

1st reading
2nd reading
3rd reading
Voted On 11-14-18
Ayes: 7 Nays: 0
PASSED ~~X~~ DEFEATED _____

ORDINANCE NO. 2018-37

DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY TO BE A PUBLIC PURPOSE PURSUANT TO REVISED CODE SECTION 5709.40(B); DECLARING SUCH IMPROVEMENT TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING PUBLIC INFRASTRUCTURE IMPROVEMENTS TO BE MADE THAT WILL DIRECTLY BENEFIT SUCH PROPERTY; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; DESIGNATING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SUCH SERVICE PAYMENTS; AND AUTHORIZING COMPENSATION PAYMENTS TO THE ORANGE CITY SCHOOL DISTRICT; AND DECLARING AN EMERGENCY

WHEREAS, the development of commercial properties in the Village of Orange, 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; (iv) establish a public improvement tax increment equivalent fund into which such service payments shall be deposited; (v) provide for the use of such service payments to pay the costs of such public infrastructure improvements (which costs may include, without limitation, the payment for or reimbursement of costs of the public infrastructure improvements incurred by the Village, or any other public or private party in cooperation with the Village); and (vi) provide for compensation payments to the affected school districts out of such service payments in lieu of taxes; and

WHEREAS, Chagrin Highlands, Ltd. has acquired and is developing three parcels of real property (as collectively depicted and described in Exhibit A attached hereto and incorporated herein by this reference, the "Site"), and the Village has determined that certain public infrastructure improvements, as that term is defined in Ohio Revised Code Sections 5709.40(A)(7) (as more fully described on Exhibit B attached hereto and incorporated herein by this reference, the "Public Infrastructure Improvements"), made, to be made, or in the process of being made, that will directly benefit the Site; and

WHEREAS, the development of the parcels comprising the Site will benefit the Village and its residents by creating economic opportunities, enlarging the property tax base, stimulating collateral development in the Village; and

WHEREAS, the Village desires to grant a one hundred percent (100%) exemption from real property taxation for a period of thirty (30) years (the “TIF Exemption”) for each improvement to the Site (as defined herein, the “Improvement”); and

WHEREAS, the Village has determined that it is necessary and appropriate and in the best interests of the Village to require the owners of the parcels included in the Site and their successors and assigns (collectively, with their successors and assigns, as owners of the Site, the “Owners”) to make service payments in lieu of taxes with respect to the Improvement pursuant to Ohio Revised Code Section 5709.42; and

WHEREAS, the Village has delivered notice of the proposed TIF Exemption to the Board of Education of the Orange City School District (the “School District”).

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 (the “TIF Exemption”) 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 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 (the “Exemption Period”), 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, but only after the TIF Exemption is effective, the Owner of a Parcel shall be required to, and shall make, service payments in lieu of taxes with respect to the Improvement allocable thereto to the County Treasurer on or before the final due 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 such Parcel as if it were not exempt from taxation pursuant to Section 1 hereof. If any reduction in the levies otherwise applicable to such Parcel is made by the county budget commission under Ohio Revised Code Section 5705.31, the amount of the service payment in lieu of taxes shall be calculated as if the reduction in levies had not been made. Any late payments of service payments in lieu of taxes 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 (the "Penalties and Interest"). Each Owner shall make any other payments in respect of such Parcel which are received by the County Treasurer in connection with any reduction required by Ohio Revised Code Section 319.302, as the same may be amended from time to time, or any successor provisions thereto (the "Property Tax Rollback Payments," together with the service payments in lieu of taxes and the "Penalties and Interest," are collectively referred to herein as the "Service Payments").

