$8,000,000
4	300	0	\$12,000,000
5	400	0	\$16,000,000
6	400	0	\$16,000,000
7	400	0	\$16,000,000
8	400	0	\$16,000,000
9	400	0	\$16,000,000
10	400	0	\$16,000,000

§3. CRA Exemption. The City hereby grants WORTHINGTON 17 a tax exemption equal to a percentage of the assessed valuation of the Property exempted hereunder, for the Improvements made under the Project, for the following period and for the following benefit level:

Exemption Period	Exemption Benefit Level
Ten (10) Years	Seventy-Five Percent (75%)

The exemption provided under this §3 commences the first year for which the Property would first be taxable were that property not exempted from taxation under this Agreement. No CRA Exemption hereunder shall commence after tax year 2021 (i.e., tax lien date January 1, 2021), nor extend beyond tax year 2031.

WORTHINGTON 17 agrees and consents to the City preparing and filing all necessary applications and supporting documents to obtain the exemption authorized by the CRA Exemption Statutes and the City. The City shall perform such acts as are reasonably or legally necessary or appropriate to effect, claim, reserve, and maintain the CRA Exemption granted under this Agreement, including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemption.

§4. Annual Monitoring. WORTHINGTON 17 shall provide the Worthington Tax Incentive Review Council, organized under ORC §5709.85 (“**Worthington TIRC**”), any information reasonably required by the Worthington TIRC to evaluate WORTHINGTON 17’s compliance with this Agreement, including returns filed pursuant to ORC §5711.02 if requested by the Worthington TIRC.

Pursuant to ORC §3735.671(D), WORTHINGTON 17 shall remit an annual monitoring and reporting fee payable to the City at such time as the Worthington TIRC requests information under this §4, with the annual fee equal to the greater of five hundred dollars (\$500.00) or one percent (1%) of the amount of taxes exempted hereunder up to a maximum two thousand five-hundred dollars (\$2,500.00) annually, for each year throughout the term of this Agreement.

§5. Taxes Otherwise Due. WORTHINGTON 17 shall pay such real property taxes as are not exempted under this Agreement and are charged against the Property and shall file all tax reports and returns as required by law. If WORTHINGTON 17 fails to pay such taxes or file such returns and reports, exemptions under this Agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.

§6. CRA Exemption Continues. If, for any reason, the Community Reinvestment Area designation expires, or the Director of Development of the State of Ohio revokes his or her confirmation of the area, or the City revokes the designation of the area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless WORTHINGTON 17 materially fails to fulfill its obligations under this Agreement and the City terminates or modifies the CRA Exemption pursuant to this Agreement.

§7. Certifications. Pursuant to ORC §3735.671(C)(3), WORTHINGTON 17 hereby certifies that at the time this Agreement is executed, WORTHINGTON 17 does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which WORTHINGTON 17 is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the ORC, or, if such delinquent taxes are owed, WORTHINGTON 17 currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, *et seq.*, or such a petition has been filed against WORTHINGTON 17. For the purposes of this §7, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the ORC chapter governing payment of those taxes.

§8. Failure to Comply. If WORTHINGTON 17 materially fails to fulfill its obligations under this Agreement, or if the City determines that the certification under §7, above, is fraudulent, the City may terminate or modify the CRA Exemption under this Agreement, and may require the repayment of the amount of taxes that would have been payable had the Property not been exempted from taxation under this Agreement. Repayment of taxes under this §8 may be secured by the City by a lien placed on the Property in the amount required to be repaid hereunder, and such lien shall attach, and may be perfected, collected and enforced in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as such.

§9. Discontinuing Operations. If WORTHINGTON 17 discontinues operations at the Property prior to the expiration of the term of this Agreement, WORTHINGTON 17 and any successor or any related member shall not enter into an agreement under ORC §§3735.671, 5709.62, 5709.63 or 5709.632 within five years after such discontinuation. The CRA Exemption granted under this Agreement shall be revoked if it is determined that WORTHINGTON 17, any successor to that person, or any related member has violated the prohibition against entering into this Agreement under ORC §§3735.671(E), 5709.62 or 5709.63 prior to the time prescribed by that division of either of those sections. For purposes of this §9, “**successor**” and “**related member**” have meanings as defined in ORC §3735.671(E).

§10. Non-Discriminatory Hiring Practices. As required under ORC §5709.85(D), and by executing this Agreement, WORTHINGTON 17 is hereby committing to offer equal opportunity and equal consideration to all persons who seek employment with WORTHINGTON 17, that no individual will be discriminated against on the basis of race, color, ancestry, religion, creed, national origin, age, sex, veteran status, disability, and/or any other characteristic protected by applicable federal, State or local law.

§11. Agreement Not Transferrable. This Agreement is not transferrable or assignable without the express, written approval of the City, which such approval shall not be unreasonably withheld.

§12. Non-Waiver. No failure by the City to enforce its rights or seek its remedies under this Agreement upon any non-compliance or default by WORTHINGTON 17 shall affect or constitute a waiver of the City’s rights to enforce that right or seek that remedy.

§13. Miscellaneous.

(a) **Notices.** Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by a recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other party at the address set forth in this Agreement or any addendum to or counterpart of this Agreement, or to such other address as the recipient shall have previously notified the sender of in writing, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to have been received when the return receipt is signed or refused. For purposes of this Agreement, Notices shall be addressed to:

If to City: City of Worthington
Attn: Economic Development
6550 North High Street
Worthington, Ohio 43085

with a copy to:

City of Worthington
Attn: Director of Law
370 Highland Avenue
Worthington, Ohio 43085

If to WORTHINGTON 17:

WORTHINGTON 17 LLC
Attention: Don Bush
50 W. Broad Street, Suite 200
Columbus, Ohio 43215

The Parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

(b) Extent of Provisions: No Personal Liability. All rights, remedies, representations, warranties, covenants, agreements and obligations of the City under this Agreement shall be effective to the extent authorized and permitted by applicable law. No representation, warranty, covenant, agreement, obligation, or stipulation contained in this Agreement shall be deemed to constitute a representation, warranty, covenant, agreement, obligation or stipulation of any present or future official, member, officer, agent or employee of the City or WORTHINGTON 17 in other than his or her official capacity. No official executing or approving the City's or WORTHINGTON 17's participation in this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the issuance thereof.

(c) Amendments. This Agreement may only be amended by a written instrument executed by both Parties.

(d) Executed Counterparts. This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same agreement. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

(e) Severability. In case any section or provision of this Agreement, or any covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, or any application thereof, is held to be illegal or invalid for any reason:

(i) that illegality or invalidity shall not affect the remainder hereof or thereof, any other section or provision hereof, or any other covenant, agreement, obligation or action, or part thereof, made, assumed, entered into, or taken, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein or therein;

(ii) the illegality or invalidity of any application hereof or thereof shall not affect any legal and valid application hereof or thereof; and

(iii) each section, provision, covenant, agreement, obligation or action, or part thereof shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the fullest extent permitted by law.

(g) Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of the Agreement.

(h) Governing Law and Choice of Forum. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio or applicable federal law. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Company, its employees and agents, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Franklin County, Ohio.

In witness thereof, the Parties have caused this Agreement to be executed this _____ day of _____, 2019.

CITY OF WORTHINGTON

WORTHINGTON 17, LLC

By:

By:

Matthew H. Greeson, City Manager

Its:

Approved as to Form:

Tom Lindsey, Law Director