

1st reading _____
2nd reading _____
3rd reading _____
Voted On _____
Ayes: _____ Nays: _____
PASSED _____ DEFEATED _____

ORDINANCE NO. 2015-11

**AN ORDINANCE
DECLARING THE IMPROVEMENT OF CERTAIN REAL
PROPERTY LOCATED IN ORANGE VILLAGE TO BE A PUBLIC
PURPOSE IN CONNECTION WITH THE ESTABLISHMENT OF
TAX INCREMENT FINANCING PROGRAM UNDER OHIO
REVISED CODE SECTION 5709.40; DECLARING SUCH
PROPERTY TO BE EXEMPT FROM REAL PROPERTY
TAXATION; DESIGNATING PUBLIC INFRASTRUCTURE
IMPROVEMENTS TO BE MADE THAT WILL DIRECTLY
BENEFIT SUCH PROPERTY; REQUIRING THE OWNERS
THEREOF TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES;
AUTHORIZING A TAX INCREMENT SERVICE PAYMENT
AGREEMENT WITH THE DEVELOPER; AUTHORIZING A
COMPENSATION AGREEMENT WITH THE ORANGE CITY
SCHOOL DISTRICT; ESTABLISHING A MUNICIPAL PUBLIC
IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR
THE DEPOSIT OF SUCH SERVICE PAYMENTS; AND
DECLARING AN EMERGENCY**

WHEREAS, the development and redevelopment of commercial properties in Orange Village, Ohio (the "Village") will benefit the Village and its residents by creating jobs, enlarging the property tax base, enhancing income tax revenues and stimulating collateral development in the Village; and

WHEREAS, pursuant to Ohio Revised Code Section 5709.40, .42, and .43 (together with related provisions of the Ohio Revised Code, the "TIF Act"), the Village may, among other things, (i) declare the increase in assessed value of real property located in the Village to be a public purpose, thereby exempting such increase from real property taxation for a period of time; (ii) specify public infrastructure improvements made, to be made, or in the process of being made, that directly benefit such real property; (iii) provide for the making of service payments in lieu of taxes by the owners of such real property; and (iv) provide for compensation payments to the affected school districts out of such service payments in lieu of taxes; and

WHEREAS, Pine Orange LLC (the "Developer") intends to develop and redevelop certain parcels of real property located in the Village, which parcels are further described in Section 1 hereof; and

WHEREAS, pursuant to the TIF Act, the Village may utilize municipal tax increment financing to declare the increase in the assessed value of any parcel of real property to be a public purpose and to exempt such increased value from real property taxation, in order to provide a mechanism to finance the public infrastructure improvements described in this Ordinance; and

WHEREAS, the Orange City School District (the “School District”), on _____, 2015, forwarded a certified copy of a resolution passed by the Board of Education of the School District to the Village, which resolution waived the notice requirements of the TIF Act and in Sections 5709.82, 5709.83 and 5715.27(D) of the Ohio Revised Code, and approved the exemption for the Improvements (as defined hereinbelow) on the condition that the Village and the School District enter into the School Compensation Agreement (as defined hereinbelow) to compensate such School District for a portion of the real property taxes that would have been received by the School District with respect to the Improvements, but for the exemption for the Improvements granted pursuant to this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF ORANGE VILLAGE, CUYAHOGA COUNTY, STATE OF OHIO, THAT:

SECTION 1. Parcels of Real Property. The parcels of real property subject to the exemption granted by this Ordinance are identified and depicted in Exhibit A attached hereto and made a part hereof (collectively referred to herein as the “Site,” with each parcel comprising the Site, as currently or subsequently configured, including any lot splits or consolidations, being referred to individually as a “Parcel”). In the event of a conflict between the outline of the Site shown in the map set forth in such exhibit and the legal description of the Site, the outline of the Site shown in the map shall control.

SECTION 2. Tax Exemption. Pursuant to and in accordance with the TIF Act, this Council hereby finds and determines that 100% of the increase in assessed value of each Parcel comprising of the Site (which increase in assessed value is also hereinafter referred to as the “Improvement” as defined in the TIF Act) is hereby declared to be a public purpose and shall be exempt from taxation for a period commencing for each Parcel with the first tax year that begins after the effective date of this Ordinance and in which an Improvement attributable to a new structure on that Parcel would first appear on the tax list and duplicate of real and public utility property were it not for the exemption granted by this Ordinance (but in no case later than January 1, 2018) and ending on the earlier of (A) thirty (30) years after such commencement or (B) the date on which the Village can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Act.

SECTION 3. Designation of Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described in Exhibit B attached hereto (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 that directly benefit, or that once made will directly benefit, the Site.

SECTION 4. Payment of Service Payments. As provided in 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 Improvements allocable thereto to the County Treasurer of Cuyahoga County, Ohio (the “County Treasurer”) on or before the final dates for payment of real property taxes. Each service payment 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 payable against that Parcel if an exemption from taxation not been granted, and otherwise shall be in

accordance with the requirements of the TIF Act. Any late payments shall be subject to penalty and bear interest at the then current rate established under Ohio Revised Code Sections 323.121(B)(1) and 5703.47, 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 payment of penalties and interest are collectively referred to herein with the service payments in lieu of taxes as the “Service Payments”). The Service Payments shall be allocated and distributed in accordance with Section 5 of this Ordinance.