SECTION 5. TIF Fund. The Village hereby establishes, pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, within the Village Treasury a municipal public improvement tax increment equivalent fund (the "Tax Increment Fund"), which may, at the option of the Treasurer, be established as an account within an existing tax increment equivalent fund of the Village, into which shall be deposited the Service Payments distributed to the Village by the County Treasurer. Such Fund may be combined with other funds created by ordinances of this Council authorizing other such projects. Money in the Tax Increment Fund shall be used to finance the Public Infrastructure Improvements, and shall, to the extent provided in further ordinances of this Council, be pledged to the payment of debt service on any bonds, notes or other obligations issued to finance such Public Infrastructure Improvements as well as any reimbursement payments for reimbursement of any costs of the Public Infrastructure Improvements. The Tax Increment Fund shall be maintained in the custody of the Village and shall receive all distributions of Service Payments required to be made to the Village. Those Service Payments received by the Village with respect to the Site, shall be used solely for the purposes authorized in the TIF Act, including, but not limited to, paying any costs of the Public Infrastructure Improvements, in a manner that is consistent with this Ordinance. For purposes of this Ordinance, "costs" of the Public Infrastructure Improvements payable from the Tax Increment Fund shall also include the items of "costs of permanent improvements" set forth in Ohio Revised Code Section 133.15(B), and incurred with respect to the Public Infrastructure Improvements, which "costs" specifically include any reimbursement payments for the reimbursement of the costs of the Public Infrastructure Improvements, and debt service on, and any administrative or other expenses relating to the issuance of, any bonds, notes, or other obligations issued to finance the Public Infrastructure Improvements. The Tax Increment Fund shall remain in existence so long as such Service Payments are collected and used for the aforesaid purposes, after which time the Tax Increment Fund shall be dissolved and any surplus funds remaining therein shall be transferred to the Village's General Fund, all in accordance with Ohio Revised Code Section 5709.43.

SECTION 6. Notices. The Village hereby finds and determines that notice of this proposed Ordinance has been delivered to the School District in accordance with Ohio Revised Code Sections 5709.40, 5709.83 and 5715.27, and hereby ratifies the giving of that notice.

SECTION 7. Compensation to School District. Pursuant to Ohio Revised Code Sections 5709.40, 5709.42, 5709.43 and 5709.82, the Village shall cause the County Treasurer to distribute a portion of the Service Payments to the School District in an amount equal to 100% of the real property taxes that the School District would have received, but for the TIF Exemption.

SECTION 8. Application for Real Property Tax Exemption and Remission; Further Authorizations. The Village further hereby authorizes and directs the Mayor, the Treasurer, or other appropriate officers of the Village, to sign and execute all documents and make such arrangements as are necessary and proper for collection of said Service Payments from the Owners of real property located in the Site, which are to be deposited into the Tax Increment Fund.

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. Notification of Adoption. The Clerk of Council or the Treasurer are hereby directed to deliver, not later than fifteen (15) days after the effective date of this Ordinance, a copy thereof to the Director of the Ohio Development Services Agency and to further deliver to such Director, not later than March 31 of each year during which the TIF Exemption remains in effect, a status report outlining the progress of the project herein described.

SECTION 10. Further Authorizations. The Mayor, Treasurer, Law Director, and Clerk of Council are hereby authorized to take all actions, including the execution of all documents or amendments, necessary to establish the TIF Exemption and to implement and administer the TIF Fund, and not substantially inconsistent with this Ordinance.

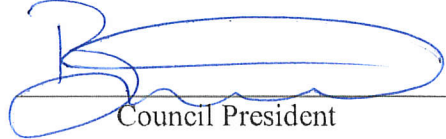
SECTION 11. Non-Discriminatory Hiring Policy. In accordance with Ohio Revised Code Section 5709.832, the Village hereby determines that no employer located in the Site shall deny any individual employment based on considerations of race, religion, sex, disability, color, national origin or ancestry.

SECTION 12. Open Meeting. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken 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 held in compliance with all legal requirements including Chapter 105 of the Orange Village Codified Ordinances.

SECTION 13. 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 TIF Exemption to be effective for tax year 2018 and in order to maximize the value of the TIF Exemption and to provide the source of funds necessary to finance the Public Infrastructure Improvements; wherefore, this Ordinance shall be in full force and effect from and immediately after the passage and approval by the Mayor.