The Mayor is hereby authorized and directed to execute on behalf of the Village a Tax Increment Service Payment Agreement, between the Village and the Developer (the “Service Payment Agreement”), providing for, among other things, the payment and collection of the Service Payments and the funding of the costs of the Public Infrastructure Improvements from the Service Payments, which agreement shall be in the form attached as Exhibit C to this Ordinance with such changes, not substantially inconsistent with the terms of this Ordinance, as approved by the Mayor. The Service Payment Agreement shall provide that the payment of Service Payments, and other covenants contained therein, shall run with the land for the benefit of and be enforceable by, the Village, its successors and assigns, against Developer and its successors and assigns (any owner of any of the Parcels, including the Developer, referred to herein as an “Owner”). The approval of the Service Payment Agreement, and that any changes are not substantially inconsistent with this Ordinance, shall be evidenced conclusively by the execution of the Service Payment Agreement by the Mayor.

SECTION 5. Creation of TIF Fund. Pursuant to the TIF Act, there is hereby established the “Pinecrest Municipal Public Improvement Tax Increment Equivalent Fund” (the “TIF Fund”). The TIF Fund shall be maintained in the custody of the Village and shall receive all distributions to be made to the Village pursuant to Section 6 hereof. Those Service Payments, and any other payments with respect of each Parcel which are received by the County Treasurer in connection with the reduction required by Ohio Revised 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 used solely for the purposes authorized by the TIF Act 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 incidental surplus moneys remaining therein shall be transferred to the Village’s General Fund, all in accordance with Ohio Revised Code Section 5709.43.

SECTION 6. Distributions. Pursuant to Ohio Revised Code Section 5709.42, the County Treasurer shall remit to the Village all Service Payments and Property Tax Rollback Payments paid in respect of the Improvements and received by the County Treasurer for further deposit into the TIF Fund. The Village will disburse monies on deposit in the TIF Fund in the amounts and order of priority as is consistent with this Ordinance, the Service Payment Agreement, the School Compensation Agreement (as defined hereinbelow), and a separate agreement (the “Cooperative Agreement”) among the Village, the Developer, and the Cleveland-Cuyahoga County Port Authority, and/or any other port authority or governmental entity that will issue bonds, notes or loan obligations of one or more series for the purpose of paying costs of the

Public Infrastructure Improvements, which Cooperative Agreement shall be authorized by separate legislation to be submitted to this Council.

SECTION 7. School Compensation Agreement. The Mayor is hereby authorized and directed to execute on behalf of the Village a School Compensation Agreement (the “School Compensation Agreement”), between the Village and the School District, which agreement shall be in the form attached as Exhibit D to this Ordinance with such changes, not substantially inconsistent with the terms of this Ordinance, as approved by the Mayor. The approval of the School Compensation Agreement, and that any changes are not substantially inconsistent with this Ordinance, shall be evidenced conclusively by the execution of the School Compensation Agreement by the Mayor.

SECTION 8. Further Authorizations. This Council further hereby authorizes and directs the Mayor or her designee to take such action and to execute and deliver, on behalf of the Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as the Mayor or her designee in their discretion shall deem necessary or appropriate.

SECTION 9. Non-Discriminatory Hiring Policy. In accordance with Ohio Revised Code Section 5709.832, the Village hereby determines that no Owner shall deny any individual employment based on considerations of race, religion, sex, disability, color, national origin or ancestry. In addition, no Owner shall deny any individual employment based on considerations of sexual orientation, gender identity and expression, or veteran status. The Service Payment Agreement shall provide that the provisions of this Section 9 shall be covenants running with the land.

SECTION 10. Notification of Adoption. Pursuant to Ohio Revised Code Section 5709.40(I), the Clerk is hereby directed to deliver a copy of this Ordinance to the Director of the Development Services Agency of the State of Ohio within fifteen days after its adoption. On or before March 31 of each year that the exemption set forth in Section 2 hereof remains in effect, the Clerk or other authorized officer of this Village shall prepare and submit to the Director of the Development Services Agency of the State of Ohio the status report required under Section 5709.40(I) of the Ohio Revised Code.

SECTION 11. Open Meeting. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 12. Emergency Measure. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of this Village and for the other reasons set forth in the preamble to this Ordinance is required to be immediately effective to allow for the completion of the Project and the construction of the Developer improvements and the Public Infrastructure Improvements, which are necessary to provide the desired redevelopment in the Village; wherefore, this Ordinance shall be in full force and effect from and immediately after the passage and approval by the Mayor.

PASSED: _____, 2015

Council President

Submitted to the Mayor for approval on this ____ day of _____, 2015

Approved by the Mayor this ____ day of _____, 2015

ATTEST:

Clerk of Council

Mayor

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. 2015-__ duly adopted by the Council of the Village of Orange, Ohio on _____, 2015.

Clerk of Council
Village of Orange, Ohio

EXHIBIT A

DESCRIPTION OF THE SITE

[Map and legal description follow on the next page]

EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

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

- Land Acquisition, including acquisition in aid of industry, commerce, distribution, or research
- Environmental - Wetlands/Stream Mitigation
- Stormwater remediation, including improvements located on private property, which is determined to be necessary for public health, safety, and welfare
- Off Site Improvements - Signalization
- Electrical Ductbank, including the provision of gas or electric service facilities owned by nongovernmental entities, which is determined to be necessary for economic development purposes
- Earthwork - Public Amenity/Mound
- Utilities - Water/Sewer/Storm/Gas
- Site Concrete - Sidewalks, Curbs, etc.
- Retaining Walls
- Communication Infrastructure
- Site Lighting - Common Areas/Parking Areas
- Asphalt Paving - Parking Areas
- Landscaping, Amenities, Streetscape - Town Center
- Demolition, including demolition on private property, which is determined to be necessary for public health, safety, and welfare
- Public Parking Garage
- Orange Village Emergency Substation
- Public Restrooms

EXHIBIT C

FORM OF SERVICE PAYMENT AGREEMENT

EXHIBIT D

FORM OF SCHOOL COMPENSATION AGREEMENT