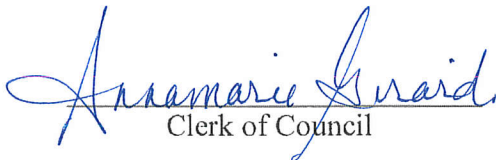
PASSED: Nov. 14, 2018

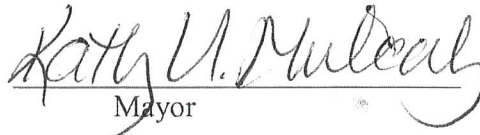

Council President

Submitted to the Mayor for
approval on this 14th day of Nov., 2018

Approved by the Mayor this
14th day of Nov., 2018

ATTEST:


Clerk of Council


Mayor

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. 2018-____ duly adopted by the Council of the Village of Orange, Ohio on _____, 2018.

Clerk of Council
Village of Orange, Ohio

EXHIBIT A

DESCRIPTION OF THE SITE



Parcel I.D.*	Owner
901-03-035	Chagrin Highland Ltd.
901-03-036	Chagrin Highland Ltd.
901-03-037	Chagrin Highland Ltd.

* The Site was split into the three parcels in 2018 from parent parcel # 901-03-034.

EXHIBIT B

DESCRIPTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements that shall directly benefit all or a portion of the Site, include any and all “public infrastructure improvements,” as that term is defined in R.C. Section 5709.40(A)(8), and any and all “costs of permanent improvements,” as that term is defined in R.C. Section 133.15(B), including, but not limited to, payment of debt service payments on obligations issued to finance the costs of the Public Infrastructure Improvements. Without limiting the generality of the preceding sentence, the Public Infrastructure Improvements specifically may include the following:

1. Constructing, reconstructing, extending, opening, improving, widening, grading, draining, curbing and changing of the lines and traffic patterns of roads, highways, streets, railways, bridges (including roadway, railway, and pedestrian), existing roadways adjacent to or providing access to property, sidewalks, bikeways, medians and viaducts, constructing and improving surface parking lots or parking structures and related improvements, providing lighting systems, together with all appurtenances therefore, and the continued maintenance of those improvements.
2. Constructing and reconstructing municipal facilities, including safety and service facilities, public fountains, public parks or public greenspaces, including grading, trees, park plantings, park accessories and related improvements, together with all appurtenances thereto.
3. Constructing, reconstructing and installing of public utility improvements, water distribution lines (including necessary site grading therefore), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto, and the continued maintenance of those improvements.
4. Constructing and installing streetscape improvements including trees, tree grates, curbs, sidewalks, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto; design and traffic studies preliminary to the foregoing.
5. Constructing and installing communications service facilities, including but not limited to cable and broadband service infrastructure improvements.
6. Stormwater and flood remediation projects including such projects on private property when determined to be necessary for public health, safety, and welfare.
7. Designing, engineering, constructing, and improving the new infrastructure for electric, gas, telephone, and cable service (including fiber optics), including aid to construction fees for gas, aid to construction fees for electric, including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes, with related site improvements and appurtenances thereto.
8. Acquisition and development of property, including acquisition in aid of industry, commerce, distribution, or research, demolition of blighted, dilapidated, or functionally obsolete

structures for redevelopment opportunities, including demolition on private property when determined to be necessary for economic development purposes.

9. Enhancement of public waterways through improvements that allow for greater public access.

10. Environmental studies and remediation.

11. Acquiring real estate or interests in real estate, including related right-of ways, necessary to accomplish the improvements enumerated in clauses 1 through 9.

12. Any on-going administrative expenses relating to the Public Infrastructure Improvements and maintaining the service payments in lieu of taxes, including but not limited to engineering, architectural, legal, and other consulting and professional services.

13. All inspection fees and other governmental fees related to the foregoing.

14. Any other costs of public infrastructure improvements as permitted by law.